

# **ECRI REPORT ON CYPRUS**

**(fifth monitoring cycle)**

Adopted on 17 March 2016

Published on 7 June 2016

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# TABLE OF CONTENTS

|  |           |
|--|-----------|
| <b>FOREWORD</b> .....  | <b>7</b>  |
| <b>SUMMARY</b> .....   | <b>9</b>  |
| <b>FINDINGS AND RECOMMENDATIONS</b> .....  | <b>11</b> |
| <b>I. COMMON TOPICS</b> .....  | <b>11</b> |
| 1. LEGISLATION AGAINST RACISM AND RACIAL DISCRIMINATION .....  | 11        |
| - CRIMINAL LAW .....   | 11        |
| - CIVIL AND ADMINISTRATIVE LAW .....   | 12        |
| - NATIONAL SPECIALISED BODIES .....  | 13        |
| 2. HATE SPEECH .....   | 13        |
| - RESPONSE OF THE AUTHORITIES .....  | 15        |
| 3. RACIST AND HOMO/TRANSPHOBIC VIOLENCE .....  | 16        |
| - THE AUTHORITIES' RESPONSE .....  | 17        |
| 4. INTEGRATION POLICIES .....  | 19        |
| - INTEGRATION POLICY FOR ROMA .....  | 19        |
| - POLICY'S ASSESSMENT AND RESULTS .....  | 20        |
| - INTEGRATION POLICIES FOR NON-NATIONALS .....   | 21        |
| - POLICIES' ASSESSMENT AND RESULTS .....   | 22        |
| <b>II. TOPICS SPECIFIC TO CYPRUS</b> .....   | <b>25</b> |
| 1. INTERIM FOLLOW-UP RECOMMENDATIONS OF THE FOURTH CYCLE .....   | 25        |
| 2. INDEPENDENCE AND EFFECTIVENESS OF THE COMMISSIONER<br>FOR ADMINISTRATION AND HUMAN RIGHTS .....   | 26        |
| 3. PROBLEMS RELATED TO THE NEW SYSTEM OF PAYMENT IN KIND<br>(ACCOMMODATION AND COUPONS INSTEAD OF FINANCIAL SUPPORT)<br>FOR ASYLUM SEEKERS ..... | 27        |
| 4. POLICIES TO COMBAT DISCRIMINATION AND INTOLERANCE<br>AGAINST LGBT PERSONS .....   | 28        |
| - DATA AND SURVEYS .....   | 28        |
| - LEGISLATIVE ISSUES .....   | 28        |
| <b>INTERIM FOLLOW-UP RECOMMENDATIONS</b> .....   | <b>33</b> |
| <b>LIST OF RECOMMENDATIONS</b> .....   | <b>35</b> |
| <b>BIBLIOGRAPHY</b> .....  | <b>37</b> |
| <b>APPENDIX: GOVERNMENT'S VIEWPOINT</b> .....  | <b>41</b> |



## FOREWORD

The European Commission against Racism and Intolerance (ECRI), established by the Council of Europe, is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

In the framework of its statutory activities, ECRI conducts country monitoring work, which analyses the situation in each of the member States regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI's country monitoring deals with all member States of the Council of Europe on an equal footing. The work takes place in 5-year cycles, covering 9-10 countries per year. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, those of the third round at the end of 2007, and those of the fourth round in the beginning of 2014. Work on the fifth round reports started in November 2012.

The working methods for the preparation of the reports involve documentary analyses, a visit to the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidence. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on a large number of national and international written sources. The in situ visit provides the opportunity to meet with the parties directly concerned (both governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final ECRI report.

The fifth round country-by-country reports focus on four topics common to all member States: (1) Legislative issues, (2) Hate speech, (3) Violence, (4) Integration policies and a number of topics specific to each one of them. The fourth-cycle interim recommendations not implemented or partially implemented during the fourth monitoring cycle will be followed up in this connection.

In the framework of the fifth cycle, priority implementation is requested again for two specific recommendations chosen from those made in the report. A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.

**The following report was drawn up by ECRI under its own responsibility. It covers the situation at 9 December 2015; developments since that date are neither covered in the following analysis nor taken into account in the conclusions and proposals therein.**





## SUMMARY

**Since the adoption of ECRI's fourth report on Cyprus on 23 March 2011, progress has been made in a number of fields.**

The law now expressly states that racist and xenophobic motivation for any offence constitutes an aggravating circumstance. The Criminal Code punishes public incitement to hatred or violence against any group of persons, or a member of a group, based on their sexual orientation or gender identity. A Law on Civil Partnerships allowing registered same-sex partnerships was enacted in November 2015. A legal reform proposal was put forward by the Cyprus Radio and Television Authority to amend the current media laws and include specific provisions safeguarding respect for sexual orientation and gender identity.

Measures to address the educational needs of Roma pupils have been put in place, including remedial teaching for learning Greek during and after school hours, financial support for books, transport, uniforms and other school items, and breakfast and lunch free of charge for Roma pupils attending state primary schools. The national policy for the employment of domestic workers has been revised and now permits changes of employer and sector.

The Observatory against Violence in Schools continues to record, analyse and evaluate data on the extent and forms of violence, including racist violence, in primary and secondary education. The Ministry of Education and Culture drafted a Code of Conduct against Racism and Guide for Managing and Reporting Racist Incidents in Schools, providing detailed advice on how to prevent and deal with racist incidents and violence committed within the school context.

The campaign "Shield against Homophobia in Education" was organised under the auspices of the Ministry of Education and Culture, the Commissioner for Administration and Human Rights and the Commissioner for Children's Rights, to train educators of different levels on the topic of homophobia in schools.

**ECRI welcomes these positive developments in Cyprus. However, despite the progress achieved, some issues give rise to concern.**

The Commissioner for Administration and Human Rights still cannot appoint her own staff and has inadequate resources. She also has no right to initiate and participate in court proceedings.

Racist statements in the public sphere continue to be a common phenomenon. The Orthodox Church of Cyprus has taken a clear anti-LGBT stance on various occasions. Migrants, particularly Muslims, are frequently presented in the media in a negative light and associated with problems such as rising unemployment and criminality. The media has also been described as virulently homophobic. There has also been a rise in racist violence against migrants.

The criminal law does not provide for aggravating circumstances in cases of homo/transphobic motivation and equal treatment legislation does not cover the ground of gender identity. The 2011 Law on Combating Certain Forms and Expressions of Racism and Xenophobia by means of Criminal Law has not been applied in any case so far. There is no known conviction where the court took into account racial or xenophobic motivation during sentencing.

Cyprus has not developed a proper strategy for the inclusion of its Roma population in all areas of life. School enrolment and attendance among Roma children are low, and drop-out rates, especially in the transition between primary and secondary school, are high. There are disproportionate numbers of Roma in certain schools. The policy of constructing prefabricated housing units for Roma in isolated areas promotes a practice of de facto segregation.

Foreign domestic workers are barred from acquiring long-term residence status. No integration measures have been taken in practice in favour of beneficiaries of international protection and they face numerous difficulties in everyday life. Cyprus now predominantly grants subsidiary protection rather than refugee status (due to arrivals from Syria), which has a negative impact on integration. Changes to the Refugee Reception Conditions Regulations in 2013 established a general system of payment in kind (accommodation and coupons) to replace direct financial aid or welfare support and asylum seekers in need of state assistance are now required to live in the reception centre in the remote rural area of Kofinou.

**In this report, ECRI requests that the authorities take action in a number of areas; in this context, it makes a series of recommendations, including the following.**

The Commissioner for Administration and Human Rights should be consulted on all appointments of staff to her office, and the authorities should allocate an adequate budget for her to carry out her functions properly.\*

Gender identity should be included as a prohibited discrimination ground in Cypriot equal treatment legislation. The authorities should define in law and prohibit racial profiling by the police, as well as provide further human rights training for them.

A comprehensive strategy for the inclusion of Roma should be developed in all areas of life, including measures aimed at eliminating discrimination and prejudice, with goals and targets, success indicators and a monitoring and evaluation system.\* Steps should be taken to review, and where necessary ensure, the compulsory school attendance of all Roma children. The authorities should make use of all available channels of funding to ensure the survival of the Bicomunal Multiservice Centre and the important integration services it provides to Roma.

The authorities should consider amending the Refugee Law to provide for the possibility of family reunification for those granted subsidiary protection, in order to enhance their integration. The authorities should review the Refugee Reception Conditions Regulations, in particular the requirement for asylum seekers to be accommodated at the reception centre and the coupon system, with a view to amending them.

The authorities should develop a new integration plan for non-nationals, including foreign domestic workers, refugees and beneficiaries of subsidiary protection and other migrants, accompanied by an awareness-raising campaign to inform the public, as well as employers and financial institutions, about the rights of beneficiaries of international protection.

The authorities should undertake research and collect data on LGBT persons and on discrimination and intolerance against them, and adopt an action plan to combat homophobia and transphobia in all areas of everyday life.

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\* This recommendation will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.

## FINDINGS AND RECOMMENDATIONS

### I. Common topics

#### 1. Legislation against racism<sup>1</sup> and racial discrimination<sup>2</sup>

##### - Criminal law

1. Criminal law provisions corresponding to ECRI's General Policy Recommendation No. 7 (GPR No. 7) on national legislation to combat racism and racial discrimination can be found in various pieces of legislation: Law 12/1967 (as modified by Law 11(III)/1992 and by Law 28(III)/1999), Law 134(I)/2011 and the Criminal Code. ECRI notes that many of the key elements of GPR No. 7 are covered and the following analysis focuses mainly on the lacunae.
2. Law 12/1967 is the law ratifying and transposing into national law the International Convention on the Elimination of All Forms of Racial Discrimination. Its Section 2A(1) penalises public incitement (orally or through the press, documents, pictures or any other means) to acts likely to cause discrimination, hatred or violence against persons or groups on account of their racial or ethnic origin or religion. The conduct carries imprisonment of up to two years or a fine of up to 1000 pounds<sup>3</sup> or both.
3. The more recent Law 134(I)/2011 on Combating Certain Forms and Expressions of Racism and Xenophobia by means of Criminal Law transposing the Council Framework Decision 2008/913/JHA<sup>4</sup> criminalises public incitement to violence or hatred directed against a group of persons or a member of such a group on the wider grounds of race, colour, religion, descent or national or ethnic origin. Penalties of up to five years imprisonment or a fine of up to 10 000 euros or both may be imposed. In relation to ECRI's GPR No. 7 § 18 a, the grounds of language and citizenship are missing from these two laws. However, as laws ratifying or transposing international instruments, they cannot be amended without prior amendment of the original instrument.
4. In addition, ECRI notes the specific offence in Section 47(1)(b) of the Criminal Code penalising the commission of acts in public with intent to promote enmity between the communities or religious groups<sup>5</sup> on account of race, religion, colour or gender. Furthermore, the Criminal Code was amended in May 2015 by Law 87(I)2015 punishing public incitement to violence or hatred – but not discrimination - against a group of persons or a member of such a group on the basis of their sexual orientation or their gender identity.<sup>6</sup>
5. Section 2A(3) of Law 12/1967 criminalises the public expression of ideas (orally or through the press, documents, pictures or any other means) which are

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<sup>1</sup> According to ECRI's General Policy Recommendation (GPR) No.7, "racism" shall mean the belief that a ground such as race, colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons, or the notion of superiority of a person or a group of persons.

<sup>2</sup> According to GPR No. 7 "racial discrimination" shall mean any differential treatment based on a ground such as "race", colour, language, religion, nationality or national or ethnic origin, which has no objective and reasonable justification.

<sup>3</sup> Cyprus now uses euros; this is equivalent to 1 362 euros.

<sup>4</sup> The Report from the Commission to the European Parliament and the Council on the implementation of Council Framework Decision 2008/913/JHA on combating certain forms and expressions of racism and xenophobia by means of criminal law (SWD(2014) 27 final, Brussels, 27.1.2014, COM(2014) 27 final), does not signal any failings by Cyprus in the transposition into national law of the Framework Decision.

<sup>5</sup> ECRI recalls that the Cypriot Constitution of 1960 refers to the Greek and the Turkish communities and recognises three religious groups, the Latins, the Maronites and the Armenians.

<sup>6</sup> Normally this section covers only legislation against racism and racial discrimination, but the information is relevant to the recommendation in § 6 of this report.

insulting to a person or group on account of their racial or ethnic origin or religion. Again, the elements of language and citizenship are not covered. There is also no mention of racially motivated defamation or threats, as per GPR No. 7 § 18 b and c.

6. ECRI recommends amending Law 87(I)/2015 to include the offence of public incitement to discrimination and the grounds of race, colour, language, religion, citizenship or national or ethnic origin. It should also be extended to cover defamation and threats on all the existing and above-mentioned grounds.
7. Cypriot criminal law does not appear to criminalise the public expression, with a racist aim, of an ideology which claims the superiority of, or which depreciates or denigrates, a group of persons on the grounds of their race, colour, language, religion, nationality, or national or ethnic origin, as recommended in GPR No. 7 § 18 d.
8. ECRI recommends the criminalisation of the public expression, with a racist aim, of an ideology which claims the superiority of, or which depreciates or denigrates, a group of persons on the grounds of their race, colour, language, religion, nationality, or national or ethnic origin.
9. In its fourth report, ECRI recommended that the authorities ensure that new criminal legislation expressly states that racist motivation for any offence constitutes an aggravating circumstance. ECRI is pleased to note, therefore, that Article 8 of Law 134(I)/2011 on Combating Certain Forms and Expressions of Racism and Xenophobia by means of Criminal Law expressly states that the racist and xenophobic motivation for any offence constitutes an aggravating circumstance. This is now fully in line with GPR No. 7 § 21.

- **Civil and administrative law**

10. Law 59(I)/2004 on Equal Treatment (Racial or Ethnic Origin) and Law 58(I)/2004 on Equal Treatment in Employment and Occupation transpose European Council Directives 2000/43/EC<sup>7</sup> and 2000/78/EC<sup>8</sup> respectively. Taken together they prohibit discrimination on the grounds of racial or ethnic origin, religion or belief, disability, age and sexual orientation. As compared to ECRI's GPR No. 7, the grounds of colour, language and citizenship are missing.<sup>9</sup>
11. Law 42(1)/2004 on Combating Racial and Other Forms of Discrimination (Commissioner) appoints the Commissioner for Administration and Human Rights (Ombudsman) as the national Equality Body empowered to combat direct and indirect discrimination on the grounds of community, race, language, colour, religion, and national or ethnic origin. The Commissioner is also mandated to promote equality of opportunity irrespective of the above-mentioned grounds, as well as on the ground of sexual orientation, in all the areas specified in ECRI's GPR No. 7 § 7. In comparison with this GPR, only the ground of citizenship is missing.
12. However, ECRI recalls that Cyprus has ratified Protocol No. 12 to the ECHR and transposed it into national law, thus providing for an open-ended list of protected grounds, including all those enumerated in GPR No. 7.
13. As concerns forms of discrimination as set out in GPR No. 7 § 6, only instructing another to discriminate is clearly prohibited in the above-mentioned Laws 58 and 59. The prohibition of segregation is not included, nor are

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<sup>7</sup> Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

<sup>8</sup> Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

<sup>9</sup> Article 28(2) of the Cypriot Constitution refers to colour and language, among other non-exhaustive grounds, but only in respect of the rights and liberties provided for in the Constitution.

discrimination by association, announced intention to discriminate, or inciting or aiding another to discriminate.

14. There is also no reference in the laws to the duty of public authorities to promote equality and to prevent discrimination in carrying out their functions, as recommended in GPR No. 7 § 8, nor the duty to ensure that those parties to whom they award contracts, loans, grants or other benefits respect and promote a policy of non-discrimination, as per GPR No. 7 § 9.

15. ECRI recommends amending Laws 58(I)/2004 and 59(I)/2004 to include the following: the prohibition of segregation, discrimination by association, announced intention to discriminate and inciting or aiding another to discriminate; and the duty of public authorities to promote equality and to prevent discrimination in carrying out their functions.

- **National specialised bodies**<sup>10</sup>

16. The Commissioner for Administration and Human Rights is the Ombudsman of Cyprus as well as the national Equality Body. Within the latter, two departments operate: 1) the Equality Authority, dealing with discrimination in the field of employment and occupation, and gender issues in all fields, and 2) the Anti-discrimination Body, dealing with all other grounds except gender, in all fields except employment/occupation. It is an independent quasi-judicial body which hears, investigates and decides on individual instances of discrimination brought before it. The Equality Body is empowered to issue binding decisions or make recommendations and impose small fines (not exceeding 350 euros). It carries out all the functions specified in ECRI's General Policy Recommendation No. 2 on national specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level, as well as in GPR No. 7 § 24, with the important exception that it has no right to initiate and participate in court proceedings. ECRI discusses the effectiveness of this body in the section below on Topics specific to Cyprus.

17. ECRI recommends that the Commissioner for Administration and Human Rights is granted the right to initiate and participate in court proceedings.

**2. Hate speech**<sup>11</sup>

- **Political and other forms of public discourse**

18. Racist statements in the public sphere continue to be a common phenomenon.<sup>12</sup> Prior to the presidential elections in early 2013 and against the back-drop of the economic crisis, some politicians and public figures blamed migrants for unemployment and portrayed them as receiving higher state benefits than Cypriots, while Chinese and Vietnamese migrant women were stereotyped as prostitutes.<sup>13 14</sup> Muslim migrants were especially targeted and depicted as a threat to the demographic composition of the country.<sup>15</sup>

19. ECRI notes that NGOs report offensive discourse targeting LGBT persons by mainstream politicians. For example, in March 2010 a Member of Parliament, during a live broadcast, likened homosexuality to paedophilia, bestiality and

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<sup>10</sup> Independent authorities expressly entrusted with the fight against racism, xenophobia, antisemitism, intolerance and discrimination on grounds such as ethnic origin, colour, citizenship, religion and language (racial discrimination), at national level.

<sup>11</sup> This section covers racist and homo/transphobic speech. For a definition of "hate speech" see Recommendation No. R (97) 20 of the Committee of Ministers to the member States on "hate speech", adopted on 30 October 1997.

<sup>12</sup> Demetriou, C. 2014: 5.

<sup>13</sup> Demetriou, C. 2014: 17.

<sup>14</sup> European Network against Racism (ENAR) 2013: 34.

<sup>15</sup> Trimikliniotis, N. and Demetriou, C. 2012.

necrophilia.<sup>16</sup> Moreover, the Orthodox Church of Cyprus has taken a clear anti-LGBT stance on various occasions. In March 2014, at the Council of the Heads of the Christian Orthodox Church held in Istanbul, the Archbishop urged all Orthodox Churches to “condemn homosexuality”, and stated that governments demonstrated “weakening moral integrity” by ensuring equal rights to LGBT people, for example through civil partnerships or equal marriage.<sup>17</sup> Church authorities also reacted negatively to the first gay pride March in 2014, declaring that the word of God condemns homosexuality and such relationships are a “moral aberration” and “not a normal lifestyle choice”.<sup>18</sup>

20. Furthermore, the Archbishop openly admitted on TV news that he supported the causes of the National Popular Front (ELAM), an extreme right neo-nazi party (see below).<sup>19</sup>

- **Extremist groups**

21. The far-right military-style political movement, National Popular Front (ELAM) was founded in 2008 and was approved as a political party in May 2011. It won 4 354 votes in the parliamentary elections of 2011, representing 1% of the total number of votes. In the 2014 European Parliament elections, it obtained 6 957 votes (2.7% of the total) but no seats, indicating a small rise in its popularity. The party promotes Greek nationalism and describes its ideology as “popular and social nationalism”. ELAM has been openly connected with the Greek far-right political party Golden Dawn, which it describes as a “brother movement”. It has also been described as the Golden Dawn of Cyprus.
22. ELAM promotes an antisemitic, anti-Turkish Cypriot, racist and xenophobic agenda and is believed to be responsible for attacks on Turkish Cypriots and migrants.<sup>20</sup> For example, on 28 December 2010, ELAM organised a march against Turkish Cypriots and migrants (see the section on Racist and homo/transphobic violence). However, according to many accounts, ELAM has since then toned down its rhetoric and kept a low profile in recent years.

- **Traditional-media and Internet**

23. It appears that intolerant and xenophobic discourse in the media has increased with the economic crisis.<sup>21</sup> As already observed, migrants, particularly Muslim ones, are frequently presented in a negative light and associated with problems such as rising unemployment and criminality, while asylum seekers are portrayed as scroungers on welfare assistance.
24. In 2013 the Cyprus University of Technology carried out a study on the manner in which various mass media cover news relating to third-country nationals and immigration.<sup>22</sup> The project involved a comparative study of four countries, one of which was Cyprus. The content analysis of the Cypriot media identified four problems: the use of the term “illegal immigrant”; reference to the citizenship of suspected perpetrators of crime; the dramatisation of facts; and the distortion of events in news titles. The study concluded that these practices tended to racialise crime and convey messages about the threat posed by migrants to the country’s security, health, welfare and culture. Television coverage of events

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<sup>16</sup> San Diego Gay and Lesbian News (SDGLN.com) 2010.

<sup>17</sup> European Parliament’s Intergroup on LGBT Rights 2014.

<sup>18</sup> Huffington Post Gay Voices 2014.

<sup>19</sup> ENAR 2013: 9.

<sup>20</sup> Ahmet Erdengiz, Wall Street Journal 2014.

<sup>21</sup> ENAR 2013: 31-33.

<sup>22</sup> Cyprus University of Technology 2013, Department of Communication and Internet Studies, Research into the approach of the mass media in Europe regarding issues related to third country nationals and immigration.

demonstrated the additional problem of sensationalism, stereotyping and xenophobic attitudes. Moreover, interviews with journalists revealed that very few of them were aware of their Code of Journalistic Ethics, the evaluation of which ECRI had recommended in its fourth report.

25. Homophobic sentiment also seems to be commonly expressed in the media. A 2009 report by the Danish Institute for Human Rights states that the Cypriot popular press often exploits the subject of non-normative sexualities for sensational reporting.<sup>23</sup> The Agency for Fundamental Rights of the European Union, in its 2013 LGBT survey,<sup>24</sup> highlighted a respondent's comment on the media in Cyprus as "virulently homophobic and cannot miss the chance to expose and ridicule a gay person, particularly in the public arena".

- **Response of the authorities**

26. ECRI considers hate speech particularly worrying because it is often a first step in the process towards actual violence. Appropriate responses to hate speech include law enforcement channels (criminal and administrative law sanctions, civil law remedies) but also other mechanisms to counter its harmful effects, such as self-regulation, prevention and counter speech.
27. As observed above, racist hate speech is punishable under various provisions of Law 12/1967, Law 134(I)/2011 and the Criminal Code. Moreover, amendments to the Criminal Code were recently enacted criminalising public incitement to hatred or violence against any group of persons, or a member of a group, based on their sexual orientation or gender identity. Perpetrators face up to three years imprisonment or a fine of up to 5 000 euros or both. While ECRI welcomes this development, it also takes note of criticism that the new provisions set significantly lower penalties than for racially motivated hate speech (see § 3), thus creating different standards for racist hate speech and homo/transphobic hate speech. In addition, hate motivation based on sexual orientation or gender identity cannot be invoked as an aggravating circumstance for any ordinary offence.
28. In view of the existing situation as regards racist and homophobic hate speech, ECRI recommends that the authorities increase the penalties for homo/transphobic hate speech under the new Criminal Code provisions so that they are identical to those for racist hate speech in Law 134(I)2011.
29. As regards criminal law enforcement, according to statistics on "incidents and/or cases of a racial nature and/or with a racist motive", which are collected exclusively by the police, between 2005 and 2014, 119 such incidents were recorded. Of these, 58 were classified as verbal assault/hate speech. However, only two cases were tried, in 2009 and 2010, specifically under Law 12/1967, one of which ended in a conviction. Law 134(I)/2011 has not been invoked in any case so far.
30. ECRI is concerned that the criminal law provisions against racist hate speech are not being applied and that perpetrators are not being punished, which sends a message of impunity. The authorities assured ECRI that police receive special training on hate crime and discrimination, including how to recognise acts committed with a racist motivation. However, according to a recent report,<sup>25</sup> questionnaire respondents stated that even when witnesses and victims report the use of racist words at the time of the crime, the police do not necessarily investigate the potential racist element. The same report also states that there are examples of cases where the police failed to "unmask" the racist bias of

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<sup>23</sup> Danish Institute for Human Rights 2009.

<sup>24</sup> European Union Agency for Fundamental Rights 2013.

<sup>25</sup> ENAR 2014: 26.

crimes even when racist language had been used at the time of the crime. There appears, therefore, to be some reluctance on the part of law enforcement authorities to deal with racially motivated crime.

31. As for administrative law responses, ECRI notes that the Radio and Television Organisations Laws of 1998 to 2015 contain provisions prohibiting media service providers from broadcasting programmes containing any incitement to hatred based on race, sex, religion or nationality. They also forbid the promotion of discrimination based on the same grounds as well as on racial or ethnic origin, disability, age or sexual orientation.
32. The Cyprus Radio and Television Authority (the Authority) operates as an independent body responsible for ensuring that private radio stations and television channels act in compliance with the above-mentioned laws and regulations. It aims to protect the public from exposure to audio-visual content containing discrimination or prejudice on grounds of sex, race, religion or nationality, or offending the sensitivities of racial, religious, national or social groups. It investigates complaints from the public or on its own initiative. The Authority has examined a number of cases on grounds of race and religion and has issued warnings or imposed fines (ranging from 500 to 3 000 euros).
33. In addition, the Authority issues circulars on various issues. For example, on 25 September 2014 it issued a circular for the immediate attention of private stations and channels as well as of the Cyprus Broadcasting Corporation, requiring reporting of the humanitarian rescue of immigrants close to Paphos “with due respect and sensitivity” so as not to contribute to a negative climate of opinion towards migrants. ECRI welcomes such preventive initiatives, particularly in light of the findings of the study described above (see § 24).
34. Moreover, a legal reform proposal was put forward by the Authority to amend the current media laws and include specific provisions safeguarding respect for sexual orientation and gender identity within the broadcasting framework. The bill has not yet been enacted. In view of the comments noted by FRA in its LGBT survey (see § 25), ECRI strongly encourages the authorities to support the bill and ensure that it is passed quickly.
35. Finally, ECRI has little evidence that public figures engage actively in counter speech. As regards the homophobic statements of an MP (see § 19), there was no official response by the Government.<sup>26</sup> The European Parliament condemned the politician in a letter dated 31 May 2010, stating that his remarks were “seriously misjudged and wrong”. The party then issued a statement denouncing the homophobic comments, but without naming the politician who expressed them.<sup>27</sup> ECRI considers that where intolerant statements do not reach the level required for criminal sanctions, political and public figures should take a strong stand against them by means of counter speech.

### **3. Racist and homo/transphobic violence**

36. Police records show that of the 119 racially motivated incidents recorded between 2005 and 2014, 47 were classified as assault against persons and 60 as assault against property.
37. Reports, including one by the Equality Body, indicate a rise in racist violence against migrants attributed mostly to organised groups of young Cypriots.<sup>28</sup> For example, in February 2013 a group of youths hurled a Molotov cocktail through

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<sup>26</sup> Kapsou, M., Christophi A., Epaminonda, M. (2011): 48; Kapsou, M., Mantis, S. (2012): 15.

<sup>27</sup> Margarita Kapsou & Sylvie Mantis for the Cyprus Family Planning Association and Accept LGBT Cyprus 2010.

<sup>28</sup> Demetriou, C. 2014: 18; ENAR 2011-12: 33.



the window of a farm outside Limassol into the sleeping quarters of Egyptian migrant workers living there. At least one migrant was severely burned.<sup>29</sup>

38. ECRI notes with particular concern that members of the police have been implicated in acts of racist violence against migrants. In November 2013, an NGO reported that three police officers on patrol in Nicosia randomly requested the identity papers of some African men. One of the men accused the police of racial profiling and his leg was broken during the arrest procedures. The scene was captured on video footage and was disseminated by all media.
39. Concern has been expressed about racially motivated attacks against Turkish Cypriots. In March 2014, around 100 ELAM members attempted to interrupt and stop a reunification conference in Limassol, in which one of the speakers was the former Turkish Cypriot leader of the northern part of the island.<sup>30</sup> It was reported that members of ELAM broke through the police lines, smashed a window and threw a flare into the conference hall; a Turkish Cypriot journalist was slightly injured. In April 2012, arsonists attacked the Koprulu Haci Ibrahim Aga Mosque in Limassol.
40. Violent incidents with a possible racist motive in schools also continue to be reported. For example, in November 2011 Arab pupils were attacked by a group of Greek Cypriots at the Vergina Lyceum and three of them were rushed to the hospital's emergency unit. Another case involved an attack against a Greek Pontian pupil by two Greek Cypriot pupils in a secondary school in Paphos; the victim suffered a serious eye injury which required surgery.
41. As for homo/transphobic violence, according to the EU LGBT Survey of the European Union Agency for Fundamental Rights (FRA), 23% of the respondents in Cyprus said they were physically/sexually attacked or threatened with violence in the last five years. Only 14% of these reported the incident of hate-motivated violence to the police.<sup>31</sup>

#### - **The authorities' response**

42. The Equality Body has repeatedly pointed out that the police records do not reflect the true extent of racist crime in Cyprus. Underreporting seems to be a major problem, as well as impunity created by the lack of prosecutions.<sup>32</sup> In the majority of cases reported, the police allegedly claimed that it was not possible to trace the persons involved in the attacks. There are allegations that the police actively discourage victims of racist crime from pursuing their complaints and seeking justice.<sup>33</sup> Other reports confirm these claims and conclude that the police are reluctant to pursue cases to criminal proceedings and, where they do, the courts fail to deliver guilty verdicts.<sup>34</sup> Under-qualification of racist acts also occurs, whereby an offence motivated by hate is tried as a less serious one or one without a bias motive.
43. ECRI strongly recommends that the police are clearly instructed to record any racist motivation behind all offences involving violence as well as in relation to any ordinary offence and to investigate these elements thoroughly.
44. As noted above, the aggravating circumstance of racist motivation can now be invoked in relation to any offence to increase the punishment. However, no data is available on the application of these provisions. According to the Shadow

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<sup>29</sup> The Independent 2013.

<sup>30</sup> ECRI recalls that the self-proclaimed "Turkish Republic of Northern Cyprus" is not recognised by any state other than Turkey.

<sup>31</sup> European Union Agency for Fundamental Rights 2012.

<sup>32</sup> Demetriou, C. 2014: 5-6.

<sup>33</sup> ENAR 2014.

<sup>34</sup> Demetriou, C. 2014: 17.

Report 2013-2014 of the European Network against Racism,<sup>35</sup> there is no known conviction where the court took into account racial or xenophobic bias during sentencing. Moreover, criminal law does not provide for aggravating circumstances in cases of homo/transphobic motivation. ECRI refers to the recommendation it made in § 28 of this report.

45. ECRI recommends that data is collected on the application of the provisions on aggravating circumstances (Article 8 of Law 134(I)/2011 on Combating Certain Forms and Expressions of Racism and Xenophobia by means of Criminal Law).
46. ECRI welcomes the reaction of the authorities to some of the violent incidents mentioned above. As concerns the attack on the Koprulu Haci Ibrahim Aga Mosque (see § 39), the Government and the Archbishop of the Orthodox Church of Cyprus publicly condemned the act and the Limassol municipality helped to restore the building. Regarding the attack by ELAM supporters at a reunification conference in Limassol (see § 39), the government spokesman strongly denounced the group's "unlawful actions" and three arrests were made.<sup>36</sup> As for police brutality towards an African migrant (see § 38), ECRI notes that the Independent Authority for the Investigation of Complaints and Allegations concerning the Police confirmed receipt of an official complaint, and the Minister of Justice stated that an investigation would take place.<sup>37</sup>
47. On the latter point, ECRI recalls that there had been claims of racial profiling. It notes that a policy circular instructs police to "avoid" such activities but that racial profiling is not prohibited by law. ECRI recalls its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing, which calls for racial profiling to be defined and prohibited by law, as it constitutes a form of racial discrimination, has substantial negative effects and undermines trust in the police.<sup>38</sup>
48. ECRI strongly recommends that racial profiling by the police is defined and prohibited by law, in accordance with its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing. It also recommends further human rights training for police.
49. ECRI notes that the Observatory against Violence in Schools, mentioned in its fourth report, continues to record, analyse and evaluate data on the extent and forms of violence in primary and secondary education. Between 2010 and 2015, it recorded a total of 765 violent incidents, although no data was provided on how many of these were racially motivated.
50. Furthermore, in response to a report by the Commissioner for Administration and Human Rights on racist violence in schools, the Ministry of Education and Culture drafted a Code of Conduct against Racism and Guide for Managing and Reporting Racist Incidents in Schools. It sets out an antiracist policy, with a broad notion of "racism", including also homo/transphobic bullying, and provides schools and teachers with detailed advice on how to prevent and deal with racist incidents and violence committed within the school context. The Code was officially presented to the public at a press conference in June 2014. It is expected to contribute to a decrease in bullying and discrimination based on any form of diversity through the promotion of empathy rather than punishment. The Code was applied on a pilot basis in five primary and two secondary schools in three cities during the school year 2014-2015. In the school year 2015-2016, the Ministry of Education and Culture suggested that all schools introduce the Code under the goal "sensitising pupils against racism and

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<sup>35</sup> ENAR 2014.

<sup>36</sup> Yahoo ABC News Network 2014.

<sup>37</sup> US Department of State 2014: 2.

<sup>38</sup> See the Explanatory Memorandum to GPR No. 11, §§ 27-39.

intolerance and promotion of equality and respect” in the context of the No Hate Speech Movement of the Council of Europe, and so far 75 schools have done so. ECRI draws attention to this initiative as best practice.

#### **4. Integration policies**

##### **- Integration policy for Roma**

51. ECRI recalls that the Roma are regarded as Turkish-speaking Muslim Gypsies and part of the Turkish Cypriot community. The authorities estimate their number in the Government-controlled areas to be around 650 persons.
52. In January 2012, Cyprus submitted to the European Commission its Policy Measures for the Social Inclusion of Roma, under the EU Framework for National Roma Integration Strategies up to 2020. These describe the approach taken by Cyprus, which is “to promote Roma integration through policy measures targeting vulnerable groups of society within existing structures”, in four areas – access to education, employment, health care and housing.
53. In education, the policy provides for a series of measures for the benefit of Roma as well as other non-Greek-speaking pupils (asylum seekers, refugees and other migrants). The main challenges are persuading Roma families to enrol their children in school and creating an environment of cooperation, mutual understanding and respect between pupils and parents of different ethnic origins. The policy indicates that the majority of schools with high registration and attendance of Roma, as well as foreign pupils, in areas that are deemed socially disadvantaged operate as Zones of Educational Priority (ZEP, described in detail in ECRI’s fourth report) and follow a strategy of positive action, with additional resources from the Ministry of Education and Culture. Measures include provision of bilingual teachers to facilitate communication; breakfast for all Roma pupils and meals for Roma who attend whole-day school; special support for Roma from the Service of Educational Psychology and the Social Welfare Services; organisation of intercultural activities and educational seminars for parents.
54. The policy also describes the upgraded educational curriculum pertaining to multicultural education, aiming at the smooth integration of pupils from diverse ethnic backgrounds into the educational system and providing equal opportunities in all aspects of school life. This includes in-service training of teachers at all levels in the philosophy of multicultural education. Close cooperation is encouraged between school personnel and the parents of Roma pupils in designing actions to address the latter’s specific needs.
55. As concerns access to employment, the policy sets out the promotion of language programmes for Roma among other non-Greek-speaking adults as a prerequisite for developing professional skills. Language lessons are provided in Multi-Functional, Multi-Cultural Centres operated by the municipalities of Limassol and Nicosia. There are no other specific measures to promote employment of Roma.
56. The section on health care refers to general programmes for the detection and treatment of infectious diseases, vaccination services, body scanning, medical examinations, antismoking and information programmes on reproductive health and psychological support. There are no specific measures for Roma.
57. As for access to housing, the policy refers to measures already taken to close the gap between Roma and the rest of society in two areas: firstly, repairs/improvements to 20 existing Turkish-Cypriot houses inhabited by Roma in Limassol and to 25 such houses in Paphos; secondly, housing projects for Roma, consisting of the construction of 16 prefabricated housing units outside Limassol and 24 outside Paphos, equipped with all basic amenities such as

water, including drinking water, electricity, solar water heaters, telephone line installation and a sewage system.

58. The policy refers in its conclusion to the elimination of discrimination, but no measures taken or planned are set out.

- **Policy's assessment and results**

59. The European Commission noted that the policy submitted by Cyprus for the social inclusion of Roma was not an integration strategy as such, but rather a set of measures to promote the inclusion of vulnerable groups, including Roma.
60. As concerns education, the European Commission's website on National Roma Integration Strategies confirms that the following measures to address the educational needs of Roma pupils have been put in place: remedial teaching for learning Greek during and after school hours; financial support for books, transport, uniforms and other school items; and breakfast and lunch free of charge for Roma pupils attending state primary schools.<sup>39</sup> ECRI welcomes these elements which, according to the authorities, have brought positive results, including a reduction of pupil drop outs and improved school success.
61. However, while there are no recent or updated surveys, earlier studies indicate that despite a ten-year compulsory education system and social service incentives aiming at retaining Roma children in school, school enrolment and attendance among Roma are low, and drop-out rates, especially in the transition between primary and secondary school, are high.<sup>40</sup> According to data provided by the authorities, there are only 53 Roma children attending public primary and secondary education, out of an approximate total of 650 Roma altogether. Roma children enrolled in school represent 8.2% of the total Roma population. The authorities have indicated that the percentage of all children enrolled in school out of the total population of the country in 2013 was 11.7%. Although not a significant difference, this may be an indicator that some Roma children do not attend school and that there may be weaknesses in the policy in this area.
62. ECRI considers that the authorities should look into the question of whether all Roma children attend and remain in compulsory education. While ECRI appreciates the difficulties involved, not least the fact that the Roma population frequently moves from one part of the island to the other, this is vital to break the cycle of poverty and prejudice and improve the prospects and integration of Roma.
63. ECRI strongly recommends that the authorities review, and where necessary take steps to ensure, the compulsory school attendance of all Roma children.
64. Moreover, as a result of the concentration of Roma living in certain locations (see next paragraph), there are disproportionate numbers of Roma in certain schools, which hinders integration. Two of the ZEP schools in particular are commonly known as "Turkish Cypriot schools"; in the year 2014-2015, 25 pupils self-identified as Roma in primary education attended the 18<sup>th</sup> Primary School in Limassol, while nine pupils identified as Roma out a total of 24 Turkish Cypriot pupils in public secondary education were enrolled at the Agios Antonios Secondary School, also in Limassol. For further details, ECRI refers to the section below on Interim follow-up recommendations of the fourth cycle.
65. The policy of constructing prefabricated housing units for Roma in isolated areas outside Limassol and Paphos goes against the recommendation made by

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<sup>39</sup> See [http://ec.europa.eu/justice/discrimination/roma-integration/cyprus/national-strategy/national\\_en.htm](http://ec.europa.eu/justice/discrimination/roma-integration/cyprus/national-strategy/national_en.htm) and [http://ec.europa.eu/justice/discrimination/files/roma\\_country\\_factsheets\\_2014/cyprus\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/roma_country_factsheets_2014/cyprus_en.pdf).

<sup>40</sup> Eleni Theodorou & Loizos Symeou 2012.

ECRI in its fourth report. ECRI regrets not only that the two settlements continue to exist, but also that the authorities have invested in improving or constructing further housing units specifically for Roma in these two specially designated areas away from contact with other members of society, thus promoting a policy and practice of de facto segregation.<sup>41</sup>

66. ECRI reiterates its recommendation that the authorities close down the segregated housing units for Roma (in Limassol and Paphos) and relocate the inhabitants to areas where they can mix and integrate with the rest of society.
67. The policy refers to Multi-Functional, Multi-Cultural Centres, one of which was described in ECRI's fourth report. At the time, ECRI had strongly encouraged the authorities to provide increased funding to the Bicomunal Multiservice Centre in Limassol, in order for it to expand its operations and maximise the benefits for as many people as possible. ECRI recalls that this organisation is an NGO, providing counselling and support to Turkish Cypriots and Roma. It is currently the only organisation in Cyprus that works with Roma families and, among other functions, serves as a liaison between local residents and various government departments. ECRI notes that government funding has been reduced so drastically that the Centre is struggling to maintain its existing programmes and its future is uncertain.<sup>42</sup> ECRI regrets that this initiative, which had been successful in creating a relationship of trust in very vulnerable communities, and represents a valuable integration tool, is not adequately supported by the authorities.
68. ECRI strongly recommends the authorities to make use of all available channels of funding to ensure the survival of the Bicomunal Multiservice Centre and the important integration services it provides to Roma.
69. In view of the above, ECRI considers that Cyprus has not developed a proper strategy for the inclusion of its Roma population in all areas of life. As observed in ECRI's fourth report, the Roma continue to be ignored and avoided in society. Numerous interlocutors have stated that the Roma are "invisible" in Cyprus. Despite this, racism, discrimination and prejudice persist. While some good steps have been taken in education, little or nothing has been done specifically for Roma in other areas, and detrimental measures have been taken in respect of housing. It is clear that the Roma, although few in number, are an extremely vulnerable group requiring special attention to improve their situation.
70. ECRI recommends that a comprehensive strategy for the inclusion of Roma is developed in all areas of life, including measures aimed at eliminating discrimination and prejudice, with goals and targets, success indicators and a monitoring and evaluation system. This should be done in close cooperation with members of the Roma community and adequate funding should be allocated for the strategy to be effective.

#### - **Integration policies for non-nationals**

71. In September 2010, the National Action Plan 2010-2012 on integration of third-country nationals legally residing in Cyprus, prepared by a committee of experts set up by the Council of Ministers, was adopted. The Plan consisted of eight priority pillars covering inter alia employment and training, education and language learning, health, housing, culture and participation, with specific objectives and actions for their implementation, as well as timetables,

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<sup>41</sup> The European Union's country factsheet on Cyprus also warns that the two prefabricated housing projects are located in remote areas and risk promoting Roma segregation. See: [http://ec.europa.eu/justice/discrimination/files/roma\\_country\\_factsheets\\_2013/cyprus\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/roma_country_factsheets_2013/cyprus_en.pdf).

<sup>42</sup> In 2011 and 2012, the Centre received 17 000 euros in state funding; this was reduced in 2013 and 2014 to 9 000 euros. The only classes now organised are in home economics and sewing, and two-hour Greek language lessons are given twice a week.

indications of the responsible services and funding sources. The overarching goal was to integrate immigrants through the creation of a “clear route” to citizenship,<sup>43</sup> via the acquisition of long-term residence status and the immigration permit.<sup>44</sup>

72. The Plan included awareness raising among employers in matters relating to equal treatment and non-discrimination and targeted actions for the integration of asylum seekers, recognised refugees and beneficiaries of subsidiary protection aimed at preventing exploitation in the workplace and ensuring their rights in employment, as well as programmes to inform the Cypriot public on issues related to beneficiaries of international protection.
73. In February 2013, the Council of Ministers announced that it would prepare an updated policy. The main goals would include maximising the benefits of legal migration by redefining the needs of the labour market, promoting the smoother integration of legal migrants in Cypriot society and managing situations where a form of ghetto has been established. No new action plan was adopted but ECRI has been informed that the Ministry of Interior together with the Office of the Commissioner for Administration and Human Rights cooperate on the preparation of an updated integration action plan for the period 2016-2018.
74. ECRI recalls also that the above-mentioned Policy Measures for the Social Inclusion of Roma contain measures not only for Roma but also for non-nationals, mainly pertaining to learning the Greek language to access education and employment.

#### - **Policies’ assessment and results**

75. The National Action Plan (hereafter, the Plan) has been criticised for not proceeding on the basis of any consultation process prior to its adoption. Moreover, the overall budget was relatively small.<sup>45</sup>
76. Despite this, the Plan was generally welcomed and seems to have achieved some positive results, according to the authorities, including the following: organisation of multi-level and intensive Greek-language programmes for third-country nationals; an information guide concerning the education system in five languages; training for teachers of Greek as a second language; integration programmes which included civic orientation, language lessons, skills acquisition (computing, cooking, first aid); multicultural festivals, art and sports events; and training seminars for journalists, NGOs and public officials.<sup>46</sup>
77. While ECRI welcomes the steps taken in some areas of the Plan, it observes that non-nationals continue to experience difficulties integrating in Cyprus. As observed earlier in this report, migrants are among the main targets of hate speech and racist violence. The Fundamental Rights Agency of the European Union pointed out, in its Annual Report 2014, that Cyprus is one of 12 EU Member States which have not implemented any concrete measure for migrant integration and inclusion targeting the general population.<sup>47</sup>
78. The Migration Policy Group Migrant Integration Index (MIPEX) study ranked Cyprus second last of all 31 countries covered, concluding that Cyprus

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<sup>43</sup> David Officer and Yiouli Taki 2013.

<sup>44</sup> The Immigration Permit grants non-EU nationals, as well as their spouses and children under 18 years, the right to reside permanently in the country. There are five categories of possible applicants; in all cases a specified amount of capital, investment or income is required or permanent employment which will not create undue local competition. For further information see:

[moi.gov.cy/moi/CRMD/crmd.nsf/All/044601A0B7CE6062C2257D2C0037F93F?OpenDocument](http://moi.gov.cy/moi/CRMD/crmd.nsf/All/044601A0B7CE6062C2257D2C0037F93F?OpenDocument).

<sup>45</sup> David Officer and Yiouli Taki 2013.

<sup>46</sup> Office of the High Commissioner for Human Rights 2014.

<sup>47</sup> European Union Fundamental Rights Agency 2014: 98.

discourages integration, with unfavourable conditions for migrant workers to gain long-term access to the labour market and few real opportunities to naturalise. In this context, ECRI notes that third country nationals cannot access numerous professions, including any public sector employment, and are often denied both equal working conditions and social security; even as taxpayers, they cannot claim unemployment benefits or public allowances.<sup>48</sup> ECRI notes that the European Committee of Social Rights concluded in 2011 that the situation was not in conformity with Article 19 §4 of the revised European Social Charter on the ground, inter alia, that it had not been established that migrant workers enjoy treatment which is not less favourable than that of nationals with respect to remuneration, employment and other working conditions.<sup>49</sup> Therefore, the goals of the policy in relation to equal treatment in employment have not been achieved.

79. Moreover, the Plan does not address foreign domestic workers, a specific and particularly vulnerable category addressed by ECRI in its fourth report. The authorities informed ECRI that an on-going process of improving their situation is in place. For example, in April 2015, the national policy for the employment of domestic workers was revised. Foreign domestic workers may now join trade unions and, provided that they work for the same employer, their work and residence permit may be renewed for a maximum period of six years (previously they were granted a four year non-renewable permit, with limited exceptions). Change of employer is now allowed but is limited to two changes over the six-year period and change of sector is possible with the approval of the Minister of Interior. ECRI welcomes these developments. However, it notes that these workers are specifically barred from acquiring long-term residence status (see below). Their numbers are estimated at around 35 000 at present, the majority of whom are women, making up roughly half of the foreign labour force and the lowest paid workers in the Cypriot economy.<sup>50</sup> In ECRI's view, there is a need for an integration strategy for foreign domestic workers.
80. As concerns the Action Plan's clear route to citizenship via the acquisition of long-term residence status, ECRI recalls that many third-country nationals may never acquire this status: it requires legal and continuous residence in Cyprus for at least five years, whereas temporary residence permits may be renewed (with some limited exceptions) for up to a maximum of four years. Moreover, those who do meet the eligibility criteria still have to fulfil other conditions, such as proof of suitable accommodation and, since 2009, a certificate of knowledge of the Greek language (level A2). The authorities informed ECRI that between 2009 and 2014, long-term residence status was granted to 414 persons.
81. Foreigners must have at least seven years' residence in Cyprus to apply for citizenship through naturalisation and then go through a procedure described as long, costly (500 euros application fees) and discretionary; they can be refused on account of "lack of good character". Nevertheless, ECRI notes improvements in the last two years which have resulted in a large increase in the number of persons acquiring citizenship. For example, 1 010 persons were naturalised in 2014<sup>51</sup>, compared to 328 in 2013.
82. As for beneficiaries of international protection, while the Plan includes some actions addressing their needs, according to the UNHCR no integration measures have been taken in favour of these persons in practice. At the end of

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<sup>48</sup> Migrant Integration Policy Index 2015.

<sup>49</sup> Council of Europe 2012.

<sup>50</sup> In August 2013 the Government announced that it would reduce by 5% the fixed salary of foreign domestic workers. See [cyprus-mail.com/2013/08/10/pitifully-paid-domestic-workers-have-wages-cut-by-state/](http://cyprus-mail.com/2013/08/10/pitifully-paid-domestic-workers-have-wages-cut-by-state/).

<sup>51</sup> This figure includes naturalisation of EU as well as third-country nationals.

2014, Cyprus hosted 3 412 refugees and persons with subsidiary protection status. ECRI has been informed that they face numerous difficulties, including: lack of knowledge of the local language and culture; lack of understanding within the host society of the specific situation of refugees; problems relating to employment due to preference given to nationals or lack of awareness that refugees are allowed by law to work; non-availability of vocational training programmes; and difficulties opening bank accounts. There are also no measures in place to assist asylum seekers who have been recognised as beneficiaries of international protection to obtain social welfare or find accommodation and employment. As a result, many remain in the reception centre in conditions not at all conducive to integration (see § 102).

83. ECRI further notes that Cyprus is now predominantly granting subsidiary protection status rather than refugee status, which has an impact on integration.<sup>52</sup> Amendments to the Refugee Law passed in April 2014 exclude beneficiaries of subsidiary protection from the right to family reunification and place new restrictions on this right for refugees, in line with the Family Reunification Directive of 2003.<sup>53</sup> When 337 Syrian refugees were rescued in open waters in September 2014, the majority did not wish to apply for asylum in Cyprus knowing that they would most likely be granted subsidiary protection rather than refugee status.<sup>54</sup> The inability to be joined by family members not only causes suffering but also clearly impacts upon the integration of subsidiary protection beneficiaries.
84. ECRI recommends that the authorities consider amending the Refugee Law to provide for the possibility of family reunification for those granted subsidiary protection status, in order to enhance their integration.
85. Finally, it is reported that the Cypriot authorities have not facilitated the naturalisation of refugees and citizenship has been granted only in rare cases. Seven years' residence is required,<sup>55</sup> which is the same length of time as for all other non-nationals.<sup>56</sup> A number of recognised refugees with more than ten years of residence were denied naturalisation on grounds that there was "no gain" for the country. In 2013, the Commissioner for Administration and Human Rights issued a report detailing 33 cases of delayed naturalisation of refugees and noting the average processing time as six years. Following this, as well as protests (including hunger strikes) by international protection beneficiaries in June and October 2014, there was a change in policy and practice. The authorities informed ECRI that since 2013, 45 beneficiaries of international protection have acquired Cypriot citizenship. ECRI welcomes this development and encourages its continuation.
86. Overall, however, ECRI considers that Cyprus needs to develop a comprehensive strategy for the integration of non-nationals, covering all fields of life and regulating in a human rights-focused manner the issues highlighted

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<sup>52</sup> According to statistics provided by UNHCR, in 2014, 1 126 applicants were granted international protection, representing 86.74% of the total decisions. Of these, 0.36% were recognised as refugees and 99.64% were granted subsidiary protection. The authorities have stated that subsidiary protection status is being granted to Syrians, who are not facing personal fear of persecution in their country, but because the internal armed conflict in Syria prevents them from returning.

<sup>53</sup> Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification.

<sup>54</sup> With the exception of one person who was granted refugee status, all Syrians who did eventually apply for international protection in 2013 were granted subsidiary protection.

<sup>55</sup> According to a recent interpretation of the relevant law by the Attorney General's Office, five years of residence is required and not seven.

<sup>56</sup> Article 34 of the 1951 Convention Relating to the Status of Refugees provides that States shall make every effort to expedite naturalisation proceedings for refugees. UNHCR considers, as a matter of best practice, that the required period of residency in order to be eligible for naturalisation should not exceed five years for refugees.



above in relation to foreign domestic workers, refugees and beneficiaries of subsidiary protection and other migrants.

87. ECRI strongly recommends that the authorities develop a new integration plan for non-nationals, including foreign domestic workers, refugees and beneficiaries of subsidiary protection and other migrants. This should be done in close cooperation with the UNHCR, relevant NGOs and migrant associations, and should be accompanied by an awareness-raising campaign to inform the public, as well as employers and financial institutions, about the rights of beneficiaries of international protection.

## **II. Topics specific to Cyprus**

### **1. Interim follow-up recommendations of the fourth cycle**

88. In its first interim follow-up recommendation, ECRI strongly recommended that the Cypriot authorities take urgent steps to implement fully the programme Zones of Educational Priority (ZEP), in particular in respect of the 18th Primary School, to ensure that the right to education as enshrined in Article 2 of the Protocol to the ECHR is respected in practice. In its conclusions adopted on 19 March 2014, ECRI noted continued inadequacies in the teaching staff employed at the school. In particular, the authorities gave no indication as to the appointment of additional Turkish-speaking teachers or assistants nor of specialist Greek language teachers. Therefore, ECRI concluded that its recommendation had been partially implemented.

89. ECRI notes that the Commissioner for the Rights of the Child published a report in December 2013 on the conditions of education at the 18<sup>th</sup> Primary School, identifying numerous problems, including the following: the staff are not adequately trained to teach in a multicultural setting; Roma children receive no pre-school education and have no knowledge of Greek when they enrol; school staff cannot communicate with parents of Roma children; the teaching material in Turkish is inadequate; and there is only one educational psychologist catering for ten ZEP schools.

90. According to the authorities, the number of Turkish Cypriot pupils attending the 18th Primary School has considerably decreased. In 2006-2007, there were 47 pupils enrolled, while in the current school year 2014-2015, only 29. However, the number of Turkish-speaking teachers and interpreters has remained the same: there are two such teachers and an interpreter for the 29 Turkish Cypriot pupils. ECRI considers this adequate to cater for their linguistic and educational needs.

91. ECRI also notes that in September 2014 a new headmaster took over the 18<sup>th</sup> Primary School and a number of initiatives were taken to improve the inclusion of Roma pupils, such as Greek language classes offered to parents as well as pupils and efforts to promote the teaching of the Roma language, Kurbetcha, with the help of linguistic experts. ECRI welcomes these developments, which appear to be addressing the previous shortcomings, and strongly encourages their continuation. Nevertheless, as highlighted above (see § 64), the issue of segregation in education, linked to segregation in housing, remains and ECRI encourages the authorities to tackle this as a medium-term goal, looking to other countries for good practice.

92. In its second interim follow-up recommendation, ECRI strongly recommended that the authorities revise their legislative plans to adopt a policy requiring third country nationals wishing to marry Cypriot or EU citizens to pass a premarital interview with the migration authorities before being given permission to marry. In its conclusions of 19 March 2014, ECRI considered its recommendation implemented since, following a revision of the Government's legislative priorities, the proposal had been removed from the list. However, ECRI took

note that the legislative plans concerning this policy had been put aside rather than entirely abandoned.

93. Since then, the authorities have informed ECRI that they remain vigilant in examining marriages involving third-country nationals due to the phenomenon of marriages of convenience and other related forms of abuse. According to relevant statistics, between 2009 and 2015 a total of 565 marriages were declared sham marriages. Plans are again underway to revise the Marriage Law, but the Ministry of Interior has stated that, following serious consideration of ECRI's recommendation, it is reconsidering its position on pre-marriage interviews and does not exclude the removal of the proposed provision. ECRI welcomes this and encourages the authorities to definitively abandon the plan to introduce such interviews in order to respect the right to marry.
94. In its third interim recommendation, ECRI encouraged the authorities to develop further the Crime Report System to ensure that accurate data and statistics are collected and published on the number of racist and xenophobic incidents and offences that are reported to the police, on the number of cases that are prosecuted, on the reasons for not prosecuting and on the outcome of cases prosecuted. It also encouraged them to improve the court archiving system so that cases are classified also by subject matter and clearly indicate racist elements. In its conclusions of 19 March 2014, ECRI considered that its recommendation had been partially implemented. Police statistics had been developed and updated to include information on the number of incidents reported to the police, the number of criminal investigations initiated, the number of cases which were filed in court, and their outcome, as well as additional information indicating the nature of the offence, the numbers and ethnicity of the victims and the accused, and the motive. However, although steps were being taken to restructure and computerise the court archiving system, little had been done in concrete terms.
95. According to the authorities, a tenders procedure is underway regarding the introduction of an electronic filing system in the courts which will provide more detailed data. The process is expected to be completed in 2016. ECRI regrets that aggravating circumstances will not be recorded as part of case statistics, making it very difficult to track racially motivated crime which does not fall under the racist-specific offences (see § 44). It strongly encourages the authorities to find a way to include this element in the newly devised filing system.

## **2. Independence and effectiveness of the Commissioner for Administration and Human Rights**

96. In its fourth report, ECRI recommended making available to the Commissioner for Administration the human and financial resources necessary to carry out her functions effectively and assuring the independence of the institution, particularly concerning the freedom to appoint its own staff, in accordance with its General Policy Recommendation No. 2 on specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level.
97. ECRI notes that the mandate of the Commissioner for Administration and Human Rights was extended from the role of Ombudsman to include the tasks of an Equality Body, as well as several other functions related to the protection of human rights. No additional budget was allocated to cover these additional roles and the resources available to the office are very limited.<sup>57</sup> Its power to impose fines is so restricted that it almost exclusively resorts to mediation rather than to issuing binding decisions.<sup>58</sup> In fact, ECRI notes that the Equality Body has imposed a fine on only one occasion.

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<sup>57</sup> Demetriou, C. 2014: 7.

<sup>58</sup> Demetriou, C. 2014: 184.

98. As regards staff, ECRI notes with concern that the Commissioner still cannot appoint her own staff. The Laws on the Commissioner for Administration 1991-2014 provide that the members of staff of the Commissioner's office are civil servants to be appointed in accordance with the Law on Civil Service. ECRI considers that the lack of power to choose its own members of staff undermines the independence of the Commissioner's office, which is a crucial feature of a national specialised body. Furthermore, ECRI was informed that the number of staff has decreased with the seconding of two officers elsewhere. Understaffing and budgetary restrictions pose a serious challenge for the prompt examination of discrimination complaints. ECRI regrets that the effectiveness of the institution has been compromised by these two factors and urges the authorities to take steps to remedy the shortcomings.

99. ECRI strongly recommends that the Commissioner for Administration and Human Rights is consulted on all appointments of staff to her office, thereby contributing to her independence, and that the authorities allocate an adequate budget for her to carry out her functions properly.

100. In its fourth report, ECRI recommended that particular attention should be paid in the awareness-raising activities of the Commissioner for Administration and Human Rights to targeting vulnerable groups and to providing information, including on the official website, in the languages of vulnerable groups. ECRI is pleased to note that the Office of the Commissioner for Administration and Human Rights has launched a new website that provides information and relevant material in Greek, English and Turkish, and complaint forms, both on-line and hard copies, are now available in all three languages.

### **3. Problems related to the new system of payment in kind (accommodation and coupons instead of financial support) for asylum seekers**

101. Changes to the Refugee Reception Conditions Regulations in 2013 established a general system of payment in kind to replace direct financial aid or welfare support for asylum seekers. As a result, all asylum seekers in need of state assistance, both newly arrived and those who have so far been living in private housing and in receipt of welfare support, with some exceptions for vulnerable persons, are required to live in the only reception centre in the country, located in the remote area of Kofinou. The capacity of the centre has recently been increased from around 80 to 400 persons for this purpose.

102. ECRI notes the efforts being made to provide suitable reception conditions, including a new medical centre, full catering as well as kitchens for those who wish to cook for themselves, libraries, common rooms and play areas for young children, provision of Greek and English language lessons, and a bus service free of charge to Kofinou and Larnaca. However, the fact remains that the facility is located in an isolated rural area,<sup>59</sup> making it very difficult for asylum seekers to access the job market<sup>60</sup> or mix in any meaningful way with local people. ECRI has heard that a major issue is lack of activities and boredom. It is particularly concerned that asylum seekers who have integrated into the Cypriot community will now have to abandon the lives they have built up and return to the reception centre.

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<sup>59</sup> Kofinou is 45 km from Nicosia, 30 km from Larnaca and 40 km from Limassol.

<sup>60</sup> ECRI recalls that asylum seekers may access the job market six months after the date on which they submitted their asylum application, but only in the following sectors: 1. Farming, agriculture, fishery; 2. Manufacturing; 3. Waste management; 4. Trade and Repairs; 5. Other activities (cleaning of buildings and outside areas, distributors of advertising or informative material, food delivery). In its fourth report, ECRI had recommended that the authorities adopt a less restrictive approach to the employment of asylum seekers and take measures to facilitate their integration into the job market. This has not been implemented.

103. As concerns those asylum seekers for the time being still living outside the reception centre, rent is now paid directly to landlords and in-kind assistance in the form of coupons is provided as well as cash to cover some other needs. The coupon system causes problems because these can only be redeemed in specified shops, which are sometimes far from where asylum seekers live and which tend to have higher prices than local supermarkets and do not cover all types of items. ECRI is concerned that the payment in kind system introduced for asylum seekers may be causing undue hardship and requires evaluating and amending.

104. ECRI recommends that the authorities review the Refugee Reception Conditions Regulations, in particular the requirement for asylum seekers to be accommodated at the reception centre and the coupon system, with a view to amending them.

#### **4. Policies to combat discrimination and intolerance against LGBT<sup>61</sup> persons**

##### **- Data and surveys**

105. There is no official data on the size of the LGBT population. Local NGOs report that, according to a survey, 10% of the Cypriot population (i.e. some 85 000 people) are LGBT.<sup>62</sup> The Processing of Personal Data Act<sup>63</sup> prohibits the collection and processing of “sensitive data” on sexual life or sexual orientation without the person’s explicit consent. However, Recommendation CM/Rec(2010)5 of the Council of Europe’s Committee of Ministers on measures to combat discrimination on grounds of sexual orientation or gender identity indicates that personal data referring to a person’s sexual orientation or gender identity can be collected when this is necessary for the performance of a specific, lawful and legitimate purpose. It is clear that without such information there can be no solid basis for developing and implementing policies to address intolerance and discrimination against LGBT persons.

106. ECRI encourages the authorities to undertake research and collect data on LGBT persons as well as on discrimination and intolerance against them.

107. Despite lack of data, ECRI notes that there is evidence of a climate of intolerance towards LGBT persons in Cyprus. 61% of the Cypriot respondents to the 2013 European Union LGBT Survey<sup>64</sup> said that discrimination on grounds of sexual orientation is “very widespread” in their country, while the EU average is 31%. Moreover, 56% of the LGBT respondents in Cyprus stated that they had been personally discriminated against or harassed on grounds of their sexual orientation in the last 12 months, the EU average being 47%.<sup>65</sup> As a result, a great majority of LGBT persons in Cyprus conceal their sexual orientation or gender identity as a protective measure. This is confirmed by a report based on two field studies<sup>66</sup> as well as by the results of the EU LGBT survey, according to which nine out of ten persons interviewed in Cyprus state that they are never or rarely open about their sexual orientation/gender identity.

##### **- Legislative issues**

108. A general equality clause is included in Article 28 of the Cypriot Constitution, but it does not explicitly mention the ground of sexual orientation or gender identity.

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<sup>61</sup> For terminology, see the definitions set out in Council of Europe Commissioner for Human Rights 2011.

<sup>62</sup> ILGA Europe 2013.

<sup>63</sup> Law No. 138(I)/2001.

<sup>64</sup> The EU LGBT Survey released by the European Union Agency for Fundamental Rights (FRA) on 17 May 2013, reported 265 respondents from Cyprus, of whom 62% were gay men, 15% lesbian women, 7% bisexual women, 6% bisexual men and 9% transgender persons.

<sup>65</sup> Ibidem.

<sup>66</sup> Kapsou, M., Christophi A., Epaminonda, M. (2011): 117.

As reported above, the Laws of 2004 on Equal Treatment (Racial or Ethnic Origin) and Equal Treatment in Employment and Occupation prohibit discrimination on the grounds of, inter alia, sexual orientation, but not of gender identity. As for criminal law, ECRI refers to its comments and recommendations in §§ 4, 6, 27 and 28 of this report.

109. ECRI recommends that gender identity is included as a prohibited discrimination ground in Cypriot equal treatment legislation.

110. ECRI is pleased to note that a Civil Partnerships Bill allowing registered same-sex partnerships was prepared by the Government in February 2013, presented to Parliament in May 2015 and became law in November 2015. According to a survey published in February 2014,<sup>67</sup> a majority of Cypriot citizens (53.3%) was in favour of civil partnership legislation.

111. According to a report prepared for the European Parliament,<sup>68</sup> Cypriot legislation on the legal recognition of the preferred gender contains a quite simple and straightforward procedure for changing one's sex and name. However, surgery leading to sterilisation is a requirement for legal recognition of the new gender.<sup>69</sup> Moreover, new certificates following the change of name/gender do not replace previous documentation and both the old and new certificates are valid concurrently. In February 2013, the Commissioner for Administration and Human Rights issued a report calling for quick and transparent administrative procedures for transgender individuals to change their sex and name based on self-definition on all their official documents.<sup>70</sup> ECRI supports this approach.

112. ECRI recommends that the relevant legislation is amended to allow gender changes in personal documents without the requirement for gender reassignment surgery.

113. As concerns asylum, ECRI is pleased to note that following the 2007 amendments to the Refugee Act persons fleeing persecution on the basis of their sexual orientation can be granted asylum and "gender related aspects" may be taken into consideration.<sup>71</sup> Cyprus granted international protection to a transsexual person in 2007.<sup>72</sup>

- **Promoting tolerance and combating discrimination**

114. The Equality Body has so far received only a small number of complaints concerning discrimination on grounds of sexual orientation. Local NGOs state that this is mainly due to the fact that most LGBT persons in Cyprus are "closeted" and prefer anonymity to pursuing their rights publicly. Problems of discrimination are addressed to local NGOs for meditation.<sup>73</sup>

115. Discrimination against LGBT persons in the field of employment remains a widespread problem. The findings of research published in 2014 suggest that in the Cypriot labour market gay and lesbian job applicants face significant bias when compared with heterosexual applicants.<sup>74</sup> According to Eurobarometer 2012, 54% of Cypriots stated that when a company hires someone a candidate's sexual orientation (i.e. being LGB) would be a disadvantage, while

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<sup>67</sup> Sigmalive 2014.

<sup>68</sup> Castagnoli, C. 2010.

<sup>69</sup> Council of Europe, Discrimination on grounds of sexual orientation and gender identity in Europe, second edition, 2011.

<sup>70</sup> ILGA-Europe 2013.

<sup>71</sup> See Article 3D (1) (d) (ii) of the Refugee Act available at [www.refworld.org/docid/4a71aac22.html](http://www.refworld.org/docid/4a71aac22.html).

<sup>72</sup> European Union Fundamental Rights Agency 2010a: 15.

<sup>73</sup> European Union Fundamental Rights Agency 2010a: 9.

<sup>74</sup> Drydak, N. 2014: 720.

44% stated that the candidate's gender identity (i.e. being trans) would be a disadvantage.<sup>75</sup> The scores for both of these categories were the highest ones in all the EU 27 countries. The EU LGBT Survey indicates that because of being LGBT 29% of Cyprus respondents felt discriminated against in the workplace in the last 12 months and 16% of them when looking for a job.<sup>76</sup>

116. As for other areas, according to the EU LGBT survey 33% of respondents in Cyprus replied that during the last 12 months they felt discriminated against because of being LGBT when buying goods or accessing services, health care, social services or housing. Local NGOs report that LGBT persons tend not to reveal their sexual orientation to their doctor<sup>77</sup> and that healthcare personnel can be hostile towards such patients.<sup>78</sup>
117. The authorities informed ECRI that applications for gender reassignment are examined by a special medical audit. If a positive opinion is given, which they say is almost always the case, surgery, hormone therapy and psychological support can be covered by the state. Currently no gender reassignment surgeries are performed in Cyprus due to lack of services in this field,<sup>79</sup> but patients can be sent abroad for treatment. Local NGOs, however, report that the Ministry of Health "has been notoriously unwilling to cover costs of gender reassignment surgery, insisting that the procedure is not medically necessary."<sup>80</sup>
118. As concerns education, the EU LGBT Survey indicates that during their schooling 75% of LGBT people in Cyprus have always hidden or disguised this fact and 84% have often witnessed negative comments and conduct against a peer who was perceived to be LGBT.<sup>81</sup> A study conducted in 2011 reported severe instances of homophobia-motivated bullying and harassment in school, which often remained unreported and ignored, since there were no guidelines in place for dealing with them.<sup>82</sup> In November 2012, the Ombudsman published a report on homophobia in education in Cyprus, which highlighted the extent of homophobic bullying in schools and noted that children who experience this often feel isolated and socially excluded and have low self-esteem.<sup>83</sup>
119. Therefore, ECRI is pleased to note that the authorities have taken steps to counter homophobia in schools. In 2011 issues related to sexual orientation and gender identity were included in the curriculum under the subject of health education, from pre-primary until the end of lower secondary education. In 2012, a campaign titled Shield against Homophobia in Education was organised by two local NGOs under the auspices of the Ministry of Education and Culture, the Commissioner for Administration and Human Rights and the Commissioner for Children's Rights, and assisted by the University of Cyprus and the Pedagogical Institute. 80 educators of different school levels were trained on the topic of homophobia in education. The teacher training course Shield 2015 is currently being run and a handbook with guidelines for LGBT-inclusive education will be produced and distributed to schools. From June 2014 to March 2015, Cyprus was one of six countries taking part in the joint EU/Council

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<sup>75</sup> European Commission 2012: 88.

<sup>76</sup> European Union Fundamental Rights Agency 2012.

<sup>77</sup> Danish Institute for Human Rights 2009: 7.

<sup>78</sup> Kapsou, M., Mantis, S. 2012: 25.

<sup>79</sup> ILGA-Europe 2013.

<sup>80</sup> Kapsou, M., Mantis, S. 2012: 19.

<sup>81</sup> European Union Fundamental Rights Agency 2012.

<sup>82</sup> Kapsou, M., Mantis, S. 2012: 23.

<sup>83</sup> Demetriou, C. 2014: 122.

of Europe programme Training to Teach about Controversial Issues,<sup>84</sup> which covered questions of homosexuality. Around 180 mostly primary school teachers participated and the practical help was well received.

120. ECRI notes that the first ever gay pride in Cyprus took place on 31 May 2014 within the framework of a two-week LGBT festival. This was organised by a local NGO and was supported by Nicosia Municipality, the offices of the European Commission and European Parliament in Nicosia and several political parties.<sup>85</sup> Members of a Turkish Cypriot LGBT organisation as well as foreign diplomats and politicians also participated. Around 5 000 people attended the event which was proclaimed as a great success. A small group of around 30 people protested with a counter march, but there were no incidents.<sup>86</sup> The second gay pride took place on 6 June 2015 and was equally successful. It was attended and supported by prominent government and public figures, including the Minister of Interior, the Mayor of Nicosia and the Commissioner for Administration and Human Rights.<sup>87</sup>
121. Finally, despite the success of the gay pride event, ECRI notes that according to the EU LGBT Survey, 86% of the persons interviewed in Cyprus think that positive measures taken by the authorities to promote respect for the human rights of LGBT people are fairly rare or very rare. Therefore, ECRI considers that the authorities should draw up and adopt an action plan to promote tolerance towards LGBT persons in different areas and to combat homophobia, similar to the measures they have already taken in the field of education.
122. ECRI recommends that the authorities adopt an action plan to combat homophobia and transphobia in all areas of everyday life, drawing inspiration from Recommendation CM/Rec(2010)5 of the Committee of Ministers of the Council of Europe on measures to combat discrimination on grounds of sexual orientation or gender identity.

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<sup>84</sup> See [pjp-eu.coe.int/en/web/charter-edc-hre-pilot-projects/teaching-controversial-issues-developing-effective-training-for-teachers-and-school-leaders?p\\_p\\_id=2\\_WAR\\_kaleodesignerportlet&p\\_p\\_lifecycle=0](http://pjp-eu.coe.int/en/web/charter-edc-hre-pilot-projects/teaching-controversial-issues-developing-effective-training-for-teachers-and-school-leaders?p_p_id=2_WAR_kaleodesignerportlet&p_p_lifecycle=0).

<sup>85</sup> Namely Democratic Rally (DISY), Progressive Party of Working People (AKEL), Democratic Party (DIKO), Movement for Social Democracy (EDEK) and Ecological and Environmental Movement (KOP).

<sup>86</sup> Greek Reporter 2014.

<sup>87</sup> Cyprus Mail 2015a.





## **INTERIM FOLLOW-UP RECOMMENDATIONS**

The two specific recommendations for which ECRI requests priority implementation from the authorities of Cyprus are the following:

- ECRI strongly recommends that the Commissioner for Administration and Human Rights is consulted on all appointments of staff to her office, thereby contributing to her independence, and that the authorities allocate an adequate budget for her to carry out her functions properly.
- ECRI strongly recommends that the authorities develop a new integration plan for non-nationals, including foreign domestic workers, refugees and beneficiaries of subsidiary protection and other migrants. This should be done in close cooperation with the UNHCR, relevant NGOs and migrant associations, and should be accompanied by an awareness-raising campaign to inform the public, as well as employers and financial institutions, about the rights of beneficiaries of international protection.

A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.



## LIST OF RECOMMENDATIONS

The position of the recommendations in the text of the report is shown in parentheses.

1. (§ 6) ECRI recommends amending Law 87(I)/2015 to include the offence of public incitement to discrimination and the grounds of race, colour, language, religion, citizenship or national or ethnic origin. It should also be extended to cover defamation and threats on all the existing and above-mentioned grounds.
2. (§ 8) ECRI recommends the criminalisation of the public expression, with a racist aim, of an ideology which claims the superiority of, or which depreciates or denigrates, a group of persons on the grounds of their race, colour, language, religion, nationality, or national or ethnic origin.
3. (§ 15) ECRI recommends amending Laws 58(I)/2004 and 59(I)/2004 to include the following: the prohibition of segregation, discrimination by association, announced intention to discriminate and inciting or aiding another to discriminate; and the duty of public authorities to promote equality and to prevent discrimination in carrying out their functions.
4. (§ 17) ECRI recommends that the Commissioner for Administration and Human Rights is granted the right to initiate and participate in court proceedings.
5. (§ 28) In view of the existing situation as regards racist and homophobic hate speech, ECRI recommends that the authorities increase the penalties for homo/transphobic hate speech under the new Criminal Code provisions so that they are identical to those for racist hate speech in Law 134(I)/2011.
6. (§ 43) ECRI strongly recommends that the police are clearly instructed to record any racist motivation behind all offences involving violence as well as in relation to any ordinary offence and to investigate these elements thoroughly.
7. (§ 45) ECRI recommends that data is collected on the application of the provisions on aggravating circumstances (Article 8 of Law 134(I)/2011 on Combating Certain Forms and Expressions of Racism and Xenophobia by means of Criminal Law).
8. (§ 48) ECRI strongly recommends that racial profiling by the police is defined and prohibited by law, in accordance with its General Policy Recommendation No. 11 on combating racism and racial discrimination in policing. It also recommends further human rights training for police.
9. (§ 63) ECRI strongly recommends that the authorities review, and where necessary take steps to ensure, the compulsory school attendance of all Roma children.
10. (§ 66) ECRI reiterates its recommendation that the authorities close down the segregated housing units for Roma (in Limassol and Paphos) and relocate the inhabitants to areas where they can mix and integrate with the rest of society.
11. (§ 68) ECRI strongly recommends the authorities to make use of all available channels of funding to ensure the survival of the Bicomunal Multiservice Centre and the important integration services it provides to Roma.
12. (§ 70) ECRI recommends that a comprehensive strategy for the inclusion of Roma is developed in all areas of life, including measures aimed at eliminating discrimination and prejudice, with goals and targets, success indicators and a monitoring and evaluation system. This should be done in close cooperation with members of the Roma community and adequate funding should be allocated for the strategy to be effective.

13. (§ 84) ECRI recommends that the authorities consider amending the Refugee Law to provide for the possibility of family reunification for those granted subsidiary protection status, in order to enhance their integration.
14. (§ 87) ECRI strongly recommends that the authorities develop a new integration plan for non-nationals, including foreign domestic workers, refugees and beneficiaries of subsidiary protection and other migrants. This should be done in close cooperation with the UNHCR, relevant NGOs and migrant associations, and should be accompanied by an awareness-raising campaign to inform the public, as well as employers and financial institutions, about the rights of beneficiaries of international protection.
15. (§ 99) ECRI strongly recommends that the Commissioner for Administration and Human Rights is consulted on all appointments of staff to her office, thereby contributing to her independence, and that the authorities allocate an adequate budget for her to carry out her functions properly.
16. (§ 104) ECRI recommends that the authorities review the Refugee Reception Conditions Regulations, in particular the requirement for asylum seekers to be accommodated at the reception centre and the coupon system, with a view to amending them.
17. (§ 106) ECRI encourages the authorities to undertake research and collect data on LGBT persons as well as on discrimination and intolerance against them.
18. (§ 109) ECRI recommends that gender identity is included as a prohibited discrimination ground in Cypriot equal treatment legislation.
19. (§ 112) ECRI recommends that the relevant legislation is amended to allow gender changes in personal documents without the requirement for gender reassignment surgery.
20. (§ 122) ECRI recommends that the authorities adopt an action plan to combat homophobia and transphobia in all areas of everyday life, drawing inspiration from Recommendation CM/Rec(2010)5 of the Committee of Ministers of the Council of Europe on measures to combat discrimination on grounds of sexual orientation or gender identity.

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## **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 (l.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

