



COMMISSIONER FOR HUMAN RIGHTS

COUNCIL OF EUROPE



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REPORT

by Thomas Hammarberg
Commissioner for Human Rights of the Council of Europe

Following his visit to the Republic of Cyprus
on 7-10 July 2008

Issues reviewed:

Asylum, Detention of Migrants and Trafficking in Human Beings
in the Republic of Cyprus

Executive summary

Commissioner Thomas Hammarberg and his delegation visited the Republic of Cyprus from 7 to 10 July 2008. In the course of the visit, the Commissioner held discussions with State authorities and non-governmental organizations on a number of human rights issues, focusing on asylum, detention of migrants and trafficking in human beings and including visits to two relevant institutions.

- I. **Asylum seekers and refugees.** The Commissioner is aware of the challenges the Cypriot authorities face being a top recipient of asylum seekers in Europe and commends the authorities' efforts to speed up procedures and to increase the number of eligibility officers. In view of the continuous influx of asylum seekers and refugees via the Green Line, the Commissioner recommends further reinforcement of the Asylum Service while at the same time seeking practical cooperation to discourage this influx. As to social protection of asylum seekers and refugees, in particular welfare assistance and health care, the Commissioner reiterates the importance of prompt, understandable information. He calls upon the authorities to eliminate bureaucratic obstacles through effective coordination and cooperation of all authorities involved. Noting that a bill is being drafted to provide for free legal aid, the Commissioner urges the authorities to remedy the current lacuna by prompt adoption of the new law.

- II. **Detention of rejected asylum seekers and migrants awaiting deportation.** The Commissioner is concerned about continuous reports, notably by the CPT and the UNHCR, of lengthy detention of aliens in inadequate conditions. He urges the authorities to keep the number of rejected asylum seekers and irregular migrants and the time they must spend in detention to a strict minimum and to ensure adequate conditions, including making available a variety of meaningful activities. The Commissioner notes with appreciation that average detention time pending deportation seems to have decreased since greater use is made of the discretionary administrative measures for release. He encourages the authorities to make full use of these measures. Having noted that many detainees appear to lack information about the envisaged length of their detention, the Commissioner urges the authorities to instruct police officers more clearly and enable them to explain to detainees the administrative measures allowing for a decision on their release. The Commissioner calls on the authorities to ensure access to judicial review of deportation and detention decisions in practice as well as to guarantee that detainees can regularly receive visitors including members of NGOs.

- III. **Trafficking in human beings.** The Commissioner notes with appreciation legislative and administrative measures taken since 2005 in the context of the National Action Plan on Combating Trafficking in Human Beings as well as criminal legislation enacted in 2007 which includes support to victims. He welcomes that the CoE Convention on Action against Trafficking in Human Beings of October 2007 came into force in Cyprus in February 2008. However, the Commissioner deplores that despite these measures, Cyprus is still associated with trafficking in human beings, in particular trafficking of women for sexual exploitation mainly in bars, nightclubs and so-called cabarets. The Commissioner is aware that the majority of these women entered Cyprus on a so-called "artiste" work permit which is unlawfully used by cabaret owners for the sake of prostitution. The Commissioner is deeply concerned that the scheme of so-called cabaret "artiste" work permits is still in place despite continued international criticism and expressed commitment of the authorities to abolish it. The Commissioner believes that the existence of this type of work permit leads to a situation in which it is very difficult for law enforcement authorities to effectively combat trafficking in human beings and could thus be perceived as contradicting the measures taken against trafficking. The Commissioner strongly urges the authorities to abolish the current "artiste" work permit scheme and to ensure that no other scheme could be used for the same unlawful

purpose. He invites the authorities to evaluate and monitor the effectiveness of their National Action Plan 2005 and the new legislation enacted notably with a view to ensuring proper identification of victims and child protection measures.

- IV. Further observations.** The Commissioner welcomes positive developments regarding children's rights, prison capacity and alternatives to detention. He is however, concerned at what he considers to be inadequate support for victims of domestic violence.

I. Introductory note

1. This report is based on a visit to the Republic of Cyprus by the Commissioner for Human Rights, Thomas Hammarberg, from 7 to 10 July 2008.¹ During the visit, the Commissioner held discussions with State authorities and non-governmental organizations on human rights issues. This Report addresses aspects of the visit relating to asylum, detention of aliens pending deportation and trafficking in human beings. In this context, the Commissioner also visited the Police Detention Centre at the Central Prison in Nicosia, Block 10, where aliens are detained pending deportation, as well as a government-run shelter for female victims of trafficking in human beings.
2. The Commissioner wishes to thank the authorities of the Republic of Cyprus sincerely for the assistance they provided in facilitating the independent and effective conduct of the visit.
3. The Commissioner welcomes recent political developments, leading to intensive high level talks across the dividing line in Cyprus, with direct talks having started in September 2008. He joins in the numerous calls, from both within Cyprus and from the international community, seeking reunification of the island. At the same time, he feels that pressing human rights issues relating to asylum seekers, detention of aliens pending deportation and trafficking in human beings also need to be addressed by the Cypriot authorities. These issues constitute some of the major challenges for this country², as is the case in most Council of Europe Member States.
4. The Commissioner wishes to emphasize that the treatment afforded by Member States to foreigners, asylum seekers or immigrants wishing to enter Europe constitutes a 'litmus test' for States' effective observance of and respect for fundamental human rights principles.
5. He notes the continuous efforts made by the Cypriot authorities over the years to provide better resources for the asylum and immigration system. However, in view of the huge backlog of pending asylum claims and the consistently high numbers of new asylum seekers, refugees and migrants, it is clear that these efforts need to be redoubled and made more effective.
6. The Commissioner welcomes the measures taken to combat trafficking in human beings, in particular, the opening of a new shelter for female victims and an inter-ministerial working group which includes NGO participation. However, he observes that the "artiste" work permit scheme, still in place, allows for constant abuse of the system, providing an incentive for trafficking in human beings.

¹ During his visit the Commissioner was accompanied by Mr. Marc Scheuer, Director of the Commissioner's Office, and Ms. Silvia Grundmann, Advisor.

² As already identified in previous reports, see the Council of Europe Commissioner for Human Rights, *Report on his visit to Cyprus* (25 – 29 June 2003) CommDH(2004)2 and the Follow-up Report on Cyprus (25 – 27 October 2005), CommDH(2006)12.

7. The Commissioner has focused during his visit on the following issues: living conditions of asylum-seekers and refugees (II), conditions of detention of rejected asylum-seekers and irregular migrants (III) and trafficking in human beings (IV).

II. Asylum seekers and refugees

8. Due to the geographical position of Cyprus on the external borders of the EU and at the crossroads of several continents, and to the division of the island with extraordinarily easy access to the government controlled area of the Republic through the Green Line, Cyprus continues to be the top recipient of asylum seekers among all industrialised countries in proportion to its population. The Republic of Cyprus received 5,905 (6,789 persons) asylum applications in 2007, compared to 4,286 (4,545 persons) applications in 2006.³ With a population of 800,000 inhabitants, the ratio of asylum applications to inhabitants was 39 per 1,000 inhabitants from 2003 to 2007.⁴
9. The Commissioner is aware that such numbers put great pressure on the existing reception and absorption capacities, leading to a backlog of approximately 10,000 pending asylum cases at the beginning of 2008 and a waiting period of approximately two years, and sometimes even longer. During the visit of the Commissioner, the authorities acknowledged that lengthy proceedings can encourage abuse of the system. The authorities aim to speed up the procedure and are currently in the legislative process of transposing the EU "asylum procedure directive". In parallel, a bill is being drafted to provide for free legal aid.
10. In order to clear the backlog, the authorities have continuously increased the number of eligibility officers over the years, albeit modestly for budgetary reasons. New recruits are currently being trained and the number of pending applications has decreased from approximately 8,568 (9,823 persons) in January 2008 to around 7,500 at the end of June 2008. According to the authorities, 1,862 new applications were received until 30 June 2008, a decrease from the same period in 2007. The authorities flagged as their main concern the uncontrolled influx of asylum seekers via the Green Line. They consider that most of these claims come from economic migrants, and as a consequence the vast majority of asylum claims are rejected, subject to administrative and judicial review. In 2006, 5,295 (5,601 persons) refugee status determination decisions were made, with 37 persons recognised as refugees, amounting to a low recognition rate.
11. NGOs informed the Commissioner that access to information concerning asylum seekers' rights is difficult to come by. Usually the police do not hand out the relevant information leaflet prepared for asylum seekers in a language they understand. Furthermore, asylum seekers often have to wait for several months to receive their temporary residence permits which have sometimes already expired by the time they arrive. They usually face 3 to 6 months delay in the examination of their welfare applications, even though they do not have access to the labour market during the first 6 months. After that period, asylum seekers can only seek employment in farming and animal husbandry, a restriction criticised as discriminatory by ECRI and the Cypriot Commissioner for Administration (Ombudsman).⁵

³ Information provided by the Cypriot authorities 25 November 2008.

⁴ Asylum levels and trends in industrialized countries, UNHCR, 18 March 2008, p. 8

⁵ In her December 2007 report, the Commissioner for Administration called on the government to revise this policy as the restriction has not proved its purpose of reducing applications.

12. The authorities underlined that asylum seekers are entitled to a subsistence allowance during the first 6 months of their stay as they are not entitled to a work permit during this period. In practice, access to welfare is problematic.
13. Access to healthcare appears to be hampered by the fact that many asylum-seekers do not receive the medical card which is needed to obtain services. Adequate housing appears to be another problem, as asylum seekers can rarely meet the administrative requirements of producing an officially stamped lease agreement⁶ and proof of rent payment in order to obtain rent benefit. NGOs reported that at the beginning of the year only 300 to 500 asylum seekers out of the 10,000 cases pending were receiving some form of welfare benefit. UNHCR expressed concern that as a consequence, asylum seekers often work illegally, even risking arrest and imprisonment.

Conclusions and Recommendations

14. The Commissioner acknowledges the commitment made to speed up procedures and increase the number of eligibility officers within the Asylum Service and the Reviewing Authority. In view of the still high influx, as well as the large backlog, such reinforcement does not seem to be sufficient to provide for refugee status determination within a maximum of 6 months as recommended by UNHCR. It appears that additional human resources to process applications will have a limited effect due to the specific situation of the island with easy crossing of the Green Line serving as a pull factor for migration.
15. The Commissioner is of the opinion that only a two-pronged approach, namely, further reinforcement of the Asylum Service and at the same time, practical cooperation to discourage influx via the Green Line, could substantially reduce the backlog and the length of the asylum procedure.
16. As to social protection, the Commissioner reiterates that it is vital that asylum seekers are properly informed about their rights, including employment rights, welfare assistance, health care and education. As these rights appear to be severely hampered by bureaucratic obstacles sometimes due to lack of cooperation between authorities, the Commissioner recommends that the Asylum Service effectively co-ordinates all refugee issues to make these rights available in practice. Furthermore, the Commissioner calls upon the authorities to ensure that refugees have prompt and effective access to the welfare assistance they are entitled to under domestic law.
17. The Commissioner deplores the fact that free legal aid is not yet available to asylum seekers and urges the prompt adoption of the new legislation that should effectively remedy this lacuna.

III. Detention of rejected asylum seekers and migrants awaiting deportation

18. The Commissioner is aware that a large number of undocumented foreign nationals, including asylum seekers, are held in various police detention centres and in Block 10 of the Central Prison of Nicosia. In its May 2006 report, ECRI expressed concern at reports of wholly inadequate conditions in police detention centres, about the length of detention and also about the conduct of law enforcement officials, including alleged

⁶ NGOs reported that the number of property owners willing to rent to asylum seekers is decreasing and the majority of those letting to asylum-seekers seek to avoid tax and therefore do not issue a formal lease agreement.

cases of ill-treatment.⁷ The CPT repeatedly criticised lengthy detention of aliens in inadequate conditions.⁸ During their fifth visit to Cyprus in May 2008, the CPT again examined the treatment of persons detained by the police including immigration detainees. A particular difficulty exists with rejected asylum seekers who cannot be deported due to a lack of cooperation from their country of origin, for example Iran and Afghanistan. In such cases, detention in the past has lasted over 2 years and still today lasts several months, resulting in a state of uncertainty and anxiety for the detainees.

19. NGOs as well as UNHCR also expressed their concern with regard to the length of detention as well as to the poor state of repair of certain detention facilities such as the police stations in Larnaca and Paphos, as well as overcrowding. Food, personal hygiene and time spent in cells appear to be of concern in particular in the police stations of Orokline, Paralimni and Paphos.
20. The Commissioner also learned that despite legal provisions which give detainees the right to see any person or organisation they wish, this right is not always respected by police officers in charge. Although NGOs in general have access to asylum seekers, there have been cases where access was denied on the basis that the asylum seeker should have first asked for a visit. In some cases, the police have withheld information as to the place of detention of the persons concerned. Furthermore, NGOs reported that they find access to migrants in detention who are not asylum seekers to be more difficult with police not granting them access in cases of a crisis, protests and hunger strikes.
21. The Commissioner visited Block 10, a separate police detention centre on the grounds of the Central Prison in Nicosia, detaining aliens subject to deportation. At the time of the visit the building hosted 56 male inmates, all of whom were rejected asylum seekers or irregular migrants. The majority of them had been convicted of minor offences leading to a termination of their status and/or had violated alien laws, i.e. overstayed the duration of their residence permit, placing them in a situation of residing illegally in the country. Most of them shared a cell but some had individual accommodation. The two-storey building was of satisfactory material condition with adequate sanitary facilities and recently installed air-conditioning in the main common area where the detainees have access to television. Inmates are allowed one hour outside exercise in the yard, where there is a small basket-ball court.
22. Most of the inmates with whom the Commissioner spoke in private had been incarcerated for between 2 and 3 months. However, the Commissioner also met a group of four Iranians who had already been held for between 6 and 8 months. The Commissioner noted that the detainees were still not able to benefit from the vocational and educational activities provided in the Central Prison. A general practitioner provides medical services, visiting the detention centre two to three times a week. NGOs informed the Commissioner that Block 10 is the only detention centre with regular visits from a doctor. The Commissioner also met with two female police officers who had recently been appointed as human rights officers to ensure compliance with CPT standards.

⁷ See Third Report of The European Commission against Racism and Intolerance (ECRI) CRI(2006)17, published 16 May 2006.

⁸ See Report to the Government of Cyprus on the visit to Cyprus carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 8 to 17 December 2004 CPT/Inf (2008) 17, published 15 April 2008.

23. During the visit, many of the inmates expressed anxiety and uncertainty as to the expected length of their stay, their separation from their families and, in particular, the lack of information as to the continuation of their detention. In his talks with the police authorities, the Commissioner had the impression that they themselves were lacking sufficient information. This might be ascribed to the fact that the Cypriot authorities recently introduced new administrative measures enabling the Minister of the Interior to take a discretionary decision whether or not to release detainees. The Commissioner was informed that each case in which a person with a deportation order is detained longer than 6 months is reviewed by the Minister of the Interior with a view to possible release. These cases often concern nationals of Iran who cannot be deported for the time being due to lack of passports or other travel documents. Subject to any criminal record, they may be released and receive a temporary residence and work permit.
24. The Cypriot authorities informed the Commissioner that 85 % of the foreigners detained at the police detention centre of the Central Prison in Nicosia (Block 10) are on average deported within 4 to 5 days after the date of their arrest. In cases of foreigners not possessing a passport and for whom there is no Consular Service of their country in Cyprus, deportation takes 2 to 3 months from the date of their arrest, as travel documents have to be obtained. Such foreigners (mostly Iranians), for whom no travel documents can be obtained, are detained for up to 6 months and are then released, according to directions of the Minister of the Interior.

Conclusions and Recommendations

25. The Commissioner appreciates that the average time spent in detention pending deportation seems to have decreased, not least thanks to greater use being made of the administrative measures for release. The Commissioner in principle welcomes these administrative measures giving the Minister of the Interior the discretion to decide on the release of detainees. He encourages the authorities to make full use of the measures, in particular in view of the fact that many of the offences committed seem to be of a minor nature and to have been triggered by the circumstances that asylum seekers and irregular migrants unavoidably face.
26. The Commissioner urges the authorities to keep the number of rejected asylum seekers and irregular migrants and the time they have to spend in detention to the strict minimum, recalling that the Commissioner for the Administration has advocated that the authorities should review detention after 3 months.
27. The Commissioner encourages the police authorities to explain to the detainees, in a language they understand, the new administrative measures allowing for a discretionary decision on their release. In this context, guidelines and training for staff should be envisaged. This would lead to those detained having better access to information, which in turn may relieve them as much as is possible from feelings of uncertainty.
28. The Commissioner acknowledges that access to judicial review of deportation and detention decisions is possible under Cypriot law. He calls on the authorities to ensure that this access is ensured in practice, recalling the European Court's case law on Article 5 of the Human Rights Convention and Guideline 9 of the twenty guidelines of the Committee of Ministers on Forced Return.⁹

⁹ Twenty guidelines of the Committee of Ministers of the Council of Europe on Forced Return, adopted May 2005.

29. The Commissioner strongly recommends that the authorities make a variety of meaningful activities, such as sports, vocational training and other education, available to all rejected asylum seekers and immigrants if they are detained for deportation for several weeks.
30. He welcomes the ongoing activities of the Commissioner for Administration (Ombudsman) generally in the field of prison conditions and, in particular, conditions of detention of aliens. He is convinced that the reports of her office provide a valuable source of information and urges the authorities to respond to her recommendations.
31. Finally, the Commissioner calls on the authorities to ensure that the right of detainees to receive visitors is observed in practice. Furthermore, access of detainees to NGOs should not be made subject to bureaucratic obstacles which can be perceived as a disproportionate restriction of this right.

IV. Trafficking in human beings

32. Trafficking of women for sexual exploitation is a major problem in many European countries. Sadly, Cyprus is no exception, despite some measures taken since the first report of the Commissioner for Human Rights, and the follow-up report covering the period 2003 to 2005.¹⁰
33. Already in 2003, the Commissioner for Administration (Ombudsman) stated that Cyprus had been associated with trafficking both as a country of destination and transit, the majority of women being blackmailed and forced to provide sexual services.¹¹ In 2008, the island still is a destination country for a large number of women trafficked from the Philippines, Russia, Moldova, Hungary, Ukraine, Greece, Vietnam, Uzbekistan and the Dominican Republic for the purpose of commercial sexual exploitation.¹² Women are also trafficked from Colombia, Romania, Belarus, Bulgaria, and the UK.¹³ Women are reportedly denied part or all of their salaries, forced to surrender their passports, and pressed into providing sexual services for clients.¹⁴ Most of these women are unable to move freely, are forced to work far above normal working hours, and live in desperate conditions, isolated and under strict surveillance.¹⁵
34. Victims of trafficking are recruited to Cyprus mainly on three-month so-called “artiste” or “entertainment” visas to work in the cabaret industry including night clubs and bars¹⁶ or on tourist visas to work in massage parlours disguised as private apartments.¹⁷ The “artiste/entertainment” work permit is valid for 3 months with a possible extension for another 3 months but a new permit can be obtained after a stay of 3 months outside the country. The permit is sought by the owner of the establishment, in most cases so-called “cabarets”, for the women in question.

¹⁰ See Council of Europe Commissioner for Human Rights, *Report on his visit to Cyprus (25 – 29 June 2003)* CommDH(2004)2 and the Follow-up Report on Cyprus (25 – 27 October 2005), CommDH(2006)12.

¹¹ The Entry and Labour Status of Migrant Artists Women, Cyprus Commissioner for Administration, 2003.

¹² See chapter on Cyprus, Trafficking in Persons Report, U.S. Department of State, June 2008.

¹³ Ibid.

¹⁴ See the extensive study of the Mediterranean Institute of Gender Studies (MIGS), a Cypriot NGO

“Mapping the realities of trafficking in women for the purpose of sexual exploitation in Cyprus”, October 2007

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ See chapter on Cyprus, Trafficking in Persons Report, U.S. Department of State, June 2008.

35. The study conducted by the Mediterranean Institute of Gender Studies (MIGS) led to a report on trafficking in human beings published in October 2007.¹⁸ It shows that an estimated 2 000 foreign women enter the island every year with short term “artiste” or “entertainment” work permits. Over the 20-year period 1982-2002, there was a dramatic increase of 111% in the number of cabarets operating on the island. According to the NGO report, the root causes of trafficking in women for sexual exploitation are not analysed in the Cyprus National Action Plan of 2005¹⁹ or in the legislative framework. These causes can be very complex and are related to globalisation, poverty, gender discrimination, ethnic and racial discrimination, demand for sexual services, migration policies, and unemployment, among others.²⁰
36. During his visit the Commissioner learned that there are now approximately 120 cabaret establishments in the Republic of Cyprus, each of them employing around 10 to 15 women. The yearly earnings of an average cabaret are estimated at around 1 million Euros.
37. During his meetings with the authorities, it was explained to the Commissioner, that the “artiste” work permit applies to all persons wishing to engage in some type of artistic performance, i.e. music or dance. However, Cyprus remains the only member of the EU²¹ to have such an “artiste” work permit after Luxembourg abolished this scheme in May 2004, following the country visit of the previous Commissioner.²²
38. The Ministries of Interior, Labour and Social Insurance, Justice, Health and Education and the Attorney General, share responsibility for combating trafficking, with the Ministry of Interior as the lead. On 13 July 2007, the government passed comprehensive anti-trafficking legislation criminalising all forms of trafficking, prescribing up to 20 years imprisonment for sexual exploitation. The law also provides for protection and support measures for victims. Furthermore, an information leaflet is available in several languages setting out the rights of the women and the responsibilities of their employers as well as institutions and NGOs to turn to for help. Regrettably, NGOs have pointed out that the text of the leaflet is in contradiction with the sample employment contract provided by the authorities.²³
39. The Commissioner visited the new government-run shelter in operation since November 2007. He was impressed by the facility and the commitment shown by the highly motivated staff. He learned that the shelter has so far provided help to 43 women by offering short-term accommodation and support in finding housing and employment.

¹⁸ “Mapping the realities of trafficking in women for the purpose of sexual exploitation in Cyprus”, MIGS, October 2007, supra.

¹⁹ In 2001, the Council of Ministers of the Republic of Cyprus decided to set up a group of experts to coordinate the actions to combat human trafficking and the sexual exploitation of children (decision no. 54.281). The work resulted in a “Plan of Action for the Coordination of Actions on Combating Trafficking in Human Beings and Sexual Exploitation of Children, approved by the Council of Ministers in February 2005

²⁰ See in detail “Mapping the realities of trafficking in women for the purpose of sexual exploitation in Cyprus”, MIGS, October 2007, supra.

²¹ Outside the EU, Switzerland, having a similar scheme, has recently been requested by the UN Committee on the Elimination of Discrimination against Women (CEDAW) to review and reconsider the special visa regulations for cabaret dancers, see recommendation 37, Third periodic report Switzerland, 23 April 2008.

²² See Council of Europe Commissioner for Human Rights, *Report on his visit to Luxembourg* (2 – 3 February 2004) CommDH(2004)11, chapter IV Prostitution and trafficking in human beings and the comment of the authorities to rec. no. 9.

²³ Point No. 9 in the leaflet states that “the employer does not have the right to deduct from the salary of the employee the value of the ticket, fees he paid to his agent or any other expenses he incurred for her arrival and employment in the Republic.” However, the sample contract under “Deductions” lists ticket fares and artist agent commission.

Social workers also care for the women while in the shelter and afterwards. NGOs who assist trafficking victims report that they receive one to two requests for assistance per month.

40. NGOs call on the Cypriot authorities to abolish this category of “artiste” visa entirely. They also advocate that Cypriot legislation on trafficking in human beings should be gender specific and recognise women as a vulnerable group. Furthermore, the government should also respect the deadlines as set out in the National Action Plan 2005 and adopt a timetable by which the government departments and NGOs involved would implement all the measures assigned to them. Currently, it appears that there is little monitoring and evaluating of the Action Plan 2005 by the authorities and no independent organisation is involved in it.
41. In his talks with the authorities, the Commissioner learned of proposals to modify the current “artiste” work permit in such a way that permits are issued to a group of artistes instead of individuals, requiring the group to prove the artistic nature of its performance. He was informed that a multi-disciplinary group is currently being instituted, including participants from all relevant ministries as well as two NGOs. This group is to be chaired by the Ministry of the Interior and will oversee the implementation of the new trafficking law of July 2007.
42. The Commissioner was assured that allegations of trafficking-related corruption within the police force were isolated cases. The authorities informed the Commissioner that so far, three disciplinary cases involving human trafficking/prostitution have been investigated: one resulted in an acquittal and two are still under investigation. In addition, in 2006, a member of the police force was sentenced to 14 months imprisonment and was subsequently dismissed from service following trafficking-related charges.
43. Despite the measures taken as described above, the Trafficking in Persons Report 2008 of the US State Department places the Cypriot Government on the Tier 2 Watch List for a third consecutive year for failure to show evidence of increasing efforts to combat human trafficking. According to the report, efforts made to combat trafficking in human beings, such as the new trafficking law and the government-run shelter, are outweighed by the failure to show tangible and critically needed progress in the areas of law enforcement, victim protection and the prevention of trafficking.²⁴
44. As regards the duty of a State to identify and protect victims of trafficking, the Commissioner is aware of an application lodged with the European Court of Human Rights against Cyprus and Russia.²⁵ The case concerns the death of a young Russian woman who entered Cyprus on 5 March 2001 on an visitor’s visa. Artiste visa and work permit were issued on 12 March 2001 for the purpose of working in a cabaret. According to the statement of facts prepared by the Court, the woman who had left her employer and was returned to the manager of the club by the police, on 28 March 2001 was found dead in the street below the balcony of an apartment to which the cabaret manager had brought her. The applicant, who is the father of the woman, complains under Articles 2, 3, 4, 5, 6 and 8 of the European Convention on Human Rights in particular about the lack of sufficient investigation into the circumstances of the death of

²⁴ See chapter on Cyprus, Trafficking in Persons Report, U.S. Department of State, June 2008.

²⁵ Case of Rantsev against Cyprus and Russia, application no. 25965/04, lodged on 26 May 2004, communicated to the governments on 7 July 2008. The statement of facts was published on the Court’s website on 15 July 2008.

his daughter, the lack of sufficient protection of his daughter by the Cypriot police while she was still alive and the lack of measures taken to punish persons responsible for exposing his daughter to the danger of sexual exploitation and ill-treatment which led to her death.

Conclusions and Recommendations

45. The Commissioner reiterates that trafficking in women for the purposes of sexual exploitation is a pressing and complex human rights issues faced by a number of Council of Europe member States, including Cyprus. A paradox certainly exists that while the Cypriot government has made legislative efforts to fight trafficking in human beings and expressed its willingness through their National Action Plan 2005, it continues to issue work permits for so-called cabaret artistes and licences for the cabaret establishments. While on paper the permits are issued to those women who will engage in some type of artistic performance, the reality is that many, if not most, of these women are expected to work as prostitutes.
46. The existence of the “artiste” work permit leads to a situation which makes it very difficult for law enforcement authorities to prove coercion and trafficking and effectively combat it. This type of permit could thus be perceived as contradicting the measures taken against trafficking or at least as rendering them ineffective.
47. For these reasons, the Commissioner regrets that the “artiste” work permit is still in place today despite the fact that the government has previously expressed its commitment to abolish it. It seems that the special information leaflet given to women entering the country on such a permit is of little effect, even though the woman needs to have read and signed the leaflet in the presence of an official.
48. The Commissioner calls upon the Cypriot authorities to abolish the current scheme of cabaret “artistes” work permits. In addition, he strongly urges the Cypriot authorities to take effective measures to prevent any other proposed scheme of work permits or other type of entry visa being used for such unlawful purposes as trafficking in human beings. In this context, the Commissioner recalls the exemplary response of the Luxembourg authorities to similar concerns expressed in the country report²⁶ and their prompt withdrawal of the cabaret “artiste” visa regime.
49. He welcomes the fact that Cyprus signed the CoE Convention on Action against Trafficking in Human Beings on 24 October 2007, and that this convention came into force in Cyprus on 1 February 2008. The Commissioner encourages the authorities to monitor closely the effectiveness of their laws on trafficking with a view to ensuring full compliance with the standards of the convention.
50. The Commissioner suggests that the Cypriot authorities evaluate and monitor the effectiveness of the National Action Plan 2005 for the Combating of Human Trafficking and the measures taken to implement it, possibly with the help of an independent organisation. He notes that the Action Plan 2005 does not contain a mechanism to identify victims nor does it have a special focus on children and encourages the authorities to fill this lacuna. The Commissioner appreciates the early signature of the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse

²⁶ See Council of Europe Commissioner for Human Rights, *Report on his visit to Luxembourg* (2 – 3 February 2004) CommDH(2004)11, chapter IV Prostitution and trafficking in human beings and the comment of the authorities to rec. no. 9.

in October 2007 and calls for its speedy ratification. This would also provide for an opportunity to assess how a child-specific focus and child protection measures, i.e. a programme to ensure child victims' identification in the context of providing for victims' identification in general, could be incorporated into the Action Plan 2005.

51. The Commissioner can only reiterate the importance of a well-trained and motivated police force in the fight against trafficking in human beings and encourages the authorities to ensure adequate and timely victim identification.
52. He welcomes the opening of a government-run shelter for victims of trafficking in human beings in Nicosia. The Commissioner calls upon the authorities to ensure the sustainability of the shelter, as well as adequate psychological aid for victims and to seek cooperation with NGOs to provide long-term victim support.
53. The Commissioner notes with appreciation the plans of the authorities to host international seminars on trafficking in human beings and he encourages public awareness-raising campaigns. However, the Commissioner believes that in view of the current scope of the problem, further measures are imperative. In particular it seems that little is understood about the demand for sexual services in Cyprus. Accordingly, the Commissioner recommends that the authorities conduct a study into the demand for sexual services including effective measures to stem demand, possibly seeking cooperation with international bodies as well as other countries with experience in this domain.

V. Further observations

54. During his visit the Commissioner made several further observations he would like to share with the Cypriot authorities. Regarding cooperation between the authorities and civil society, NGOs reported being hampered by bureaucratic obstacles, some of them with financial consequences which lead to a reduction in services they can provide.
55. The Law Commissioner, Mrs Leda Koursoumba, informed the Commissioner that she recently became the Commissioner for *Children's Rights* in addition to her original mandate. She will perform her new mandate independently for all children in Cyprus and will be able to rely on a structure separate from the office of the Law Commissioner in terms of budget and staff. Within her remit she will advise the government on international instruments. The Commissioner learned that corporal punishment of children has been abolished but that much remains to be done in practice. He appreciates that teachers receive training to be able to identify signs of child abuse and that it is mandatory for them to report if they have grounds for suspicion. NGOs informed the Commissioner that children of undocumented migrants sometimes face difficulties in access to education and that there have been cases of denial to register new born-babies. The Commissioner hopes that such issues will be brought to the attention of the new Commissioner for Children.
56. NGOs informed the Commissioner of their view that measures taken against *domestic violence* still appear to be insufficient, leaving an estimated number of 80,000 victims without support. To date still no shelters exist although legislation is not an obstacle.
57. Regarding *prison conditions*, the Commissioner learned from the authorities that there are plans to enhance prison capacity by another 130 cells during the next three years in order to solve current problems of overcrowding. A bill is currently being prepared to use electronic monitoring for the last 6 months of a prison sentence, making an earlier release possible. The purpose of this bill is to facilitate the individual's integration into society.

Conclusions and Recommendations

58. The Commissioner welcomes the positive developments, notably the creation of a Commissioner for Children's Rights and the measures envisaged to solve the problem of overcrowded prisons, in particular by providing for alternatives to detention. The Commissioner urges the Cypriot authorities to strengthen their efforts to effectively combat domestic violence and provide for adequate victims' support, not least by creating sufficient shelter capacity.

A P P E N D I X

COMMENTS OF THE MINISTRY OF THE INTERIOR

1. Asylum seekers and refugees.

The Commissioner is aware of the challenges the Cypriot authorities face, being a top recipient of asylum seekers in Europe and commends the authorities' efforts to speed up procedures and to increase the number of eligibility officers. In view of the continuous influx of asylum seekers and refugees via the Green Line, the Commissioner recommends further reinforcement of the Asylum Service while at the same time seeking practical cooperation to discourage this influx. As to social protection of asylum seekers and refugees, in particular welfare assistance and health care, the Commissioner reiterates the importance of prompt, understandable information. He calls upon the authorities to eliminate bureaucratic obstacles through effective coordination and cooperation of all authorities involved. Noting that a bill is being drafted to provide for free legal aid, the Commissioner urges the authorities to remedy the current lacuna by prompt adoption of the new law.

The Asylum System in Cyprus is operating on the basis of the International Agreements, which determine the framework of the Refugee Law. Furthermore, it is, since 2002, in a constant route of harmonization with anything new in the field of asylum, on European level.

Being a country, which faces continuous pressures from clandestine immigration and asylum seekers arriving in their majority via the Green Line, Cyprus has been supporting the promotion of solidarity and practical co-operation among the E.U. Member States, and especially the promotion of a better distribution of beneficiaries of international protection, taking into consideration the particular and disproportionate pressures faced by some Member States due in particular to their geographical or demographic situation. In this respect, it should be mentioned that we consider the adoption of the European Pact on Immigration and Asylum, as a very positive development.

The Asylum Service and the Ministry of the Interior have been trying to meet with these challenges by reinforcing the competent authorities with more staff. In the case of the Asylum Service, more staff was recently recruited, with the eligibility officers (case workers), being increased to 30, and compared to the 10 eligibility officers that composed the Asylum Service in 2003. Furthermore, the staff is currently working over-time in order to reduce the backlog and also to reduce the time of examination of new asylum applications. As a result, the pending cases on 31/10/2008 were 5356 (6586 persons) compared to 8330 (9607) persons on 01/01/2008.

The Asylum Service has also posted case workers at the Nicosia Immigration where asylum applications are submitted, in order to examine on the spot applications, which appear to be unfounded.

The effective cooperation among the competent authorities is essential for the efficient and effective examination of asylum claims. The installation of the new database, to which all the competent services will have access to, is expected to limit the bureaucracy and speed up the procedures in all levels (examination of a claim, provision of subsistence allowance, issuing of medical cards etc).

The Asylum Service has in many cases invited the competent authorities (which include, apart from the Asylum Service, the Welfare Services, the Ministry of Health, the Labour Office, the Immigration Service, the Refugee Reviewing Authority and the Civil Registry and Migration Department), to meetings in order to find ways to speed up the asylum procedure in a more effective way, the outcome of which, was in most cases successful.

The Bill which provides for the transposition of the Procedures Directive (except art. 15 which provides for free legal aid) is currently before the House of Parliament for discussion and enactment. The Bill which provides for free legal aid has been prepared and is being discussed with NGOs and UNHCR as well as with other competent Governmental authorities and very soon will be submitted for legal vetting. It will then be submitted to the Council of Ministers and finally to the House of Representatives.

2. Detention of rejected asylum seekers and migrants awaiting deportation.

The Commissioner is concerned about continuous reports, notably by the CPT and the UNHCR, of lengthy detention of aliens and inadequate conditions. He urges the authorities to keep the number of rejected asylum seekers and irregular migrants and the time they must spend in detention to a strict minimum and to ensure adequate conditions, including making available a variety of meaningful activities. The Commissioner notes with appreciation that average detention time pending deportation seems to have decreased since greater use is made of the discretionary administrative measures for release. He encourages the authorities to make full use of these measures. Having noted that many detainees appear to lack information about the envisaged length of their detention, the Commissioner urges the authorities to instruct police officers more clearly and enable them to explain to detainees the administrative measures allowing for a decision on their release. The Commissioner calls on the authorities to ensure access to judicial review of deportation and detention decisions in practice as well as to guarantee that detainees can regularly receive visitors including members of NGOs.

Although this matter concerns mainly the Immigration Service, it should be mentioned that, in the past, the Asylum Service intervened in a number of cases in order to identify whether the detention of asylum seekers was justified. The main priority of the Asylum Service and other competent authorities is to ensure and safeguard that no human rights violations or ill-treatment takes place. Regarding this issue, the Asylum Service has a close cooperation with the Civil Registry and Migration Department as well as the Immigration Unit of the Police. If such cases come to its knowledge, the Asylum Service will intervene in order to safeguard, as mentioned above, that the proper procedure is followed.

Furthermore, the Asylum Service has a close cooperation with the Commissioner for Administration and the Law Office of the Republic with regard to the implementation of antidiscrimination legislation.

It should also be mentioned that the Detention Centers are operated by the Immigration Authorities of Cyprus. However, there are no detention centers operating exclusively for rejected asylum seekers. The Law does not define a specific time limit for an alien to stay in detention after the rejection of his asylum claim at first and second instance, since this depends from various factors, which are mentioned below:

- (a) after a second-degree rejection of an asylum claim, an alien may appeal to the Supreme Court, an action which does not have suspensive effect, unless an interim order is issued by the court. The length of the detention, apart from the provisions of the Alien's And Immigration Law, is specified in the case law of the Republic.

- (b) the issuing of travel documents for the deportation of an alien may require a long procedure. For example, in the case of Iranians who got rid of their travel and other personal documents, the deportation is sometimes impossible. Furthermore, in the case of African nationals, who usually, do not carry travel documents, time is required for the issuing of these documents.

Asylum Service's basic principle is that the non-refoulement is fully respected by the Cypriot authorities. Asylum seekers are not deported unless a second instance decision has been taken and provided that this decision was a negative one.

II (8) Asylum Seekers and Refugees

Asylum seekers are not entitled to work permit during the first six months from the submission of asylum application and during this period they are entitled to subsistence allowance. However, it should be mentioned that, according to the Regulations on the Reception of asylum seekers and refugees, asylum seekers have access to subsistence allowance throughout the asylum procedure. Finally, the sectors of the economy where asylum seekers are entitled to work, has recently been expanded.

IV. Trafficking in human beings

The Commissioner calls upon the Cypriot authorities to abolish the current scheme of cabaret "artists" work permits

The Council of Ministers approved on 29/10/2008, the proposal submitted by the Minister of Interior reviewing the policy for the entry, residence and employment of third country nationals in the Republic as artists. The new policy has been implemented since 1st of November 2008.

The new policy consists of the following:

- (a) Abolition of special visas for artists. All third country nationals entering the Republic to be employed as artists will be issued employment permits as creative artists (writers, composers, painters etc) or as performing artists (actors, dancers, singers, etc). These categories "creative artists" and "performing artists" are specified in the policy papers.

Procedures for the issue of temporary residence and employment permits: The applications for employment of third country nationals as artists will be submitted to the Department of Labour by the employer and will be examined by a committee consisting of representatives from the Department of Labour, the Department of Civil Registry and Migration Department, the Cyprus Tourism Organization and the Aliens and Immigration Unit of the Police. The committee will examine the applications according to specific criteria concerning the qualifications of the artists, their previous experience, their reputation abroad etc. Also there will be criteria for determining the number of artists that can be employed in each establishment. The aim is to ensure that only genuine artists will enter the Republic. After the approval of the application, the employer will have to apply to the Civil Registry and Migration Department for the issue of the temporary residence and employment permit, considering that all the conditions set in the Aliens and Immigration Law are fulfilled. The procedures are similar to those that are in effect for all alien workers. Breach of contracts of employment will be investigated by the Department of Labour Relations. The Police will intensify raids in various establishments that employ artists.

- (b) Revision of the contract of employment. This includes revision of terms of employment as well as revision of the salary.
- (c) Revision of the legislation regulating Private Employment Agencies.

The Commissioner encourages the authorities to monitor closely the effectiveness of their laws on trafficking with a view to ensuring full compliance with the standards of the Convention of the CoE.

The Commissioner suggests that the Cypriot authorities evaluate and monitor the effectiveness of the National Action Plan 2005 for the Combating of Human Trafficking and the measures taken to implement it, possibly with the help of an independent organization. He notes that the Action Plan 2005 does not contain a mechanism to identify victims nor does it have a special focus on children and encourages the authorities to fill the lacuna.

A Multidisciplinary Coordinating Group for Combating Human Trafficking was established according to the Combating of Trafficking and Exploitation of Persons and Protection of Victims Law of 2007 (L. 87(I)/2007). The Group is chaired by the national coordinator who is the Minister of Interior. It consists of representatives of all the competent ministries as well as representatives of two NGOs. Among the competencies of this Group, provided in the abovementioned Law, is to review the existing legislation and propose changes when needed as well as to review and monitor the implementation of the existing Action Plan. The revision of the Action Plan is among the priorities of the Multidisciplinary Coordinating Group.

The Combating of Trafficking and Exploitation of Persons and Protection of Victims Law of 2007 (L. 87(I)/2007), describes the referral mechanism for the identification of victims. Based on the provisions of the Law, the Welfare Services of the Ministry of Labour and Social Insurances is in the process of revising the manual for interdepartmental procedures for the identification and protection of the victims of trafficking approved by the Council of Ministers on 12/12/2006.

The Commissioner notes the plans of the authorities to host international seminars on trafficking in human beings and he encourages public awareness-raising campaign. He also recommends that the authorities conduct a study into the demand of sexual services.

The Ministry of Interior, the Law Office of the Republic and the Ministry of Foreign Affairs with the cooperation of OSCE and UN, organized on 18-19 of September 2008 a conference on combating trafficking in human beings and organized crime.

The Ministry of Interior is organizing an awareness raising campaign all over Cyprus. The tenders were evaluated and within few days the results will be announced to the interested party for the execution of the contract. The campaign which is expected to take place by the end of 2008 will include posters, tv spots and dissemination of leaflets.

The recommendations concerning the demand of sexual services will be taken into serious consideration.