

TARGETED STAKEHOLDER CONSULTATION 2021 RULE OF LAW REPORT UN HUMAN RIGHTS REGIONAL OFFICE FOR EUROPE (OHCHR)

This document presents the UN Human Rights Office's contribution to the targeted stakeholder consultation held by the European Commission in 2021 in the context of the second annual rule of law report.

It is a compilation of information related to Cyprus, included in reports and documents of United Nations Treaty Bodies, Special Procedures and the Universal Periodic Review of the UN Human Rights Council, presented in a summarized manner. It also refers to statements and reports of the UN High Commissioner for Human Rights and her Office. The cited material covers the period 2018-2020.

It mentions both positive developments and challenges to the rule of law in Cyprus, as well as recommendations issued by the UN Mechanisms on how these challenges can be addressed and how the rule of law can be further strengthened.

In light of the methodology proposed by the European Commission the submission is divided in four pillars: national justice systems, anti-corruption frameworks, media pluralism and freedom and other institutional issues related to the checks and balances essential to an effective system of democratic governance.

CYPRUS REVIEW

Justice System

➤ *Quality of justice*

In its 2018 concluding observations, the UN Committee on the Elimination of Discrimination Against Women (CEDAW) expressed concern about persisting barriers to accessing justice by women, in particular: women's limited knowledge of their rights and available complaint mechanisms; language barriers for migrant, asylum-seeking, refugee, internally displaced, Turkish Cypriot and Roma women claiming their rights; women's limited access to free legal aid, in particular by disadvantaged groups such as migrants, asylum seekers and refugees; and the lack of expertise regarding women's rights on the part of the judiciary, law enforcement officials and legal practitioners. The Committee was also concerned about the obstacles impeding access to justice for women migrant domestic workers, including the fear of detention and deportation while legal proceedings are pending ([CEDAW/C/CYP/CO/8](#), para 16, 38).

In its 2019 concluding observations, the UN Committee against Torture was concerned that prospective recipients for legal aid must argue before a court to convince it about the prospects of success of their claim before being granted legal aid. It also raised concern about detainees' awareness of and access to the guarantees of their rights, including complaint procedures. While noting with satisfaction that a detainee's right to access to an ex officio lawyer had been codified in law, the Committee remained concerned that this right was not

always observed in practice. In that regard, the Committee was particularly concerned about asylum seekers and irregular migrants, although it welcomed information that the Refugee Law and the Law on Provision of Legal Aid had been amended in order to eliminate the restrictive criteria for applying for legal aid when challenging deportation and detention orders. The Committee was also concerned at reports that persons deprived of their liberty were not assigned legal aid prior to their initial interrogations. In relation to domestic violence, the Committee expressed concern about reports of actions or omissions by State agencies or other entities, and that the number of investigations, prosecutions and convictions regarding domestic violence remained low. It recommended that Cyprus enforce the existing legal infrastructure to ensure that reports of violence against women, including domestic violence, are duly investigated, that perpetrators are prosecuted and adequately punished, and that victims have access to appropriate redress ([CAT/C/CYP/CO/5](#), para 14, 24-25).

In its 2018 concluding observations, the CEDAW Committee expressed concern about the lack of expertise regarding women's rights on the part of the judiciary, law enforcement officials and legal practitioners. It recommended that Cyprus take immediate steps, including capacity-building and training programmes for the judiciary on the Convention on the Elimination of All Forms of Discrimination against Women and on women's rights, to eliminate gender bias ([CEDAW/C/CYP/CO/8](#), para 16-17).

In its 2019 concluding observations, the UN Committee against Torture recommended Cyprus to raise awareness among, and train, law enforcement personnel, social welfare officials, prosecutors and judges on the investigation, prosecution and sanctioning of cases of domestic violence and on creating appropriate conditions for victims to report such cases to the authorities. It also urged Cyprus to develop modules based on the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Istanbul Protocol and on non-coercive investigation techniques, and to integrate those modules in the periodic and compulsory training programmes for all law enforcement officials, judges, prosecutors and prison and immigration officers and others ([CAT/C/CYP/CO/5](#), para 25, 36).

At its third Universal Periodic Review in 2019, Cyprus accepted the recommendations to invest more resources in the training of lawyers, prosecutors and judges in specific knowledge on violence against women, the needs and rights of victims and the legal framework on violence against women ([A/HRC/41/15/Add.1](#), para 15; [A/HRC/41/15](#), para 139.28).

➤ ***Transitional justice***

Transitional justice - In its 2018 concluding observations, CEDAW commended Cyprus on its commitment to Security Council resolution 1325 (200) and subsequent related resolutions, but noted with concern that women had generally been underrepresented and were not actively or meaningfully participating in peace negotiation efforts. CEDAW recommended that Cyprus give the highest priority to the meaningful and inclusive participation of women at all stages of the peace process and transitional justice processes ([CEDAW/C/CYP/CO/8](#), para 10-11). OHCHR's annual reports on the question of human rights in Cyprus continued to note the importance of ensuring meaningful women's participation and a gender perspective in the peace process ([A/HRC/37/22](#); [A/HRC/40/22](#); [A/HRC/43/22](#)).

Redress, including compensation and rehabilitation - In its 2019 concluding observations, the UN Committee against Torture expressed concern about the lack of data on redress and

compensation provided to victims of domestic violence, and the lack of statistical data on violence against women, including reparations provided to victims. It recommended that Cyprus enforce the existing legal infrastructure to ensure that victims have access to appropriate redress, including compensation and other reparations. While welcoming the work of the bicomunal Committee on Missing Persons in Cyprus, the Committee also remained concerned about lack of information on redress afforded to relatives of victims and measures taken to investigate cases of missing persons and prosecute those responsible. It expressed concern that the Committee on Missing Persons in Cyprus was not empowered to grant redress, and that the overall approach was humanitarian rather than rights-based. The Committee moreover was concerned that current laws and practices do not make available effective reparative measures for victims of torture and ill-treatment. It expressed concern about the lack of compensatory or rehabilitation measures provided through civil action initiated by victims, and the lack of specific rehabilitation programmes for victims. The Committee was also concerned about the lack of provisions on redress for victims of torture and ill-treatment in Law 9 (I)/2006, the lack of specifically designed rehabilitation programmes for victims of torture and ill-treatment, the lack of long-term rehabilitation for victims, and the lack of protective measures and diverse forms of redress (restitution, satisfaction, restoration of dignity and reputation, guarantees of non-repetition) available to victims and their families under Law 9 (I)/2006 and other laws ([CAT/C/CYP/CO/5](#), para 24-25, 40, 44).

Anti-corruption framework

➤ ***Repressive measures***

At its third Universal Periodic Review in 2019, Cyprus accepted the recommendation to strengthen anti-corruption laws and enact regulations and codes of conduct to govern lobbying and decision-making process ([A/HRC/41/15/Add.1](#), para 30; [A/HRC/41/15](#), para 139.95).

Media pluralism

➤ ***Framework for journalists' protection***

In its 2019 report on the question of human rights in Cyprus, OHCHR noted that the Representative on Freedom of the Media of the Organization for Security and Cooperation in Europe had expressed concern regarding a series of threats against the journalist Maria Siakelli, one of the co-authors of a trilingual glossary of sensitive words and phrases entitled "Words That Matter" ([A/HRC/40/22](#), para 48).

Other institutional issues related to checks and balances

➤ *Independent authorities*

In its 2018 concluding observations, CEDAW expressed concern that the Office of the Commissioner for Administration and Protection of Human Rights was accredited with “B” status by the Global Alliance of National Human Rights Institutions in 2015. It recommended that Cyprus take necessary steps to bring the Office fully into compliance with the Paris Principles and ensure that the Office has a specific mandate on women’s rights and gender equality ([CEDAW/C/CYP/CO/8](#), para 20-21).

In its 2019 concluding observations, the UN Committee against Torture remained concerned about the restricted budget and operating capacities of the Office of the Commissioner for Administration and Protection of Human Rights to act as national preventive mechanism ([CAT/C/CYP/CO/5](#), para 30).

At its Universal Periodic Review in 2019, Cyprus accepted recommendations to make the Office of the Commissioner for Administration and Human Rights fully compliant with the Paris Principles. ([A/HRC/41/15/Add.1](#), para 16; [A/HRC/41/15](#), para 139.25).

➤ *Accessibility and judicial review of administrative decisions*

In its 2019 concluding observations, the UN Committee against Torture noted with appreciation the creation, in January 2016, of the Administrative Court, which has first-instance jurisdiction over administrative proceedings, and the creation, in July 2019, of the International Protection Administrative Court, another first-instance court examining both procedure and merits with strict deadlines for greater efficiency. The Committee nonetheless remained concerned about the effectiveness of the two courts to adjudicate challenges to the deportation of asylum applicants and irregular migrants, about the relation of these courts with the Supreme Court with regard to the accessibility of appeals, and about the backlog of asylum claims. It recommended Cyprus to continue to abide by its commitment to provide for an effective judicial remedy with automatic suspensive effect in the context of the deportation of asylum seekers and irregular migrants, by: ensuring the independence of the Administrative Court and the International Protection Administrative Court from the Executive, incl. procedural independence from law enforcement and immigration and asylum officers; ensuring legal recourse is available to asylum seekers and irregular migrants who have lost the protection of suspensive effect; and tracking the number of cases relating to non-refoulement of possible victims of torture that the two administrative courts and the Supreme Court have considered since establishment, including cases submitted and decided and case outcomes (both those resulting in deportation and those that led to the reversal of a deportation order), the number of appeals and their outcomes.

The Committee also expressed concern about the effectiveness of the appeal process relating to re-examination of decisions of cessation of subsidiary protection status. It was further concerned that subsidiary protection was granted approximately five times more frequently than the recognition of refugee status. Finally, it was concerned that in several cases, the act of appealing rejected refugee status applications had led to the suspension of subsidiary protection, and that there was a high number of returns during the reviewed period, including

to countries where torture and ill-treatment frequently occurred. (See [CAT/C/CYP/CO/5](#), para 18, 19, 22).

In its 2021 report on the question of human rights in Cyprus, OHCHR noted continued concerns about the situation of asylum seekers and migrants in an irregular situation were exacerbated during the reporting period owing to measures taken purportedly in response to COVID-19. OHCHR reported that the Republic of Cyprus suspended access to asylum procedures and to the territory, and that asylum procedures resumed in July, but restrictions on access to territory persisted as at 30 November 2020, resulting in denials of the right to seek asylum. ([A/HRC/46/23](#) (Advanced Edited Version), para 39-40).

➤ ***The enabling framework for civil society***

In 2019, several Special Procedures mandate-holders initiated a dialogue with Cyprus, citing concern at the arrest and investigation of human rights defender Doros Polykarpou, which appeared to be directly linked to his peaceful activities in defense of the human rights of migrants. The Special Rapporteurs expressed further concern at threats allegedly made against staff members of the non-governmental organization KISA in relation to the arrest. ([CYP 2/2019](#), available at <https://spcommreports.ohchr.org/TmSearch/Results>) His case had previously been raised twice in the reprisals report of the UN Secretary General in 2015 and 2016 ([A/HRC/30/29](#) and [A/HRC/33/19](#)). In his 2020 addendum report to the Human Rights Council on communications, the UN Special Rapporteur on human rights defenders thanked the Government of Cyprus for its response to its 2019 communication, but remained concerned about the threatening behaviour of police officers towards members of the organisation KISA, and the frequency with which communications had been sent in recent years regarding the treatment of Mr. Polykarpou. Taken together, these acts showed a pattern of intimidation which may create an environment not conducive to the defence of human rights. The Special Rapporteur reiterated that it is the obligation of the Cyprian State to maintain an environment in which human rights defenders, including migrant rights defenders, can carry out their legitimate work. ([A/HRC/43/51/Add.3](#), para 512-514).