



FUNDAMENTAL RIGHTS AND THE RULE OF LAW

Report on the visit to Cyprus

25-26 November 2021



European Economic
and Social Committee



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Six EESC members took part in the country visit to Cyprus. The delegation met with civil society organisations (CSOs), social partners and the media on the one hand, and several government and judicial authorities on the other hand. The aim of this report is to faithfully reflect and reproduce the views of civil society. The authorities' views will be set out in their reply to the report.

1. Fundamental rights related to social partners

Participants in this session expressed the view that Cyprus had a **very strong tradition of social dialogue**, with high trade union presence and good interaction between employers' and employee organisations. Social partners were routinely consulted on work-related policies and other relevant areas through mechanisms such as the Labour Advisory Board, the highest consultative body to the Ministry of Labour. Despite the above-average trade union presence in Cyprus, participants pointed to the existence of a paradox as Cyprus also had a low number of workers covered by collective agreements in the private sector. This was particularly true in the case of non-Cypriot workers, regardless of whether they came from the EU or from a third country.

It was also pointed out that **consultations were sometimes circumvented** in that political parties made legislative proposals that were not discussed with trade unions or employers' organisations. Furthermore, social partners also complained that their advice was not sought or followed when it came to the implementation of labour legislation, nor when it came to relevant related legislation such as that concerning corruption or whistle-blower protection.

Participants considered that the implementation of **labour legislation** remained a weak point in Cyprus, notably because the labour inspection body was not adequately staffed. As a result, measures concerning discrimination, equal pay for men and women, protection of migrant workers in Cyprus, and other pieces of legislation, were not properly enforced.

In 2020, social partners were consulted on the first **National Plan for the Integration of Migrants**. Participants considered that public policies in that area were desperately needed, as migrants were often abused and exploited. This was partly because they mostly worked in unskilled positions, regardless of their skills and background. There were also reports indicating that public employment offices were dissuading asylum seekers from looking for employment in Cyprus. Participants also mentioned that migrant workers were exposed to hate speech and discrimination in the public space, sometimes even from public officials.

Regarding **COVID-19**, social partners said that traditional social dialogue had been cast aside during the first part of the pandemic. However, they felt that they had been adequately consulted on a number of aspects such as health measures, financial aid and the recovery and resilience plan. Moreover, social

partners indicated that, since July 2021, consultations on labour issues had returned to their pre-pandemic level.

2. Freedoms of association and assembly

Civil society representatives considered that, despite adequate protection of the freedoms of assembly and association at constitutional level, certain actions by the authorities had caused **civic space** to shrink fast. The first example given concerned the suppression of the national registry for CSOs and its replacement by regional registries. This measure, coupled with a lack of coordination between local and central authorities, had led to lengthy registration periods of up to 18 months and incoherent rules concerning the establishment and functioning of CSOs. Furthermore, representatives felt that the registration procedure was also complicated by the multiple potential statuses available for CSOs, which could be classified as associations, non-profit companies or sports associations.

Participants also complained of **hefty, unnecessary bureaucratic requirements** imposed on CSOs. One such example was the obligation for organisations with annual incomes of over EUR 40 000 to undertake an annual audit. While participants acknowledged the legitimacy of auditing to prevent money laundering or financing of terrorism, they regretted that the threshold had been set too low, placing at a disadvantage small organisations with limited capacity or resources to conduct such an audit. Another example of an ambiguous administrative burden was the obligation for board members to provide a criminal record extract. As there was no proper information about which criminal convictions would be incompatible with the position, there was a lack of clarity surrounding applications rejected on those grounds.

Participants explained that in 2020, the Cypriot authorities had published a list of over 2 500 CSOs that were being **deregistered** for failing to meet certain administrative obligations. In most cases, they had not met the obligation to submit audited accounts or to conduct statutory and electoral assemblies. Some organisations had allegedly been deregistered despite meeting their obligations within the two-month deadline. CSO representatives viewed this process as disproportionate, believed that it had been carried out without sufficient official communication and considered that it was an attempt to limit civic space. However, the Cypriot authorities considered that the deregistration process had been applied in order to strengthen civil society by deregistering associations which were not active any more. They indicated that the organisations concerned had been notified of their irregularities by letter well before the publication of the list, and that some of them had not received the notification because they had failed to update the address of their headquarters after having moved.

Participants mentioned that some public officials would often **libel** certain organisations, solely on the grounds that those organisations were working with migrants or had links with organisations from the area under the *de facto* control of the Turkish Cypriot community. This contributed to a climate where certain civil society organisations were viewed as adversaries of the public authorities. Participants also mentioned that organisations that were more critical towards the government tended to find it more difficult to access public funding.

Participants felt that they were **not actively consulted** in matters concerning legislation covering their sphere of activity. For example, it was pointed out that, in regard to the Cyprus Recovery and Resilience Plan, the government had only consulted social partners, leaving other organisations aside.

In terms of freedom of assembly, participants mentioned that the **COVID-19** health restrictions regarding public demonstrations had been lifted much later than those regarding other social events. This meant that people were being fined for participating in protests, while they would have been able to participate legally in other social events, such as weddings.

3. Freedom of expression and freedom of the media

Participants felt that freedom of the media and freedom of expression were well protected overall in Cyprus, by both **constitutional provisions** and ordinary legislation. However, they considered that the

media institutional framework was outdated. Discussions with stakeholders had been under way for almost seven years to update the law, and participants hoped that it would bring about a new legislative framework by the end of the current legislature. Participants believed that the new legislation should allow journalists to self-regulate, in particular in the area of disciplinary procedures and ethical matters – a possibility which already existed according to a later comment by the Cypriot authorities, respecting the Code of Ethics as set out by the Cyprus Media Complaints Commission. They also shared concerns with regard to the draft law on strategic lawsuits against public participation (SLAPP).

Participants mentioned that **media pluralism** fared well in Cyprus, as there were multiple publications, and radio and TV stations. Current legislation entailed measures against concentration of media ownership, such as requiring media companies to list all shareholders who owned more than a small share, and prohibiting any shareholder from owning more than a quarter of the shares. However, some participants believed that such measures were being circumvented by shareholders who operated through third parties, which the authorities had limited capacity to address.

Participants expressed the view that commercial libel legislation in Cyprus was very strict. For example, it was stated that certain rules allowed courts to prohibit media outlets from mentioning a specific company, person or organisation in publications. Participants mentioned a tendency to **self-censorship** when covering certain subjects that might have financial implications for the news outlet in question, or which covered certain sensitive topics. For example, journalists avoided topics like migration or the Turkish Cypriot community out of fear of being stigmatised or labelled unpatriotic. Some stories about corruption in Cyprus were given good coverage in international media, but not as much in national media.

Regarding **hate speech**, the Cyprus Media Complaints Commission had received multiple complaints regarding racism and xenophobia. There were numerous instances where the language used in subjects relating to migration was inappropriate.

Participants felt that **fake news** was more prevalent in the online environment than in classic media outlets. However, some participants felt that certain media productions were predominantly one-sided, especially on matters regarding the Cyprus problem, or that certain topics such as migration were treated in an exaggerated manner. In the participants' views, the most reliable source of news was the written press, which adhered to rigorous standards.

4. The right to non-discrimination

Participants regretted the **lack of cooperation** between the authorities and CSOs operating in the area of non-discrimination, as well as the lack of an intersectional approach in the design of policies on topics like domestic violence and migrants.

Regarding **women's rights**, participants explained that assisted abortion had been legal in Cyprus as of 2018. The Istanbul Convention on Preventing and Combating Violence against Women and Domestic Violence had come into force in the country in the same year, but statistical data on the incidence of domestic violence was still scarce.

Participants expressed concerns about the **underrepresentation of women** at the highest administrative and political levels and about the lack of public policies to address the issue. They also pointed to the fact that women in Cyprus were being paid around 10% less than their male counterparts and that their pensions were almost four times lower. Women over the age of 65 were more exposed to poverty than men of a similar age, which participants attributed to a conservative society and a lack of day centres for older people. Furthermore, according to social partners, the number of women working in informal and partial employment had greatly increased in recent years.

Participants mentioned that migrants (including asylum seekers) experienced particular difficulties, since some public figures presented the refugee issue as a threat to Cypriot national identity, which did not help the public's overall negative perception of migrants. One participant explained that a Muslim woman wearing a hijab would typically have difficulty getting a job in Cyprus. Participants also explained that there was a decree banning migrants from renting housing in a certain area, which they believed was based on the argument that the measure was necessary to prevent demographic changes.

CSO representatives welcomed some positive steps taken by the government towards integrating **migrant children**, such as appointing bilingual teachers. However, the situation was still problematic, as migrant children faced challenges at school, such as random allocation to classes without further consideration of their background or education level. The COVID-19 lockdown period had been particularly difficult for migrant children who had been isolated in migrant centres. Generally speaking, they had problems accessing the health system.

Participants mentioned an acute lack of funding for accommodation for **people with disabilities**. They also regretted the fact that the European Disability Strategy had not yet been fully implemented. They explained that there was no dedicated recourse mechanism for complaints made by persons with disabilities. The exercising of voting rights was also still considered a challenge for persons with disabilities. Participants also felt that the authorities did not do enough to support the integration of children with disabilities into regular schools.

Regarding the rights of **LGBTIQ persons**, participants mentioned that civil unions had been legal in Cyprus since 2015. They considered there was a lot of hate speech against LGBTIQ persons, but that it was investigated by the authorities.

5. The rule of law

Participants in this session explained that, following the events of 1963, certain aspects of the bi-communal Constitution of Cyprus had become inapplicable. As an emergency response to that crisis, the Cypriot authorities had developed a "**doctrine of necessity**", which had been intended as a temporary measure but had applied ever since, leading to what participants considered a concentration of power and an impediment to a proper system of checks and balances. Participants gave numerous examples of discretionary powers existing within the framework of that doctrine, such as: the president's prerogative to appoint a considerable number of high officials, such as the judges of the Supreme Court of Cyprus, the ombudsman and the attorney-general; the possibility for the government to override urban plans made by a local authority, without any justification or prior technical assessment; the ability granted to the Ministry of the Interior to act unilaterally on all matters of migration, including expulsions; the former government prerogative to grant citizenship to investors as part of the former so-called "golden passport" programme.

Another issue that was mentioned was the fact that **Cyprus's attorney-general** was a legal advisor to the executive, while also being in charge of prosecution. Participants considered that the proximity of these executive and judicial prerogatives was a potential conflict of interest, especially since the current attorney-general had also served as Minister for Justice in the past.

Despite discussions concerning judicial reform over the past decade, participants regretted that **judicial processes were still extremely slow**, sometimes taking up to seven or eight years. The Cypriot authorities indicated that a bill on judicial reform on second instance jurisdiction, was under discussion in the parliament and that its objective was to alleviate waiting times for judicial decisions.

Participants expressed the view that there was **no effective means of enforcing court decisions issued against public authorities**, and that authorities' failure to comply did not lead to any sanctions. Cypriot courts were also reportedly reluctant to send referral questions to the Court of Justice of the European Union.

Participants also invoked certain cases where **legislation lacked clarity and transparency**. For example, there was no transparent clear migration policy that would allow migrants to be fully informed about the conditions of entry into Cyprus before leaving their country of origin.

Participants felt that the **presumption of innocence** was not sufficiently enforced in Cyprus, and believed that civil courts sometimes considered the existence of a criminal investigation to be proof of wrongdoing, which the authorities strongly denied.

Participants considered that the general perception of **corruption** was high in Cyprus. They notably referred to the former so-called "golden passport" programme – which, for more than a decade, had allowed the government to grant citizenship to investors – as an illustration of the fact that corruption was prominent across the political field. Participants also felt that corruption encouraged other criminal activities such as human trafficking.

6. Fundamental rights challenges in the non-government controlled areas of Cyprus

Participants noted that people in the non-government controlled area did not have the same access to their EU citizenship rights as in the areas under the effective control of the government of the Republic of Cyprus. This applied in particular to the recognition of the citizenship to which they were entitled, and the resulting rights. Participants also explained that children from mixed marriages with so-called "mainland Turks" were discriminated against.

One of the most prominent problems described by CSO representatives from the non-government controlled areas of Cyprus was related to **human trafficking**, which extended to sex trafficking, forced labour and human egg trafficking, the latter being carried out via some in vitro fertilisation (IVF) clinics. Participants found it difficult to provide support to victims in the absence of witness protection programmes, shelters and financial assistance.

CSO representatives from the non-government controlled areas felt that the scope of **freedom of expression** was narrowing, as illustrated by the fact that some people were arrested and detained for what they wrote on social media or for speeches made during TV programmes. Participants also expressed concerns regarding disinformation and the lack of media literacy, although there were some efforts to address the latter.

Participants expressed concerns regarding **religious freedoms**, pointing to some activism aiming to make religion part of social life, and pressure exerted on religious minorities.

Participants had also noticed a certain backsliding in **women's rights** in a society that was becoming more conservative.

Civil society organisations mentioned that they were finding it harder and harder to obtain **funding** to operate.



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