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# ADVANCE UNEDITED VERSION

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## Human Rights Committee

### Concluding observations on the fourth periodic report of Cyprus\*

1. The Committee considered the fourth periodic report submitted by Cyprus (CCPR/C/CYP/4) at its 3142nd and 3143rd meetings (CCPR/C/SR.3142 and 3143), held on 19 and 20 March 2015. At its 3157th meeting (CCPR/C/SR.3157), held on 31<sup>st</sup> of March 2015, it adopted the following concluding observations.

#### A. Introduction

2. The Committee welcomes the submission of the fourth periodic report of Cyprus, which was 10 years overdue, and the information presented therein. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's delegation on the measures that the State party has taken during the reporting period to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies (CCPR/C/CYP/Q/4/Add.1) to the list of issues (CCPR/C/CYP/Q/4), which were supplemented by additional oral and written responses provided by the delegation.

#### B. Positive aspects

3. The Committee welcomes the following legislative and institutional steps taken by the State party:

(a) The adoption of The Equal Treatment (Racial or Ethnic Origin) Law [(L.59(I)/2004)] and The Equal Treatment in Employment and Occupation Law [(L.59(I)/2004)] in March 2004 and the broadening of the competence and powers of the Ombudsman, through L.42(I)/20004 on The Combatting of Racial and Other Forms of Discrimination (Commissioner) Law, to ensure their effective enforcement;

(b) The adoption of The Violence in the Family (Prevention and Protection of Victims) Law (L.212(I)/2004, as amended);

(c) The adoption of the Criminal Code (Amendment) Law No. 18(I)/2006, which increased the age of criminal responsibility of children to 14 years;

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\* Adopted by the Committee at its 113th session (16 March –2 April 2015).

(d) The amendment of the Children's Law (*Cap.352, as amended*) which came into force on 20 June 2013, repealing a provision in Article 54 relating to "the right of any parent, teacher or other person having the lawful control or charge of the child to administer punishment"; and

(e) The adoption of The Guidelines for the prevention of suicide incidents in prisons and detention centres in 2014.

4. The Committee welcomes the ratification of, or accession to, the following international instruments by the State party:

(a) The Second Optional Protocol to the Covenant on Civil and Political Rights aiming at the abolition of the death penalty in 1999;

(b) The Optional Protocol to the Convention on the Rights of the Child on Sale of Children, Child Prostitution and Child Pornography in 2006;

(c) The Optional Protocol to the Convention against Torture in 2009;

(d) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict in 2010; and

(e) The Convention on the Rights of Persons with Disabilities and its Optional Protocol in 2011.

#### **D. Principal matters of concern and recommendations**

##### **National Human Rights Institution**

5. The Committee is concerned that the Office of the Commissioner of Administration (the Ombudsman) lacks the necessary financial, technical and human resources necessary to fulfil its very broad mandate, as well as about the Office's inability to appoint its own staff and its lack of financial autonomy. In addition, the Committee is concerned about the absence of Turkish-speaking staff members and about the fact that the reports generated are not published in the Turkish language. (art.2)

**The State party should ensure that the Ombudsman has the financial and technical resources and personnel necessary to perform its task effectively on a fully independent basis in accordance with the Paris Principles (General Assembly resolution 48/134, annex).**

##### **Discrimination on basis of nationality**

6. The Committee is concerned about reports that nationality laws are being *de facto* applied in a discriminatory manner in relation to individuals from particular groups, particularly with regard to children of Turkish Cypriots and individuals of Southeast Asian origin, and that members of the latter groups face obstacles in attaining Cypriot citizenship despite meeting the legal requirements to acquire it. (arts. 2 and 26)

**The State party should take adequate measures to ensure that nationality laws are applied indiscriminately on the basis of clearly defined criteria; it should ensure that applicants have access to information concerning the requirements of citizenship and that they receive a decision on their request for citizenship within a reasonable period of time.**

##### **Racial Discrimination**

7. Despite the efforts taken by the State party to combat racial discrimination, the Committee is concerned about reports of a rise in incidents of racially motivated verbal and

physical abuse by right-wing extremists and neo-Nazi groups against persons of foreign origin, human rights defenders and Turkish Cypriots. It is also concerned that members of the Roma community still face de facto discrimination and social exclusion in the areas of housing, education and employment. (arts. 2, 20 and 26)

**The State party should strengthen its efforts to eradicate racial discrimination against Turkish Cypriots, Roma, and other minorities, inter alia by conducting public awareness campaigns to promote tolerance and respect for diversity. The State party should ensure that cases of racially motivated violence are promptly investigated, that the perpetrators are prosecuted and, where appropriate, punished and that compensation is awarded to victims.**

#### **Gender equality**

8. While welcoming measures taken by the State party to promote gender equality, including the adoption of the new National Action Plan on Gender Equality 2014-2017 (NAPGE) and the increase in representation of women in a number of senior public positions, the Committee remains concerned about the remaining low rate of participation of women in many decision-making positions, the limited participation of women in the peace process, and the continuing 16% wage gap between men and women. (arts. 2, 3 and 26)

#### **The State party should:**

- (a) Strengthen its efforts to increase the participation of women in decision-making positions in the public administration, if necessary, through improved education opportunities and appropriate and timely special measures to give effect to the provisions of the Covenant;**
- (b) Ensure that participation of women in the peace process is guaranteed at all stages, including in decision-making, in accordance with Security Council resolution 1325 (2000);**
- (c) Take additional concrete measures to close the wage gap between men and women.**

#### **Internally Displaced Persons**

9. While welcoming the State party's decision to recognize children of Internally Displaced Persons (IDP) women, the Committee remains concerned that the amendment applies only to certain housing schemes and benefits and does not give such children access to the same rights as children of IDP men in particular to the right to participate in elections in due course. (arts. 2, 3, 25 and 26)

**The State party should amend its legislation to ensure that children of women with internally displaced status have the same benefits as children of internally displaced men, without any distinction of any kind.**

#### **Missing Persons**

10. While welcoming the support given by the State party to the Committee on Missing Persons in implementing its mandate, the Committee is concerned about reports that investigations of Greek Cypriot missing persons are prioritized over those relating to Turkish Cypriots. The Committee is also concerned at the lack of information provided regarding redress afforded to relatives of victims and measures taken to investigate cases of missing persons and to prosecute those responsible. (arts. 2, 3, 6, 7 and 23)

**The State party should continue granting its support to the Committee on Missing Persons and take immediate steps to investigate all outstanding cases of missing persons of both the Greek and Turkish communities in an effective, transparent, independent and impartial manner. It should also ensure that families of victims obtain appropriate redress, including adequate compensation and psychological rehabilitation, and that the perpetrators are prosecuted and punished as appropriate.**

#### **Torture and ill-treatment**

11. Despite measures taken by the State Party to combat torture and ill-treatment by the police, including the establishment of an Independent Authority for the Investigation of Allegations and Complaints against Police, the Committee is concerned at the limited data available on complaints of torture and ill-treatment as well as the low number of investigations, prosecutions, convictions and sanctions for perpetrators of such acts (arts. 7 and 10).

**The State party should strengthen its efforts to eradicate torture and ill-treatment and ensure that such acts are promptly, thoroughly, and independently investigated, that perpetrators of acts of torture and ill-treatment are prosecuted in a manner commensurate with the gravity of their acts, that complainants are afforded appropriate protection and that victims are provided with effective remedies, including appropriate compensation.**

#### **Excessive use of force**

12. The Committee is concerned about reports of excessive use of force by police officers during acts of arrest and detention, including the use of tear gas against migrants and asylum seekers held at the Menoyia detention facility in 2013. It is also concerned that no information was provided on subsequent measures taken to investigate these incidents and prosecute and punish those responsible. (arts. 2, 6, and 7)

**The State party should establish effective investigative procedures to ensure that the law enforcement officers who were found responsible for excessive use of force during the 2013 incidents are punished. The State party should take effective measures to prevent future incidents of abuse and ill-treatment by the police.**

#### **Non-refoulement**

13. While the Committee notes that Article 4 of the Refugee Law (L.6 (I) 2000, as amended) prohibits non-refoulement, the Committee expresses concern over reports alleging that some asylum seekers were deported to countries despite substantial grounds for believing they would be at real risk of torture. The Committee expresses additional concern that the screening process for asylum seekers to identify victims of torture and trafficking does not appear to meet international standards. (arts. 6, 7 and 13)

**The State party should respect the principle of non-refoulement by ensuring asylum seekers are neither extradited, deported nor expelled to a country where there are substantial grounds for believing there is a real risk of irreparable harm, such as that contemplated under article 6 and 7 of the Covenant.**

#### **Detention of migrants and asylum seekers**

14. While the Committee welcomes the measures taken by the State party to prevent the detention of migrants and asylum seekers, the Committee remains concerned that large numbers of migrants and asylum seekers continue to be detained for lengthy periods of time while awaiting deportation, including women who have been separated from their young

children. It is also concerned that asylum seekers are unable to obtain access to legal advice during all administrative stages of their refugee status determination. (arts. 9 and 13)

**The State Party should:**

- (a) ensure that persons awaiting deportation are not detained but for the shortest period of time necessary, in accordance with the standards elaborated in the Committee's General Comment 35(2014) and that mothers with young children should not be detained unless in very exceptional circumstances;**
- (b) should adopt alternatives to detaining migrants and asylum seekers whenever possible;**
- (c) consider amending the Refugee Law and the Legal Aid Law in order to guarantee access, in appropriate cases, to legal advice throughout all stages of the asylum process**

#### **Conditions of Detention and violence in prison**

15. While noting efforts made by the State Party to reduce overcrowding and improve conditions of detention, the Committee remains concerned at reports of cases of inter-prisoner violence, including gang rape, the use of solitary confinement for excessive periods of time and reports that minors and migrants are not always segregated from the rest of the detained population (arts. 6, 7 and 10).

**The State party should continue to strengthen its efforts to improve detention conditions by taking practical measures to, *inter alia*:**

- (a) reduce overcrowding, particularly through the introduction of alternatives to detention;**
- (b) prevent incidents of inter-prisoner violence, including through the implementation of effective monitoring mechanisms and the introduction of training to prison staff on identifying those vulnerable to inter-prisoner abuse; and**
- (c) investigate incidents of inter-prison violence, especially those resulting in death, and prosecute and punish those responsible with appropriate sanctions commensurate with the crime and compensate victims.**

#### **Domestic violence**

16. While welcoming measures taken by the State party to prevent domestic violence, the Committee remains concerned about the low number of investigations, convictions and prosecutions of those responsible, and the limited availability of facilities for treating victims of sexual violence. (arts. 2, 3, 7 and 23).

**The State party should ensure that cases of domestic violence are thoroughly investigated, perpetrators are prosecuted and, if convicted, punished with appropriate sanctions and that all victims are afforded effective remedies, including protection and access to shelters and rape crisis centres. The State party should also establish a comprehensive reporting system and database for such acts in order to analyze and assess current and developing areas requiring prompt and ameliorative action. The State party should take additional immediate steps to implement the recommendations laid out in the Ombudsman's report on domestic violence, particularly regarding the redefinition of the terms 'violence' and the category of protected persons.**

### **Crossing points**

17. While the Committee takes note of the State Party's efforts made to reach an agreement with Turkish Cypriot leaders on new crossing points, the Committee is concerned that certain restrictions on crossing the "Green Line", notably the State party policy concerning passage of Turkish settlers and their descendants, who were born in occupied areas, unduly interfere with the enjoyment of the right to the freedom of movement conferred upon all residents of the island by article 12 of the Covenant. (arts. 2, 12)

**The State party should continue its efforts to open new crossing points and take measures to facilitate greater access of residents of the Northern part of the island to the South.**

### **Access to places of worship**

18. The Committee is concerned about reports suggesting undue restrictions to the freedom of religion and belief of certain minorities, particularly Muslims, as a result of limited access to places of prayer, including the Sultan Tika mosque, which is only open for worship on Fridays and reports of inadequate maintenance of Muslim cemeteries. The Committee expresses additional concern that the travel restrictions across the crossing points referred to in paragraph 17 above prevent some Turkish Cypriots from undertaking religious pilgrimages in the southern part of the island. (art. 12 and 18)

**The State party should ensure its legislation and practices conform fully with the requirements of article 18 of the Covenant by taking immediate measures to remove undue restrictions to access places of worship, including restrictions that limit worship to one day per week.**

### **Religious teaching**

19. While the Committee takes note that students or parents have the right to apply for an exemption from attending religious teachings against their convictions, the Committee remains concerned that in some cases students are required to remain in class, despite being granted an exemption. The Committee expresses additional concern about the lack of information on measures taken to support the religious education of non-orthodox communities. (arts. 2, 18 and 27).

**The State party should ensure every student has the freedom to participate or not to participate in religious lessons in school, that exemptions are easily available and not subject to burdensome administrative procedures, and that students of different religious convictions, particularly Muslims in the southern part of the island and other non-orthodox communities, have access to alternative religious education on a voluntary basis.**

### **Juvenile justice system**

20. While noting the progress explained by the State party with regard to the newly proposed juvenile justice system, the Committee is concerned at the failure to take immediate measures towards the establishment of specialized courts for juveniles, the separation of all juveniles from adults in all places of detention, and the effective protection of minors in the justice system. (arts. 14, 24)

**The State party should take measures to ensure that juveniles are treated in a manner commensurate with their age, specific needs and vulnerabilities, ensure that juvenile offenders are tried before a specialized court for juveniles, and are separated from adults in detention facilities. It should also ensure the provision of alternatives to**

imprisonment as the primary course of action and that juveniles offenders are detained only as a last resort and for as short a period of time as possible. Finally, the State party should ensure that its new juvenile justice system upholds the rights set forth in the Covenant with a primary aim at the rehabilitation and re-integration of juvenile offenders into society.

#### **Freedom of expression**

21. The Committee is concerned that the July 2013 amendments to the Law on the Procedure for the Standardization of Geographical Names of the Republic of Cyprus, which criminalizes the publication, etc., of unrecognized names of regions, cities and villages (article 6(1) of the Law), appears to be incompatible with the right to freedom of expression. (arts.19 and 27)

**The State party should repeal the criminal provisions of the Law on the Procedure for Standardization of Geographical Names. It should also review other provisions of the law to ensure that they serve a legitimate public purpose, that they are necessary and proportionate to the purpose pursued and that they impose the least restrictive measures possible for the achievement of its goals, as elaborated in the Committee's General Comment No. 34.**

#### **Right to Vote**

22. The Committee is concerned about allegations that a significant number of Turkish Cypriots were unable to vote during the 25 May 2014 European Parliament elections because their correct residential addresses had not been entered in the Government's database. The Committee expresses additional concern that recent amendments to the Electoral Law, requiring Turkish Cypriots to register by filing a form with the Ministry of Interior containing, inter alia, their residential address, were not disseminated and translated into the Turkish language. (arts. 2, 25 and 26)

**The State party should take immediate steps to ensure Turkish Cypriots have the same rights and obligations as all other Cypriot citizens, both in law and in fact, to vote and stand for elections to be in full compliance with articles 25 and 26 of the Covenant. It should also ensure that all future amendments and laws concerning the participation in elections be disseminated and published in both official languages.**

#### **Minority Rights**

23. While welcoming the measure taken by the State Party to remove economic, Linguistic and cultural barriers faced by ethnic minorities including Turkish Cypriots, the Committee is concerned about the low numbers of Turkish Cypriots in the State party's civil service, including its police force and judiciary. It is also concerned about reports that demanding Greek language proficiency tests serve as *de facto* barrier to the integration of minority communities in the civil service. Finally, it is concerned that no steps are being taken to establish a Turkish school in Limassol. (arts. 2, 26, 27)

**The State Party should continue its efforts to eradicate the economic, linguistic and cultural barriers facing the Turkish Cypriots and other minorities. In this regard, it should multiply its efforts to integrate Turkish Cypriots into the civil service and judiciary, including through the introduction of temporary special measures and consider easing the language requirements needed to enter the civil service. It should also consider establishing a Turkish school in Limassol.**

24. The Committee reiterates its concern that the State party has no concrete plans to revise Art. 2 of the 1960 Constitution, which recognizes only those religious groups with a membership numbering over 1,000 on the date the Constitution came into force, and

constitutes an exclusion of certain religious groups from the principle of self-identification and an impediment to their full enjoyment of freedom of religious, as was noted the UN Special Rapporteur on Freedom of Religion or Belief in his 2012 report on Cyprus (A/HRC/22/51/Add.1). The Committee expresses additional concern that the 2011 census did not effectively implement the principle of self-identification. (art. 27)

**The State Party should adopt the necessary legal measures to ensure that all religious communities enjoy equal recognition.**

**Dissemination of information relating to the Covenant**

25. The State party should widely disseminate the Covenant, the text of its fourth periodic report and the present concluding observations among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, as well as the general public.

26. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations made in paragraphs 5, 10, and 23 above.

27. The Committee requests the State party to submit its next periodic report on 2 April 2020 and to include specific up-to-date information on the implementation of all its recommendations and on the Covenant as a whole. The Committee requests the State party in the preparation of the report to broadly consult civil society and non-governmental organizations operating in the country. According to General Assembly Resolution 68/268 the word limit for the report is 21,200 words.

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