



NEWS REPORT

Date:	11 May 2013
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Title:	Refusal to provide a state benefit to families of women who are both single parents and third country nationals, and whose children are Cypriot nationals
Country:	Cyprus
<u>Context</u>	
Issue at stake:	The Equality Body challenges the interpretation given by the Welfare Services to the CJEU ruling in Zambrano as regards access to social provision by foreign single mothers of Cypriot children.
Ground of discrimination:	Race/ethnic origin, nationality, gender
Source:	National equality body intervention following complaints Ref. A.K.R 125/2011, A.K.R 126/2011, A.K.R 127/2011, A.K.R 128/2011, A.K.R 42/2012, A/P 2044/2011, A/P 589/2012, A/P 858/2012, A/P 894/2012, A/P 972/2012, A/P 1317/2012, A/P 1523/2012, A/P 1577/2012.
Field:	Social Provision
Legislative provisions:	The Combating of Racial and Other Forms of Discrimination (Commissioner) Law N42(I)/2004.

Content

Case: Following the investigation of a number of complaints, the Equality Body (Anti-discrimination Authority) established that on the basis of a circular issued by the Social Welfare Services dated 21.10.2011, no state grant is being paid to applicants who are:

- Minors; and
- Cypriot nationals; and
- reside in Cyprus; and
- are members of a single family where one of the parents is a Cypriot and the other is a third country national.

For the circular in question, the Social Welfare Services had relied on their own interpretation of the ruling of the CJEU in the case of Zambrano.¹ This ruling, which essentially prohibits national measures resulting in preventing Union citizens from enjoying rights arising from their identity as Union citizens, was specified by the CJEU to apply to residence visas and work permits for third country nationals whose under aged children reside in the member state. The Welfare Services however interpreted this ruling as entitling third country nationals who are parents of a Union citizen to a

¹ Case No. C-34/09.

residence and a work permit, provided they maintain the minor concerned, and as exclusive of any other social right.

Decision of the Equality Body: The Equality Body concluded that the above interpretation of the CJEU ruling by the Social Welfare Services is incorrect and that the said ruling did not exclude access to other social rights; this issue was not even considered by the Court. The Equality Body further pointed out that ensuring access to social welfare by under-aged Cypriots irrespective of their parents' racial or ethnic origin would be more in line with the spirit of the decision of the Court. The Equality Body also invoked a recent decision of the national Supreme Court² which confirmed that the decision in Zambrano does not exclude access to public provision for third country nationals who are parents of European citizens. The Equality Body found that the said policy of the Social Welfare Services amounted to direct discrimination against Cypriot citizens whose one parent is of foreign origin, when compared to those Cypriot citizens whose both parents are Cypriots. The Equality Body also found that the said policy amounts to direct discrimination against the parents themselves due to their racial/ethnic origin, who are allowed to continue residing in Cyprus, given the special link which their child has with the country, but without support and protection. The policy also ignores the circumstances of the parent, who may be unable to find employment with sufficient income, pointing out that the prejudicial treatment of the foreign mothers of Cypriot children also amounts to indirect discrimination on the ground of gender.

The said report was submitted to the Minister of Labour and social Insurance and to the Director of Social Welfare Services with the recommendation that the policy be revised in light of the principles of equal treatment and non-discrimination, asking that the possibility of enacting specific legislation to cover this matter be examined.

Internet link source and additional information: The paper is available in Greek at the Equality Body's website at:
<http://www.ombudsman.gov.cy/Ombudsman/Ombudsman.nsf/All/B1B5189FA5761C95C2257B2E003B9ED1?OpenDocument>

² *Liuba Frecatel v. Ministry of Labour and Social Insurance* dated 27.12.2012, Case No. 1622/2011, available at http://www.cylaw.org/cgi-bin/open.pl?file=apofaseis/aad/meros_4/2012/4-201212-1622-11.htm&qstring=liuba AND frecatel. The case concerned the application of a Ukrainian national residing in Cyprus, who was the single mother of a Cypriot national and whose grant paid by the Social Welfare Services was discontinued on the basis of the aforesaid circular of the Social Welfare Services dated 21.10.2011. The Court granted the applicant's request and cancelled the decision to discontinue her grant, mainly on technical grounds, but it did conclude that the Zambrano case did not exclude access to social provision.