

# Frnet National contribution to the Fundamental Rights Report 2023

**Cyprus**

**Contractor's name:** University of Nicosia and Symfiliosi

**Authors' name:** Trimikliniotis N. and Demetriou C.

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## Policy and legal highlights 2022

Franet country study: policy and legal highlights 2022	
Issues in the fundamental rights institutional landscape	<b>Repeated referrals by the President undermine role of legislator:</b> The repeated referrals by the President of the Republic of laws adopted by parliament for reconsideration, on the justification that they are unconstitutional for extending the state budget was once again at the centre of parliamentary debates. This time, the Supreme Court <a href="#">confirmed</a> the President's claim that a law purporting to remove age discrimination in accessing sickness benefit and unemployment benefit was unconstitutional for causing an increase to the state budget.
EU Charter of Fundamental Rights	<b>Supreme Court confirms that evidence derived from massively retained data cannot be used in court:</b> The Court issued a <a href="#">landmark decision</a> by refusing to apply the data retention law that had been declared invalid for non-compliance with the Charter in a 2021 Court decision. This forms a departure from judicial practice up until now, where courts viewed the revision of laws as the exclusive domain of the legislature.
Equality and non-discrimination	<b>'Conversion therapies' used largely by priests:</b> In the context of parliamentary debates on a <a href="#">bill criminalizing 'conversion therapies'</a> performed on LGBTIQ persons, an on-line survey was presented showing the extend and impact of such therapies, largely performed by priests on boys and young adults mostly in places of worship, which included hormone therapies, prayer, repentance and heterosexual matchmaking.
Racism, xenophobia & Roma Equality and Inclusion	<b>Racist motive downplayed in attacks against migrants:</b> Repeated racial attacks against migrants in the streets revealed both the rising levels of racism and the gaps in the framework for combating hate crime, as perpetrators <a href="#">deny the racist motive</a> and the police brings <a href="#">charges against the victim</a> , a woman of African origin holding her small baby, for assaulting the perpetrator back.
Asylum & migration	<b>Unclear regime regarding assistance to third country nationals trying to gain access to territory:</b> Charges were brought in 52 cases for facilitating illegal entry, transit and residence and prison sentences ranging from three months to four years were imposed in most of the cases that reached the court. Humanitarian assistance was <a href="#">removed from the legal framework</a> creating an uncertain regime as to the procedures followed to identify and prosecute suspects.
Data protection and digital society	<b>Court rulings remain inconsistent on the legality of data retention:</b> The <a href="#">Supreme Court ruling of 2021</a> declaring the national data retention law as non-compliant with the EU Charter did not lead to the annulment of that law. Instead, whilst the Supreme Court in its first instance jurisdiction <a href="#">ruled</a> that access to data retained is unlawful as the data retention law was invalidated, the Assizes Court <a href="#">accepted</a> that data

	retained under another law that had not been invalidated by the Supreme Court could be used as evidence in Court against suspects.
Rights of the child	<b>Preparations for Child Guarantee plan under way whilst policies towards migrant children come under fire:</b> An inter-governmental working group was established to compile the national action plan for the Child Guarantee and juvenile courts are set up in line with the juvenile justice law adopted in 2021. The Child Commissioner meanwhile publishes reports criticizing the Interior Ministry for its <a href="#">policies towards asylum seeking unaccompanied children</a> and towards the forceful <a href="#">separation of families</a> by deporting the father.
Access to justice, including victims of crime	<b>GREVIO report sets out gaps and weaknesses of the framework:</b> The first GREVIO baseline report on Cyprus is <a href="#">published</a> , highlighting problems of law, policy, lack of training, lack of reliable data and absence of support structures for victims of non-domestic gender based violence.
Convention on the Rights of Persons with Disability	<b>The government chooses consultation with individual organisations rather than the confederation:</b> The Confederation of Disability Organisations KYSOA <a href="#">expressed concern</a> over the practice of the Department of Social Integration of Persons with Disabilities to exclude them from consultation processes in favour of individual organisations-members of KYSOA, raising issues of representation and marginalisation. By year's end, the ombudsperson as monitoring body for the CRPD also <a href="#">concluded</a> that the competent authorities must consult both KYSOA and other organisations.

# **1 Equality and non-discrimination**

## **1.1 Legal and policy developments or measures relevant to fostering equality and combating discrimination focussing on LGBTIQ people and combating discrimination on the grounds of socio-economic status, health status and physical appearance**

### **1.1.1 The IDAHOT+ Forum 2022**

In May 2022 the European governmental LGBTI focal points network (EFPN) IDAHOT+ convened in Limassol for a two-day hybrid event, followed by 150 persons in person and online.<sup>1</sup> The event was hosted by the Cypriot and the British governments, in the context of a Memorandum of Cooperation concluded between Cyprus and the UK for the Protection and Promotion of Human Rights for LGBTI+ in Europe and the Commonwealth, with the support of the Council of Europe's SOGI Unit. Round table discussions included sessions on the war in Ukraine and its impact on LGBTI+ people fleeing the war, on the needs of the LGBTI+ community when welcoming refugees, including the role that the Council of Europe, the EU and national governments can play in ensuring protection and support for vulnerable LGBTI+ refugees.<sup>2</sup> A further session targeted business leaders and SMEs, EU officials and NGOs discussed the social, economic and more benefits of LGBTI+ inclusion in businesses, presenting research connecting diversity and inclusion to creativity, innovation and financial performance.<sup>3</sup> Other sessions included discussions on supporting civil society to protect the rights of LGBTI+ refugees and migrants,<sup>4</sup> governmental and cross-sector solidarity in countering anti-Gender Attacks,<sup>5</sup> the Rule of Law and LGBTI rights covering issues documented by the ILGA-Europe Annual Review 2022 including political interference or bias in court cases, anti-LGBTI bias, smear campaigns and censorship of LGBTI content, funding restrictions or discriminatory distribution of

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<sup>1</sup> For more details see the event's [website](#).

<sup>2</sup> For more details see the webpage of Idahot+ on the high-level discussion entitled 'War in Ukraine: Challenges to our Common European Values through the Experiences of LGBTI+ people, [here](#).

<sup>3</sup> For more details, see the webpage of Idahot+ on the discussion 'The Benefits of LGBTI+ Inclusion in Businesses – D&I as a core element of ESG and CSR investment', available [here](#).

<sup>4</sup> For more details, see the webpage of Idahot+, [here](#).

<sup>5</sup> For more details, see the webpage of Idahot+, [here](#).

public or EU funds and non-implementation of CJEU or ECtHR judgements,<sup>6</sup> and the role of different sectors in ending conversion therapies for LGBTI+ persons.<sup>7</sup>

Participants included EFPN member states of the Council of Europe, representatives of the European Union, governments, experts, academics, representatives of international organizations, as well as representatives from civil society.

### **1.1.2 'Conversion' therapies to be criminalised**

The House Legal Committee discussed a bill introduced by the main opposition party on criminalising 'conversion therapies' against LGBTI+ persons. During the session, a LGBTI+ activist presented a survey he carried out in Cyprus for the Greek organisation Orlando LGBTI+ on the experiences of persons on whom conversion therapies were applied, details of which are set out below under section 1.2.<sup>8</sup> The opposition MP introducing this bill reported that the Church and the far right party oppose the criminalisation of 'conversion therapies' but all other parties are prima facie in agreement that LGBTI identity must be respected and 'conversions' be criminalised.<sup>9</sup>

The proposed law seeks to amend the Criminal Code Law in order to establish the following offences: the application of any practice, method or the provision of a service for the purpose of altering, suppressing or eliminating sexual orientation, gender identity or gender expression; the referral of a person under legal guardianship to a practice, technique, or service for the purpose of, altering, suppressing, or eliminating sexual orientation, gender identity, or gender expression; announcing or advertising, publicly or by means of documents, pictures, or performances, even covertly, a practice, technique, or service aimed at altering or suppressing sexual orientation, gender identity, or gender expression.<sup>10</sup>

### **1.1.3 Ombudsperson's report regarding the response of the police when a person reported a homophobic attack**

In April 2022 the Ombudsperson issued a report in response to a complaint submitted to her office in 2019, relating to the reaction of the police when a homophobic attack was reported. The Ombudsperson's report describes the events as follows:

The complainant reported to the police a homophobic attack he sustained when he went out for a walk at 1.30am at a city park. The reaction of the police officer

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<sup>6</sup> For more details, see the webpage of Idaho+, [here](#).

<sup>7</sup> For more details, see the webpage of Idaho+, [here](#).

<sup>8</sup> Papageorgiou A. (2022), 'Θεραπείες μεταστροφής σε βάρος ΛΟΑΤΚΙ+ στην Κύπρο: #ηταυτοτητασουδεθελειαλλαγή', PowerPoint presentation. Not available on line.

<sup>9</sup> DW(2022), '[Θεραπείες μεταστροφής' ΛΟΑΤΚΙ+ στην Κύπρο](#), 2 June 2022.

<sup>10</sup> Psyllou, D. (2022), '[Έξορκισμός, ορμονοθεραπείες για να «διορθώσουν» τους ΛΟΑΤΚΙ'](#), *Phileleftheros*, 28 March 2022.

was reportedly homophobic and further victimised the complainant. The police officer reportedly asked the complainant 'what were you doing at the park at this time?' was sarcastic and demeaning towards the complainant and the person accompanying him.

In response to the Ombudsperson's investigation, the police replied that they could not locate the police officer on duty on that night; and that the case was closed and archived because the complainant had failed to collaborate with the police. The Ombudsperson did not verify the police allegations with the complainant.

In describing the applicable legal framework, the Ombudsperson referred to a police circular regulating police responses to incidents of discrimination, which had been compiled in collaboration with the Ombuds institution in 2013; the Penal Code which renders prejudice an aggravating factor; and the Victims Directive. In its conclusions, the Ombudsperson referred to the need to identify and assess homophobic offences and that police officers must be trained to investigate homophobic and transphobic offences in order to reinforce a climate of trust and security amongst the victims, so as to address underreporting. The report recommends that guidelines be issued and training be offered for all police officers, presumably by the Chief of Police, to whom the report was submitted. No other measures were issued.<sup>11</sup>

#### **1.1.4 Law on comprehensive sex education in schools is adopted**

After years of deliberation and months of discussions at the Parliamentary Human Rights Committee, the House of Representatives at its plenary session of 2 December adopted the bill initially submitted by the Green Party and amended by the left wing party AKEL. The new law is aimed at safeguarding scientifically based, pedagogically adapted, comprehensive sex education at all levels of education as a right of all children and young adults and as a shield to protect against risks to their lives, health and well-being. The law includes the training of teachers and the teaching on the basis of a curriculum of all the dimensions of cognitive, emotional, physical and social aspects of sexuality in all classes of primary and secondary public and private education to empower children to develop social and sexual relationships, understand and assert their rights, understand and enjoy their sexuality responsibly, safely and consensually. The curriculum to be developed will also be given to universities so as to teach first year students. One of the MPs who opposed the bill described as a 'porn and homosexual storm' suggesting that it will be teaching students how to be homosexual. This led to

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<sup>11</sup> Cyprus, 'Report of the Commissioner for Administration and Human Rights on the treatment of a citizen who complained that he had been subjected to a homophobic attack by the police' ([Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με τη μεταχείριση πολίτη που κατήγγειλε ότι υπέστη ομοφοβική επίθεση, από την Αστυνομία](#)), File No. A/P 1164/2019, 4 April 2022.



reactions in the room with some MPs threatening leaving the session until the homophobic statement was retracted. The stormy session came to an end when the bill was adopted with 39 votes in favour and four votes against.<sup>12</sup>

### **1.1.5 Erasmus Plus project on queer migrants**

In the context of a transnational Erasmus Plus project on training professionals in the social and employment sector to address the needs of LGBTIQ refugees, migrants, and asylum seekers, a workshop was held in Cyprus where the NGO Accept LGBTI+ was invited to meet with members of the African LGBTIQ community and discuss the challenges of finding work in Cyprus.<sup>13</sup> The workshop discussed the restrictions in accessing the labour market, which marginalises asylum seekers and migrants to specific low paid and low status jobs and the absence of support structures to enable LGBTIQ persons to find work. The project identified one employer in Cyprus with a commitment to provide visibility to LGBTIQ persons,<sup>14</sup> albeit it is a large accounting firm with few if any jobs available in the limited spectrum of work that asylum seekers are permitted to do. Accept LGBTI+ explained the law on homophobic hate speech and the services it provides to the LGBTI+ community.<sup>15</sup>

### **1.1.6 Ombudsperson report on access to welfare benefits by single parents**

In October 2022, the Ombudsperson issued a report in response to several complaints received over the past years against the Welfare Benefits Administration Service for delays in examining applications for single parent benefits; for the failure of the Service to inform applicants of the progress of their case; for terminating the single parent benefit based on “information” that the applicant has married or is cohabiting with another person; for paying a benefit to the parent who is not cohabiting with the child; for rejecting objections against rejections of applications on the ground that they were submitted outside the deadline, erroneously taking into account as starting date of the 30-day deadline the date of the letter notifying the applicant of the decision rather than the date on which the applicant actually received knowledge of the rejection. The report found that the aforesaid practices infringed both the letter and the spirit of the

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<sup>12</sup> Hadgiapostolou P. (2022), [‘Τι προβλέπει ο επίμαχος νόμος για τη σεξουαλική διαπαιδαγώγηση στα σχολεία’](#), *Alphanews*, 3 December 2022.

<sup>13</sup> For more details, see the website of the project entitled “Queer Migrants: Addressing gaps in adult education and social cohesion”, [here](#).

<sup>14</sup> PWC (2022), [‘PwC signs and supports Diversity Charter Cyprus’](#), Press release, 2022.

<sup>15</sup> Consultation with Accept LGBTI+, 28 November 2022.

relevant law but did not term such treatment as discrimination.<sup>16</sup> The Ombudsperson paid particular attention to the practice of terminating the benefit when the applicant is no longer single, pointing out that there is a bill under consideration clarifying that cohabitation of a single parent with another person does not automatically mean that the partner shares responsibilities in the care of the children of the applicant, since the new partner has no legal duty for such case. The report set out a number of recommendations in order to remedy the gaps identified by the complaints, including the recommendation to refrain from terminating the benefit to a single parent in case of a cohabitation with a new partner, pending adoption of the bill currently under consideration.<sup>17</sup>

### **1.1.7 NHRI accreditation**

It is recalled that in its 2021 session, the GANHRI Sub-Committee on Accreditation (SCA) of NHRIS had decided to defer the review of the Cyprus Ombudsperson for 18 months,<sup>18</sup> relying on the following issues of concern:

- a. The current framework for the appointment of the Ombudsperson does not require the advertisement of vacancies, does not establish clear criteria to assess the merit of eligible candidates and does not promote broad consultation in the application, screening, selection or appointment process.
- b. The Ombudsperson lacks the power to investigate complaints against a number of public officials, including the President and government ministers.
- c. The budgetary arrangements of the Ombudsperson's office must be approved by the Minister of Finance.
- d. There is no legal requirement that Ombuds staff members should be representative of the diverse segments of society, particularly as regards gender, ethnicity and minority status.
- e. The Ombudsperson's term is six years but is silent on the number of times that the same person can be re-appointed.

In June 2022 a bill was presented to Parliament by the Ministry of Justice proposing to amend the law regulating the ombudsperson's appointment, by limiting the terms of office to a maximum of two six-yearly terms. The justification

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<sup>16</sup> Cyprus, The Child Benefit Act of 2002 ([Ο περί Παροχής Επιδόματος Τέκνου Νόμος του 2002](#)) N.167 (I) 2002.

<sup>17</sup> Cyprus, Commissioner for Administration (2022), 'Report of the Commissioner for Administration and Human Rights Protection concerning the payment of the Single Parent Family Allowance' ([Έκθεση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων αναφορικά με την καταβολή του Επιδόματος Μονογονεϊκής Οικογένεια](#)), 25 October 2022.

<sup>18</sup> Global Alliance on National Human Rights Institutions (2021), '[Report and Recommendations of the Virtual Session of the Sub-Committee on Accreditation \(SCA\)](#)', 14-2402021

report which accompanied this bill, referred to the SCA accreditation process and the deferral of the evaluation of the Cypriot ombudsperson, claiming that the proposed bill would bring national law in line with the Paris and Venice Principles. The justification report did not address the other requirements set by the SCA, as listed above under a-d, which were not addressed by the bill. The bill was adopted by the House majority.<sup>19</sup> The main opposition party asked for the term to be extended to seven years and be limited to one single term, but this did was rejected by the House majority.

During the House plenary session which debated the aforesaid bill, the Ombudsperson told parliament that regulations would be issued by the Council of Ministers to regulate the other issues raised in the SCA report. The Council of Ministers subsequently announced that it proceeded with the institutionalisation of the informal procedure currently in place for the selection and appointment of the person to serve as ombudsperson. The procedure involves the selection of the person by the Council of Ministers, who will then recommend the person selected to the President of the Republic for appointment.<sup>20</sup> There was no mention of the open vacancy and merit-based appointment process required by the SCA.

In its October session, the SCA of the Global Alliance of National Human Rights Institutions recommended that the re-accreditation of the Cypriot NHRI with “A” status, without any explanation or reference to the prerequisites it had set in its 2021 report. The report mentions that the Ombudsman has management and control over its allocated budget but points out that this is not sufficient to enable the recruitment of senior members of staff needed to adequately carry out the institution’s mandates; and that the Ombudsman informed the SCA about its intention to set up an advisory committee that will include civil society organisations working on the rights of the LGBTI community, persons with disabilities, women and other groups. The SCA report encouraged the Ombudsman to seek cooperation with a wide range of human rights defenders, but made no reference to the need to improve the framework of appointment of the ombudsman and the need to recruit staff members reflecting the diverse segments of society, as per its 2021 report.<sup>21</sup>

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<sup>19</sup> Cyprus, The Commissioner of Administration (Amendment) Law of 2022 [[Ο περί Επιτρόπου Διοικήσεως \(Τροποποιητικός\) Νόμος του 2022](#)]

<sup>20</sup> Cyprus, Press and Information Office (2022), Written statement by the Deputy Government Spokesperson on Decisions of the Council of Ministers ([Γραπτή δήλωση της Αναπληρώτριας Κυβερνητικής Εκπροσώπου κας Νιόβης Παρισινού για Αποφάσεις του Υπουργικού Συμβουλίου](#)) 28 June 2022.

<sup>21</sup> Global Alliance of National Human Rights Institutions (GANHRI)(2022), '[Report and Recommendations of the Session of the Sub-Committee on Accreditation \(SCA\)](#)', Geneva 03-07 October 2022, pp. 14-15.

### **1.1.8 Social Insurance Law amended restricting sickness benefit to persons aged 63+ who choose not to retire**

Since 2017 the opposition parties repeatedly raised in Parliament the issue of discrimination against persons who reach 63 years of age and choose to collect their statutory pension and continue to work. The reason was various legislative provisions which placed obstacles in their access to social benefits, aimed at encouraging them to retire at 67, including the fact that workers aged 63+ who choose not to retire are not entitled to unemployment or sickness benefit. On 30 November 2020 the government presented a bill purporting to address this gap but, instead, introduced new eligibility criteria, relating to contributions made by the applicants to the public Social Insurance Fund. According to the government bills, in order to be eligible for a sickness benefit, persons aged 63+ who chose not to retire:

- must have been engaged in insured employment immediately prior to the commencement of the sickness period which was not terminated;
- must have completed at least 13 weeks of continuous employment prior to commencement of the sickness period and must have paid the corresponding contributions to the state social insurance fund.

The opposition parties opposed the new eligibility conditions on the ground that these led to a fresh type of discrimination: their contributions of the public Social Insurance Fund would be treated differently on the sole criterion of age. According to the majority of MPs in the deliberations of the Parliamentary Labour Committee, this was unacceptable and would inevitably force persons who reach 63 and fall sick, to apply for the statutory pension, on which a 12% penalty applies by virtue of another law.<sup>22</sup> As a result, on 23 April 2021 the parliamentary committee removed the eligibility conditions from the government bill and adopted it without them.<sup>23</sup> At the same time parliament adopted another amendment to the basic law on social insurance, to the effect that persons who have reached the age of 63, are temporarily unemployed and do not claim a statutory pension would become eligible for unemployment benefit.<sup>24</sup> On this basis, persons entitled to an early statutory pension before the year of retirement and choose not to receive, who were until then ineligible for unemployment benefit, were rendered eligible as a result of this amendment. On 11 May 2021, the President of the Republic referred both laws back to Parliament for reconsideration, under a procedure prescribed by the Constitution,<sup>25</sup> on the grounds that the extension of the sickness benefit to all persons eligible for a statutory pension without the qualifications inserted by the government and the extension of the unemployment benefit to this same category of workers would lead to increased expenditure, which would undermine efforts to ensure the sustainability of the social security system. The President of the Republic argued that the law, as adopted, infringed article 80 of

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<sup>22</sup> Since 2012, when a packet of austerity measures was introduced to address the economic crisis as part of the memorandum concluded with the EU's troika, a penalty of 12% was introduced to persons choosing to retire early at the age of 63. Although most of the austerity measures were subsequently phased out, the 12% penalty on pensions remains, attracting criticisms from trade unions because many persons aged 60+ are long term unemployed and have no possibility of finding work after 63.

<sup>23</sup> Cyprus, The Social Insurance (Amendment) (No.4) Law of 2021.

<sup>24</sup> Cyprus, The Social Insurance (Amendment) (No.5) Law of 2021.

<sup>25</sup> Cyprus, [Constitution of the Republic of Cyprus](#), Article 52.

the Constitution as it would lead to increased expenditure as a result of the increase in the number of eligible sickness benefit receivers. On 20 May 2021 all opposition parties reconsidered the laws referred back to Parliament by the President and refused to revise them to meet the government's demands.

Following the above development, the President lodged an application to the Supreme Court asking for a ruling on whether the two laws, as adopted by the parliament, were compliant with articles 80.2 and 179 of the Constitution.<sup>26</sup> The Supreme Court held that the laws under question were not compliant with Articles 80.2 and 179 of the Constitution and infringe the principle of the separation of powers.<sup>27</sup> Further, the Supreme Court held that the laws under reference interfered with the powers of the executive to assess the conditions for the provision of benefits in the exercise of its administrative function and its power to assess the financial consequences that such provision would have on the Social Security Fund.<sup>28</sup>

On 22 September, Parliament adopted the bill regulating eligibility to sickness benefit as presented by the government on 30 November 2022. The bill adopted the preconditions for access to sickness benefits as initially proposed by the government.<sup>29</sup> The largest opposition trade union PEO expressed its disagreement with these provisions because they led to a less preferential treatment of persons over 63 years of age who choose not to take their statutory pension so as not to sustain the 12% deduction from their pensions. Another opposition trade union (DEOK) also expressed its disagreement with the government's eligibility conditions noting that all insured persons should receive the same treatment up to the age of 65.<sup>30</sup>

## **1.2 Findings and methodology of research, studies, or surveys on experiences of discrimination against LGBTIQ people and on the grounds of socio-**

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<sup>26</sup> Article 80.2 provides that no bill involving an increase in the expenditure foreseen in the state budget may be tabled by a Member of Parliament; Article 179 provides that no law ranks higher than the Constitution and EU law.

<sup>27</sup> Cyprus, Legal Service of the Republic (2022), 'Announcement of the Legal Service in relation to decisions of the Supreme Court, issued on 20 July 2022' ([Ανακοίνωση της Νομικής Υπηρεσίας σε σχέση με αποφάσεις του Ανωτάτου Δικαστηρίου, που εκδόθηκαν στις 20 Ιουλίου 2022](#)), Press release, 20 July 2022.

<sup>28</sup> Cyprus Supreme Court, [President of the Republic v. House of Representatives](#), 20 July 2022, Ref. 6/2021 and 7/2021.

<sup>29</sup> Cyprus, Law amending the Social Insurance Laws of 2010 (No. 2) of 2022 [[Νομος που τροποποιεί τους περί Κοινωνικών Ασφαλίσεων Νόμους του 2010 έως \(Αρ. 2\) του 2022](#)].

<sup>30</sup> Cyprus, House of Parliament, Report of the Parliamentary Committee on Labour, Welfare and Social Insurance on the Bill "The Social Insurance (Amendment) (No. 5) Law of 2022" [[Έκθεση της Κοινοβουλευτικής Επιτροπής Εργασίας, Πρόνοιας και Κοινωνικών Ασφαλίσεων για το νομοσχέδιο «Ο περί Κοινωνικών Ασφαλίσεων \(Τροποποιητικός\) \(Αρ. 5\) Νόμος του 2022»](#)] 20 September 2022.

## **economic status, health status and physical appearance**

### **1.2.1 Survey on the experience of LGBTI+ persons with 'conversion' therapies.**

In collaboration with the Greek organisation Orlando LGBTI+, a LGBTI+ activist conducted a survey in Cyprus on the experiences of persons who came into contact with conversion therapies.<sup>31</sup> The survey was conducted on-line and consisted of a total of 90 responses, of which 57 were complete and 33 were incomplete. The respondents completed an on-line questionnaire that was posted by Orlando LGBTI+ and circulated through social media, inviting persons to share their experiences with conversion therapies. The testimonies established that 35 priests, clergymen, monks, theologians, 17 mental health professionals, including psychologists, psychiatrists, psychotherapists/psychoanalysts and mental health counsellors, and five medical doctors of other specialities including endocrinologists and neurologists, had proposed or applied conversion therapies to LGBTI+ persons. A total of 29 persons were affected by these practices between 2000-2017, many of whom were in their teens or early youth, and 24 more from 2018 until presently. The person they had visited was in a church or monastery in 39.5% of cases, in a private office in 11,6% of cases, in a private institution in 54,7% of cases and in a public institution in 7% of the cases. In cases where the therapy was considered out of the LGBTI+ person's own initiative, the reasons cited were two: a lesbian woman stated that she thought her thoughts were sinful and a gay man stated that he wanted to start a family. Where the therapy was imposed or encouraged by another person, this was either a parent, or an uncle or a clergyman. The participants reported experiences of hormone therapies, priests who propose to LGBTI+ persons prayer and repentance, match-making, watching heterosexual porn, taking medication to induce an erection and 'exorcism' ceremonies. These experiences, which sometimes lasts for years, were reported to have led to panic attacks, depression, suicidal thoughts and other disorders. The Cypriot experience of conversion therapies, which were mainly performed by priests, was contrasted to the Greek experience, where most of the conversion therapies were performed by psychiatrists. The findings of the survey were presented in Parliament during the discussion of the draft law on the criminalisation of conversion therapies.

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<sup>31</sup> Papageorgiou A. (2022), 'Θεραπείες μεταστροφής σε βάρος ΛΟΑΤΚΙ+ στην Κύπρο: #ηπαυτοτητασουδεθελειαλλαγή', PowerPoint presentation. Not available on line.

### **1.2.2 Research findings on the impact of the COVID-19 pandemic on the LGBTIQ community in Cyprus**

The findings of a survey examining the impact of the COVID-19 pandemic on the LGBTIQ community demonstrated a deterioration of quality of life, increase in anxiety, melancholy, depression and loneliness. The survey was conducted online between 01 February 2022 - 31 March 2022 and covered LGBTIQ individuals aged 18+ living in Cyprus, regardless of nationality and/or citizenship, using an on-line questionnaire available in both Greek and English, which was completed by 330 persons: 294 in Greek and 36 in English. The survey sought to map the needs of the community, as well as the socio-psychological impacts that occurred with/because of the pandemic(s), in order to inform policy making and community support interventions.

The survey documented that 54.8% experienced a deterioration in the quality of life of LGBTQ+ people in Cyprus during the pandemic period, reporting anxiety, melancholy, depression, loneliness, panic attacks and even suicidal tendencies. More than 2 out of 10 participants said that, due to the pandemic, they were very or too often worried about their mental and social life. Three out of ten reported difficulties in the area of physical health, while 50% of respondents reported difficulties in accessing mental health care. 66.7% of respondents claimed that their mental and emotional state has deteriorated because of the pandemic. Three in ten participants reported that the pandemic has exacerbated the isolation they feel from family and/or friends, and one in ten reported feeling lonely all the time over the past 12 months, with the vast majority of participants (72.1%) reporting that they feel lonely often or sometimes.

Decreased social connection, as well as loss of physical contact with friends and community people in places that feel comfortable, are key negative outcomes that the pandemic closure of venues has had for LGBTQ+ people. One in ten LGBTQ+ people said that during the lockdown, they have experienced verbal violence in their family environment, and almost one in ten people said that during the same period they experienced manifestations of hatred from another person when they left the house for some reason. The survey was conducted by University College London (UCL) and Sussex University, as well as the American Psychological Association.<sup>32</sup>

### **1.2.3 Research Study on precarity in Cyprus**

A research study into precarious work in Cyprus mapped the working conditions of precarious workers, shedding light into the situation of socioeconomically vulnerably workers compiling a heterogeneous group including women,

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<sup>32</sup> Cyprus, University of Nicosia (2022), 'The impact of the COVID-19 pandemic on the LGBTIQ community in Cyprus' (*Οι επιπτώσεις της πανδημίας COVID-19 στη ΛΟΑΤΚΙ+ κοινότητα της Κύπρου*). Not available on line. The survey was launched at an [event](#) at the University of Cyprus in September 2022.



immigrants and youth who form the main categories of precarious workers. Cyprus is one of the countries with the highest rates of migrant domestic workers in Europe, originating mainly from Asian countries. The study empirically investigates the characteristics of those employed in precarious work, the specific risks and dangers they are facing, material deprivation, poverty, accident or disease, labour insecurity, insufficient income and lack of property, as well as subjective sense of feeling unable to cope or be exposed to prolonged periods of unemployment and its subsequent social risks and dangers.

Given the complex nature of the phenomenon under study, the study employed a qualitative method in addition to the quantitative design, to fill in blind spots. An online focus group discussion discussed the characteristics of precarious workers in Cyprus, the role of the state and role of trade unions. Utilising microdata from the EU-SILC (2020) and a set of three variables (Low annual labour income, Temporary Work Unemployment, and Potential Unemployment over 1 month) workers in Cyprus who were employed in precarious circumstances during 2019 were identified. Low annual labour income (or low wage) was defined as an income lower than two-thirds of the median Gross Annual Labour Income of €10,400.00 (or €800.00 monthly for 13 months). Temporary Work corresponded to a work contract with a limited duration. For each precarious worker, his or her Potential Unemployment duration was estimated regardless of whether she/he was unemployed during 2019. This was accomplished by regressing the duration of unemployment of precarious workers observed in 2019 against their individual characteristic

The study found ~~confirmed~~ that migrant domestic workers fall under a separate regulatory framework of employment relations which leads them to get trapped in conditions of 'hyper precarity' with different vulnerabilities compared with those of other groups of workers, ~~who~~. The level of education of precarious workers is significantly lower than that of non-precarious workers (tertiary education accounts for 23.1% of males and 33.1% of females, respectively). Female workers were found to be in a significantly more vulnerable position than their male counterparts and one to two times more likely to be precarious. Approximately 32% of female precarious workers obtained a primary education certificate compared to 9% of female non-precarious workers. Women precarious workers. These findings may be due to the fact that women domestic workers, who were primarily immigrants, represented nearly 40% of all precarious workers. In total, there were nine economic activities that employed 82,5% of precarious workers, whereas five economic activities (Domestic Work, Education, Restaurants, Accommodation, and Retail Trade) were responsible for 70% of all precarious workers. In the distribution of precarious workers by occupation and economic sector, 69.4% of all precarious workers belonged to five occupational groups: Domestic Workers, Teaching Professionals, Child Carers in the Education Sector and Teachers' Aides, Sales in Retail Trade, and Personal Service Workers in Accommodation and Restaurants.



Workers in precarious positions tended to be young. In terms of their age distribution, half of them were under the age of 31, and the average age was 35, while the corresponding figures for non-precarious workers are 40 and 42. The study provides some insight into the young age of precarious workers in other sectors: half of them were under the age of 29, and the average age is 32 years. By dividing the same population into those who were working in households as domestic personnel and those who were working in other sectors, they were even younger: half of them were under 29 years of age and the average age is 32 years. Precarious domestic workers were slightly older than their non-precarious counterparts, with a median age of 35 years and an average age of 36 years.

The number of skilled workers in the population of precarious workers is lower than in the population of non-precarious workers. For many precarious skilled workers, especially those who have completed tertiary education, precarious employment is a temporary, but prolonged experience. The number of skilled precarious workers decreases rapidly between the ages of 25 and 40 years. Skilled labour, however, appears to accumulate professional experience more rapidly, whilst the accumulation of professional experience among precarious workers is low.

Nearly one in two precarious workers were unemployed for several months during 2019. The average duration was 2,75 months, whereas the median was 3,5 months. Precarious workers were more likely than non-precarious workers to face prolonged periods of unemployment. In 2019, 19,953 out of 37,629 precarious workers (53%) were unemployed for several months before being reemployed, whereas 48,689 out of 356,610 non-precarious workers (13,7%) were unemployed for several months before being reemployed.

Being unemployed for several months during the survey year is regarded as the second most significant internal divisional characteristic among domestic employees. The average reduction in income resulting from unemployment is 50%. Additionally, the third most important divisional characteristic can be attributed to the stability of employment relations. In particular, as a result of changing jobs within the last year, the average gross income was reduced by 25%.

Regarding immigrant workers, the discussion focused on two large groups of people living and working in conditions of precariousness in Cyprus: domestic workers, the vast majority of whom are women and land workers. Despite the fact that the working conditions of domestic workers are described in their employment contract, the responsibility for ensuring compliance with the terms of the contract does not lie with the Ministry of Labour, but the Police and the Migration Department (Ministry of Interior). Employers and private employment agencies are able to comply with or violate their contractual obligations without any consequences thus setting domestic workers to higher risk of precariousness. In addition, until 2019, domestic workers were contractually not allowed to be members of trade unions in Cyprus. Even after 2019, when this provision was deemed unconstitutional, there are no domestic workers among union members.

In order to reverse these extremely unfavourable conditions for domestic workers, participants suggested that unions should try to effectively incorporate domestic workers into their ranks through targeted campaigns.

Land workers who work -and very often live- in farms also face similar issues. According to the participants, there is no monitoring on whether the terms of their employment contracts are implemented, both regarding their salary and the living conditions standards (housing, food, other resources, etc.). It was suggested that the way to deal with the issue would be to set up and operate a wide range of joint control bodies consisting of Ministry of Labour officials, trade unions and agricultural organisations. Focus group participants considered also crucial to elect migrant workers from the most affected sectors of labour to key positions within the trade union movement.

Regarding self-employed workers, participants noted that a very large proportion of them are included in the spectrum of precariousness because they are in fact pseudo self-employed professionals being forced into this employment status by their employers to escape from their responsibilities (clearly defined salary and working hours, health care, accident insurance, access to unemployment benefits, severance pay etc.). This status of fictitious (or false) self-employment includes a very wide range of employees from delivery workers to employees of the wider public sector (e.g., teachers) who have the same job duties as their full-time colleagues, but do not enjoy the same employment status.

According to the focus group participants, most *new entrants in the labour market* are employed in precarious jobs and are likely to continue being in the same situation for many years. This is particularly true in workplaces or sectors where no unions exist or they are very weak. As a result, collective claims require the simultaneous action of new entrants and unions. In other words, new employees need to take up the initiative for a trade union formation and at the same time, the unions need to support them decisively and effectively in the face of the -most likely- hostile reactions of the employers.

The study found that migrant domestic workers find themselves trapped in conditions of 'hyper-precarity' with different vulnerabilities compared with those of other groups of workers. The empirical findings showed that an event of a break, whether by choice in order to find a new job or by unemployment, was heavily penalised in terms of lost income. This can explain why domestic workers' employment was less frequently interrupted by unemployment as compared to their non-domestic counterparts but at the same time due to the existing legislation, their employers are able to comply with or violate their contractual obligations without any consequences thus, setting domestic workers to higher risk of precariousness.<sup>33</sup>

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<sup>33</sup> Kosmas, P., Theocharous, A., Ioakimoglou, E., Giannoulis, P. Vatikiotis, L., Panagopoulou, M., Lamprinou, L., Andreev, H. and Vatikioti, A. (2022), [\*Addressing and measuring the phenomenon of precariousness in Cyprus: Challenges and implications\*](#), September 2022. The study was

## **2 Racism, xenophobia and related intolerance**

### **2.1 Data, research findings, studies, or surveys on experiences of ethnic discrimination, racism and hate crime**

There were no Court decisions invoking the Racial Equality Directive or the Framework Decision on Racism and Xenophobia in 2022. The National Strategy on Human Rights adopted in 2021 did not lead to the compilation of a national action plan, as foreseen under the strategy.

#### **2.1.1 The anti-trafficking report of the British Institute of International and Comparative Law**

A report published in 2022 by the British Institute of International and Comparative Law in the framework of the project 'Determinants of Anti-Trafficking Efforts' examined a number of case studies including Cyprus, evaluating links and sequencing of specific factors that have yielded improved political will and capacity in national governments to address trafficking in persons and which have led to sustained and comprehensive anti-trafficking efforts. The research relied on a review and meta-analysis of the current research and contribute a new data-set through expert interviews.<sup>34</sup>

The report found that in Cyprus, the failure of the authorities to effectively tackle trafficking is connected to the nationality and migrant status of the trafficked person. Institutional racism has been documented through a series of practices recorded in reports of the Ombuds institution over the years. One example of this is the fact that when a complaint of labour exploitation is made to authorities, the situation is often not investigated and, instead, the complainant is deported back to their home country. Part of this institutional racism is connected to the 'Cyprus problem' that permeates and affects even unrelated policy decisions in the Republic of Cyprus. This is evidenced by statements of the Minister of Interior in 2019, when referring to migrants and asylum seekers: 'There is a danger that a Muslim minority will be created, referring to migrants as 'settlers in the free areas'. A Republic of Cyprus state actor interviewed by the researchers admitted there is institutional racism in Cyprus, but concluded that it is not having a significant impact on anti-trafficking efforts. Beyond the issue of border control, confinement measures of vulnerable workers and the inability for law enforcement to access private households led to an overall increase in vulnerability to exploitation and abuse including exploitative domestic work and forced labour.

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commissioned by the Vatikiotis Hellenic Observatory at the London School of Economics and Political Sciences, U.K.

<sup>34</sup> Gauci J. and Magugliani N.(2022), '[Determinants of Anti-Trafficking Efforts June 2022](#)', British Institute of International and Comparative Law.

The report further found that a significant factor affecting anti-trafficking efforts is a country's adherence to the rule of law. The analysis of correlations between datasets produced a positive correlation between the United States Trafficking in Persons (TIP) Report ranking and the rating in the rule of law index, meaning that when a State performs better on the rule of law index, it is likely to perform better in its anti-trafficking ranking (and vice-versa). Chronic under-performance of official bodies has also been identified as a critical concern in Cyprus. This is linked to a lack of accountability, which in turn links to the rule of law. Finally, lobbying from CSOs has had a limited effect in influencing anti-trafficking efforts in Cyprus, as CSOs tend to be disempowered and marginalised.

In Cyprus, there is a higher number of prosecutions and convictions for trafficking for the purpose of sexual exploitation, even though the data suggest that this is not because it is the most prevalent form of trafficking in the country. In fact, there are indications of significant forced labour among both males and females that has however received a lot less attention because many of these cases are treated as labour disputes, rather than as human trafficking.

### **2.1.2 Gaps in identification, empowerment and integration of women third country nationals victims of sex trafficking-COALESCE**

- The national report on Cyprus produced in the framework of the translational EU funded project "COALESCE: Legal, psycho-social and economic empowerment for the integration of women third country nationals (TCN) victims of human trafficking (VoT) for sexual exploitation and abuse", recorded the legal and policy framework as well as the findings from eight semi-structured interviews. The interviews were carried out in March 2021 with women victims of trafficking, conducted partly over the phone or face to face, instead of the originally planned focus groups which had to be abandoned due to COVID-19 measures. The interviews recorded first-hand accounts of the trafficking experience and opinions on existing support and integration measures, aiming to identify areas of intervention particularly as regards psycho-social and legal support as well as economic empowerment. Different questionnaires were used for victims which had been identified by the authorities and for the women presumed to be victims but not officially identified. Three of the interviewees were recognised as victims of trafficking and five were presumed victims; all eight women came from African countries, seven were mothers of children, two were recognised refugees and five were asylum seekers. The report examined the policy framework and data collected by GRETA and UNHCR, identifying emerging trends including:
  - A rather low percentage of recognition of victims with only 190 out of 801 presumed VoT in Cyprus, mostly women, were formally identified as such;
  - The main form of exploitation identified was sex, followed by forced marriage, labour and a combination of sex and labour;

- Almost all male victims were trafficked for labour exploitation;
- The rate of identification is higher for women at 22% compared to 17% for men, which may be explained by the higher rate of identification of victims trafficked for sexual exploitation, rather than victims of trafficked for labour exploitation;
- Transnational criminal networks abuse visa regimes, including tourist and working visas in order to bring third country nationals into Cyprus, to be exploited by employers, agents and intermediaries;
- There is an increase in the number of asylum-seekers being exploited at some point along their migration journey by smugglers and traffickers;
- Smugglers often present themselves as agents for private universities in the north offering services to potential asylum seekers, without explaining the political situation on the island, leaving migrants and especially women at risk of trafficking and sexual exploitation;
- The low reception conditions and the difficulties in finding affordable and suitable accommodation in Cyprus exposes third country women and girls to greater risks of exploitation;
- There is an increase in the number of girls and young women from Syria arriving unaccompanied via the northern part of Cyprus to join “husbands” to whom they have been married by proxy, as well as increasing number of men and women from African countries, mainly Cameroon and Nigeria, some of whom were identified by the police as victims of trafficking but refugee status is not automatically granted to all identified victims;
- Identification mechanisms for vulnerable asylum seekers are lengthy and lack both targeted guidelines and standardised assessment tools, whilst front line workers from the state social and health services lack training on gender-specific and culturally appropriate identification.
- The findings from the interviews with victims included:
  - The fear of talking to officials remains the greatest obstacle in being identified; the majority of the women interviewees reported that their first contact of support was an NGO rather than a front line officer of the state.
  - Asylum officers, police, immigration authorities and specialised counsellors depend upon the affected women revealing their experiences before they talk to them about their legal entitlements and rights to victim compensation.
  - Two of the interviewees were first identified as victims by social workers at the reception centre, four were identified by local NGOs and/or referred to

NGOs by local community members, one through an immigration officer who directed her to the state social services and one through the governmental shelter.

- Interviewees reported negative experiences during their interviews with the police, which were conducted in a group with other women at the shelter: interviewees reported not having been given the opportunity to tell their story, police officers accusing them of lying and pressuring them to reveal who had coached them on what to say and not supplying any information on the process or their rights before or after the interview. The interviewees reported a change of attitude of police officers when an NGO worker was present; and that they had to attend several interviews over a long period of time, up to ten interviews in the case of one women, which they described as re-traumatising. Prior to police identification as victims, some women did not have contact with the social services, which deprived them of the specialised support and access to information and services.
- Interviewees reported problems in communicating with the Social Welfare Services, as their calls were seldom answered and could not see a welfare officer if they visited their offices.
- Victims of trafficking do not have access to free legal aid and expertise during criminal proceedings, which often take two or more years, during which the victims have little information on the process, and convictions remain at low levels.
- Women with young children receive no assistance in accessing adequate or safe housing and have to move from place to place, often staying in inappropriate overcrowded spaces lacking of basic amenities and privacy; the level of financial assistance provided to single women asylum seekers was reported as inadequate and delays in rent payments by the social services put women in precarious conditions.
- Material assistance is determined by the Council of Ministers and inevitably the level of the financial support received by asylum seekers is dependent on the political climate at any given time. The rise of right-wing political parties in the post-recession era poses a clear and imminent threat to vulnerable displaced migrants hampering their ability to survive. Interviewees reported receiving emergency money ranging from €50-75 after leaving the reception centre or the government shelter and almost all reported having experienced delays in the processing of payments, forcing

women to live on charity, borrow from friends or do odd jobs, facing serious material deprivation.<sup>35</sup>

### **2.1.3 UN Security Council Report on the UN peace keeping force in Cyprus (UNFICYP)**

The report, which covers developments from 16 December 2021 to 14 June 2022, identified, amongst others, the following two issues of concern:<sup>36</sup>

1. The curriculum used in schools, which contains divisive and ethnically intolerant rhetoric remains unaddressed despite 2017 recommendations of the Technical Committee on Education for an education reform. Although this is a problem identified in both the Greek Cypriot and the Turkish Cypriot community, the problem appears to be more acute in the south, despite engagement by the UN Special Representative and Deputy Special Adviser.
2. Access to asylum on the Greek Cypriot side of the crossing points is steadily denied, with asylum-seekers presenting themselves at the police at the crossing points to seek asylum being pushed back into the buffer zone. In combination with the pushbacks at sea, this practice resulted in nine confirmed instances of refoulement of persons in need of international protection, leading to an increase in the number of persons crossing the Green Line irregularly in order to eventually gain access to asylum procedures, putting themselves at risk of exploitation and abuse.
3. The follow up UN report for the period 15 June to 12 December 2022 states that trafficking of third country nationals through the buffer zone increased during the reporting period, presumably as a result of the economic crisis in the north which rendered migrants more vulnerable to be used for criminal activities and referred to instances of members of the UN peace keeping force being shot at in the buffer zone, presumably by traffickers. The report criticised the response of the authorities of the Republic of Cyprus, namely the construction of trenches and the laying of barriers within the buffer zone, alongside with the decision to deploy armed guards to patrol the buffer zone to prevent migrants and asylum seekers from crossing to the south, as violations and as a unilateral altering of the boundaries of the buffer zone, leading to increased tensions.<sup>37</sup>

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<sup>35</sup> Mediterranean Institute of Gender Studies (2022), '[Mind the Gap Report: COALESCE for Support in Cyprus-Needs analysis for the integration of migrant female victims of trafficking for sexual exploitation/abuse](#)', launched in December 2022.

<sup>36</sup> UN Security Council (2022), '[United Nations operation in Cyprus: Report of the Secretary-General, S/2022/533](#)', 5 July 2022.

<sup>37</sup> UN Security Council (2023), United Nations operation in Cyprus: Report of the Secretary-General, S/2023/3, 3 January 2023. Not available on line at the time of writing.

## 2.1.4 Attacks against migrants in the streets

1. During 2022, several instances of attacks against migrants were documented by by-passers taking videos with their mobile phones which then became viral in social media and then appeared in mainstream media. These included an attack against the delivery guys in the heart of the old part of Nicosia by Greek Cypriot teenagers,<sup>38</sup> an attack against an African woman holding her baby in Larnaca,<sup>39</sup> an attack against an African student in Limassol by a drunk person,<sup>40</sup> another attack against a Pakistani student by a group of Greek Cypriot by-passers aged 20-23, in the heart of the old town of Nicosia where the residents told the police that racial attacks are a daily phenomenon.<sup>41</sup> The NGO KISA reported that the migrant delivery workers took the initiative to hold an open meeting to discuss the increasing trend of racist attacks and the attitude of the police who merely record the racial incidents and discourage the victims from filing a complaint, telling them that it is difficult to prove and that they would have to hire a lawyer.<sup>42</sup> A common characteristic of these attacks is the fact that they first circulated in social media where the users were quick to identify the racial motivation, after which the police would press charges for racial attacks but would let the suspects free awaiting trial. Where the attack was not filmed and circulated in social media, the police may not necessarily identify a racist motive in an attack by a Greek Cypriot against a migrant who is unknown to him: such was the case of a 73-year-old man in Paphos who stubbed a young Somali he had never seen before but the motives of the attack were reported to unclear.<sup>43</sup> In some of the cases where the police pressed charges for a racial attack, the accused persons would plead not guilty refusing to admit the racist motivation.<sup>44</sup>

2. The Ombudsperson issued a statement in relation to the attack against the migrant food delivery workers, calling on the Ministry of Education to intensify its efforts in offering seminars and trainings to children in primary education so that when they grow up they will not harbour sentiments of hate; and on the police to intensify its efforts to investigate the incident, encourage people to report racist crimes and record all incidents so as to promote understanding of

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<sup>38</sup> Kalatzis, M. (2022), '[Κυπρος: Ανήλικοι τρομοκρατούν αλλοδαπούς ντελιβεράδες](#)', *Proto Thema*, 15 February 2022.

<sup>39</sup> TVXS (2022), '[Άγρια ρατσιστική επίθεση στην Λάρνακα-Χτυπάει μητέρα με παιδί](#)', 14 July 2022.

<sup>40</sup> Dialogos (2022), '[Λεμεσός, Επίθεση εναντίον 27χρονου για ρατσιστικούς λόγους διερευνά η Αστυνομία](#)', 28 July, 2022.

<sup>41</sup> AlphaNews (2022), '[Βίντεο-σοκ: Άγριος ξυλοδαρμός 23 Πακιστανού στην καρδιά της Λευκωσίας](#)', 23 July 2022.

<sup>42</sup> KISA (2022), '[Οι ντελιβεράδες αντιμέτωποι με ρατσιστικές επιθέσεις, διαφθορά και αστυνομική αμέλεια / θεσμικό ρατσισμό](#)', 18 February 2022.

<sup>43</sup> Christodoulou, D. (2022), '[Ο 73χρονος μαχαίρωσε τον 30χρονο χωρίς να τον γνωρίζει](#)', *Philelefttheros*, 13 April 2022.

<sup>44</sup> Omegalive (2022), '[Υπόθεση ξυλοδαρμού – Λάρνακα: Δεν παραδέχεται ενοχή ο 43χρονος για τη ρατσιστική επίθεση](#)', 8 August 2022.



the extent of the phenomenon.<sup>45</sup> In the case of the attack against the African woman and her child in Larnaca, the Ombudsperson issued another statement that, since there may be a question of a racist motive on the part of the perpetrator, the police must activate the protocols under which a racially motivated offence is investigated.<sup>46</sup> In the absence of a protocol to determine, on the basis of the facts, which offences are to be termed as racially motivated, it is unclear how the racist motive is to be detected when the perpetrator denies it.

3. The NGO KISA issued a press statement criticising the police practice of requiring victims to visit the emergency unit of the hospital and obtaining a medical report as a prerequisite for filing a complaint. KISA pointed out that the practice of directing victims to the hospital when they do not have transport or money to use public transport, where they have to wait for several hours until they are examined, discourages the victims of racial violence from filing complaints to the police. KISA added that in some cases police officers put pressure on the victims to withdraw their complaint and asked for the adoption of a regulation casting a duty on the police to accompany the victim to the hospital and to ensure that the victim will be examined as a matter of priority, so as to promptly return to the police station to file the complaint. KISA additionally asked for the investigation of the actions of the police officers in this case and of their handling of the victim's complaint until the Attorney General decided to intervene.<sup>47</sup>

4. During the first hearing of this case, the accused denied all charges against him and objected to the prosecution's bid to present as evidence in court the by-stander's video of the racial attack. This point was set to be decided at a subsequent hearing. The Court however charged the victim of the attack with assault against the accused inside the courtroom in August, when he was first presented to hear the charges.<sup>48</sup>

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<sup>45</sup> Cyprus Ombudsperson (2002), 'Self-initiated position of the Commissioner for Administration and protection of human rights regarding attacks against migrants delivering take away food' ([Αυτεπάγγελτη τοποθέτηση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων σχετικά με επιθέσεις εναντίον αλλοδαπών διανομέων έτοιμου φαγητού](#)), Ref. ΑΥΤ. 1/2022, 17 February 2022.

<sup>46</sup> Cyprus Ombudsperson (2022), 'Statement by the Commissioner for Administration and Human Rights as an Equality and Anti-Discrimination Body on the incident of the beating of an African woman by a man in Larnaca' ([Τοποθέτηση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων ως Φορέας Ισότητας και Καταπολέμησης των Διακρίσεων με αφορμή το περιστατικό ξυλοδαρμού Αφρικανής γυναίκας από άνδρα στη Λάρνακα](#)), 14 July 2022.

<sup>47</sup> KISA (2022), '[Όλιγωρία και κακοποιητικές για τα θύματα ρατσιστικής και έμφυλης βίας διαδικασίες από την αστυνομία](#)', Press release 15 July 2022.

<sup>48</sup> Reporter (2022), '[Ποινική δίωξη εναντίον της 29χρονης για επίθεση κατά του 43χρονου εντός του Δικαστηρίου](#)', 11 November 2022.

### **2.1.5 NGO study on the employability of refugees in Cyprus**

1. The Cyprus Refugee Council, UNHCR's implementing partner in Cyprus, has conducted a survey in order to map the qualifications and employment of migrants, asylum seekers and refugees in Cyprus. The study found that migrants and refugees face a significantly higher risk of taking up jobs which do not correspond to their skills, compared to Cypriot nationals, which deprives the economy from valuable skills and talents and narrows local societies' margins for sustainable development and social cohesion. The study found that 75% out of a sample of 248 international protection holders with tertiary education are currently employed or were employed in jobs that require lower qualifications. International protection holders in Cyprus face higher risk of skills underutilization compared to all non-EU citizens in the country, for whom the rate is estimated at 55,9%.<sup>49</sup>

### **2.1.6 Report of the Commissioner for the rights of the child on the refusal of the authorities to grant Cypriot nationality to children whose one parent is a Cypriot**

On 12 October the Child Commissioner issued a report in response to a large number of complaints submitted to her office in 2021 and 2022 regarding the refusal to grant nationality to children born to parents where one is a Cypriot. Most of the complaints referred to the Interior Ministry's refusal to grant citizenship to children whose one parent was a Greek-Cypriot and the other from a third country (Nigeria, Iran, Gambia, Cameroon, Congo and Turkey) on the justification that the third country parent had entered Cyprus from an illegal airport in the areas not controlled by the Republic of Cyprus. The law does not permit the registration of a child whose parents entered Cyprus illegally unless the Ministerial Council decides otherwise.<sup>50</sup> Citizenship applications for children were rejected or refused submission even where the third country parent entered Cyprus lawfully, provided the third country of origin was Turkey. In one such instance the Interior Ministry admitted that since 2013 they stopped examining applications of children with a parent of Turkish origin.

The Child Commissioner observed that when parents apply to the District Administration for the issue of a birth certificate for their children, this is not handed to them automatically either because of the parents' country of origin or because they believe that the parents entered or resided in Cyprus illegally. Even though the illegal entry allegation is not always well founded, Cypriot nationality is not granted to children from mixed marriages particularly if one parent is of Turkish or of Turkish Cypriot origin. Applications for citizenship take several years to be examined, meanwhile leaving the children without Cypriot nationality and in

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<sup>49</sup> Cyprus Refugee Council (2022), '[The employability of refugees in Cyprus: A skills profiling report](#)', December 2021.

<sup>50</sup> Cyprus Law on population archives ([Ο Περί Αρχείου Πληθυσμού Νόμος](#)) N. 141(I)/2002), article 109(1).

some cases stateless. This impacts negatively on a series of children's rights including the right to access the national health system, social support services, and travelling document. The Child Commissioner requested the authorities to provide the data on the number of cases rejected and pending, on the frequency in which the list of pending cases is put before the Council of Ministers, the procedure used to ascertain illegal entry of a parent in Cyprus and the legal basis for refusing citizenship applications to children of Turkish nationals who entered Cyprus lawfully.<sup>51</sup>

## **2.2 Legal and policy developments or measures relating to the application of the Framework Decision on Racism and Xenophobia and the Racial Equality Directive**

### **2.2.1 Government set minimum wage to implement the EU directive but excludes migrants**

In August 2022 the Council of Ministers decided on a new framework that sets a 'universal' minimum wage to implement the relevant EU Directive, excluding however the industries which attract almost exclusively migrants: domestic work, livestock handling, farming and agriculture, shipping and trainees.<sup>52</sup>

The Union of Doctoral Teaching and Research Scientists DEDE was the only trade union reacting with a public statement calling the measure racially discriminatory.<sup>53</sup> The Union noted that the sectors excluded from the minimum wage employ, in the vast majority, migrants and asylum seekers, who are 'the most vulnerable and impoverished social groups in the country, working in conditions of modern slavery, who need legal protection more than any other group of the population, since they do not even have the right to freely organise themselves into trade unions.' The union stressed that only a racist logic can justify such an exception, as "the same reasons that justify the need to establish a minimum wage for other professions also apply to these professions. The de facto exception targets immigrants and refugees, prioritizes people on the basis

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<sup>51</sup> Cyprus, Commissioner for the Protection of the Rights of the Child (2022), Letter to the Minister of the Interior dated 12 October 2022, provided to the FRANET contractor upon request. Not available on line.

<sup>52</sup> Philelefttheros (2022), ['Αυτό είναι το διάταγμα για τον εθνικό κατώτατο μισθό'](#), 6 September. Cyprus, Law on minimum wage Cap 183 ([Ο περί κατωτάτου ορίου μισθών νόμος Κεφ. 183](#)), Regulatory Administrative Act No. 350/2022, 02 September 2022.

<sup>53</sup> DEDE (2022), 'Regarding the exclusion of the migrants and refugees from the minimum wage' ([Για την εξαίρεση μεταναστών και προσφύγων από τον εθνικό κατώτατο μισθό](#)), Press release, 29 April 2022.

of origin, ignores the needs of immigrants and refugees for a decent living in our country and is a clear example of institutional racism.

### **2.2.2 Far right party tables draft law for the prohibition of all Islamic head cover**

1. In the aftermath of international solidarity towards Iranian women refusing to wear the hijab following the death of Mahsa Amini, the far-right party ELAM proposed a law to prohibit all types of Islamic dress, including the hijab at schools. The justification report attached to this proposal claimed that the prohibition of the head cover was proposed out of respect to the rights and freedoms of women.<sup>54</sup>

### **2.2.3 The strike of the Wolt workers**

In December 2022 the workers of the delivery platform Wolt went on strike to protest against their deteriorating pay, revealing a series of inequalities in the working conditions of delivery workers who are mostly asylum seekers or students from third countries. The companies managing the Wolt fleet deducted 30% of their pay in order to cover the social insurance contributions of both employer and employee amounting to approximately 11%, and the remaining 19% in order to cover costs and their commission. In December the companies raised the deductions from 30% to 41%. Wolt commenced its operations in Cyprus in 2020 originally paying four euros per delivery and 50 cents for every kilometre above the minimum 1 kilometre plus extra pay on weekends and bonus for adverse weather conditions. In the summer of 2022 Wolt was bought over by the multinational Door Dash and started gradually reducing pay, reaching 2,26 euros for each basic delivery and abolishing the extra 50 cents per kilometre and the extra pay for weekend work. Delivery workers must have their own means of transport and pay for their insurance cover, fuel and maintenance. Wolt also charges each worker with 100 euros for uniforms. To survive, the delivery workers must work significantly longer than the lawful limit, which is 38 hours for students when their colleges are closed and 48 per week for asylum seekers. Although they must pay contributions for the national health system, both third country students and asylum seekers are excluded from it. Workers from Nepal and Bangladesh are deprived of their retirement pensions when they return to their countries, because Cyprus does not have a bilateral agreement with these countries. Newly arrived asylum seekers were recently deprived of access to driving licenses, leading to many working irregularly and being fined by the police. The strike lasted for 10 days and spread to other cities and other delivery platforms, whilst a country wide campaign started for boycotting the delivery platforms and deleting the apps of the platforms, forcing Wolt to scale down its delivery operations and offer discounts for take away orders. The strike received support from the Pancyprian

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<sup>54</sup> Cyprus. Bill amending the laws on secondary education community schools 1961-2022, 6 October 2022.

Federation of Labour, who stepped in to negotiate terms with the employers, joining the ranks of the strikers outside Wolt headquarters and marching with them. The strikers joined the two major trade unions PEO and SEK to increase their negotiating support and structured dialogue was officially launched under the auspices of the Department of Labour to resolve the dispute.<sup>55</sup> This marks a first in the history of migration in Cyprus, where migrant workers have never belonged to a trade union in the past and never organised a strike. There was no intervention by the Equality Body and no issue surfaced in the public debates regarding indirect discrimination against workers on the ground of their race or ethnicity.

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<sup>55</sup> Stockwatch (2022), ['Παρέμβαση ΥΠΕΡΓ για απεργία στη Wolt'](#), 20 December 2022.

## 3 Roma equality and inclusion

### 3.1 Policy developments in regards to the implementation of national action plans

Cyprus compiled and submitted to the European Commission its National Strategic Framework on Roma inclusion in December 2021 but has not compiled any action plan after that. The Strategic Framework sets horizontal goals for equality, inclusion and participation of Roma in five areas: education, employment, housing, health and social support.<sup>56</sup> The horizontal measures are targeting wider vulnerable populations which are, to a large extent, already in place and are not designed having in mind the special characteristics and needs of the Roma, who are not identified as a distinct community nor are they identified as a minority. Additional measures mentioned in the Strategic Framework are expected to be implemented under the framework of the Recovery and Resilience Plan. The philosophy of the Strategic Framework rests on the long-term Roma policy of successive governments, whereby the Roma are seen as part of the Turkish Cypriot community rather than as a distinct minority with its unique characteristics.

The Roma community is expected to benefit from these measures in the same way as other vulnerable population groups, despite their special characteristics, including the fact that they do not speak Greek well or at all, they have few or no skills and therefore few chances of joining the labour market and they tend to travel between north and south of the island for various reasons, including to access health care in the north where they speak the language, which however may cause them to lose their residency and therefore their rights in the Republic of Cyprus.<sup>57</sup>

The Roma Civil Monitor reported that although the enrolment of Roma children in pre-primary and primary education is increasing and dropout rates at both levels are decreasing, the rate of early school leaving amongst the Roma remains high at higher levels of education. Only a few Roma children attend secondary education and even fewer make it to upper secondary

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<sup>56</sup> Letter from the Under Ministry of Welfare to the FRANET contractor, 12 October 2022.

<sup>57</sup> These considerations were raised by the Child Ombudsperson in 2017: 'Report of the Commissioner regarding the requirement of residence for a certain period of time in the areas controlled by the Government of the Republic for the provision of social welfare benefits, September 2017' ([Έκθεση Επιτρόπου αναφορικά με την προϋπόθεση διαμονής για συγκεκριμένο χρονικό διάστημα στις περιοχές που ελέγχονται από την Κυβέρνηση της Δημοκρατίας για παροχή επιδομάτων κοινωνικής πρόνοιας, Σεπτ.2017](#)).

education whilst none make it to university. Despite the various horizontal measures applied to schools in disadvantaged areas, including the schools with high Roma populations, which include teacher training, in-school services and after school activities, Roma pupils continue to face racial prejudice at schools and in some cases segregation. In the field of employment, although public employment services are available to all jobseekers to help increase their accessibility to work, the access of Roma persons to public employment services remains limited due to lack of information, lack of motivation and language barriers. Access to health care is available to all low-income residents at low cost or free of charge and vaccination remains free to the entire population, however access to primary health care especially for children and access to sexual and reproductive health care remains inadequate, whilst special health risks arise from lack of access to water and garbage disposal in settlements; the report recommends a health needs assessment targeting the Roma community in particular. A governmental strategy to repair Cypriot Roma houses is implemented at a very slow pace and with little support from administrative staff, whilst the policy of allocating former Turkish Cypriot houses and pre-fab units to Roma families leads to segregated Roma ghettos in isolated sites of former rubbish dump with no access to public transport. The size of the housing units allocated is insufficient for the number of family members in the household and housing is dilapidated, often without water or electricity. Segregation and discrimination against the Roma remains unaddressed, there is no integrated strategy to address Roma exclusion in all areas of life, no measures in place to combat Roma LGBT+ discrimination and anti-gypsyism is not recognised as a specific form of discrimination. The proposals presented by stakeholders in the context of the National Roma Platform did not lead to any policy change and the Roma continue to be regarded as an indistinguishable part of the Turkish Cypriot community, leading to further problems of lack of data on Roma population, no Roma inclusion measures or budget, lack of empowerment measures and failure to take stock of the special characteristics of the Roma community in policy making. Eligibility to horizontal measures is restricted to persons residing in the Republic controlled area for at least five years, this excluding those members of the Roma community travelling between north and south of the island.<sup>58</sup>

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<sup>58</sup> Roma Civil Society Monitor (2022), ['Main findings from civil society monitoring report on the quality of the national strategic framework for Roma equality, inclusion, and participation in Cyprus'](#).

<b>Development regarding the implementation of the action plans</b>	
<p>Has the Member State adopted one or several action plan(s) for the implementation of the strategy (separately from the strategic framework? If yes, please provide a hyperlink</p>	<p>No.</p> <p>In December 2021, the Social Welfare Services, of the Deputy Ministry of Social Welfare, submitted to the European Commission the "<a href="#">National Strategic Framework for the equality, inclusion and participation of the Roma 2021-2030</a>" which was prepared in collaboration with all co-competent Ministries/Services and approved by the Council of Ministers on 13/12/2021. No action plan was compiled.</p>
<p>How were Roma and Traveller civil society organizations consulted for the development of the action plan (please check with the competent national authorities and the most significant Roma organizations)?</p>	<p>There are no representative organisations for the Roma in Cyprus. The NGO CypRom, run by Greek Cypriots in collaboration with members of the Roma community, the only organisation working on Roma issues, was struck off the Registry of the Interior Ministry, pursuant to a new law adopted in 2020 introducing new technical requirement for NGOs, non-compliance with which led to forced dissolution. CypRom is currently in the process of trying to re-register, but at the time of the consultation there was no Roma NGO.</p> <p>For the purpose of compiling the Strategy, the Social Welfare Services, of the Deputy Ministry of Social Welfare, as the National Contact Point for Roma, worked closely with representatives of</p>



	various Ministries and Departments/ Services. The consultation process for drawing up the Strategic Framework began in June 2021, after a roadmap was developed in accordance with the EU framework.
Was the Equality Body and the NHRI and the Ombuds institution in your country consulted in the development of the action plan (please check with the competent national authority, the Equality body, NHRI and Ombuds institution)?	No. The Equality Body is the same as the NHRI and the Ombuds institution. It was not consulted for the purpose of compiling the Strategic Framework.
Does the national strategic framework and the action plan foresee a regular monitoring and review? If yes, who will conduct this.	Yes  The Deputy Ministry of Social Welfare has established a Committee to monitor the implementation of the Strategic Framework. The Committee consists of representatives of the relevant Government Ministries / Departments / Services and Non-Governmental Organisations and the Roma society and has as its terms of reference the monitoring of the implementation of the Cyprus National Roma Strategic Framework.
<b>Implications of the war in Ukraine on the situation of Roma</b>	
Have Roma from Ukraine entered your country?	Unknown

	There are no evidence indicating that Roma people from Ukraine have entered the Republic of Cyprus.
If Roma from Ukraine entered your country how was this communicated in the media?	N/A There was no mention in the media about Roma displaced persons from Ukraine
Is there any evidence (articles, reports, analyses) of the impact of the economic implications of the war (inflation, food or energy prices etc.) on Roma? If yes, provide reference	No There has not been any mention of the Roma in the media.

### **3.2 Legal and policy developments or measures directly or indirectly addressing Roma/Travellers equality and inclusion**

There have not been any measures targeting directly the Roma community. All measures are horizontal and cover the fields of education, employment, housing, health and social support.<sup>59</sup>

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<sup>59</sup> Letter from the Under Ministry of Welfare to the FRANET contractor, 12 October 2022.

## 4 Asylum, borders, visas, migration and integration

### 4.1 National legal framework on criminalisation of 'humanitarian assistance' and domestic transposition of sanctions

EUMS	Implementation of Article 3 of <a href="#">Directive 2002/90/EC</a>	
<p><b>Cyprus</b></p>	<p><b>How has your EUMS implemented Article 3 of Directive 2002/90/EU</b></p> <p>For intentionally and for profit assisting a third country national to enter or transit the territory: up to 15 years of imprisonment and/or up to a fine of €100,000.</p> <p>For intentionally and for profit, assist a third country national to reside in the territory: up to 15 years of imprisonment and/or up to a fine of €100,000.</p>	<p><b>Hyperlinked legal provision in EN and national language</b></p> <p>The Aliens and Immigration Law</p> <p><a href="#">19A.-(1) A person who intentionally and for the purpose of gain assists a third country national in order to enter or transit the territory of the Republic; or any other Member State, in violation of this Law or the relevant legislation of that Member State, respectively, commits a criminal offence and, upon conviction, shall be liable to imprisonment not exceeding 15 years or a fine a fine not exceeding €100,000 or both.</a></p> <p><a href="#">(2) A person who intentionally and for the purpose of gain, assists a national of a third country penalties in order to reside in the Republic; or in another Member State, in violation of provisions of this Law or the relevant legislation of that Member State, respectively, commits a criminal offence and, in in the event of conviction, shall be punishable by imprisonment not exceeding 15 years' imprisonment or a fine a fine not exceeding €100,000 or both.</a></p>

	<p>The above penalties also apply to instigator and accomplices.</p> <p>For an attempt to commit the above offences, up to 10 years of imprisonment or up to a fine of €50,000.</p> <p>In addition to the above penalties, the Court may order the confiscation of the means of transport used and the prohibition of professional activity related to the offence, either permanently or for as long as it considers appropriate.</p> <p>Legal persons may be fined up to €500,000, may be disqualified temporarily or permanently from public benefit and/or carrying out any commercial activity, may be placed under</p>	<p><u>(3) In trying the offences referred to in subsections (1) and (2) and in imposing the sentence, the Court shall regard the following circumstances as aggravating in relation to the offence committed:</u></p> <p><u>(a) The offence was committed in the course of the activities of a criminal organisation within the meaning of Article 63B of the Penal Code.</u></p> <p><u>(b) The commission of the offence endangered the lives of the third-country nationals against whom it was directed.</u></p> <p><u>19B.-(1) The penalties provided for in subsections (1) and (2) of Article 19A for the commission of the offences in question shall also be imposed on the instigator or accomplice in the commission of such offences.</u></p> <p><u>(2) In the case of an attempt to commit the offences under subsections (1) and (2) of section 19A, the person who attempts to commit them shall commit a criminal offence and, in the case of a conviction, shall be liable to a term of imprisonment not exceeding 10 years or to a fine not exceeding €50,000.</u></p> <p><u>19C.- (1) In case of conviction of a person for the commission of the offences referred to in sections 19A and 19B of this Act, the Court may, in addition to any other punishment, order-</u></p> <p><u>(a) the confiscation of the means of transport by which the offence was committed;</u></p> <p><u>(b) the prohibition of direct or through a third party exercise of professional activity on the occasion of which the offence was</u></p>
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	<p>judicial supervision or may be wound up.</p>	<p><u>committed, either permanently or for penalties any period of time it considers appropriate.</u></p> <p><u>(2) Breach of an order of a Court which made under subsection (1)(b) shall constitute a criminal offence and shall be punishable with imprisonment which not exceeding three years or a fine not exceeding ten thousand pounds, or both.</u></p> <p><u>19D.-(1) A legal person is responsible for committing the offences referred to in Articles 19A and 19B of this Act, where the persons acting on behalf of the legal person third-party, either individually or as members of an organ of the legal person, hold a leading position in that legal person based on</u></p> <ul style="list-style-type: none"> <li><u>(a) a power of representation of the legal person or</u></li> <li><u>(b) an authority to take decisions on third-party behalf of the legal person or</u></li> <li><u>(c) power to exercise control within the legal person.</u></li> </ul> <p><u>(2) A legal person shall be deemed to be responsible for committing the offences referred to in Articles 19A and 19B, in the case where the lack of supervision or inadequate supervision on the part of the persons who specified in the above subsection has rendered made it possible for the offences in question to be committed for on behalf of the legal person by a person who under its authority.</u></p>
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		<p><u>(3) The liability of a legal person under above subsections shall not preclude the prosecution of natural persons acting as perpetrators, instigators or accessories to the offences referred to in Article 19A.</u></p> <p><u>19E.-(1) A legal person who is declared liable for the commission of the offences referred to in 19A and 19B under subsection (1) of Article 19D shall be liable to a fine not exceeding not exceeding €500,000 and the Court may, in addition to any other penalty, order</u></p> <ul style="list-style-type: none"><li><u>(a) measures of temporary or permanent disqualification from public benefits or assistance;</u></li><li><u>(b) measures of temporary or permanent disqualification in the exercise of commercial activity</u></li><li><u>(c) the imposition of judicial supervision</u></li><li><u>(d) the issuance of a judicial winding-up order of the legal person.</u></li></ul> <p><u>(2) A legal person which is declared liable for the commission of the offences of sections 19A and 19B by virtue of subsection (2) of Article 19D shall be liable to a fine which does not exceed €250,000.</u></p> <p>The Penal Code:</p> <p><u>240. Whoever, knowingly or negligently, transports or contributes to the transport of a person for hire by waterway in an unsafe vessel, either because of its condition or because of overloading, is guilty of a felony and liable to imprisonment for a term not exceeding twelve years or to a fine not exceeding one hundred thousand euros, or to both.</u></p>
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		<p>Original language:</p> <p>Περι Αλλοδαπών και Μετανάστευσης Νόμος:</p> <p>19Α.-(1) Πρόσωπο το οποίο με πρόθεση και με σκοπό την αποκόμιση κέρδους βοηθά υπήκοο τρίτης χώρας προκειμένου να εισέλθει ή να διέλθει το έδαφος της Δημοκρατίας ή οποιουδήποτε άλλου κράτους μέλους, κατά παράβαση του παρόντος Νόμου ή της οικείας νομοθεσίας του εν λόγω κράτους μέλους, αντίστοιχα, διαπράττει ποινικό αδίκημα και, σε περίπτωση καταδίκης του, τιμωρείται με φυλάκιση που δεν υπερβαίνει τα 15 χρόνια ή με χρηματική ποινή που δεν υπερβαίνει τις €100.000 ή και με τις δύο αυτές ποινές.</p> <p>(2) Πρόσωπο το οποίο με πρόθεση και με σκοπό την αποκόμιση κέρδους βοηθά υπήκοο τρίτης χώρας προκειμένου να διαμείνει στη Δημοκρατία ή σε άλλο κράτος μέλος, κατά παράβαση των διατάξεων του παρόντος Νόμου ή της οικείας νομοθεσίας του εν λόγω κράτους μέλους, αντίστοιχα, διαπράττει ποινικό αδίκημα και, σε περίπτωση καταδίκης του, τιμωρείται με φυλάκιση που δεν υπερβαίνει τα δεκαπέντε (15) έτη ή με χρηματική ποινή που δεν υπερβαίνει τις εκατό πενήντα χιλιάδες ευρώ (€150.000) ή και με τις δύο αυτές ποινές.</p> <p>(3) Κατά την εκδίκαση των αδικημάτων που αναφέρονται στα εδάφια (1) και (2) και κατά την επιβολή της ποινής το Δικαστήριο θεωρεί ως επιβαρυντικές σε σχέση με το διαπραχθέν αδίκημα τις ακόλουθες περιστάσεις</p>
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		<p>(α) Το αδίκημα διαπράχθηκε στο πλαίσιο της δράσης εγκληματικής οργάνωσης κατά την έννοια του άρθρου 63B του Ποινικού Κώδικα.</p> <p>(β) Η διάπραξη του αδικήματος έθεσε σε κίνδυνο τη ζωή των υπηκόων τρίτων χωρών κατά των οποίων αυτό στρεφόταν.</p> <p>19B.-(1) Οι κυρώσεις που προβλέπονται στα εδάφια (1) και (2) του άρθρου 19A για τη διάπραξη των εν λόγω αδικημάτων επιβάλλονται και στον ηθικό αυτουργό ή στο συνεργό της διάπραξης των αδικημάτων αυτών.</p> <p>(2) Σε περίπτωση απόπειρας διάπραξης των αδικημάτων που προβλέπονται στα εδάφια (1) και (2) του άρθρου 19A, το πρόσωπο το οποίο αποπειράται τη διάπραξή τους διαπράττει ποινικό αδίκημα και, σε περίπτωση καταδίκης του, υπόκειται σε ποινή φυλάκισης που δεν υπερβαίνει τα δέκα (10) έτη ή σε χρηματική ποινή που δεν υπερβαίνει τις πενήντα χιλιάδες ευρώ (€50.000)</p> <p>19Γ.- (1) Σε περίπτωση καταδίκης προσώπου για τη διάπραξη των αδικημάτων που αναφέρονται στα άρθρα 19A και 19B του παρόντος Νόμου, το Δικαστήριο δύναται, επιπρόσθετα με οποιαδήποτε άλλη ποινή, να διατάξει- (α) τη δήμευση του μεταφορικού μέσου με το οποίο διεπράχθη το αδίκημα· (β) την απαγόρευση της απευθείας ή μέσω τρίτου προσώπου άσκησης της επαγγελματικής δραστηριότητας επ' ευκαιρία της οποίας διεπράχθη το αδίκημα είτε μόνιμα είτε για οποιοδήποτε χρονικό διάστημα κρίνει σκόπιμο.</p> <p>(2) Παράβαση διατάγματος Δικαστηρίου που εκδίδεται δυνάμει του εδαφίου (1)(β), συνιστά ποινικό αδίκημα και τιμωρείται με φυλάκιση που δεν υπερβαίνει τα τρία χρόνια ή με χρηματική ποινή που δεν υπερβαίνει τις δέκα χιλιάδες λίρες ή και με τις δύο αυτές ποινές.</p> <p>19Δ.-(1) Νομικό πρόσωπο είναι υπεύθυνο για τη διάπραξη των αδικημάτων των άρθρων 19A και 19B του παρόντος Νόμου, όταν τα πρόσωπα τα οποία</p>
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		<p>δρουν για λογαριασμό του νομικού προσώπου, είτε ατομικά είτε ως μέλη οργάνου του νομικού προσώπου, κατέχουν στο νομικό αυτό πρόσωπο ηγετική θέση βασιζόμενη-</p> <p>(α) σε εξουσία εκπροσώπησης του νομικού προσώπου. ή</p> <p>(β) σε εξουσία λήψης αποφάσεων για λογαριασμό του νομικού προσώπου. ή</p> <p>(γ) σε εξουσία άσκησης ελέγχου εντός του νομικού προσώπου.</p> <p>(2) Νομικό πρόσωπο θεωρείται υπεύθυνο για τη διάπραξη των αδικημάτων των άρθρων 19Α και 19Β, σε περίπτωση που η ελλιπής επιτήρηση ή ο ελλιπής έλεγχος εκ μέρους των προσώπων που καθορίζονται στο πιο πάνω εδάφιο έχει καταστήσει δυνατή τη διάπραξη των εν λόγω αδικημάτων για λογαριασμό του νομικού προσώπου από άτομο το οποίο τελεί υπό την εξουσία του.</p> <p>(3) Η ευθύνη του νομικού προσώπου δυνάμει των πιο πάνω εδαφίων δεν αποκλείει την ποινική δίωξη των φυσικών προσώπων που ενεργούν ως αυτουργοί, ηθικοί αυτουργοί ή συνεργοί στα αδικήματα του άρθρου 19Α.</p> <p>19Ε.-(1) Νομικό πρόσωπο το οποίο κηρύσσεται υπεύθυνο για τη διάπραξη των αδικημάτων των άρθρων 19Α και 19Β δυνάμει του εδαφίου (1) του άρθρου 19Δ υπόκειται σε χρηματική ποινή που δεν υπερβαίνει τις πεντακόσιες χιλιάδες ευρώ (€500.000) και το Δικαστήριο δύναται όπως, επιπρόσθετα με οποιαδήποτε άλλη ποινή, διατάξει-</p> <p>(α) μέτρα προσωρινού ή μόνιμου αποκλεισμού από δημόσιες παροχές ή ενισχύσεις·</p>
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		<p>(β) μέτρα προσωρινής ή μόνιμης απαγόρευσης άσκησης εμπορικής δραστηριότητας·</p> <p>(γ) επιβολή δικαστικής εποπτείας·</p> <p>(δ) την έκδοση δικαστικής απόφαση διάλυσης του νομικού προσώπου.</p> <p>(2) Νομικό πρόσωπο το οποίο κηρύσσεται υπεύθυνο για τη διάπραξη των αδικημάτων των άρθρων 19Α και 19Β δυνάμει του εδαφίου (2) του άρθρου 19Δ υπόκειται σε χρηματική ποινή που δεν υπερβαίνει τις διακόσιες πενήντα χιλιάδες ευρώ (€250.000).</p> <p>Ποινικός Κώδικας:</p> <p>240. Όποιος, εν γνώσει του ή εξ αμέλειας μεταφέρει ή συντελεί στη μεταφορά προσώπου με κόμιστρο διά μέσου υδάτινης οδού, με ανασφαλή σκάφος είτε λόγω της κατάστασης στην οποία βρίσκεται είτε λόγω υπερφόρτωσης, είναι ένοχος κακουργήματος και υπόκειται σε φυλάκιση που δεν υπερβαίνει τα δώδεκα έτη ή σε χρηματική ποινή που δεν υπερβαίνει τις εκατό χιλιάδες ευρώ ή και στις δύο αυτές ποινές</p>
	<p><b>Cases [incident numbers] of criminalisation of humanitarian assistance: N/A</b></p> <p>The legal provision excluding humanitarian assistance from the ambit of criminal law was removed when the Aliens and Immigration Law was revised in 2021.<sup>60</sup> There is no provision explicitly criminalising humanitarian assistance or explicitly excluding humanitarian assistance from the ambit of the criminal offence. The practice emerging from the media reports is that the person located to be leading a party</p>	

<sup>60</sup> Cyprus, Aliens and Immigration Law ([Ο Περι Αλλοδαπών και μετανάστευ Ποινική δίωξη εναντίον της 29χρονης για επίθεση κατά του 43χρονου εντός του Δικαστηρίου Όσης Νομος](#)) Cap 105, article 19A.

	entering Cyprus is arrested immediately and evidence for the elements of the offence regarding profiting and intent are investigated later. <sup>61</sup>	
	<p><b>Number of cases recorded by the police in 2022</b></p> <p><b>52 cases</b></p>	<p><b>Number and details of cases (if available)</b></p> <p>The police provided the following data with regard to cases of facilitation of illegal entry, transit and residence in 2022:</p> <ul style="list-style-type: none"> <li>- Nicosia District: Seven cases, of which: <ul style="list-style-type: none"> <li>• Four are currently under trial;</li> <li>• In two cases where the suspects were convicted, the Court imposed a sentence of two years' imprisonment and 10 months' imprisonment respectively;</li> <li>• One case was forwarded to the Police Prosecution Branch.</li> </ul> </li> <li>- Paphos District: There were three cases, of which: <ul style="list-style-type: none"> <li>• One is currently under trial;</li> <li>• One case where the suspects were convicted and the Court imposed a sentence of five months' imprisonment suspended for three years;</li> <li>• One case is under investigation.</li> </ul> </li> </ul>

<sup>61</sup> See for instance: Sigmalive (2022), ['Νέα άφιξη μεταναστών στο Κάβο Γκρέκο - Συνελήφθη 18χρονος κυβερνήτης'](#), 22 November 2022.

		<ul style="list-style-type: none"><li>- Famagusta District: There were 21 cases of which:<ul style="list-style-type: none"><li>• Three are under investigation</li><li>• 11 are under trial</li><li>• In four cases the suspects were convicted and the following sentences were imposed: 2.5 years' imprisonment in one case, and three months' imprisonment in three cases;</li><li>• Two were forwarded to the Attorney General;</li><li>• One was forwarded to the Police Prosecutor's Office.</li></ul></li><li>- Morphou District: There was one (1) case in which a 4-year prison sentence was imposed.</li><li>- Limassol District: No cases were investigated.</li><li>- Larnaca District: There were 20 cases of which:<ul style="list-style-type: none"><li>• One is under investigation;</li><li>• 13 are under trial;</li><li>• In three cases the suspects were convicted and the following sentences were passed: seven months' imprisonment, three months' imprisonment suspended for three years and 10 months' imprisonment;</li></ul></li></ul>
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		<ul style="list-style-type: none"> <li>• Two were suspended on the instructions of the Attorney General ;</li> <li>• One was discontinued following instructions from the Attorney General.</li> </ul>
	<p><b>Number of investigations initiated in 2022</b></p> <p><b>N/A</b></p>	<p><b>Number and details of cases (if available)</b></p> <p>No data for how many of the above cases investigation was launched in 2022.</p>
	<p><b>Number of court decisions taken in 2022</b></p> <p><b>11 trial court convictions</b></p> <p><b>1 Case (appealing a trial court decision)</b></p>	<ul style="list-style-type: none"> <li>• <b>Number and type of court decisions, information if decision is final.</b></li> <li>• <b>Type of penalties imposed according to Article 1 <a href="#">2002/946/JHA: Council framework Decision of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence</a></b></li> <li>• <b>Describe in max three-four sentences the key court decisions in 2022 and add hyperlink to decision (if available)</b></li> </ul> <p>There were 11 trial court decision on facilitation of illegal entry, transit and residence in 2022.</p> <p>Cyprus Supreme Court, Appeal Jurisdiction, <a href="#">XXX Nawaz, XXX Irfan, XXX Muhammad v the Police</a>, Criminal Appeal NO. 56/21, 4 May 2022: At first instance, the first appellant was sentenced to four and half years of</p>

		<p>imprisonment; the second appellant to two and half years of imprisonment; the third appellant was sentenced to two years and ten months of imprisonment. Upon appeal, the conviction for some of the charges was reversed and the appellants were acquitted of those particular charges. For the convictions upheld, the sentences remained; the Court rejected the appellants' argument that the aforesaid sentences were excessive.</p> <p>Cyprus, District Court of Nicosia, <a href="#">Nicosia Police Director v. Tatarlar and Murad, Case no. 8380/2022</a>, 6 May 2022, ECLI:CY:EDLEF:2022:B134: The two accused persons were charged with conspiracy to commit a felony, namely to assist in the transit and stay of a third country national in Cyprus. Accused no.1 drove a car in which he had hidden accused no. 2 for the purpose of crossing the checkpoint from north to south, in return for the sum of €450. Both accused persons admitted the charges. In mitigation, accused no.2 stated that he needed to enter the territory of the Republic in order to apply for asylum because his life was in danger in his country of origin as a result of unpaid debts. The Court imposed on accused no.2 a prison sentence of two years in spite of the fact that he was very young and had a clean criminal record. To justify this sentence, the court stated that 'the offence is on the increase and threatens both security and social normality in the already occupied Republic of Cyprus. No public information is available regarding the sentence imposed on accused no.1.</p> <p>Cyprus Supreme Court, First instance jurisdiction, <a href="#">Re. the application of N. CH for permission to file a certiorari order</a>, Civil application 193/2022, 2 December 2022: The applicant was a police officer who was caught on a closed circuit camera installed at one of the checkpoints controlling transfers between north and south of the island to drive his vehicle. He tried to avoid checks by the officers at the checkpoint but was later intercepted and was found to be hiding in his car six Iraqi nationals including a child who had illegally entered the territory of the Republic. He claimed that he had located the Iraqi nationals in the north part and</p>
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		<p>transferred them to the south. The Iraqi nationals were sent back to the north and the authorities accepted the police officers allegations. A few weeks later the six Iraqi nationals were located in the Pournara first reception camp, where they applied for asylum. In their testimonies they described the circumstances under which they entered the Republic, which included transit in the accused police officer's car, who was acting in communication and coordination with a Turkish taxi driver in the north. The police officer was then arrested and charged with a number of offences, including conspiracy to commit a felony, corruption and abuse of power, assisting illegal migrants to enter in the Republic. He applied to the court for an order to cancel the arrest warrant against him. The Court rejected his application on the ground that the arrest warrant was premised upon reasonable suspicion and the facts presented to the court created a prima facie case that justified his arrest. The substantive part of the trial was still pending at the time of writing.</p> <p>Cyprus, District Court of Paphos, <a href="#"><u>Paphos Police Director v. L.B.N., K.P.R., L.L.S., J.I.S.</u></a> Case No. 6366/22, 30 November 2022, ECLI:CY:EDPAF:2022:B55: The judge did not describe all the facts of the case, but restricted himself to state that, for the purpose of this case, it is sufficient to state that the applicants tried to depart from Paphos airport on a flight to France with four valid identity cards claiming to be a family. As the photos on some of the identity cards did not match the card bearers, the police was called to investigate the case and established that two of the accused persons gave to the other two accused persons the identity cards of their children in order to help them travel to France. The two accused persons admitted that they had paid the other two accused persons to help them travel from Cyprus to France in order to assume the care and protection of their four young children in France, who had meanwhile come into the custody of the French authorities, as a result of the fact that there was no other suitable person available to care for them. The court imposed a sentence of five months on the two accused persons who had attempted</p>
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		<p>to help the other two travel to France; and a suspended prison sentence of 18 months for the other two accused persons who had tried to travel to France using the identity cards of the children of the other two accused persons. The money found in possession of the two accused persons was confiscated and paid to a charitable organisation in Cyprus, as per the wish of the accused persons.</p>
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## **4.2 Use of the large-scale IT Systems in the area of asylum, migration and border control**

There have been no complaints submitted to, or guidance recommendations or opinions from, the DPA or the NHRI on the use of IT systems in the area of asylum, migration and border control.

The Ministry of Interior could not provide information on the use of large-scale IT system for asylum and migration as their system has not been fully developed and is not yet in use. The Asylum Service's computerised system is in the process of being upgraded, expected to be completed by end of October 2022. The upgrade will include the addition of new fields related to the procedures of the national Court for International Protection as well as procedures before other competent departments.

For Eurodac, the Interior Ministry has a delegation agreement with the Cyprus Police which is responsible for the taking and processing of fingerprints and wider application of the Eurodac Regulation. According to the Interior Ministry, the right to



information, access and rectification of personal data, as well as all other relevant provisions of the GDPR apply.<sup>62</sup> No case law exists on this issue.

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<sup>62</sup> Letter to FRANET contractor from the Ministry of Interior dated 10 October 2022.

## 5 Information society, privacy and data protection

### 5.1 Initiatives in the use of artificial intelligence in both private and public sectors

Actor	Type	Description	Are Human Rights issues mentioned? (yes/no)	Reference
Private consultant	Media report	Proposal on the use of AI to enhance virtual tourism	No	<a href="#">AI applications for Smart Hospitality</a>
Private law firm	Media article reporting on findings of an on-line conference	Use of AI in provision of legal services	No	<a href="#">Artificial Intelligence in legal services as a catalyst for leveraging Sustainable Finance</a>
Private Communication firm	Media article on private firm	Turning to the use of AI for the provision of services in multiple languages	No	<a href="#">Evresis: Investing in artificial intelligence (AI Virtual Agents)</a>

	turning to AI			
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The DPA reported having no comments in relation to the draft AI Regulation; once it is adopted, they will be implementing it.<sup>63</sup> The DPA reported that AI is not used in the public sector; its use in the private sector remains small scale and uncharted. Media articles report potential in the uncharted use of AI applications by private enterprises for commercial purposes but no fundamental rights angle was discussed or addressed in relation to these; statistics show that its use in the private sector until recently remained at low levels.<sup>64</sup>

A few articles on AI appeared in the media in 2022, discussing the benefits of AI but rarely considering the fundamental rights issues resulting from its use. A media article by a development consultant proposes different applications for AI in a hypothetical 'smart' hotel, where equipment can be connected to the Internet of Things and 5G in order for guests to have an improved experience, while the hoteliers are saving costs. The article also proposes Virtual Tourism, using digital images and sensory feedback for the simulation of tourist attractions, to help guests program their stay and at the same time market the product.<sup>65</sup> An online conference took place in September 2022 entitled 'Can Cyprus become a global AI and Data Science hub?' which found that Cyprus scores amongst the first ten countries at the European Innovation Scoreboard.<sup>66</sup> A private company offering office support services reported turning to AI to maximise customer satisfaction and attract more customers;<sup>67</sup> and a group of lawyers believe that AI can help the legal profession by saving lawyers' time in performing automated standardised processes, eliminating errors and promoting environmental and social governance, therefore reducing the investors' risk.<sup>68</sup> An academic told the media that AI can contribute towards solutions for environmental problems, climate change, urbanisation, and other

<sup>63</sup> Telephone consultation between the DPA and the FRANET contractor, 5 October 2022.

<sup>64</sup> Charalambous, A. (2021), '[Ranking: Υπερεί η Κύπρος σε εφαρμογές τεχνητής νοημοσύνης](#)', *Brief*, 21 August 2021.

<sup>65</sup> Shamaros A. (2022), '[AI applications for Smart Hospitality](#)', *Dialogos* 20 August 2022.

<sup>66</sup> Limassol Today (2022), '[Μπορεί η Κύπρος να γίνει διεθνές κέντρο καινοτομίας στην Τεχνητή Νοημοσύνη](#);

<sup>67</sup> InBusinessNews (2022), '[Evresis: Επενδύει στην τεχνητή νοημοσύνη \(AI Virtual Agents\)](#)', Press release, 14 February 2022.

<sup>68</sup> Phileleftheros, '[Η Τεχνητή Νοημοσύνη στις νομικές υπηρεσίες ως καταλύτης αξιοποίησης της Βιώσιμης Χρηματοδότησης](#)', 13 September 2022.

great challenges of our century and must be seen as a tool rather than a risk.<sup>69</sup> The privacy risks posed by AI were raised in just one media article featuring an academic from Dublin University, who highlighted the dramatic changes that AI can bring to the labour market, to accessing data and the knowledge generated by AI analysis and modelling and the challenges of managing central AI systems.<sup>70</sup>

## 5.2 Legal and policy initiatives on data protection and private life

### 1. The background: The Hadjioannou case

A number of court decisions delivered in 2022 sought to regulate the situation created in the field of data retention, following the Supreme Court's decision in the Hadjioannou case in 2021 which rendered the national data retention law<sup>71</sup> invalid for non-compliance with the EU Charter.<sup>72</sup> The Hadjioannou decision attracted negative reactions from the police and Attorney General who feared that it would lead to the overturning of many convictions that had relied on retained data.<sup>73</sup> The parliament did not proceed to amend the data retention law in line with the Supreme Court's decision in Hadjioannou, leaving the issue of the validity of the law largely unregulated, as shown in the decisions below.

### 2. The *Mimic* case

In 2022 the Supreme Court overturned a lower court decision that had granted to the police access to the telephone data of the applicant, who was suspected of having committed a crime, because the legal provisions on which the access order had

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<sup>69</sup> Pieri, P. (2022), '[Artificial intelligence is a tool for human creativity not a risk](#)', *Cyprus Mail*, 23 September 2022.

<sup>70</sup> Tourki, X. (2022), '[Ελένη Μαγγίνα: Η τεχνητή νοημοσύνη αλλάζει τον κόσμο μας](#)', *Phileltheros*, 18 September 2022.

<sup>71</sup> Cyprus, Law on retention of telephone data for the purpose of investigating serious crimes of 2007 ([Ο περί Διατήρησης Τηλεπικοινωνιακών Δεδομένων με σκοπό τη Διερεύνηση Σοβαρών Ποινικών Αδικημάτων Νόμου του 2007](#)) N. 183(I)/2007

<sup>72</sup> Cyprus Supreme Court (2021), [Civil Applications concerning telephone data no. ap. 97/18, 127/18, 140/19-143/19, 154/19, 169/19, 36/20 and 46/20, ECLI:CY:AD:2021: D487](#), 27 October 2021.

<sup>73</sup> Ioannou, K. (2021), '[Πέφτουν" υποθέσεις: Κατάδικοι ετοιμάζουν προσφυγές για να "δικαιωθούν"](#)', *Alphanews*, 28 October 2021.

relied, namely the national data retention law,<sup>74</sup> had been rendered invalid by the 2021 Court decision in *Hadjioannou*. The Attorney General sought to challenge the applicant's claim for a certiorari order to cancel the access order that had been granted to the police by the lower court, on the ground that the access order had not relied on the data retention law but on another law for the protection of the confidentiality of private communications<sup>75</sup> which had nothing to do with the data retention law. The Attorney General argued that the law on confidentiality of communications provides access to telephone data in a targeted manner, when the telephone equipment is in the possession of the police following a court order to that effect, only when there is reasonable suspicion that a crime was committed and the private communication is relevant; as a result the CJEU rulings which led to the invalidation of the national data retention law do not apply to this law, as they relate only to preventive retention of data.

The Court rejected the Attorney General's argument and ruled that access order granted to the police had relied on both the data retention law and the law on the confidentiality of communications. The data to which the police was given access had been retained by the service provider in accordance with the data retention law and such retention had been found to violate Union law. The Court concluded that the two laws are interconnected and that the aim of the law on confidentiality of communications cannot be served without the data retained under the data retention law.<sup>76</sup>

### 3. The *Pavlou* case

A similar finding as in *Mimic* was also applied in this case, which was heard on the same day. The Supreme Court examined an application for the issue of a certiorari order seeking to cancel an order issued by the district court, authorising police access to the applicant's telephone data. The police had secured this order claiming that they reasonably believed that the data in question related to an offence which the police were investigating and that they would be retained only for as long as necessary and in any case not longer than 30 days. The applicant argued that the district court order under challenge infringed the Charter, the Constitution and Union law, citing the ruling in *Hadjioannou*. The prosecution argued that the access order was

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<sup>74</sup> Cyprus, Law on retention of telephone data for the purpose of investigating serious crimes of 2007 ([Ο περί Διατήρησης Τηλεπικοινωνιακών Δεδομένων με σκοπό τη Διερεύνηση Σοβαρών Ποινικών Αδικημάτων Νόμου του 2007](#)) N. 183(I)/2007, articles 3, 6, 7, 8, 9, 10 and 13.

<sup>75</sup> Law on the protection of the privacy of private communications ([Ο περί Προστασίας του Απορρήτου της Ιδιωτικής Επικοινωνίας Νόμος](#)) N. 92(I)/1996.

<sup>76</sup> Cyprus Supreme Court Primary jurisdiction (2022), [Re. the application of XXX Mimic for permit to file a certiorari order](#), Civil application No. 228/2021, ECLI:CY:AD:2022:D26, 26 January 2022.

issued under the law on confidentiality of communications of 1996 which provides access to telephone data in a targeted and specific manner and this law was not invalidated by Hadjioannou nor by the CJEU jurisprudence. The court granted the applicant permit to file the certiorari order cancelling the order for access to his data because no element was offered to determine the length of time these data have been kept: The time of storage of the data or the time of recording of the conversation was not specified in relation to and with reference to the time when suspicions arose against the applicant and the time when he was treated as a suspect or accused person, concluding that the validity of a measure seeking to restrict rights must be assessed on the basis of proportionality. The access order had relied on both the 1996 law and the data retention law and as such it could not pass the legality test.<sup>77</sup>

#### 4. The *Vafiades* case

Later in 2022, in the course of a child pornography trial before the Assize Court, a police officer attempted to introduce as evidence content from the defendants' mobile phones. Access to the telephone data had been allegedly sanctioned by two access orders issued by the district court, one of which covered only the phone equipment and did not specifically sanction the content of the phone. The defendants' lawyers objected, citing the right to privacy as enshrined in the EU Charter and the legal precedent created in the 2021 Supreme Court decision in the case of Hadjioannou. The Assizes Court was asked to decide whether to permit the data as evidence in the proceedings. The defendants' lawyers argued that: the data obtained under the order that only sanctioned seizure of the phone equipment was inadmissible as unlawfully obtained; the data obtained on the basis of both access orders were too general and wide and infringed the principle of proportionality; the legal basis of the access orders was the data retention law which was invalidated by the Hadjioannou ruling.

The Court rejected all of the defendants' arguments except the argument referring to the access order sanctioning only the seizure of the equipment. In response to the defendants' objections that the seizure of retained data is unlawful because their retention is unlawful, the Assize Court replied that the data was obtained solely on the basis of the law for the protection of

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<sup>77</sup> Cyprus Supreme Court, Primary jurisdiction (2022), [Re. the application of Pavlou for permit to file a certiorari order](#), Civil application no. 231/2021, ECLI:CY:AD:2022:D27, 26 January 2022.

the confidentiality of private communications<sup>78</sup> (hereinafter the 1996 law) and not on the basis of the data retention law which had been invalidated by the Hadjioannou case. The defendants cited the ruling in *Mimic*, above, where access was seen as having been sanctioned by the data retention law, since the data used were the product of retention. The Assize Court differentiated this case from the *Mimic* case, since the access order in *Mimic* relied on both the 1996 law and the data retention law, whilst in the current case the access order relied only on the 1996 law which had not been affected by the Hadjioannou ruling. The judge added that the *Mimic* decision was taken in the Supreme Court's primary jurisdiction and as such it is subject to appeal and does not create a binding precedent.<sup>79</sup> The Assize Court's reasoning suggests there is a landscape of deregulation in the field of data retention, following the Hadjioannou decision.

### The PEGA investigation

A delegation of the European Parliament's Committee of Inquiry visited Cyprus at the beginning of November 2022 to investigate the use of Pegasus software and corresponding spying software was briefed by the Attorney General on the constitutional and legislative framework regulating the operation of surveillance activities. The Attorney General explained the investigations conducted in connection with the case of the 'spy van' belonging to the Israeli company Ws Wispear Systems Limited, equipped with sophisticated surveillance technology capable of hacking communications. Initially the indictment included approximately 90 charges, many of which were dropped upon instructions of the Attorney General; the company was fined with €76,000 by a criminal court in Cyprus after admitting guilt to 42 charges which included illegal procession of personal data and illegal intervention in private communications.<sup>80</sup> Charges were also brought against three individuals, including the CEO of WiSpear Systems Limited, reported to be a former Israeli intelligence officer, but all charges were subsequently dropped upon instructions from the Attorney General.<sup>81</sup> In 2021, the DPA imposed an administrative fine of €925,000 on WiSpear for

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<sup>78</sup> Law on the protection of the privacy of private communications ([Ο περί Προστασίας του Απορρήτου της Ιδιωτικής Επικοινωνίας Νόμος](#)) N. 92(I)/1996.

<sup>79</sup> Cyprus, Limassol Assizes Court, [Republic v. XXX Vafiades, XXX Iacovides, XXX Achilleos, XXX Tsachidou, XXX Pavlou, XXX Tsolakides](#), Case No. 15248/2020, ECLI:CY:KDLEM:2022:49, 31 May 2022.

<sup>80</sup> Cyprus, Assizes Court of Larnaca/Famagusta, [The Republic v. Ws Wispear Systems Limited](#), Case No. 6839/21, ECLI:CY:KDLAR:2022:1, 22 February 2022.

<sup>81</sup> Financial Mirror (2021), [Anger after 'spy van' charges dropped](#), 17 November 2021.

GDPR violations.<sup>82</sup> The Attorney General declined the request to hand over the report containing the findings of the independent criminal investigator who had been appointed in order to investigate the allegations of surveillance and cover up of the activities of the Israeli van, stating that no information is ever given to the public, nor announced, nor is information provided about what is done as part of a criminal investigation. The Attorney General clarified the difference between a report drawn up as a result of a criminal investigation and a report drawn up by a commission of inquiry, stating that the legislative framework regulating the criminal inquiry provides that the end product of this inquiry is fully protected by its holder, which in this case is the Attorney General. The Attorney General stated that the van case is over and there is no question of there being any new criminal investigation.<sup>83</sup>

The findings of the preliminary report of the European Parliament's Committee into the use of Pegasus and similar surveillance spying software, as contained in a special Chapter devoted to Cyprus recording the findings of its mission that was Cyprus has a key role in the investigation of allegations of surveillance in Greece using the Predator software. As documented in the preliminary Cyprus appears to have a strong legal framework for data protection and privacy, as well as for authorising surveillance for exports of surveillance systems, but in practice it appears that the rules are easy to circumvent and there are close links between politics, security service providers and the surveillance industry. The PEGA Committee noted that the lax application of the rules in Cyprus seems to make the country an attractive place for the trade in spy software, noting that Cyprus is of strategic interest to Russia, Turkey and the US, while suggesting that the country's close relations with Israel lead to a mutual benefit when it comes to the trade in surveillance software. By way of example, the PEGA Committee stated that despite the rules set out in the Dual Use Regulation, Cyprus appears to have become an attractive export hub for the sale of spyware software; that without proper and effective enforcement of EU laws there is ample room for the illegal use of

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<sup>82</sup> Cyprus, Commissioner for the protection of personal data (2021), '[Επιβολή διοικητικού προστίμου ύψους €925.000 στην εταιρεία WS WiSpear Systems Ltd](#)', Press release, 12 Νοεμβρίου 2021.

<sup>83</sup> Phileleftheros (2022), '[Γ. Εισαγγελέας: Η υπόθεση του βαν έχει τελειώσει](#)', 2 November 2022.



surveillance software; and that Cyprus is one of the EU's export hubs with some 29 Israeli spy software companies now registered in Cyprus.<sup>84</sup>

### **5.2.2 Senior police officer asks prisoner to monitor the personal life of the prison director**

In June 2022 the Director of the Central Prison told the media that a specific senior police officer of the anti-drug squad had instructed a prisoner to find videos from her personal life, after messages were found to have been sent from the police officer's personal cellular phone to the phone of the prisoner on a daily basis.<sup>85</sup> The Prison Director filed a formal complaint against the police officer at the Attorney General's office who appointed a criminal investigator to examine whether criminal or disciplinary offences had been committed. The criminal investigator appointed in this case made a public statement that in his view the police officer may have committed the crime of abuse of power and conspiracy.<sup>86</sup> The Attorney General refused to publish the full report of the investigation and concluded that the motive of the police officer was to extract information regarding the exercise of his duties and the possible commission of offences within the central prison, adding that a content analysis of the communication between the police officer and the prisoner revealed that the motives of the police officer were not unlawful, although the manner he chose to exercise his duties could be the subject of disciplinary investigation. The Attorney General stated that in his view there is no evidence of corruption because the actions of the police officer were not aimed at personal gain.<sup>87</sup>

The Prison Director officially asked the Attorney General for a copy of the report of the criminal investigator so as to file a private criminal case against him. The Prison Director's lawyers told the press that they believe the Attorney General will make

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<sup>84</sup> European Parliament (2022), '[Briefing for the Pega mission to Cyprus and Greece, 1-4 November 2022](#)', Study requested by the Pega Committee, October 2022; Cyprus Times (2022), '[LIVE: Παρουσιάζονται τα βασικά πορίσματα της έκθεσης της PEGA](#)', 08 November 2022; Dialogos (2022), '[Προσχέδιο έκθεσης PEGA: «Κέντρο εξαγωγής λογισμικών παρακολούθησης» η Κύπρος](#)', 8 November 2022.

<sup>85</sup> Dialogos (2022), '[Αννα Αριστοτέλους: Απίστευτο μένος – Πρόκειται για προβεβλημένο αξιωματικό](#)', 17 June 2022.

<sup>86</sup> Philenews (2022), '[Δόθηκε στον ΓΕ το ογκωδέστατο πόρισμα Αιμιλιανίδη](#)', 15 September 2022.

<sup>87</sup> Politis (2022), '[Εισαγγελία για Κατσουνωτό: Δεν διώκεται ποινικά, θα μπορούσε να ελεγχθεί πειθαρχικά](#)', 21 December 2022.

use of his right to cancel the private criminal prosecution, in which case they will file an application at the ECHR for final determination of the case.<sup>88</sup> Meanwhile the Director and Under-Director of the Central Prison asked to be transferred to another public post, because they believed their lives were in danger.<sup>89</sup>

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<sup>88</sup> Alphanews (2023), ['Πάει ΕΔΑΔ η Αριστοτέλους, παραδόθηκαν οι μαρτυρίες για πειθαρχικά Κατσουνωτού'](#), 11 January 2023.

<sup>89</sup> Kalatzis, M. (2022), ['Ο «Π» αποκαλύπτει την επιστολή μετακίνησης Α. Αριστοτέλους – Α. Δημητρίου: «Κινδυνεύει η ζωή μας»'](#), 23 December 2022.

## 6 Rights of the child

### 6.1 Measures addressing vulnerabilities of children living in poverty and developments regarding the national implementation of the EU Child Guarantee

Measures addressing vulnerabilities of children living in poverty and developments regarding the national implementation of the [EU Child Guarantee](#).

<b>Legislative changes</b>	No legislative changes in 2022.
<b>Policy changes</b>	<p>The Deputy Ministry of Social Welfare was appointed as National Coordinator for the Child Guarantee. The Permanent Secretary of the Deputy Ministry of Social Welfare established a Working Group which includes the Ministries of Labor and Social Insurance, Health, Education, Sport and Youth to compile the Final Draft of the National Action Plan for the Child Guarantee. The National Action Plan is aimed at providing free access to early childhood education and care, education and school-based activities, at least one healthy meal each school day, healthcare and access of children to healthy nutrition and adequate housing. The Deputy Ministry will be monitoring the implementation of the National Action Plan.</p> <p>The final draft has undergone public consultation with children and civil society and is expected to be submitted to the Council of Ministers for approval before year's end.</p>
<b>Other measures or initiatives</b>	<p>Measures in place in 2022 (both existing and new):</p> <p>The measures below were existing from previous years:</p> <ul style="list-style-type: none"><li>• In the context of the Cyprus Program "Food and/or Basic Material Assistance" for the period 2014-2020, the Social Welfare Services implement the project "Baby's Dowry", which is co-</li></ul>

	<p>financed by the European Union. The project involves the provision of specific free necessities for new borns to families who are eligible for the minimum guaranteed income, public assistance or face problems based on a relevant report prepared by the Social Welfare Services. Alongside the free consumer goods, the family must accept guidance on parenting and networking with important services. The total budget of the project amounts to €3.6 million and its duration spans from 1/1/2017 to 31/12/2023.</p> <ul style="list-style-type: none"> <li>• The Financial Support Plan for children under the legal care of the Social Welfare Services who reach maturity. The Plan aims at strengthening their social integration, rehabilitation through studies, vocational training and education and purchase of household and professional equipment.</li> <li>• Monthly allowances to Greek-Cypriots and their dependent children who live in the north of Cyprus; the amount is determined by the Council of Ministers.</li> <li>• Material reception conditions to asylum seeking and refugee children who reside with their families outside reception centres.</li> <li>• The monthly/yearly child benefit, eligibility for which relies on residency requirements, total gross family income, number of eligible children in the family and total value of property assets. Families with one or two children are paid yearly and families with three or more children are paid monthly. The amount ranges from €380 annually for one child to a maximum, depending on income, of €1,675 annually for four or more children.</li> <li>• A Single Parent benefit is granted to single parents who are recipients of the Child Benefit. The amount of the benefit depends on the family's gross income. For annual income up to</li> </ul>
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	<p>€39,000, the single parent benefit is €180 per child monthly, indexed to inflation. For annual income between €39,000- €49,000, the monthly grant is €160 per child, again indexed to inflation. This amount is considered as 'income' and is therefore deducted from the minimum guaranteed income.</p> <ul style="list-style-type: none"> <li>• The Social Welfare Services provide preventive services to approximately 2,000 families with children, with the aim of safeguarding the smooth functioning of the family through timely psychosocial intervention.</li> <li>• The Director of Social Welfare Services undertakes the care and protection of children, in cases where parents abandon them or are unable to perform their parental obligations. The Director of Social Welfare Services is also deemed as the guardian of all unaccompanied minors who enter the Republic of Cyprus without their parent or legal guardian and have submitted an application for international protection.</li> <li>• The State Aids Scheme provides financial support to NGOs and Local Authorities for the provision of social care services for children, to promote the children's integration, reintegration and retention of the inactive – mainly female workforce in the labor market.</li> </ul> <p>The two measures below were introduced in 2022:</p> <ul style="list-style-type: none"> <li>• The subsidising of nursery/kindergarten fees for children from birth up to four years old was introduced in September 2022. The scheme provides for the payment of 80% of the monthly cost of each child's attendance at a nursery or kindergarten approved to participate in the scheme, at a maximum of €100-€350 per month, subject to eligibility conditions related to the composition of the family, the family income, and years of lawful residence and the age</li> </ul>
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	<p>of the children.<sup>90</sup> The payment is made directly to the nursery or kindergarten. To be eligible for this, the family must have legally and continuously resided in the areas where the Republic of Cyprus exercises effective control for at least five years preceding the submission of the application, which essentially excludes Turkish Cypriots residing in the north as well as most Roma families who tend to commute between north and south of the island. The income criteria of the scheme require that the annual income for the previous year of a couple with one child must not exceed €30,000; of a couple with two children €39,000; of single parent families with one or two children €49,000; of a couple or single parent families with three children €54,000; and of couple or a single parent family with four or more children €59,000. The scheme covers day-care centres and preschools, including private and community-based programs but not persons caring for children at home. Up to 16,000 children are expected to benefit from this scheme for the 2022-2023 school year, who must be up to 4 years old on August 31, 2022.</p> <ul style="list-style-type: none"> <li>• The subsidising of kindergarten fees for children to attend obligatory pre-schooling from the age of four. This measure was introduced following a decision of the Council of Ministers to promote the reduction of the age limit for obligatory pre-primary education by eight months: instead of four years and eight months, children who have reached the age of four on 1<sup>st</sup> of September must attend pre-school education.<sup>91</sup> The implementation of the reform will be gradual and will be completed in three phases: In the 2023-2024 school year, the age limit for admission to compulsory pre-primary education will be extended by two months, while in the 2024-2025 school year it will be extended by two additional months; in the 2025-2026 school year, the project will be fully implemented by extending the age of admission to compulsory pre-primary education by eight months. The expenditure involved will be covered by the National Recovery and Resilience Plan. The scheme involves the subsidisation of fees in order for the children to attend private kindergartens rather than extend and enhance the</li> </ul>
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<sup>90</sup> Cyprus, Ministry of Labour, Welfare and Social Insurance (2022), 'Tuition and Feeding Subsidy Scheme for Children up to 4 years old' ([Σχέδιο Επιδότησης Διδάκτρων και Σίτισης Παιδιών ηλικίας μέχρι 4ων ετών](#)).

<sup>91</sup> Cyprus, Secretariat of the Council of Ministers (2022), '[Μείωση ορίου ηλικίας εισδοχής στην υποχρεωτική προδημοτική εκπαίδευση. α\) Νομοσχέδιο με τίτλο: Ο περί Δημοτικής και Μέσης Εκπαίδευσης \(Υποχρεωτική Φοίτηση και Παροχή Δωρεάν Παιδείας\) \(Τροποποιητικός\) \(Αρ.2\) Νόμος του 2022. β\) Οι περί Λειτουργίας των Δημόσιων Σχολείων Δημοτικής Εκπαίδευσης \(Τροποποιητικοί\) Κανονισμοί του 2022'](#).

	<p>capacity of public kindergartens so as to receive the additional number of children.<sup>92</sup> Although the extension of the pre-schooling limit to include younger children had been a long-term demand of the teachers for years, the decision to subsidise private rather than public education led to reactions amongst opposition parties in parliament as well as amongst the organisations of teachers and parents of school children<sup>93</sup> who view this measure as an attack on public education and a step towards privatisation of education.<sup>94</sup> When the relevant bill was tabled in parliament, it was unanimously decided to change its transitional provisions, so that in the school years 2023-2025 children will attend public or community kindergartens; in the school year 2025-2026 they will attend public or community or private kindergartens, if necessary; and from the school year 2026-2027 they will attend a public kindergarten in their educational district and the Minister of Education will inform the Parliamentary Committee on Education and Culture every six months on the progress of implementation of this arrangement. The aim was to ensure that children will attend public kindergartens and will be referred to private kindergartens only if necessary and subject to criteria. The President of the Republic referred this law back to parliament for reconsideration on the ground that that the amendment adopted deprives parents of the right to enrol their children in a private kindergarten, if they so wish, it leads to an increase in state expenditure and places the disbursement of €12 million from the Recovery and Resilience Plan is at risk. The President's referral was rejected by parliamentary majority and the constitutionality of the law will be assessed by the Supreme Court in 2023.</p> <ul style="list-style-type: none"> <li>• A one-off payment of €50-€80 to families with children aged 4-18 entitled "Back to school", subject to income and residence criteria and depending on the number of children in the family. For families with an income up to €80,000 in 2021, a lump sum of €80; for families with an income between €10,000-€19,500 the lump sum of €70, for families with income €19,501-€29,000 the lump sum of €60; for families with income €29,000-€39,000 the lump sum of €50, for families with income €39,000-€49,000 and provided they have three or more children, €50 for the third and the additional children. To be eligible for the scheme, the</li> </ul>
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<sup>92</sup> Offsite (2022), '[Προδρόμου: Από 4ων ετών η επέκταση δωρεάν προδημοτικής εκπαίδευσης](#)', 19 October 2022.

<sup>93</sup> Offsite (2023), '[Προδημοτική: Δυσσάρεσκια ΠΟΕΔ-γονέων για τις εξελίξεις](#)', 11 January 2023.

<sup>94</sup> Eliopoulos, M. (2022), '[Όχι στην «πολιτική των κουπονιών»](#)', *Phileleftheros*, 22 November 2022.

	family must have legally and continuously resided in the areas where the Republic of Cyprus exercises effective control for at least five years preceding the submission of the application. <sup>95</sup>
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## 6.2 Legal and policy developments or measures in relation to child-friendly procedures for children as victims, witness or suspects/accused in criminal proceedings.

<b>Legislative changes</b>	A bill was tabled in Parliament criminalising bullying and intimidating behaviour at schools, following a number of serious bullying incidents reported in the media. <sup>96</sup> The bill covers both off and on line bullying and offers a wide definition of which acts constitute bullying: the dissemination of personal or sensitive content, the publicization of sexual preferences or personal problems, the posting of personal photos or messages on social media, fake accounts with the photo of the victim, sending abusive and humiliating messages, threats to bodily integrity, et al. The age of the students involved must be between 14-18 and the penalties foreseen are imprisonment up to 12 months and/or a fine up to €2,000.
<b>Policy developments</b>	In September 2022, Parliament discussed a private bill that had been lodged by the Green party since 2019 on introducing sexual education at schools. Participants to the parliamentary debate told the Ministry of Education that it is their duty to provide sexual education in all public and private schools starting from pre-schooling and that the delay is unjustified and

<sup>95</sup> Cyprus Press and Information Office (2022), [‘Καταβάλλεται σήμερα η εφάπαξ χορηγία «Επιστροφή στο Σχολείο»](#)’, Press release, 22 September 2022.

<sup>96</sup> Cyprus, Bill on school bullying and intimidating conduct in the school grounds and other related premises (Criminalisation, suppression and reform). Lodged with the Education House Committee on 12 May 2022.



unacceptable, asking for curriculum change.<sup>97</sup> The Ministry of Education published a policy paper on sexual education, committing itself to provide wholistic sexual education to all students in primary and secondary education, setting out the broad strategic goals.<sup>98</sup> The bill was finally adopted in December 2022, setting out the basics for a comprehensive sex education at all school levels. The law creates a duty for the Ministry of Education to provide comprehensive sexual education for children and adult persons attending schools at all grades of primary and secondary public and private education, following the guidelines of WHO, UNESCO and on the basis of the principles of human rights education. The Ministry, in collaboration with other stakeholders is responsible for implementing training programs for teachers at all levels on family planning and sexual education and for providing educational material and technical support. The Ministry will be obliged to submit to parliament every year an activity report. Following proposals submitted by the main opposition party and accepted by the parliamentary majority, stakeholders will include NGOs active in the field of education and sexuality and a system of monitoring and evaluating the effectiveness of the program, with the essential contribution of the children and the teachers; the evaluation must be submitted to parliament annually alongside the activity report.<sup>99</sup>

In the framework of implementing the juvenile justice law adopted in 2021,<sup>100</sup> juvenile courts were set up in every district and judges have been appointed. During 2022, the Council of Ministers appointed the members of the Monitoring Committee of the Decriminalisation Programmes, the establishment and powers of which are provided for in the juvenile justice law of 2021. The Committee is mandated with the evaluation and effective functioning of the

<sup>97</sup> Onoufriou, M. (2022), '[Σεξουαλική διαπαιδαγώγηση στα σχολεία](#)', *Simerini*, 10 September 2022.

<sup>98</sup> Cyprus, Ministry of Education and Culture, Policy on sexual education ([Πολιτική Υπουργείου Παιδείας και Πολιτισμού για τη σεξουαλική διαπαιδαγώγηση](#)], undated.

<sup>99</sup> Nomoplatform (2022), 'The Holistic Sex Education Law of 2022' ([Ο περί της Ολιστικής Σεξουαλικής Διαπαιδαγώγησης Νόμος του 2022](#))

<sup>100</sup> Cyprus, Law providing for the establishment of a system of criminal justice friendly for children in conflict with the law ([Νόμος που προβλέπει για την εγκαθίδρυση συστήματος ποινικής δικαιοσύνης φιλικής προς τα παιδιά που βρίσκονται σε σύγκρουση με το νόμο](#)), N.55(I)/2021.

	Decriminalisation Programmes and has a term of office of five years. It is composed of seven members, five from the public sector and two from the private sector. <sup>101</sup>
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<sup>101</sup> Communication from the Ministry of Justice to the FRANET contractor, 1 November 2022.

## **7 Access to justice – Victims’ Rights and Judicial Independence**

### **7.1 Legal and policy developments or measures relevant to the implementation of the Victims’ Rights Directive and the EU strategy for Victims’ Rights 2020-2025**

The Social Welfare Services are responsible for the victim’s access to support services. The victim or any agency or NGO may contact the Social Welfare Services if they have reason to believe that a person may be a victim under the provisions of the law. Depending on the type of support needed, the Social Welfare Services may provide free and confidential victim support services, or refer the victim to another organisation with whom the Social Welfare Services collaborate.<sup>102</sup> There is no 24-hour hotline or other specialised easily accessible service though, one would have to go through the telephone switchboard of the Deputy Ministry to locate the officer in charge.

The police continue to be responsible for the protection strand of the law. A document setting out the rights of the victims and a confirmation of having filed a complaint are distributed to police officers. The document of rights is translated in nine languages, was reportedly uploaded on the police website although not readily available, and was also converted into braille by the national confederation of disability organisations-KYSOA. The law transposing the Victims’ Directive also forms part of the training of all police officers at the police academy, involving both theoretical training as well as role playing by way of practical training. The training is also available at the police internal portal for police officers to consult as and when needed.<sup>103</sup>

#### **1. Amendment to law transposing the Victims’ Directive**

In March, the law transposing the Victims’ Directive was amended to the effect that

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<sup>102</sup> Letter from the Deputy Ministry for Social Welfare to the FRANET contractor, 12 October 2022.

<sup>103</sup> Letter from the Ministry of Justice to the FRANET contractor, 01 November 2022.

- The identity of a victim be transferred to the victim's family members when the victim is incapable of exercising judgement or will, provided this is certified by a doctor.
- At least where there is a risk of harm, the police must inform the victim without delay of the right to be informed about the perpetrator's release or escape from jail, the measures decided for the protection of the victim in the event that the perpetrator is no longer in jail, except where there is a risk of harm to the perpetrator or the victim agreed in writing not to receive this information. The prison department is also under a duty to provide information about the perpetrator's release or escape and measures for the protection of the victim.
- The competent governmental services will incite to the training persons from the private sector who come into contact with potential victims.
- A code of conduct must be compiled within three months from the date of adoption of this amendment.<sup>104</sup>

Following the 2022 amendment of the law, the police issued the Code of Conduct for the handling of victims of crime, printed in a booklet and distributed to all competent departments, for guidance on handling complaints. The Code includes information on the definition of a victim of crime, on the correct implementation of the law, awareness and sensitisation on the defence of the rights of victims of crime and guidance on professional conduct towards the victims. The Code of Conduct for the Handling of Victims of Crime was presented by the police to the Parliamentary Human Rights Committee on 5 September 2022.<sup>105</sup>

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<sup>104</sup> Cyprus, Law amending the 2016 law on establishing minimum standards regarding the support and protection of victims of crime ([Νομος που τροποποιεί τον περί της θεσπίσης ελάχιστων προτύπων σχετικά με τα δικαιώματα, την υποστήριξη και την προστασία θυμάτων της εγκληματικότητας νομο του 2016](#)), No. 36(I) of 2022, 30 March 2022.

<sup>105</sup> Demetriou, M. (2022), ['Κώδικας για τα θύματα βίας - Στην τελική ευθεία η συζήτηση'](#), *Phileleftheros*, 6 September 2022.

## **7.2 Measures addressing violence against women**

### **7.2.1 Implementing the Istanbul Convention- gaps and steps**

In March 2022 the Ministry of Justice announced that the Council of Ministers appointed the 12-member new Board of Directors of the National Coordinating Body for the Prevention and Combating of Violence against Women to monitor the implementation of the Istanbul Convention, after a long delay and the admission that no substantial steps were taken recently to implement the Istanbul Convention. Board members include the Gender Equality Commissioner, the chairperson of the Advisory Committee on Domestic Violence, representatives from the Attorney General's office, the Ministries of Justice, Education, Interior and Health, the Police, the Social Welfare Services, the Association of Social Workers, Association for the Prevention and Handling of Violence in the Family – SPAVO, to be chaired by the Ministry of Justice. The appointment is for a period of 3 years with effect from 3 March 2022. The Coordinating body is mandated with:

- The preparation of the first National Strategy and the first National Action Plan for the Prevention and Combating of Violence against Women 2023-2028. Both documents have already been drafted and will be subjected to public consultation with stakeholders. The Ministry of Justice expects that the documents will be finalized and submitted to the Council of Ministers for approval before year's end.
- The setting up of a single registry for the collection, processing, analysis and utilization of statistical data on all forms of violence included in the Istanbul Convention. The Ministry is collaborating with the State Ministry of Research, Innovation and Digital Policy to explore possible ways of cooperation to implement this project. The creation of a Unified Archive of Violence Statistics on a nationwide basis is estimated to make a key and substantial contribution to the design of more targeted measures and policies, as well as to the most effective response to gender-based violence.

The parliamentary debate that discussed the issue reported that the problem of gender-based violence has not yet been mapped in Cyprus, there is no victim-centred approach by the bodies called upon to implement the Convention, there is no evaluation of the protocols and there are gaps and weaknesses in the Police and the Ministry of Health. Parliamentarians discussed the two reservations to the ratification of the Istanbul Convention, valid until 2023, based on which foreign women

married to Cypriots who, when they seek divorce on the grounds of gender-based violence, are at risk of deportation once their residence permit expires; no compensation is paid to victims by the state.

The discussants identified further gaps in the framework impacting the efficient implementation of the Istanbul Convention:

- There is no legal aid for victims of gender-based violence, as eligibility is based on financial criteria; no woman victim of trafficking was granted legal aid in the period 2015-2019. Based on the legal aid law, legal aid is granted on the basis of a socio-economic report by the Welfare Office which certifies that the financial situation of the applicant and, if the applicant is a dependent family member, the financial situation of the applicant's family, does not permit the applicant to pay legal fees, taking into account the applicant's actual and expected earnings, any other income from work or other sources, the costs of basic needs for herself and her family and other obligations and needs.<sup>106</sup>
- The rejection by the Courts of a request for legal aid may not be adequately justified to enable an appeal against the decision.
- Women's appearance is still used against them in cases of sexual harassment and sexual abuse particularly in Court, during public cross-examination where a well-groomed physical appearance is used as a counter-argument.
- The project 'Women's House' deals only with cases of domestic violence, while all other cases are referred to the Police Crime Detection Units. Women who call or go there to the Women's House to report violence and ask for help are often advised not to report and told by police officers to go home.
- Police never file complaints for gender-based violence on their own initiative, even when they have witnessed the incident themselves, shifting the burden always on the victim to file this complaint.
- The state has shifted all its responsibilities to non-governmental organisations who lack both adequate resources to meet the demand for services and a system of accountability.
- Victims of trafficking and sexual abuse have to stand in queues at public hospitals and emergency wards. Medical practitioners are not qualified or trained to treat victims of gender-based violence.
- Police officers are not adequately trained to observe the protocols. When CSOs report an incident the police reaction is that the victim must make the call herself.

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<sup>106</sup> Cyprus, The legal aid law of 2002 ([Ο Περί Νομικής Αρωγής Νόμος του 2002](#)) N.165(I)/2002, article 7(1)(a).

- The name of the Women's House gives the impression that it is a shelter while it is not, giving victims the wrong impression.<sup>107</sup>

### **7.2.2 Legal aid for receivers of minimum guaranteed income – ‘Justice of All’**

A private initiative program was set up in 2022 purporting to address gaps in accessing legal aid by providing free legal assistance to the beneficiaries of the minimum guaranteed income who are not eligible for legal aid under the legal aid law. The programme will compile a register of lawyers willing to offer their services pro bono from their offices. Receivers of the minimum guaranteed income can visit online or offline one of the programme’s service centres, where a lawyer will offer free legal guidance to them. By completing the online application, their request will be forwarded to the organisation's lawyer who will review their application and either provide solutions or refer them to a member lawyer for more specialized handling. Although the program is not specifically designed for victims of gender-based violence, it might help provide legal representation and advice where the legal aid law does not.<sup>108</sup>

### **7.2.3 Supreme Court overturns criminal conviction for public harm by woman alleging she was raped**

On 31 January 2022, the Supreme Court allowed the appeal against the conviction for public nuisance of a young British woman who had filed a complaint for having been gang-raped by a group of Israeli youth at a tourist resort in Cyprus. The Supreme Court found that *important fair trial provisions had been disregarded at the trial court. In an 81-page decision, the majority of the Supreme Court set aside the first instance decision showing a series of errors, omissions and gaps by the trial court judge, the police and the prosecution. The defence's position was that the 19-year-old's statement, in which she said she was not a victim of rape, was taken under pressure from the investigators and that she was deprived of her right to a lawyer, while she never waived her right to one. The Republic's side stated that the 19-year-old had renounced her right to a lawyer, with the*

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<sup>107</sup> Demetriou M. (2022), ‘[Συστάθηκε Φορέας κατά έμφυλης βίας](#)’, Phileleftheros, 22 March 2022; Agapiou, T. (2022), ‘[Serious gaps in provision of legal aid to women victims of domestic violence](#)’, *Cyprus Mail*, 3 May 2022.

<sup>108</sup> For more details, see the project website [here](#).

young woman's defence, however, expressing the position that the sergeant-in-charge of the interrogation did not inform her of this right, but instead, when she asked for a lawyer, he denied her one.

The Supreme Court found that the trial court had failed to take notice of the particular circumstances of the police interrogation, namely that a 19-year-old woman had been summoned to the police in the afternoon for a supplementary statement as a complainant, that six hours later she was still being questioned, after midnight, as a suspect, and that at 01:15 she was allegedly making a wilful statement without the presence of a lawyer. The Supreme Court held that, instead of examining both sides, the trial court made a very brief recitation of the Prosecution's testimony but evaluated the 19-year-old's testimony in depth and thoroughly, adding that the evaluation of the Prosecution witnesses was done on one page of the Interlocutory Judgment, while the trial court extended to nine pages for the evaluation of the 19-year-old, and took another five pages for the evaluation of the defence witnesses.

The Supreme Court stated that the trial court took an absolutist approach in its assessment, without putting the testimony in the light of the particular circumstances of the case and, in particular, without taking into account that the guarantees for waiving the right to a lawyer were not met. The Supreme Court pointed out that the Court's discretion as to the admissibility of a confession must be exercised with great care and always mindful of the fact that it is the prosecution that has the burden of proving admissibility and not the accused, indicating that any doubt as to the circumstances in which the young woman's statement was made in 'suspicious circumstances' renders the confession inadmissible as evidence. The Supreme Court referred to ECtHR jurisprudence, dictating that reasonable steps must be taken to ensure that the suspected or accused persons are fully aware of their rights and are able to appreciate the consequences of waiving them. The judgement concluded that the imposed and overriding obligations as a matter of safeguarding the rights of a suspected person were not observed in the case of the 19-year-old, nor were the facts in which they have been cited, namely that a 19-year-old in a foreign country was called to the police as a complainant for clarification. The trial court had failed to ascertain the truth of the contents of the confession, notwithstanding its own finding that the appellant's oral testimony was unreliable. Instead, it confined itself to stating in passing that her confession was "consistent with the rest of the testimony" without identifying those elements of the testimony with which it considered it to be consistent; had it done so, it would have found that such gaps and ambiguities that it would constitute an improper exercise of its discretion to admit the confession as testimony. The Supreme Court stated that the trial



court's frequent and strong references to the fact that it was not trying a rape case suggested that the trial judge did not have in mind that it was sufficient for the defence to create reasonable doubt as to the element of false testimony.<sup>109</sup>

#### **7.2.4 The GREVIO report on Cyprus is published**

In November 2022 the Council of Europe's Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) published its first baseline report on Cyprus.<sup>110</sup> The report mentions the 2021 adoption of legislation for alignment of the national framework more closely with the Istanbul Convention<sup>111</sup> particularly as regards the definition of rape, the criminalisation of stalking in 2021<sup>112</sup> and the 2020 law on combating sexism. It highlights the provision for both criminal and civil liability of legal persons for the commission of violence against women as a measure fostering greater accountability of employers, which goes beyond the requirements of the Istanbul Convention, as well as the criminalisation of sexual and gendered online harassment including images taken without consent and their on line dissemination. On the policy level, the report commends the setting up of the Women's House offering a wide range of support services to victims under one roof and the establishment in March 2022 of the institutionalised co-ordinating body with dedicated resources and mandate to foster co-ordination and monitoring. The report mentioned the following as issues of concern:

- The absence of a rape crisis or sexual violence referral centre, offering comprehensive support to victims of sexual violence/rape. The current forensic procedure that evidence can be lifted from the victim only if she has reported the violence to the police must be abolished as it is not in line with the Convention.

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<sup>109</sup> Cyprus Supreme Court (2022), *F.L.H. v The Police*, Criminal Appeal No. 4/2020, ECLI:CY:AD:2022:D32, 31 January 2022.

<sup>110</sup> Council of Europe (2022), '[GREVIO's \(Baseline\) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence \(Istanbul Convention\)- CYPRUS](#)', adopted on 13 October 2022 and published on 23 November 2022.

<sup>111</sup> Cyprus, Law on the prevention and combating of violence against women and of domestic violence and related matters of 2021 (*Ο Περί Πρόληψης και της Καταπολέμησης της Βίας κατά των Γυναικών και της Ενδοοικογενειακής Βίας και Περί Συναφών Θεμάτων Νόμος του 2021*) N. 115(I)/2021

<sup>112</sup> **Cyprus, Law on the protection from harassment and stalking of 2021** (*Ο περί της Προστασίας από Παρενόχληση και Παρενοχλητική Παρακολούθηση Νόμος του 2021*) **N. 144(I)/2021**.

- The overlapping and contradicting provisions between the 2000 law on domestic violence which remains in force and the 2021 law for harmonising the Istanbul Convention.
- The absence of centralised database on all forms of violence against women, as current data is scarce, disjointed and incapable of providing an overall picture.
- Despite police training, prejudices and patriarchal attitudes persist in the police force, leading to failure to record incidents of violence against women and inaction of the police, which, in turn led to underreporting.
- The tendency of law enforcement authorities to over-rely on the victim's statement, failing to collect additional evidence, which in turn led to a low number of successful court cases.
- The lack of mandatory training of prosecutors and judges, some of whom have been reported to demonstrate sexist and misogynist attitudes towards women victims general insufficient understanding of the paradigmatic shift in proving rape.
- Shortcomings both in the law and in the practice of family courts when deciding on custody and visitation rights after domestic violence. The custody framework makes no explicit reference to domestic violence or other forms of violence against women as a criterion when deciding on custody and visitation. Family courts tend to interpret the best interest of the child as maintaining contact with both parents in all cases, leading to safety risks of the victim and/or the child during visitation with abusive fathers.
- The low number of decisions granting refugee status on the basis of gender-related forms of persecution. Where a status is granted this is usually subsidiary protection which denies the right to family reunification.
- The reception conditions of women and girls seeking asylum are inadequate, as the vulnerability screening is often not carried out immediately, leading to victims of gender-based violence going unidentified. Victims are also subjected to protracted periods of de facto detention in the Pournara first reception centre, in sub-standard conditions, without adequate measures to separate single women and unaccompanied girls from men, resulting in numerous reports of sexual violence.

The report compiled a long list of issues that need to be addressed in order for Cyprus to fully comply with the Istanbul Convention. These include the development of a central policy document offering holistic response for all forms of violence against women providing for effective cooperation structures between the competent institutions; integrate perspectives of intersection discrimination involving gender, race and disability; provide sustainable funding for prevention programmes and policies to women's organisations specialised in the field; ensure that the new Coordinating Body does not overlap with the Advisory Committee on combating domestic violence; ensure systematic and mandatory in service training of all front line professionals; extend the roll out of the Women's House to other parts of the country; develop protocols in hospitals to identify treat and refer victims of gender based violence with particular focus on the needs of victims of FGM; ensure support to victims of all forms of violence beyond domestic violence; ensure effective cooperation with CSOs in policy making; promote regular awareness raising; strengthen media standards on non-sexist portrayal of women in the media and on reporting violence they have suffered.

## **8 Developments in the implementation of the Convention on the Rights of Persons with Disabilities**

### **8.1 CRPD policy and legal developments & implementation of the European Accessibility Act**

#### **8.1.1 Evaluation of implementation of action plan**

The Department of Social Integration of Persons with Disability (DSIPD) has published its report on the implementation of actions foreseen under the third action plan for disability 2021-2023, offering an evaluation of the efforts made towards meeting the goals set in the action plan, which includes 135 actions (58 new actions and 77 ongoing actions), to be implemented by 8 Ministries and 3 Deputy Ministries. The report for the actions undertaken in 2021 concluded that:

- 63 or 47% actions were fully implemented;
- 43 actions or 32% were partially implemented;
- 29 actions or 21%, were not implemented for various reasons, including the pandemic, understaffing of services, delay in consultations and the legislative or legislative-technical process; these are planned to be implemented in the next two years of the National Disability Action Plan 2021-2023.

The main actions implemented include:

- The assessment of disability performed by the DSIPD in the framework of an evaluation system which commences in 2021; during 2021 a total of 5,200 evaluations were carried out and the persons with disabilities received a comprehensive finding of their disability and their rights. In 2021, the Educational Psychology Service handled 7,789

children with learning, behavioural and adjustment problems in the school environment, based on the legislation on special education, out of which 3,018 were new cases, and follow-up continued for 4,771 children previously evaluated.<sup>113</sup>

- A new centre for autism was set up, entitled Family Intervention and Support Centre for Autism "AKTIDA", operational since October 2021, following a public tender and its award by the Department of Social Integration of Persons with Disabilities to a consortium contractor. The Centre was housed in premises of an existing foundation for persons with mental disabilities and it is serving preschool children diagnosed with autism spectrum and their families nationwide. The centre employed seven Psychologists and 15 Trainers, providing support, counselling and training services, in collaboration with seven Inclusion Officers of the Department of Social Inclusion of Persons with Disabilities. The project is part of the 'Thaleia' programme with a budget of €5 million for the programming period 2021-2027 and co-financed by the European Social Fund.<sup>114</sup>
- The Ministry of Education, Sports and Youth provided educational and support services to children in special education. A total of 1,010 Special Education Teachers were employed in 2021 in public kindergartens, primary and special schools. Based on the recommendations of the District Committees, specialized technological and other equipment, were provided to eligible children, for a total amount of €250,000. A total of 809 School Assistants were employed to meet the needs of 7,334 children attending Public Kindergartens, Primary and Special Schools, Optional and Single Day Schools. Free transport was provided for children attending Special Schools or Special Units outside their educational region at a total cost of €1.5 million, while the transport of parents who drive their children to and from school themselves was subsidized with a total amount of €659,000. An additional amount of €425,000 was spent on the free transport of beneficiary children to secondary education. In order to better serve the needs of children attending secondary schools, lyceums and Technical Vocational Education and Training Schools, support is provided by Secondary Education teachers who are

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<sup>113</sup> Cyprus, Department of Social Integration of Persons with Disabilities (2022), 'Detailed report on the implementation of actions 2021 of the Third National Disability Action Plan 2021-2023' ([Αναλυτικός απολογισμός υλοποίησης δράσεων 2021 του Τριτου Εθνικου Σχεδίου Δράσης για την Αναπηρία 2021-2023](#)) 24 August 2022.

<sup>114</sup> Cyprus, Department of Social Integration of Persons with Disabilities (2022), 'Detailed report on the implementation of actions 2021 of the Third National Disability Action Plan 2021-2023' ([Αναλυτικός απολογισμός υλοποίησης δράσεων 2021 του Τριτου Εθνικου Σχεδίου Δράσης για την Αναπηρία 2021-2023](#)) 24 August 2022.

specialised in special education (holders of a Master's degree or a second degree in Special Education or post-graduate/seminar training) and have relevant experience in teaching special education and training.<sup>115</sup>

- Training programmes were implemented for general school principals and teachers on the topics of early identification of disability and referral of children for evaluation, overcoming prejudice and accommodating diversity, combating racism, understanding, preventing and addressing behavioural problems, utilizing alternative forms of teaching and assessment of students, communication skills, etc. Training was also offered to special teachers for teaching and supporting pupils with visual or hearing disabilities and the use of Cypriot Sign Language, school assistants/assistants on the subject of adaptation and support for children on their return to the school environment after the pandemic, parents and caregivers on topics such as empowerment techniques on bullying, developing parenting skills in discipline methods that foster responsibility and mental resilience in children, supporting the child in anger management, opportunities for inclusion in supported employment, etc.<sup>116</sup>
- A number of accessibility works were carried out, in order to improve access to 17 public schools, create new parking slots for persons with disabilities and upgrade the mobility plan for Nicosia so as to address accessibility needs.<sup>117</sup>
- The SunFlower Lanyard Program was implemented by the private company Hermes Airports which runs both airports in Cyprus. The program is aimed at make it clear to airport and airline staff in a discreet way that travellers with invisible conditions and disabilities may need extra help when travelling. This includes persons with autism, Crohn's disease, pacemaker, epilepsy and various other conditions and staff are directed to assist them by enabling them to avoid queues,

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<sup>115</sup> Cyprus, Department of Social Integration of Persons with Disabilities (2022), 'Detailed report on the implementation of actions 2021 of the Third National Disability Action Plan 2021-2023' ([Αναλυτικός απολογισμός υλοποίησης δράσεων 2021 του Τριτου Εθνικου Σχεδίου Δράσης για την Αναπηρία 2021-2023](#)) 24 August 2022.

<sup>116</sup> Cyprus, Department of Social Integration of Persons with Disabilities (2022), 'Detailed report on the implementation of actions 2021 of the Third National Disability Action Plan 2021-2023' ([Αναλυτικός απολογισμός υλοποίησης δράσεων 2021 του Τριτου Εθνικου Σχεδίου Δράσης για την Αναπηρία 2021-2023](#)) 24 August 2022.

<sup>117</sup> Cyprus, Department of Social Integration of Persons with Disabilities (2022), 'Detailed report on the implementation of actions 2021 of the Third National Disability Action Plan 2021-2023' ([Αναλυτικός απολογισμός υλοποίησης δράσεων 2021 του Τριτου Εθνικου Σχεδίου Δράσης για την Αναπηρία 2021-2023](#)) 24 August 2022.

provide direct access to toilets, faster security checks and boarding and the chance not to be separated from their parents even if they are adults.<sup>118</sup>

An evaluation of the actions carried out in 2022 will be completed by year's end.<sup>119</sup>

### **8.1.2 The European Accessibility Directive**

The process of transposition of the European Accessibility Directive into national law was not completed at the date of writing. Due to the wide range of products and services falling within the scope of the Directive, consultations with competent government ministries and stakeholders was needed, to determine the market surveillance and conformity control authorities. Once the control authorities are designated, following a decision by the President of the Republic, then the transposition bill can be finalised.<sup>120</sup>

### **8.1.3 Implementation gaps identified by disability organisations**

During a parliamentary session of the House Human Rights Committee, attended by the disability organisations, the Ombudsperson and the Department for Social Integration of Persons with Disabilities, the Confederation of Disability Organisations KYSOA raised a number of issues of concern. In particular, KYSOA reported that the Department excluded them from committees in which they were participating in the past; the justification offered by the Department was that KYSOA was not permitted to participate in committees regarding their members. KYSOA argued that this cannot be the case because it is recognised by law as a social partner that must be consulted on all matters pertaining to disability. During the parliamentary discussion, KYSOA stated that the Department was carrying out consultations with specific organisations members of KYSOA instead of KYSOA, attempting to marginalise KYSOA and turn it into a minority organisation because it is bothered by KYSOA's demands. The Department director rejected the claims of KYSOA about efforts to marginalise them and at the same time noted that it has an excellent collaboration with one of the organisations members of KYSOA whom the Department consults separately.<sup>121</sup> In December, the Ombuds institution issued a self-initiated statement in its capacity as monitoring body for the

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<sup>118</sup> For more details, see the relevant webpage of the airport [here](#); and the webpage of the international programme [here](#).

<sup>119</sup> Letter from the Department for Social Integration of Persons with Disabilities 10 October 2022.

<sup>120</sup> Letter from the Department for Social Integration of Persons with Disabilities 10 October 2022.

<sup>121</sup> Demetriou, M.(2022), '[Πυρ ομαδών για τον αποκλεισμό των ΑμεΑ](#)', *Phileleftheros*, 28 June 2022.

CRPD regarding the consultation process, concluding that the authorities have a duty to consult both KYSOA as well as other organisations of persons with disabilities, calling on the Ministry of Labour to consider adopting an institutionalised permanent consultation mechanism to ensure that widest possible participation of persons with disabilities through their representative organisations.<sup>122</sup>

KYSOA further complained about reductions and withdrawals of benefits and policies of exclusion from the labour market. The representatives of the Autism Association complained about the lack of independent living structures for adults with autism and stressed the need for the criminalisation of disability discrimination; and the representative of the association of persons with psychiatric illnesses stated that their rights are being infringed whilst there has been no progress for them in the past ten years. MPs referred to age limits in the conditions of eligibility for disability benefits and asked for a road map of two months in order for the government to come up with solutions.<sup>123</sup> KYSOA asked for the establishment of a special accessibility authority in order to deal specifically with accessibility issues.

In September 2022 the Confederation of Disability Organisations KYSOA issued a press release protesting against violations of the EU funded program of the European Disability Card by the Paralimni Municipality. The program, which is carried out in eight member states including Cyprus provides card holders with benefits including free use of up to 10% of all umbrellas and sunbeds in beaches. Contrary to the terms of the project, the municipality of Paralimni has a practice of locking up umbrellas and sunbeds designated for persons with disabilities and refuses to recognise the European Disability Card. Despite having lodged complaints against this municipality with various bodies, the practice persisted for the entire 2022.<sup>124</sup>

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<sup>122</sup> Cyprus, Commissioner for Administration (2022), Self-initiated statement of the Commissioner for Administration in her capacity as independent mechanism for the promotion, protection and monitoring of the UN Convention on the Rights of Persons with Disabilities concerning the obligation of agencies to consult with the KYSOA on matters concerning persons with disabilities, as well as with their representative organisations on matters relating to them ([Αυτεπάγγελτη Τοποθέτηση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων, υπό την ιδιότητα του Ανεξάρτητου Μηχανισμού Προώθησης, Προστασίας και Παρακολούθησης της Σύμβασης του ΟΗΕ για τα Δικαιώματα των Ατόμων με Αναπηρίες αναφορικά με την υποχρέωση των Υπηρεσιών να διαβουλευούνται με την ΚΥΣΟΑ σε θέματα που αφορούν άτομα με αναπηρία, καθώς και τις αντιπροσωπευτικές τους οργανώσεις για θέματα που τους αφορούν](#)), Ref. A.S.A. 5/2016, 21 December 2022.

<sup>123</sup> Reporter (2022), [Καταπέλτης η ΚΥΣΟΑ, καταγγελίες για αποκλεισμό από επιτροπές και αγορά εργασίας](#), 27 June 2022.

<sup>124</sup> Cyprus Confederation of Disability Organisations KYSOA (2022), 'Κατάφορη παραβίαση των προνοιών του Προγράμματος της Ευρωπαϊκής Κάρτας Αναπηρίας από το Δήμο Παραλιμνίου', Press release 20 September 2022.



#### **8.1.4 Ombudsperson report on the duty to provide reasonable accommodation at work to mothers of children with disabilities**

1. In October 2022, the Ombudsperson in her capacity as monitoring body for the CRPD and as Equality Body, issued a report in response to four complaints from women health professionals working in public hospitals, submitted in 2018, 2019 and 2022. The complaints were directed against the refusal of their employer to facilitate them in terms of working hours or workplace in order to be able to care for their children, who are persons with disabilities. Three of the complainants had requested for transfers to positions where they could work on a five-day-per-week schedule, whilst the fourth complainant had requested to be relocated from a hospital in the countryside where she served for ten years to a health centre close to her house to be able to cater for the increased needs for her disabled child. The Ombudsperson's report cited the CJEU ruling in *Coleman*<sup>125</sup> to conclude that the equal treatment of unequal situations which underestimates the proven needs deriving from disability, amounts to disability discrimination. The report recommends that the complainants' requests against the state hospitals be re-examined; and that the organisation of public hospitals develops and implements a code of practice or guidelines to implement the findings of this report as regards the handling of requests from employees with children with disabilities. The report concludes that in the event that the recommendations are not adopted, the Ombudsperson may proceed to issue a binding recommendation under its Equality Body mandate.<sup>126</sup>

#### **8.1.5 Administrative court interim decision blocking the transfer of a student to a special school pending trial**

In November 2022 the Administrative Court granted an application for suspending the decision of the Ministry of Education to transfer a student to a special school, until the parents' appeal against the decision of the Ministry of Education to transfer him to a special school is heard. The case concerned a sixth grade student of an elementary school who had been ordered by the Ministry of Education to continue his education as of 2023 to a special education unit, in the middle of the school year, in

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<sup>125</sup> Court of Justice of the European Union (CJEU), C-303/06, and S. Coleman v Attridge Law and Steve Law, 17 July 2008.

<sup>126</sup> Cyprus, Commissioner for Administration (2022), Position of the Commissioner for Administration and Human Rights Rights under the capacity of Independent Mechanism Promotion, Protection and Monitoring of the UN Convention on the Rights of Persons with Disabilities and the Equality and Anti-Discrimination Body concerning the obligation to provide accommodation at work to mothers of children with disabilities ([Τοποθέτηση Επιτρόπου Διοικήσεως και Προστασίας Ανθρώπων Δικαιωμάτων υπό την ιδιότητα του Ανεξάρτητου Μηχανισμού Προώθησης, Προστασίας και Παρακολούθησης της Σύμβασης του ΟΗΕ για τα Δικαιώματα των Ατόμων με Αναπηρίες και του Φορέα Ισότητας και Καταπολέμησης των Διακρίσεων αναφορικά με την υποχρέωση παροχής διευκολύνσεων στην εργασία σε μητέρες παιδιών με αναπηρίες](#)), 11 October 2022.

another school. His parents appealed against this decision and at the same time filed an order to suspend implementation of this decision. The court granted the order suspending implementation of the Ministry's decision, on the grounds that the contested decision did not focus on the best interests of the child, nor on the purposes that the right to education should serve, but instead forced the child to change his environment and attend a special unit, without a proper and legitimate assessment of his best interests, no account was taken of the fact that the sudden and complete change of environment for the last, sixth, year of his primary schooling would have an adverse and irreparable effect on his state of health and, consequently, on his education, socialisation and training.<sup>127</sup>

## **8.2 CRPD monitoring at national level**

There were no changes to the monitoring mechanisms in 2022. The Department for Social Integration of Persons with disabilities continues to serve as focal point and the Ombudsperson as the monitoring mechanism under article 33(2) of the CRPD. The Pancyprian Council for Persons with disabilities, originally conceived as the joint body of policy makers and disability organisations, which had not convened for several years because of the withdrawal of the National Confederation of Disability Organisations (KYSOA), convened for the first time in years in 2022 with the participation of KYSOA.<sup>128</sup>

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<sup>127</sup> Politis, ['Φρένο στη μετακίνηση μαθητή σε ειδική μονάδα από Διοικητικό Δικαστήριο'](#), 28 December 2022.

<sup>128</sup> Consultation with the President of KYSOA, 10 October 2022.

## Annex 1 – Promising Practices

<b>Thematic area</b>	<b>EQUALITY AND NON-DISCRIMINATION</b> Please provide one example of a promising practice to tackle discrimination against LGBTIQ people or discrimination on the grounds of socio-economic status, health status and physical appearance, such as awareness raising campaigns or training for relevant professionals. Where no such examples are available, please provide an example of an awareness raising campaign held in your country in 2022 relevant to equality and non-discrimination of LGBTIQ people or on the other above-mentioned grounds, preferably one conducted by a national equality body.
<b>Title (original language)</b>	No promising practice has been identified for this thematic area

<b>Thematic area</b>	<b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b> Please provide one example of a promising practice to address racism and xenophobia. Please give preference to a promising practice about participation and engagement of Equality bodies and CSOs in addressing racism and hate crime. Where no such practice exists, please provide one example of a promising practice related more generally to combating racism, xenophobia, and related intolerances.
<b>Title (original language)</b>	Αντιρατσιστικό εκπαιδευτικό υλικό
<b>Title (EN)</b>	Anti-racist educational materials
<b>Organisation (original language)</b>	Όμιλος ιστορικού διαλόγου και έρευνας + Gesicht Zeigen!
<b>Organisation (EN)</b>	Association for historical dialogue and research + Gesicht Zeigen!
<b>Government / Civil society</b>	Civil society. The project is the result of a collaboration between the German NGO Gesicht Zeigen!
<b>Funding body</b>	The Federal Foreign Office of Germany.

<b>Reference (incl. URL, where available)</b>	Association for historical Dialogue and Research, <a href="#">Anti-racist Educational Materials</a>
<b>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</b>	The development of the material commenced in 2021. During 2022 the material was approved by the Ministry of Education and was distributed to schools; the NGO offered training to teachers on how to utilise it. The material started to be used in schools in the last months of 2022 and is still ongoing. No evaluation feedback was received by end of 2022.
<b>Type of initiative</b>	NGO produces anti-racist recreation games to be used at schools.
<b>Main target group</b>	Teachers and students aged 10+
<b>Indicate level of implementation: Local/Regional/National</b>	National
<b>Brief description (max. 1000 chars)</b>	In the context of a wider collaboration between the Cypriot NGO Association of Historical Dialogue and Research and the German NGO Gesicht Zeigen!, educational material was produced in Greek, Turkish and English to be used in schools across the country to foster a culture of anti-racism through innovative and entertaining tools for children aged 10+. The material consists of interactive games played in the classroom that can be used for all lessons: there is material for biology, statistics, use of the language, literature, English language, life skills learning, home economics and religious instruction, as it tackles issues of 'biological race', stereotypes perpetrated through language, racial and religious discrimination and diversity. The aim is to bring together teachers, students and researchers from different disciplines to discuss racism, injustice and inequality in a fun and interactive way, fostering dialogue and interdisciplinarity to trigger a paradigm shift from glorifying one's civilisation towards intercultural respect and solidarity.
<b>Highlight any element of the actions that is transferable (max. 500 chars)</b>	The material had already been developed and used in Germany by another NGO. The Association for Historical Dialogue and Research translated it and adapted it to the Cypriot context, to be used in both sides of the barbed wire: it is available in Greek, in Turkish and in English, so as to be used in schools across the country and provide a common platform for anti-racist education. Similar adaptations and translations can be made in order to produce material to be used in all countries.

<p><b>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</b></p>	<p>The material was approved by the Ministry of Education and Culture and already one third of all schools across the country received it and are using it in the classroom, in the context of teaching the subjects of the analytical program. The material can be applied to all lessons and follows a recreational approach to learning, using modern teaching methods to deconstruct stereotypes and intolerance. It adopts a wide definition of racial discrimination deploying practical methods to communicate the values of inclusion, tolerance and social justice and analyse in a playful way the phenomena that produce racism and injustice.</p>
<p><b>Give reasons why you consider the practice as having concrete measurable impact</b></p>	<p>It provides timely intervention before social constructs are embedded and formulate mentalities. The fact that they are being taught at schools adds an authoritative dimension to anti-racism as a value system. The material is being used with a specific and measurable audience consisting of both educationalists and students who are being called upon to reflect on values and roles through the teaching of the regular analytical program.</p>

<p><b>Thematic area</b></p>	<p><b>ROMA EQUALITY AND INCLUSION</b>  <b>Please provide one example of promising practice in relation to the two topics addressed in the chapter: regarding the implementation of national action plans and regarding the legal or policy developments addressing Roma/Travellers equality and inclusion.</b></p>
<p><b>Title (original language)</b></p>	<p>No promising practice has been identified for this thematic area</p>

<p><b>Thematic area</b></p>	<p><b>INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION</b>  <b>Please, provide one example of a promising practice related to the topics addressed in the chapter, i.e., in relation to data protection, and/or artificial intelligence systems.</b></p>
<p><b>Title (original language)</b></p>	<p>No promising practice has been identified for this thematic area</p>

<b>Thematic area</b>	<b>RIGHTS OF THE CHILD</b> Please provide a promising practice for the related topics addressed in the chapter (i.e., the impact of poverty and exclusion on children and children and justice).
<b>Title (original language)</b>	No promising practice has been identified for this thematic area

<b>Thematic area</b>	<b>ACCESS TO JUSTICE – Victim’s Rights and Judicial Independence</b> Please provide one example of a promising practice in relation to the topic address in the chapter: i.e. Victim’s Rights Directive, the EU Strategy for Victim’s Rights and violence against women.
<b>Title (original language)</b>	No promising practice has been identified for this thematic area

<b>Thematic area</b>	<b>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD)</b> Please provide one example of a promising practice of national monitoring bodies (e.g., a well-run outreach campaign, an inclusive survey, a successful effort or initiative to improve legislation, etc.) in relation to projects or programmes implementing the CRPD or promoting the rights of persons with disabilities. Where no such practice exists, please provide one example of a promising practice in relation to projects or programmes implementing the CRPD or promoting the rights of persons with disabilities, focussing on projects and programmes implemented with EU funding.
<b>Title (original language)</b>	No promising practice has been identified for this thematic area

## Annex 2 – Case Law

<b>Thematic area</b>	<b>EQUALITY AND NON-DISCRIMINATION</b> Please provide one high court decision addressing discrimination against LGBTIQ people or on the grounds of socio-economic status, health status and physical appearance (not related to health or disability or to other grounds like ethnic origin, religion). Where relevant, always highlight any relevance or reference to multiple or intersectional discrimination in the case you report.
<b>Decision date</b>	No case law has been identified for this thematic area

<b>Thematic area</b>	<b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b> Please provide the most relevant <u>high court</u> decision concerning the application of <u>either</u> the Racial Equality Directive or the Framework Decision on racism and xenophobia, addressing racism, xenophobia, and other forms of intolerance more generally.
<b>Decision date</b>	No case law has been identified for this thematic area

<b>Thematic area</b>	<b>ROMA EQUALITY AND INCLUSION</b> Please provide the most relevant high court decision addressing violations of fundamental rights of Roma and Travellers.
<b>Decision date</b>	No case law has been identified for this thematic area

<b>Thematic area</b>	<b>ASYLUM, VISAS, MIGRATION, BORDERS AND INTEGRATION</b> Please provide the most relevant high court decision – or any court ruling – relating to the processing of personal data by new technologies in asylum, migration and border management delivered in 2022 (on Eurodac, SIS and VIS).
<b>Decision date</b>	No case law has been identified for this thematic area

<b>Thematic area</b>	<b>INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION</b> Please provide the most relevant high court decision related to the topics addressed in the chapter (i.e. data protection, and/or artificial intelligence systems).
<b>Decision date</b>	26 January 2022.
<b>Reference details</b>	Cyprus Supreme Court Primary jurisdiction (2022), <a href="#">Re. the application of XXX Memic for permit to file a certiorari order</a> , Civil application No. 228/2021, ECLI:CY:AD:2022:D26.
<b>Key facts of the case (max. 500 chars)</b>	In April 2019, the District Court issued an order authorising access to the written content of private communications of the applicant, following an application filed by the police, for the purpose of investigating serious crimes. In August 2019 the applicant filed an application for a certiorari order to cancel the said access to his private communications. The Court found that the challenged access order infringed the Charter of Fundamental Rights, the Constitution and union law on data protection. Given the significance of the issue at stake, the Attorney General referred the case to the Full Bench of the Supreme Court, to determine whether the order for access to the private communications could indeed be cancelled.



<p><b>Main reasoning/argumentation (max. 500 chars)</b></p>	<p>The applicant argued that the legislative provisions which the access order sought to rely on, namely the national data retention law,<sup>129</sup> had been rendered invalid by the 2021 Court decision in the <i>Hadjiioannou</i> case.<sup>130</sup> The Attorney General sought to challenge the applicant's claim, on the ground that the access order had not relied on the data retention law but on another law for the protection of the confidentiality of private communications<sup>131</sup> which had nothing to do with the data retention law. The Attorney General argued that the law on confidentiality of communications provides access to telephone data in a targeted manner, when the telephone equipment is in the possession of the police following a court order to that effect, only when there is reasonable suspicion that a crime was committed and the private communication is relevant; as a result the CJEU rulings which led to the invalidation of the national data retention law do not apply to this law, as they relate only to preventive retention of data.</p>
<p><b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b></p>	<p>There are two separate pieces of legislation relevant to accessing private communication, namely the data retention law, part of which had been rendered invalid as a result of non-compliance with the Charter and union jurisprudence on data protection, and a more recent law on the protection of private communications, which regulates the conditions under an order for monitoring private communications can be issued. The latter legislation provides for targeted and restricted surveillance measures which may be deemed as proportionate. However to the extent that access is sought into data that has been retained, then the data retention law also comes into play and cannot be set aside as irrelevant. The invalidation of the data retention law is intended to restrict mass surveillance of the population by barring the police from using massively retained data in</p>

<sup>129</sup> Cyprus, Law on retention of telephone data for the purpose of investigating serious crimes of 2007 ([Ο περί Διατήρησης Τηλεπικοινωνιακών Δεδομένων με σκοπό τη Διερεύνηση Σοβαρών Ποινικών Αδικημάτων Νόμου του 2007](#)) N. 183(I)/2007, articles 3, 6, 7, 8, 9, 10 and 13.

<sup>130</sup> Cyprus Supreme Court (2021), [Civil Applications concerning telephone data no. αρ. 97/18, 127/18, 140/19-143/19, 154/19, 169/19, 36/20 and 46/20, 19-143/19: D487](#), 27 October 2021.

<sup>131</sup> Law on the protection of the privacy of private communications ([Ο περί Προστασίας του Απορρήτου της Ιδιωτικής Επικοινωνίας Νόμος](#)) N. 92(I)/1996.

	<p>court; whilst the law on private communications sets the parameters for monitoring private communications following the issue of the relevant court order.</p>
<p><b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b></p>	<p>The Court rejected the Attorney General’s argument and ruled that access order granted to the police had relied on both the data retention law and the law on the confidentiality of communications. The data to which the police was given access had been retained by the service provider in accordance with the data retention law and such retention had been found to violate Union law. The Court concluded that the two laws are interconnected and that the aim of the law on confidentiality of communications cannot be served without the data retained under the data retention law. The invalidation of the data retention law in 2021 raised objections with the police and the Ministry of Justice who feared that many criminal investigations and convictions were in the air, for having relied on retained data.<sup>132</sup> The effort to address this gap by focusing judicial attention on the more recent legislation on monitoring private communications did not yield results, as the source of the evidence was the data retained and not the data obtained following the targeted and legally authorised telephone surveillance.</p>
<p><b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b></p>	<p>Η παρούσα περίπτωση, δεν διαφοροποιείται, όπως εισηγείται ο ευπαίδευτος συνήγορος της Κυπριακής Δημοκρατίας. Η αίτηση η οποία οδήγησε στην έκδοση του επίδικου διατάγματος, είχε ως νομικό έρεισμα, αμφότερους τους Νόμους ήτοι το Ν. 183(I)/2007 και το Ν.92(I)/96 και όχι μόνο τον δεύτερον εξ αυτών. Το αιτητικό αυτού σαφώς παρέπεμπε στο Ν. 183(I)/2007, διευκρινίζοντας πως: «Περαιτέρω ζητείται η πρόσβαση σε δεδομένα ως αυτά ορίζονται στον περί Διατήρησης Τηλεπικοινωνιακών Δεδομένων στα άρθρα 6, 7, 8, 9, 10 και 11 με σκοπό τη διερεύνηση Σοβαρών Ποινικών Αδικημάτων νόμου του 2007, τα οποία εύλογα πιστεύεται ότι βρίσκονται καταγεγραμμένα ή περιέχονται στα δεδομένα που αναφέρονται στο Μέρος II». Η παραπομπή στο Ν. 183(I)/2007 και τα άρθρα τα συγκεκριμένα δεν έγινε απλά και μόνο για σκοπούς ερμηνείας και επεξήγησης, αλλά για καθορισμό των δεδομένων που εξητούντο και των οποίων ο Ν. 183(I)/07, προνοεί τον τρόπο διατήρησης τους και την υποχρέωση του παροχέα υπηρεσιών να τα διατηρεί. Διατήρηση η οποία κρίθηκε ως αντιβαίνουσα το ενωσιακό δίκαιο.</p>

<sup>132</sup> Hadjivasilis, M. (2021), [‘Στον αέρα σοβαρές υποθέσεις λόγω προσωπικών δεδομένων’](#), *Phileleftheros*, 28 October 2021.

	<p>The present case is not differentiated, as suggested by the learned counsel for the Republic of Cyprus. The application which led to the issuance of the impugned order had as its legal basis, both Laws namely Law 183(I)/2007 and Law 92(I)/96 and not only the latter. The application of the latter clearly referred to Law 183(I)/2007, specifying that: "It is further requested to access data as defined in the Retention of Telecommunications Data in Articles 6, 7, 8, 9, 10 and 11 of the Retention of Telecommunications Data Act 2007 for the purpose of investigating Serious Criminal Offences Act 2007, which is reasonably believed to be recorded or contained in the data referred to in Part II". The reference to Law 183(I)/2007 and the articles in question was not simply for the purpose of interpretation and explanation, but to define the data sought and of which Law 183(I)/07 provides for the manner of retention and the obligation of the service provider to retain it. Retention which was found to be contrary to EU law.</p>
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<b>Thematic area</b>	<b>RIGHTS OF THE CHILD</b> <b>Please provide the most relevant high court decision for the related topics addressed in the chapter.</b>
<b>Decision date</b>	No case law has been identified for this thematic area

<b>Thematic area</b>	<b>ACCESS TO JUSTICE – Victim’s Rights and Judicial Independence</b> <b>Please provide the most relevant high court decision related topics addressed in the chapter (i.e the Victim’s Rights Directive, the EU Strategy for Victim’s Rights and violence against women).</b>
<b>Decision date</b>	No case law has been identified for this thematic area

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<b>Thematic area</b>	<b>DEVELOPMENTS IN THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD)</b> <b>Please provide the most relevant High Court decision, which quoted the CRPD or prominently referred to the CRPD in the reasoning.</b>
<b>Decision date</b>	No case law has been identified for this thematic area