



ENAR Shadow Report 2005

Racism in Cyprus

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I. Introduction

As this is the first time a shadow report has been produced on Cyprus, it is important to set out the legal and political background prevailing in Cyprus related to racism and discrimination which does not necessarily refer to the reporting period of the year 2005. It should also be noted at the outset that this report analyses the situation on discrimination and racism only in the Government controlled areas of Cyprus.

Cyprus has always been a multi-ethnic, multi-religious country since its independence and even before that, with different ethnic and religious communities living on the island. The Constitution of Cyprus recognises two communities, the Greek Cypriot (G/C) and the Turkish Cypriot (T/C), which are the dominant ones and the minorities of Armenians, Maronites and Latins which are defined as religious communities. A small Gypsies community, whose way of life resembles that of the Roma, has been also living on the island. The two major communities were identified on the basis of their religion and cultural tradition whereas the small religious communities had to adhere to one of the major communities. The Armenians, Maronites and Latins adhered to G/C Community and Gypsies to the T/C one.

The Cyprus problem has been prevailing in the social and political life of Cyprus since the establishment of the Republic, and particularly for the last 32 years after the events of 1974 and the de facto division of the country. Although, the Cyprus problem in itself, is partly an issue related to racism and discrimination, unfortunately, those were issues never addressed and discussed openly either in the context of the problem itself or in more general terms, by the political parties and the society at large.

Up to the 1970s, Cyprus was a country of emigration. Economic development created a shortage of labour in mid 1980s. At the same time, the patriarchal structures of the Cypriot society, continued to dominate, irrespective of the massive integration of women in the labour market. As a result, the needs in the sphere of reproduction were covered with the massive employment of migrant women in this sector (domestic workers, caretakers of children and elderly people, people with special needs and other vulnerable groups of persons). In the beginning of the 1990s the doors were thus first opened for 'importing foreign workers'.¹ A model of strict labour control was chosen, and is still in place, involving short term contracts, short term residence, in employment areas avoided by locals and linked to a specific employer. The number of migrant workers with papers has reached 70.000 (10% of the population) and the total number of non-Cypriots to around 100.000, turning Cyprus into a host country of migration.

¹ This is the terminology used by Government Officials, the social partners and the society at large for the migration of migrant workers to Cyprus.

The strict migration policies not only did not fulfil the aim of the government to prevent the increase of “illegal” migration, but on the contrary contributed, amongst other factors, to the rising numbers of migrants without papers in the country and of asylum seekers which reached record levels in the reporting period. Trafficking and smuggling is often conducted through the dividing line created by the events of 1974.

This report seeks to analyse the situation on racism and discrimination in Cyprus, a new member state of the European Union which, since 2004, should have already started implementing the Community anti-discrimination, immigration and asylum laws. It will address the legal and political framework related to racism and discrimination, the vulnerable communities, the major areas of concern where racism and discrimination are more likely to take place and the response of the Government to the situation.

II. Political and Legislative Developments

What recently sparked up the situation in Cyprus was the 2004 referendum on the solution of the Cyprus problem which was accepted by the T/C Community and rejected by the G/C Community, the consequences of which were still alive in the reporting period of the year 2005. The referendum process brought a further segregation amongst Cypriots, not anymore only between T/Cs and G/Cs but amongst G/C themselves, the yes voters and the no voters. During 2004 and 2005, because of the referendum there was a significant rise in nationalism² and the development of the Cypriot society into a more intolerant, segregated and racist society.³

The accession of Cyprus to the E.U., with all the obligations on anti-discrimination, immigration and asylum policies this entailed, led the Government to review its already strict migration and asylum policies in 2005 and these became even more stringent with the sole purpose of restricting the rights of migrants and asylum seekers who would otherwise benefit from community law provisions, and force them to leave Cyprus. The result of these policies was to put migrants, asylum seekers and refugees into a more vulnerable condition vis-à-vis racism and discrimination.

Racism and discrimination on the basis of race or ethnic origin was not part of the political agenda of the parties participating in the government or any other political parties. Even though Cyprus transposed Directives 2000/78/EC and 2000/43/EC into its domestic legal order in 2004, no action plan for the effective implementation of the new harmonised legislation was decided. The immigration Directives (Directive 2003/109/EC (long term residence), Directive 2003/086/EC (family reunification) were not transposed during the reporting period even though immigration policy was changed mainly because of these Directives. Directive 2003/9/EC on the minimum reception of asylum seekers was transposed towards the end of 2005 without, however, any significant impact on the situation of asylum seekers in Cyprus.

It has to be noted that Cyprus has very high scores on ratifications of international human rights instruments, including antidiscrimination instruments and with regard to the transposition of community Directives. The major problem however, which is also the substance of the issue, is their effective implementation.

² After the referendum tendencies emerged for a change in the landscape of political parties with the foundation of more nationalistic oriented political parties (European Party (EVROKO), Evropaiki Dimokratia (EVRODI)).

³ On 29 August 2005, the first publicly announced incident of racist violence against a T/C and a G/C sitting together in a café of Nicosia, by members of the ultra –nationalist nazi organization (Chrisi Avgi (Golden Dawn) took place.

In 2005, the Government approved in 2005 the educational reform in order to address, amongst other issues, the minority and multicultural education. The comprehensive proposal for education reform⁴ was submitted by a group of experts to the Cyprus Government in 2004 and in January 2005 the President of the Republic officially inaugurated the dialogue over the reform. Its implementation however, has not as yet started. The church reacted negatively to the reform as, according to it, the hours and the role of religious education is undermined.

II.i Anti discrimination

The anti discrimination Directives⁵ were transposed in January 2004 into two different laws⁶. The laws basically copy the Directives and also criminalise racially discriminatory behaviour both in the context of occupation and employment and the scope covered by the racial discrimination Directive. They cover direct and indirect discrimination, harassment and an instruction to discriminate against persons on the grounds provided by the Directives. The Ombudsman's Law was also amended to provide for the competence of the Ombudsman to investigate complaints against discrimination committed by both public and private actors⁷ and a new law entered into force in 2004 which appoints the Ombudsman as the Equality Body and as the Body against Racism and Discrimination.⁸

The above laws vest the Ombudsman with the necessary powers as an Equality Body to investigate complaints of discrimination in employment and at the workplace on grounds of, inter alia racial or ethnic origin and as a Specialised Body against Racism and Discrimination, to investigate complaints of discrimination on the ground of racial or ethnic origin in the fields of social protection, medical care, education and access to goods and services including housing. The Ombudsman also has the power to investigate ab initio discrimination issues and to impose fines on persons or bodies found guilty of discriminatory behaviour.

Victims of discrimination may use the remedy of the Ombudsman and/or file a case at the courts. Cases of discrimination from public bodies or authorities come

⁴ 2004, Report of the Commission for Educational Reform available in summary form at <http://www.moec.gov.cy/metarithmisi/manifesto.pdf>.

⁵ Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation and Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

⁶ Law 58(I)/2004 on Equal Treatment in Occupation and Employment and Law 59(I)/2004 on Equal Treatment (Racial or Ethnic Origin).

⁷ Law 36(I)/2004.

⁸ Law 42(I)/2004 Law on Combating Racial and Some other forms of Discrimination (Commissioner) of 2004. The law is very complicated and incomprehensible; something that creates problems in its implementation.

under the jurisdiction of the Supreme Court and from private bodies under the jurisdiction of the District Courts and/or the Labour Courts with regard to discrimination in employment. The provisions of the Directives on the burden of proof have also been included in the relevant laws but they have not been tested in the Cypriot Courts as of yet.

II.ii Migration, family reunion and asylum policies

In March 2005, a new and stricter migration policy was adopted by the Government in order to bypass the rights of migrants derived from community law (mainly the long term residence Directive). The two the main features of the new migration policy are outlined below.

A system of priority for vacancies amongst workers was introduced to cover also EU nationals i.e. in order of priority Cypriot and EU nationals and the member of their families; nationals of countries under accession to the E.U. (Bulgaria and Romania); third country nationals residing legally in Cyprus (with the exception of asylum seekers unless the employment is on the farming and agricultural industry) and third country nationals (new arrivals). This system does not “of course” apply to so-called “artists” (women working in cabarets and night clubs) as in the sex industry women from any other European or third country still have priority over everyone else.

The Government also decided to prohibit the renewal of the residence and employment permits of all migrants who have already completed four years of residence in Cyprus and according to the practice followed after the said decision, not to renew the temporary residence permits of all migrants residing in Cyprus for over five years. The aim of the policy was to limit those migrants who benefit from the long term residence Directive.⁹

The above policy, which is not reflected in any law, is implemented irrespective of whether the affected persons are employed and could be productive members of the economy of Cyprus were they to stay and irrespective of the personal situation of each person i.e. family situation, health considerations, years of residence in Cyprus etc. It is applied on a discriminatory basis as migrant workers employed with old people or persons with health problems may continue to be employed in Cyprus without any temporal restrictions (and this is because, as explained by the Ministry of Interior, not many EU nationals or nationals of acceding countries would like to work in the conditions under which migrant workers from Asian countries are working in this sector). The policy is implemented in the context of the same migration model followed by Cyprus i.e. employment with a specific employer only and in a specific sector of the economy (the guest workers model).

⁹ Decision of the Ministerial Committee on employment of 31.3.2005.

After 24 January, when the Directive entered into force, the Migration Department was overloaded with applications of migrants for long term residence. The Government did nothing to inform migrants about its intentions but it issued a press release¹⁰ instead explaining that the long term residence Directive will not enter into force before 23 January 2006 and thus the Government is not obliged to give them this status as yet and therefore they should refrain from submitting any applications. In the meantime and even after the deadline for the transposition of the Directive came to an end, the Government showed that its intentions were to send migrants back to their country of origin irrespective if they have been in Cyprus for more than five years already.

This policy has generated more asylum applications as a lot of migrants thought of the only way to continue their legal residence in Cyprus by filing an asylum application.¹¹ It has also generated more migration without papers, with all its consequences for migrants themselves, as a lot of migrants prefer to remain without papers in Cyprus until they are arrested and deported rather than leaving voluntarily. Regularisation of migrants without papers was not discussed in the reporting period.

The Family Reunification Directive was not transposed in the Cypriot legal order in the reporting period and infringement procedures by the Commission are already under way. Previous family reunification provisions were included in the legal framework with an amendment to the Aliens and Immigration Regulations in 2001. Family reunification may be approved only to those migrants that have a residence permit of at least five years, thus restricting this right only to a limited category of migrants with residence permits mainly in the offshore companies sector. In effect, migrants are not entitled to family reunification as enshrined in the family reunification Directive.

Cyprus was the first country in asylum applications in the European Union in 2005. The overall number of asylum applications pending examination in 2005, was around 12 000. The recognition rate was at 1.4% of all decisions, including subsidiary protection and temporary permits to stay on humanitarian grounds.

The official position of the Government is that 99.9% of asylum applications are abusive and they are submitted from economic migrants in order to secure their stay in Cyprus.¹² This argument is officially used by the responsible Ministers and governmental officials to justify the policy of the Government, which may be summarised as a policy of no rights to asylum seekers in order to reduce the numbers of asylum applications and to force them to leave Cyprus. This policy

¹⁰ Cyprus Weekly, 2005, Announcement of the Ministry of Interior, 1 July.

¹¹ There was no information campaign by the Ministry of Interior on the long term residence Directive or on the Government's new immigration policy.

¹² This position has been repeatedly stated by Ministers (Minister of Interior, Labour and Justice and Public Order) and by government officials.

violates domestic and community law,¹³ as asylum seekers' access to the employment market is restricted, whereas at the same time they are not paid any welfare benefits and no housing is provided for them.¹⁴ Statements such as the above mentioned by Ministers created further prejudice, intolerance and racist attitudes amongst the Cypriot society and facilitated a further development of institutional racism in the structures of the governmental authorities dealing with asylum seekers (Asylum Unit, Refugee Reviewing Authority, Welfare Services, Labour Office, Health Services and the Police.)¹⁵

Refugee status determination procedures may not be considered as fair, efficient and effective. They move very slowly and the norm is that 99% of applications are rejected on both instances. The Refugee Reviewing Authority (the second instance independent body) normally copies the decisions of the Asylum Service and no substantial examination is taking place with regard to the merits of the case. The Refugee Reviewing Authority does not exercise in full the powers vested to it by the Refugee Law, which established a quasi judicial body with extensive powers to call for a second interview, to have a hearing on the case, to call experts etc. In the vast majority of the cases it acts merely as an administrative body which confirms the decisions of the Asylum Service.

The Supreme Court developed negative case law on the detention of asylum seekers which, although it prohibits refoulement until the examination of the asylum application, legitimises long detention periods for asylum seekers ordered by the Migration Officer under arrest and deportation orders.¹⁶

Asylum seekers are not entitled to legal aid.¹⁷

According to NGO's reports, Muslim¹⁸ asylum seekers were discriminated on the basis of ethnic origin and religion with regard to access to the asylum procedures; the examination of their claim in substance; treatment by the police

¹³ The Refugee Law (6(I)/2000 as amended), Council Directive 2003/009/EC laying down minimum standards for the reception of asylum seekers.

¹⁴ The only housing policy of the Government in the area of asylum is an open reception centre in Kofinou village which can accommodate a maximum of 250 persons and is reserved mainly for families.

¹⁵ Evripidou, S., 2005, "Asylum seekers choosing death", *Cyprus Mail*, 24 July

¹⁶ Asylum seekers may be considered as illegal immigrants under the provisions of the Aliens and Immigration Law for illegal entry or stay irrespective of the provisions of the Refugee Law. The Supreme Court rejects almost all habeas corpus applications, administrative recourses and ex parte applications of asylum seekers. For asylum seekers detained on the basis of a Court decision after committing minor offences (e.g. illegal work), having served their time in prison the detention continues on the basis of arrest and deportation orders of the Migration Officer, sometimes for an indefinite period, until their application is examined and/or the deportation order is executed. Rejected asylum seekers without travel documents are detained for an indefinite period of time (e.g. Iranian nationals).

¹⁷ Limited legal aid is provided on the level of the administrative procedures only by the NGO Simfiliosi, funded by the UNHCR. It involves the provision of free legal advice to asylum seekers and refugees on the asylum procedure.

¹⁸ Particularly Pakistanis, Afghans, Kurds, Turks and Bangladeshis.

and access to the services of other governmental authorities involved on asylum matters.

II.iii Racism as a crime

A number of offences relevant to combating racism and intolerance are in place i.e. incitement to racial hatred, participation in organisations promoting racial discrimination, public expression of racially insulting ideas.¹⁹ These provisions however, have never been used. There is no provision penalising common offences but with a racist nature as specific offences, or explicitly enabling the racist motives of the offender to be taken into account as an aggravating factor in sentencing. Racism as such is not penalised.

II.iv Counter Terrorism

In 2004, 10 Pakistani students were arrested and deported as terrorists.²⁰ According to the Article in the newspaper a senior Cypriot security source told Reuters, "I can't tell you whether they are members of al Qaeda – we are not sure of that – but it is certain that they fit the profile of terror suspects."

In April 2005, two Asian men, believed to be Pakistanis, were arrested by the Police on suspicion of being part of a terrorist organisation (Al Qaeda).²¹ Following their arrest another 14 migrants were arrested, but they were only found to be in the country illegally and deportation procedures were initiated.

In September 2005 a charter flight taking British tourists back to Manchester was cancelled after passengers panicked about the presence of two Pakistanis, whom they suspected to be terrorists. The two "suspects" were turned over to the Police for questioning and they had to leave Cyprus the next day on a different flight.²²

¹⁹ **Law 13/1967** as modified by Law 11(III)/92 and by Law 28(III)/99 (incitement to acts or activities likely to cause racial discrimination, violence or hatred, public expression of ideas which are racially insulting, discriminatory refusal to supply goods and services in the exercise of one's profession, establishment or participation in organisations that promote racial discrimination). Also relevant is the **Criminal Code** (Cap 154) (section 47 combined with section 48 (f), referring to the publication of material that promotes ill will or hostility between different communities, section 51 (1) and public statements likely to instigate ill will between communities. Section 51 A (1) refers to incitement to acts of violence, mutual discord or a spirit of intolerance and section 105 covers discriminatory conduct by members of the civil service.

²⁰ Diogenous, K and Kambas, M., 2004, 'Suspect Students Deported', Cyprus Mail, 10 July.

²¹ 2005, Cyprus Mail, 'Two arrested on suspected Al Qaeda links', April 16.

²² 2005, Cyprus Mail, 'Terror threat is breeding paranoia', 15 September. Another similar incident with Cyprus Airways was investigated by the Ombudsman, which in its report C/N. 2/2004 decided that the behaviour against these passengers consisted of inhuman and degrading treatment and recommendations were made as to avoid any similar events in the future.

III. Communities vulnerable to racism

There is no publicly available data as to the communities which are vulnerable to racism. However, the huge number of migrants appealing for help to NGOs, reports in the media, the reports of the Ombudsman and various reports from other governmental or Council of Europe institutions indicate the growing of discrimination and racism in Cyprus towards migrants.²³

Migrants are victims of institutional racism, stereotyping and stigmatisation and are used as scapegoats for many social and economic problems e.g. unemployment, crime, break-up of marriages etc.²⁴ They work under worse conditions and receive lower wages than locals. Some of them are victims of labour or sexual exploitation.

Domestic workers are particularly vulnerable. Their employment contracts provided by government authorities include discrimination in themselves, as they receive the lowest wage of all workers, even below the lowest wage provided for by collective agreements or the Law. Frequently their contracts are violated and they fall victim to abuse, sexual harassment, rape and violence. Even worse treatment is inflicted on female workers - victims of trafficking and those employed in the Sex Industry. Seasonal workers have no social insurance, live in farms in inhumane conditions and are often deported without getting paid. Migrants without papers are the major victims of discrimination and racism.

A negligible number of asylum seekers who have access to the labour market are only allowed to work in the farming and agricultural industry to progressively replace seasonal workers. Many asylum seekers end up working illegally under exploitative conditions as they do not get welfare benefits to support themselves and/or their families, even though they are entitled to financial assistance under the same terms as Cypriots according to the Law.

Pontian residents are victims of racist comments and suffer exclusion even though the majority of them are European citizens. Moslems face degrading treatment, as a result of suspicion of involvement in terrorist activities and are seen as potential Turkish allies.

²³ 2006, State Department Country Reports on Human Rights Practices 2005, Released by the Bureau of Democracy, Human Rights, and Labour, 8 March 8; 2006. Council of Europe, Commissioner on Human Rights, Follow up report on Cyprus (2003-2005), 29 March, CommDH(2006)12; 2000, ECRI, Second Report on Cyprus, 15 December.

²⁴ Statements by the Chief of Police, Psyllides, G., 'One in three crimes involve foreigners', Cyprus Mail, 21 July.

Other groups experiencing racism are religious minorities such as Jehovah Witnesses and a group referred to as “Gypsies” whose way of life resembles that of the Roma.

IV. Manifestations of racism and religious discrimination

IV.i Employment

The community most vulnerable to discrimination and racism in employment and occupation is that of migrants.²⁵ The strict migration model and migration and asylum policies described above in the Report, create conditions of vulnerability for migrants. They are reluctant to report their case to the authorities or independent bodies as they often find themselves arrested and deported after they complain. The NGO, KISA- Action for Equality, Support, Antiracism, offers limited free legal and social advice to migrant workers through its Migrant Support Centres in Nicosia and Limassol, without however solving the problem as the cases and the problems are too many and too serious to be resolved on a case by case basis. What is becoming more and more necessary is the adoption of a new migration and asylum law and policy to address discrimination and racism in the employment of migrants in a comprehensive manner.

The contractual obligations of the employers in terms of working hours, salaries, workload and conditions of employment in general are not always respected, contrary to the Labour Law and collective agreements (where they exist) that protect both local and migrant workers alike.²⁶

Although migrants pay obligatory national insurance contributions, as Cypriots, they do not enjoy the benefits that are stipulated by the Social Insurance Fund Law. Their working years in Cyprus are not part of their pensionable years in the country of origin as Cyprus has not signed any bilateral agreements with countries of origin of the majority of migrants; nor has it changed the law so allow migrants to get their benefits in cash before they leave the country. Since 1990, migrants are robbed of their social insurance contributions by the State.

Migrants do not have access to the services of the Labour Department (job seeking and finding a new employer); nor are they included in the unemployment lists or in the statistics on unemployment of the same Department. As a matter of fact they are invisible in an open labour market and as a result they often have to find employment through employment agencies and pay them one or two monthly salaries in order to secure a new employer.

²⁵ The term migrants, unless otherwise indicated, includes migrants workers, asylum seekers and refugees.

²⁶ The second ECRI report (ibid: 20) notes, "While there are sectors, notably in unionised and construction industry, where foreign workers appear to enjoy in practice the same conditions as their Cypriot counterparts, in others the practical application of the principle of equality of treatment of migrant workers in respect of their terms and conditions of employment has been less successful."

On many occasions, agents have struck secret deals either with the migrant workers or the employers, essentially forcing them to pay the commission of the 'agent' or the cost for their ticket to Cyprus or back to their country of origin²⁷ This practice often leads the migrant workers to borrow huge sums in comparison to their meagre earnings in their country, in order to come to Cyprus. Therefore, in case of deportation or early return to their country, they find themselves in even worse situation than before. The 'agent' keeps reminding them of their debts and as a result migrants endure violations of their rights and discrimination in employment.²⁸

Seasonal workers suffer very bad working and wage conditions, sometimes amounting to trafficking for labour purposes. Their conditions of employment are regulated from a collective agreement²⁹ which foresees very low wages. Seasonal workers and domestic workers are the most poorly paid categories of workers. NGOs handled many complaints of migrants working in the farming industry, some of which amounted to trafficking in human beings.³⁰ They live in the farms in very poor living conditions and sometimes the employer does not fix their papers and, after a short period of exploitation, often they do not even get paid. The employer fires them, then reports them as illegal migrants and they are deported.

Apart from bad working conditions, domestic workers³¹ and workers in the "sex industry" often suffer deprivation of privacy, abuse, physical violence and sexual harassment.³²

Asylum seekers have limited access to the labour market; they are only entitled to work in the farming and agriculture industry as seasonal workers with all the problems described above. It is estimated that the jobs in this particular sector of

²⁷ 2003, KISA – Action for Equality, Support, Antiracism, Memorandum on Migration, Asylum and Racism - Problems and Recommendations, 13 June.

²⁸ It is stressed that the above practice constitutes a most serious violation of the Private Employment Agencies Law (8(1) of 1997), which stipulates that no economic expense will be paid by the employee in favour of the employer or any private employment office, in the form of direct or indirect reward for the purpose of seeking, securing or keeping employment and in the case where there is written authorisation from the employed client to secure his/her salary on his/her behalf, the Agency is obliged to pay it in a bank account in the name of their client. Responsibility for the application of this Law rests on the Ministry of Labour and Social Insurance, which appoints Inspectors that have the relevant authority.

²⁹ Since the accession of Cyprus to the E.U. and because State aid was no longer permitted, there was a major debate on measures to be taken to support farmers, one of which was the consent of trade unions to sign a collective agreement for seasonal workers with very bad wage and working conditions in order to support the farming industry.

³⁰ KISA- Action for Equality, Support, Antiracism handled complaints from seasonal workers through its Migrant Support Centres operating in Nicosia and Limassol.

³¹ Ibid: 23.

³² 2003, Ombudsman's Office, Study on the entry and residence of foreign women under the status of artists, 24 November (AYT/E1/2001).

the economy come up to around 500, whereas there are around 12 000 asylum seekers.

According to research by UNHCR,³³ refugees are often offered the low-paid and difficult jobs which Cypriots refuse and the great majority of refugees in Cyprus are employed as unskilled labour, although many are well educated. Some refugees do not declare their employment as the employer refuses to pay social insurance. They are concerned that if they file a complaint against the employer they will be victimised and lose their job, which they cannot afford to do. Female refugees wearing a headscarf cannot find employment. In one example a refugee was paid less than his Cypriot assistant. Refugees are not very aware of the assistance trade unions can provide to them.

Migrants without papers and asylum seekers working illegally to survive, suffer the worse forms of discrimination with regard to working conditions and wages. It is generally accepted that these categories of persons are the “cheap labour of the market”.

Even though they also face discrimination in the employment sector, the Pontians are the most integrated migrant community in the employment sector, mainly because of their origin and/or nationality as well as because they are excluded from the temporal restrictions on residence permit and they have a more secure status. In 2004, complaints were also made from trade unions about discriminatory working conditions and wages and exploitation of EU nationals, particularly against nationals of the Czech Republic and Poland. The complaints were dismissed by the Minister of Labour and the employers associations.³⁴

No trade unions are set up by migrants³⁵ but migrants are allowed to join the existing trade unions.³⁶ Trade unions have not taken any action, on time, to support migrant workers.³⁷ In many cases they blame them for rising unemployment and decreasing the salaries “for the Cypriot workers”. Migrants without papers are victimised further from trade unions instead of being protected by them. The only trade union that recently differentiated its position slightly is PEO, which is more supportive towards migrant workers. In 2003 it established

³³ 2004, UNHCR, UNHCR Report on the Situation of Refugees in Cyprus from a Refugee Perspective, Cyprus Section of UNHCR.

³⁴ 2004, Cyprus Mail, ‘Ministry to probe claims of exploitation of foreign workers’, 7 May; 2004, Cyprus Mail, Exploitation of foreign workers must end, 29 July; Evripidou, S., 2004, Cyprus Mail, ‘EU workers not exploited, say employers’, 29 July.

³⁵ However, some self organisation of migrants has begun to emerge; the EU Filipino Association was set up, but they do not focus on employment conditions (it consists mainly of domestic workers). The Association of Recognised Refugees was recently established and they intend to focus, amongst other issues, on the employment conditions of refugees.

³⁶ There are three trade unions in Cyprus; PEO (leftist), SEK (conservative) and DEOK (socialist).

³⁷ Trimikliniotis, N. (1999) ‘New Migration and Racism in Cyprus: The Racialisation of Migrant Workers’, Anthias, Fl. And Lazarides, (ed.), *Into the Margins: Exclusion and Migration in Southern Europe*, Avebury.

the Migrant Workers' Bureau to address the problems of migrant workers. 15% of its members are migrant workers.

The Ombudsman as an Equality Body and a Body against Racism and Discrimination has not, up to now, released a report for 2005. Reference is made further down to cases investigated by the Ombudsman in 2005 after individual complaints were submitted:

A Greek national of Georgian origin, who suffers from muscular dystrophy, filed a complaint against the Welfare Office of the Ministry of Labour and Social Insurance for denying him welfare benefit; and against the Labour Office of the same Ministry for denying him participation in the Vocational Training Scheme for Persons with Disabilities, on the ground that he is not a Cypriot national and/or because his stay in Cyprus was on the basis of a visitor's visa. The Ombudsman found both rejections to be discriminatory and in contravention of the laws against equal treatment and non-discrimination in employment.

An Ivory Coast national filed a complaint against the Department of Social Welfare of the Cyprus Ministry of Labour and Social Insurance in relation to the rejection of his application for welfare benefit despite the fact that he was an asylum seeker. The Ombudsman established, after investigation, that all the employers to whom the complainant applied for a job refused to hire him because of his colour. This fact was not disputed by the Welfare Services. Nevertheless, the latter refused to grant him the full welfare benefit he is entitled to under the Public Welfare Law, paying him instead only a lump sum of CYP50 (roughly corresponding to Euro 85) since he was 'fit for work'. The Ombudsman found that the complainant was a victim of direct discrimination at the workplace, in contravention of the law as well as, potentially, of indirect discrimination in the field of social protection and benefits, given that the decision of the welfare services not to grant him the full benefit. This was an apparently neutral practice which had placed the complainant in a disadvantageous position compared to other persons, such as Cypriots.³⁸

In another complaint investigated by the Ombudsman,³⁹ it was pointed out that information related to the religious beliefs of the applicant were not necessary for the purposes of appointment and the possibility of indirect discrimination on the grounds of, inter alia, religion, national or ethnic origin was left open.

IV.ii Housing

Housing policies of subsequent governments have never applied to migrants. Since Cyprus' accession to the EU housing projects and programmes apply to EU nationals as well, thus still excluding migrants from third countries, asylum

³⁸ Cyprus Ombudsman File No. A/Π 131/2005 and AKI 8/2005.

³⁹ Cyprus Ombudsman File No. AKI 26/2005.

seekers and refugees. Under the Refugee Law, refugees are entitled to the same social benefits as Cypriots, including housing. However, in practice, refugees are not covered by any housing policies or programmes.

The President of the National Machinery for the Protection of Human Rights (ETHNOPAD)⁴⁰ criticised the Government for not developing a comprehensive immigration policy to include integration measures. She also warned that it is only a matter of time before the housing problem erupts with uncontrollable consequences.⁴¹

The majority of migrants live in very poor conditions in the old and marginalised part of the cities, cramped up in tiny little apartments or in places not designed to accommodate people - mainly shops or warehouses – sometimes without the necessary hygiene facilities or kitchen.⁴² The increased demand for housing has led to opportunistic and exploitative increase in the rentals for unfit housing (sometimes each person pays CYP 70 or over per month for a room in a house share) far higher than what any Cypriot would have to pay.

Housing demands from asylum seekers, refugees, domestic workers (those who do not live in the house of the employer), migrants without papers and other migrant workers, in the absence of any housing policy of the State, is becoming a major issue.

A case was brought to the attention of the NGO, KISA- Action for Equality, Support, Antiracism about a group of asylum seekers from the Congo who stayed at a Mosque for a month and a half, sleeping on the floor because, according to the authorities, there was no place in the Kofinou reception Centre for asylum seekers. They were not entitled to work and not entitled to welfare benefit to pay a rent. When they decided to visit the asylum service to ask again for housing at the Kofinou reception centre because they were tired of their situation, they were told again that this is not possible. Because they reacted to this response, they were declared prohibited immigrants on the basis of the Aliens and Immigration Law and arrest and deportation orders were issued against them by the Migration Officer. While in detention for several months, one after the other, they were forced to declare that they no longer sought asylum and withdrew their applications.

The old town of Nicosia and some neighbouring areas are the main areas of concentration of migrants. KISA received complaints from refugees who tried to rent houses in better residential areas but the landlords refused to rent their

⁴⁰ A semi-governmental human rights organisation presided over by the Law Commissioner, appointed by the President and consisting of governmental authorities and non governmental organisations.

⁴¹ Vasiliou, V., 2005 'National Machinery: Racism with a perfume of Collolialism', *Phileleftheros* 17 September.

⁴² Sometimes 10 to 15 persons may be living in a small shop without a toilet, bathroom, kitchen etc.

houses to refugees even though the houses remained free for a long time before and after the refugees were interested in renting them.

The President of ETHNOPAD referred to the practice of many landlords to evict migrants without due legal procedures if they fail to pay the rent or sometimes even if they pay the rent.⁴³

According to a newspaper article, the mayor of Nicosia “criticised foreigners” apparently stating that their intense presence within the walled city has led to a lack of safety for citizens, with the old town a kind of lawless area. He also allegedly criticised the appearance of the old town, with people hanging their clothes over their balconies leading to the area resembling anything but a European capital.⁴⁴ The Journalists’ Ethics Committee dismissed the allegations however, explaining that this is not exactly what he said.

No research has ever been available on the housing situation of migrants. The only existing housing policy developed by the State is the Kofinou Reception Centre for Asylum Seekers which is located in a very isolated area in the middle of Cyprus and is mainly reserved for asylum seekers’ families, even though the vast majority of asylum seekers are single males. The isolated location of the Centre severely obstructs the religious practice of asylum seekers, their cultural diversity needs in terms of food and other dietary needs, the access of children to educational establishments (nursery and elementary schools).⁴⁵

IV.iii Education

Human rights education is part of the curriculum both in primary and in secondary education. However, the subject of racism and respect for difference is not addressed by it. Only individual teachers may sometimes address these issues in the classroom or during school celebrations. A piece of research carried out at a Lyceum (Lyceum Koutsofta Panagides) examined children’s attitudes towards migrants and showed strong prejudice and xenophobic and racist attitudes.⁴⁶ This may be said to show the failure of the educational system to address the issues of racism and discrimination. There was a lot of debate on the research. Results were questioned and were considered misleading and totally dismissed by some politicians.

⁴³ Ibid 40.

⁴⁴ Leonidou, L., 2005, “Nicosia Mayor hits back at racism claims”, *Cyprus Mail*, 14 December.

⁴⁵ A report by an NGO Apanemi describes the conditions prevailing in the Reception Centre which are not particularly good. Apanemi, 2005 Report on Conditions and Practices at the Kofinou Reception Centre in Cyprus.

⁴⁶ Leonidou, L., 2005, ‘School survey finds high levels of racism’, *Cyprus Mail*, 3 March. Around 45% of the children stated that they believed the Greek race to be supreme one in the world and 82% per cent stated that they would not marry a non-Christian.

In another piece of research of the Centre for the Study of Childhood and Adolescence, a non-governmental, non-profit organisation, which was conducted with children of 5th and 6th grade and was carried out in May and June 2004 in 10 different public schools in Nicosia with a total sample of 288 children, the results were equally disappointing.⁴⁷

The 'aims' of the school year of 2004-2005 for the whole educational system included the subject of 'multicultural, united Europe and difference'. Racism and the respect of difference were part of these aims. Nevertheless, the 'aims' are only general guidelines and each school implements them as they think proper and in practice little or nothing is done.⁴⁸ The Christian Orthodox religion symbols are always present in classrooms through saints' icons and also churches inside the school courtyards but this was never an issue of discussion.

According to the State Department Human Rights Report for 2005,⁴⁹

“the [Cyprus] government continued to use textbooks at the primary and secondary school level that included inflammatory language derogatory of Turkish Cypriots and Turks. This was a particularly serious concern with history textbooks.

In 2005, a circular was issued by the Ministry of Education requesting all school headmasters in primary and secondary education to notify the Immigration Authorities about the foreign children enrolled and the contact details of their parents, in order to investigate their legal status (whether they reside lawfully or not). The Ombudsman investigated the case after a complaint was filed by an MP and apparently the said circular was issued pursuant to a request of the Immigration Authorities.

Prior to issuing the circular, the Ministry of Education had asked for the Attorney General's opinion on whether such notification to the immigration authorities would constitute a violation of the Laws on Processing of Personal Data (Protection of the Individuals) of 2001 and 2003. In response, the Attorney-General took the position that the protection of the Republic's sovereign rights by controlling the immigrants' entry and stay into the country overrides the fundamental right of protection of private life including the protection of personal data.

In her report of 12.04.2005,⁵⁰ the Ombudsman recommended that the circular in question be withdrawn and that the Ministry refrains from similar activities in the

⁴⁷ Summary of research study can be found on the organisation's website, www.casca.org.cy.

⁴⁸ In some schools KISA members, including migrants, were invited to speak to children on the subject of racism, conferences on racism were organised by a couple of schools and a few others included dances and songs of other cultures in their celebrations.

⁴⁹ State Department Country Reports on Human Rights Practices- 2005, Released by the Bureau of Democracy, Human Rights, and Labour, 8 March 2006.

⁵⁰ Cyprus Ombudsman File No. AKR 20/2005, 12 April 2005.

future as such a policy violates the international commitments of Cyprus and the new law on racial discrimination. Initially, conforming with the Ombudsman's recommendation, the Ministry of Education withdrew the circular but subsequently the Council of Ministers⁵¹ overruled the Ombudsman's decision and the circular was re-instated, based on its unjustified reasoning that the protection of the Republic's sovereign rights by controlling the lawfulness of entry and stay of foreigners in its territory overrides any other rights.⁵²

On 22 September 2005 the parents' association of the elementary school of Polis Chrysochoos in Paphos closed down the school, demanding that the Ministry of Education suspend attendance to the school by Gypsies (Roma) pupils until they receive confirmation that none of them suffered from Hepatitis. Out of a total of 341 pupils attending this school, 120 are non-Cypriots and 18 are Gypsies (Roma). The parents' association also demanded that the Roma pupils be dispersed also to other schools in the region.

Although, the authorities expressed disagreement over the parents' action they finally submitted the Roma pupils, as well as the residents of a Roma settlement in a neighbouring village Makounda, to blood tests to establish whether any one suffered from Hepatitis. Furthermore, a Roma family residing in the Roma settlement of the neighbouring Makounda had to move back to the village they came from and resettle into a home that was recently restored.

On 26 September 2005 the parents agreed to allow the school to open again but only on the condition that the Roma pupils would not attend the school. The Minister of Education granted their request. On 28 September 2005 the blood tests showed that none of the Roma pupils suffered from Hepatitis and were thus allowed to return to their school. The Ombudsman is currently investigating this incident, but no report has been issued yet.

IV.iv Health

The Medical Institutions and Services (Fees) Regulations do not entitle migrants to free health care with the exception of asylum seekers and refugees. Most migrants are covered by basic health insurance which is paid by both by the migrant and the employer. Those migrants who are members of trade unions are covered by the medical scheme applicable to all trade union members.

Even though asylum seekers and refugees are entitled to free medical care, in practice there are a lot of obstacles which seriously affect the effective exercise

⁵¹ Cyprus Ombudsman File No. No. 61.890 (21.04.2005).

⁵² This is a significant decision as it is the first time officially refuses to conform to the Ombudsman's recommendations and because it is the higher administrative body that took such a decision and irrespective of the President's guidelines to his Ministers to always conform with the decisions of the Ombudsman.

of this right. According to the Ombudsman reports, pregnant women were refused medical care because they were not holders of a residence permit due to delays of the Migration Department to issue their permits.⁵³ The Ombudsman pointed out that the delays in the issue of residence permits are well known and that sometimes such permits are not issued at all until the asylum application is examined, resulting in a series of violations of the rights of asylum seekers.

The Ombudsman also examined a complaint submitted by a Greek national of Pontiac origin with regard to access of non Cypriots to the plan of financial support to undergo fertility treatment. The condition of Cypriot citizenship for this plan was found to be discriminatory. It was found that the complainant's request for benefit in order to undergo fertility treatment should be satisfied.⁵⁴

IV.v Policing and racial profiling

In the reporting period, the Chief of Police repeatedly made statements about the increase in crime in Cyprus and the involvement of migrants and asylum seekers in crime,⁵⁵ suggesting that basically migrants are criminals. The Police often carry out mass arrests of all persons who "do not look Cypriots" in its fight against "illegal immigration". After a woman reported her bag being stolen by possibly an Asian person, the Police terrorised the old town of Nicosia with mass arrests of Asian migrants.⁵⁶

The Ombudsman investigated a complaint by a Cypriot national of African origin against a police officer who racially abused him, beat him up and then locked him in jail after he had a car accident. He then had to also face charges for hitting that same police officer.⁵⁷

KISA - Action for Equality, Support, Antiracism received many complaints of ill - treatment or excessive use of force by the police against migrants and asylum seekers. The most serious cases involved asylum seekers coming without entry visas from the northern part of Cyprus visiting the Pafos Gate Police Station in Nicosia, the only police station admitting asylum applications of undocumented asylum seekers. The complaints involved ill treatment, degrading treatment including stripping Muslim asylum seekers, beating, threatening not to submit an asylum application, detention without any orders either from the Court or the Migration officer etc.

⁵³ Ombudsman File No A/P 1339/05, Ombudsman File No A/P 1363/05, Ombudsman File No A/P 1487/05

⁵⁴ Cyprus Ombudsman File No 54/2005.

⁵⁵ Evripidou, S., 2005, 'Cyprus facing asylum onslaught through the north', *Cyprus Mail*, 12 May

⁵⁶ 2005, *Cyprus Mail*, 'Bag theft led to mass arrests', 30 July

⁵⁷ Ombudsman File No. 37/2005. Evripidou, S., 2005, *Cyprus Mail* 'Racist attack' breaks out at traffic accident scene', 20 April.

KISA also received complaints for ill treatment or inhuman and degrading treatment from persons of the Pontiac community, some of them without papers in Cyprus. Most of the complainants were from the town of Pafos where the majority of this community live.

KISA reported a lot of cases to the Commissioner for Administration, some of which have already been investigated and it was found the police either ill treated or used excessive force against asylum seekers. Others are currently under investigation. KISA also reported some of the cases to the Attorney General but have not received an adequate response.

Immigration police often refuse entry to persons from third countries even if they are in possession of the necessary visas. In an incident where 25 travel agents from China were detained at the airport for several hours before they were allowed to enter, immigration officials were quoted as saying that there were special instructions for dealing with tourists from China on the grounds that many were coming here to claim political asylum and that documentation in addition to visas was needed.⁵⁸

A mother with two young children from Nigeria who was travelling to Cyprus in order to visit her husband was not allowed to enter Cyprus despite the fact that she was in possession of a valid entry visa. The Government still has not responded to the recommendation of the Ombudsman to compensate the family for the violation of her rights.

The Ombudsman has often complained about the Police's compliance rates with her recommendations.

IV.vi Racist violence and crime

At least two incidents of violence against Turkish-Cypriots were reported by the media.⁵⁹ Both cases led to criminal prosecutions but not to any conviction. The accused was a member of Cyprus Branch of the Greek ultra-nationalist organisation Chrysi Avgi ("Golden Dawn"). The perpetrator was acquitted by the court on the grounds that the prosecution failed to prove its case beyond reasonable doubt and that the accused was defending himself.⁶⁰

⁵⁸ Christou, J., 2005, Cyprus Mail, 'How could we let this happen?', 1 July.

⁵⁹ Psyllides, G. 2005, Cyprus Mail, 'Ultra-nationalist group in the dock after Turkish Cypriot beaten', 02 August. Kalatzis, M, 2005 Politis 'Xespasan anev logou se Tourkokyprio', 30 September, Nearchou J. 2005, Politis, 'Katathese o Tourkokyprios: Anagnorise ton Chrysavgiti', 21 September. Nearchou J., 2005, Politis, 'Katigoreitai oti ktypise Tourkokypriou- Se apologia o Chrysavgitis' 05 October.

⁶⁰ Kalatzis, M. 2005, Politis, "Athoothike o Chrysavgitis" in *Politis*, (05 November).

There were many incidents of racist violence in football matches against football players with some clubs being penalised for the behaviour of their fans.⁶¹

IV.vii Access to goods and services in the public and private sector

Three reports of the Ombudsman relate to discrimination in access to goods and services.

The first one related to the policy of insurance companies not providing automobile coverage to Pontians and other non Cypriot persons. The insurance companies involved, in an attempt to justify their actions, linked their rejection of coverage policies to the frequent accident involvement observed amongst the Greek-Pontian and foreigners in general. Recommendations were made to the relevant companies to reconsider their practices and to adopt measures that will guarantee the principle of non discrimination on the basis of race.⁶²

The second one related to the policy of the Cyprus Telecommunications Authority to require a bank guarantee by non permanent residents of Cyprus in order for them to attain a connection to the telephone network. The complainants were natural persons but also representatives of foreign companies. The distinction in the policy between permanent and non permanent citizens was found to be up to standard and no discrimination practices seemed to occur. Similarly, the conditions placed on foreign companies were also decided to be objectively justified. Recommendations were made to the Authority to adopt policies which will allow it to collect information in order to be able to accurately estimate the liability of its candidate clients.⁶³

The third Report related to the discriminatory policies of the Post Office Services against foreigners. The Ministry of Justice and Public Order issued a circular according to which foreigners should present their residence permit in order to assure their legal residence in Cyprus when making use of the Postal Services. It was decided that the above practice consisted a merge of power and authority unacceptable in a democratic society since the legal residence of a foreigner in Cyprus could not be in the scope of powers of any other authority other than the relevant Departments. Thus, recommendations were made to the Ministry of Justice to recall the above circular.⁶⁴

⁶¹ Leonidou, J., 2005, Cyprus Mail What's to be done about Cyprus football? - CFA yet to tackle outstanding problems, 27 November. Leonidou, L., 2005, Cyprus Mail 'Not enough is done to combat racism in Cyprus', 18 November

⁶² Ombudsman Report A/Π. 5/2004, 50/2005. Leonidou, J., 2005, Cyprus Mail 'They can't drive, their licences are dubious and they drink more than Cypriots', 1 July

⁶³ Ombudsman Report A/Π. 14/2004

⁶⁴ Ombudsman Report A/Π. 18/2004

IV.viii Media, including the Internet

Until very recently in Cyprus, the attitude of the majority of the media vis-à-vis migrants, refugees, asylum seekers, foreign students and other non-Cypriots could be leniently described from as simply tolerant to hostile, discriminatory and sometimes outright racist. This is considered to be as a result of the complete absence of a comprehensive migration policy on the part of the State; the anachronistic and deficient legislation; the splintering off and lack of coordination amongst the competent government services and agencies; as well as the status quo in the media themselves.

On news and other reports with reference to migrants, the Cypriot mass media have either confined themselves to the reproduction of Government policy and copying of various officials' statements or they have gone much further, thus leading the way to xenophobia and bigotry, by presenting migrants as the "plague", "curse" or "gangrene" of the Cypriot economy and society. News and other stories have been totally lacking in the presentation of the other side, that of migrants, most of the time. Investigative journalism into the terms of migrants' working and living conditions or their harsh exploitation has also been relatively absent, as well as any reference to the socio-economic conditions in the migrant countries that force these people to migrate, or to the contribution of migrants to the country's economy. The worst stereotyping in the media comes via television news.

However, it must be noted that civil society has played an important role in educating the media on issues of racism and discrimination and the situation is steadily becoming better. Nevertheless, while there is a more balanced approach and the picture presented, the mass media continue to play a negative role overall especially in relation to migrants without papers who are often referred to as the "third Attila", the "hordes of millions" that are just about to "invade" Cyprus, etc, etc.

Cyprus has ratified the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.⁶⁵ No data or statistics are available with regard to acts of racism and xenophobia on the internet.

⁶⁵ Law 26 (III)/ 2004 (ratification law).

V. Assessing the response

V.i Anti discrimination

Since 2004 when Cyprus transposed the antidiscrimination Directives, little has been done to ensure its correct implementation. The only major step taken towards its correct implementation was the appointment of the Ombudsman as the Equality Body and the Body against Racism and Discrimination. No new recruitments have taken place since the Ombudsman took up additional competences and, as result, from NGO experience a complaint may take from three months to two years to be investigated.

A major gap in the legal framework and implementation policies exists with regard to victims' independent assistance in pursuing their complaints about discrimination. The Ombudsman does not and should not, in any case, have this task. The Ombudsman as an Equality Body was established as an extra-judicial mechanism in order to facilitate victims to pursue their complaints instead of having to pursue through Court proceedings which are more time consuming and expensive. It cannot act as an independent body providing assistance to victims but it merely examines their complaints.

The law is silent as to this kind of assistance to the victims. NGOs are not funded by the Government to develop programmes for providing such assistance to victims. Legal aid is not foreseen in the Legal Aid law for such cases when brought before courts.⁶⁶ As a result the possibilities for victims of discrimination to successfully pursue their complaints before courts where they are also entitled to compensation are very limited.

Furthermore, there are no provisions in law with regard to the status of the reports of the Ombudsman in the context of the court proceedings if the victim further pursues his/her rights before the courts. Up to now the courts ignored or paid little attention to the Ombudsman's reports. The Ombudsman's reports could be considered as a presumption before the Courts, in order to shift the burden of proof so that the victim will not have to prove his/her case from scratch.

The implemented laws provide for the possibility of positive actions to prevent or compensate for disadvantages linked to racial or ethnic origin. No such actions have been taken so far particularly for the most vulnerable groups of migrants such as women and particularly domestic workers and trafficked women.

The Labour Office of the Ministry of Labour and Social Insurance has the task of investigating complaints of a labour nature from migrant workers against their

⁶⁶ The fact the not one single case was brought before the courts on the basis of the anti-discrimination Directives is not coincidental.

employers.⁶⁷ The Department of Labour Relations of the Ministry of Labour has special labour inspectors who monitor working conditions, including health and safety at work and gender discrimination through random checks in workplaces. Both departments of the said Ministry are under-staffed and have not been trained to deal with cases of discrimination on the basis of race or ethnic origin. They have never had statistical data as the numbers on the nature of labour disputes between migrants, many of which according to NGO experience are directly or indirectly related to discrimination and racism.

To date no laws have been reviewed on the basis of the recommendations of the Ombudsman or the provisions of the laws transposing the anti-discrimination Directives which explicitly provide the procedure to be followed in case a law is found not to comply with the principle of non discrimination.

There have been limited information campaigns on the part of the Government and more from the part of the Ombudsman (seminars, lectures, discussions). No major campaigns have been organised up to now which directly target the potential victims of discrimination and the most vulnerable groups. No information leaflets were produced in a simple language and various languages apart from Greek in order to inform the migrant population of the possibilities and remedies they have in pursuing complaints of racism or discrimination. However, the Ombudsman co-organised in 2005 the long established Rainbow Festival of KISA- Action for Equality, Support, Antiracism, a multicultural event organised for the last nine years with the participation of migrants communities.

V.ii Racist violence and racist crime

The Police has set up internally an Office of Combating Discrimination and Racism, the task of which includes the recording incidents of racial nature. However, no data or statistics have been announced up to now even though, as seen also from this report, racist incidents actually took place in 2005. Even though the Ombudsman recommended that a particular incident⁶⁸ is recorded by the police as an incident of racial nature⁶⁹ the police did not comply with the Ombudsman's recommendation.

⁶⁷ The tasks and procedures before the Labour Department were in place even before the transposition of the anti discrimination Directives and they had to be followed by the migrant worker in order to get permission to change his/her employer. However, in order to get such a permission the migrant worker has to prove his/her complaints are justified; otherwise she/he is deported. This does not apply to the employers who can terminate the employment contract when they like and the migrants is deported. This procedure is informal and it is not regulated in any law. It was a need that emerged from the strict migration model followed by the government. In fact, with this system the State becomes a mediator in labour disputes. There are no provisions on the shifting of the burden of proof in these procedures.

⁶⁸ Ibid: 57

⁶⁹ Cyprus Ombudsman File No. A.K.P.37/2005.

The Government submitted a Bill to Parliament, titled “The Police (Independent Authority for Investigating Allegations and Complaints) Law”, providing for powers of the police to investigate complaints against members of its own force.⁷⁰ In the process of the discussion on the Bill in Parliament the Police and the Minister of Justice and Public Order insisted that at least one member of the Authority should be a high rank police officer or at least an ex-police officer in order to facilitate the investigations because of the experience that person would have of the police structures and mentality. This issue raised major concerns before the Parliament from MPs as well as the Attorney General who insisted on the complete independence of the Authority from the Police.⁷¹

V.iii Counter-terrorism and protection of human rights

Counter terrorism measures affected Muslim migrants to a large extent. Islamophobia has always been present in Cyprus, to a lesser extent though, due to the Cyprus problem. However, it has now taken larger dimensions as anyone of Muslim religion is not only presumed to be a potential collaborator to Turkey but also a potential terrorist. This is shown by the Police’s eagerness to arrest Muslim students and deport them on suspicion of membership to terrorist organisations without any particular examination of their case, and through the surveillance of some migrants or asylum seekers as suspects⁷² of participation in terrorist organisations.

V.iv Integration and social inclusion of ethnic and religious minorities

Integration is a concept included on the agenda of discussions of the Cypriot officials following the accession of Cyprus to the EU and after realising the obligations imposed on Cyprus from anti discrimination and immigration policies. Cyprus never had and still does not have any integration policy or social inclusion plan⁷³ of ethnic and religious minorities. Integration is only on the agenda for discussion in the last couple of years and has not as yet been openly debated and discussed amongst the different interested actors (government officials, NGOs, migrant communities, trade unions, workers’ associations etc.).

⁷⁰ This has been a long waited Bill which has been recommended by various international monitoring institutions for years (Commissioner of Human Rights of the Council of Europe, ECRI)

⁷¹ The Bill was finally passed this year and the Authority was immediately appointed after a major outcry of police brutality against young students which was incidentally videotaped by an amateur. One of the members of the Authority is an ex-police officer.

⁷² Cyprus Mail, 2005 ‘KYP WATCHING Muslim radicals’, 26 August.

⁷³ Even when the national social inclusion action plan was discussed with the European Commission in the context of Social Policy, migrants were initially excluded from the action plan as according to the Ministry of Labour there are no migrants in Cyprus, just foreign workers “imported” for a limited period of time.

Language is of major concern. Most of the migrants do not speak the Greek language and there are no specially designed language programmes to meet the needs of migrants.⁷⁴

In one of her reports, the Ombudsman recommended the promotion of the ratification procedures of the Council of Europe Convention on the Participation of Foreigners in Public Life as an integration measure for migrants who should be entitled at least to limited voting rights.⁷⁵ This recommendation has not been taken up by the competent authorities to date.

The above described immigration policies of the Government, particularly on long term residence Directive, leave little room to believe that Cyprus will soon adopt integration measures for the benefit of the ethnic and religious minorities as well as the locals.

⁷⁴ KISA-Action for Equality, Support, Antiracism in Partnership with Intercollege, PEO and other partners currently implements an EQUAL project for the integration of asylum seekers in the labour market which also offers Greek language courses to the selected asylum seekers. Other possibilities to learn the Greek language are through a programme of the Ministry of Education “Greek for foreigners” which has limited attendance from migrants for various reasons.

⁷⁵ Ombudsman A/Π. 61/2005.

VI. Conclusion

Cyprus, as an EU member state, has to comply with community rules on anti discrimination and asylum and immigration. It has to realise that the inclusion of ethnic and religious minorities and the adoption of a comprehensive integration policy is now more important than ever if racism and xenophobia are to be combated effectively.

The transposition of the anti discrimination Directives and the establishment of the Equality Body and the body against racism and discrimination is an important step in this direction. This body, with its reports to date, has shown that it can live up to the expectations of those who fight discrimination and racism. It needs however, to take much more drastic steps to enforce its decisions and to use to the maximum the powers vested upon it by the law, particularly towards the Police and other administrative authorities where institutional racism persists as well as in private structures.

A lot needs to be done to raise awareness amongst the actual and potential victims of discrimination and racism about their rights, their possibilities in pursuing complaints and for their assistance and support. The role of NGOs in this respect is very important as they are the natural allies of the victims and they are the ones the victims trust the most. The main anti racism and anti discrimination NGOs in Cyprus have been pressing for years for a change in the migration and asylum policies of the State. It is only through a change of this strict immigration model and policy into a more open, transparent and fairer one that respects the rights of migrants, asylum seekers and refugees that racism and discrimination may be combated effectively.

The main challenge facing Cyprus is to acknowledge that it is a host country for migrants and the failure of the present system of migration; accept that it is a multicultural society; and develop policies and practices to promote social integration, enrich society and create conditions of equality for all its inhabitants, irrespective of national, ethnic, racial or other origin.

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ANNEX: Overall Assessment of Directive 2000/43/EC

- ⊖ Not yet implemented
- Partial implementation
- Fully implemented

Article	Provision	Implementation Status	Comment
2	<u>Concepts</u>		
	Direct discrimination	●	
	Indirect discrimination	●	
	Harassment	●	
	Instruction to discrimination	●	
3	<u>Scope</u>		
	Employment	●	
	Vocational training	●	
	Working conditions	●	
	Membership of organisations	●	
	Social protection	●	
	Social advantages	●	
	Education	●	
	Goods and Services	●	
4	Exceptions for genuine and determining occupation requirements	Yes	
5	Government led positive action measures	No	
6	Anti-discrimination goes beyond the provision of the Directive	No	
7	Remedies available	●	No legal aid is foreseen for court cases
	NGO participation in complaints procedures	●	It is included in the law, however it has not been tested before courts.

			NGOs are not funded for victim support.
8	Application of the shift in the burden of proof	●	It has not been tested before the courts.
9	Victimisation	●	
10	Government dissemination of information	○	
11	Social dialogue on anti-discrimination	○	
12	Government dialogue with NGOs	⊖	
13	<u>Functions of the Equality body</u>		
	Provide assistance to victims	⊖	The Ombudsman, as the Equality Body, investigates complaints of the victims as an extra-judicial body but does not provide assistance to victims.
	Conduct surveys concerning discrimination	●	
	Publish reports	○	The report of 2004 -2005 as an Equality Body has not yet been released.
14	Review of existing law to ensure that they are compliant with the Directive	⊖	
15	Effective and dissuasive sanctions	⊖	The Equality Body has not as yet imposed any fines as provided for in the legislation.