

RULE OF LAW & HUMAN RIGHTS

The 'rule of law' is a concept at the heart of the United Nations' mission. It refers to a principle of governance which is consistent with international human rights standards (S/2004/616). There is no rule of law within societies if human rights are not protected and human rights cannot be protected in societies without a strong rule of law. This interlinkage is reiterated by the UN Secretary-General in his New Vision for the Rule of Law: "Human rights and the rule of law are mutually reinforcing – the advancement of the rule of law is essential for the protection of all human rights, and human rights are central to the rule of law."

The Office of the UN High Commissioner for Human Rights (OHCHR), also known as UN Human Rights Office, is mandated by the UN General Assembly to promote and protect the enjoyment and full realization, by all people, of all human rights. As part of its mandate, OHCHR works to mainstream human rights to strengthen the rule of law (Management Plan 2024 - 2027).

Established in 2009, OHCHR Regional Office for Europe (ROE) aims to advance the protection and promotion of human rights in the European Union and its member States. ROE works to mainstream international human rights standards to strengthen the rule of law in the EU by engaging in and contributing to the European Commission's Rule of Law Report. ROE furthermore promotes the UN human rights mechanisms and processes by giving their work visibility at the regional level.

OHCHR ROE'S CONTRIBUTION

The contribution by OHCHR Regional Office for Europe (ROE) is grounded in the Universal Declaration of Human Rights and nine international human rights treaties:

- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Convention on the Rights of the Child (CAT)
- Convention on the Rights of Persons with Disabilities (CERD)
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW)
- International Convention for the Protection of All Persons from Enforced Disappearance (CPED)

The current submission consists of a compilation of findings and recommendations contained in reports of UN international human rights mechanisms including human rights treaty bodies, special procedures and the Universal Periodic Review of the UN Human Rights Council. It also includes statements and reports by the UN High Commissioner for Human Rights and his Office.

UN HUMAN RIGHTS MECHANISM

Each of the nine international human rights treaties creates a **human rights treaty body or committee of independent experts** to monitor the implementation of the provisions of the treaty. With the support from OHCHR, the treaty bodies:

- consider reports submitted by State parties detailing how they are implementing the treaty;
- adopt general comments interpreting the treaty provisions, and organize discussions on themes related to the treaties; and
- consider complaints (communications) from individuals alleging that their rights have been violated by a State party, provided that the State has accepted the complaints procedure.

The **UN Human Rights Council** (HRC) is a subsidiary body of the UN General Assembly and the main intergovernmental body within the UN responsible for human rights. It meets at the UN Office at Geneva in three regular sessions each year, and may convene special sessions to respond to urgent human rights situations. The HRC benefits from substantive, technical, and secretariat support from OHCHR.

The **special procedures of the UN Human Rights Council** are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective. As of November 2024, there are 46 thematic and 14 country mandates. With the support of OHCHR, special procedures undertake country visits, act on individual cases of alleged violations and concerns of a broader nature by sending communications (letters of allegation) to States and other entities; contribute to the development of international human rights standards; and engage in advocacy.

The Universal Periodic Review (UPR) of the UN Human Rights Council is a State-led mechanism that conducts a peer review of the human rights situation of each UN Member State once every 4.5 years. It is carried out by the UPR Working Group of the Human Rights Council. In each review, the State under review reports on the actions it has taken to improve its human rights situation and overcome challenges to the enjoyment of human rights. It also receives recommendations from UN Member States for improvement. In addition to the national reports of States under review, the UPR is informed by compilations of stakeholder information and UN system reports.

In recent years, States have established **National Mechanisms for Implementation, Reporting and Follow-up (NMIRF)**, some of whom with the technical assistance of UN Office of the High Commissioner for Human Rights (OHCHR). This mechanism, which is often based within the ministry of foreign affairs, has a mandate which includes following-up on all treaty body obligations, UPR recommendations, as well as recommendations from other international and regional human rights mechanisms, and generally works closely with government ministries, national human rights institutions and civil society organizations. (See: National Mechanisms for Reporting and Follow-up: A Study of State engagement with International Human Rights Mechanisms; A Practical Guide to Effective State Engagement with International Human Rights Mechanisms)

The Office of the UN High Commissioner for Human Rights (OHCHR) also known as UN Human Rights Office is the main human rights entity of the UN to protect and promote all human rights for everyone everywhere. The High Commissioner for Human Rights leads OHCHR. He is the principal human rights official of the United Natons.

CYPRUS

- Period of contribution: January December 2024
- Contents of contribution:
 - The Committee on Economic, Social and Cultural Rights (CESCR) adopted its concluding observation on Cyprus on 27 September 2024 and the report (<u>E/C.12/CYP/CO/7</u>) was published on 18 October 2024.
 - The UPR of Cyprus was held at its 46th session (29 April 2024 10 May 2024) and the outcome report was adopted (<u>A/HRC/57/15</u>) the 57th session of the UN Human Rights Council (9 September - 9 October 2024). See matrix of recommendations.
 - The Office of the United Nations High Commissioner for Human Rights published a report
 (A/HRC/55/20) providing an overview of the human rights issues in Cyprus related to the island's
 continued division from 1 December 2022 to 30 November 2023. The report was presented to the
 55th session of Human Rights Council (26 February 5 April 2024).
 - The special procedures of the UN Human Rights Council sent a letter of allegation (<u>CYP 1/2024</u>)
 dated 14 February 2024 concerning the bombing of the office of the human rights organization KISA
 and previous intimidation and attacks against the organization and its staff. A <u>response</u> was received.
 - The special procedures of the UN Human Rights Council sent a letter of allegation (CYP 2/2024) dated 27 June 2024 concerning the amendments proposed by the Ministry of Interior to the Societies and Institutions and other Related Matters Law of 2017 (Law 104(I)/2017), and the potential restrictions the newly proposed amendments would impose on the operation of non-governmental organizations, including human rights organizations, in the Republic of Cyprus. A response was received.
 - The Special Rapporteur on the right to freedom of expression sent a letter of allegation (<u>CYP 4/2024</u>) dated 24 September 2024 regarding a legislative proposal to amend the Criminal Code of Cyprus that criminalizes the expression or dissemination false, grossly offensive, obscene, indecent, threatening, or abusive content, which was introduced recently to the Parliament and is scheduled to be presented to the plenary session this September. A <u>response</u> was received.
- Forthcoming relevant information (January May 2025):
 - The Office of the High Commissioner for Human Rights will present the annual report on the question of human rights in Cyprus (A/HRC/58/21) to the 58th session of Human Rights Council (24 February -4 April 2025).

Resources:

- o Rule of Law in Europe | OHCHR
- o OHCHR country page Cyprus
- o Universal Periodic Review Cyprus
- Universal Human Rights Index (UHRI) allows you to explore over 230.000 observations and recommendations made by the international human rights protection system (treaty bodies, special procedures and the Universal Periodic Review)

Pillar I: JUSTICE SYSTEM

There is no true respect for the rule of law without a judicial power guaranteeing compliance therewith. Judges guarantee compliance with laws and with it the reality of democratic coexistence. The duty to promote equality among all persons, especially to ensure that everyone has the right to access justice on an equal basis with others, rests with the judiciary. Guaranteeing access to justice is indispensable to democratic governance and the rule of law, as well as to combating inequality and exclusion.

Respecting the rule of law through fostering the separation of powers and the independence of justice ensures protection of human rights. The judiciary is the ultimate guarantors of human rights. However, at the same time, judges, prosecutors and lawyers are subject to attacks and violations of their rights, including threats, intimidation, external interference in conducting their professional activities, arbitrary detention, prosecution, and killings. These attacks threaten the impartiality and independence of the judiciary and the legal profession and in turn, deter their role as guarantors of human rights and the rule of law.

For more info:

- Basic Principles on the Independence of the Judiciary
- Human rights in the administration of justice: a manual on human rights for judges, prosecutors and lawyers
- International principles and guidelines on access to justice for persons with disabilities
- General Recommendation No. 33 on women's access to justice (CEDAW/C/GC/33)
- Special Rapporteur on the independence of judges and lawyers

Quality of justice – training of justice professionals

- The Committee on Economic, Social and Cultural Rights recommended that the State Party, among other things, to enhance training initiatives on women's rights and gender-based violence, including mandatory training programmes, for all relevant stakeholders, in particular national and local authorities, law enforcement personnel, judges and prosecutors; intensify efforts to ensure the prompt and effective investigation of violence against women, the prosecution of perpetrators, the imposition of appropriate punishments upon conviction and the provision of accessible remedies and protective measures for victims; enhance the current system for gathering comprehensive and disaggregated data on domestic violence and extend it to include information on complaints, investigations, prosecutions, convictions and sentences related to gender based violence; and allocate adequate resources to the police anti-trafficking unit to ensure that it can effectively investigate and prosecute cases of trafficking, in particular in women and girls, and, if a person is convicted, apply penalties commensurate with the seriousness of the offence. (E/C.12/CYP/CO/7, paras. 37-38).
- During its Fourth Universal Periodic Review (<u>A/HRC/57/15</u>), Cyprus supported recommendations on improving the justice system:
 - o Continue the full implementation of the law on institutional modernization and strengthen probity and transparency within law enforcement and public security forces
 - Conduct criminal investigations, in accordance with the principles of the rule of law, in a speedy, concentrated, holistic and comprehensive manner, and considerably strengthen the right to a fair and public trial
 - Enhance human rights education and training for law enforcement on combating racism, xenophobia and hate, including countering racial profiling

 Continue to improve training for police officers, prosecutors, judges and other legal officials on specific knowledge of gender-based violence

Pillar II: ANTI-CORRUPTION

Corruption has a destructive effect on State institutions and it undermines the functioning and legitimacy of institutions and processes, the rule of law and ultimately the State itself. In particular, corruption effects on the capacity of States to respect, protect and fulfil human rights particularly of those persons and groups in situation of vulnerability and marginalization.

Corruption pose a major challenge to many societies as they divert public revenues and cripple public budgets that should provide healthcare, housing, education, and other essential services, they undermine States' ability to meet their minimum core obligations and their pre-existing legal obligations to maximize all available resources to respect, protect and fulfil human rights.

For more info:

- Corruption and human rights | OHCHR
- OHCHR Key messages on the negative impact of corruption in the enjoyment of human rights

The institutional framework capacity to fight against corruption

- During its Fourth Universal Periodic Review (<u>A/HRC/57/15</u>), Cyprus supported a recommendation on good governance and corruption:
 - 129.53 Continue strengthening anti-corruption legislation and enact regulations and codes of conduct to govern lobbying and decision-making processes

Repression - potential obstacles - pardoning

- While noting the information provided by the delegation regarding The Establishment and Functioning of the Independent Authority Against Corruption Law (L.19(I)/2022), the Committee on Economic, Social and Cultural Rights is concerned about reports that the State party has granted early releases and pardons of individuals convicted on corruption charges. The Committee is also concerned about reports about insufficient coordination between various anti-corruption bodies, as well as insufficient concrete measures to ensure that officials investigating and/or prosecuting corruption case are not subject to conflicts of interests, including through so-called "revolving doors" employment practices by enterprises (art. 2 (1)). (E/C.12/CYP/CO/7, para. 17)
- The Committee on Economic, Social and Cultural Rights recommended that the State party:
 - (a) Promptly, independently and impartially investigate and prosecute all cases of corruption, in particular high-level corruption, including corruption in the Government, and, if a person is convicted, apply penalties commensurate with the seriousness of the offence;
 - (b) Ensure the independence, effective coordination, transparency and accountability of all anticorruption bodies, including the Independent Authority Against Corruption (IAAC) and the Anti-Corruption Task Force (ACTF);
 - (c) Review legislation, policies, guidelines and actual practices to eliminate the risk of corruption through so-called "revolving doors" hiring practices. (E/C.12/CYP/CO/7, para. 18)

Pillar III: MEDIA FREEDOM

Free, independent, plural and diverse media are a core component of the right to freedom of expression, a cornerstone of democratic societies and plays an essential role in strengthening the rule of law. Journalists and the media are crucial to ensure transparency and accountability for public and governmental authorities.

For more info:

- OHCHR and the safety of journalists and the issue of impunity
- Special Rapporteur on freedom of opinion and expression
- General comment No.34 on Article 19: Freedoms of opinion and expression (CCPR/C/GC/34).

Framework for journalists' protection

- During its Fourth Universal Periodic Review (<u>A/HRC/57/15</u>), Cyprus supported a recommendation on the right to freedom of expression and the protection of journalists:
 - 129.65 Legally guarantee the effective protection of journalists and their sources, and prevent political interference in media work through appropriate legislative measures.
- The Safety of Journalists Platform established by the Council of Europe published several alerts regarding the safety of journalists and media freedom in the northern part of Cyprus. The Platform reported that the last instance "court" in the northern part of Cyprus upheld, in a final judgment on 11 October 2023, the verdict of 16 May 2019 acquitting Şener Levent, and the newspaper's director, Ali Osman, of the charges of "defaming a foreign politician" and "damaging relations [with] Türkiye" relating to a cartoon that Mr. Levent had previously published. On 10 March 2023, however, an Ankara court found Mr. Levent guilty in absentia in a second criminal case against him on charges of "insulting the President of the Republic of Türkiye" relating to his article "Kurds and Us", and sentenced him to a year of imprisonment. Another case against Mr. Levent relating to a different article remained pending before Ankara courts. (A/HRC/55/20, para. 66)
- On 15 September 2023, the Platform reported that the Turkish Cypriot authorities had announced that the initial hearing in the case of Ali Kişmir, the President of the Turkish Cypriot Journalists' Union, was expected to commence on 6 October 2023 in a court in the northern part of Cyprus on charges of "insulting and mocking the security forces" in an article he had written at the time of the Turkish Cypriot leader's election, which could result in up to 10 years of imprisonment.55 Following the request of Mr. Kişmir's lawyer to allow for negotiations with relevant Turkish Cypriot authorities, the initial hearing to determine whether his case would be transferred to the "High Criminal Court" in the northern part of Cyprus was postponed several times until 28 December 2023. . (A/HRC/55/20, para. 67)
- On 6 October 2023, the International Federation of Journalists and the European Federation of Journalists called upon the Turkish Cypriot authorities to drop all charges against Mr. Kişmir and to safeguard the right to freedom of expression. On 20 October, the European Commission expressed its concern about attempts to restrict freedom of expression and independent journalism in the Turkish Cypriot community, as exemplified by Mr. Kişmir's case. (A/HRC/55/20, para. 68)
- On 28 June 2023, the International Federation of Journalists and the European Federation of Journalists condemned Mr. Kişmir's forced resignation from the online channel TV20 as an act of censorship and intimidation, because of his reaction to the censorship of his article critical of the Turkish Cypriot leader published on the channel's website. They called upon the Turkish Cypriot authorities to "put an end to political interference in the media". (A/HRC/55/20, para. 69)

Pillar IV: CHECKS AND BALANCES

Civic space is the environment that enables civil society to play a role in the political, economic and social life of our societies. In particular, civic space allows individuals and groups to contribute to policy-making that affects their lives, including by: (1) accessing information; (2) engaging in dialogue; (3) expressing dissent or disagreement, and (4) joining together to express their views. An open and pluralistic civic space that guarantees freedom of expression and opinion as well as freedom of assembly and association, is a prerequisite for making development and peace sustainable.

For more info:

- OHCHR and protecting and expanding civic space
- Special Rapporteur on human rights defenders
- The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

Independent authorities

- During its Fourth Universal Periodic Review (<u>A/HRC/57/15</u>), Cyprus supported a recommendation on National Human Rights Institution:
 - 129.27 Ensure that the Commissioner for Administration and the Protection of Human Rights fully complies with the Paris Principles (Qatar);

The enabling framework for civil society – measures regarding framework (registration)

- The Committee on Economic, Social and Cultural Rights is concerned about reports that the State party has instrumentalized the legal and regulatory framework, including the 2017 amendment to the Law on Associations which allows the Ministry of Interior to rapidly deregister civil society organizations deemed inactive or non-compliant with the law. Reported instrumentalization include unduly restriction on the right to freedom of association and the funding and operations of civil society organizations, including for organizations working on economic, social and cultural rights for migrants and refugees.
 (E/C.12/CYP/CO/7, para. 7)
- The Committee on Economic, Social and Cultural Rights recommends that the State party consider reviewing the 2020 amendment to the Law on Associations with a view to removing unduly restrictive requirements regarding the operations of civil society organizations, including those working on economic, social and cultural rights for migrants and refugees. (E/C.12/CYP/CO/7, para.8)
- During its Fourth Universal Periodic Review (<u>A/HRC/57/15</u>), Cyprus supported a recommendation on freedom of association:
 - 129.63 Strengthen the freedom of association of non-governmental organizations and review registration procedures accordingly (Germany);

The enabling framework for civil society – measures regarding framework (legal framework)

- The special procedures of the UN Human Rights Council sent a letter of allegation (<u>CYP 4/2024</u>) on 24 September 2024 regarding a legislative proposal to amend the Criminal Code of the Republic of Cyprus that criminalizes the expression or dissemination false, grossly offensive, obscene, indecent, threatening, or abusive content:
 - On 3 July 2024, the Legal Committee of the Parliament of Cyprus discussed a proposed amendment to the Criminal code to include new articles 99C, 99D, 99E and 99F, which attribute criminal consequences, including prison sentences, to acts of expression or dissemination of statements or content known to be false or considered "grossly offensive," "obscene," "indecent," "threatening," or "abusive". This proposal provides for the conversion of a series of civil offences into criminal offences, entailing possible prison sentences.
 - The fundamental issue regarding the compatibility of this proposed amendment with international human rights standards is the criminalization, even with sentences of imprisonment, of certain actions that according to the law in place constitute just civil offences.
 - o If passed, the proposed amendment is prone to have a notable chilling effect on freedom of expression across the country and lead to a self-censorship that is contrary to the interests of any robust and healthy democracy.
- In its <u>response</u>, the Government of Cyprus referred to several aspects of the bill which has been pending in the Parliamentary Committee on Legal Affairs, Justice and Public Order, where it has been discussed in numerous sessions.
- The special procedures of the UN Human Rights Council sent a letter of allegation (<u>CYP 2/2024</u>) on 27 June 2024 concerning the amendments proposed by the Ministry of Interior to the Societies and Institutions and other Related Matters Law of 2017 (Law 104(I)/2017), and the potential restrictions the newly proposed amendments would impose on the operation of non-governmental organizations, including human rights organizations:
 - On 22 November 2023, the Ministry of Interior proposed extensive amendments to the Societies and Institutions and other Related Matters Law (Law 104(I)/2017) which proposed preamble to the Societies and Institutions Law affirms that the amendments aim to bring the Republic of Cyprus' legislation into alignment with guidelines from the European Union, the Council of Europe and FATF to enhance supervision of non-profit organizations (NPOs) and prevent their misuse for money laundering and terrorist financing.
 - One of the most pertinent guidelines in this regard is FATF's recommendation 8 on non-profit organizations, which advises States to identify organizations falling under the FATF definition of non-profit organizations and assess their terrorist financing risk, putting in place focused, proportionate and risk-based measures, without unduly disrupting or discouraging legitimate NPO activities (emphasis added). FATF adopts a functional definition of NPOs, as outlined in its interpretive note to recommendation 8, as "a legal person or arrangement or organization that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of 'good works'."
 - We note that the proposed preamble to the Societies and Institutions Law appears to conflate the terms non-profit organization and non-governmental organization: "recognizing that non-governmental organizations play an important role, supporting the activities of the public sector as well as society to provide important services and understanding that some non-profit organizations are at risk of being misused by terrorists to finance terrorism or by people active in illegal activities for money laundering" (emphasis added). This goes beyond FATF's definition of NPOs, which explicitly "does not apply to the entire universe of organization working in the not-for-profit realm in a country." (Interpretive note to FAFT recommendation 8, paragraph 1). FATF limits the definition of NPO to "a legal person or arrangement or organization that primarily engages in raising or disbursing funds for purposes such as charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of "good works".

- A newly proposed addition to article 2 of the Societies and Institutions Law appears to similarly conflate the terms non-profit organization and nongovernmental organization with the following definition: "Non-profit organization or NGO' means an association or foundation or federation or union registered under the basis of this [the Societies and Institutions] Law." This broadening of the range of organizations subject to scrutiny for money laundering or terrorist financing risks imposing undue restrictions on a range of non-governmental organizations, including human rights organizations, carrying out peaceful and legitimate activities.
- In its <u>response</u>, the Government of Cyprus noted, among others:
 - O Comment on the Proposed Preamble, on the proper distinction between NPOs and NGOs: The Law and its amendment pertain only to NPOs of private law, particularly associations, foundations, their federations, as well as NPOs registered abroad that wish to operate legally in the Republic of Cyprus. The term Non-Governmental Organizations (NGO) is broader and includes non-profit companies and/or profit-making organizations that do not fall within the scope of the law.

The enabling framework for civil society – rules and practices (intimidation, legal threats)

- The special procedures of the UN Human Rights Council sent a letter of allegation (<u>CYP 1/2024</u>) on 14 February 2024 concerning the bombing of the office of the human rights organization KISA and previous intimidation and attacks against the organization and its staff, expressing concern that the attack on the offices of KISA, may have been carried out in direct retaliation for their human rights work and in particular their work in support of migrants, refugees and asylum-seekers in Cyprus:
 - KISA Action for Support, Equality and Antiracism is a non-governmental organization established in
 1998 to provide support to migrants, asylum-seekers, victims and potential victims of human
 trafficking in Cyprus, while also working to combat racial discrimination and xenophobia in the country.
 - On 5 January 2024, at 2.30 am, a bomb exploded at the offices of KISA in Nicosia, breaking the windows along the face of the office and seriously damaging equipment inside. None of the workers of the organization were present at the time of the explosion. A CCTV camera on the street in front of the office, which may otherwise have recorded the planting of the bomb, was subsequently found not to have been working for at least five hours before the explosion.
 - On 24 July 2020, Mr. Polykarpou, the Executive Director of KISA, was attacked by a member of a farright group during a demonstration organized by far-right activists against the opening of an accommodation centre for asylum-seekers in Aglantzia, a suburb of Nicosia.
- In its <u>response</u>, the Government of Cyprus noted:
 - With reference to bomb explosion at the KISA offices in January 2024, I would like to underline- and as already provided by your letter itself that, Cyprus Police promptly reacted. In particular, the Cyprus Police immediately initiated an investigation. According to the examinations carried out until now, no testimony was secured, or evidence was found that would allow the Police to proceed with any arrest. The available CCTV material was evaluated, and no particular evidence was detected. The investigation process is in progress and the results of the examination of evidence collected from the scene are pending. Taking into consideration the above, it is our view that Cyprus Police took all the necessary actions for a prompt, impartial, transparent and effective investigation of the incident at hand.
 - The case concerning the attack against KISA's Director, Mr. Doros Polykarpou, in July 2020, was also investigated by the Cyprus Police. A criminal file was opened about offences of common assault and threat, with the case being submitted before the Nicosia District Court. At this stage, the case is under trial, with an appearance date set for 13 September 2024.
 - Concerning the deregistration of KISA from the Non-Governmental Organizations' (NGO) registry of the Ministry of Interior, I would like to inform that the aforementioned NGO is one of the 2.200 NGOs that were deregistered in 2020, due to their failure to submit on time a substantiated application-request for registration, according to the Associations and Institutions and for other Related Matters Law of 2017 (104(1)/2017). Following the decision by the Ministry of Interior for deregistration, KISA filed a recourse to the Administrative Court of Cyprus with no. 25/2021, which was rejected on 10 June 2021. Upon the rejection by the Court, KISA proceeded with lodging an appeal against that decision, which is pending adjudication.