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Mr. Nicos NOURIS
Minister of Interior of Cyprus

Strasbourg, 10 March 2021

Dear Minister,

I am writing to share with you some observations and concerns related to the human rights of refugees, asylum seekers and migrants in Cyprus. As Council of Europe Commissioner for Human Rights, in the framework of my monitoring of member states' human rights obligations, I have received a number of reports indicating that boats carrying migrants, including persons who may be in need of international protection, have been prevented from disembarking in Cyprus, and summarily returned, sometimes violently, without any possibility for their passengers to access the asylum procedure. I should like to underline that when persons at the border are returned without individual identification or procedure, member states cannot establish whether they may be sending them back to human rights abuses. This may lead to violations of Article 3 of the European Convention on Human Rights (ECHR) and the UN Refugee convention. Moreover, collective expulsions of migrants are prohibited under Article 4 of Protocol 4 to the ECHR and as such, cannot be tolerated. I urge the Cypriot authorities to ensure that independent and effective investigations are carried out into allegations of push backs and of ill-treatment by members of security forces in the context of such operations. I furthermore encourage you to take advantage of the guidance I set out in a recommendation published in June 2019, and in a follow-up document published on 9 March, on ensuring the full protection of the human rights of migrants at sea. These documents are attached.

The conditions prevailing in reception facilities for asylum seekers and migrants also raise a number of concerns. Overcrowding, lack of hygiene, and difficulties in accessing health, social and asylum services have been reported, including by the [Commissioner for Administration and Protection of Human Rights](#) and the [Commissioner for Children's rights](#). I acknowledge that sea crossings and arrivals pose considerable challenges for Cyprus, which are currently exacerbated by the COVID-19 pandemic. However, such challenges must be addressed in full respect of human rights obligations. Therefore, I urge the Cypriot authorities to bring the reception conditions in line with applicable human rights standards and ensure that asylum seekers and migrants enjoy effective access to all necessary services.

In this connection, my attention has been drawn to the restrictions on freedom of movement which are applied as a preventive measure against the pandemic to the residents of migrant reception facilities. I note with interest that the applicable entry/exit regime, which until recently *de facto* amounted to deprivation of liberty, has been eased by a recent Decree. However, I understand that the Asylum Service has been instructed to make asylum seekers' and migrants' exit from the reception centres conditional to a number of additional requirements, some of which may in practice again end up depriving persons of their liberty for prolonged periods, and for considerably longer than might reasonably be necessary for quarantine purposes.

In its [Statement](#) of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease (COVID-19) pandemic, the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment has stressed that states should "refrain, to the maximum extent possible, from detaining migrants". Rather than preventing the spread of the virus, such deprivation of liberty risks endangering the health of both staff and asylum seekers and migrants, as these facilities provide poor opportunities for social distancing and other protection measures. I therefore urge you to review the situation of the residents of all reception centres, starting with the most vulnerable. Since immigration detention of children, whether unaccompanied or with their

families, is never in their best interest, they should be released immediately. I recall that it is the state's responsibility to ensure asylum seekers' appropriate access to accommodation and basic services, including health care, which is necessary to safeguard their dignity and also to protect public health in member states. Significant work on the provision of alternatives to immigration detention has been carried out by the Council of Europe, especially its Steering Committee on Human Rights (CDDH). I believe this work could be extremely useful in informing any further steps to prevent deprivation of liberty of migrants and asylum seekers, and I strongly encourage you to take advantage of it.

In such a difficult context, international organisations and civil society actors play, along with state agencies, an important role in supporting asylum seekers and migrants. The challenging working environment in which non-state actors currently operate in Cyprus is therefore worrying. I understand that several of them have suspended their activities within the reception centres for security reasons, whereas others, including lawyers, have no access to these facilities. I invite you to ensure security for all in the reception facilities, and to allow access to all relevant actors providing services, including legal assistance, to asylum seekers and migrants and/or carrying out independent monitoring of these centres.

Another important aspect of this challenging working environment is the implementation of the [amendments](#) adopted in 2020 to the Law about associations and foundations and other related issues. I understand that it recently led to the de-registration of several non-governmental organisations (NGOs), which had reportedly failed to comply with several formal requirements within the applicable time limits, and to the initiation of the procedure for their dissolution. Freedom of association is an essential component of a democratic society protected by article 11 of the ECHR. According to it, restrictions on this freedom must be "prescribed by law and necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others". Furthermore, the dissolution of an NGO can only be applied for serious misconduct, as provided for by the [Recommendation](#) CM/Rec(2007)14 of the Committee of Ministers of the Council of Europe on the legal status of non-governmental organisations in Europe. It should also only be used as a measure of last resort, when all less restrictive options have been unsuccessful, and "never be used to address minor infractions", as set out in the joint OSCE/ODIHR and Venice Commission [Guidelines](#) on Freedom of Association. It is difficult to reconcile the requirement of proportionality and necessity that these standards impose with measures that de-register and dissolve NGOs as a result of their failure to comply with formal requirements. This applies even more forcefully when the NGO at stake complies with such requirements with a delay, as it is reportedly the case of the NGO KISA, which has been struck out of the Association Register and is currently facing a dissolution procedure. It is paramount that the Cypriot authorities abide by their positive obligation to actively create and maintain an enabling legal framework and a political and public environment conducive to the existence and functioning of civil society organisations by considering alternative measures to their de-registration and dissolution, and applying proportionate sanctions only when strictly necessary.

I look forward to receiving your reply and pursuing a constructive dialogue with you.

Your sincerely,



Dunja Mijatović

Encl.

- [Lives saved. Rights protected.](#) (2019)
- [A distress call for human rights](#) (2021)