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FOLLOW-UP REPORT ON CYPRUS (2003 – 2005)

Assessment of the progress made in implementing the recommendations of the Council of Europe Commissioner for Human Rights

**For the attention of the Committee of Ministers
and the Parliamentary Assembly**

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Introduction

1. The Commissioner for Human Rights visited Cyprus in June 2003 on the invitation of the Cypriot Government. In the resulting Report¹, the Commissioner identified a number of human rights concerns and made a series of recommendations to improve the country's effective respect for human rights. The issues addressed by the Commissioner included the administration of justice, the situation in prisons, the conduct of the police, the status of foreigners, military service and the treatment of persons suffering from mental disorders. The Commissioner would like to reiterate his gratitude to the Government of Cyprus for their co-operation at the time of the visit, and again, on the occasion of the follow-up visit conducted by members of his Office² from 25-27 October 2005.

2. The purpose of this report is to examine the manner in which the Cypriot authorities have implemented the recommendations made by the Commissioner in his 2003 report. The report follows the order of the main recommendations and does not as a matter of principle aim to address any issues other than those included in the recommendations of the first report.

3. The report is based on information gathered during the follow-up visit³, reports by human rights experts, local and international non-governmental organisations and inter-governmental organisations and other public sources. The members of the Commissioner's Office would like to express their gratitude for the assistance and openness of all with whom they met during the course of their visit.

4. On his visit to Cyprus in 2003, the Commissioner also visited the northern part of the Island and held discussions with its authorities and civil society representatives. The original report did not, however, contain specific recommendations relating to the human rights situation there, which is consequently not reviewed in this follow-up report.

1. The prison system

5. In his 2003 report, the Commissioner urged that a number of planned projects relating to the prison system be implemented promptly. These concerned the creation of the prison officers' college, the introduction of vocational training programmes for prisoners, the allocation of separate premises for young offenders and the provision of a permanent medical and psychiatric care centre attached to the Nicosia prison. Other issues discussed by the Commissioner in his first report were overcrowding, the increased use of community service to alleviate the inflow of prisoners, and discussions on the penalty of life imprisonment.

6. The Commissioner recommended a reform of the legislation prescribing imprisonment for non-payment of civil debts.

Development of the situation and measures taken

7. The central prison in Nicosia, the only prison in Cyprus, was visited by members of the Commissioner's Office. The general conditions in the prison were good, with a new block having been renovated in 2004. Over-crowding is still a problem, however. There were 533 prisoners with a capacity for 340 at the time of the Office's visit. The percentage of foreigners serving sentences was still high, approximately 45% of the total prison population. A temporary solution to alleviate the over-crowding was to ensure that the prisoners spent a considerable part of their day outdoors and as actively as possible. The prisoners were locked in their wings from 5 p.m. to 6 a.m. and locked in their cells at 11 p.m. The authorities are currently considering ways of extending the existing buildings to add new accommodation, but space within the prison compound is at a premium. The authorities recognised that one way of decreasing the inflow of prisoners was by the increased use of community service. While legislation providing for community service as an alternative to custodial sentences had been passed shortly before the Commissioner's visit in 2003, the members of the Office were unable to ascertain the extent of its use. The legislation does not, in any case, appear to have made much impact on the prison population.

8. The male prisoners are provided with a greater variety and number of vocational, educational and sporting activities than at the time of the Commissioner's visit. Members of the Office were shown the facilities for book-binding, and the class-room with a library and other learning activities.

9. A staff academy, opened in November 2003, provides professional training for the prison staff. According to the Ministry of Justice, the training of the officers is focused on changing attitudes and improving human relation skills.

10. There is a separate wing for young offenders, of which there were 25 at the time of the Office's visit, although during the day they are able to mix with the adult offenders, for example at meal times. Where possible, young offenders are given work under the supervision of the warders, such as in the kitchens. Female detainees are also housed in a separate annex of a good standard, which was renovated in 2004. There were 19 women serving sentences in October 2005, one being a young offender and one with her baby. Activities for the women include gym and art classes, although no vocational training was offered.

11. In her report concerning the detention conditions at the Central prison in 2004, the Ombudswoman criticised the Cypriot authorities' interpretation of life sentence as imprisonment for the rest of the convicted person's life.⁴ In most other Council of Europe member states life imprisonment does not entail imprisonment for the rest of the natural life of the convicted person. At the time of the Commissioner's first visit there were discussions in the Government about the possibility of terminating life imprisonment subject to certain conditions. A solution to this question has yet to be found, though. The Deputy Director of the Central Prison spoke of the difficulties in dealing with those currently serving life sentence, 14 men at the time of the Office's visit, both in terms of the prisoners' morale, and security issues. The usual incentives for encouraging good behaviour in prisoners were inevitably of no use in relation to those serving life sentences, and this posed security problems both for the warders and for the other prisoners.

12. There has been no establishment of a prisoner's psychiatric treatment centre, despite the fact that this was one of the measures ordered by the Minister of Justice at the time of the Commissioner's visit in 2003. The lack of adequate psychiatric care for detainees continues to be of concern. The psychiatrist was only able to see one third of all prisoners. This was because he worked part-time and was unable, he claimed, to devote more than 5 minutes every 2 months to each prisoner. He estimated that 36 prisoners, at the time of the Office's visit, could be classed as psychotic, and that other categories in need of psychiatric help were mentally retarded prisoners, drug addicts and juveniles. Interpreters, who were often needed, were not available. The availability of medication is also a concern, as is drug abuse. The psychiatrist gave out medication when he was not available for therapeutic sessions, but because there was no nursing staff available to verify that the medication was being taken, there was a risk that the medication was being circulated among the prisoners. Little to no follow-up care is given to detainees on leaving prison.

13. The prison service authorities continue to speak of their desire to build a treatment centre in the compound of the prison. Given the lack of available space, however, and the existing overcrowding, this remains a difficult prospect in the current prison.

14. Imprisonment for civil debts was abolished with effect from 15 June 2005, under a law enacted on 8 April 2004.⁵ There are no longer any prisoners serving sentences for non-payment of civil debts.

Conclusions

15. The Commissioner commends the efforts made by the authorities to improve the professional training for the prison staff, including the new staff academy opened in November 2003 and welcomes the greater attention that has been given to vocational training for the male prisoners. The abolition of imprisonment for non-payment of civil debts is a positive development.

16. While the conditions in the prison are generally satisfactory, there are still some parts of the prison which could benefit from renovation. The issue of over-crowding needs to be tackled more systematically by the authorities; consideration could be given, for example, to building additional prison premises in a separate location. The use of community service penalties needs to be encouraged further.

17. The failure to introduce facilities and resources for the psychiatric treatment of prisoners remains of serious concern. Pending the construction of a specific structure for the provision of psychiatric care within the prison, greater investment in terms of staff and resources is required.

2. Asylum and Immigration

18. In his visit report, the Commissioner dealt with a number of human rights issues relating to immigration, and looked in particular at the situation of lawful migrants, irregular immigrants and asylum seekers. Concerning lawful immigrants, the Commissioner recommended that the authorities develop a coherent policy of migrant integration, since no real immigration policy existed in Cyprus. As regards irregular immigrants, he urged the authorities to decriminalise offences relating to foreigners' irregular entry and residence in Cyprus. Finally, in relation to asylum, the Commissioner recommended that the authorities provide the Refugee Authority (now the Asylum Service) with the necessary financial and human resources for the speedy processing of asylum requests. He also suggested that the authorities rapidly establish a suitable reception centre for asylum seekers, particularly families.

Development of the situation and measures taken

Lawful immigrants

19. As the Commissioner noted in his visit report, lawful immigrants represent a large percentage of the island's population and make up for the shortage of labour in certain sectors of the economy, often in the tourist industry, but also as domestic employees. There is still no coherent integration policy for lawful immigrants, and they remain particularly vulnerable to abuse by their employers. Assistance is often found from NGOs, who offer various legal and social services to immigrants. The Cypriot authorities consider that the existing Aliens and Immigration Law provides a sufficient legal framework to formulate and implement a coherent migration policy.

20. Apart from the new Aliens and Immigration Bill which is under discussion by all the competent Ministries, the existing Aliens and Immigration law will be amended to transpose the EU directives on long term residence and family reunification into the national legislation. The amending law is about to be submitted to the Council of Ministers for approval and thereafter will be sent to the House of Representatives for voting.

Irregular Immigrants

21. Irregular immigration to Cyprus has increased exponentially over the past years. This is due to a number of factors, including Cyprus becoming an E.U. member state, its high standard of living, good employment opportunities, and the very small distance between Cyprus and the Middle East. Since 2003, most of the irregular immigrants have entered Cyprus through the northern part of the island. According to statistical information provided by the Cypriot police, in 2002, 726 irregular immigrants were arrested. In 2003 there were 3,796 arrests and 2,559 arrests in 2004. Up until September 2005, 1,129 irregular immigrants had been arrested.

22. When a person irregularly enters Cyprus and does not seek asylum, the Migration Department issues a deportation order. Following the directions of the Minister of Justice and Public Order, irregular immigrants are no longer prosecuted for entering Cyprus. Despite these directions, however, cases of irregular immigrants being prosecuted for unauthorised port of entry, or having no visa were still being reported.

23. The authorities acknowledged that the detention facilities for irregular immigrants awaiting deportation could still be improved and have drawn up plans for a new retention centre. The centre is intended to accommodate 200 irregular immigrants (including men, women and families with children).

Asylum seekers

24. Based on information received from the UNHCR⁶ for the year 2004, among 36 European and non-European countries, Cyprus had experienced the *greatest* change in its role as an asylum country. In the list of receiving countries for 2004, Cyprus became the 10th largest receiving country ranking higher than the Netherlands, Norway, Ireland, Poland and the Slovak Republic. In 2001 the number of applications made for asylum was 1,766. The figure jumped to 5,037 applications in 2003, and 9,906 applications in 2004. The figures up until August 2005 show that 4,975 asylum applications were made.⁷ It is clearly difficult for Cyprus, a small country with a population of approximately 770,000 and correspondingly limited reception and absorption capacities, to deal with the pressure of such numbers alone.

25. According to the authorities, most irregular immigrants immediately ask for asylum upon arrest and their status changes from irregular immigrant to asylum seeker. The current legislative framework for asylum seekers is the Refugee Law 6(I) 2000, which was amended twice in 2004 and 2005.⁸ The law provides that an asylum seeker who has entered Cyprus irregularly is not subject to punishment on account of his irregular entry, if he presents himself to the proper institutions and requests asylum. Additionally, the law expressly prohibits detaining an asylum seeker, and provides that detention is only permitted after a court order and only on specific grounds.

26. According to the law, asylum applications can be made at *any* police station and detention centre. In reality, however, most asylum seekers make their application at the Paphos Gate Police Station in Nicosia, as smaller police stations do not, somewhat understandably, have the appropriate resources to deal with such applications, for example they cannot provide adequate translation services.

27. Asylum seekers are given priority to work in two sectors (the agricultural sector and the animal husbandry sector); however, there is a quota of only 250 vacancies for 11,000 asylum seekers in both these sectors.⁹ Many, therefore, work irregularly. In theory, asylum seekers can benefit from the same medical services, education and social security benefits as Cypriots once they receive their Confirmation letter and prior to the issuance of the temporary residence permit. However, the

application of these provisions in practice is often another matter. Asylum seekers complain of the difficulties and discrimination they encounter when trying to apply for benefits.

28. According to local NGOs, the asylum system is confused and lacking in co-ordination. The leaflet for asylum seekers, which provided useful information about the asylum system and was commended by the Commissioner in his visit report, is no longer being handed out. This is because there have been so many changes to the implementation of the existing law, that it is not possible to present the whole picture in one coherent document. This leads to confusion for the asylum seekers, and also for the professionals who are trying to help them. According to the Ministry of the Interior, an amended information leaflet is in the process of being finalised by the Asylum Service.¹⁰

29. The Kofinou Reception Centre, which was being built at the time of the Commissioner's visit in 2003, was put into operation in January 2004. It is a transitional shelter with a maximum capacity of 120 persons. Problems were initially reported as a result of the mix of women and children and single men in the centre. The Ministry of the Interior responded in May 2005 by allowing families and single women to stay, and leaving single men to find accommodation elsewhere. A recent NGO report on the Centre noted that there are no social workers or psychologists present at the Centre, that there is no medical practitioner stationed there¹¹, that there are no recreational activities organised, and no interpretations present or working in the Centre. Transportation difficulties from the Centre to major towns prohibited access to work and recreation, hindered integration and contributed to the feeling of isolation. Because of the difficulties which asylum seekers face in finding employment, there were some cases of residents living in the Centre for over 10 months. Providing services to encourage self-dependency were needed.¹² The UNHCR in Cyprus advocates for the identification of a completely new location for the reception centre in a more favourable place. The Parliamentary Committee of Human Rights at the Cypriot House of Representatives visited the centre and called for steps for improvement, such as better medical care, improvement of transportation and security. The Ombudswoman is currently writing a report on the Centre after having received a complaint about the conditions there. Recently a series of improvements to the facilities at the centre have been approved by the Ministry of the Interior including the improvement of the playground, reinforcement of security measures (entrance) and building of kiosks. The appointment of a social worker at the Centre as well as recreational activities for the residents are included in the European Refugee Fund programme for 2005-2007, together with the building of en-suite bedrooms for families with small children.

30. The Asylum Service replaced the Refugee Authority in February 2004. To cope with the high number of asylum applications, the Ministry of Finance allocated funds to increase the number of eligibility officers working in the Service from 12 to 20. However, more officers are clearly needed. Very few applications ultimately do succeed - the average recognition rate for the years 2001-2005 was less than 2%.¹³ The UNHCR provides guidance to the Asylum Service by monitoring certain cases, making suggestions on methodology, procedure and policy, and training officers.

31. If the asylum seeker's application is rejected by the Asylum Service, there is a possibility of review by a Reviewing Authority. The Reviewing Authority came into force in 2004 and can examine each case on its merits. Decisions of the Reviewing Authority may be appealed on a point of law by way of judicial review to the Supreme Court. The UNHCR suggested that the Reviewing Authority should start interviewing some applicants, as previously the review had been purely a paper exercise. The Reviewing Authority took on board this suggestion, and during the last part of 2005 they interviewed some 25 asylum seekers and overturned a number of decisions.¹⁴

32. Rejected asylum seekers are given 15 days' notice for departure. They are not automatically detained for deportation, although in many cases they are detained when identified by the police. Most rejected asylum seekers, and also some who are still awaiting a final decision, are held in the Police Detention Centre at the Central Prison (Ward 10). The Aliens and Immigration Unit, with the help of the Embassy or Consulate in question will issue tickets and other documents for the deportation process. The length of time in detention awaiting deportation can in some cases last between 6-10 months. The Ombudswoman has expressed her concern over the length of detention before deportation and the conditions of detainees in police detention.

33. According to the Cypriot police, all police detention centres have been recently renovated, in order to meet the standards of the European Committee for the Prevention of Torture and Inhumane or Degrading Treatment or Punishment (CPT).¹⁵ This includes the police detention centre at the Central Prison (Ward 10), where irregular immigrants and rejected asylum seekers awaiting deportation are detained. The members of the Office of the Commissioner visited Ward 10, which consists of a separate small block in the grounds of the Central Prison. The conditions in this detention centre could be considered adequate only for short stays. 2-3 men share a cell; they receive one hot meal a day, and have access to a courtyard. However, they are not able to benefit from the vocational, educational or sporting activities which are provided in the Central Prison. Members of the Office were informed by a number of men in detention that they had been held for between 9-10 months. There were also reports at the time of the visit that certain detainees had been denied legal representation and interpretation services.

34. Members of the delegation also visited the women's police detention centre at Lakatemeia. This police detention centre consists of a handful of cells and a very small courtyard. Again, the conditions were acceptable for short stays only.

Conclusions

35. The Commissioner reiterates the importance of developing a coherent integration policy for lawful immigrants, as recommended in his visit report in 2003. An integration policy will be an aid in the fight against racism and xenophobia and will also help to provide protection to lawful immigrants against abuse.

36. Whilst the Commissioner welcomes the fact that irregular immigrants are no longer charged with entering Cyprus irregularly, this is the only the first step towards abolishing this offence, which should be seriously considered by the Government.

37. Asylum seekers vitally need information on their rights, for example, employment rights, welfare assistance, health care and education. The Commissioner regrets the fact that the leaflet given to asylum seekers is no longer in circulation and urges the authorities to update the leaflet and redistribute it. The Asylum Service should be encouraged to take up a co-ordinating role on all refugee issues.

38. While the Commissioner welcomes the increase in financial resources given to the new Asylum Service, he encourages the authorities to review the Service's resource needs, given the high number of asylum applications.

39. According to a variety of sources, the facilities provided by the Kofinou Reception Centre do not meet the needs of the asylum seekers who are housed there. The Commissioner welcomes the series of improvements to the Centre which have been approved by the authorities and considers it imperative that they be speedily completed. Nevertheless, consideration should also be given to investing greater resources into the building of a new reception centre.

40. The Commissioner remains extremely concerned at the length of time asylum seekers (some rejected and some not) are kept in police detention awaiting deportation. While conditions may be adequate for short-term stays, they do not lend themselves to stays of the length currently reported.¹⁶ Further investment is clearly necessary. The Commissioner recommends that detainees should have better access to information, and should be allowed regular visits from NGOs and that a limit on the length of detention be introduced. Alternatives to detention should also be seriously considered by the authorities.

3. Racism and Xenophobia

41. In his 2003 report, the Commissioner recommended that the Commissioner for Administration (Ombudswoman), or other independent authority, monitor and make recommendations on combating xenophobia and racism, in light of the fact that the absence of a real integration policy for immigrants leaves this group vulnerable to xenophobic outbreaks.

Development of the situation and measures taken

42. Since May 2004, the Ombudswoman's Office has been designated the new Anti-Discrimination Agency, the independent body for the promotion of equal treatment of all persons without discrimination on the grounds of racial or ethnic origin.¹⁷ The Ombudswoman's Office has already been very productive on this issue, submitting over 20 reports concerning discrimination issues, and handling individual complaints. The number of complaints received in a relatively short period of time reflects the fact that issues of racism and xenophobia need to be taken seriously by the authorities. Unfortunately, the necessary increase in funding to deal with the extra work-load has not been provided.

43. According to the authorities, a special police office for combating discrimination has been set up. The staff is responsible for co-ordinating and advising on all aspects of policing in the areas of ethnic and cultural diversity, racism, discrimination, and xenophobia. At every divisional police headquarter, an ethnic liaison police officer has been appointed in order to liaise with the local leaders or members of ethnic communities and improve dialogue with these groups. A reporting system has been established for incidences or offences which are racially motivated. Under an internal recording system any offence reported as racially motivated shall be defined and registered as such.

44. According to the Cypriot authorities, great emphasis is given to training police officers on issues pertaining to human rights protection and combating discrimination. In the last semester, 13 lectures were given to police cadets and police officers on issues surrounding discrimination, racism, intolerance and human rights in general. Numerous leaflets, brochures and booklets have been published and given to police officers concerning human rights issues. In co-operation with a number of ethnic communities, the Police organise various open social events in an attempt to bring ethnic communities and the police closer and to build mutual understanding and respect.

45. The government has ratified the Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.

Conclusions

46. The Commissioner welcomes the new legislation which has designated the Ombudswoman's Office as the new Anti-Discrimination Agency. The Office of the Ombudswoman is respected by the Government and NGOs alike, and has proven to be very efficient in promoting and protecting Human Rights. Greater resources might be devoted to this Office to enable the Ombudswoman to deal effectively with her new competences.

47. The new mechanisms set up by the police to deal with issues of racism and discrimination, are commendable, in particular the police office for combating discrimination and the new reporting system for offences with a racial motive. Increased police training on issues of racism and xenophobia will enhance the culture of respect for human rights and diversity.

4. Trafficking in Human Beings

48. The Commissioner noted in his 2003 report that the number of young women migrating to Cyprus as nightclub artistes was well out of proportion to the population of the island, and that the authorities should consider introducing preventive control measures to deal with this phenomenon, in conjunction with legislative safeguards. In particular, the Commissioner recommended that the authorities adopt and implement a plan of action against trafficking in human beings.

Development of the situation and measures taken

49. The so called "cabaret artiste" visas are in fact permits to enter and work in nightclubs and bars. These permits are valid for 3 months and can be extended for a further 3 months. The permit is applied for by the establishment owner on behalf of the woman in question. Approximately 4,000 permits are issued each year, with 1,200 women working at a given time and most women originating from Eastern Europe. A special information leaflet has been prepared by the Migration Service and translated into four languages.¹⁸ The leaflet is given to women entering the country on such permits, is also available on the website of the Ministry of the Interior and the Ministry of Foreign Affairs and copies of the leaflet are sent to the consulates in Russia, Bulgaria, the Ukraine and Romania in order for women to be informed before they enter Cyprus. The leaflet sets out the rights of the women and the responsibilities of their employers. The authorities are aware that many of the women who enter Cyprus on these artistes visas will in fact work in prostitution

50. A new Law on Trafficking in Human Beings is currently being discussed. The new law will include other forms of exploitation such as labour trafficking as well as trafficking for sexual exploitation. Cyprus has signed but not ratified the Council of Europe Convention on Action Against Trafficking in Human Beings.

51. The Attorney General's Office has prepared a National Action Plan for the Combating of Human Trafficking. The Action Plan was presented and approved by the Council of Ministers in April 2005. Some NGOs complained of their lack of involvement in the consultation process. The Ministry of the Interior is responsible for the implementation of the Action Plan. According to the Action Plan, women involved in cases of sexual exploitation or procuring are not arrested or charged with any offence, but are considered as victims and are under the care of the Ministry of Labour and Social Security. Victims who will act as witnesses in court trials can reside in Cyprus until the end of the case. They have the possibility of working, or if they do not wish to work, the Ministry will cover all their residential, health and other needs. A special procedures manual has been drafted for the treatment of victims of trafficking, and has been circulated to all ministries and government departments, as well as NGOs for consultation.

52. There is no specific shelter for victims of trafficking at present, although victims may be accommodated by the authorities in two rooms in state-owned retirement homes, which are available in each major town. A shelter in Limassol is due to be opened soon, which will provide accommodation for 15 women, as well as providing the services of a social worker, lawyer, and vocational advisor.

53. An Office for the Prevention and Combating of Human Trafficking was set up by the police in April 2004. The office's role is to collect and evaluate intelligence regarding trafficking in human beings, to co-ordinate operations of all police divisions and departments, to organise and participate in operations, and to follow-up on cases that are under investigation, pending trial or presented to the courts. The office also prepares reports on trafficking and investigates child pornography on the Internet. In addition, the office organises educational seminars carried out at the Cyprus Police Academy.

54. According to statistical information provided by the police from 2000 to 2005, there is a clear increase in the number of cases reported concerning offences of sexual exploitation, procuring, and living on the earnings of prostitution, etc. NGOs confirm that awareness about issues relating to trafficking has increased.

55. Preventive and suppressive measures are also undertaken by the police, such as raids in cabarets, inspections, interviews with women, co-operation with mass media, and control of advertisements found in different newspapers. The police provide an anonymous toll-free hotline where anybody can call to seek help or give information. Cabarets which are under investigation are put on a black list and are unable to apply for new visas.

56. Some efforts have been made by the Cypriot authorities to improve victim identification and referral, and in particular, 150 police officers have been trained on this issue. However, according to NGOs a culture still prevails in which women are seen by the police to have 'consented' to their predicament and victim identification remains inadequate.

Conclusions

57. Trafficking in human beings is one of the most pressing and complex Human Rights issues faced by Council of Europe member states, including Cyprus. There is obviously a risk that the young women who enter Cyprus on artiste visas may be victims of trafficking in human beings or later become victims of abuse or coercion. These women are officially recruited as cabaret dancers but are nevertheless often expected also to work as prostitutes. They are usually from countries with inferior income levels to those in Cyprus and may find themselves in a vulnerable position to refuse demands from their employers or clients. The system itself, whereby the establishment owner applies for the permit on behalf of the woman, often renders the woman dependent on her employer or agent, and increases the risk of her falling into the hands of trafficking networks.

58. The Commissioner urges the Cypriot authorities to be especially vigilant about monitoring the situation and ensuring that the system of artiste visas is not used for facilitating trafficking or forced prostitution. In this context, the Commissioner recalls the exemplary reaction of the Luxembourg authorities to similar concerns expressed in his report on the country and their withdrawal of the cabaret artiste visa regime. Changes to the current practice might, at the very least, include women having to apply for the visa themselves, and the information leaflet being given to the women, if possible, before they enter the country.

59. The Commissioner welcomes the new National Action Plan for the Combating of Human Trafficking as a first step in addressing this issue and encourages the Ministry of the Interior to ensure its full implementation. The new law on trafficking, once enacted, will also play an important role. The variety of police activities in response to this phenomenon, such as the setting up of the Office for the Prevention and Combating of Human Trafficking, should also be welcomed.

60. In order to respect the human rights of trafficked persons, the authorities need to be able to identify victims and refer them to specialised agencies which can offer shelter and protection, as well as support services. The Commissioner urges the Cypriot authorities to continue with the training of police officers in victim identification and referral, and encourages the authorities to include women police officers in this area. More effective partnerships with NGOs and other civil society actors should also be developed. The Commissioner expresses his hope that the shelter in Limassol will be put into operation as soon as possible.

5. The Police

61. In his 2003 report the Commissioner expressed his concern over the physical ill-treatment of persons in police custody, noting that allegations of police brutality often concerned foreigners. The Commissioner suggested that improper treatment during police custody could be averted by certain procedures, including compulsory medical examinations, the mandatory presence of a lawyer, and the right to inform family members or friends of arrest. He drew attention to the rather timid official reaction to allegations of police misconduct.

Development of the situation and the measures taken

62. According to the Ombudswoman, and to NGOs who met with members of the Commissioner's Office, reports still persist of police brutality, notably of immigrants and asylum seekers. Figures provided by the Cypriot police, however, show that the number of investigated cases of alleged police misconduct, including the number of officers found guilty, has decreased over the period 2003-2005.¹⁹

63. Since 2001 the Attorney General has the power to appoint criminal investigators to investigate complaints of misconduct brought against the police. This system will run in parallel to the system of carrying out criminal investigations by members of the Independent Authority (see paragraph 64 below). Out of 71 complaints made in 2004, there were 49 criminal investigations brought resulting in 3 criminal prosecutions. According to the Attorney General's Office, however, this system is not working very efficiently due to the fact that the criminal investigators, who are private lawyers, are taking too long to carry out their investigations.

64. A law entitled "The Independent Authority for the Investigation of Complaints and Allegations (Concerning the Police) Law 2006"²⁰ entered into force on 17 February 2006. This new law confers the responsibility of investigating offences regarding police misbehaviour to a new Independent Agency. The Authority will be made up of a board of 5 members of recognised prestige and moral standing, of whom at least two must be knowledgeable in the law and one may be a senior former police officer. Some concerns had been expressed by the Ombudswoman and NGOs over the possible presence of police personnel on the board. It is to be noted that in the final act, if a former police officer is appointed, he or she is expressly disallowed from carrying out investigations, or participating in deliberations when the complaint before the authority concerns a human rights violation. His or her intervention is limited to cases of other instances of police misconduct such as bribery and corruption.

65. Concerning the procedural safeguards mentioned by the Commissioner in his visit report, a new law on "the Rights of Persons under Arrest and Detention Law 2005"²¹ was approved by Parliament and entered into force on 30 December 2005. The law addresses the issues of compulsory medical examinations, the mandatory presence of a lawyer and the right to inform family members or friends of arrest.

66. All persons arrested are now informed of their rights and are given a "Notice to Persons in Custody". This notice has been translated into English, Arabic, Russian, Chinese and Turkish. The notice is also posted in all police detention centres. It provides information to detainees as to their rights to inform a relative, access to a lawyer and access to a doctor.

67. Law 36(III)/2002 render those in charge of police stations criminally liable for ill-treatment of persons detained at their stations. This law shifts the burden of proof onto the person in charge, or the interrogating officer, to prove that ill-treatment has not been inflicted by them. If an apprehended person brought before a judge alleges ill-treatment the judge should immediately request a medical examination of the person concerned.

Conclusions

68. The Commissioner welcomes the authorities' efforts to create an effective mechanism to investigate complaints of police misconduct and the adoption of the law on the Rights of Persons under Arrest and Detention. The new Independent Agency represents an important step forward. Both initiatives should contribute to a greater respect for human rights during police custody.

6. Violence against women and children

69. In his 2003 report, the Commissioner commended the various measures which had been taken by the Cypriot authorities to combat violence within families. He highlighted the fact that fighting the problem of domestic violence required co-ordinated action by government authorities to punish offenders, while bringing about a change in attitudes.

Development of the situation and measures taken

70. The Domestic Violence and Child Abuse Office of the police headquarters is responsible for promoting the full implementation of relevant laws and orders, for monitoring the number of cases and investigations underway, for assisting investigators, promoting co-operation with non-police agencies, and for co-operating with the Police Academy on training. The Office also maintains an electronic registry of domestic violence cases and informs the Attorney General on reported cases, co-operating with all involved agencies, participating in interdepartmental meetings, communicating with victims and/or perpetrators, participating in public events and media programmes.

71. While current legislation provides for the creation and operation of shelters for victims of domestic violence, no such shelters have been built, although the Ministry for Labour and Social Affairs had been discussing the possibility of a shelter in Nicosia. For the time being, the authorities are only able to provide 2 connected flats for the use of victims of domestic violence. According to NGOs, the authorities should provide at least one shelter in every major town on the Island. NGOs also complain of the lack of co-operation between the various government departments and the need for more staff dealing with this issue in the Welfare Department.

Conclusions

72. The Commissioner urges the Cypriot authorities to provide more shelters and support services for the victims of domestic violence. State shelters provide an essential function to victims and their children. Relatives cannot always be relied upon alone to accommodate victims in these types of situations. In small and closed communities, it was not uncommon for family members to put undue pressure on victims to return to their spouses. Greater co-operation on the part of the authorities with NGOs working in this area would also bring about positive results.

7. Military service

73. In his 2003 report, the Commissioner voiced concerns over the length of alternative military service, both when undergone in uniform within army precincts, and without uniform outside army precincts, which he considered punitive.

74. The Commissioner also expressed serious misgivings about the practice of indicating the grounds for exemption from military service on the certificates themselves. In practice, the exemption certificates were often issued with "psychological reasons" given as the grounds of exemption. The Commissioner was very concerned that certain groups of individuals, such as homosexuals, were placed at a disadvantage in their work and social life because of these certificates, which had certain automatic consequences following, such as the withdrawal of driving licences. The Commissioner urged the authorities to alter this practice.

Development of the situation and measures taken

75. Compulsory military service for Cypriot men lasts 25 months. A new bill on conscientious objection was tabled in Parliament by the Government on 1 July 2005. The Bill foresees the reduction in the length of service for non-armed service in uniform within army precincts from 34 months to 33 months. For non-armed service without a uniform and outside army precincts, the Bill foresees a reduction from 42 to 38 months.

76. Exemption certificates no longer mention any grounds for granting exemption.

Conclusions

77. The Bill tabled with a view to making Cypriot legislation compatible with the requirements of the Committee of Ministers' Recommendations are welcome. However, both types of non-armed service have only been slightly reduced, and remain, in the Commissioner's opinion, of a punitive nature; alternative service should remain within reasonable limits in comparison to that of military service.²²

78. The Commissioner welcomes the fact that grounds of exemption, such as "psychological reasons", are no longer mentioned on discharge certificates, thereby ending what was clearly a discriminatory practice.

8. Treatment of persons suffering from mental illness

79. In his visit report, the Commissioner recommended that an appropriate institution be set up for assisting persons suffering from mental illness in need of constant care, following their treatment in the Athalassa Psychiatric Hospital.

Development of the situation and measures taken

80. The de-institutionalisation of the mentally ill and their re-integration into the community was recently reviewed by the Ombudswoman in a report sent to the Ministry of Health.²³ Since the 1980s, the goal of the Mental Health Services has been to 'change the manner of the therapeutic approach from the traditional asylum approach to a modern one, focusing on the patient and his individual requirements.' Studies related to the subject of psychiatric reform in Cyprus have concluded that de-institutionalisation has a positive impact on the life of mental health sufferers. In general, mental health reform in Cyprus has advanced greatly. Community mental health care is now being provided to 1,764 mental health sufferers living in the community, while there are less than 100 patients at the Athalassa Hospital (which previously cared for 800 patients).

81. Mental health sufferers leaving the Athalassa Hospital mainly go to stay with their families. However, an increasing number are transferred to Homes for the Aged (regardless of their age). This is because they do not have a family who can care for them, or their family is unwilling to do so, mainly because of the social stigma mental health sufferers carry within society. These patients are therefore being reinstitutionalised in institutions which are unable to meet their special requirements. While the authorities recognise this problem, they do not foresee building new institutions to accommodate these persons. In 2000, funding was assured for the creation of a hostel for the mentally ill, although completion has been delayed because local communities react negatively to the possibility of such a hostel being built in their neighbourhood.

82. In her report, the Ombudswoman noted that more interim structures, such as day centres, where mental health sufferers could occupy their free time, were needed. She also noted that the great majority of mental health sufferers were unemployed. This was a great shame for society as a whole, as the recruitment of the mentally-ill in the workplace would have positive results both in terms of their financial situation, as well as their therapy through employment, socialisation and fighting prejudice against them. However, there were no programmes available for the professional education and employment of the mentally ill.

83. The Ombudswoman drew attention to the absence of legislation on matters pertaining to mental health. This has been recognised by the Minister of Health, and a new Bill entitled "Law on the Establishment and Operation of Outpatients Mental Health Units" has been submitted by the Ministry of Health to the Law Office.

84. Although fighting prejudice is one of the goals of the Mental Health Services, there are no programmes aimed at increasing awareness of mental illnesses, which still carries with it a stigma in society.

Conclusions

85. The promotion of the rights of persons suffering from disabilities, whether physical or mental, must remain a continuous goal and long-term policy in all member states of the Council of Europe. The Commissioner commends the authorities in their support of the de-institutionalisation of the mentally ill and their reintegration into the community. However, the development of community care services must go hand in hand with de-institutionalisation. The Commissioner therefore urges the authorities to allocate more funds to outpatient care, including the provision of more day centres. The Commissioner expresses his concern that the number of mental health patients transferred to Homes for the Aged is increasing.

86. Prejudice in relation to the mentally ill constitutes one of the most important obstacles to their reintegration into society. Through public awareness campaigns, society needs to be informed about mental illness and about the rights of the mentally ill to enjoy an equal place in the community. The Commissioner encourages the Cypriot authorities to combat prejudice through education campaigns.

¹ Report by Mr Alvaro Gil-Robles Commissioner for Human Rights, 12 February 2004, CommDH (2004)1, on his visit to Cyprus 25-29 June 2003, for the Committee of Minister and the Parliamentary Assembly, Strasbourg. The report was presented to the Committee of Ministers on 12 February 2004, and can be found on the Commissioner's website at www.commissioner.coe.int. ² Mr. Markus Jaeger, Ms. Sirpa Rautio and Mrs. Rachael Kondak.

³ Contacts were made with the Commissioner for Administration and the head of the Human Rights Department in her office. During the visit to Police Headquarters members of the Office met with the Chief of Police, the Deputy Chief of Police, and the head of the Human Rights Unit, the Legal Co-operation Unit, the Office Combating Trafficking in Human Beings, the Unit dealing with Irregular Immigration and the Unit dealing with Political Asylum. During the visit to the prison in Nicosia, members of the Office met with the Deputy Director of the Central Prison, the Inspector, the Psychiatrist, and the Psychologist. Contacts were also made with the Attorney General's Office. Meetings took place at the Ministry of Justice and Public Order, the Ministry of the Interior, and with the Parliamentary Committee of Human Rights at the House of Representatives, in addition to representatives of the Armenian, Maronite and Latin religious groups and communities. Members of the Office also met with representatives of non-governmental organisations working in the field of human rights.

⁴ Report of 26 May 2004, Para. 69. ⁵ Law 66 (1/2004) amending the Civil Procedure Law. ⁶ UNHCR 3rd Quarter 2004 Report on Asylum Levels and Trends in Industrialized Countries. ⁷ UNHCR figures for 2001- August 2005. ⁸ Law 9(I)/2004 adopted on 6 February 2004 harmonises the Cypriot legislation with the EU Asylum Acquis and Law 241(I)/2004 adopted on 5 November 2004 implementing Council Directive 2001/55/EC. ⁹ According to the Ministry of the Interior (Asylum Service), the employment potential for asylum seekers is much higher than quoted since currently there are at least 5,000 foreign workers employed in these sections with 1 year contracts and asylum seekers are given priority for employment in these sectors over third-country nationals (excluding acceding countries). ¹⁰ Following enactment of the Refugee Law (Reception Conditions for Asylum Seekers) Regulations on 30/12/05. ¹¹ Although a medical practitioner visits the Centre on a regular basis for vaccinations. ¹² Report on conditions and practices at the Kofinou Reception Centre in Cyprus, by Julia Kalimeri, General Co-ordinator of Apanemi, Women's Information and Support Center, 2005. ¹³ UNHCR figures for 2001- August 2005. ¹⁴ Overturning decisions into 5 cases of recognition and 11 cases of humanitarian protection. ¹⁵ A delegation of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) carried out a visit to Cyprus from 8 – 17 December 2004. ¹⁶ See the CPT report on Cyprus, 15 January 2003, 'A Prison is by definition not a suitable place in which to detain someone who is neither convicted nor suspected of a criminal offence. In view of the CPT, in those cases where it is deemed necessary to deprive persons of their liberty for an extended period under aliens legislation, they should be accommodated in centres specifically designed for that purpose, offering material conditions and a regime appropriate to their legal situation and staffed by suitably qualified personnel.' ¹⁷ As required by Directive 2000/43/EC of the European Union. ¹⁸ Russian, English, Bulgarian and Romanian. The leaflet is being evaluated regularly. It was originally printed in February 2005 and reprinted in June 2005. ¹⁹ In 2003 there were 32 cases of alleged police misconduct investigated with 2 officers found guilty. In 2004 there were 13 cases investigated with 1 officer found guilty, and in 2005 there were only 4 cases investigated with no officer having been found guilty. ²⁰ Law 9 (1)/2006. ²¹ Law 163(1)/2005. ²² Council of Europe Committee of Ministers Recommendation No. R (87) 8 adopted on 9 April 1987. ²³ Report of the Commissioner for Administration regarding complaint No. A / II 763/ 2000 against the Ministry of Health.