

APPENDIX: GOVERNMENT'S VIEWPOINT

The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Cyprus

ECRI, in accordance with its country monitoring procedure, engaged in confidential dialogue with the authorities of Cyprus on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version (which only takes into account developments up until 9 December 2015, date of the examination of the first draft).

The authorities also requested that the following viewpoint be reproduced as an appendix to the report.

APPENDIX- Observations of the Government of the Republic of Cyprus

Comments/ Observations by Ministry of Justice and Public Order

(1) In the Section titled “Legislation against Racism and Racial Discrimination” there is no reference to the Cyprus Constitution (there is only a general reference at page 26-para.108). According to **Article 28, paragraph 2 of the Cypriot Constitution**: “Every person shall enjoy all the rights and liberties provided for in this Constitution without any direct or indirect discrimination against any person on the ground of his community, race, colour, religion, language, sex, political or other beliefs, national or social descent, birth, wealth, social class, or on any ground whatsoever, unless there is express provision to the contrary in this”.

From the above it follows that the grounds of discrimination covered by the Cyprus Constitution are very broad.

Also, the provision of Article 28, paragraph 2 of the Constitution constitutes the answer to the reference made at page 10-para 10 of the Report as to the grounds missing from the civil and administrative law.

In addition to the enactment of primary anti-discrimination legislation, it was established by case-law in 2001, (by Judgment of the Supreme Court of Cyprus in the Case of Yiallourou v. Evgenios Nicolaou) that violation of human rights is an actionable right which can be pursued in civil courts against those perpetrating the violation, for recovering from them, inter-alia, just and reasonable compensation for pecuniary and non-pecuniary damage suffered as a result. The result is, that a person who, on grounds of inter alia race, community, colour, religion, language, political or other belief, or national origin, is discriminated against, whether directly or indirectly, in the enjoyment of human rights and freedoms guaranteed by the Cyprus Constitution, (in Part II of its provisions largely reproducing those of the European Convention of Human Rights) can sue the state or private persons for damages and or other appropriate civil law remedies, for violating his constitutional right (under Article 28) to enjoy the above rights and freedoms without such discrimination.

(2) “Inciting or aiding another to discriminate” (page 11-para13): All the offences found in any law must not be seen in isolation, but they are supplemented by Article 20 of the Criminal Code, Cap 154. Article 20 of the Criminal Code is under the title “General Rules as to Criminal Responsibility” and refers to principal offenders in all crimes, that is, it identifies the various ways of participation in the commission of an offence. Article 20 states: “When an offence is committed each of the following persons is deemed to have taken part in committing the offence and to be guilty of the offence, and may be charged with actually committing it, that is to say - (a) every person who actually does the act or makes the omission which constitutes the offence; (b) every person who does or omits to do any act for the purpose of enabling or aiding another person to commit the offence; (c) every person who aids or abets another person in committing the offence; (d) any person who counsels or procures any other person to commit the offence.”

Comments/ Observations by Asylum Services of the Ministry of Interior

Para 82: Persons who are recognised as beneficiaries of international protection while residing in a reception center, are assisted by social workers who are working inside the Center in order to fill in their application for the Minimum Guaranteed Income and are provided with information on how to find a house outside the Center. Furthermore, the Government together with the Central Bank proceeded with finding a solution for beneficiaries having difficulties in opening bank accounts in order to receive the payments from the MGI.

Para 101 : the Asylum Service responds that there no interruptions of support provided by the Social Welfare Services to asylum seekers residing in private houses,

with the aim of them being transferred to the Kofinou Reception Center took place either in 2014 or in 2015.

Comments/ Observations by the Ministry of Education and Culture

The Ministry of Education and Culture does not divide schools in any category. We believe that it is not appropriate to label schools with any name, therefore we do not accept or agree with the phrase “Turkish Cypriot schools”, which has been included in the text. All schools under the competence of the Ministry of Education and Culture of the Republic of Cyprus are either public or private.

Comments/ Observations by the Ministry of Labour, Welfare and Social Insurances

Para 10.

Citizenship (or nationality) are grounds expressly excluded from the Directive and therefore, CY has no obligation to include them. Furthermore, the grounds of colour and language are extensions of the racial criterion (as found case law) and therefore might not need to be included.

Para 13-15

Discrimination by association has been considered possible through ECJ case-law and therefore can be applied when enforcing the legislation in CY as well. Intention to discriminate is not included. Aiding or inciting another to discriminate can be covered by instruction to discriminate and if the party partakes in the discriminatory act, they are also liable for their actions that lead to the discrimination.

To prevent discrimination is directly enforceable, since it is against the law to discriminate and therefore binding on everyone, including public authorities.

Para 55.

The Roma can be assisted and supported by the Public Employment Services, as all jobseekers, in finding a suitable job according to their needs.

Para 77 and 78.

In reference to third country nationals we would like to note the following:

According to the Aliens and Immigration Law, Article 14 B (Unlawful employment of an alien), the employment of an alien in violation of the provisions of a work permit or the employment of an alien in violation of any other law or regulation constitutes an offence punishable by imprisonment for a term not exceeding three years or a fine not exceeding five thousand pounds or to both such imprisonment and fine.

It is noted that the main provisions of the work permit are defined in the employment contract which is checked and sealed by the Labour Department and safeguards equal treatment of alien workers as nationals. On this basis the rights of third country nationals are safeguarded from exploitation.

Vocational training in Cyprus which does not lead to a formal qualification but to professional development and upgrading of specific skills and competencies is promoted by various Ministries especially the Ministry of Labour, Welfare and social Insurance and the Ministry of Education and Culture and public and private institutions such as colleges, training institutions, consultancy firms and enterprises.

The vocational programmes promoted are addressed to adults, employees, the unemployed and other groups at risk of exclusion from the labour market. To be approved to participate in these programmes a candidate needs to adhere to criteria laid down by the organizer of the programmes.

Migrant workers, who have free access to the labour market, can participate in training programmes for employees, as long as they satisfy certain criteria (i.e. they

are graduates from secondary education). At the same time, migrant workers who have legally secured an employment contract on a temporary basis are exempted from participating in such programmes.

Migrants who are registered as unemployed (i.e. Recognized Refugees or beneficiaries of Subsidiary Protection), can have access to training programmes for unemployed through reference made by the Public Employment Service. In particular, Employment Counselors through the process of individualized counseling provide all the relevant information to the interested migrants.

It is noted that training programs aiming at integrating the above mentioned migrants as well as the Asylum Seekers are also promoted through the co-financing of the European Refugees fund (ERF) and the Integration fund. These programmes include among others, tuition programs and basic Greek training.

Furthermore, article 3 of the Social Insurance Law (I.59 (i)/2010) stipulates that all persons gainfully employed in Cyprus either as employed or self-employed (regardless of nationality) are insured under the social insurance scheme and have the same rights and obligations as determined by the law. All the benefits granted to the insured persons are linked to the contributions they make. Eligibility to unemployment benefit is determined by the Law and based on certain conditions that apply to all persons insured by the Law.

Para 109. Same as answer on gender identity, ie:

- Gender identity does not need to be expressly covered by the legislation, since the grounds of sex and sexual orientation are adequate to protect members of these groups. Sexual orientation is covered in Law 58(I)/2004 (harmonising to EU directive 2000/78/EC).

Roma Integration

I. pages 7,8 , para. 51 and 52 in page17 and recommendation 12

Regarding Roma integration and particularly the development of a strategy for the inclusion of Cyprus Roma population in all areas of life, Cyprus would like to mention a new initiative that has started in May 2016. Cyprus has signed a grant agreement with the European Commission for the establishment of a National Roma Platform. The Project called the “Cyprus national Roma Platform (Cyprus NRP)” is funded by the European Commission under the “Rights, Equality and Citizenship Programme (2014-2020)” project will run for the period May 2016-April 2017 and aims at:

1. The empowerment of the Cyprus National Roma Contact Point (Cyprus NRCP) in the Roma integration process.
2. Ensuring effective involvement of relevant stakeholders.
3. Strengthening and deepening multi-stakeholder accountability, including Roma and their ownership of the results and commitment to the outcomes of the process of Roma integration.
4. Addressing the gaps and challenges Cyprus presented in the implementation of the Policy Measures of Cyprus for the Social Inclusion of Roma (PMCSIR).
5. Improving multi-stakeholder participation, in particular participation of Roma in decisions that affect them.

The Cyprus National Roma Platform will constitute a forum for disseminating information and enhancing knowledge to facilitate consultation on Roma issues and will address the above named objectives. It will use a bottom-up participatory approach by engaging the active participation and involvement of the Roma population. The Cyprus NRP will promote dialogue, mutual learning and exchange of information, good practices and monitoring techniques which can help participants in formulating, implementing measures for the inclusion of the Roma population and

monitoring progress. The Cyprus NRP will work based on specific working meetings with general and more targeted themes.

II. regarding para 67 (Recommendation 11: funding to ensure the survival of the Bicomunal Multiservice Centre)

As regards, the provision of services to Roma families, we would like to mention that Cyprus also provided state aid to another NGO Programme named "Iraklitos" operated by two Community Volunteer Councils of the Pano Polemidia and Kato Polemidia. The programme Iraklitos promotes actions related to the social integration of Cyprus Roma living in the territory of Polemidia. The programme promotes several actions towards the social integration of the Cyprus Roma residing in the territory, including the sensitisation of parents for school attendance, Greek lessons (in collaboration with the Adult Education Centres of the Ministry of Education and Culture), social skills and personal hygiene.

III. Asylum seekers and coupon system (pages 8, para 103 in page 27 and recommendation 16): review the refugee Reception Conditions Regulations in particular the requirement to be accommodated at the reception center and the coupon system

Regarding the reference in point 103 page 26 that "the coupon system causes problems because these can only be redeemed in specified shops...and do not cover all types of items", Cyprus would like to note that it did not receive any complaint nor information about any shortage / absence of items.

20 May, 2016

