



European network of legal experts in gender equality and non-discrimination

NEWS REPORT

Country:	Cyprus
Title:	The UN Committee on racial discrimination published its concluding observations regarding the implementation of the CERD
Date:	2 June 2017
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<u>Context</u>	
Issue at stake:	The UN Committee criticizes the failure of Cyprus to take adequate measures to implement the CERD
Ground of discrimination:	Race/ethnic origin
Source:	Concluding observations of the UN Committee on Racial Discrimination on the twenty-third and twenty- fourth periodic reports of Cyprus, 12 May 2017
Field:	Employment, other (welfare, access to justice, access to state services)
Applicable law:	Law ratifying the Convention on the elimination of all forms of racial discrimination N. 12/1967, adopted on 30 March 1967, available at http://cylaw.org/nomoi/arith/1967_1_012.pdf as amended

Content

Monitoring body report: On 12 May 2016 the UN Committee on the Elimination of Racial Discrimination published its concluding observations on the progress reported by the Cypriot government on the implementation of the CERD. A central issue flagged was the tension generated by the protracted conflict between the Greek Cypriot and Turkish Cypriot communities and the underlining human rights issues which ensue as a result. The Committee also highlighted the following areas of concern:

- No data is collected to show the extent of enjoyment of economic and social rights by ethnic groups and the representation of ethnic minorities in State and public institutions.
- No data is available as regards court cases where the CERD was invoked or how the legal provision on racial motivation as an aggravating factor was applied.
- The gaps in legislation flagged in the previous reporting rounds have not been addressed and no information was offered on the efforts made to repeal discriminatory laws, regulations and policies.
- The Ombudsman cannot appoint his or her own staff and lacks the financial and human resources necessary to independently, impartially, and effectively carry out its mandate (hence its classification as B status by the Global Alliance of National Human Rights Institutions).
- There is a lack of accountability of perpetrators of racist stereotypes and hate speech in the public sphere, and the right-wing extremists and neo-Nazis using violence against migrants, Turkish Cypriots and Muslim minorities due to

- insufficient legislation and/or enforcement.
- There is no comprehensive strategy for Roma inclusion, whilst the Roma continue to face discrimination and challenges such as racist attacks, unemployment, inadequate housing, low school attendance and high school dropout rates.
- Asylum seekers are faced with limited reception facilities and discrimination in accessing both welfare and the labour market, as a result of policies restricting them to agriculture, livestock or fisheries and denying them social assistance if they are categorized as “wilfully unemployed,” regardless of individual circumstances.
- Domestic workers are vulnerable to exploitation and abuse not least because of the restrictions on the number of times they can change employers and due to their exclusion from the long-term residence status. The Committee expressed concern over the fact that domestic workers were excluded from the new national action plan on integration of migrants currently under formulation.
- The low number of complaints for racial discrimination reported by the government and the even fewer prosecutions and convictions does not necessarily mean there is no discrimination, but may signify barriers in invoking the rights foreseen in the CERD.
- The government failed to produce information on the training of state bodies, local government bodies, associations, law enforcement officers, judges and lawyers. It also produced no information on any action plans and other measures taken to implement the Durban Declaration and Programme of Action.

Amongst the several recommendations issued, the UN Committee flagged the following as important: the compilation of a Roma inclusion strategy and the allocation of adequate resources to it; the expansion of reception conditions for asylum seekers and the removal of the obstacles to their equal access to employment and welfare; the removal of the restriction for domestic workers to change employer, their inclusion into the long term residence scheme and into the new national action plan on migrant integration; the adequate registration, investigation and prosecution of complaints for racial crime; and public education campaigns to ensure that the right to judicial recourse is accessible to victims.

Key points of analysis: The UN Committee was correct in identifying the groups most at risk and the policies which essentially disempower them from claiming their rights such as the risk of deportation for domestic workers and the substandard asylum reception conditions which led refugees to avoid Cyprus as a destination. Interestingly, the UN Committee was not reluctant to term as racial discrimination restrictions essentially relating to the entry and residence of third-country nationals, which fall outside the scope of the Racial Equality Directive, paving the way for a more liberal interpretation of Directive article 3.2.

The gaps highlighted by the report are to a large extent the product of the government’s austerity agenda but also of a policy aimed at maintaining certain groups in a vulnerable situation, suggesting lack of political will to adopt the equality agenda. A typical manifestation of the mentalities nurturing this negative political climate was the response of the Attorney General, a few days after the publication of the UN report, to a NGO request to prosecute the Archbishop for hate speech, with reference to the latter’s comments on state television that Turkish people are uncivilized and unclean orientals who beget a dozen children each. The Attorney General found that the Archbishop’s statements did not infringe the law on hate speech because they were aimed at criticizing the policy of Turkey to send Turkish settlers to the north of Cyprus and thus change the country’s demographic character, which is a war crime. The Attorney General concluded that there is evidence that the Turkish settlers “come from Anatolia, have low educational and cultural background and have children with worrying regularity”.¹ The Attorney

¹ Office of the Attorney General of the Republic, Letter to executive director of KISA, 24 May 2017, available at

General did not produce the evidence he invoked and did not define the concept of 'low cultural background', nor did he explain his method of evaluating a culture.

The Attorney General's refusal to prosecute the Archbishop led the NGO to commence a private criminal case against the Archbishop and then apply to the ECtHR if the court fails to deliver a conviction.² This follows a similar incident last year where the NGO Accept LGBT asked the Attorney General to prosecute the Archbishop for homophobic speech, to which the Attorney General failed to respond.

Internet link source: The UN Committee's concluding observations are available at http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/CYP/INT_CERD_COC_CYP_27472_E.pdf.

[www.pio.gov.cy/MOI/pio/pio2013.nsf/AC1BF5A7F6C06684C225812B003BDCA6/\\$file/SKM_C3110170525130300-2.pdf](http://www.pio.gov.cy/MOI/pio/pio2013.nsf/AC1BF5A7F6C06684C225812B003BDCA6/$file/SKM_C3110170525130300-2.pdf).

² KISA (2017), *Press release: No tolerance and no excuse for hate speech and hate crimes*, available at <https://kisa.org.cy/no-tolerance-and-no-excuse-for-hate-speech-and-hate-crimes/>.