

# **Franet National contribution to the Fundamental Rights Report 2022**

**CYPRUS**

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

**Authors' name:** Nicos Trimikliniotis and Corina Demetriou

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## Policy and legal highlights 2021

Franet country study: policy and legal highlights 2021	
Issues in the fundamental rights institutional landscape	<p><b>National strategy on human rights:</b></p> <p>In June 2021, the <a href="#">Council of Ministers approved</a> the National Strategy for Protection and Promotion of Human Rights and authorised the Justice Minister to compile, in collaboration with the Law Department of the University of Cyprus, the first National Action Plan pursuant to the strategy. By year's end, no progress was made in compiling the action plan, sparking complaints from parliamentarians.</p>
EU Charter of Fundamental Rights	<p>National Courts are increasingly using the Charter in order to give access to an individual right. In addition to the <a href="#">decision</a> ruling the national data retention law as non-compliant with the Charter highlighted below, the Administrative Court of International Protection <a href="#">reversed</a> the administrative rejection of an asylum claim and granted refugee status to a couple who run the risk of separation had they returned to their country of origin, ruling that the rejection of the asylum claim infringed Charter article 7.</p>
Equality and non-discrimination	<p><b>Church representatives and fundamental rights experts participate in a structured dialogue with faith institutions on hate speech, initiated by the Council of Europe:</b></p> <p>The Council of Europe's Sexual Orientation and Gender Identity (SOGI) Unit initiated the transnational project "Cooperating with Religious Representatives to Counter Hate Speech" bringing together experts from the Cyprus FRANET team, human rights experts from central and eastern Europe and representatives of faith-based institutions to discuss hate speech from church actors.</p>
Racism, xenophobia & Roma integration	<p><b>The Global Alliance of National Human Rights Institutions (GANHRI) defers review of the Cypriot NHRI:</b> The GANHRI Sub-Committee on Accreditation <a href="#">decided</a> to defer the review of the Cypriot Ombudsperson as NHRI for 18 months, flagging as issues of concern the existing framework for the appointment of the Ombudsperson as not sufficiently broad and transparent, for failing to provide for the advertisement of vacancies or for clear criteria to assess the merit of eligible candidates.</p> <p><b>First conviction under the law transposing the Framework Decision on Racism and Xenophobia:</b> The Attorney General <a href="#">appealed</a> the mild sentences imposed on the assailants by the trial court, leading to an increase in the fine from €750 to €3,000 and additional albeit suspended prison sentences.</p>
Asylum & migration	<p>During 2021, the Interior Ministry revoked refugee status in six cases and subsidiary protection in 13 cases which included 11 persons of Syrian origin. No mechanism for border monitoring was appointed during 2021.</p>
Data protection and digital society	<p><b>Supreme Court rules that the national data retention law is not compliant with EU law and CJEU jurisprudence on data protection</b></p> <p>Following a group application for annulling lower court orders for the discovery of telephone data in the course of criminal proceedings, the Supreme Court <a href="#">assessed</a> the national law on data retention and</p>

	concluded that its provisions permitting retention of data on a mass scale covering the entire country did not meet the criteria set by the CJEU in the <i>Tel2Sverige</i> and in the <i>La Quadrature du Net</i> rulings.
Rights of the child	<b>Cyprus adopts law on juvenile justice:</b> After years of processing and inter-governmental deliberations, the bill on setting up a criminal justice system friendly to children in conflict with the law was finally presented to and <a href="#">adopted by parliament</a> , establishing for the first time a juvenile justice system, including provisions transposing <a href="#">Council Directive 800/2016</a> .
Access to justice, including victims of crime	<b>Cyprus adopts new laws aiming to bring national law in line with Istanbul Convention:</b> A new <a href="#">law</a> on gender-based violence including domestic violence is adopted, with definitions of various types of gender based violence and with provisions aimed at prevention and protection of victims was adopted, introducing measures on exclusion of suspects, awareness raising and training. Harassment and stalking are criminalised for the first time in a separate <a href="#">law</a> , aiming to bring national legislation in line with Article 34 of the Istanbul Convention.
Convention on the Rights of Persons with Disability	<b>Government bill for inclusive education of children with disabilities attracts criticism from the Child Commissioner:</b> The Commissioner for the rights of the child <a href="#">raised concerns</a> about the government's plans for 'inclusive education' as an attempt to slightly improve the current system of segregated structures in schools and for merely replacing the term 'integrated education' with 'inclusive education' without introducing institutional and holistic changes. The draft law was criticised for containing provisions medicalising disability, against the letter and the spirit of the CRPD.

# Chapter 1. Equality and non-discrimination

## 1.1 Legal and policy developments or measures relevant to fostering equality and combating discrimination against EU citizens based on their nationality and against LGBTI people

### 1. NGO compiles action plan on LGBTQI+ rights

In the framework of the EU project «VoiceIt – Strengthening LGBTQI+’s Voice in Politics»,<sup>1</sup> the national NGO Accept LGBTI Cy has compiled a draft action plan, aiming at recording the key actions that must be taken in order to ensure the protection of LGBTQI+ rights in Cyprus. The document is intended to serve as the basis for consultation with political and social actors’ framework of the plan, aiming adoption of a National Strategy for LGBTQI+ rights.<sup>2</sup> The draft action plan was opened for an on-line consultation.<sup>3</sup>

### 2. Questionnaires to electoral candidates on LGBTQI+ equality

Ahead of the elections for national parliament in May 2021, Accept LGBTI circulated a questionnaire amongst all candidates, asking for their position on a list of issues and demands of Accept. Two parties, namely the left wing AKEL and the new movement ‘Famagusta for Cyprus’, responded with a single questionnaire, that they agreed with all the demands of Accept. Some centre right and far right parties did not respond at all. Out of all the candidates of the ruling party, only three returned completed questions: two agreed with all the demands of Accept and one agreed with all the demands except the demand for legal recognition of gender identity, clarifying that he was all for the respect of gender identities but he thought social conscience was more important than an inflexible legal recognition. A candidate of another party and former MP agreed with all of Accept’s demands in terms of substantial rights but disagreed with the procedural rights raised by Accept, such as the inclusion of LGBTI matters into school curricula and the adoption of a national strategy.<sup>4</sup>

### 3. Cyprus and UK co-host IDAHOT event

On 18-19 May 2021 Cyprus together with UK hosted the on-line 2021 IDAHOT+ Forum, the major annual event of the European Governmental LGBTI+ Focal Points Network (EFPN), coordinated by the Council of Europe, bringing together European policymakers, activists and civil society organisations to advance the rights of LGBT people across Europe. During the conference, ILGA-Europe

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<sup>1</sup> For details, please see the project website [here](#).

<sup>2</sup> Cyprus, Accept LGBTI Cyprus (2021), [Action plan for the LGBTQI+ rights](#).

<sup>3</sup> For more details see the webpage of Accept LGBTI Cyprus [here](#).

<sup>4</sup> For more details, see the relevant webpage of Accept LGBTI Cyprus [here](#).

presented its Annual Rainbow Index and Transgender Europe (TGEU) presented the Trans Rights Europe & Central Asia Index 2021, followed by a high-level ministerial panel which examined the results of both indices and analysed steps forward. The breakout sessions focused on LGBTI Patient Experience in Primary Care, Business and LGBTI Equality, best Practice on supporting individuals with variations in sex characteristics and supporting LGBTI human rights defenders. On the second day of the conference, a round table exchanged and discussed transferrable good practices.<sup>5</sup> The ILGA-Europe Rainbow Index classified Cyprus at the 29<sup>th</sup> position, a drop of six places from 2020, attributed to its failure to legislate the legal recognition of gender identity, after years of deliberations.<sup>6</sup>

4. Memorandum of cooperation between UK and Cyprus EFPM Focal point network with companies and Ministry of Labour so increase collaboration on LGBTQI+ equality

On 5 October, the Cypriot Justice Minister received the Special Envoy on LGBTI issues of the UK, for an exchange of information on the protection of rights of LGBTI persons, whereupon they agreed on the conclusion of a bi-lateral memorandum on LGBTI rights, to coordinate actions at the bilateral level, at the level of the Council of Europe and the Commonwealth.<sup>7</sup>

5. Council of Europe initiates dialogue with faith institutions on hate speech

The Council of Europe's Sexual Orientation and Gender Identity (SOGI) Unit initiated the transnational project "Cooperating with Religious Representatives to Counter Hate Speech", first with an on-line meeting in April 2021 and then with a physical meeting in Cyprus in September 2021. The project is aimed at opening dialogue with church representatives on hate speech in general and homophobic hate speech in particular, with the aim of building alliances to combat hate speech from faith institutions. The idea for the project emerged in July 2018, during a two-day conference organized by the SOGI unit of the Council of Europe, where a first attempt was made to address sexual orientation and gender identity with representatives of faith institutions, highlighting the need to address language that can often be termed as hate speech. In 2020, the Council of Europe launched the process of selecting experts from identified state members including Cyprus; in 2021 the first training of interlocutors took place in Cyprus, participated by legal and other experts as well as church representatives from countries of central and Eastern Europe, to discuss the national context of each participating country and dialogue methodologies. The discussion highlighted the varying intensity of hate speech across the different countries, the potential deadlocks in the dialogue

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<sup>5</sup> For more details about the event, see the relevant webpage of the Council of Europe [here](#).

<sup>6</sup> ILGA Europe [Rainbow Map](#).

<sup>7</sup> Cyprus Press and Information Office (2021), ['Συνάντηση της ΥΔΔΤ κας Στέφης Δράκου με τον ειδικό απεσταλμένο του Ηνωμένου Βασιλείου για θέματα ΛΟΑΤΚΙ, Λόρδο Herbert'](#), Press release, 5 October 2021.

stream and possible entry points for dialogue and collaboration with church representatives. A follow up meeting took place in Crete, Greece in 2-3 December 2021, hosted by the Orthodox Academic of Crete, which was joined by church representatives from each participating country.<sup>8</sup>

#### 6. National strategy on promotion and protection of human rights

A national human rights strategy which was compiled in 2018 was finally adopted by the Council of Ministers in 2021, providing general guidelines for the national action plan, to be compiled in the forthcoming months.<sup>9</sup> The strategy, entitled National Strategy for the Protection and Promotion of Human Rights, recognises LGBTI+ persons as vulnerable to discrimination and identifies the following as the actions needed to address LGBTI+ discrimination: the legal recognition of gender identity, the establishment of a national body to promote multiculturalism, tolerance, and acceptance of diversity which will involve representatives of the LGBTI+ community, an action plan based on Council of Europe recommendations promoting education and awareness, management of the situations faced by the LGBTI+ community with measures targeting public administration, education, hospitals, the police and other services, the promotion of actions to combat discrimination at the workplace including training and informing employers and employees as well as LGBTI+ employees of their rights, a study to locate gaps in the legal framework on hate speech so as to render it more functional, the support of NGOs defending the rights of LGBTI+ PERSONS and the training of medical staff on handling issues facing LGBTI+ persons including those concerning HIV and the handling of options like PrEP; there was no explicit mention of medical issues pertaining to gender reassignment. The strategy sets the following as the pillars on the basis of which actions will be undertaken with the inclusion and collaboration of the LGBTI+ community: combating discrimination, safety, lifting of exclusions, promotion of the claim for equality. No definition was provided for any of these terms.<sup>10</sup> In October the Parliamentary Committee on Human Rights expressed concern over the delay in compiling the action plan foreseen in the strategy and especially for the delay in finalising the draft law on recognition of gender identity, which was not as yet presented in parliament for discussion.<sup>11</sup> By year's end, there were no further initiatives to compile the action plan foreseen in the strategy.

#### 7. Covid-19 vaccine roll-out leads to indirect discrimination against Union nationals

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<sup>8</sup> Consultation with Council of Europe's SOGI unit on 6 October 2020.

<sup>9</sup> Council of Ministers (2021), '[Extract from the minutes of the meeting of the Ministerial Council of 2 June 2021](#)', Proposal no. 630/2021, Decision No. 91.327, 2 June 2021.

<sup>10</sup> The strategy was not available on line at the time of writing.

<sup>11</sup> Ant1 (2021), '[Βουλή: Καθυστερεί η χαρτογράφηση δράσεων της Εθνικής Στρατηγικής για τα ΛΟΑΤΚΙ άτομα](#)', 11 October 2021.

When the Covid-19 vaccination program started to be implemented, at the beginning of 2021 and up until July, attention centred on the AstraZeneca vaccine's reported connection with side effects. When the European Medicines Agency (EMA) admitted possible links of the AstraZeneca vaccine with blood clots but that the benefits of the vaccine outweighed the risks, the Health Ministry announced it would be proceeding with all available vaccines including the AstraZeneca. The procedure for booking vaccination appointments differed for those registered on the national health system GESY compared to those who were not eligible for GESY. To be eligible for GESY, Union nationals must have their ordinary residence in Cyprus and must be working.<sup>12</sup> GESY beneficiaries could access the vaccination portal online on the days corresponding to their age group, where they would be given the choice between available vaccines, with AstraZeneca remaining the most unpopular choice. Those not eligible for GESY, which included Union nationals not registered or not working, had to fill out a form and wait for a call from the Ministry of Health to arrange their appointment over the phone, where they are only given the AstraZeneca option, even if they had a special condition putting them at risk of blood clot. The response from the Ministry of Health took several weeks and sometimes months, with some Union nationals reporting delays as long as four months, leaving them exposed to the virus for longer; others stated that they had no choice but to remain unvaccinated, since AstraZeneca was not recommended for them due to health reasons rendering them prone to blood clots. EU and British nationals residing in Cyprus called the practice "a blatant discrimination and injustice", stating that it is "creating a two-class system in order to force more AstraZeneca vaccinations onto the population".<sup>13</sup> In May 2021 a 39-old British woman died after having the AstraZeneca vaccine.<sup>14</sup> As of August 2021 the authorities introduced the system of walk-in centres operating around the island, offering a choice of vaccines once a week on a first-come first-served basis.<sup>15</sup>

## 8. Homophobic hate speech by a church representative

The Bishop of Morphou, who was the subject of several complaints in 2019 for homophobic hate speech, made additional public statements that could amount to hate speech against LGBTI+ persons.<sup>16</sup> It is recalled that in 2019 the police investigated the complaints against the Bishop concluding that the Bishop's statements, that homosexuals are born out of mothers who had anal sex and that they can be detected through a bad smell that emanates from their bodies, did not amount to hate speech.<sup>17</sup> No legal explanation was given prosecuting

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<sup>12</sup> For details on GESY eligibility, please see the relevant webpage of GESY [here](#).

<sup>13</sup> Pitta, A. (2021), '[We're second-class citizens, say non-Gesy members](#)', Cyprus Mail, 25 April 2021.

<sup>14</sup> The Independent (2021), '[Stephanie Dubois: British model dies days after receiving Covid jab in Cyprus](#)', 26 May 2021.

<sup>15</sup> Press and Information Office (2021), '[Vaccination of non-registered citizens or beneficiaries of the General Healthcare System through the "Walk-in" centres](#)', 3 August 2021.

<sup>16</sup> Cyprus Times (2021), '[«Πυροβολεί» ο Μητροπολίτης Μόρφου: «Ανήθικοι ΛΟΑΤΚΙ στα όρια ασέβειας... Οι προφητείες έγιναν ειδήσεις»](#)', 8 April 2021.

<sup>17</sup> Orthodoxia online (2019), '[Κυπρος: Η Αστυνομία δεν εντοπίζει διάπραξη ποινικού αδικήματος εκ μέρους του Μητροπολίτη Μόρφου](#)', 4 September 2019.



authorities for this decision; the Ombudsman had stated that the Bishop's statements did not amount to hate speech because they did not incite violence, but were offensive towards women, maternity and homosexuals, urging the authorities to condemn them, without recommending a criminal prosecution.<sup>18</sup> The Bishop himself justified his statements citing the rules of Christianity which he considered above the rule of law that 'atheist Europe' is trying to impose upon Christians.<sup>19</sup> In 2021, however, the Bishop applied to the Court seeking to annul a fine imposed on him by the police for failing to comply with the protection measures against Covid-19, claiming that the measures against the pandemic are unconstitutional.<sup>20</sup>

## **1.2 Findings and methodology of research, studies, or surveys on experiences of discrimination against EU citizens on the grounds of nationality and against LGBTI people**

The following two studies, reported in detail under 2.1 below, cover both racism and discrimination against LGBTI people:

- The Cyprus national report of the EU project SHELTER (section 2.1.5 below)
- Book chapter on hate crimes and health institutions (section 2.1.6 below)

Below are three publications that record, in varying degrees, the experiences of discrimination of LGBTI persons. There is no data on discrimination on the ground of nationality in 2021.

### 1. U.S. State Department, Cyprus 2020 Human Rights Report

The US State Department report on the human rights situation in Cyprus, published in 2021, referred to complaints from the national NGO Accept LGBTI that the police routinely declined to investigate violence against LGBTI+ individuals as hate crimes, which discouraged people from reporting complaints. Accept LGBTI+ reported two attacks during 2020 against LGBTI persons. In one of these two incidents, a gang of seven hooded persons attacked two transgender persons while leaving a party. The victims had to be hospitalised but did not report the attack either to the hospital staff or to the police, claiming that they sustained injuries when they fell down the stairs. The NGO further reported that transgender

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<sup>18</sup> Cyprus Ombudsman (2019), '[Τοποθέτηση Επιτρόπου Διοίκησης και Προστασίας Ανθρωπίνων Δικαιωμάτων με αφορμή πρόσφατα σχόλια του Μητροπολίτη Μόρφου](#)', 31 July 2019.

<sup>19</sup> Orthodoxyia online (2019), '[Μητροπολίτης Μόρφου Νεόφυτος: Είμαι στη βάση Χριστιανικών κανονισμών](#)', 1 August 2019.

<sup>20</sup> Tothemaonline (2021), '[Μητροπολίτης Μόρφου: Τα «ρεζιλίκια» για τους ΛΟΑΤΚΙ και το πρόστιμο που δεν πλήρωσε](#)', 8 April 2021.

persons undergoing hormone replacement therapy suffered discrimination in accessing health care, following the introduction of the new national health system GESY, and that they faced difficulties in accessing hormone therapies due to the COVID-19 lockdown. According to the report, discrimination in employment occurred on a number of grounds including sexual orientation and that the government did not take steps to enforce anti-discrimination laws, compared to other civil rights laws.<sup>21</sup> The report, which is updated annually, is based on desk top study and consultation with stakeholders.

## 2. Media report

Following the declaration by the European Parliament of the sexual European Union an "LGBTIQ Freedom Zone", in response to the "LGBTIQ-free zones" in Poland, a group of journalists stood on a busy street asking by-passers questions on the experiences of LGBTI+ individuals in Cyprus. The responses received were that it is necessary to make more steps forward to keep up with developments at EU level; that there is a margin for improvement but in order for mentalities to change action must be taken at schools, starting from primary schools, as it is hard to convince adults to change their views; that people have earned the right to express themselves as they wish after years of struggles; that people ought to sensitise each other and promote the notion that not all individuals are alike and that society does not comprise of a single mass, that people must first accept ourselves to be able to accept others.<sup>22</sup> It is noted that the methodology used in this investigation is not of sufficient credibility to yield reliable conclusions, though, as it does not include representative samples of society.

## 3. Academic article in the media on LGBTI asylum seekers

An article published in the media by an academic on manifestations of exclusion of LGBTI+ refugees in Cyprus stated that the 'Global compact on Refugees' of 2018 failed to recognise the need for special protection of LGBTI+ refugees and does not even use the term LGBTI+, thus aggravating their invisibility. According to the author, LGBTI+ refugees in Cyprus are regularly subjected to verbal attacks and psychological abuse in both their countries of origin as well as in reception countries, emanating both from other immigrants and refugees as well as from the local population, accentuated by the absence of immigration policies addressing the trauma. The failure to recognise the multiple experiences of exclusion of LGBTI+ refugees often force asylum seekers to be asked to submit data on their gender identity and sexual orientation, facing rejections, long term appeals and lack of effective mechanisms of evaluation, with some applicants awaiting as long as five years for the examination of their claims. During the asylum interview, the interviewer is convinced only if the image of the interviewee meets the stereotypes which the interviewer has in mind about LGMTI+ people, as the credibility assessment presupposes training and respect which many interviewers do not have. The social and immigration policy practiced

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<sup>21</sup> U.S. State Department, Bureau of democracy, human rights and labor (2021), '[2020 Country Reports on Human Rights Practices: Cyprus](#)', February 2021.

<sup>22</sup> Metaxas A. (2021), '[Τι πιστεύουν οι Κύπριοι για τα δικαιώματα των ΛΟΑΤΚΙ στη χώρα μας](#)', *Alphanews.live*, 29 March 2021.

retraumatizes LGBTI+ persons, leading them to become a minority within a minority and to reside outside the circle of human dignity and acceptance.<sup>23</sup> The article's findings were based on desk top study.

#### 4. Journal article on marginalisation of trans persons as a result of institutional responses to trans claims

A journal article published in 2021, relying on participant observation and qualitative interviews with trans\*<sup>24</sup> respondents conducted in the context of an ethnography project, examined the effects of interaction of Europeanization, transnational LGBTI rights and politics discourses and paradigms with local ones, arguing that trans\* people in the margins of 'Europe' received little attention.<sup>25</sup> The paper examined subjectivities and politics in Cyprus and how institutional responses to trans\* claims reinforced trans\* marginalization. More specifically, the paper argues that trans\* people are marginalized by the normalization of the national LGBTI movement, suggesting alternative modes of everyday trans\* politics and community organizing outside NGO structures. The author analyses how the lack of a trans\* legal and policy framework combined with the nationalistic discourses prevalent in postcolonial, ethnically divided and conflict-ridden contexts like Cyprus, have imposed coherence, systematic exclusions and gender-binary conceptions of identity which delegitimised sexual and gender nonconformity, rendering cisgenderism as the sine qua non of the nation's unity against internal and external enemies. The paper essentially argues that legacies of colonialism and ethnonational conflict have led to a narrow conceptualization of the political, as nationalism became the central element of the country's political life, leaving little space for discussions on issues other than the national problem – including gender and sexuality nonconformity – that have been rendered as less politically important, if not as apolitical. It further argues that the national LGBTI movement ACCEPT manipulated the country's inability to completely ignore LGBTI claims due to its EU-membership and ensuing responsibilities, adopting an elite-targeting approach and pushing for minimal threshold of LGBTI legal recognition. Through the employment of discourses and practices promoted by EU institutions and transnational LGBTI NGOs, ACCEPT was successful in achieving recognition of same-sex civil partnerships and the adoption of homophobic hate speech legislation in 2015. However, this approach compartmentalized NGO activism, limiting ACCEPT's ability to engage with issues of intersectional marginalisation and exacerbating in-group exclusions, particularly against gender-nonconforming people. The article offers findings which may be relevant at the level of policy and legislative development as guidance towards decolonising subjugated knowledges, enabling new political possibilities and developing practices that acknowledge gender-nonconforming people as constructors of their places within their culture.

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<sup>23</sup> Sofroniou C. (2021), 'Εκφάνσεις αποκλεισμού των ΛΟΑΤΚΙ+ προσφύγων' (*Manifestations of exclusion of LGBTI+ refugees*), *Kathimerini*, 29 August 2021.

<sup>24</sup> The asterisk on the term trans was used to capture the diversity and non-fixity of gender identities and it means 'non-cisgender'.

<sup>25</sup> Kamenou N. (2021), 'When one doesn't even exist': Europeanization, trans\* subjectivities and agency in Cyprus. *Sexualities*. 2021;24(1-2):131-153. doi:[10.1177/1363460720904648](https://doi.org/10.1177/1363460720904648)

The article's findings relied on fieldwork conducted from May to December 2016, consisting of 22 in-depth interviews with gender-nonconforming individuals to understand their experiences and perspectives. The interviews, which lasted between one and three hours, were conducted by the author herself and interviewees were recruited using the snowball sampling method, through personal networks. They explored the participants' experiences as gender-nonconforming people, their engagement with institutions and views about the national and trans-national LGBTI movement and were structured as conversations, with broad open-ended questions.

#### 5. Survey on social and psychological needs of trans persons in Cyprus

In a study commissioned by the Council of Europe, the University of Nicosia conducted a series of qualitative interviews in order to investigate the social and psychological needs of trans persons in Cyprus highlighting the challenges for service providers in the field of support and information, healthcare and social care. The interviews were conducted in November 2017- February 2018 in collaboration with the national NGO ACCEPT and the University of Cyprus and was presented at a parliamentary session in October 2021, which examined the draft law on the recognition of gender identity. The respondents reported negative school experiences, with eight of ten experiencing stress and anxiety, seven out of ten experiencing harassment and hate speech during school life, which restricted their contact and interaction with their peers and their teachers. The fear of social exclusion and stigmatisation led to negative reactions from the respondents' family and friends when they revealed their gender identity, as families were susceptible to societal reactions. All respondents reported discomfort over how other people faced them, at various levels and various ages, especially as regards the photograph on their identity cards and the changes of appearance during the gender reassignment process; this caused a lasting feeling of stress, insecurity, fear and low self-esteem in all respondents for large periods of their lives. Negative experiences were reported when trying to access government services and finding work. Four out of ten respondents reported having to leave their jobs when they were asked to present identification papers which had their previous gender registered on them. The compatibility of the data on their identification papers with their appearance emerged as crucial in their access to the labour market and eventually in their ability to sustain themselves. Their interaction with public and private services, where they have to present identification papers, is time-consuming, stressful and exposes trans persons to discrimination, often causing them to avoid seeking medical help, opening bank accounts, or accessing recreation spaces. To avoid facing transphobia, often trans persons seek recommendations from other trans persons as to which doctors or other service providers they should look for, as many health practitioners are not sufficiently aware or trained on LGBTI issues. People who had gender reassignment surgery outside Cyprus had to wait three years before their identification papers were changed by the Cypriot authorities.<sup>26</sup>

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<sup>26</sup> Phellas C. (2021), 'Social and psychological needs of trans persons in Cyprus', University of Nicosia, presentation during the [Thematic Review on Legal Gender Recognition in Cyprus](#), co-

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

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

#### 1. The 2021 U.S. State Department report

The U.S. State Department report on human rights practices in Cyprus, based on desk top study and consultation with stakeholders, flagged the following experiences of ethnic and racial discrimination:

There were reports of police abusive tactics and degrading treatment, sometimes to enforce measures adopted by the government to mitigate the spread of COVID-19, however members of ethnic and racial minorities were more likely to be subjected to such treatment. NGOs reported incidents where the police illegally entered homes of migrants without a warrant and fined them for violating the rule prohibiting home gatherings of more than 10 persons in spite of the fact that they were residents of the house.

Foreign prisoners without a temporary residence permit, who make up 44 percent of the prison population, were not permitted to leave the prison to work, spend weekends with family, or apply for parole, unlike Cypriot prisoners.

NGOs reported incidents of racism by Labour Department officers who met with valid residency applicants seeking a contract of employment. In some cases, Social Welfare Service officers and judges subjected asylum seekers to racist verbal abuse and in one incident the security personnel at the Social Welfare Services office physically attacked two asylum seekers and an infant child who had visited the office to inquire about the delay in receiving their food coupons and rent subsidy. The Ministry of Labor reported the incident to the police and the security guard was removed from the premises and was charged.

Turkish Cypriots traveling to the government-controlled areas were subjected to physical and verbal abuse.

The minimum wage set by the Ministry of Interior for foreign domestic workers continues to fall well below the poverty line; this renders it impossible for these workers to claim a long-term residence visa, as they are deemed not to fulfill the

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organised by the House of Representatives, the Council of Europe, the Law Commissioner and the Advisor to the President of the Republic on multiculturalism, acceptance and respect for diversity, 15 October 2021.

requirement of having sufficient means to sustain themselves without recourse to the national social insurance system. NGOs report that many foreign domestic workers are reluctant to report contract violations by their employers for fear of losing their jobs and, consequently, their work and residence permits. The Ministry of Labor employs an insufficient number of labour inspectors to effectively enforce labour laws in the agricultural sector and in the informal economy, where the majority of employees were migrant workers. Inspectors are not allowed to inspect the working conditions of domestic workers in private households.<sup>27</sup>

## 2. The 2021 Cyprus Country Report of the European Network in gender equality and non-discrimination

The report highlighted gaps in the transposition and implementation of the Racial Equality Directive which included the following:

- There are no convictions by the national courts based on the law transposing the Racial Equality Directive. In recent years, there have been no Equality Body reports relying on the Racial Equality Directive.
- The Courts invoke the doctrine of separation of powers in order to continue applying discriminatory laws, contrary to the CJEU ruling in *Egenberger*.<sup>28</sup>
- The Government abandoned efforts to raise awareness about the Racial Equality Directive, to promote equality initiatives or to consult with civil society.
- Organisations representing victims continue to be prevented from applying to Court using the judicial review procedure which is foreseen in the anti-discrimination legislation, as they are deemed to lack legal standing.
- A legislative amendment to the law on the operation of NGOs in the summer of 2020 led to the strike-off of more than 2,000 NGOs in the period 2020-2021, including NGOs defending victims of racial discrimination.<sup>29</sup>

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<sup>27</sup> U.S. State Department, Bureau of democracy, human rights and labor (2021), '[2020 Country Reports on Human Rights Practices: Cyprus](#)', February 2021.

<sup>28</sup> CJEU, C-414/16, ECLI:EU:C:2018:257, 17 April 2018.

<sup>29</sup> Demetriou, C., European Network of Legal Experts in gender equality and non-discrimination (2021), Country Report of 2021 on the non-discrimination directives, reporting period 1 January 2020-31 December 2020. Not available on line at the time of writing.

### 3. Academic article on the situation of migrant domestic women in Cyprus

The article, which appeared in the blog of the London School of Economics, UK, discusses how the invisibility of migrant domestic women changed in Cyprus after the murders of seven migrant women and girls were discovered in 2019 and particularly due to the fact that, until their bodies were discovered, the police had in fact not investigated their disappearance. Acknowledging that foreign domestic women are discriminated around the world, the article identifies particular aspects of the legal and policy framework rendering their situation in Cyprus particularly acute. A 2020 survey established that they work 40% hours than what their contract provides, with one in five working close to or more than twice the number of hours foreseen in their contract; a third are not paid the full amount they are owed and a third are not paid on time; 67 per cent clean two or more houses; and one in three does not take any day of the week off for years. The article attributes the dire conditions of the domestic workers to the frozen political conflict in Cyprus which has deprioritised the feminist agenda, normalised nationalist policies and created a skewed perception of human rights amongst the Cypriots. Complaints against employers do not come with protection against victimisation; for as long as the investigative process is pending, which can take months, the domestic worker is not permitted to work and is not eligible for state support; it is hardly surprising that 75% stated that they would not report to the authorities if they had been physically or sexually abused by their employers. Nationalist feelings nurtured by the unresolved Cyprus problem are often racism in camouflage and racism against Turks is often lumped with racism against 'all others'. Their denomination as 'temporary workers' led the government to provide a sub-standard protection to them, denying them rights under the legal migration directives, such as the right to long term residence and family reunification.<sup>30</sup>

### 4. Book on the regulation of domestic work in UK, Cyprus, Sweden and Spain

The book, published in 2021, analyses the working regimes and the vulnerability of migrant domestic workers in the four countries examined, highlighting the special vulnerability experienced by migrant domestic workers in Cyprus. In Cyprus, although in theory labour law includes domestic workers, the state has designed an employment regime with a very exclusive personal scope which applies only to non-EU nationals on a domestic worker visa, the employment contract for which diverges significantly from the generally applicable statutory regulation and collective agreements. The contract of employment was drafted by the Migration Department of the Ministry of Interior and has never received input from the Ministry of Labour; in fact, the Migration Department has repeatedly rejected requests from the Labour Department to review this contract and ensure compliance with labour law. The Migration Department's exclusive competence over the working conditions of migrant workers has resulted in a highly restrictive regime restricting change of employers, threatening the migrant with deportation in case of a breach of the employment contract, no possibility to negotiate a salary increase and prohibiting freedom of association. The standard contract was

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<sup>30</sup> Hadjigeorgiou N. (2021), '[Foreign Domestic Workers in Cyprus: the unseen impact of the frozen conflict](#)', Hellenic Observatory of the London School of Economics, 26 February 2021.



revised in 2019 under the pressure of the outrage following the discovery of the murders of the seven migrant women and girls; the new contract no longer prohibits political activity and the references to migration restrictions were toned down but nothing of substance has changed. The contracts signed before the 2019 change continue to remain in force, with no effort made to revoke them.

Labour disputes of domestic workers with their employers must first be examined at the administrative level, where the Migration Department is also involved; this has the effect of deterring migrant workers from filing complaints against their employers and renders the procedure inaccessible to atypical workers who would be facing criminal charges and deportation.

The salary fixed for domestic workers is set at €309 per month, corresponding to €1,40 per hour, whilst the monthly salary for caretakers in nursing homes is fixed at €870, rising to 920 after six months, corresponding to €4,55-€4,86 per hour. Given that domestic workers are racialised migrants, the wage disparity amounts to racial discrimination.<sup>31</sup>

#### 5. Cyprus national report of the EU project SHELTER

SHELTER is an EU funded transnational project on providing support and advice through the health system for hate crime victims, involving research, training, awareness raising and training.<sup>32</sup> Below are the findings of the national report on Cyprus, compiled by the Cypriot partners to the project, namely the University of Cyprus and the NGO Aequitas, relying on desk top study and 42 interviews with health staff.

- Victims must visit a police station to report a hate crime, where they must fill out a form indicating the type of bias on which the crime was based. The police then decides whether to record the crime or not.
- Gender identity tops the grounds of discrimination cited by interviewees, with all 42 participants mentioning it as 'very widespread'. This is followed by ethnic origin and sexual orientation, mentioned as 'very widespread' by 40 out of 42 interviewees. Although gender identity appears as the most frequent ground for discrimination, it ranks third in terms of grounds for hate crime, with only six of the participants citing it. For hate crime, the most common ground is ethnicity (35 out of 42 participants), followed by gender (23 out of 42). Victims are generally described as not reporting hate crimes for fear of retaliation (27 out of 42), due to a perception that not enough is done to combat hate crime (12 out of 42), fear of revealing sexual orientation (7) and feelings of shame or denial (7). Only one of the 42 interviewees perceived the current legislation as effective to combat hate crime; 32 reported that it is totally ineffective. Interviewees were unaware of the definition of hate crime

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<sup>31</sup> Pavlou, V. (2021), 'Migrant Domestic Workers in Europe: Law and the Construction of Vulnerability', UK, Hart, ISBN 978-1-50994-237-4.

<sup>32</sup> For more details about SHELTER, please see the project website [here](#).



- Interviewees acknowledged having little or no knowledge about hate crime, having received little or no training on it and having no protocol in place on how to handle victims of hate crime. Half of the interviewees mentioned that they do not come into contact with victims of hate crime, which is attributed to their lack of training on how to recognise them.<sup>33</sup>

## 6. Chapter in book on hate crimes and health institutions

The chapter on Cyprus focused on how health professionals are handling victims of hate crime and the parameters that frame the relationship between hate crime victims and health practitioners, relying on qualitative data collected in the context of the EU project SHELTER between 2018-2020 through interviews and feedback during training and network meetings, using critical discourse analysis. In presenting the legal framework, the chapter highlighted the pivotal role of the police in investigating complaints and deciding whether they amount to a hate crime in order for prosecution to be launched. Such key role ought to be enhanced with regular, compulsory and comprehensive training on hate crime, which is not happening; although new police recruits and cadets are required to attend a program on racism and xenophobia, the program, is not compulsory for all officers. It states that hate crime is not properly and adequately reported by the police but also 94% of health professionals admitted not reporting hate crimes to the police because they are unaware of what constitutes hate crime. The authors recommend training of health professionals to identify and report crime and the development of a guide offering information, advice and framework to health professionals. The survey conducted in the framework of the SHELTER project with 55% nurses participants and 40% doctors, one driver and one receptionist revealed that gender, sexual orientation and gender identity were the most likely grounds of hate crime, closely followed by ethnic origin. During the 42 qualitative interviews with health professionals, 90% of participants declared having no knowledge of hate crime although willing to engage with education. Interviewees also considered themselves unable to provide the care and support needed in such circumstances and that the presence of a psychologist is necessary. The relationship of health professionals with social workers and the police was identified as crucial. Opinions on the helpfulness of the police differed, with some health professionals reporting that the police were crucial in launching the chain of aid events and others reporting that they were not helpful, whilst things would get complicated where the perpetrator of the hate crime is the police themselves, in which case the health professionals do not know whom to turn to. NGOs were reportedly very efficient on recommending steps at the level of administration but lacked the means to provide support and care themselves. Victims were reported to be unaware of their rights and often unwilling to proceed with a complaint for fear of victimisation by the perpetrator and lack of police protection. A victim

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<sup>33</sup> University of Cyprus and Aequitas (2021), [SHELTER National report: Cyprus, Support and advice through health system for hate crimes victims](#). Note: The link to the Cyprus report is currently broken.

stressed the need for a central authority to operate like a focal point, coordinating all services and actors in the chain.<sup>34</sup>

#### 7. The MATE survey on intercultural skills amongst students and young migrants and the prevalence of hate speech

In the framework of a transnational ERASMUS project involving seven institutions from six different EU countries, the Cyprus University of Technology conducted a survey on intercultural skills and perceptions on hate speech amongst students, including young migrants.<sup>35</sup> The participants of the Cypriot survey were 222 in total, comprising of 188 EU nationals (84,7 %), 11 non-EU nationals (11%) and 23 persons (10,44 %) who did not answer the question. The majority of participants defined hate speech as offensive behaviour rooted in a stereotyped perception of inferiority towards others, based on sexual orientation, religion, ethnicity, class etc. Racism emerged as the most frequent type of discrimination although it was argued that 'racism towards the poor', i.e., class racism was equally important and often tends to overcome racial origin and other grounds of discrimination, since rich black or gay people are perceived as unlikely to be subjected to discriminatory treatment. Students stated that hate speech based on gender, sexual orientation and physical abilities were also very common, whilst noting a tendency to treat dark coloured people with suspicion, which was seen as odd since Cypriots themselves also tend to be dark-skinned.

All participants stated that offline hate speech is much more important and prevalent than on line, as online degrades the person writing the comments for than the person to whom the comments are targeted. One fourth of the respondents claimed to have suffered hate speech incidents online, as opposed to one half of respondents who reported offline hate speech incidents. The trait most targeted was their physical appearance. A rate of 27% of respondents admitted having used hate speech against other people as an expression of their own beliefs. Gender emerged as a factor triggering on line hate speech but the opposite was true regarding off line hate speech. Income was identified as a key factor impacting conduct amongst the youth especially offline: the higher the income the more likely to use hate speech against others.

Half of the survey respondents reported having experienced hate speech, including seven out of ten of foreign participants. Although class was identified as the most common ground of discrimination, this was not spelled out in the definitions offered by the participants. The overall finding was that young people were largely unaware of the impact of hate speech on people's lives and development and were

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<sup>34</sup> Baider F. and Chatzittofis A.(2021), 'Hate crime and health institutions: The case of the Republic of Cyprus', in: *Support and advice through health system for hate crimes victims: A socio-sanitary approach*, Valencia, Tirant Humanidades, p. 67-77.

<sup>35</sup> Cyprus University of Technology (2021), Contribution to [European Report: Common forms of hate speech online \(social media\) and offline \(face to face communication\)](#) (Consortium countries), in the framework of the project: MATE-An innovative, student-centred approach to intercultural skills acquisition for students and young migrants.

not sufficiently trained on identifying the multiple and diverse forms of hate speech.

#### 8. Report of the Global Alliance of National Human Rights Institutions (GANHRI)

In its 2021 session, the GANHRI Sub-Committee on Accreditation (SCA) has decided to defer the review of the Cyprus Ombudsperson as NHRI for 18 months.<sup>36</sup> The deferral of accreditation relied on the following issues of concern:

- The current framework for the appointment of the Ombudsperson is not sufficiently broad and transparent in that it does not require the advertisement of vacancies, it does not establish clear and inform criteria to assess the merit of eligible candidates, it does not promote broad consultation or participation in the application, screening, selection or appointment process, stressing that a process ensuring merit-based selection is necessary to safeguard the independence of and public confidence in the leadership of the NHRI. The Committee encouraged the Ombudsperson to advocate for a process that publicises vacancies broadly, maximises the number of potential candidates from a wide range of societal groups and educational qualifications, promotes broad consultation and participation in the application and appointment process, assesses applicants on the basis of objective and transparent criteria and selects members to serve in their individual capacity rather than in the capacity of the organisation they represent.
- The Ombudsperson lacks the power to investigate complaints against a number of public officials, including the President, the Attorney General, the Auditor General, the Central Bank Governor, the Public Service Commission and ministers in relation to actions of government policy.
- The budgetary arrangements of the Ombudsperson's office must be approved by the Minister of Finance. The Committee recommends that the Ombudsperson must have the power to allocate funding according to its priorities and must have adequate funding to fulfill its mandate; where the NHRI is designated with additional responsibilities, then additional financial resources must be provided to enable it to discharge these functions.
- There is no legal requirement that Ombuds staff members should be representative of the diverse segments of society, to enable it to effectively engage with such segments. The Committee encouraged the Ombudsperson to advocate for a requirement that staff members should

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<sup>36</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

reflect the principle of pluralism, particularly as regards gender, ethnicity and minority status.

- The law provides that the Ombudsperson's term is six years but is silent on the number of times that the same person can be re-appointed, thus opening the possibility of unlimited tenure. The Committee suggested that the Ombudsperson advocates for a limit of maximum one re-appointment.

#### 9. Report of the UN Secretary-General on his mission of good offices in Cyprus

The Secretary-General's report refers to discriminatory practices against Turkish Cypriots, namely in the fair distribution of the COVID-19 vaccines received from the EU, in equal opportunities for Turkish Cypriot producers of *Hellim/Halloumi* to register and trade their product and in equal access to the EU Digital COVID Certificate. The Secretary General noted that the discriminatory practices were the result of arrangements whereby Turkish Cypriots were put in a position of subordination to Halim the Greek Cypriot administration who failed to provide equal benefit to them.<sup>37</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**

### 1. National Strategy on the protection and promotion of human rights

The National Strategy adopted by the Council of Ministers in June 2021 sets out the pillars on the basis of which the national action plan will be based.<sup>38</sup> These include the long-term training of front line government officers who come into contact with victims of discrimination, the training of judges and justice officers on equality and effective protection of groups vulnerable to discrimination, the combating of racism, prejudice and stereotyping against vulnerable groups through implementing anti-racist activities in the entire spectrum of social life, the combating of xenophobia, islamophobia, anti-Semitism in all sectors, school education for human rights, solidarity, intercultural respect, acceptance of diversity and pluralism. The Strategy acknowledges the gaps and weaknesses in

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<sup>37</sup> United Nations (2021), [Report of the Secretary-General on his mission of good offices in Cyprus](#), Security Council Report Ref. S/2021/1109, 30 December 2021.

<sup>38</sup> Council of Ministers (2021), '[Extract from the minutes of the meeting of the Ministerial Council of 2 June 2021](#)', Proposal no. 630/2021, Decision No. 91.327.

the current framework identified by monitoring bodies of the Council of Europe and the UN, namely:

- The small number of court decisions on discrimination and hate speech, admitting that legislative interventions do not automatically translate into effective eradication of discrimination;
- The absence of a human rights culture in the state apparatus and the lack of human rights training, the understaffing of critical governmental and independent authorities, the absence of effective coordination, the lack of processed statistical data aimed at informing policy development and deeply rooted prejudices in key sections of the state apparatus and society.

The Strategy argues that the failure to develop a comprehensive management of the refugee and migration flows at national and EU level has led to increasing levels of racism and xenophobia and suggests that the prejudice anti-racist policy of the Ministry of Education and the Code of Conduct against racism amount to positive actions against racism and xenophobia. Although it cites other instruments on combating racial discrimination, the Strategy makes no mention of either the Racial Equality Directive or the Framework Decision on Racism and Xenophobia.

## 2. Court decision on the compatibility of the law on Turkish Cypriot properties with the Racial Equality Directive

In 2021 a national Court delivered its judgement on a claim to a Turkish Cypriot property situated in the Republic-controlled territories. The claimant was the sole heiress of a deceased Turkish Cypriot owner who challenged the refusal of the Republic to permit the sale of this property to a third party. The status of Turkish Cypriots properties in the territory controlled by the Republic is regulated by the institution of the 'Guardian of Turkish Cypriot properties', established by law in order to administer the properties owned by Turkish Cypriots but situated in the territory of the Republic; the law considers these properties as 'abandoned' and establishes a scheme for their 'protection' in the absence of the owner.<sup>39</sup> In 2010 the Guardian Law was amended entitling the Guardian to lift the 'protection' afforded to Turkish-Cypriot properties after taking into consideration the circumstances of each case, on the basis of non-exhaustive criteria. Several Turkish Cypriots claimed their properties via legal action; in most cases the national courts resorted to the doctrine of necessity to justify the differential treatment of Turkish-Cypriots and deny them their properties. In this case, the claimant applied to the Court seeking an order enabling her to sell her property without permission from the Guardian. She also sought a statement from the

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<sup>39</sup> Cyprus, Laws on Turkish-Cypriot Properties (Administration and other matters) (Temporary provisions)1991-1997 [\[Οι περί Τουρκοκυπριακών Περιουσιών \(Διαχείριση και Άλλα Θέματα\) \(Προσωρινές Διατάξεις\) Νόμοι του 1991 έως 1997\]](#) N.139/1991.

Court that the Guardian Law is not compliant with the Racial Equality Directive, asking for referral to the CJEU to determine this question.

An expert witness, summoned by the claimant, told the court that that the differential treatment of Turkish Cypriots contained in the Guardian Law is not 'an apparently neutral provision' resulting in discrimination, which would permit exceptions under the Racial Equality Directive, but rather a directly discriminatory practice targeting specifically a group of persons identified through a common ethnic identity, for which the Directive does not permit exceptions. The expert further stated that, even if this was a case of indirect discrimination, the exception to the non-discrimination rule would have to meet the test of reasonableness and proportionality; and there is ECtHR jurisprudence suggesting that the consequences of armed conflict are not adequate justifications for discrimination. The expert witness cited two ECtHR decisions where the consequences of war were deemed to be insufficient reason for discrimination: In *Dokic* the decision to deprive a former member of the armed forces of his property on the ground that he had served in a foreign army was held to be unlawful because it was taken on the sole basis of the applicant's ethnicity;<sup>40</sup> and in *Sedjic* the ECtHR found that there was unlawful ethnic discrimination in the requirement contained in the peace accord concluded in Bosnia and Herzegovina in 1990, that electoral candidates had to declare their ethnicity as a precondition for standing for election.<sup>41</sup> In both cases the Court rejected the justification that the sensitive nature of the circumstances in the aftermath of a war could justify discriminatory practices. The expert cited the ruling in *Aziz*<sup>42</sup> where the ECtHR found Cyprus guilty of violating article 14 of the ECHR for its failure to regulate the right of Turkish Cypriots to vote; the justification offered by the Cypriot government at the time, which was the irregular situation that emerged following the Turkish invasion, did not satisfy the criterion of reasonable and objective justification.<sup>43</sup> It is noted that a recent ECtHR ruling against Cyprus, for the government's failure to promptly open mass graves in the post war period to identify missing persons, expressed concern over the national court's reference to unnamed "political dimensions" of the issue as a justification for delaying the exhumation of the remains.<sup>44</sup>

In its judgement, the Court rejected the claimant's testimony in its entirety as non-credible. As a result, the claimant's description of the property and the constituent elements of the sale agreement that the claimant concluded with the third party, were deemed to be unsubstantiated. Having rejected the substance of the claim, the Court went on to evaluate the allegation that the Guardian Law infringed the Racial Equality Directive, in case the issue is subsequently examined by the appeal court.

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<sup>40</sup> European Court of Human Rights, [Dokic v Bosnia and Herzegovina](#) (Application No. 6518/04), 27 May 2010.

<sup>41</sup> European Court of Human Rights, [Sedjic and Finci v. Bosnia and Herzegovina](#) (Application Nos. 27996/06 and 34836/06), 22 December 2009.

<sup>42</sup> European Court of Human Rights, *Aziz v Cyprus*, Application no. 69949/01, 22 June 2004.

<sup>43</sup> Demetriou, C., European Network of Legal Experts in the Non-discrimination Field (2021), [Flash report: Court decision on a Turkish Cypriot property](#), 15 September 2021.

<sup>44</sup> European Court of Human Rights, [Vassiliou and Others v Cyprus](#), Application No. 58699/15, 31 August 2021.



In evaluating the expert testimony, the Court assessed it as credible, but did not endorse its findings that the Guardian Law was non-compliant with the Racial Equality Directive, without explaining the reasons for its disagreement or presenting any legal arguments as to why it rejected the finding. Instead, the judge evaluated the claim on the basis of article 28 of the Constitution, rather than the Racial Equality Directive, in spite of the latter's supremacy over national law. The Court found that the sale of the property to a third party was impossible not because the seller was a Turkish Cypriot but because the property fell within the scope of the Guardian Law, without examining whether this characteristic was a proxy for ethnicity. The Court added that the Guardian was justified in refusing to lift the 'administration' from this property because the claimant was in possession of a property belonging to a Greek Cypriot in the Turkish controlled territory in the north of Cyprus. The judge cited judicial precedents where Turkish Cypriots were denied other rights, like the right to vote and this was held lawful because it was not based on their ethnicity but rather on their wilful choice to reside in the territories not controlled by the Republic. The judge ignored the expert witness' argument that there was a prima facie case of less favourable treatment which should reverse the burden of proof on the state authorities to prove that they acted lawfully. The claimant's request for referral to the CJEU was also rejected. The judge concluded that the referral request in the current proceedings was premised upon a lacking evidential base.

The Court found that the authorities did not prevent the claimant from exercising her right to equal treatment, because her right to the property was temporarily and objectively subject to legitimate and lawful restrictions derived from a law, through a reasonable and well-founded objective justification, using proportionate and necessary means. No details were presented as to the legitimate aim served by the restrictions or how these were proportionate to the aim.<sup>45</sup>

### 3. Court decision on hate speech against a third country national

In July 2021 the Appeal Court delivered its judgement for an appeal by the police against a trial court decision which had imposed only a fine of 750 for racial hate speech.

The incident took place in 2019 in a parking space where the victim, a woman from Russia residing in Cyprus for the past 20 years, noticed a car driven by the assailants hitting another car which had been parked in the parking area. The victim called the assailants to stop and approached their car, upon which the assailants got out of their car and started swearing at her with references to her racial origin, spat at her, threatened her and pushed her. The victim recorded the incident with her mobile phone and posted it on social media. The police received information about this video and investigated the case, following which charges were brought against the assailants on 11 grounds, including under the law

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<sup>45</sup> Nicosia District Court, [Djemil Cufi v Republic of Cyprus](#), No. 4193/08, 27 January 2021, ECLI:CY:EDLEF:2021:A48.

transposing the Framework Decision on Racism and Xenophobia.<sup>46</sup> The assailants pleaded guilty to the charges. The trial court took into consideration their personal circumstances, their clean criminal record, the absence of pre-meditation and the fact that the video of the incident was posted on the internet, leading to their public ridicule and condemnation, with serious consequences in their personal lives. One of the two assailants suffered mental health issues and had to be hospitalised in a psychiatric clinic; she lost her job and remained unemployed as she was deemed incapable for work with a disability of 75%. The other assailant does not work, was deeply affected by the incident and is ashamed to leave her house in case she is recognised and ridiculed. The trial court concluded that the incident was 'borderline', that there was no incitement to violence and imposed only a fine of €750 to each of the assailants for the charges under the law transposing the Framework Decision and no penalty for the other charges.

The Attorney General appealed the sanctions imposed by the trial court on the ground that they were not sufficiently dissuasive and exemplary. The Appeal Court stressed that the presence of other people in the incident, as clearly shown in the video, meant that incitement to violence should not be ruled out. Counsel for the assailants argued that the assailants had no intention to incite violence or hate and that the trial court should have recorded a non-guilty plea to that charge, asking for a re-trial as regards the charges under the Framework Decision. The Appeal Court found that all actions for which the assailants were charged were in fact covered by the Framework Decision on Racism and Xenophobia, which is not limited to hate speech but extends to hate crime as well. The Court stated that incitement is a key element of the Framework Decision, which is interpreted so as to mean encouraging or assisting. The question raised by defense counsel as regards the non-guilty plea could only be considered if the appeal had based on an error of fact and that it was not possible to seek the assailants' acquittal when the trial court conviction was not appealed against. The Appeal Court concluded that the trial court had failed to identify the actions of the assailants as hate crimes with a racial motivation, which are defined as offences under the penal code or other law committed with a racist or xenophobic motive. The police had failed to prosecute the assailants under the provision of racially motivated crime; however, this did not prevent the Court from invoking it in the assessment of the penalty. Citing the FRA factsheet on hate crime, the Court stressed the importance of differentiating racially motivate crime from other crimes. The Court acknowledged that it was not an organised pre-meditated attack but it was clearly a thoughtless, anti-social and willfully racist act. The Court increased the fine from €750 to €3,000 and imposed additional fines for all other charges, as well as prison sentences of one month, two months and 15 days running concurrently, which were suspended on the condition that the assailants do not commit a crime punishable with imprisonment in the next three years.<sup>47</sup>

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<sup>46</sup> Cyprus, Law on the combating of certain forms and expressions of racism and xenophobia through criminal law of 2011 ([Ο περί της Καταπολέμησης Ορισμένων Μορφών και Εκδηλώσεων Ρατσισμού και Ξενοφοβίας μέσω του Ποινικού Δικαίου Νόμου του 2011](#)), N.134(I)/2011

<sup>47</sup> Cyprus, Supreme Court, Appeal Jurisdiction, [Police against A.A. and L.A.](#), Criminal appeal nos. 4/20210 and 5/2021, 1 July 2021.



#### 4. On-line meeting on hate crime in the framework of a joint action of the Ombudsperson and the OSCE Office for Democratic Institutions and Human Rights (OSCE ODIHR)

In March 2021 an on-line meeting was held under the title “Initiating Inter Agency Co-Operation on Addressing Hate Crime in Cyprus” to launch the collaboration between the parameters Ombudsperson and the OSCE ODIHR, in the framework of a joint initiative for the development and promotion of inter-service cooperation between competent public authorities and civil society organizations to address hate crimes in Cyprus. The meeting was addressed by the Ombudsperson, the Minister of Justice, the Assistant Attorney General and the Chief of Police<sup>48</sup> and presentations were delivered by officers of the Ombuds office and the ODIHR, the police, the Asylum Service and two NGOs, namely Accept LGBTI+ and Aequitas.<sup>49</sup>

#### 5. Position of the Ombudsperson regarding hate speech and especially on-line

In July the Ombudsperson published a document setting out the framework on hate speech, with reference to the 2019 incident of racial abuse against the Russian woman and the Court decision on that case<sup>50</sup> and the collaboration launched with ODIHR.<sup>51</sup> A number of complaints examined by the Ombudsperson in previous years were set out, mostly dealing with racist comments against third country nationals, mainly asylum seekers and refugees for welfare benefits they are receiving. The paper presented the legal framework of the Council of Europe and ECtHR jurisprudence on hate speech, freedom of expression and its delimitations, the national laws on hate speech and hate crime, the national jurisprudence consisting of just two court decisions on hate speech, as well as the relevant recommendations of the Council of Europe, the European Commission and Equinet. It stressed the increasing hate speech on the internet risking the incitement of general societal hostility towards vulnerable groups such as the migrants, ethnic and religious communities and LGBTI persons. It argued that xenophobic discourse in the public sphere was a product of the immigration and refugee flows of the past 25 years, intensified by the economic crisis which generated xenophobic reflexes against migrants, refugees and asylum seekers in Cyprus. The paper referred to the role which the mass media can play in alleviating phenomena of xenophobia and sensitising public opinion and the responsibility of the police to prosecute public discourse promoting or inciting intolerance against specific groups on the basis of colour, national origin, religion or sexual orientation. The paper recommended that mass media introduce a system of monitoring comments of readers in order to locate and promptly delete comments with hate speech and called on the police to prioritise combating hate speech

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<sup>48</sup> The speech of the Chief of police is available [here](#).

<sup>49</sup> For more information, please see the relevant webpage of the Ombuds office [here](#).

<sup>50</sup> Cyprus, Supreme Court, Appeal Jurisdiction, [Police against A.A. and L.A.](#), Criminal appeal nos. 4/20210 and 5/2021, 1 July 2021. The case was discussed under paragraph 2.2.3, above.

<sup>51</sup> See paragraph 4 above.

through criminal investigation and prosecution and training of its members for effectively address hate speech.<sup>52</sup>

#### 6. Ombudsperson/NHRI report on racial incident at the football pitch

At year's end, the ombudsperson/NHRI conducted a self-initiated investigation into a racial incident against a black footballer during a football match where the spectators were imitating monkey sounds. The NHRI described the incident as 'isolated' and recommended the adoption of preventive measures without specifying them. The NHRI expressed agreement with the FRA recommendation for effective mechanisms of monitoring racism in sports but did not proceed to recommend specific measures. The report was published two weeks after the Sports Judge of the Cyprus Football Association delivered his decision establishing the incident as racist.<sup>53</sup>

## Chapter 3. Roma equality and inclusion

### 3.1 Policy developments in regards to the application of the EU Roma strategic Framework for equality, inclusion and participation for 2020-2030

The national Roma strategy has not been compiled yet. The Social Welfare Services, which is the body designated as national contact point for the Roma equality, integration and participation, has applied to the Ministries of Foreign Affairs, Finance, Interior, Education, Transport and Communications, Health, the Under-Ministry of Research Innovation and Digital Policy, the General Directorate of European Programmes and other departments of the Ministry of Labour in order to submit their contributions for the compilation of the national strategy.<sup>54</sup>

Please put down the name of the national Roma framework/Roma	N/A
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<sup>52</sup> Commissioner for Administration and Protection of Human Rights (2021), '[Τοποθέτηση αναφορικά με τη ρητορική που προάγει το ρατσισμό και τη ξενοφοβία και τις ειδικότερες προεκτάσεις που έχει η ρητορική αυτή όταν αναπτύσσεται στο διαδίκτυο](#)', 14 July 2021.

<sup>53</sup> Commissioner for Administration and Protection of Human Rights (2021), '[Αυτεπάγγελτη Τοποθέτηση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων ως Φορέας Ισότητας και Καταπολέμησης των Διακρίσεων και ως Εθνική Αρχή Ανθρωπίνων Δικαιωμάτων, αναφορικά με την εξάλειψη των ρατσιστικών περιστατικών από το ποδόσφαιρο και ευρύτερα από το χώρο του αθλητισμού](#)', 31 December 2021.

<sup>54</sup> Letter to the FRANET contractor from the Social Welfare Services, 8 October 2021.

strategy/integrated set of policy measures and the link	
Please add a hyperlink if the strategy is publicly available.	N/A
Did an evaluation of the previous Roma inclusion strategy take place? If yes, please provide reference	There was never any Roma inclusion strategy in Cyprus. The Cypriot authorities do not recognise the Roma as separate entity from the Turkish Cypriot community. So far, the only measures which the Roma could benefit from the horizontal measures applicable to all vulnerable groups.
Does the strategy use the (headline) indicators as suggested in the new portfolio of indicators?	N/A
Was Roma civil society involved in the development of the strategy? Please provide examples?	At this stage only government ministries were invited to submit contributions
Were NHRIs and/or equality bodies involved in the strategy development? Please provide example?	No
Does the new strategy link to the operational programmes for the new EU funding period 2021-2027?	N/A

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

There were no developments or measures addressing Roma/Travelers inclusion in 2021.

The national strategy for the protection and promotion of human rights, adopted by the Council of Ministers in Jun 2021 states that monitoring bodies established that the Roma population of Europe is discriminated against in the field of education, health, occupation, housing and political participation, pointing out that Cyprus is no exception. The Roma are classified is one of the groups targeted,

alongside other vulnerable groups.<sup>55</sup> The strategy contains the policy pillars but no references to actions; these will be listed in the action plan which has not been compiled yet.

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<sup>55</sup> Council of Ministers (2021), '[Extract from the minutes of the meeting of the Ministerial Council of 2 June 2021](#)', Proposal no. 630/2021, Decision No. 91.327.

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

### 4.1 Number of beneficiaries of international protection whose protection status was revoked in 2021

Country	Cessation of refugee status			Cessation of subsidiary protection		
	Number of refugee status revoked	Main reasons		Number of subsidiary protection status revoked	Main reasons	
Cyprus	No of statuses revoked	Country of origin	The Asylum Service did not make the reasons available.	No of statuses revoked	Country of origin	The Asylum Service did not make the reasons available.
	2	Bangladesh		1	Iraq	
	1	Iraq		1	Somalia	
	1	Palestine		11	Syria	
	1	Russian Federation		<b>19</b>	<b>TOTAL</b>	
	1	Somalia				
<b>6</b>	<b>TOTAL</b>					

#### 4.2 National border monitoring mechanisms

By end of the year, Cyprus had not designated a body responsible for border monitoring.<sup>56</sup>

Country	Legal source providing for border monitoring	Organization(s) responsible for monitoring	Is the monitoring body at the same time the National Preventative Mechanism? (Y/N)	Are reports publicly available? [if yes, please add hyperlink]	Number of monitoring operations in 2021	Is monitoring (at least partially) funded by the EU? If so, under which modalities?

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<sup>56</sup> Letter from the Asylum Service to the FRANET contractor, 20 October 2021.

## Chapter 5. Information society, privacy and data protection

### 5.1 Legal and policy developments or measures that have been implemented related to data protection and private life with regards to security issues

1. Court decision on the legality of accessing telephone data of a suspect in the course of a criminal investigation

On 2 September 2021 the Supreme Court rejected an application by a suspect in a criminal investigation, who had sought to annul a court order issued in August 2021 authorising access to the written content of his private communications. The access warrant was issued following an ex parte application from the Attorney General under the law on accessing telephone conversions and written content of private communications,<sup>57</sup> amended in 2020 to provide for a procedure of securing a court order authorising access to communication data through an application from the Attorney General. The applicant had been arrested on 6 August 2021 from his home on charges of conspiracy to commit a felony, forgery of a public document, dissemination of a forged document, securing a registration through false representations and other offences. He was a medical doctor contracted by the Ministry of Health to administer Covid-19 under a scheme aimed at accelerating the national vaccination program. He was suspected of having issued a vaccination card to one of his patients who had not been vaccinated and who finally fell seriously ill with Covid-19. During his arrest, his mobile phone and laptop were confiscated by the police. On 12 August 2021, the police informed him that they secured a warrant to access his private communications. He was released from custody on 18 August 2021 and his mobile phone and laptop were returned to him on 21 August 2021. He challenged the access warrant, claiming that the court had not examined whether the offences attributed to him, for which access to his data was sought, could possibly have been committed; he claimed that the charge of having exchanges suggesting corruption was added by the police to the list of charges merely in order to convince the court to lift the confidentiality of communications and permit access to his data, even if the prosecuting authorities knew that the order would give the police access to sensitive personal data of his patients. He argued that he could not have realistically have committed the offence of corruption attributed to him because he was not acting on behalf of the government or any other public organisation, as foreseen in the relevant legislative provision.

The Appeal Court rejected his application for a certiorari order to annul the access warrant, clarifying that the certiorari is issued rarely and exceptionally, when there

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<sup>57</sup> Cyprus, Law on the protection of confidentiality of private communications (Monitoring of communications and access to written content of private communications) of 1996 [[Ο περί Προστασίας του Απόρρητου της Ιδιωτικής Επικοινωνίας \(Παρακολούθηση Συνδιαλέξεων και Πρόσβαση σε Καταγεγραμμένο Περιεχόμενο Ιδιωτικής Επικοινωνίας\) Νόμος του 1996](#)]

is prima facie 'case to answer' and the applicant has no other means to his disposal to find justice. The Appeal Court rejected the applicant's argument that the affidavit attached to the application for accessing the communication data did not reveal facts relevant to the charges because the legal provisions are wide enough to cover the alleged circumstances of the offence. The affidavit contained references to the testimony of one of his patients admitting having received from the applicant a vaccination card when in fact he was not vaccinated. Judicial precedent does not require at this stage evidence for every constituent element of the offences attributed. The Court rejected the attribution of ulterior motives to the police by the applicant in purposely including the charge of corruption which is punishable with imprisonment of over five years, on the justification that this is a mere estimation that lacks evidential basis. The trial court was correct in satisfying the Attorney General's request for accessing his communication data, because there was sufficient suspicion or possibility that the suspect may have committed the offence and/or that the communication data were sufficiently relevant and the issue of the order was in the interest of justice.<sup>58</sup>

## 2. Court decision invalidates national data retention law

On 27 October the Supreme Court delivered a decision following a series of applications contesting the legality of court orders permitting access to their telephone data which led to arrest warrants issued against them.<sup>59</sup> The issue examined by the Court was whether or not the national law on data retention,<sup>60</sup> under which the discovery orders were issued, was compliant with Union law and jurisprudence and especially Council Directive 58/2002 and the CJEU ruling in *Tele2Sverige*.<sup>61</sup>

The national law creates a duty for telephone service providers to retain telephone data of their users including missed calls which are necessary for locating and identifying the source and destination of communications, date time and duration of the communications and the identification of the equipment used by the users for the purpose of the communication, for six months. The applicants argued that the general and indiscriminate retention of data and location infringes Union law despite the safeguards included in the national law as regards access to such data, as the safeguards do not comply with the criteria set out in the CJEU jurisprudence.

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<sup>58</sup> Cyprus Supreme Court, [Re. the application of XXX Petae for permit to file an order for Certiorari](#), Civil Application No. 171/21, 2 September 2021, ECLI:CY:AD:2021:D386

<sup>59</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>60</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>61</sup> Court of Justice of the European Union (CJEU), C-203/15, *Tele2 Sverige AB v Post- och telestyrelsen and Secretary of State for the Home Department v Tom Watson and Others*, 21 December 2016.



With extensive citations from the *Tele2Sverige* ruling and the *La Quadrature du Net* ruling,<sup>62</sup> the Court acknowledged that the protection of telephone data is not absolute, however national legislation must transpose the Directive in a manner compliant with the EU Charter; and the provisions of the Cypriot data retention law permitting the retention of data of all subscribers and registered users for the purpose of investigating serious crime raised questions of compliance with Union law and Charter rights. The Court rejected the arguments put forwarded by the respondents: that the special circumstances of the national context such as small distances and the non-concentration of crime at a local level make it impossible to define a small area of applicability than the territory of the Republic; that a ceiling of six months of retaining data is set in the law; that retention does not extend to the content of the communication but merely the type of equipment, the date, time, duration and position; that only 'authorised' persons have access to the data so retained. The Court clarified that Union law approaches retention of data and access to data as two distinct issues with their own preconditions each and excludes indiscriminate retention. The Cypriot law lacked the restrictions in the target group, which are required by *Tele2 Sverige*. The small size of the country did not justify the legislative provision permitting data retention in the entire territory of the Republic, as this does not meet the criterion of a geographical zone where there is a high risk of preparing or carrying out serious crime, as required in *La Quadrature du Net*. The Court concluded that the legislative provisions in question infringe Directive 2002/58.

The decision was not unanimous; a minority of judges arrived at the same conclusion through a different reasoning and another minority dissented. The dissenting judgement concluded that the national law does not infringe Union law because the safeguards foreseen in the national law ensure that retention is not indiscriminate.

The decision attracted considerable media attention<sup>63</sup> and criticisms from the Chief of Police and the Attorney General who expressed their disappointment and raised the alarm that the decision will lead to the overturning of several convictions which had relied on retained data.<sup>64</sup> Following this decision, the Attorney General and the Justice Minister provided full backing to a bill pending since 2009,<sup>65</sup> which sought to create a duty on providers of telephone cards to record the personal data of the user before the card is activated.<sup>66</sup>

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<sup>62</sup> Court of Justice of the European Union (CJEU), C-511/18, *La Quadrature du Net and Others v Premier minister and Others*, 6 October 2020.

<sup>63</sup> Hadjivasilis, M. (2021), '[Στον αέρα σοβαρές υποθέσεις λόγω προσωπικών δεδομένων](#)', *Phileltheros*, 28 October 2021.

<sup>64</sup> Ioannou, K. (2021), '[Πέφτουν" υποθέσεις: Κατάδικοι ετοιμάζουν προσφυγές για να "δικαιωθούν"](#)', *Alphanews*, 28 October 2021.

<sup>65</sup> Hadjivassilis, M. (2021) '[Τέρμα στην ανωνυμία των καρτών so easy](#)', *Phileltheros*, 22 October 2021

<sup>66</sup> Cyprus, [Ministry of Justice and Public Order \(2021\)](#), '[Η Υπουργός Δικαιοσύνης και Δημοσίας Τάξεως τάσσεται υπέρ της νομοθετικής ρύθμισης για ταυτοποίηση των χρηστών καρτών κινητής τηλεφωνίας προπληρωμένου χρόνου ομιλίας](#)', Press release, 9 November 2021.

### 3. The Court annuls access warrant for the actors of Aljazeera's 'Cyprus Papers'

This was another high-profile case attracting considerable media attention<sup>67</sup> as it concerned the 2020 revelations of Al Jazeera about public officials involved in the chain of selling EU passports to international criminals in exchange for luxury properties in Cyprus.<sup>68</sup> In October 2020 the police confiscated a number of electrical equipment, mobile phones, computers and USBs from the homes, offices and cars of the applicants. A few days later, the Attorney General secured an order from the Court under the law on the protection of confidentiality of communications to gain access, inspect and collect all private communication data listed in the application he submitted to Court, in order to investigate serious criminal offences which they are reasonably believed to be recorded in such data. The applicants applied to the Supreme Court for a certiorari order seeking to annul the access warrant, invoking three reasons: that the trial Court had committed an error in law and had exceeded its jurisdiction; that the warrant states that the trial Court had heard the prosecuting authorities before issuing the warrant which was not the case; and that the trial Court had not assessed the evidence before it in order to decide whether the prerequisite suspicion or possibility was there, adopting a mechanistic approach and acting as a 'rubber stamp' for the police.

The Supreme Court granted the applicants the certiorari order and annulled the trial Court's access warrant into the applicants' personal communication data. The Court endorsed the applicants' argument that the document dated 3.11.2020 which contained the Court's examination of the Attorney General's request was not put before the Court on 13.3.2021 when the court was examining the access warrant; the allegation that the trial Court had adopted a mechanistic approach was evident in the fact that it failed to spot errors in the documents put before it, such as a citation of the law on monitoring telephone conversations rather than the law on access to written content. The Court stressed that the issue of access warrants should not be a mechanistic process and that the judges themselves must be satisfied on the basis of facts before them that there is a reasonable suspicion that the suspect has committed or will commit a crime, that the private communication to which they are seeking access is connected to or relates to the crime, and the issue of the warrant is in the interests of justice. The trial Court had ignored that all three pre-requisites must be present in order for the access warrant to be issued and acted mechanistically. An additional reason reinforcing the Appeal Court's position that the trial court had acted mechanistically in the issue of the access order was the fact that the trial court failed to acknowledge that some of the offences listed in the charges were not punishable with

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<sup>67</sup> Hadjivassilis M. (2021), '[Το Ανώτατο ακύρωσε διάταγμα κατά Τζιοβάννη και Αντωνίου](#)', *Philelefttheros*, 8 September 2021.

<sup>68</sup> Aljazeera (2020), '[Cyprus officials implicated in plan to sell passport to criminals](#)', 12 October 2021.

imprisonment of five years or more and do not justify the lifting of the confidentiality of communications.<sup>69</sup>

#### 4. Whistle-blowers Directive

In February 2021 the Ministry of Justice launched a public consultation on a bill purporting to transpose the Directive 2019/1939 on the protection of persons who report breaches of Union law.<sup>70</sup> When consultation was closed, the bill was tabled in parliament for discussion, with instructions for its adoption by the deadline of 17 December 2021.

#### 5. The van with phone tapping equipment

A van of unknown origin, found roaming the streets of Nicosia in 2020 carrying technological equipment for tapping mobile phones within a distance of 500 metres, was finally identified as belonging to an Israeli businessman who had also installed the monitoring system in the offices of the ruling party DESY. A journalistic investigation revealed that the police not only knew about the van as from 2016 but it also had dealings with the businessman who owns it. The investigation showed that the businessman had sold security systems to the police headquarters in 2014-2015 and trained members of the Department of Criminal Statistics of the state Statistical Service. A police officer seconded in the government's central intelligence office was allegedly regularly visiting the Larnaca offices of this company and the business is alleged to have been granted permission from the justice minister to carry a gun, even though the competent police body had twice rejected the businessman's request for a gun license.<sup>71</sup> In November 2021 the Attorney General ordered the suspension of the criminal prosecution of the accused natural persons leading to their acquittal of all charges, on the justification that no criminal offences could be established. The criminal prosecution is still under way for the legal entity with a total of 90 charges of possession of tapping equipment, use of radio frequencies and network without permit, unlawful processing of personal data etc and it is expected that the court will impose a fine.<sup>72</sup> The national Data Protection Authority, meanwhile, issued an administrative fine of 925,000 to the same company for infringement of the

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<sup>69</sup> Cyprus Supreme Court, *Re. the application of XX Antoniou and XXX Giovanni for permit to file certiorari order*, Civil appeal 73/2021, 2 September 2021, ECLI:CY:AD:2021:D384

<sup>70</sup> Ministry of Justice (2021), '[Προσχέδιο Νομοσχεδίου με τίτλο «ο περί της Προστασίας των Προσώπων που αναφέρουν Παραβιάσεις του Δικαιού της Ένωσης Νόμος του 2021» \(τελευταία ημερομηνία διαβούλευσης 12/03/2021\)](#)', Press release 8 February 2021.

<sup>71</sup> Dialogos (2021), '[Οι σχέσεις ΔΗΣΥ και Αβνί – Πως προσπάθησε να ξεγελάσει ο Αβέρωφ Νεοφύτου παραπληροφωρώντας](#)', 11 October 2021.

<sup>72</sup> Makrides F and Vasou V. (2021), '[Κατασκοπευτικό βαν: Αναστολή ποινικής δίωξης για όλους – Δικάζουν μόνο την εταιρεία Wispear](#)', *Politis*, 16 November 2021.

principles of lawfulness, fairness and transparency safeguarded by article 5(1)(a) of the GDPR.<sup>73</sup>

## 6. Measures to contain the COVID-19 pandemic

From 10 May 2021 onwards, the authorities implemented a decision on the possession of a 'safe pass' when visiting crowded places. At the early stages of the implementation the 'safepass' could be one of the three following certificates: either a vaccination certificate, or proof that the person has contracted COVID-19 in the last six months, or a negative PCR or rapid test valid for 72.<sup>74</sup> The measure attracted criticism mainly as regards the person mandated with checking the safepass and the data protection gaps which this entails. In a press interview, the Data Protection Commissioner clarified that employers have the right to check the safepasses of their employees and from July onwards they had a duty to check them; recreation centres had the duty to check the safepasses of their customers as well as their identification documents, except enterprises serving fewer than 20 people. The Commissioner stated that the arrangement does not infringe personal data protection and that, according to the proportionality principle, the duties created by the measures must be proportional to the aim at the given time; and in this case the epidemiological situation calls for additional duties. The Commissioner clarified that persons checked for safepass may ask the person checking them to produce their service identification or authorisation to prove they are duly authorised to check safepasses. Employers must have knowledge as to which of the employees are vaccinated or have contracted COVID-19 in the past six months, so as to exempt them from the duty to produce a valid PCR or rapid test. At the same time, however, employers have no duty or right to ask for a copy of the vaccination certificate, nor do the owners of premises have the right to record data from vaccination certificates. The only exception to the rule of not recording data is the case of hotels who have the right to check the validity of the certificate of their customers to ensure that their stay does not exceed that validity. The Commissioner added that in case the epidemiological situation improves and the measures are no longer reasonable and proportionate, the national data protection authority has the right to request the suspension of the excessive and unnecessary measures.<sup>75</sup>

From 18 October 2021 onwards the safe pass is issued only for persons who received at least two doses of the vaccine or with the Janssen single dose; persons with a negative PCR or rapid antigen test valid for 72 hours were not affected by this decision and continued to be entitled to a safepass under the previous decision.<sup>76</sup>

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<sup>73</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 November 2021.

<sup>74</sup> Cyprus Press and Information Office (2021), '[Implementation of the "SafePass" Decision as of 10 May](#)', Press release, 8 May 2021.

<sup>75</sup> Sigmalive (2021), '[Τι αναντά για το SafePass η Επιτροπή Προστασίας Δεδομένων](#)', 12 July 2021.

<sup>76</sup> Cyprus Press and Information Office (2021), '[SafePass will be issued only for fully vaccinated individuals as of October 18](#)', Press release 5 October 2021.

The above arrangement remained in force until 22 October, when the authorities introduced the EUDCC and rendered the CovScan scanning mandatory for all safepass holders. From this date onwards, safepass checks are to be conducted solely through the scanning of the QR code indicated on the EUDCC, in paper or in digital form, which all safepass holders are expected to download. The application shows only the name and date of birth of the holder and does not store any personal data or history of checks.<sup>77</sup> In response to queries received by her office as to the legality of the mandatory check of the EUDCC, the Commissioner clarified that, following consultation with her office, the relevant order was modified to exempt persons aged 65+ and under 18 who are not obliged to produce a EUDCC and can continue producing their vaccination certificate, their previous infection certificate or their valid PCR or rapid test without a QR Code. It was further clarified that the age limits may change depending on the circumstances but in no case will the COVSCAN check become mandatory for persons under 14. The Commissioner added that COVSCAN does not store data or location nor can it create their profile or take and store a print-screen. To ensure that the equipment used to scan the QR CODE is indeed the COVSCAN and not some other equipment that may store data, people can inspect the equipment used for scanning.<sup>78</sup>

7. DPA decision against the Cyprus University of Technology for the collection and processing of data of students and staff members in the context of the safepass.

The DPA examined the legality of a practice followed by the Cyprus University of Technology in collecting and processing data of students and staff members for the purpose of issuing them with safepasses.

The University collected and processed personal data of staff members and students for the purpose of checking vaccination and infection certificates. The data collected comprised of identity card number, position, department, vaccination or infection certificate and their date of issue. The processing was made through a tool available at the University's website. The template belongs to the software/platform for the creation of on-line questionnaires of the company Lime Survey GmbH based in Germany. The communication notice posted on the University's website stated that the data are to be submitted on a voluntary basis in the context of the endeavour to assist the University return to teaching with physical presence with the new academic year 2021-2022. The data were to be deleted after a year. Those staff members and students who were not vaccinated would not fill out this template and their safepass would be issued in a manner that would be announced later. During a consultation between the University and the DPA, the DPA stated that:

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<sup>77</sup> Cyprus Press and Information Office (2021), '[SafePass possession checks via the CovScan application will be optional until 22 November](#)', 5 November 2021.

<sup>78</sup> Cyprus, Commissioner of the protection of personal data (2021), '[Ερωτήματα πολιτών σε σχέση με την εφαρμογή των Διαταγμάτων του Υπουργείου Υγείας υπ' αρ. 40, 41 και 42, ημερ.05/11/2021, 11/11/2021 και 18/11/2021](#)', Press release 19 November 2021.

- The collection and processing of data cannot be premised on the consent of subjects where the relationship is unequal, like the employer-employee relationship;
- The retention of data for a year exceeds the limits of legality, reasonableness and proportionality;
- Instead of the internet, the University should use intranet.

The University adopted only the recommendation concerning the period of retention, by deleting the reference to one year but without declaring an alternative retention duration; and proposed to delete the requirement of uploading certificates. The DPA stated that the University could only request students and staff members to enter what was strictly necessary in relation to the safepass and to retain it for a period which did not exceed the validity of the Order. The DPA concluded that: the collection and processing of the personal data through internet using the on line platform Lime Survey was unlawful for infringing the legality, objectivity, transparency, necessity and proportionality; the retention period of one year could not be justified by the conditions of the Order especially since the Order itself does not foresee the retention of data; and the use of the internet and the software of a third party, namely the platform provider, for storing data entailed security risks. The DPA ordered the University to instantly terminate the processing through the online form; destroy or delete from the database the certificates of vaccination and infection collected; take measures to ensure that the processing complies with the requirements of the GDPR; and notify the DPA of all the actions taken to comply with the above orders.<sup>79</sup>

## 5.2 Artificial intelligence and big data

Actor*	Type**	Description	Are Human Rights issues mentioned? (yes/no)	Reference

There were no measures adopted in 2021 regarding artificial intelligence and big data.

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<sup>79</sup> Cyprus, Commissioner for the Protection of Personal Data (2021), ['Απόφαση με τη μορφή Εντολών σχετικά με την επεξεργασία μέσω του ηλεκτρονικού εντύπου START-Lime Survey από το ΤΕΠΑΚ'](#), 5 August 2021.

Cyprus does not make use of artificial intelligence in the implementation of the vaccination certificates.<sup>80</sup>

## Chapter 6. Rights of the child

### 6.1 Measures taken during the COVID 19 to ensure the well-being of children living in poverty and the protection of children from violence

Measures to address the specific vulnerabilities of children living in poverty	<p>No measures were adopted in 2021 to address child poverty.</p> <p>The newly set up under Ministry of Social Welfare was designated as national coordinator to compile a national action plan for the Child Guarantee, to be submitted to the EU by 15 March 2022. A technical committee will be set up to ensure the active participation and commitment of all ministries, bodies and organisations in the preparation, implementation and monitoring of the National Action Plan.<sup>81</sup></p>
Measures to protect children from violence	<p>There were no new measures adopted in 2021 to protect children from violence.</p> <p>In January 2021 the Commissioner for the Rights of the Child launched an assessment of the impact on children of the restrictive measures adopted in the context of the COVID-19 pandemic, in collaboration with the European Network of Child Commissioners and UNICEF. In this framework, the Commissioner invited children to submit their views on line.<sup>82</sup></p>

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<sup>80</sup> Letter from the Deputy Ministry of Research, Innovation and Digital Policy to the FRANET contractor dated 3 December 2021.

<sup>81</sup> Letter from the Social Welfare Services 8 October 2021.

<sup>82</sup> Cyprus, Commissioner for the rights of the child, '[Αξιολόγηση αντικτύπου των μέτρων που τέθηκαν για την πανδημία Covid-19 στα δικαιώματα του παιδιού](#)', 28 January 2021.



## 6.2 Legal and policy developments or measures relating to criminal proceedings

Legislative changes	<p>In April 2021 parliament adopted the law on the setting up of a criminal justice system that is friendly to children in conflict with the law,<sup>83</sup> which creates a new system of criminal justice and includes provisions transposing Council Directive 800/2016. The law regulates the treatment of children without criminal responsibility, i.e., children aged under 14, as well as persons who reached maturity but who committed an offence when they were still under 18. In addition to transposing Directive 800/2016, the law provides for special juvenile courts, alternative sentences and various councils aimed at helping children and their parents in order to protect children and help them avoid repetition of delinquent behaviour. Part III of the law provides the procedures to be followed when children under 14 are in conflict with the law, regulating the duties of state officials and establishing the institution of ‘family councils’, participated by both children and parents in order to evaluate the children’s conduct and suggest ways of avoiding future delinquent conduct. Part IV sets the procedures to be followed when children over 14 are in conflict with the law, providing for conditions of detention, police investigation, referrals to programs and to the Child Council. A juvenile court is set up where children are to be referred as a last resort, to be housed in a separate building with its own supervisors with mandate to oversee the implementation of the law, where judges specialising in juvenile justice will be able to refer the child to one or more of the councils set up under the law to compile an action plan for the child that will correspond to the child’s personal needs and circumstances. Media reports referred to inadequate infrastructure and lack of adequately trained human resources to implement the law, which was repeatedly referred by the police to the Attorney General for instructions over some of its provisions which were deemed as too general and vague.<sup>84</sup></p>
Policy developments	

<sup>83</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.

<sup>84</sup> Makrides F. (2021) "[Αντιμέτωπος με τον νέο ασαφή νόμο ο 16χρονος στο Κίτι που έδωσε ψευδή στοιχεία](#)", 30 August 2021.



<p>Other measures or initiatives</p>	<p>Training of judges on juvenile justice and appointment of Juvenile Judges under the new law on children in conflict with the Law, N.55(I)/2021</p> <ul style="list-style-type: none"> <li>- The Supreme Court delivered in-depth training to judges on criminal justice under the 'Procedural Safeguards in Criminal Proceedings and Victims' Rights' program, which included, inter alia, extensive training on the provisions of Directive 2016/800. The program was run on the Council of Europe's online platform, 'HELP' between January-April 2021 and was attended by both judges and legal officers of the Supreme Court.</li> <li>- In 2021 the European Commission approved the funding of the project 'Child Friendly Justice in the Greek and Cypriot Courts' which concerns the training of Judges and Prosecutors dealing with cases involving children. The project will be implemented in close cooperation with the National School of Judicial Officers of Greece and the School of Judges of the Supreme Court of Cyprus. This project will cover existing needs and will include training by specialist scientists outside the judiciary, such as child psychologists and social workers, with the aim of provided multifaceted experiential training to judges and prosecutors. Effort are made to include judges from other countries, to contribute their own good practices.</li> <li>- In line with article 64 of the law, in June 2021 the Supreme Court appointed Juvenile Judges for each province.</li> </ul>
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## Chapter 7. Access to justice

### 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

There were no developments in 2021 on the implementation of the Victims' Rights Directive or the EU Strategy for Victims' rights.<sup>85</sup> The law transposing the Directive is in place since 2016 but there is no mechanism overseeing and evaluating its implementation nor is complaints data collected.

### 7.2 Measures addressing violence against women

#### 1. New law on gender-based violence and on domestic violence is adopted

A new law entitled Law on the prevention and combating of violence against women and of domestic violence and related matters of 2021, aiming at complying with the Istanbul Convention, provides definitions for various types of gender-based violence and regulates prevention, repression, protection and the provision of care and practical support to victims of gender-based violence. Psychological violence in the form of coercion, pressure, demeaning comments, insults and threats, sexual arrangement and dissemination of pornographic or other sexual content without the woman's consent, material deprivation are now criminalised as gender-based violence. The Court is given discretion to order the exclusion of an accused man from public provisions and the dissolution of a legal person involved in the offences. The court may also exclude an accused person from his place of residence or work or any other place where the victim might be and prohibit the accused man of approaching the victim within a certain distance. The law contains provisions on education, training and awareness of professionals and the improvement of coordination between all relevant services.<sup>86</sup>

The Ministry of Justice is in the course of setting up a Coordinating Body to monitor the implementation of the Istanbul Convention, which will, among other things, undertake the creation of a Unified File for the collection of statistics on gender-based violence, continuous and systematic training of professionals dealing with cases of violence, as well as public awareness actions.

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<sup>85</sup> Communication from the Social Welfare Services, 8 October 2021.

<sup>86</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

## 2. New law on harassment and stalking is adopted

A new law entitled Law on the protection from harassment and stalking of 2021 criminalises talking and harassing behaviour, in line with Article 34 of the Istanbul Convention, which was not up until now foreseen in the national legal order.<sup>87</sup> The definition of the offence includes following a person, monitoring the person's emails or other digital communications, interference with a person's property or posting data about a person's personal life on social media. Apart from criminal offences, the law also creates civil offences enable a victim to prosecute a perpetrator for moral damage, pain, anxiety and agony. The civil court will have the power to issue temporary or final orders with restrictive measures or exclusion orders against the perpetrator.

## 3. Police officers who failed to investigate the disappearance of migrant women later found dead will not be prosecuted

In June 2021 the new Attorney General decided not to prosecute 15 police officers for whom the former Attorney General had ordered a prosecution for neglect of duty, when they failed to promptly investigate complaints for the disappearance of seven migrant women and their children, who were eventually found murdered. The investigation against the police officers had been launched in 2019, after the dead bodies of seven migrant women and girls were discovered in suitcases at the bottom of a lake. All the women had been reported missing some years earlier by friends and relatives but their disappearances were not investigated by the police at the time. The Attorney General justified this decision not to prosecute the police officers involved on his conclusion that there was no wilful intent on their part. According to the Attorney general, the investigation revealed a series of systemic problems in the police relating to its organisational, training, ability and operational capacity, including a potential element of racist perceptions on the part of individual police members which must be addressed by the police leadership, however this does not lead to the conclusion of individual criminal liability for its members, although disciplinary measures will be considered.<sup>88</sup> The decision of the Attorney General led to negative reactions from civil society<sup>89</sup> and repeated street mobilisations.<sup>90</sup>

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<sup>87</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.

<sup>88</sup> Reporter (2021), ['Καμία ποινική δίωξη αστυνομικού αποφάσισε ο Εισαγγελέας για την υπόθεση Μεταξά'](#), 14 June 2021.

<sup>89</sup> KISA (2021) ['The Attorney General's decision for not prosecuting the police officers who failed to protect the 7 murdered migrant women is a provocation to society!'](#), Press release, 16 June, 2021

<sup>90</sup> Dialogos (2021), ['Υπόθεση Μεταξά: Σήμερα διαμαρτυρία έξω από τη Νομική Υπηρεσία από την ΠΟΓΟ'](#), 21 June 2021

#### 4. The U.S. State Department report on trafficking of persons in Cyprus

In July, Cyprus was downgraded to Tier 2 by the Office to Monitor and Combat Trafficking in Persons of the U.S State Department, for failing to meet the minimum standards for the elimination of trafficking. The gaps identified included: delays in referrals of victims for official identification, depriving potential victims of accommodation, healthcare, and financial support for months; fewer suspects were investigated; courts did not convict any perpetrators for the third consecutive year; court proceedings lasted years and foreign victims and witnesses were returned to their countries without an adequate ensuring the continued inclusion of their testimony, leading to acquittals of suspects and trafficking cases convicted on lesser charges.<sup>91</sup>

#### 5. UNHCR report on n sexual and gender-based violence among asylum-seekers in Cyprus

In December 2021 UNHCR launched a report on the traumatic impact of sexual and gender-based violence (SGBV) on people seeking international protection in Cyprus, especially among women and girls, with a view to providing recommendations for addressing the consequences of SGBV often experienced by persons fleeing war or persecution. The study relied on baseline data from the vulnerability assessments with 592 first arrival asylum-seekers carried out in the period March to November 2019. The research extracted entries with the vulnerability indicators relevant to SGBV, trafficking, or child marriage and the remaining data was reviewed using keywords to identify other form of violence or abuse.

The report demonstrated that women and girls were the overwhelming majority of survivors of SGBV, despite the fact that most asylum-seekers arriving in Cyprus were men. The victims reported traumatic experiences of forced marriage, sexual and physical violence, trafficking and sexual exploitation and demonstrated symptoms of trauma including psychological distress, anxiety, depression, severe headaches, sleep difficulties, low self-confidence and fear of being re-victimized. Several interviewees reported physical and sexual violence leading to permanent physical injuries and longer-term health issues, reproductive health consequences, sexually transmitted infections, unwanted pregnancy, forced abortion, vaginal bleeding, miscarriage, and premature birth. The victims did not have strong supportive networks either within their community in Cyprus or with members of the host society. Many had cut ties with their families, or had limited communication with them due to continued conflict in their home country. All interviewees felt isolated, without access to social and family support.

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<sup>91</sup> U.S. State Department, [Office to monitor and combat trafficking in persons \(2021\), 2021 Trafficking in Persons Report: Cyprus](#), July 2021.

Most of the survivors based their asylum claim on their SGBV experience. The report found that more needs to be done to identify and provide adequate and timely access to support services to survivors and recommended the introduction of a systematic data collection on SGBV among first arrival asylum seekers to enable the development of programs, policies and measures to respond to their specific needs. It further recommended more gender-sensitive support services in reception centres to prevent the risk of violence, specialist support to victims of SGBV in their country of origin or during their journey, integration opportunities including support, accommodation, employment and training.

The study was conducted between March and November 2019 among a representative sample of asylum-seekers at the Pournara First reception Centre and was based on 600 assessments of asylum-seekers and qualitative interviews with 20 women asylum-seekers, identified following the results of the quantitative research. A percentage of 49% of all women assessed were identified as victims of SGBV compared to 5.1% of all men assessed. Most of the women survivors were from Cameroon and Congo.<sup>92</sup>

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

### **8.1 CRPD policy & legal developments**

#### 1. The government sets up a centre for autism

In August 2021 the Department of Social Integration of Persons with Disabilities awarded a contract for the setting up and operation of the Family Intervention and Support Center for Autism. The contractor is a consortium made up of the European University of Cyprus and two private companies. The Center, which is scheduled to come into operation in October 2021, will be housed in a renovated wing of an existing foundation for persons with severe mental disabilities.<sup>93</sup> The Center will provide services to about 300 children per year who have been diagnosed with autism spectrum disorders and are under the age of compulsory education, as well as to their families. Services will include psychological support, counseling and psycho-education service, home education and support Service for the family and the child in the context of early childhood intervention specifically focused on children with autism spectrum disorders, social support. The center's

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<sup>92</sup> UNHCR Cyprus and Mediterranean Institute of Gender Studies (2021), '[Sexual and gender-based violence among asylum-seekers in Cyprus](#)', 3 December 2021.

<sup>93</sup> For more details on this foundation, please see their website [here](#).

operation will be supervised by a corresponding foreign model body which will be identified by the Contractor and with which an agreement of supervision, guidance, training and intervention will be concluded. The Center aims at providing timely intervention and support to facilitate active and successful participation of children with autism in all aspects of social life, preparing and empowering children to minimise 'obstacles caused by autism' and to ensure equal opportunities for their education, vocational rehabilitation and personal lives, whilst maintaining family cohesion.<sup>94</sup>

The concept of this project was criticized by disability activists for adopting the medicalised approach to disability rather than the social approach introduced by the CRPD; that the concept was developed without the participation of persons with disabilities; and that it is based on the model of societal exclusion from an early age.<sup>95</sup>

## 2. Transposition of the EU Directive on accessibility requirements for products and services

The Ministry of Labour has set the following timetable for the transposition of the Directive into Cypriot law:

- First stage: preparation of the harmonization plan and completion of the public consultation by 30.6.2021
- Second stage: legislative review of the harmonization plan until 28.2.2022
- Third stage: Decision of the Council of Ministers on the harmonization plan until 15.3.2022
- Fourth stage: Submission of the harmonization plan to the House of Representatives by 31.3.2022.

The Ministry of Labour anticipates that the implementation of will start from 28.6.2025 in compliance with the transposition requirements.<sup>96</sup>

## 3. Houses of semi-independent living in the community

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<sup>94</sup> Letter from the Department of Social Integration of Persons with Disabilities, 8 October 2021.

<sup>95</sup> Consultation with disability activist, 9 October 2021.

<sup>96</sup> Letter from the Department of Social Integration of Persons with Disabilities, 8 October 2021.

The operation of seven supported living houses, which commenced in March 2020, continued in 2021. In February 2021 contracts were signed for the operation of four more supported living homes as follows:

- A house for four persons with autism in Limassol;
- Two houses for two persons with autism each in Limassol, contracted to the Association for Autistic Persons;
- One house for five persons with mental disability in Larnaca.<sup>97</sup>

Persons residing in these homes were vaccinated against COVID-19 as a matter of priority and training seminars were delivered to staff members on safety measures against COVID-19. A protocol was compiled on steps to be taken in case there is a COVID-19 infection inside one of the homes and social welfare officers visited the homes on a weekly basis to ensure compliance with measures. Efforts were made to balance the impact of the pandemic with social activities and trips and the medical supervision of the residents continued normally throughout the lockdowns.<sup>98</sup>

#### 4. Bill for inclusive education- reactions from the Commissioner for the rights of the child and the organised parents of children with disabilities

In February 2019 the government proposed a bill purporting to amend the schooling system for children with disabilities which is until now based on the segregated model of special education.<sup>99</sup> The bill was open to consultation with stakeholders and its final draft was published in May 2021 for final stakeholders' consultation. In June 2021, the Commissioner for the rights of the child published her comments as regards the compatibility of this bill with the CRPD, flagging a number of problems.<sup>100</sup>

The Commissioner cited the principle of best interests of the child and the right to non-discrimination enshrined in the UN Convention for the rights of the child as well as duty under the CRPD not to exclude children from the general schooling system due to their disability, providing reasonable accommodation of the child's needs and the necessary support within the general education system, to facilitate education under conditions of inclusion. It stressed that inclusive education is not achieved by changing the system only for children with specific characteristics but through the creation of a system for all children at all levels of education. Instead,

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<sup>97</sup> Letter from the Department of Social Integration of Persons with Disabilities, 8 October 2021.

<sup>98</sup> Letter from the Department of Social Integration of Persons with Disabilities, 8 October 2021.

<sup>99</sup> Cyprus, Bill on

<sup>100</sup> Cyprus, Commissioner for the rights of the child (2021), ['Θέση της Επιτρόπου προστασίας των δικαιωμάτων του παιδιού αναφορικά με το προτεινόμενο νομοσχέδιο και τους κανονισμούς ενιαίας εκπαίδευσης'](#), File No. 7.16.02, 11.11.29, 5 July 2021.

the proposed law focuses on 'support' rather than education and does not define support nor does it establish how this is connected to education. It does not reflect inclusive education as foreseen in the General Comments of the UN Committees and the CRPD, but instead promotes an improvement of the current system of integrating children on the basis of their classification rather than creating a new system of inclusive education for all. In fact, the problematic aspects of the existing law and the segregated structures in schools are enforced, the only change proposed is to replace the term 'integrated education' with the term 'inclusion' without the necessary institutional and holistic changes. The proposed law maintains the nucleus of segregated education, proposing a better integration rather than inclusive education and cannot be seen as an educational reform, as it does not introduce substantial changes but merely a change in the terminology, indicating the absence of political will on the part of the competent authority to abolish segregation. The vague reference to innovative ideas without measurable criteria for implementation and without compliance duties does not provide added value to the usefulness and effectiveness of a legal tool. The Commissioner proposed specific changes to remove provisions which:

- medicalise disability,
- place a disproportionate burden on teachers
- create uncertainties and complicated models and structures

and called on the government to present a fresh proposal within the parameters of the CRPD and the specifications set by the competent UN Committees and sent a copy of her position to the Ministry of Education, to Parliament and to the organisations that had requested her views.

The organisations of parents of children with various disabilities issued a common statement calling on the government to redraft the proposed law on the basis of the rights and philosophy of the CRPD and open dialogue with experts, academics, lawyers and civil society organisations. The press statement noted that as of 2017 the UN Committee on the CRPD had requested the Cypriot government to prepare a targeted legal framework for inclusive education; the preamble to the proposed law is in the right direction but the content and the regulations do exactly the opposite, they propose an upgrade of the existing segregated system, essentially legitimising the practices of the past.<sup>101</sup>

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

There were no changes to the monitoring mechanisms in 2021. 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

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<sup>101</sup> RIK News (2021), ['Ανασύνταξη του νομοσχεδίου για Ενιαία Εκπαίδευση ζητούν ενδιαφερόμενες οργανώσεις'](#), 17 June 2021.



CRPD; there is no participation in either of these bodies of the organisations of persons with disabilities. The Pancyprian Council for Persons with disabilities, originally conceived as the joint body of policy makers and disability organisations, has not convened for several years because of the withdrawal of the National Confederation of Disability Organisations (KYSOA); however collaboration between the focal point and the disability organisations continues to take place on an ad hoc basis, to discuss proposed policy and legislative developments.<sup>102</sup>

Persons with disabilities residing in supported homes in the community were offered the change to be vaccinated against COVID-19 as a matter of priority at the outset of the vaccination program in February 2020 and training seminars were delivered to staff members on safety measures against COVID-19. A protocol was compiled on steps to be taken in case there is a COVID-19 infection inside one of the homes and social welfare officers visited the homes on a weekly basis to ensure compliance with measures. Efforts were made to balance the impact of the pandemic with social activities and trips and the medical supervision of the residents continued normally throughout the lockdowns.<sup>103</sup>

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<sup>102</sup> Letter from the Department of Social Integration of Persons with Disabilities, 8 October 2021.

<sup>103</sup> Letter from the Department of Social Integration of Persons with Disabilities, 8 October 2021.

## Annex 1 – Promising Practices

<b>Thematic area</b>	<p><b>EQUALITY AND NON-DISCRIMINATION</b></p> <p>Please provide one example of a practice to tackle nationality-based discrimination, or discrimination against LGBTI people, 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 2021 relevant to equality and non-discrimination of EU citizens or LGBTI people, preferably one conducted by a national equality body.</p>
<b>Title (original language)</b>	<p><i><u>No promising practice has been identified for this thematic area</u></i></p>

<b>Thematic area</b>	<p><b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b></p> <p>Please provide one example of a promising practice to address racism and xenophobia. Please give preference to a promising practice about either: active cooperation with CSOs in addressing racism and hate crime; or combating racism and unequal treatment in the context of the COVID-19 pandemic. Where no such practice exists, please provide one example of a promising practice related more generally to combating racism, xenophobia, and related intolerances.</p>
<b>Title (original language)</b>	<p><i><u>No promising practice has been identified for this thematic area</u></i></p>

<b>Thematic area</b>	<b>ROMA EQUALITY AND INCLUSION</b> Please provide one example of promising practice related to the two topics addressed in the chapter. Please make the link between the selected practice and the topics explicit.
<b>Title (original language)</b>	<u><i>No promising practice has been identified for this thematic area</i></u>

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

<b>Thematic area</b>	<b>RIGHTS OF THE CHILD</b> Please provide a promising practice related to the topics addressed in the chapter.
<b>Title (original language)</b>	<u><i>No promising practice has been identified for this thematic area</i></u>

<b>Thematic area</b>	<b>ACCESS TO JUSTICE</b> <b>Please provide one example of a promising practice related to the topics addressed in the chapter.</b>
<b>Title (original language)</b>	Bilateral human trafficking prevention education programme (Cyprus & Greece)
<b>Title (EN)</b>	Bilateral human trafficking prevention education programme (Cyprus & Greece)
<b>Organisation (original language)</b>	<a href="#">Step Up Stop Slavery</a>
<b>Organisation (EN)</b>	<a href="#">Step Up Stop Slavery</a>
<b>Government / Civil society</b>	Civil Society
<b>Funding body</b>	The overall design was funded by the US Department of State Federal Assistance Award. At the national level, the Cypriot Ministry of Education will be funding the implementation of teacher training sessions through its Pedagogical Institute.
<b>Reference (incl. URL, where available)</b>	<a href="https://www.stepupstopslavery.org/what-we-do">https://www.stepupstopslavery.org/what-we-do</a>

<b>Indicate the start date of the promising practice and the finishing date if it has ceased to exist</b>	The design of the programme commenced in September 2021 and implementation will begin in March 2022
<b>Type of initiative</b>	Human Trafficking Prevention Education
<b>Main target group</b>	Teachers of public and private schools in Cyprus
<b>Indicate level of implementation: Local/Regional/National</b>	National, Regional (Cyprus and Greece)
<b>Brief description (max. 1000 chars)</b>	<p>The Step-Up Education Centre will implement Disruptive Education Programs for the purpose of 'disrupting' the business model of human slavery and trafficking. The human trafficking prevention school programme, to be implemented in collaboration with the Ministry of Education, is multi-faceted and aims to include the educational system in the National Referral Mechanism, focusing on the role which schools can play in early interception of suspected child exploitation instances by way of proactive identification, reporting and case management. The programme will facilitate:</p> <ul style="list-style-type: none"> <li>• Implementation of Standard Internal Reporting protocols across schools in Cyprus;</li> <li>• Early identification and interception of suspected instances of exploitation</li> <li>• Timely reporting to social welfare and /or law enforcement</li> </ul>

- Effective collaboration between key stakeholders - schools, law enforcement, social welfare services and child protection NGOs - to ensure prevention, early interception and child support

This programme will involve teacher training and the provision of specific curriculum for children aged 8-18 years old.

The programme design for the children aims at:

1. Disrupting demand and addressing the underlying root causes of trafficking and slavery through a trauma-informed and gender-sensitive approach, taking stock of gender-based violence, discrimination, diversity, culture and human rights.
2. Empowering children to develop personal skills to stay safe and protect themselves from exploitation both on and off-line, such as listening to and trusting their intuition, establishing, and maintaining safe boundaries, comminating courageously, practicing discernment and acting responsibly.
3. Increasing awareness and understanding of human trafficking, different forms of slavery, vulnerability and exploitation, its global and local dimensions and how it can be identified and reported.
4. Raising awareness on cybercrime and online exploitation, on how to stay safe online, understanding exploitation tactics used in social media and gaming platforms.

5. Promoting responsible behaviour and decision making by raising awareness on the direct and indirect role the children themselves may play in trafficking facilitation.
6. Sex education, healthy relationship, harms of pornography and its connection to human trafficking
7. Encouraging activism and advocacy in youth by engaging in collaborative initiatives enabling the voices of the youth to be expressed and heard.

The teacher training programme will aim at training teachers on:

1. Understanding trauma and its impact, PTSD and complex PTSD on the brain, vulnerability, indicators for identifying and reporting trauma, trauma-sensitive communication skills.
2. Understand human trafficking globally and locally, the methods of exploitation and grooming, online exploitation and vulnerability factors, to enable early intervention and support to children.
3. Identifying instances of high risk of abuse, actual instances of trafficking or exploitation on and offline and reporting in accordance with internal processes and protocols.

<b>Highlight any element of the actions that is transferable (max. 500 chars)</b>	All training courses and workshops can be implemented in different member states.
<b>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</b>	The training programme will be offered annually and on an ongoing basis to public school teachers as part of the training provided by the Ministry of Education through the Pedagogical institute. The curriculum will be integrated in the national curriculum as deemed appropriate by the Ministry of Education in the appropriate classroom lessons. It will also be offered independently to private school teachers in Cyprus through direct engagement with Step Up Stop Slavery.
<b>Give reasons why you consider the practice as having concrete measurable impact</b>	The Pedagogical Institute will deliver training in public schools throughout the country to an estimated figure of 300 public sector teachers, who are expected to be trained during the first year of implementation.
<b>Give reasons why you consider the practice as transferable to other settings</b>	The programme has been created as a bilateral initiative in collaboration with the Ministry of Foreign Affairs and Education of Greece, and is being implemented on a national level in both Member states. Expert advisors in the project are OSCE and ODHIR.



<b>and/or Member States?</b>	
<b>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</b>	<p>The programme is designed by a collaboration between Step Up Stop Slavery, OSCE, ODHIR, and the Ministries of Education and Pedagogical Institutes of Cyprus and Greece and the University of Cyprus. In Cyprus, the program outputs will be applied by the Pedagogical Institute of the Ministry of Education.</p>
<b>Explain, if applicable, how the practice provides for review and assessment.</b>	<p>Review and assessment of the academic materials will be conducted by academics and human trafficking and gender experts, to be identified and appointed in agreement by the main stakeholders.</p>

<b>Thematic area</b>	<b>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD)</b> <b>Please provide one example of a promising practice related to projects or programmes implementing the CRPD or promoting the rights of persons with disabilities.</b>
<b>Title (original language)</b>	<u><b><i>No promising practice has been identified for this thematic area</i></b></u>

## **Annex 2 – Case Law**

<b>Thematic area</b>	<b>EQUALITY AND NON-DISCRIMINATION</b> Please provide one high court decision addressing discrimination against EU citizens based on nationality or against LGBTI people. Where relevant, always highlight any relevance or reference to multiple or intersectional discrimination in the case you report.
<b>Decision date</b>	<i><b>No case law has been identified for this thematic area</b></i>

<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>	27 January 2021
<b>Reference details</b>	Nicosia District Court, <a href="#">Djemil Cufi v Republic of Cyprus</a> , No. 4193/08, ECLI:CY:EDLEF:2021:A48
<b>Key facts of the case</b> <b>(max. 500 chars)</b>	A Turkish Cyprus submitted an application to Court challenging the refusal of the Republic to permit the sale of her property to a third party. The status of Turkish Cypriots properties in the territory controlled by the Republic is regulated by the institution of the 'Guardian of Turkish Cypriot properties', who administers the properties of Turkish Cypriots, seen by the law as 'abandoned'. The claimant sought an order from the Court enabling her to sell her property without permission from the Guardian and a statement that the Guardian Law is not compliant with the Racial Equality Directive, asking for referral to the CJEU to determine this question. The Court rejected the claim to the property and refused to refer the question of compatibility of the Guardian Law with the Racial Equality Directive.

<p style="text-align: center;"><b>Main reasoning/argumentation</b></p> <p style="text-align: center;"><b>(max. 500 chars)</b></p>	<p>The Court rejected the claimant’s testimony in its entirety as non-credible. As a result, the description of the property and the constituent elements of the sale agreement were deemed unsubstantiated and vague. The Court rejected expert testimony that the Guardian Law was non-compliant with the Racial Equality Directive, on the justification that the reason for rejecting the claim was not the claimant’s ethnicity but because the property fell within the scope of the Guardian Law; the possibility that this characteristic may be a proxy for ethnicity was not examined. The Court found that the Guardian was justified in refusing to lift the ‘administration’ from this property because the claimant was in possession of a Greek Cypriot property in the Turkish occupied areas. It concluded that there was no infringement of the equality principle because the claimant’ right to the property was only temporarily and objectively restricted.</p>
<p style="text-align: center;"><b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b></p>	<p>The Court did clarify what were the objective reasons for departing from the equality principle and did not consider the ECtHR precedents presented by the expert witness that the aftermath of a violent conflict does not amount to reasonable justification for discrimination. It also did not endorse the expert testimony that this was a case of direct discrimination, in respect of which the Racial Equality Directive does not permit any exceptions. Although the court did not explicitly state that the burden of proof was reversed, it concluded that the entirety of the testimony delivered by the respondent was sufficient to discharge this burden.</p>
<p style="text-align: center;"><b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b></p>	<p>The ruling sets a precedent at the national level that Turkish Cypriots not residing in the Republic-controlled area cannot claim their properties, on the justification that the restriction is ‘temporary’ and ‘reasonable’, even though the restriction spans across several decades and is based on a protected characteristic, i.e., ethnicity. Ethnicity is not recognised as the reason being the differential treatment, arguing that because there is a national law in place permitting it, then ethnic discrimination must be ruled out. The rejection of the request for referral to the CJEU prevents the adjudication of the case on the basis of the Racial Equality Directive and does not enable an evaluation as to whether EU law was infringed.</p>

**Key quotation in original language and translated into English with reference details (max. 500 chars)**

Η Κυπριακή Δημοκρατία δεν εμπόδισε τους ενάγοντες (και ειδικότερα την XXXXX) - είτε διά απαγορευμένης διάκρισης βάσει του Άρθρου 14 του Χάρτη Θεμελιωδών Δικαιωμάτων της Ευρωπαϊκής Ένωσης είτε βάσει του άρθρου 2 της Οδηγίας 2000/43/EK (ή του άρθρου 7(2) του Περί Ίσης Μεταχείρισης (Φυλετική ή Εθνοτική Καταγωγή) Νόμου 59(I)/04), ή (προσθέτω) του Άρθρου 14 της ΕΣΔΑ - από το να ασκήσουν (στο βαθμό που τους αφορούσε νομικώς), το δικαίωμα στην ίση μεταχείριση και στην περιουσία. Ως αρκούντως απέδειξε ο εναγόμενος από το σύνολο της μαρτυρίας (αποσειόντας και το όποιο βάρος απόδειξης είχε βάσει του άρθρου 7 του Περί Ίσης Μεταχείρισης (Φυλετική ή Εθνοτική Καταγωγή) Νόμου 59(I)/04, ή και του άρθρου 8 της Οδηγίας 2000/43/EK), τα περί ων ο λόγος δικαιώματα των εναγόντων υπόκεινται - προσωρινώς και αντικειμενικώς (βλ. κατ' αναλογίαν, *Κίτση ν Γενικού Εισαγγελέα της Δημοκρατίας για Λογαριασμό του Υπουργού Εσωτερικών ως Κηδεμόνα των Τ/Κ Περιουσιών* (2001) 1(B) AAD 1077, 1088-1089) - σε θεμιτούς και έννομους περιορισμούς βάσει του νομοθετήματος, διά εύλογης, δικαιολογημένης, βάσιμης και αντικειμενικής αιτιολογίας, με μέσα πρόσφορα και αναγκαία για επίτευξη του σκοπού αυτού (βλ. κατ' αναλογίαν, *Delimatsis and Others ν Cyprus*, Application No. 66772/13, ημ.

3.12.20, *Chez Razpredelenie Bulgaria AD V Komisija za zashtita ot discriminatsia* EU:C:2015:480, *The Queen, on The Incorporated Trustees of the National Council on Ageing (Age Concern England) ν Secretary of State for Business, Enterprise and Regulatory Reform* (2009) ECR I-8531.

Unofficial English translation:

The Republic of Cyprus did not prevent the plaintiffs (and in particular XXXXX) - either through discrimination prohibited under Article 14 of the Charter of Fundamental Rights of the European Union or under Article 2 of Directive 2000/43 / EC (or Article 7 (2) of the Equal Treatment (Racial or Ethnic Origin) of Law 59 (I) / 04), or (I add) Article 14 of the ECHR - by exercising (to the extent that it legally concerned them) the right to equal treatment and property. As sufficiently proved by the respondent from the entire testimony (discharging any burden of proof the respondent might have under Article 7 of the Equal Treatment (Racial or Ethnic Origin) Law 59 (I) / 04, or Article 8 of Directive 2000/43 / EC), the rights of the claimant in question are subject - temporarily and objectively (see by analogy, *Kitsi ν Attorney General of the Republic on behalf of the Minister of Interior as Guardian of Turkish Cypriot Properties* (2001) 1 (B) AAD 1077, 1088-1089) - to legitimate and lawful restrictions under the legislation, by reasonable, justified, well-founded and objective reasons, by means appropriate and necessary to

	achieve that purpose (see, by analogy, Delimatsis and Others v Cyprus, Application No. 66772/13, dated 3.12.20, Chez Razpredelenie Bulgaria AD V Commission for Protection against Discrimination EU: C: 2015: 480, The Queen, on The Incorporated Trustees of the National Council on Aging (Age Concern England) v Secretary of State for Business, Enterprise and Regulatory Reform (2009) ECR I-8531.
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<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>	<u><i>No case law has been identified for this thematic area</i></u>

<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 implementation of the <u>right to an effective remedy</u> in the context of storing data in national large-scale databases and in EU IT systems (Eurodac, VIS, SIS) delivered in 2021.
<b>Decision date</b>	<u><i>No case law has been identified for this thematic area</i></u>



<b>Thematic area</b>	<b>INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION</b> <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>
<b>Decision date</b>	27 October 2021
<b>Reference details</b>	Cyprus Supreme Court (2021), <a href="#">Civil Applications concerning telephone data no. qp. 97/18, 127/18, 140/19-143/19, 154/19, 169/19, 36/20 and 46/20</a> , ECLI:CY:AD:2021:D487, 27 October 2021.
<b>Key facts of the case</b> <b>(max. 500 chars)</b>	A group of persons filed applications to the Supreme Court seeking to annul court orders issued by a District Court for accessing their telephone data and orders for their arrest in the framework of a criminal prosecution. The applicants argued that the data which the police was seeking to access was unlawfully retained under the national retention law which does not comply with the EU law and jurisprudence on data protection, for permitting the general and indiscriminate retention of data and location. The applicants argued that the safeguards included in the national law as regards access to retained data do not meet the criteria of EU law. The Court examined compliance of the national data retention law with the Union law and jurisprudence and especially Council Directive 58/2002 and the CJEU rulings in <i>Tele2Sverige</i> and in <i>La Quadrature du Net</i> .
<b>Main reasoning/argumentation</b> <b>(max. 500 chars)</b>	Recognising that the protection of telephone data is not absolute, the Supreme Court held that national data retention legislation must transpose the Council Directive 58/2002 in a manner compliant with the EU Charter of Fundamental Rights; and the provisions of the Cypriot data retention law permitting the retention of data of all subscribers and registered users for the purpose of investigating serious crime raised questions of compliance with Union law and rights protected by the EU Charter. The Court rejected the arguments put forwarded by the respondents that the special circumstances of Cyprus such as the small size of the country, the short distances and the non-concentration of crime at a local level make it impossible to define a specific geographical area of applicability smaller than the entire territory of the Republic. The Court also rejected the respondents' allegations that the ceiling of six months of retaining data set in the law provides effective and sufficient guarantees that rebut the allegation of generalised and indiscriminate retention. Similarly, the Court rejected the respondents' arguments that the law contains sufficient safeguards by excluding the content of communications from the data that can be retained, combined with the fact that only 'authorised' persons have access to the data retained.

<p><b>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</b></p>	<p>The Court clarified that Union law approaches retention of data and access to data as two distinct issues with their own preconditions each and excludes indiscriminate retention. The Cypriot law lacked the restrictions in the target group, which are required by <i>Tele2 Sverige</i>. The small size of the country could not be used as justification for extending the geographical criterion, required by the ruling in <i>La Quadrature du Net</i>, to cover the entire country as that would lead to the absurd conclusion that the entire country is at high risk of preparing or committing serious offences.</p>
<p><b>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</b></p>	<p>The Court concluded that the legislative provisions in question infringe Directive 2002/58. The purpose of the judicial examination was to assess compliance of the national retention law with EU law and in particular with Directive 2002/58 and the principles established in <i>Tele2 Sverige</i>. The Court did not proceed to invalidate the law, in line with judicial tradition in Cyprus which relies on the doctrine of separation of powers in order to refrain from invalidating laws which infringe the EU acquis. In theory, the decision must lead to an amendment of the national data retention law and to the termination of the practice of mass and indiscriminate retention of data for the purpose of combating crime, however no action was taken towards that direction by end of November 2021.</p>

<p><b>Key quotation in original language and translated into English with reference details (max. 500 chars)</b></p>	<p>Όμως, παρά τις εγγυήσεις ανωτέρω, οι οποίες στην πλειονότητα τους αφορούν στο στάδιο της πρόσβασης, δεν πρέπει να λησμονείται ότι το ενωσιακό δίκαιο προσεγγίζει τη διατήρηση δεδομένων και την πρόσβαση σε αυτά ως απολύτως ξεχωριστά και αυτοτελή θέματα με τις δικές τους προϋποθέσεις, αποκλείοντας, εν πάση περιπτώσει, μη στοχευμένη διατήρηση. «<i>Τέτοια πρόσβαση μπορεί να παρασχεθεί μόνο εφόσον τα δεδομένα έχουν διατηρηθεί από τους παρόχους κατά τρόπο σύμφωνο με το .άρθρο 15, παράγραφος 1</i>» της Οδηγίας, το οποίο «<i>αντιτίθεται σε νομοθετικά μέτρα τα οποία προβλέπουν.προληπτικώς, τη γενικευμένη και χωρίς διάκριση διατήρηση των δεδομένων κίνησης και των δεδομένων θέσης</i>» (βλ. <b>La Quadrature du Net</b> σκέψεις 167 και 168, και <b>H.K.</b> σκέψεις 29 και 30, ανωτέρω). Η νόμιμη διατήρηση αποτελεί προϋπόθεση για τη νόμιμη πρόσβαση.</p> <p>[Unofficial English translation:]  However, in spite of the above guarantees, most of which concern the access stage, it should not be forgotten that EU law treats data retention and access to data as completely separate and independent matters each with their own requirements, excluding, in in any case, non-targeted retention. "Such access may be granted only if the data have been retained by the providers in accordance with Article 15 (1)" of the Directive, which "is contrary to the legislative measures providing in an anticipatory manner the generalised and indiscriminate retention of movement and location data "(see <b>La Quadrature du Net</b>, paragraphs 167 and 168, and <b>H.K.</b> paragraphs 29 and 30, above). Legal retention is a prerequisite for legal access.</p>
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<b>Thematic area</b>	<b>RIGHTS OF THE CHILD</b> Please provide the most relevant high court decision related to the topics addressed in the chapter.
<b>Decision date</b>	<u><i>No case law has been identified for this thematic area</i></u>

<b>Thematic area</b>	<b>ACCESS TO JUSTICE</b> Please provide the most relevant high court decision related to the topics addressed in the chapter.
<b>Decision date</b>	<u><i>No case law has been identified for this thematic area</i></u>

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