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Civil and Political Rights**

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parties under article 40 of the Covenant**

Fourth periodic reports of States parties due in August 2002

Cyprus*

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I. Introduction

1. The fourth periodic report of Cyprus on the International Covenant on Civil and Political Rights (ICCPR) (hereinafter referred to as the “present report”) was prepared in accordance with the revised guidelines for the preparation of reports by State Parties (HRI/GEN/2/Rev.6). It addresses the issues and recommendations raised in the concluding observations of the Human Rights Committee in consideration of the third periodic report of Cyprus (hereinafter referred to as the “previous report”) and covers the developments on the implementation of the International Covenant on Civil and Political Rights during the period 1996-2011. The present report is accompanied by an updated core document.

2. The present report has been prepared by the Law Commissioner of Cyprus who, pursuant to a Decision of the Council of Ministers, is entrusted with ensuring compliance of Cyprus with its reporting obligations under international human rights instruments. The information and data, on the basis of which the present report was compiled, was provided by the Ministries/Departments competent for the specific matters [(i.e. the Ministry of Interior (MOI), the Ministry of Justice and Public Order (MJPO), the Ministry of Labour and Social Insurance (MLSI), the Ministry of Education and Culture (MOEC), the Ministry of Defense (MOD), the Law Office of the Republic, the Civil Registry and Migration Department (CRMD) and the Statistical Service)] as well as by independent authorities, such as the Ombudsman/Equality Body. The present report will be translated into the national official languages and will be widely disseminated.

3. The Government of the Republic of Cyprus deeply regrets that there has been a considerable delay in the submission of the fourth periodic report. It is indeed an anomaly and a paradox that, despite Cyprus’s firm commitment to human rights and in pursuing policies that all persons, enjoy fully the fundamental rights and freedoms safeguarded by the Constitution and the international human rights instruments to which Cyprus is a party and benefit from the rule of law and democratic institutions, obligations in submitting periodic reports (such as the present report) may experience occasional delays due exclusively to bureaucratic deficiencies encountered in small administrations with limited resources, which may hamper their reporting capacity.

4. Since the assessment of the previous periodic report and the concluding observations of the Human Rights Committee, significant developments took place as regards Cyprus, with a direct impact on human rights protection and their implementation. On 1 May 2004 Cyprus joined the European Union as a full member state. This development had a positive impact and enhanced human rights protection as the accession process of Cyprus to the EU, since 1998, triggered the harmonization of all its legislation falling in the scope of European Union law with the *acquis communautaire* and resulted in the enactment, within specified time limits, of very important legislation relating to civil and political rights whereas at the same time the necessary administrative structures were established for the effective implementation of the relevant legislation and policies.

5. It is to be noted however that pursuant to article 1.1 of Protocol 10 to *the Treaty of Accession of the Republic of Cyprus in the EU*, the application of the *acquis communautaire* has been suspended in those areas of the Republic of Cyprus which are not under the effective control of the Government due to the continuing illegal occupation and effective control of 37 per cent of its territory by Turkish military forces. The Government of the Republic of Cyprus regrets that due to the above mentioned continued occupation is unable to ensure the enjoyment of the rights provided for in the ICCPR on the whole of its territory and that, therefore, it is also deprived of its ability to apply the provisions of the ICCPR to those living in the areas not under the effective control of the Government. Due to the above described situation, no reliable information and data is available regarding the

enjoyment of the relevant rights by the Cypriot population living in the areas not under the effective control of the Government. Therefore, all information and data presented in the present report concern the Government controlled areas.

6. It is hoped that a just and viable solution will be soon achieved and that the next periodic report of Cyprus will give information and data for the whole of the territory of the Republic of Cyprus.

II. Provisions of the Covenant

Article 1- Self- determination

7. Refer also to the answers given in the previous report (paras 42 and 43).

8. The authorities for local administration are the municipalities and the community councils. The municipal/community council elections are conducted every five years for the election of the mayor/president of the community council, and the members of the municipal/community councils. The members of the municipal/community councils vary in number according to the size of the electorates of each of the municipal/community area. Eight members are elected for areas with less than 6,000 electorates and up to 26 members for areas with more than 26,000 electorates for the municipalities. Four members are elected for communities with not more than 300 electorates and up to eight members for communities with more than 700 electorates.

9. The right to vote in municipal elections is accorded to every citizen, resident of the municipal/community area who has attained 18 years of age. The exercise of the right to elect is compulsory pursuant to *the Municipalities Law [(L.111/1985, as amended)]* and *the Communities Law [(L.86 (I)/1999, as amended)]*, respectively. However failure to exercise this right/obligation, does not lead to prosecution on behalf of the State.

10. Elections are conducted freely and in an orderly manner. The last elections were conducted on 18 December 2011, and there were no objections or complaints about the manner in which they were conducted.

11. Since 2004, citizens of other EU countries, residing in Cyprus, have the right to vote and stand as candidates both in local (municipal/ community) elections and to the European Parliament elections, pursuant to *the Election of the Members of the European Parliament Law of 2004 (L.10 (I)/2004, as amended)*, and to *the Municipal and Community Elections (Citizens of Other Member States) Law of 2004 (L.98 (I)/2004, as amended)*.

Article 2- Elimination of discrimination

12. It should be firstly noted that Cyprus, during the period under review, has ratified Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, 2000 (CETS No.177), [(L.13 (III)/2002)], which prohibits any discrimination on any ground as regards any rights provided by law, thus enhancing protection from discrimination on any ground. Moreover, as evident from the core document accompanying the present report, Cyprus has ratified all major international human rights instruments which also include antidiscrimination clauses.

13. In the context of the transposition of European Union laws, in the national legal order, Cyprus has enacted the following legislation directly relevant to the right to equality and non discrimination:

(a) *The Equal Treatment (Racial or Ethnic Origin) Law [(L.59(I)/2004, as amended)]*, which was enacted for the purpose of harmonization with the *EU directive 2000/43/EC* of 29 June 2000 implementing the principle of equal treatment between

persons irrespective of racial or ethnic origin. The law prohibits discrimination on grounds of racial or ethnic origin, in the areas of social protection, including social security and healthcare, social advantages, education and access to and supply of goods and services which are available to the public, including housing. Violation of the provisions of the Law is a criminal offence and victims of discrimination have also the right to institute civil proceedings for compensation covering both pecuniary and non-pecuniary damage.

(b). *The Equal Treatment in Employment and Occupation Law [(L.58 (I)/2004, as amended)]*, which was enacted for the purpose of harmonization with the *EU directive 2000/78/E* of 27 November 2000 establishing a general framework for equal treatment in employment and occupation and the above-mentioned directive *2000/43/EC*, prohibits discrimination in employment on the grounds of racial or ethnic origin, religion or belief, sexual orientation, disability and age. Discrimination is a criminal offence. The field of employment covers all aspects of employment and more specifically-

(i) Conditions for access to employment, to self-employment or to occupation, including selection criteria and recruitment conditions, whatever the branch of activity and at all levels of the professional hierarchy, including promotion.

(ii) Access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience.

(iii) Employment and working conditions, including dismissals and pay, and

(iv) Membership of, and involvement in, an organization of workers or employers, or any organization whose members carry on a particular profession, including the benefits provided for by such organizations.

14. Both the above mentioned laws prohibit all forms of discrimination (direct and indirect discrimination, harassment and instruction to discriminate) in all areas mentioned above and in both the private and public sectors. They also allow for the implementation of positive action measures, whereas they regulated the reversal of burden of proof when the victims present *prima facie* evidence that they have been discriminated against so as to facilitate victims to pursue their rights. They also provide for protection against revictimization of the victims. Access to justice for victims of discrimination is safeguarded through actions for damages to the District Court or the Labour Court as regards employment.

15. The MLSI is responsible for the implementation of *The Equal Treatment in Employment and Occupation Law*. During the period under review only a limited number of complaints were received at the MLSI. More specifically, one complaint on sexual orientation and two complaints on age discrimination. The complaints were handled by the DOL, which is the competent department, and a notice was given to the employers regarding their obligations and responsibilities under the law. In addition, instances of age discrimination that came to the attention of the competent department through the filing from employers of vacancies at the Public Employment Services were also handled as described above. Lastly, the MLSI ensures that information on the provisions of the law is disseminated to the public every year through its publications, in an effort to raise awareness.

16. Moreover, extrajudicial mechanisms have been established, namely the Authority Against Discrimination in the field of employment and the Authority Against Racism and Discrimination in all other areas covered by the relevant laws, under the umbrella of the Commissioner of Administration (the Ombudsman), for the submission of complaints for discrimination and their investigation.

17. Those bodies operate under *the provisions of the Combating of Racism and Some Other Forms of Discrimination (Ombudsman) Law of 2004 [(L.42 (I)/2004)]*, which was

enacted for the purpose of implementing *EU directive 2000/43/EC* as well as all other international obligations of Cyprus in the field of antidiscrimination so as to ensure effective enforcement of non discrimination provisions on grounds of racial or ethnic origin but also on any other ground in relation to the enjoyment of the rights and freedoms safeguarded in all international human rights instruments ratified by Cyprus; It vests the Ombudsman, with special competences, duties and powers for combating and eliminating direct or indirect discrimination in the public and private sector, including on grounds of race, community, language, colour, religion, political or other belief, and national or ethnic origin.

18. Any individual or group of persons may lodge a complaint to the Ombudsman for having been subjected to discrimination prohibited by any Law. Among those who can lodge such requests, are NGO's, organizations, associations, committees, societies, trade unions, funds, municipal councils and mayors, and public utility corporations/bodies. In such cases, the Ombudsman can make suggestions to the person or group concerned as to alternative treatment/conduct, or abolition/substitution of the provision/term/criterion/practice. In addition, the complaint may be one of discrimination (based on community, race, language, colour, religion, and national or ethnic origin), in the enjoyment of rights and freedoms safeguarded by the Constitution, or one or more of the Conventions ratified by Cyprus and referred to explicitly in the Law. As a result, a complaint can also be lodged as regards discrimination in the enjoyment of the rights and liberties guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms (CETS No.5), Rome, 4 November 2000 (and all its Protocols 1-14), the International Convention on the Elimination of All Forms of Racial Discrimination, New York, 7 March 1996, the Framework Convention for the Protection of National Minorities (CETS No.157), Strasbourg, 1 February 1995, the International Covenant on Civil and Political Rights, New York, 16 December 1996, the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty, 1989, and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, New York, 10 December 1984.

19. The Ombudsman investigates the discrimination complained of, which may be perpetrated by any treatment or conduct, or the application of a provision, term, criterion or practice which may be specifically prohibited by Law as discriminatory, or may constitute direct or indirect discrimination in the enjoyment of any of the above rights and freedoms. The Law covers discriminatory provisions/terms/criteria/practices, which may be found in inter alia contracts of employment, collective agreements, articles of association of legal persons, societies, bodies and institutions, contracts for the supply of goods and services, and terms of membership of organizations, including professional ones. In case of a finding of discrimination (following an investigation into the complaint), the Ombudsman is empowered to order the person or authority responsible, to pay a fine, and/or to address recommendations to them to take specific practical measures for putting an end to the discriminatory provisions or practice, or not repeating the relevant treatment or conduct, or application of the specific provision/term/criterion/practice, towards the complainant and also to all persons who are, or may find themselves, in a similar situation. The Ombudsman may carry out investigations *ex proprio motu* into treatment or conduct or the application of a provision/term/criterion/practice which may entail discrimination or incidents of discrimination or racism. Findings and reports made by the Ombudsman, when involving discriminatory provisions/terms/criteria found in legislation, must be communicated to the Attorney General of the Republic who is the Legal Advisor of the Government. The Attorney-General, after taking into account the report of the Ombudsman and the international and European Union obligations of Cyprus, will finally advise the Government whether there is a need to annul or amend legislation which has been found discriminatory from the Ombudsman and if an amendment is necessary in accordance with

the legal advice of the Attorney General, he/she proceeds with the preparation of the necessary amendment.

20. The decisions of the Ombudsman acting in its capacity as the body against discrimination are binding. Where such decisions entail the imposition of sanctions, they may be challenged before the Supreme Court, in accordance with article 146 of the Constitution.

21. For the period covering the years 2004-2011, the following complaints were submitted to the anti-discrimination body (Ombudsman):

(a) For the years 2004-2005, 202 complaints were submitted by alleged victims of discrimination (or NGOs working in the field of equality and non-discrimination). The examination of 123 cases was concluded. In 47 cases the investigation led to findings regarding discrimination issues and relevant reports were submitted with suggestions. In 9 cases the complainants were satisfied after the intervention of the anti-discrimination body;

(b) For the year 2006, 105 complaints were submitted and the investigation of 34 of them led to findings regarding discrimination issues. Relevant reports with recommendations were put before the authorities involved. In 14 cases the complainants were, eventually, satisfied, following the intervention of the anti-discrimination body;

(c) For the year 2007, 157 complaints were submitted and the investigation of 13 of them led to findings regarding discrimination issues. Relevant reports with suggestions were submitted. In 27 cases the complainants were satisfied, following the intervention of the anti-discrimination body;

(d) For the year 2008, 241 complaints reached the Anti-Discrimination Body and the investigation of 214 cases was concluded. In 91 of them the investigation conducted led to findings regarding discrimination issues and reports were submitted with relevant recommendations. In 41 cases the complainants were satisfied after the intervention of the anti-discrimination body.

(e) For the year 2009, 151 complaints were put before the anti-discrimination body and the investigation of 117 cases was concluded. 18 reports were submitted with suggestions related to discrimination issues. In 21 cases the complainants were satisfied due to the involvement of the anti-discrimination body;

(f) For the year 2010, 158 complaints were filed. The investigation of 154 complaints was concluded and in 25 cases reports were submitted with suggestions related to discrimination issues. The intervention of the anti-discrimination body led to the satisfaction of complainants in 17 cases.

(g) For the year 2011, 134 complaints were brought before the anti-discrimination body and the investigation of 139 cases was concluded. In 35 cases, the investigation led to findings related to discrimination issues and relevant reports were made. The intervention of the anti-discrimination body led to the satisfaction of complainants in 18 cases.

22. The Ombudsman also has the power to prepare and publish Codes of Practice concerning any activity of a public authority or person in the private sector, obliging them to take practical measures specified in the Code, aimed at inter alia promoting equality of opportunities irrespective of community, racial, national or ethnic origin, religion, language, and colour. In that context, the Ombudsman published two Codes of good practice, one on the media and the presentation of news/issues that concern people of different racial or ethnic origin and one on combating discrimination against people with disabilities in the field of employment.

23. The Ombudsman has a duty to carry out surveys and keep statistics in relation to all grounds of discrimination. In that respect, and in an effort to identify discriminatory attitudes or manifestations of discrimination in the Cypriot society, the Ombudsman (anti-discrimination body) conducted a number of public opinion surveys regarding different grounds of discrimination. The surveys were financially supported by the European Commission as part of the framework of the Community Action Programme to combat discrimination. The first survey focused on ethnic discrimination against a specific community, that of the Pontiacs. It examined the attitudes and beliefs of Cypriots towards people of Pontiac origin and the attitudes and beliefs of Pontiacs towards Cypriots. The second survey concerned religious discrimination. It examined the attitudes and beliefs of Christian Orthodox Cypriots towards people coming from different religious backgrounds in Cyprus, whereas the third survey focused on the attitudes and beliefs of Cypriots towards people with disabilities. Lastly, the fourth survey studied the phenomenon of sexual harassment in employment. All the above mentioned surveys showed that there are prejudices and negative feelings towards Pontiacs and non-Christian people. In the light of the results of the surveys, the Government has taken measures to address these.

24. Moreover, the Ombudsman aims to have regular contacts and consultations, and bring together, persons and groups in the public and private sector, of different or conflicting interests, so as to promote understanding, and to find agreements and consensual solutions. This function of the Ombudsman does not involve the complaint examination procedure. In pursuance with *Law 42(I)/2004*, the Ombudsman- acting as an anti-discrimination body- has the duty not only to examine complaints relevant to matters of discrimination but also to promote –in various ways and means- the principles of equality and non- discrimination. In this respect the Ombudsman’s efforts to inform the general public and specific vulnerable groups on matters related to the functions of the Office, and to maintain a level of contact and cooperation with various public groups and non-governmental organizations, are done on a regular basis. The above mentioned activities are enforced through, amongst others, the frequent participation and/or public speaking of the Ombudsman or Officers of the Office in various meetings/seminars/discussions regarding issues of discrimination. The Ombudsman often initiates, organizes and holds such events, in other occasions co-organizes relevant events with non-governmental organizations, public groups or other authorities, or participates actively in events organized by other local, regional or international entities.

25. According to the Ombudsman, at their most, public and private actors comply with the decisions and recommendations of the Ombudsman. To date, more than 80 per cent of the recommendations to governmental bodies or decisions with regard to the private sector have been implemented or pursued.

26. The Ombudsman reports that, through the experience gained in the last six years, some of the groups which experience inequality have a rather negative perception towards the stance of the public and private sector. A key message that must therefore be communicated is that the anti- discrimination body has an independent status and that its function is separate from both of the above sectors.

27. Moreover, according to the Ombudsman in the case of certain specific categories of persons, discrimination and inequality involve incidents of abuse, hostility and stereotyping. Further to the investigative function of the anti-discrimination body and the submission of reports when discrimination is established, efforts are made to “give voice” to persons or groups of persons vulnerable to discrimination and inequality, with respect to agendas they might have or problems they face. The anti-racism Rainbow Festival of 2005, co-organized by the Ombudsman and the non-governmental Organization KISA (Action for Equality, Support and Antiracism) was an event aiming to give immigrants residing in Cyprus the opportunity to demonstrate and communicate their culture, customs and traditions to/with the local society. Relevant events are regularly organized by the

Ombudsman's Office, either in the form of awareness raising public speeches and discussions or in the form of other events that entail the above mentioned cause (e.g. the funding of a theatrical group to present a play related to discrimination issues. Six performances of the play took place in 2010.)

28. One other important function of the Ombudsman acting in its capacity as the anti-discrimination body, is to raise awareness and sensitize the Cypriot society on issues of discrimination and equality. In October 2010, within the framework of the Community Programme "Progress", an one day event was organized by the Ombudsman regarding the history, culture and minority rights of the 3 religious (minority) groups living in Cyprus;

29. In October 2009, the European Commission within the Framework of the EU information campaign "For Diversity- Against Discrimination" organized in Cyprus the Diversity Day. During the festival various activities were performed by local and national organizations, Ministries, the Ombudsman (Antidiscrimination Body) and NGO's, in order to disseminate information material about discrimination, and encourage the public to participate in those activities whereas at the same time there were many interactive workshops, projection of audiovisual material and recreational activities tackling discrimination and awareness raising. In the context of it awareness raising and sensitization role, the Ombudsman (anti-discrimination body) also organizes media campaigns with TV and Radio spots on discrimination on grounds of race, age, and sexual orientation.

30. Moreover, the Ombudsman supported financially the production of a theatre play concerning discrimination as well as NGO's working on gender issues to conduct a survey aiming to identify the needs for vocational training of migrant women in Cyprus. It moreover, organized a lecture regarding the (positive) role that literature can play in the integration of immigrants in Cyprus, a seminar regarding the rights that EU citizens who reside in Cyprus and published information leaflets on the competences and powers of the Ombudsman as an equality body and the two Authorities that function under its umbrella. The Ombudsman, organized also an one day event regarding the history, culture and minority rights of the three religious (minority) groups living in Cyprus, consisting of the Armenians, the Maronites and the Latins, co-organized with an NGO working on gender issues, a seminar in relation to the "Gender mainstreaming in Migration Policies and in Practice and with a trade union a seminar on anti-discrimination legislation. It furthermore, cooperated with the Labour Institute so as to financially support the maintenance and upgrading of the Institute's anti- discrimination website and the conduct of a survey on discrimination against migrant workers in the field of employment. The Ombudsman is also under the process of constructing a website for its functions as the anti-discrimination body.

31. In the context of the exercise of its powers as the anti-discrimination body, the Ombudsman made several thematic interventions pertinent to certain issues of serious concern. In the areas of migration and integration, the Ombudsman investigated and issued a report regarding incidences of racist violence and attacks against persons on grounds of their ethnic origin. One concerned a Cypriot student of African descent who was attacked because of her ethnic origin from a number of youngsters. The Ombudsman noted the failure of the police to fulfil its functions regarding the sanctions against the perpetrators and the protection of the victim. Following that, the Chief of Police issued guidelines to Police Directorates concerning the appropriate action on behalf of the Police in relation to racist incidences and violence. Another one concerned attacks against residences of immigrants from a group of youngsters in a village and racist incidences in schools. The approach held by the anti- discrimination body is that such type of incidences is unacceptable in a democratic society and that inter-cultural education should be reinforced in order to promote tolerance and combat xenophobia. In addition, the anti- discrimination body underlined those adequate measures for the prosecution of perpetrators of such crimes should be taken.

32. Another report was issued on racial profiling by the Police. The investigation related to the massive checks and prosecutions of migrants which did not seem to be in accordance with the directions given to the Police officers for the operation. The Ombudsman concluded that the prosecution of persons for whom no arrest warrant was issued, has led to the assumption that their prosecution was merely based on their ethnic origin and their presence in that particular area of the city. The specific Police operation was conducted on 29 September 2009 for public safety reasons and in order to execute 25 search and arrest warrants in relation to violence that erupted between two opposing Muslim groups. In her conclusions, the Ombudsman underlined, *inter alia*, that the police's action should be guided by the principle of proportionality and full respect of human rights of all persons irrespective of their racial or ethnic origin. The practice of racial profiling should be avoided and specific guidelines should be given to police officers on the matter. Finally, the Ombudsman repeated her suggestion of recruiting migrants in the police, considering that such measure would facilitate both migrants' integration in Cypriot society but also the building of confidence between them and the police corps.

33. Regarding the suggestion made by the Ombudsman for a more ethnically diversified Police, the Police expressed its positive view concerning this matter but also stressed the fact that, to recruit migrants in the Police force, certain legal obstacles do not allow for its implementation. More, specifically, the requirement that members of the Police force can be only citizens who performed also their compulsory military services, do not allow for the recruitment of migrants. The MJPO did not have a positive reaction to the possibility of addressing the above mentioned difficulties in order to make possible the recruitment of migrants. The Ombudsman aims to continue to promote this issue in the near future.

34. Another area of concern of the Ombudsman is that of asylum. In various reports, the Ombudsman underlined the necessity of ensuring and upgrading the living conditions of asylum seekers and the limitation of the period of stay in the Reception Centres. A number of corrective measures to this end were taken after the Ombudsman's intervention. More specifically, a systematic investigation took place regarding the reception conditions of asylum seekers in the very first Kofinou Reception Centre, which was established in 2004. At the beginning of its operation, priority was given to vulnerable groups, i.e. families with small children, single women or women with children, but today single men are also accommodated at the Centre. The services offered at the Kofinou Reception Centre also involve the provision of three meals daily, as well as supportive services (administrative, social and psychological services) on a daily basis, an action which is implemented within the framework of the European Refugee Fund. At the Centre, there is also a recreational activities' room where residents can have access to the internet and cable TV, a library room and a classroom where Greek lessons run periodically by volunteer teachers or within the framework of the European Refugee Fund. The Asylum Service is currently at the procedure of improving the infrastructure of the Reception Centre by adding sanitary rooms to the existing accommodation units, and is also planning an expansion of the accommodation capacity of the Centre by adding more housing units.

35. Moreover, the Asylum Service launched an action in March 2011, within the framework of the European Refugee Fund, concerning the provision of accommodation and other related services to asylum seekers in two accommodation units in main cities. The two accommodation units started operating in two main cities, Larnaca and Paphos, in March 2011 and April 2011, respectively. The total capacity of each Centre is 70 persons (children under 2 years of age are not included in the total capacity of the Centre). The services offered, involve accommodation and provision of three meals daily, as well as administrative and social services on a daily basis. In both Reception and Accommodation Centres, the Administrative Officers (one in each Centre) are responsible for the daily management and coordination of the Centres and the safeguarding of their smooth operation. Also, the Social Welfare Officers (one in each Centre) offer psychological

services to residents, including the organization of various activities and events. This action which was launched for a two year period is co-funded by 75 per cent from the European Refugee Fund and by 25 per cent from National Funds.

36. Another area of concern of the Ombudsman is the duration of detention of rejected asylum seekers awaiting their deportation. Recently the Ombudsman published a report concerning the detention for three years of an Iranian rejected-asylum seeker whose deportation has not been possible. Two reports were submitted by the Ombudsman related to the detention of the mentioned Iranian who, up to date, is detained for approximately a total period of five years. It is firmly noted that the deportation of this person is not possible. After the submission of the Ombudsman's first report in October 2010, the complainant was released and was rearrested because, according to the MOI, he violated the release conditions. His second arrest led to the submission of the Ombudsman's second relevant report in July 2012, through which the need of the matter of long term detention to be prevailed is, once again, stressed. Regarding the specific complainant, the view of the Ombudsman is that his detention must be terminated and that he should be granted with a specific residence permit due to the impossibility of his repatriation. It is also worth mentioning that the Ombudsman's Office has received and is currently examining complaints regarding cases where persons were rearrested and re-detained, after having achieved a Court order pronouncing as illegal their previous detention.

Implementation of the National Action Plan against Racism (NAPAR)

37. Following the United Nations World Conference Against Racism, held in Durban of South Africa, in September 2001, the MJPO in collaboration with the Law Commissioner, the Attorney-General of the Republic, the Ombudsman, and all other key actors (Ministries/governmental Departments and NGO's) prepared, in 2002, a National Report on the implementation of the conclusions of the European and World Conferences against Racism. A NAPAR was drawn up, which included all the planned activities and/or measures (legislative or administrative) for the period 2002-2003. In relation to each activity/measure, the authority responsible for its implementation was designated, and the timetable for its adoption.

38. On 27 February, 2002, the Council of Ministers adopted the report together with the NAPAR and appointed a Ministerial Committee to closely monitor the AP, with a view to assessing its impact and effectiveness.

39. An ad-hoc Committee consisting of representatives from the Office of the Attorney General of the Republic, the Law Commissioner, the Ombudsman and all other interested parties (governmental and non-governmental) was appointed to assist the work of the Ministerial Committee, on progress made towards implementation of the various measures/activities included in the Plan.

40. The development of the NAPAR was a significant opportunity to build upon and enhance existing policies and strategies to combat racism in Cyprus and to identify new priorities, aspirations and areas of work that could be drawn together into the overall, cohesive plan.

41. In 2005, the POCD was established, which is responsible for issues related to discrimination, racism, xenophobia through Liaison Officers within the Police. It also co-operates with other government departments and NGO's; The POCD registers criminal offences with a racist motive as such in a specified manner through the electronic Crime Report Registry. A series of training courses on discrimination, racism, xenophobia are delivered at the Cyprus Police Academy at various levels (basic police training, Sergeants' and Inspectors' Courses). Additionally, members of the Police participate at seminars organized abroad relating to discrimination and racism. The training focuses on harmonizing police mentality with the new multicultural environment of the Cyprus

Society. Much emphasis is given on building and maintaining a positive approach by police members towards all individuals, regardless of their culture, customs, religious and origins.

42. In 2009-2010 the European Union co-financed a programme for the Cyprus Police against discrimination and for diversity, which aims at the combating of discrimination and the tolerance of diversity through the organization of seminars for police officers, the dissemination of information leaflets and the elaboration of a study concerning equality between men and women within the Police.

43. By the *Criminal Code (Amendment) Law of 2002 [(L.4(I)/2002)]*, the discriminatory penal provisions criminalizing homosexual acts which were found to violate article 8 of the European Convention of Human Rights by the European Court of Human Rights in the *Modinos v. Cyprus* case, were repealed.

44. In the field of education, the principles of the rights-based approach to education which include peace education, citizenship, global education differentiated, technological, cooperative, global education, education for tolerance, education for sustainable development as well as lifelong learning and access to education, are promoted on a systematic and regular basis so as to address also issues of discrimination and racism in the educational system.

45. By pursuing the above-mentioned principles and having as a purpose to cultivate competencies for life, public education aims at teaching students how to collaborate and work effectively to collect, discover, analyze, evaluate and compose information. Students are expected to develop their critical thinking and become active citizens; democratic, socially sensitive and respectful of both their own as well as other's rights.

46. The different actions designed, developed and implemented by the School Units in cooperation with The Cyprus Pedagogical Institute based on aforementioned principles include the following:

- (a) Activities on human rights and democratic citizenship within the school unit's intervention programmes against violence;
- (b) Participation in European Programs (e.g. Daphne) that focus on the prevention of bullying and violence;
- (c) Application of intervention programme on gender equality in the 2nd Idalion Primary School.

47. Please note that the Republic of Cyprus has accepted the following recommendation during its recent Universal Periodic Assessment for the Situation of Human Rights in Cyprus by the Council of Human Rights of the United Nations on December 2009:

- To strengthen measures to raise awareness and provide information through specific programmes for human rights education and training and to incorporate human rights in school curricula (Morocco);
- To develop a national strategy to include in the school system at all levels appropriate measures in the field of human rights education, in accordance with the Plan of Action 2005-2009 of the World Programme for Human Rights Education (Italy);

48. Therefore, under the new proposals for the FRA's Annual Work Program, the Ministry of Education and Culture is planning to cooperate with the Ministry of Justice and Public Order in order to implement a project regarding Human Rights Education which will promote the following:

- The development and adoption of attitudes such as respecting human rights principles in teaching practice, quality teaching with regards to human rights

education, respecting human rights principles in school management and governance process, changing students' skills, values attitudes and behavior with regard to understanding of and respecting human rights.

- The ongoing Educational Reform (fully analyzed in the forthcoming chapter under concluding observations of the Human Rights Committee) is an effort for a comprehensive introduction of changes and innovations at all levels and all aspects of the educational system aiming at the modernization, restructuring and upgrading of the national curriculum. The main objective of this effort is to create a democratic and student focused educational system, which includes all students irrespective of social racial, or ethnic background, gender, or physical or mental ability and offers high quality education to each student thus assisting them to maximize their potential and acquire skills and knowledge which will enable them to become active and democratic citizens.

49. In order to achieve the overall objectives of social inclusion, it is necessary to ensure compatibility of programmes run by local authorities and voluntary organizations with specific social inclusion objectives and policies. This will lead to a more decisive and substantial contribution of local authorities and the voluntary sector towards meeting the needs of the modern society. The MOEC in cooperation with four municipalities has launched an ambitious pilot programme for the operation of "Open School".

50. For the effective operation of the "Open School", the Municipalities, the School Boards, the Parents Associations and the Ministry of Education and Culture cooperate closely in order to secure sufficient funds and design programmes that benefit the community. The programme is envisaged to address many problems of the community, such as enhance Lifelong Learning and to reduce antisocial behaviour among young people, while at the same time making full use of school infrastructure.

51. Further to the above, a comprehensive Lifelong Learning Strategy for Cyprus was established in 2007 and covers the period 2007 to 2013. The LLL Strategy received the approval of the Council of Ministers, which proceeded to the appointment of the National Committee for Lifelong Learning, the body responsible for coordinating and monitoring the implementation of the Strategy, for the evaluation of the effectiveness of the measures taken and for the formulation of proposals concerning the reform of the Strategy.

52. The LLL Strategy covers all levels and types of education and training, formal, informal and non-formal, from pre-primary education to adult and continuing education and training. All aspects of Lifelong Learning, including school education, technical education and training, informal and non-formal education and training that meet the needs of various groups of people of the Cypriot society are addressed in the aforementioned document. The challenges addressed by the LLL Strategy including Lifelong Learning Education are the following:

- Make education and training systems accessible to all citizens of Cyprus, including those with special needs and disadvantaged groups;
- Improve education and training systems, their content and infrastructure, in order to meet the educational and training needs of the modern Cypriot society;
- Increase research and development activities, especially in areas which are important for LLL in Cyprus;

Attain efficiency in governance of LLL systems, with the active participation of all social partners.

53. The Adult Education Centres and the State Institutions for Education support in every possible way the access to quality education of all residents of the Republic of

Cyprus including adult migrants, refugees and asylum seekers with the implementation of measures such as the provision of Greek Language courses free of charge as well as the payment of a symbolic annual fee for attending the various interdisciplinary courses offered. Consequently, these measures ease the access to non-formal education programmes such as informal vocational education, life skills, learning and recreational courses.

54. In addition to the enactment of primary anti-discrimination legislation as above, there were case-law developments in the field of non-discrimination. It was established by case-law in 2001 (by Judgment of the Supreme Court of Cyprus in the Case of *Yiallourou v. Evgenios Nicolaou* (1976) 3 CLR 214) that the violation of human rights is an actionable right which can be pursued in civil courts against those perpetrating the violation, for recovering from them, inter-alia, just and reasonable compensation for pecuniary and non-pecuniary damage suffered as a result. The result is, that a person who, on grounds of inter alia race, community, colour, religion, language, political or other belief, or national origin, is discriminated against, whether directly or indirectly, in the enjoyment of human rights and fundamental freedoms guaranteed by *the Constitution* [(Part II of which largely reproduces the provisions of *the European Convention for the Protection of Human Rights and Fundamental Freedoms* (CETS No.5), Rome, 4 November 2000)], but is wider in the scope of the rights cover and narrower in the scope of the limitations allowed, can sue the State or private persons for damages and or other appropriate civil law remedies, for violating his constitutional right (under article 28 of *the Constitution*), to enjoy the above rights and freedoms without such discrimination. The resulting remedy is additional, and of wider ambit than the statutory one referred to in above concerning violations of the provisions of *the Equal Treatment (Racial or Ethnic Origin) Law*.

Right to an effective remedy

55. Any person complaining that a decision, act or omission of any organ, authority or person in the State is contrary to the provisions of the Constitution or of any Law (including international legal instruments, ratified by Cyprus), or was made in excess or in abuse of powers, can file a recourse to the Supreme Court of Cyprus which is vested by article 146 of the Constitution with exclusive jurisdiction to adjudicate finally on such a recourse; with power to declare such act or decision null and void and of no effect whatsoever or, in the case of an omission to declare that the omission ought to have been made and that whatever has been omitted should have been performed. Following a judgment of the Supreme Court, article 146.6 affords a civil law right to the person concerned, if he/she has suffered damage resulting from the decision act or omission which has been annulled, and his/her claim has not been satisfied, to institute civil proceedings by Action, for the recovery of just and equitable compensation or for the grant of other just and equitable remedy.

56. As a first step, any person who claims to be a victim of discrimination from a decision of a public authority may recourse to the competent authority by submitting an application under article 29 of the Constitution. Article 29 affords to all persons the right to address written requests or complaints to any competent public authority and to have them attended to and decided expeditiously. A duly reasoned decision should be given in writing to the person making the request or complaint, within a period not exceeding thirty days. If the application is refused, the complainant may apply to the Supreme Court under article 146 of the Constitution.

57. Also *'Reversal of Prison Sentences on Appeal (Compensation) Law (L.144 (I)/2001)*, provides for compensation to those who, having been sentenced to a term of imprisonment at first instance, are finally acquitted on appeal or their sentence is substituted for by a non custodial one.

Article 3- Equality

58. Legal reform, aiming at the elimination of discrimination and further safeguarding of women's rights in all fields of law and, in particular, in Family and Labour Law, has been pursued, bringing national laws in line with relevant international instruments and in particular with the *Convention on the Elimination of All Forms of Discrimination against Women, 1979 (L.78/1985)*, and *Optional Protocol, 1999 [(L.1 (III)/2002)]*.

59. Important legislation, including *the Marriage Law [(L.104(I)/2003, as amended)]*, *the Relations between Parents and Children Law (L.216/1990, as amended)*, *the Regulation of Spouses Property Relations Law (L.232/1991, as amended)*, *the Family Courts Law (L.23/1990, as amended)*, *the Equal Treatment of Men and Women in Employment and Vocational Training Law [(L.205(I)/2002, as amended)]*, *the Equal Pay Between Men and Women for the Same Work or for Work of Equal Value Law [(L.177(I)/2002, as amended)]*, *the Protection of Maternity Law [(L.100(I)/1997, as amended)]*, and *the Parental Leave and Leave on Grounds of Force Majeure Law [(L.69(I)/2002, as amended)]*, has been enacted in recent years.

60. *The Violence in the Family (Prevention and Protection of Victims) Law [(L.119(I)/2000, as amended)]*, condemns any act of violence within the family, raises substantially the penalties for violence, provides protection to victims mainly by empowering the Court to issue restraining orders, clarifies that rape can be committed within marriage, facilitates the reporting of violent incidents, provides for the appointment of Family Counsellors, the setting up of the ACPCDV to monitor the implementation of the Law, the taking of testimony of victims of violence by electronic means, the protection of victims and witnesses and makes the spouse a compellable witness.

61. (*Law 119(I)/2000*, as amended, is attached as annex A). In relation to domestic violence refer also the reply to the recommendations contained in paragraph 12 of the concluding observations below.

62. Undoubtedly, there has been a tremendous effort on behalf of the NMWR, relevant governmental authorities, equality bodies and NGO's to inform women of their rights and where they can seek support and assistance in claiming these rights. A special effort was made by the NMWR to raise awareness among relevant stakeholders regarding the CEDAW Convention and has published the Convention as well as the most recent Government report in English and in Greek.

63. Women are increasingly making use of the extra-judicial mechanisms (equality bodies) set up under various laws with the mandate to investigate complaints of discrimination and violations against human rights. This is a positive development, as evidence has shown that women are reluctant to bring cases of sex discrimination before the courts.

64. Refer also to the reply to the recommendations contained in paragraph 10 of the concluding observations below.

65. The Equal Treatment of Men and Women in Employment and Vocational Training Law, transposing EU directives 76/207/EEC and 97/80/EC which have been subsequently replaced by, directive 2006/54/EC of the European Parliament and of the Council on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation aims on the effective application of the principle of equal treatment of men and women in the field of employment and vocational training. It makes provision to eliminate gender based direct and indirect discrimination and sexual harassment in the field of employment. More specifically it prohibits any kind of discrimination with regards to:

- Access to employment or work position, temporary, full or part-time employment and at all levels of an occupational hierarchy;
- The terms and conditions of employment, including qualifications and other terms, conditions and placement, permanency, accession, transfer, removal, detachment or promotion criteria;
- The terms and conditions of dismissal from any job or post;
- Access to an independent occupation, the terms and conditions and termination of practice, and access to education or training required for access to an independent occupation and its practice.

66. The GECEVT was established on 15/06/2003 pursuant to the above mentioned law with an advisory role whereas with a later amendment of the law, it was granted also the competence of hearing complaints from victims of discrimination and to provide legal and other support to the victims in pursuing their claims. Additionally, it deals with complaints which may be forwarded to the Police if they relate to criminal offences. According to Law 205(I) 2002, the GECEVT has the right to accept complaints but does not have the right to investigate them. It can refer them to the Inspectors of the Labour Department of the Ministry of Labour for investigation. For the period under review, 7 complaints were submitted by women concerning gender discrimination in relation to the exercise of their maternity rights, 15 complaints were submitted by men concerning discrimination in their access to and promotion in the educational system, because of their service in the army, 2 cases were submitted by women concerning sexual harassment at the work place, 92 complains were submitted by women concerning discrimination in their promotion in the Cyprus military and 2 cases were submitted by women concerning discrimination in their promotion in the educational system. All the complaints were referred to the Inspectors of the DOL of the MLSI for investigation. Furthermore, the GECEVT approved the applications of 90 persons (89 women and 1 man) for legal assistance: 1 case of sexual harassment at the work place, 5 cases of maternity discrimination, 92 cases by women on the discrimination in their promotion in the Cyprus military, 4 appeals (2 women and 2 men) concerning discrimination in their access to or their promotion in the educational system. The independent legal advice is provided free of charge.

67. The Protection of Maternity Law, provides, among others, for the entitlement of employed women to maternity leave of 18 weeks, paid from the Social Insurance Fund, the protection of pregnant women or women on maternity leave against termination of employment, safeguarding of women's seniority and their right for promotion or return to their previous position after return to their work from their maternity leave. Moreover, women on maternity leave have the right to interrupt their employment for one hour or go to work one hour later or leave work one hour earlier for breast-feeding or for the care for their child for a nine month period commencing on the date of birth of the child. The law provides for criminal offences in case of violation of its provisions with a penalty of up to €6.800.

68. The Maternity Protection (Safety and Health at Work) Regulations of 2002 (P.I.255/2002), provide for the safety and health of pregnant women and mothers.

69. A number of measures have been taken to enhance gender equality in employment such as training seminars for Inspectors enforcing the gender equality legislation including issues on sexual harassment in the workplace, the publication of information leaflets on "Sexual Harassment in the Workplace" (in English), a Code of Good Practice for Pregnant Women at Work (in Greek and English) and a Guide to the "Equal Treatment in Employment and Occupation Law".

70. Moreover, training seminars for maternity protection issues were organized at the Cyprus University of Technology, as part of the curriculum for midwives and a study for

the reconciliation of work, private and family life was completed in 2009 by a Tripartite Technical Committee presided by the DOL. On the basis of that study a Strategic Plan for the Reconciliation of Family and Professional Life was developed. In order to avoid overlapping, however, the MLSI has decided to incorporate the measures included in the Plan into the Demographic Policy Strategy, which is currently being developed by the SWS. In practice, women's status and position in economic life in Cyprus, has improved significantly during the last decade. Women benefited most from the increase of employment, narrowing the gap between male and female employment rates. Specifically, the employment gap between male and female was decreased to 11.9 percentage points (pp) in 2011 from 20.8 pp in 2005 and 21pp in 2004. In 2011, the female employment rate for ages 25-64 reached at 67, 7 but it remains lower than the male employment rate (79, 6 per cent). The difference between male and female employment rates appears to be smaller amongst the younger age group of 15-24 years, estimated, in 2011, at 3, 1 (1, 9 percentage points in 2002) percentage points, but this gap increases to 9, 7 (21, 2 in 2002) percentage points amongst the persons aged 25-54 and is further increased to 28, 4 (34, 9 in 2002) percentage points for the older age group (55-64).

71. Female employment, according to the Labour Force Survey, accounted for almost 45, 3 per cent (43, 7 per cent in 2005) of total employment, in 2011. Employed women still remain concentrated in a few economic sectors, such as trade, hotels and restaurants, education and private households. It is worth noting that the representation of women in the higher skilled occupations, such as managers, professionals and technicians, improved considerably in the period 1992-2009. In particular, female employment accounted for 34, 1 per cent of all those working in these jobs, in 2011, compared to 27, 4 per cent in 2005. Moreover, the share of women in the employment of the services sector increased to 88, 8 per cent, in 2011, from 85, 9 per cent in 2005.

72. As regards the level of education of the employed women, this has been rising in recent years. In particular, the proportion of employed women with tertiary education rose to 45, 6 per cent in 2009, from 35, 7 per cent in 2005. Moreover, women now hold high-ranking positions, which some years ago were held only by men, such as the Auditor General of the Republic, the Accountant General, the Ombudsman, the Law Commissioner of the Republic, the Commissioner for the Protection of the Rights of the Child, and the Chair of the Competition Authority. A number of women are members of the House of Representatives. There is a constant increasing number of women in the judiciary and in the diplomatic service at ambassadorial level or head of directories level. Some statistical information on the participation of women in political life is provided below:

- (a) Women in the Parliament (4/2012): 6 out of 56 (10, 7 per cent);
- (b) Women in the European Parliament (4/2012) 2 out of 6 (33, 3 per cent);
- (c) Women in the Council of Ministers (Cabinet): (4/2012): 3 Ministries out of 11 (27, 3 per cent);
- (d) Women in the Judiciary: 47 for the year 2011;
- (e) Women in the diplomatic services-ambassadors- head of directories: 10 for the year 2012.

73. With the aim of promoting the employability of women and reduce gender inequality, a number of measures are promoted by Government which include:

- Measures for the enhancement and modernization of public employment services are being promoted, since 2005, which aim at the development of structures that will contribute to the implementation of a preventive and employability-oriented strategy.

- The Scheme for the encouragement, strengthening and reinforcement of female entrepreneurship;
- The Scheme for the promotion of training and employability of economically inactive women - within the framework of the activities of the Human Resources Development Authority;
- Allocation of Grants in aid schemes to NGO's and local Communities for the development of family support services;
- The Scheme for the promotion of care services within the framework of reconciling work and family life;
- Carrying out a study on long-term care with a view to implementing suitable policies and measures including improvement of home-care services provided to older persons;
- Promotion of a dialogue with local authorities in order to develop closer cooperation and strengthen structures of social care;
- Actions aiming at the promotion of flexible forms of employment, co-financed from the ESF;
- Implementation of the NAPGE;
- Annual increase of the public funds allocated to NGO's from the budget of the NMWR to promote and implement gender equality programmes;
- Implementation of a set of measures aiming at reducing the gender pay gap.

74. Outside the employment field, *the Equal Treatment of Men and Women (Access to Goods and Services) Law of 2008 [(L.18 (I)/2008)]*, transposes into national legislation the provisions of the *EU directive 2004/113/EC*. Its purpose is to lay down a framework for combating discrimination based on sex in access to and the supply of goods and services, with a view to putting into effect the principle of equal treatment between men and women.

Article 4- Derogation during a state of emergency

75. Nothing further to add. Refer to the answer given in the previous report (paras 69-74).

Article 5- Restrictions of rights and freedoms

76. Nothing further to add. Refer to the answer given in the previous report (para 75).

Article 6- Right to life

77. Refer also to the Supplementary report of the previous report of Cyprus under the title (a) The Death Penalty in Cyprus;

78. In addition, Cyprus has ratified *Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms Concerning the Abolition of the Death Penalty (CETS No.114)*, Strasbourg, 28 April 1983 [(L.11 (III)/1999)]; and the *Second Optional Protocol to the International Covenant on Civil and Political Rights Aiming at the Abolition of the Death Penalty, New York, 25 December 1989*. Prior to that, *the Criminal Code (Cap 154, as amended)*, was amended accordingly by *Law 15(I)/2009*, as well as the *Military Criminal Code and Procedure (L.40/1964, as amended)*, by *Law 91(I)/1995*. Upon ratification of *Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, Concerning the Abolition of the Death Penalty in all Circumstances (CETS No.187)*, Vilnius, 3 May 2002 [(L.1 (III)/2003)], the death penalty

was completely abolished in Cyprus and to that effect, Cyprus has withdrawn its Communication in relation to *Protocol No. 6*.

Article 7- Prohibition of torture

79. Refer also to binding instruments in the core document accompanying the report.

80. In 2000, the Police established the Human Rights Office which operates within the Police Headquarters. The Office, inter alia, is actively involved with the rights of people under Police custody; for monitoring detention conditions in Police detention centres and preparing reports with recommendations to the Chief of the Police for harmonization with international standards, such as the CPT standards.

81. It cooperates with internal and external mechanisms for human rights protection and monitoring and ensures compliance with recommendations made either internally within the Police or externally by other institutions. Such mechanisms are governmental departments and NGO'S, the Office of the Attorney General, the Ombudsman, the Commissioner for the Protection of the Rights of the Child, the UNHCR, the Committee for the Prevention of Torture, EU agencies such as the European Parliament LIBE Committee and the FRA), the Council of Europe Commissioner on Human Rights, national (e.g. KISA) and international NGOs (e.g. STEPS, RSJesuit). It organizes seminars and trainings that cover a wide range of human rights issues vis a vis policing whereas it cooperates with the police academy for the preparation of the police directives and orders related to human rights issues.

82. Periodical circulars of the Chief of Police to all the members of the Police force stress the importance of compliance with human rights standards; the Police Standing Order 5/3 "Treatment of detainees" was modified so as to safeguard that the whole procedure from admission to discharge of persons in detention is free of torture and to clearly prohibit torture.

83. Various leaflets and booklets on specific human rights issues such as discrimination, racism and xenophobia, are disseminated among the police officers and are made available also to the public;

84. A Code of Conduct (2008) was published as well as a relevant Police Standing Order (No. 1/73); The "Police Code of Ethics" was prepared and is part of the basic training of the police recruits at the Cyprus Police Academy. In the Police Code of Ethics, importance has been attributed to the protection and promotion of human rights. As regards the prohibition of torture, article 5 of the Police Code of Ethics states that "members of the Police are prohibited to cause or tolerate acts of torture, inhuman or degrading treatment or punishment, under any circumstances".

85. A Citizens Rights Charter aiming at raising awareness to individuals as to their rights and facilitating their access to police establishments, procedures, and services and submission of complaints was published; The Code of Conduct and the Citizen's Rights Charter are available to the webpage www.police.gov.cy;

86. Several mechanisms for investigating allegations of police misconduct are in place; the IAIACAP, criminal procedures, administrative disciplinary procedures, the Attorney General, the Ombudsman, the Commissioner for the Protection of the Rights of the Child, the Police Audit and Inspection Unit, the Police Directory of Professional Standards and Internal Police disciplinary procedures;

87. The IAIACAP was set up by *the Police (Independent Authority for the Investigations of Allegations and Complaints) Law of 2006 (L.9 (I) of 2006, as amended)*. The Authority is directly under the jurisdiction of the Council of Ministers and was set up as an independent mechanism of controlling the Police following, inter alia, the

recommendation of the special committee of the Council of Europe Committee on the Prevention of Torture and Inhuman or Degrading Treatment (CPT).

88. The Authority consists of five members appointed by the Council of Ministers from prestigious persons, at least two of whom must be legal experts of high professional and moral standards. The composition of the Authority, may also include a former Senior Officer of the Police, but he may not be appointed as the Chair of the Authority or elected as Vice Chair or conduct an investigation for allegations and complaints against the Chief or Deputy Chief of the Police. The same prohibition, in respect of allegations and complaints against the Chief or Deputy Chief of the Police is established by the law in respect of persons who are appointed by the Authority as Investigators and originate from the ranks of the Police.

89. Section 5(2) of *Law 9(I) of 2006*, defines that the Authority has the duty and the power to investigate allegations and complaints against members of the Police, in relation to -

(a) Corruption or bribery or unjust enrichment or involvement of a member of the Police with exogenous factors or with financial or other interests.

(b) Human rights violations protected under *the Constitution* or in any law or regulation in force at the time.

(c) Favouritism or similar behaviour in the performance of police officers duties that tend to undermine the confidence of the public towards the Police or to defame the Police

90. The complaints are investigated either by members of the IAIACAP Board or by other criminal investigators who are appointed by the IAIACAP. These investigators are selected from a list of persons, which is provided by the Attorney General.

Criminal offences

91. If it transpires from the investigation that a member of the Police has committed a criminal offence, then the matter is forwarded to the Attorney General with a recommendation for criminal prosecution for the offence in question. If the Attorney General concludes that there is no sufficient evidence for initiating criminal prosecution, the file remains with the Attorney General. The Attorney General has the final say as to whether criminal prosecution will be initiated—or not, after which the interested parties, including the complainant, the Chief of the Police and the Policeman against whom the complaint was made, are informed as to the outcome of the investigation. For statistics regarding criminal cases, refer to annex B.

Disciplinary offences

92. 106. If it transpires from the investigation that the member of the Police may have committed a disciplinary offence, the Authority forwards the case to the Chief of the Police for disciplinary action. The Police is then obliged to process the disciplinary action immediately, without conducting any other investigation of a disciplinary nature that may be established by the disciplinary regulations of the Police or the Police Law applicable at the time.

93. Complaints and allegations may be submitted to the Authority as follows:

(a) With a written complaint filed by the complainant

(b) With a written assignment from the Attorney General

(c) With a written assignment from the Minister of Justice and Public Order

94. The Authority has the duty and power to investigate *ex proprio motu* allegations and complaints in respect of actions of members of the Police, provided that these actions fall within the incidents determined by the Law. It should also be noted that the IAIACAP gives on a regular basis lectures to the cadets of the Police Academy concerning its work and jurisdiction.

95. For statistics on the cases reported concerning Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, refer to annex C.

96. As regards the criminal proceedings concerning the case of the ill-treatment of two students by members of the Police, which dominated the public opinion as the incident of ill treatment was published in electronic media, the Criminal Court sentenced the eleven police officers accused, as follows: eight were sentenced to imprisonment suspended for three years, one was sentenced to pay a fine and against two the prosecution was suspended according to the instructions of the Supreme Court. In relation to disciplinary procedures initiated against them, the disciplinary Committee sentenced the 13 police officers accused, as follows: three were forced to resign, however they have appealed the decision before the Supreme Court and one managed to suspend the enforcement therefore he is back in the Police Force, seven were punished with imposed postponement of annual increment and a fine and for one person the disciplinary prosecution was suspended.

97. With the enactment of the Optional Protocol against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (L.2 (III)/2009), the Ombudsman was established as a National Mechanism for the Prevention of Torture. In accordance with the law, the Ombudsman has to power to visit freely, at regular intervals, places of detention by written notice, in order to check compliance with the provisions of the Convention, to to have free access to all premises and every place of detention and to have confidential individual interviews with any person it considers appropriate and to demand all the information recorded in the Protocol whereas the authorities are obliged to grant them. The Ombudsman may make recommendations and reports on which any competent authority is required to report on the measures taken to address the issues raised by the Ombudsman. The Ombudsman may also submit suggestions for improving the legislation and to express opinions in the House of Representatives during the examination of relevant bills whereas he/she may also bring to the attention of the Attorney General and the IAIACAP allegations of detainees for acts violating human rights. The Ombudsman submits an annual report to the President of the Republic, the Council of Ministers, the House of Representatives and the Attorney General after which it is published.

98. The Ombudsman should have the necessary personnel in accordance with the Commissioner for Administration Law or any additional staff officers whose qualifications and terms of service are specified in regulations adopted by the Council of Ministers and the House of Representatives.

99. To date, as a National Mechanism for the Prevention of Torture, the Ombudsman has visited detention facilities, including Police Settings, the Central Prison, the State Psychiatric Institution and elderly Homes and has submitted reports with recommendations regarding both the improvement of the detention/living conditions in the above facilities and of relevant legislation. Training in Cyprus and abroad aiming at combating any form of ill-treatment by the Police has been constantly and intensively undertaken during the period under review.

Article 8- Prohibition of slavery

100. Relevant to slavery are the issues of THB as it has been acknowledged by international human rights instruments as well as international human rights institutions and Courts as the modern form of slavery.

101. Following the ratification by Cyprus of the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime and the Council of Europe Convention on Action against Trafficking in Human Beings, 2005 (CETS No.197) [(L.38(III)/2007)]; the previous anti trafficking legislation was repealed with the Combating of Trafficking and Exploitation of Human Beings and the Protection of Victims Law of 2007 [(L.87 (I)/2007)]. The purpose of the new Law was to fully harmonize the national legislation with the European Union *acquis*¹ as well as to better implement the international obligations of Cyprus in the field of trafficking². It is worth mentioning that Cyprus was among the first ten countries to sign and ratify the Council of Europe Convention on Action against Trafficking in Human Beings.

102. In the new law the term “trafficking”, in addition to sexual exploitation, covers a wider spectrum of criminal activity, such as forced prostitution, forced labour and removal of human organs.

103. The law contains specific provisions for the prevention of trafficking, for the identification and protection of the victims and for the prosecution of those involved in trafficking. More specifically, the law provides for the establishment of a potential victim’s referral mechanism, the provision, by governmental and non-governmental organizations, of information to any person that may fall into the scope of the law, of the possibilities provided in the law, the grant of a 1-month reflection period to victims allowing them to recover and escape the influence of perpetrators of the offences so that they can take an informative decision as to whether to cooperate with the competent authorities, the issue of a temporary residence permit to the victims who are third country nationals wishing to cooperate with the authorities for the prosecution of the traffickers, the rights of the victims pending the prosecution procedures such as the provision of allowance to the victims who do not have sufficient resources, access to emergency medical treatment, psychological support, protection, free translation and interpretation services when needed, free legal aid, in the case where the requirements set by the Legal Aid Law (L.165(I)/2002, as amended), are met and of victims access to labour market, to vocational training and education according to the relevant legislation. There are also provisions facilitating the signing of Protocols for cooperation between State authorities and non-governmental organizations.

104. An important development in the area of THB has been the establishment of the MCGCTHB, as provided for by the said Law. Its purpose, among other, is to monitor the implementation of the law, as well as to take all necessary measures, to monitor and evaluate the national referral mechanism of the victims and to collect and exchange information with regard to the offences provided by the law. The MCGCTHB is comprised of the Minister of Interior, as President, who is also the National Coordinator for Combating of THB and representatives of the Office of the Attorney General, the MJPO, the NMWR, the Police, the MFA, the DOL, the SWS, the MOH, the MOEC, the CRMD,

¹ (a) EU Council Framework Decision 2002/629/JHA of 19 July 2002 on combating trafficking in human beings (b) EU Council Framework Decision 2004/68/JHA of 22 December 2003 on combating the sexual exploitation of children and child pornography. (c) EU Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities.

² (a) UN Convention against Transnational Crime and especially the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. (b) Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Children Prostitution and Child Pornography. (c) Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. (d) Council of Europe Convention on Action Against Trafficking in Human Beings.

the Asylum Service and four NGO's [(the Mediterranean Institute of Gender Studies (MIGS), STIGMA), KISA and STOP Trafficking Cyprus].

105. Moreover, the new EU directive 2011/36/EU on Trafficking of 5 April 2011, is expected to be transposed to the national legislation during 2012. The directive takes an integrated, holistic and pro-human rights approach in trafficking, while recognizing the gender specific phenomenon of trafficking.

106. The NAPATHB (2010- 2012), prepared by the MCGCTHB and approved by the Council of Ministers, in April 2010, covers prevention, protection of victims and prosecution in nine thematic areas, i.e.: co-ordination, prevention, identification and recognition of victims, protection and support of victims, suppression and prosecution, data collection, training, international coordination and evaluation. The MCGCTHB monitors its implementation. An updated and detailed document on the implementation of NAPATH for the years 2010-2012 is attached as annex D.

107. A significant development was also the establishment of a shelter for female victims of sexual exploitation, under the responsibility of the SWS, in November 2007.

108. The Manual of Interdepartmental Procedures for the Handling of Cases of Victims of Trafficking is under revision by the SWS in cooperation with government departments and NGO's who contributed to its development, in order to improve interdepartmental cooperation and provide assistance to all victims regardless of the type of exploitation.

109. Since 2004, the Police is operating a specialized Office for Combating THB, which has a central role in coordinating the anti-trafficking activities of the Police and in the identification of the victims. An identification process manual has been published by the Police to guide and facilitate contact with potential victims of trafficking , to describe the impact of the trauma and possible behaviour of victims, to recognize indicators that may refer to a trafficking case, to outline general rules and prerequisites for first contact interviews, to be prepared to respond to victims reluctance to co-operation with law enforcement and to use criminal indicators relevant to identify human traffickers.

110. Moreover, the Government abandoned previous policies allowing the entry and residence in Cyprus of women to be employed in cabarets and night clubs under its so called "Artists Visas" and a new policy for the entry, residence, and employment of third country nationals in the Republic in those sectors of the economy was approved by the Council of Ministers on 29/10/2008. The new policy consists of the following:

(i) Abolition of special visas for artists: All third country nationals entering the Republic to be employed as artists are issued employment permits as creative artists (writers, composers, painters etc), or as performing artists (actors, dancers, singers, etc),

(ii) Procedures for the issuance of temporary residence and employment permits: The applications for employment of third country nationals in cabarets and night clubs are submitted to the DOL by the employer and are examined by an interdepartmental Committee, on the basis of specified criteria concerning their qualifications, previous experience, reputation abroad, etc. The aim is to avoid exploitation of the system. After approval, the employer has to apply to the CRMD for the issue of an entry permit. Upon arrival, the third country national applies for a temporary residence and employment permit, which is issued on the basis of conditions set in the Aliens and Immigration Law. The procedure is now similar to that applicable for all foreign workers.

(iii) Revision of the contracts of employment: The contracts of employment have been revised to comply with the standard contract of the Department of Industrial Relations, which applies for all foreign workers. These contracts are valid for 1 year and provide the remuneration, benefits, working hours, annual leave and sick leave of the

employee, as well as the general obligations of both parties. Alleged breaches of contracts of employment are investigated by the Department of Industrial Relations.

(iv) Revision of the legislation regulating Private Employment Agencies: New legislation regulating the operation of private employment agencies is pending before the Parliament. Its aim is to set the conditions and the qualifications that need to be fulfilled in relation to natural or legal persons operating such agencies. The criminal record of the applicant (natural person, legal person or cooperation) will be examined, in order to safeguard that the persons involved in the operation of such agencies, have not been convicted for offences, such as sexual exploitation, or THB, or any other serious criminal offence.

111. The MOI in collaboration with the MCGCTHB has launched, in December 2008, a Cyprus wide, 4-month awareness raising campaign. It included the display of posters at main roads, highways, airports and prominent locations, the dissemination of informational leaflets to universities, colleges, and airports and through the daily press and the airing of TV spots. Additionally, the MOI supported the efforts of other Institutions such as the House of Representatives and private radio stations by providing relevant printed material and financial support. The MOI, the MFA and the Attorney General's Office in cooperation with OSCE and the United Nations, have organized a Conference on THB and organized crime on 18-19 of September 2008.

112. Awareness raising activities have also been carried out by women's organizations and NGOs, in particular on the occasion of the European Day against Trafficking, often with the support of the NMWR. Research, aiming at mapping the extent of the problem has been undertaken by NGO's, such as the research on "Trafficking in Persons for Sexual Exploitation in Cyprus (2005)" and the research "Mapping the Problem of Trafficking of Women for Sexual Exploitation in Cyprus (2007)", both conducted by the Mediterranean Institute for Gender Studies.

113. Members of the Police receive training on THB constantly, participating in seminars and other training programmes in Cyprus and abroad, offered by different services, departments and organizations. They also participate in meetings, working groups and conferences organized by international and European bodies, such as the E.U. Expert Group on THB, the Interpol Steering Committee, the Frontex Experts Group, the Europol Working Groups, etc. THB training programmes are incorporated into several training courses of the Police Academy at various training levels. This aims at promoting sensitization and awareness of police officers, as well as at providing them with specialized skills in investigative matters and in handling victims of THB. Also specialized training courses are organized for immigration officers and investigators. The MOI, the Attorney General, the Head of the Office on Combating of THB as well as other government representatives often participate as speakers to conferences and seminars presenting the current situation in Cyprus. They also talk to the media and give interviews on the subject.

114. Specific actions have been included in the new AP concerning awareness raising of the general public on the issue of THB and demand, as well as for increasing the awareness raising of migrants themselves on THB and the legal procedures for entering and working in Cyprus. Furthermore, an action has been included concerning the translation of the employment contracts to the languages of the main countries of origin of trafficking victims. Additionally, an action has been included in the NAPATHB on raising awareness of persons working in the Media. Finally, the issue of demand was included in all actions for awareness rising whereas relevant actions have been included in the new NAPATHB 2010-2012.

115. The National Coordinator (MOI) and the MCGCTHB are systematically monitoring the anti-trafficking efforts made by all government authorities. Moreover, the Council of Ministers, the Ministerial Committee for the employment of third country nationals and the

House of Representatives are informed of the efforts for combating THB; there is systematic reporting of these efforts to European and International Organizations and Institutions.

116. Finally, pursuant to the aforementioned law, the MCGCTHB must prepare and submit to the Council of Ministers an annual report on the implementation of the Law, the situation in the Republic and on international level which is submitted to the House of Representatives for information purposes, after it is approved by the Council of Ministers.

Article 9- Liberty, detention, arrest

Children detention and policies followed

117. Police Standing Order 5/18 “Treatment of minors” states that “the arrest and detention of minors under the age of 16 should be avoided where possible. Such arrest should be performed only if it is absolutely necessary”. According to *the Rights of Persons being Arrested and Taken into Custody Law of 2005*, young offenders are people under the age of 21. They are placed in different block, with limited access to other adult prisoners. However, during the day, young offenders can move and take part in the activities and they are working along the rest of the prison population. The last two years the Cyprus Prison Department in cooperation with the universities offer education programmes for the young inmates. In addition to the services available to all prisoners, prisoners who are children, have access to the social, psychological and educational services, religious care and recreational programmes or equivalent activities that are available to children in the community. Additional assistance is also provided to children who are released from prison.

118. The Prison Department participated under the ‘European Programme-Crundtvig’ in a programme on “Education for young sentence adults” which provided for the provision of support to the young inmate’s social skills and education.

119. A new building is now under construction and will be used exclusively for young offenders so as to avoid any contact with other adult inmates whereas at the same time the Prison Department will have the opportunity to organize programmes in formal and informal education and vocational training for young offenders.

Detention of pregnant women and mothers of children below the age of three

120. Block 3 of the Prison Department is the female offenders block. It is held separately from the other blocks so that female and male prisoners do not have any contact or communication between them. *The Law on the Protection of minor children of Convicted or Suspect Mothers (L. 33(I)/2005)*, provides as a rule that pregnant women or mother of children below the age of three years old, shall not be imprisoned if they have committed an offence or are suspects for an offence, unless the crime committed is of such a serious nature that the Court after an evaluation of the personal circumstances of the woman decides to impose a prison term. In the latter case, pregnant women, or women who keep their child with them they are provided the necessary medical treatment for both the mother and the child.

121. According to the Discipline in Prison Law (CAP 286), the Director may permit an infant of a woman inmate who was born during the period in which the mother was serving a prison sentence, to stay in Prison with the mother for as long as breast feeding continues. . In cases however where the doctor certifies that state of health of the infant does not permit its removal, the stay of the infant in prison may be extended until the infant reaches the age of two years.

122. The Director may permit an infant of a female prisoner who was born before the imprisonment of the mother, to stay with its mother in prison for so long as breast feeding last, as long as the doctor Medical Officer certifies that this is necessary for rom medical reasons. In this case the stay of the infant in prison may be extended until the child reaches the age of one year. For the extension of the period of stay of an infant in prison after the infant reaches the age of one or two years, according to the case, it is necessary to obtain a court decision. Under all circumstances, the administrative or judicial decision as to whether the child will remain with the imprisoned mother is taken by taking into account the interests of the child and in such situations, the accommodation needs of the children are taken into account by operating a nursery for the children in prison.

123. According to the Aliens and Immigration Law which was harmonized in 2011 with Council Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals, detention for the purpose of deportation should be used as a last resort and only if other sufficient but less coercive measures cannot be applied effectively in a specific case. The law provides that third country nationals who are the subject of return procedures may only be detained in order to prepare the return and/or carry out the removal process and in particular when (a) there is a risk of absconding or (b) the third-country national concerned avoids or hampers the preparation of return or the removal process. Any detention shall be for as short a period as possible and only maintained as long as removal arrangements are in progress and executed with due diligence.

124. Detention may be only ordered by the MOI in writing and the reasons must be given in fact and in law. Detention may be challenged through a recourse before the Supreme Court and in case detention is found to be unlawful, the third country national must be released immediately. The law provides that the Minister of Interior reviews detention orders every two months as well as upon application by the third country national concerned. The legality of the detention in terms of its duration may be challenged with a Habeas Corpus application before the Supreme Court. The law also provides that when it appears to the authorities that a reasonable prospect of removal no longer exists for legal or other considerations or when the above mentioned conditions no longer exist, detention ceases to be justified and the person concerned shall be released immediately. Detention shall be maintained only for as long a period as the conditions provided in the law are fulfilled and it is necessary to ensure successful removal and shall not exceed the period of six months. Detention may be extended for a period of another twelve months in cases where regardless of all their reasonable efforts of the authorities the removal operation is likely to last longer owing to (a) a lack of cooperation by the third-country national concerned, or (b) delays in obtaining the necessary documentation from third countries.

125. According to the same law, unaccompanied minors and families with minors shall only be detained as a measure of last resort and for the shortest appropriate period of time whereas the best interest of the child shall be a primary consideration in the context of the detention of minors pending removal.

126. Moreover, according to *the Establishment and Regulation of Premises of Illegal Migrants Regulations of 2011 (P.I 161/2011)*, which were issued under *the Establishment and Regulation of Premises of Illegal Migrants Law of 2011 (L.83 (I)/2011)* and international standards, third country national children as a rule, are not detained for the purpose of deportation. Children accompanied by their parents, who are held in detention under detention and deportation orders, could be detained with their parents, only where detention is in their interest for preserving family unity.

127. The Refugee Law (L.6 (I)/2000, as amended) also provides for the prohibition of the detention of asylum seekers for the sole reason that they are applying for asylum. The law provides exceptionally for the detention of asylum seekers only in case they have destroyed

their travel and other identity documents and the authorities need to establish their identities or when their asylum application is rejected and they submit a subsequent application for asylum in order for the authorities to assess if there are reasons to reopen their file. The above detention may be only ordered by a Court and could last up to eight days which may be renewed for a maximum period of 32 days in total. The Refugee Law provides that children asylum seekers are not detained under any circumstances.

128. In practice, when the case of an irregular migrant appears before the authorities, a return order is issued immediately by the Director of the CRMD. The order is issued in writing and its phraseology and morphology is being defined by the Aliens and Immigration Law. The letter includes information concerning the legal reasons of the decision as well as information concerning any judicial measures that can be taken by the migrant. Additionally, it must be issued in a language that he/ she comprehends.

129. In order to implement the return order the authorities firstly examine the possibility of less coercive measures. Therefore, a time period between 7 – 30 days for a voluntarily departure may be granted. This time period can be extended, if the irregular migrant/s have children studying at school or if he/she/they have other family or social ties within the community. In case such an extension is being granted the authorities may impose conditions for example the regular appearance before the authorities, the hand-over of their travel documents etc. In any case, the Council of Ministers has the prerogative to grant a residence permit for humanitarian reasons to an irregular migrant. If that occurs, the return order is not issued or if it had been issued it must be considered void.

130. Coercive measures are used in case there is danger of absconding or an application for the issue of a residence permit had been rejected as ungrounded or fraudulent or if the migrant poses a threat to public order and safety. It goes without saying that the detention is being ordered only when an individual fulfils one of the above conditions and solely if the prospects of deportation are immediate and viable. The majority of the detained irregular migrants (about 85 per cent) are deported within 4-5 days after their arrest, whilst the rest remain in detention pending their deportation. It should be noted that up to now, no detention order was issued for a minor.

Article 10- Human treatment of detainees

131. Refer also to answer under article 7 above.

132. In relation to detention for the purpose of deportation, the Aliens and Immigration Law provides that detention shall take place as a rule in specialized detention facilities and in case accommodation in a specialized detention facility is not possible and therefore the authorities have to resort to prison accommodation, the third-country nationals in detention shall be kept separated from ordinary prisoners.

133. Third-country nationals in detention for the purpose of deportation shall be allowed, on request, to establish in due time contact with legal representatives, family members and competent consular authorities and particular attention shall be paid to the situation of vulnerable persons. Emergency health care and essential treatment of illness shall be always provided. The same law also provides that national, international and non-governmental organizations and bodies shall have the possibility to visit detention facilities, to the extent that they are being used for detaining third-country nationals, subject to authorization by the competent authorities. Third-country nationals kept in detention shall be systematically provided with information which explains the rules applied in the facility and sets out their rights and obligations. Such information shall include information on their entitlement under national law to contact the organizations and bodies referred to above.

134. According to the Aliens and Immigration Law, families detained pending removal shall be provided with separate accommodation guaranteeing adequate privacy. Moreover,

minors in detention shall have the possibility to engage in leisure activities, including play and recreational activities appropriate to their age, and shall have, depending on the length of their stay, access to education. Unaccompanied minors shall as far as possible be provided with accommodation in institutions provided with personnel and facilities which take into account the needs of persons of their age.

135. For the implementation of the above provisions of *the Aliens and Immigration Law, the Establishment and Regulation of Premises of Illegal Migrants Regulations* were issued under *the Establishment and Regulation of Premises of Illegal Migrants Law* which provide for the details in relation to the detention centres and the conditions thereof, of third country nationals detained for the purpose of deportation.

136. The regulations provide for conditions of detention that reflect the nature of their legal status with limited restrictions i.e., they have access to T.V and radio, receive more visits, have more opportunities to make phone calls, more activities etc..

137. In addition, the *Rights of Persons being Arrested and taken into Custody Law of 2005* affords additional rights where the person arrested/detained in violation of the Criminal Laws is a foreign national. In addition to the right to communicate with a lawyer and a relative or other person of his choice, the person concerned is also afforded the right to communicate with his/ her embassy or diplomatic mission in the Republic and inform them of his/ her arrest/detention, and his/ her place of detention/intended detention. He/ she is also afforded the right during detention, to meet in addition to his/ her relatives and representatives of his/ her consular/ diplomatic mission.

Article 11- Imprisonment for inability to pay civil debts

138. Refer also to the supplementary report to the third periodic report of Cyprus under the title (e) - Civil debt imprisonment.

139. Pursuant to *the Civil Procedure (Amendment) Law of 1999 [(L.134 (I)/1999)]*, which was enacted for harmonization with *Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms, securing certain rights and freedoms other than those already included in the Convention and in the first Protocol thereto (CETS No.46), 16 September 1963*, the Court has the discretion to order the payment of a judgment debt by monthly instalments or deduction from wages, after thorough examination of the financial situation of the judgment debtor. The person concerned may at any time thereafter, apply to the Court for the cancellation, suspension or amendment of such order, if his financial situation has changed. Legal aid is provided for such proceedings.

140. Pursuant to *the Civil Procedure (Amendment) Law of 2004 [(L.6 (I)/2004)]*, the possibility of an imprisonment order for inability to pay a civil debt, was abolished.

Article 12- Freedom of movement

141. Freedom of movement in Cyprus is directly impacted by the ongoing Turkish occupation. Movement to and from the areas not under the effective control of the Government was prohibited by the Turkish occupation forces and not by the Government, which never imposed any such restrictions on its citizens. Since April 2003 there was a partial lifting of the restrictions to the freedom of movement between the areas not under the effective control of the Government and the Government controlled areas, by the Turkish occupation forces. Following the accession of Cyprus to the European Union in 2004, movement between the Government controlled areas and the areas not under the effective control of the Government is regulated in accordance with *the European Union Green Line Regulation (Council Regulation 866/2004)*.

Article 13-Aliens

142. Refer also to paragraphs 124 to 181 of the previous report.

143. Significant amendments effected to *the Aliens and Immigration Law*, aim at aligning national legislation with the European Union *acquis* and with related International Treaties.

144. Pursuant to *the Aliens and Immigration (Amendment) Law of 1996 [(L.100 (I) 1996)]*, illegal employment of migrants constitutes a criminal offence, and the offender employer is liable to imprisonment or/and to a fine. The Court may also order the employer to contribute the money which he/she would have paid to several governmental funds (e.g. social security) in case of the employment would be legal. It may also cancel any employment permit related to the said employer. An employer disobeying a Court's order is liable to imprisonment. Moreover, the law has been very recently amended again so as to transpose *EU directive 2009/52/EC*, providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals further regulating all matters around illegal employment of third country national staying illegally in the country.

145. Upon accession of Cyprus to the EU on 1 May 2004, provisions regarding migrants apply to a large extent only to third country nationals and not to EU citizens. The matters of EU citizens and the members of their families, irrespective of their nationality are currently regulated by *the Rights of EU Citizens and the Members of their Families to Move and Reside Freely in the Republic Law of 2007 (L.7(I)/2007)*.

146. *The Aliens and Immigration (Amendment) Law of 2001 [(L.164 (I) 2001)]*, provides for the competence of the Director of the CRMD to cancel or refuse to renew the residence permit of any third country national who has made a marriage of convenience on the basis of specific criteria defined in the legislation and upon consultation with a special consultative Committee. Third country nationals have the right to appeal against the decision to the MOI and pending decision on the matter, the third country national cannot be deported;

147. *The Aliens and Immigration (Amendment) Law of 2007 [(L.8(I)/2007)]*, transposing into national legislation the *EU directive 2003/86/EC* of 22 September 2003, providing under certain requirements which are specified in the Law, for the entitlement of third country nationals employed in the Republic to family reunification. The requirements are: (a) Possession of a residence permit for at least 1 year; (b) The continuous and legal residence in the Republic for at least two years; (c) A reasonable prospect of obtaining permanent right of residence.

148. The same law transposes *Council Directive 2003/109/EC* concerning the status of third-country nationals who are long-term residents and provides for the requirements and the rights attached to the status of long term resident third country nationals, who are basically those with a five years legal residence immediately before the submission of the application in the country and provided that have sufficient means of resources and health care insurance. Pursuant to the aforementioned Law, the decision of the Committee of Migration Control to cancel, reject or not to renew the residence permit, must be reasoned and in writing and must contain information as to the right of appeal. A third country national enjoying a long term residence status, may only be expelled, if he/ she constitutes a serious and present threat to the public order and security.

149. Legislation also provides for the status of immigration permit which is equivalent to permanent residence status. It is issued for third country nationals who are employed, self employed or who have sufficient funds to support themselves in Cyprus.

150. *The Aliens and Immigration (Amendment) Law of 2009 [(L.143 (I)/2009)]*, amended certain provisions of the law in relation to the right to family reunification by exempting

staff employed by companies of international interests from the provision of residing for two years in the Republic prior to their application for family reunification and the family members of staff employed by companies of international interests from the requirement of residing in a third country when an application is filed by their sponsor.

151. *The Aliens and Immigration (Amendment) Law of 2011 [(L.153 (I)/2011)]*, transposes *EU directive 2008/115/EC* on common standards and procedures in Member States for returning illegally staying third- country nationals. According to the law, expulsion /deportation decisions must be communicated to the person concerned in a language he/she understands, except where reasons of national security exist. The third country national has the right to request for interpretation services.

152. *The Aliens and Immigration (Amendment Law) of 2007 [(L.8 (I)/2007)]*, transposing *EU directive 2004/114/EC*, provides for the conditions of admission of third country nationals for study purposes, pupil exchange, unremunerated training or voluntary service.

Revision of the Policy for the employment of third country domestic workers

153. The Council of Ministers reviewed and improved the policy regarding the employment of third country nationals, domestic workers by its decision, dated 13 May 2010, which provides the following:

- Adoption of the term "domestic worker" instead of "housemaid";
- Submission of a bank guarantee by both the employer and the employee;
- Requirement of basic knowledge of Greek or English and at least one year experience in a similar position; and
- Transfer of the responsibility for examining applications from the MOI to the DOL;

154. Following the recommendation of the Ministerial Committee for the employment of third country nationals, the Council of Ministers decided by its decision dated 8.10.2010, the following:

- Increase of the minimum gross salary of domestic workers by 10 per cent in two phases: 5 per cent from 1/1/2011 and 5 per cent from 1.7.2011;
- The temporary residence and employment permits issued to domestic workers will be of two years duration instead of four; and
- The revision of fees required for all categories of employment, visitors, immigration permits, long-term resident status and family reunification, in order to achieve a comprehensive and rational policy that reduces as much as possible the burdens for low-income, recipients of public assistance, disabled and elderly.

Article 14- Right to a fair trial

155. The Republic of Cyprus is a constitutional democracy based on the principles of the rule of law, the existence of an independent and autonomous judiciary and the respect of human rights. The Constitution which is the supreme law has superior force to any other law. Equality of access to Justice and the right to recourse to the courts against public authority measures are prescribed and ensured by constitutional provisions. The mechanisms of justice are equally available to every person in the Republic.

156. The independence of the Judiciary as judicially pro-claimed entails (a) assumption and exercise of jurisdiction by the judicial power in all matters naturally pertaining to the sphere of the judicial power; (b) autonomy of the judiciary in rule making, regulating the

exercise of its jurisdiction; (c) institutionally entrenched independence of judges from the other two powers of the State, the executive and legislative.

157. Judges decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason.

158. In criminal cases, the accused person is presumed innocent until proven guilty according to the Law. Nobody can be tried twice for the same offence and the punishment for an offence cannot be disproportionate to the severity of the crime committed.

159. Pursuance to article 12 of the Constitution, every person charged with an offence has the right to defend himself in person or through a lawyer of his own choice and if he has no sufficient means to pay for legal assistance, to be given free legal representation when the interest of justice so require. Any natural person (nationals and non-nationals) who can not bear the costs of the proceedings without affecting the basic needs and obligations of his/her self and his/her family is entitled to receive legal aid. Pursuance to the Legal Aid Law, legal aid includes advice and assistance with any legal problems in relation to proceedings and representation by a lawyer in court. Representation includes any kind of assistance which is usually provided by a lawyer in relation to proceedings, in all stages, until the delivery of a judgment, as well as appeal proceedings and in the case of a criminal procedure includes any stage relating to the procedure before it commence. The factors to be taken into account for granting legal aid are the applicant's financial situation, when there is a possibility of success of the application, the interests of justice taking into account the gravity of the case and other relevant circumstances according to the Law.

160. According to this Law legal aid is granted in proceedings before the Courts and in particularly in:

- Criminal proceedings before the District Court, the Tribunal Court, the Military Court and the Supreme Court;
- Civil and criminal proceedings for specific violations of human rights defined in the annex attached in the Law;
- Proceedings before the Family Court in relation to matters of family relations, parental responsibility, alimony, recognition of a child, adoption, property relations of spouses and any other dispute in the marriage or in the family;
- Proceedings relating to cross-border disputes;
- Proceedings before the Supreme Court pursuant to Section 146 of *the Constitution* in relation to decisions of the asylum authorities on asylum claims.
- Proceedings before the Supreme Court pursuant to Section 146 of *the Constitution* in relation to illegally staying third-country nationals when lodging recourses against detention and deportation orders.

161. The scope of the legal aid scheme has been recently extended to cover judicial proceedings in Cyprus for returning illegally staying third-country nationals, in harmonization with the *directive 2008/115/EC* which was transposed to national legal order with *the Aliens and Immigration Law*.

162. Further *the Constitution* guarantees to every person in both civil and criminal cases, the right to call witnesses, to present and have sufficient time to prepare his case and to have an interpreter if he cannot understand the language used in the Court.

163. Comprehensive legislation for the protection of witnesses and those who assist in the fight against crime is in place [*The Witness Protection Law (L. 95(I)/2001*)]. Another law also provides for compensation to those who, having been sentenced to a term of

imprisonment at first instance, are finally acquitted on appeal or their sentence is substituted for by a non custodial one [(*Reversal of Prison Sentences on Appeal (Compensation) Law (L.144 (I)/2001*)].

164. Court proceedings are open to the public except in cases where the Court considers that it is in the interest of public safety or of public morals or in the interests of children that these may be conducted without the presence of the public or the press.

165. Finally, in 2009 there has been an amendment to *the Courts Law (L.14/1960, as amended)*, so as to comply with article 6 of *the European Convention for the Protection of Human Rights and Fundamental Freedoms* requirements in relation to contempt of court procedures, after a decision of the European Court of Human Rights condemned Cyprus for violation of the right to fair trial. The law was amended so as to safeguard the impartiality of the Court deciding the case in contempt of court procedures, by providing that a different court will try the case of contempt, other than the one against which the alleged contempt took place. Moreover, in order also to safeguard freedom of expression, the law was amended so as to provide that in deciding whether a person should be imprisoned for contempt of court, a proportionality test should be made by the court so not to interfere with the right to freedom of speech and expression. In addition, contempt of court by lawyers ceased to be a criminal offence and remains only as a disciplinary offence so as to safeguard the right of freedom of speech and expression of the lawyer but also the right to a fair trial of the person the lawyer represents.

Article 15- Retroactive punishment

166. Nothing further to add. Refer to the answer given in the previous report (para 212).

Article 16- Recognition of a person before the law

167. Nothing further to add. Refer to the answer given in the previous report (para 213).

Article 17- Privacy

168. Cyprus ratified the Convention for the protection of Individuals with regard to Automatic Processing of Personal Data, 1981 (CETS No.108) [(L.28 (III)/2001)]; and the Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding Supervisory authorities and transborder data flows (CETS No.181) [(L.30 (III)/2003)].

169. The Processing of Personal Data (Protection of Individuals) Law [(L.138 (I)/2001, as amended)] and the Processing of Personal Data (Licenses and Fees) Regulations of 2002 (P.I 538/2002), have been enacted for the effective implementation of the above said instruments, as well as for the transposition of the E.U directive 95/46/EC on the protection of individuals with regard to the processing of personal data.

170. The above Laws and Regulations mainly provide for (a) The conditions for lawful processing of personal data (b) the processing of sensitive data (c) the establishment, operation and combination of filing systems (d) The transmission of personal data to third countries (e) The obligations of the controller (the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes and means of the processing of personal data (f) The data subject's rights (g) The appointment of the Commissioner for the protection of personal data (h) The competencies of the Commissioner for the protection of personal data (i) Administrative sanctions, offences and penalties.

171. A Commissioner for the Protection of Personal Data was appointed by a decision of the Council of Ministers (No.54.943, dated 17.1.2002).

172. Article 17 of the Constitution which protects the right to respect for, and to the secrecy of, the correspondence another communication of every person made through means not prohibited by law, was amended by the Sixth Amendment the Constitution Law of 2010 (L.51(I) /2010), so as to allow interference with that right when necessary in the interests of the security of the Republic, as well as for the prevention, investigation or prosecution of serious criminal offences. The cases, where interference in accordance with the law is permitted are exhaustively mentioned in article 17 of the Constitution. (Refer to the new Law amending article 17 of the Constitution attached as annex E).

173. It has to be mentioned that despite the amendment of article 17 of the Constitution, the scope of exceptions is still narrower than those of article 8 of the European Convention of Human Rights. Law 51(I)/2010 otherwise regulates the procedures and safeguards that apply in cases of interference with the right to private life for the reasons permitted.

Article 18- Freedom of religion

174. As regards the conscientious objectors refer to the reply to the recommendations contained in paragraph 17 of the concluding observations below.

Article 19- Freedom of expression

175. Pursuance to the Criminal Code (Amendment) Law of 2003 (L.84 (I)/2003), sections 49, 51 and 194-202 of the basic law (Cap.154, as amended) concerning the offence of libel were abolished. Furthermore, the offence of insulting the Head of the State was amended so as to provide for grounds of defence, and section 47 was also amended in order to be consonant with the right of freedom of expression. Finally section 48 relating to “seditious intention” was abolished. This series of amendments were primarily intended to eliminate the threat of criminal law on freedom of expression and related to libel, defamation, publications with seditious intention, insulting etc. They were the outcome of a study carried out on the request of the Union of Journalists of Cyprus and were welcomed by the Union.

Article 20- War propaganda and incitement to hatred

176. Refer also under para 240 of the previous report. It has to be noted that article 51 of the Criminal Code establishing the offence of the encouragement of violence and promotion of ill will has been repealed.

177. The Combating of Certain Forms and Expressions of Racism and Xenophobia by means of Criminal Law of 2011[(L.134 (I)/2011)], was enacted within the framework of transposing the Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law into national law, on 21 October 2011. It provides, inter alia, in section 8, that the racist motivation for any offence constitutes an aggravating circumstance and criminalizes new offences such as: (a) intentional publicity disseminating and inciting by any means to violence or hatred directed against a group of persons or a member of such a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin; (b) publicly condoning, denying or grossly trivializing crimes of genocide, crimes against humanity and war crimes as defined in articles 6, 7, and 8 of the Statute of the International Criminal Court, directed against a group of persons or a number of such a group defined by reference to race, colour, religion, descent or national or ethnic origin when the conduct is carried out in a manner likely to incite to violence or hatred against such a group or a member of such a group; (c) publicity condoning, denying or grossly trivializing the crimes defined in article 6 of the Charter of the International Military Tribunal appended to the London Agreement of 8 August 1945, directed against a group of persons or a member of such a group defined by reference to race, colour, religion,

descent or national or ethnic origin when the conduct is carried out in a manner likely to incite to violence or hatred against such a group or a member of such a group.

178. In case of conviction, the person concerned is liable to imprisonment not exceeding five years or to a fine not exceeding ten thousand Euros or to both such penalties. Legal persons are also liable for the above mentioned offences.

Article 21- Freedom of assembly

179. The Police is bound by *the Constitution* as well as by *the Police Law [(L.73(I)/2004, as amended)]*, to protect and respect the right of every citizen to peacefully assembly, and to intervene with this right only if there is a reasonable suspicion to believe that an assembly is not in conformity with the relevant legislation and/or is putting at risk the national safety, is disturbing peace and public order, or is in violation of sections 70-78 of *the Criminal Code* [(Part II- under the heading (Unlawful Assemblies, Riots and Other Offences against Public Tranquility)]. Police Standing Order 5/36, regarding assemblies and riots provides for the right of persons to peaceful assembly and for the duties of the Police while an assembly is taking place.

Article 22- Freedom of association

180. Nothing further to add. Refer to the answer given in the previous report (para 245).

Article 23- Freedom to marry

181. According to *the Marriage Law*, the right to marriage is safeguarded to all individuals of opposite gender (section 3, para 1), whereas according to section 14, paragraph 1, of the same Law, the free will of the individuals to get married is a precondition for the celebration of the marriage.

182. Regarding programmes provided by the Social Welfare Services refer to annex F.

183. Pursuant to section 5 of *the Relations between Parents and Children Law*, it is the duty and right of both parents to jointly exercise parental care, which includes determining the child's name, having custody of the child, administering its property and representing it in every matter and in judicial proceedings concerning the child itself or its property. Custody of the child pursuant to section 9 of the Law encompasses, in particular, upbringing, supervision, socialization, education and determination of its place of residence.

184. Moreover, pursuant to sections 14 and 15 of the Law, in cases of divorce, annulment or separation, parental care is regulated by the Court and may be assigned to one of the parents or to both if they agree on the child's place of residence, or to a third party; every decision made by parents with respect to exercising parental care and every decision of the Court regarding the assignment of parental care or the way it is exercised, must aim at the best interest of the child [(sections 6(1) and (2) of L.216/90)].

185. Visiting rights of the parent with whom the child is not residing are also safeguarded. The Law provides that, in the case of disagreement about visiting rights, a decision is made by the Court, which must aim at the safeguarding of the best interest of the child, respect the equality between the parents and taking into consideration the child's views, according to his/her level of maturity and the extent of its understanding (sections 16 and 6 of L.216/90).

Article 24- Children*Protection of children in the field of work*

186. The protection of children (under the age of 18) at work is safeguarded by the Protection of Young Persons at Work Law [(L.48 (I)/2001, as amended)] and the Safety and Health at Work (Protection of Young People) Regulations of 2012. This legislation is in full compliance with relevant international instruments such as the Minimum Age Convention (ILO No.138), 26 June 1973, Night Work of Young Person (Industry) (revised) Convention, 194 (No.90), [(art. 7 (paras 1, 3, 7 and 8)] of the European Social Charter (revised), 1996 (CETS No.163), as well as the EU directive 94/33/EC for the protection of young people at work.

187. The basic provisions of the above legislation are, among others, the following: (refer to annex G).

188. The effective enforcement of the Protection of Young Persons at Work Law, is safeguarded by the Departments of Labour and Labour Inspection of the MLSI and by the Police. The protection of Young Persons at Work Law has recently been amended by Law 15(I) of 2012. Relevant regulations were also issued. Among other things, the amended Law, according to Section 31B, provides for the possible appointment of an Advisory Committee on Child Labour, called the “Advisory Committee” that will monitor the implementation of this Law.

189. During their inspections of workplaces, labour Inspectors examine the working conditions and safety and health issues of all workers, with special attention to young persons under 18 years of age. In 2009 only 2 accidents, according to the safety and health at work legislation, out of a total of 2227 notified work accidents, were related to young persons. During their inspections of workplaces, labour Inspectors examine the working conditions and safety and health issues of all workers, with special attention to young persons under 18 years of age. In 2009 only 2 accidents, according to the safety and health at work legislation, out of a total of 2227 notified work accidents, were related to young persons. The relevant figures for 2010 were 7 accidents for young persons out of 2184 notified work accidents and 5 accidents for young persons in 2011 out of 2010 work accidents. None of the above mentioned accidents of young persons was a fatal one.

190. In the period under review the Government has ratified: Refer to binding instruments in the core document accompanying the report.

191. It is considered that exploitation of children at work does not exist in the Government controlled areas, as the issue is well- regulated and has been regulated by Law. No cases of exploitation of employed children have been reported in Cyprus; as such a problem does not exist in the Government controlled areas of Cyprus.

Sexual Exploitation, Sale Trafficking and Abduction of Children

192. Sexual exploitation, sale trafficking and abduction of children, covered by the Combating of Trafficking and Exploitation of Human Beings and the Protection of Victims Law of 2007.

Family Reunification- Children

193. *The Aliens and Immigration (Amendment) Law of 2007 (L.8 (I)/2007)*, transposing *EU directive 2003/86/EC* on the right to family reunification, ensures that, family reunification can be allowed for at least the spouse and the minor children of a third country national residing in Cyprus. The *E.U directive* establishes criteria and conditions for exercising the right to family reunification and sets a system of rules regarding the

examination of the applications, the entry and residence of family members in the member States and gives them the right to access to education, employment and vocational training.

194. The provisions of the said Law also cover the right to family reunification of minor children of third country nationals who reside legally in the Republic for at least two years and who have reasonable prospects of obtaining the right of permanent residence. The requested certificates for the members of the sponsor's family which must be submitted with the application must be duly attested by the diplomatic channel. The Director's decision regarding the application is communicated to the applicant as soon as possible and no later than 9 months from the date of the application. A first resident permit is issued to the member of the family for one year. This permit is renewable up to the expiry date of the sponsor's resident permit.

195. As regards children offenders, refer to answer to article 10 of the report.

Commissioner for the Protection of Children's Rights

196. The Commissioner was established in 2007 pursuant to *the Commissioner for the Protection of Children's Rights Law, 2007 [L.74(I)/2007]*, as an independent authority on the basis of the Paris Principles and general comment No.2 of the Committee on the Rights of the Child. Its general mandate is to protect and promote children's rights; in this, it has a very wide spectrum of competences, including monitoring respect by any public or private authority of children's rights, promoting awareness raising of the society on children's rights and representing children in procedures (including judicial proceedings) as provided by law or when the Court deems appropriate for securing the best interest of the child. The Commissioner accepts complaints regarding violations of children's rights and monitors the handling of the case by the relevant authorities. In this context, the Commissioner deals with gender issues, the right of the child to parental communication and care, as well as issues of reconciliation of family and professional life, which affect both the child and the parents, particularly the mother.

Article 25- Right to participate in public offices, right to vote and right to have access to public service

197. Nothing further to add. Refer to the answer given in the previous report (paras 297-298).

198. As regards the right to vote, refer to answer to article 1 of the report.

Article 26- Equality before the law

199. Nothing further to add. Refer to the answer given in the previous report (para 299).

200. Refer also to article 2 of the report.

Article 27- Protection of minorities

201. Refer to the answer given to the previous report (para 300).

202. According to the Statistical Service there were approximately 5000 Cypriot Maronites, 2600 Cypriot Armenians and 800 Cypriot Latins living in the Government controlled areas of Cyprus as at 31 December 2011. Around 126 Cypriot Maronites, out of the 5000, live in Maronite villages in the areas not under the effective control of the Government.

203. The Government pays particular attention to the promotion of the conditions necessary for the Maronites, Armenians and Latins to maintain and develop the essential elements of their identity. The partial lifting of the restrictions to the freedom of movement in 2003 to and from the areas not under the effective control of the Government has

facilitated to some extent the contacts of the Maronite community. The Maronites maintain frequent contacts with members of their community living in the areas not under the effective control of the Government. About 500 Maronites from the Government controlled areas visit their villages every weekend. In the areas not under the effective control of the Government, there are four Maronite villages, namely, Karpasha, Asomatos and Agia Marina. Agia Marina and Asomatos are located within a Turkish military camp and thus access is almost completely forbidden.

204. Since September 2003, the MOI, being the competent Ministry for the protection of the religious (minority) groups, is in continuous consultation and dialogue with the representatives of the religious (minority) groups. Matters of concern to these groups are thoroughly discussed at the level of the Permanent Secretary of the MOI, and representatives from all relevant Ministries, with a view to effectively deal with them.

205. The existing consultation mechanism deals, among other, with the following issues:

- The implementation of relevant regional Treaties, such as the Framework Convention for the Protection of National Minorities (CETS No.157), Strasbourg, 1 February 1995, and the European Charter for Regional or Minority Languages (CETS No.148), Strasbourg, 5 November 1992;
- The competences of the representatives of the religious (minority) groups;
- The preservation of the social cohesion of the religious (minority) groups;
- The maintenance and restoration of monasteries, churches and other monuments of the religious (minority) groups;
- The fair participation of members of the religious (minority) groups in the Public Service and Public Corporations;
- The subsidization of students of religious (minority) groups (tuition subsidies for primary and secondary education and purchase of books);
- The granting of Government land for cemeteries;
- Payment of priests' salaries;
- Government financial assistance to farmers, members of the Maronite religious (minority) group, living in the areas not under the effective control of the Government;
- Special measures to facilitate links between Cypriot Maronites living in the Government controlled areas and those living in the areas not under the effective control of the Government (such as free transportation twice a week in order to visit their children or other family members and in order to seek medical care);
- Free housing in the Government Refugee Housing Estates to the Maronites who live permanently in the areas not under the effective control of the Government in order to visit their children who attend school in the Government controlled areas and in order to seek medical care (upon application), weekly food once a week, Government aid for the repairs of houses, Maronite churches, cemeteries, in the areas not under the effective control of the Government as well as for the repair of roads and water supply in Kormakitis);
- Co-ordination of efforts for better utilization of the grants given by the various Ministries.

206. It should also be noted that:

- A substantial sum of money is allocated for the repair and improvement of the houses of enclaved persons in the areas not under the effective control of the

Government annually as well as to the various organizations that belong to the three religious (minority) groups;

- The MOI subsidizes the print media, such as newspapers published by the Maronites, the Armenians and the Latins;
- The MOI has funded the creation of three websites, one for each religious (minority) group and continues to provide financial assistance to the three religious (minority) groups, in order to strengthen their individual websites. This decision falls within the framework of the Government's policy to reinforce the religious (minority) groups' efforts to promote their cultural heritage and identity.

Employment

207. The DOL of the MLSI handles complaints about discrimination in the field of employment on the grounds of religion, belief, sexual orientation and age. It prohibits any direct or indirect discrimination, harassment or instruction on the grounds of racial or ethnic origin, religion or belief, age or sexual orientation for all employers with regard to all activities as regards access to employment, vocational guidance/training, working conditions and the terms of employment, as well as the capacity of a member in an employee's or employers' organization, except in certain occupational activities where by reason of the context in which they are carried out, one of the above mentioned characteristics constitutes a determining factor. It also implements awareness raising measures about non-discrimination in the labour through the issuing of information leaflets and guides.

208. The DOL implements the Scheme providing incentives for hiring disadvantaged individuals. The aim of this Scheme is the full time employment of disadvantaged individuals in the private sector and Local Authorities. For the purpose of this Scheme disadvantaged individuals are considered, among others, those who-

- Are aged 15-24-
- Are aged 50 and more-
- Are members of a religious (minority) group of Cyprus who need to develop their language skills, vocational training or professional experience in order to improve their chances in having easier access to stable employment-
- Are people with disabilities.

209. The Scheme will be implemented for the period 19 March 2010 - 30 June 2014 with a budget of €9.000.000. About 1400 unemployed disadvantaged individuals were participated in this Scheme.

210. The DOL implements the Scheme providing incentives for hiring individuals with disabilities. The aim of this Scheme is to encourage employers in the private sector and local Authorities to hire individuals with disabilities. The Scheme will run for the period from 29 September 2009 - 30 June 2014 with a budget of €1.000.000. About 90 unemployed disabled individuals were participated in this Scheme.

211. Refer also to article 3 above, in relation particularly to gender equality.

Education

212. Article 20 of the Constitution safeguards the right to education to all children in Cyprus. MOEC offers free and accessible education to all students at all educational levels (primary, secondary general, secondary technical and vocational education) without any discrimination based on the gender, the abilities, the language, the colour, the religion, the political beliefs or the ethnic origin, or any other ground.

213. The fact that primary and secondary education is compulsory³, and provided free of charge by the Government to all, irrespective of the residential status of the students' parents, and that primary and secondary schools are established and functioning in all towns and in rural areas, safeguards the right of students to full access to different levels of education.

214. The Government recognizes the right of every child, to an education appropriate to his/ her needs and substantial efforts have been made in recent years towards achieving this. The MOEC adopts UNESCO's views on inclusion to embrace all students, such as children from disadvantaged socioeconomic backgrounds, children in rural and remote areas, children from ethnic and linguistic minorities, children affected by conflict and natural disasters, children with HIV and AIDS, children of regular or irregular migrants, refugees and asylum seekers and children with additional and/or special educational needs. Educational requirements and support services are provided in an inclusive and least restrictive learning environment.

215. In recent years, a growing number of students (migrants, refugees, and asylum seekers) coming mainly from the former Soviet Union and other foreign countries, have enrolled in primary schools in Cyprus, thus affecting the Cyprus Educational System. About 9, 0 per cent of the pupils attending public primary schools do not have Greek as their mother language. In view of the increasing diversity of the Cypriot society, the MOEC approaches the subject of multicultural education with great sensitivity by underlying the vital importance of providing an education that supports the language and distinctive cultural features of the various ethnic groups; by providing an education that helps bilingual pupils to master the Greek as their second language and ease their transition to the Greek Cypriot society (refer to annex H for more information regarding the Multicultural Education Program applied by the MOEC in all public schools).

216. In its effort to enhance the achievement of migrant, refugees and asylum seekers students, the MOEC has developed a strategic plan representing part of the agenda for educational reform, and aims at improving the educational opportunities available in public schools by closing the achievement gap of the abovementioned group of students. The majority of the schools with high registration and attendance of non-native language speakers operate as "ZEP".

217. The policy of the ZEP derived from UNESCO'S strategy for positive discrimination, which is the unequal treatment of inequalities, such as the provision of additional resources to the vulnerable groups of schools which are included in the ZEP. Empirical and theoretical research related to minority education and specific educational initiatives have guided the MOEC in developing and implementing programmes for the education of non-native language speaking students such as:

- Provision of bilingual teachers who facilitate the communication between teachers, students and parents.
- Provision of special support and attention to migrant, refugees and asylum seekers students from the Service of Educational Psychology and the SWS.
- Organization of a number of intercultural activities and events.
- Organization of education seminars for parents and legal guardians on a subject matter of their interest based on the distinctive characteristics of each local community in which they reside. (refer to annex I).

³ Failure to enrol a student belonging in the abovementioned age group at an educational institution (public or private) will result in the prosecution of the legal guardian.

218. The MOEC realizes the need to provide teachers with the opportunity to further develop their learning and teaching approaches to all children. Within this context, it regularly organizes in-service training seminars and conferences for teachers who teach bilingual pupils. Developing multicultural awareness, providing information among the pupil population of the way of life, patterns of thought and attitudes of people who differ among themselves, attempting to understand differences and communicating with people, are important features of schools. During the past two years in service training seminars of the teachers for teaching Greek as a second or/and a foreign language were organized by the Pedagogical Institute in an attempt to train teachers on the inclusion of migrants, refugees and asylum seekers students.

219. Optional Seminars are organized by the Cyprus Pedagogical Institute aiming at the inclusion of migrants, refugees and/or asylum seekers students. [(refer to annex J (Part-I- Zones of Educational Priority- ZEP) for more information regarding the ZEP programme)].

220. The Centre for Educational Research and Evaluation of the MOEC has undertaken a research project in order to evaluate the effectiveness of the intensive training programme⁴ for bilingual students (this group of students includes the children of migrants, refugees and asylum seekers) which are currently implemented in 31 secondary education schools across Cyprus. One of the main objectives of the project is to evaluate the learning outcomes of the programme through the use of a series of pre and post tests. The result of this research project which relates to three years period, due to be completed in 2013, is expected to have a strong political impact regarding the Ministry's decision for further improvement and expansion of the programme.

221. Teacher trainers of the Cyprus Pedagogical Institute participate also in the Pestalozzi modules on Intercultural Education and Education for Democratic Citizenship and Human Rights as well as in other relevant activities (e.g. CORE project, THEO project), organized by the Council of Europe. The trainers are involved in the production of training materials and the development of training units in order to act as multipliers in their own educational context.

222. Under the Progress 2009 programme «Creativity and Innovation against discrimination», a teacher guide is being prepared offering ideas on a holistic school approach to fight discrimination including discrimination related to ethnic, religious and linguistic identity. The basic identified learning need that migrants, refugees and asylum seekers have is the learning of the Greek language in order to be integrated in the Cypriot society upon their arrival. To this end the learning of the national language is most apparent in the case of migrant, refugees and asylum seeker students in order to be able to follow the school curriculum. [refer to annex J (Part II- Measures to enhance integration in schools)].

223. Among the MOEC's priorities is also the inclusion of all children with special needs into mainstream education. The aforementioned policy is in line with current pedagogical trends and international human rights instruments. The adoption of this policy has been accompanied by a change in the perceptions, beliefs and attitudes of society towards children with special needs, whether they are in the education system or the community at large. This policy is expressed by special legislation [(e.g. the Training and Education of Children with Special Needs Law (L.113 (I)/99, as amended)], the Regulations for the Early Assessment and Detection of Children with Special Needs (P.I. 185/2001) and the Regulations for the Training and Education of Children with Special Needs (P.I. 186/2001). Educational opportunities are provided to all including migrants, refugees and asylum seekers without discrimination. The Training and Education of Children with Special Needs

⁴ This programme involves placing bilingual pupils in a separate class for some hours of the week, for intensive learning of the Greek language and specialized assistance according to their specific needs.

Law, is the legislative framework which regulates the identification of children with special educational needs; their assessment and the development of an individualized educational programme; their placement in the most appropriate and least restrictive educational setting with provision of both teachers and educational resources to meet their needs, as well as the ongoing evaluation of their progress, are safeguarded by the aforementioned Law. Special educational services are provided free of charge by the State to all children in need between the ages of 3 and 18 years (extension of education up to 21 years can be provided where it is deemed necessary).

224. MOEC in close coordination with other relevant Ministries (MJPO, MLSI) and in the framework of its competences has drawn up an AP, in order to contribute to the full implementation of the measures suggested by the NAPGE for 2007-2013; the content of the AP was defined by a cross-departmental team, coordinated by a steering Committee which will monitor the process of implementation and evaluation of the measures in the area of education.

225. The basic aim of the AP is to achieve a comprehensive and systematic approach to gender equality policies in education and training, with a view to combating and preventing stereotyping attitudes about gender roles in the family and society. This aim corresponds to the broader framework of the Educational Reform, currently initiated in Cyprus, which focuses on creating a progressive, humane and democratic school through the establishment of equal opportunities for all students and the formation of active citizens, capable to respond to the challenges posed by the new realities. Within this perspective, challenging traditional stereotypes on gender roles has been regarded as a crucial point in renovating the school curricula, in teacher training, in career advising and in the cultural programmes provided by the Ministry.

226. The MOEC focusing on ensuring that equal opportunities in education should be available in both genders on a non discriminatory framework has appointed a Committee of Experts for the preparation of a specific NAPGE (refer to annex E for information regarding the Multicultural Education Programme applied by the MOEC in all public schools).

III. Responses to the Committee's concluding observations

227. This part of the present report deals with responses to the concluding observations to the extent that the principal subjects of concern and the suggestions and recommendations of the Committee have not been dealt with in part II above.

Reply to the recommendations contained in paragraph 9 of the concluding observations (CCPR/C/79/Add.88)

228. Nothing to add.

Reply to the recommendations contained in paragraph 10 of the concluding observations

229. Refer also to article 3 above in relation particularly to equality on the basis of gender.

Marriage

230. Refer to article 23 above in relation particularly to the part of the answer relating to marriage.

Nationality

231. Pursuance to section 110(2) of *the Civil Registry Law [(L.141(I)/2002, as amended)]*, the right to apply for the acquisition of the Cypriot citizenship through registration as a spouse of a Cypriot citizen is granted to all non-citizens, who are married to Cypriots, regardless of their sex.

Immigration

232. Refer to answers under articles 8, 9, 10, 13 and 27.

Employment

233. Refer to article 3 above, in relation particularly to equality between men and women in the field of employment.

Education

234. Refer to articles 3 which relates to equality based on gender in the field of education, and article 27 above.

Reply to the recommendations contained in paragraph 11 of the concluding observations

235. Cyprus has abolished the criminalizing of homosexual activity. Moreover, according to section 4(2) of *the Right of the Union Citizens and their Family Members to Move and Reside Freely Within the Territory of the Republic Law of 2007*, the entry and residence of a partner of an EU national is facilitated by the Cypriot Authorities, where such relationship is durable and duly attested. However this does not apply to same sex partners, an issue addressed by the reports of the Ombudsman which are currently under evaluation and assessment by the Government.

Reply to the recommendations contained in paragraph 12 of the concluding observations

236. Refer to article 3 above.

237. In addition, *the Violence in the Family (Prevention and Protection of Victims) Law*, was enacted in order to bring substantial improvements to the initial legislation. In particular, Part II deals with the meaning and the scope of violence and Part III with the appointment of family counsellors and committees; Part IV introduces new provisions regarding taking statements through audiovisual electronic means; Part V contains provisions for speedy trials and for the protection of witnesses from harassment or intimidation; Part VI contains provisions for court orders for the treatment of the accused; Part VII contains provisions regarding the establishment of a fund for assistance to victims of violence.

238. Pursuant to section 20 of the Law, the spouse of an accused charged with an offence of violence within the meaning of this Law, shall be a competent witness if the spouse is the victim of violence and a competent and compellable witness if the victim of violence is another member of the family, because pursuant to section 3 (3) of the Law if the violence is committed in the presence of a minor member of the family, it is considered as violence against such minor.

239. *By the Evidence [(Amendment) Law of 2009 (L.14 (I)/2009) (section 14)]*, a spouse is now competent but not compellable to testify against his/her spouse, and competent and compellable to testify against any other person accused with his/her spouse.

240. The bill mentioned in the supplementary report to the third periodic report concerning legal aid was enacted as *the Legal Aid Law [(L. 165(I)/2002, as amended)]*; an information sheet titled “Legal aid in Cyprus” published by the MJPO and distributed free of charge by the MJPO to interested persons. Refer also to answer under article 14 above, to the part of the answer relating to legal aid.

Reply to the recommendations contained in paragraph 13 of the concluding observations

241. Refer to answer under article 11 of the report.

Reply to the recommendations contained in paragraph 14 of the concluding observations

242. In the case of *Pavlou Pavlos and Andreas Xajiandrea v. General Election Inspector* (1987) 3 CLR (252), the issue of the self-executing provisions of international treaties was determined specifically by the Court in 1987 in the context of two Election Petitions where the issue was raised. The matter whether the Covenant is self-executing was examined in debt and the finding of the Court was that the Covenant is self-executing and applies to the left order of the Republic of Cyprus.

243. In the relevant part of the Judgment it is held “Is the Covenant self-executing? Its provisions are not pious pronouncements. They may be applied by the organs of the State and by the Courts. They establish rights for the citizens and governed and directly affect the relations between individuals, individuals and the State, or of the public authorities. The provisions of the Covenant are establishing actionable rights and interests. Each contracting State undertakes the obligation to respect and ensures to all individuals living within its territory and subject to its jurisdiction, the rights recognized for in the Covenant. The rights are expressed at least with such clarity as in the Convention for the Protection of Human Rights and Fundamental Freedoms, which after it is ratified by Law 39/62, it applies by the court with increased force”.

244. This position was reaffirmed in a number of subsequent decisions of the Supreme Court (e.g. *Salwa Radwan v. Republic*, and *Zoukof and others v. Republic*), and has never been challenged. On the contrary, in the recent case *Eviprides Evripidou and Petros Patsalides v. Republic*, where the District Court found in the civil case contravention of article 10, paragraph 2(a) of the Covenant, the Court awarded damages on the basis and upon application of article 2, paragraph 3 of the Covenant by virtue of which the Republic has undertaken, amongst others, to ensure that every person whose rights recognized for in the Covenant are being violated, shall have an expedient legal remedy. In view of the decision in the case *Malaktou (and Pavlou)* for the application of article 169(3) of the Constitution to International Conventions which are self-executing and without the reciprocity reservation, the Covenant shall clearly prevail over national laws, as it is been accepted in the Observations of the Committee.

245. In conclusion, the Conclusion of the Committee that there are remain uncertainties as to which of the Covenant’s provisions are self-executing within the internal law, and which need specific legislation (in addition to the ratification law), does not find any basis in the internal law of the Republic of Cyprus.

Reply to the recommendations contained in paragraph 15 of the concluding observations

246. Refer to answer under article 21 of the report.

Reply to the recommendations contained in paragraph 16 of the concluding observations

247. Criminal responsibility: Pursuant to section 6 of *the Criminal Code (Amendment) Law of 2006 [(L.18 (I)/2006)]*, the age of criminal responsibility was raised to 14 years old. Children below this age are not criminally responsible for any act or omission.

248. Marriage Law: By virtue of the new *Marriage Law*, the old definition of marriageable age does not appear. Instead there are certain requirements in case one of the two persons have not completed 18 years of age, that is to: (a) have completed 18 years of age (b) the persons having parental care consent in writing, and if they do not consent or if such persons does not exist, there is an order of the Court to that effect, and (c) there are serious reasons justifying that.

249. Corporal punishment: Corporal punishment has been abolished as a form of punishments at schools first by virtue of directives of the MOEC and finally by *the Operation of Public Secondary Education Schools (Amending) Regulations of 2011 (P.I.130/2011)*. The outdated *Children's Law (Cap.352)* is under review. A new bill aiming to harmonize with international standards on children's rights, including the abolition of corporal punishment is well underway.

Reply to the recommendations contained in paragraph 17 of the concluding observations

250. Pursuant to *the National Guard Law of 2011 [(L.19 (I)/2011)]*, which consolidated and amended *the National Guard Laws of 1964 to 2008*, the military service conscientious objectors have to serve is as follows:

- Those who are obliged to serve a twenty-four months military service, will serve an "alternative service" of thirty three months;
- Those who are eligible for reduced military service, if they are to serve "alternative service", then, the duration will be reduced accordingly;

251. It is a fact that conscientious objectors serve a longer period than conscripts who serve normal military service. However, it must be emphasized that this is not a punitive measure but it's a measure for establishing an accordingly just and equivalent treatment between conscripts. Conscientious objectors usually serve in civil departments during normal office hours (07:30-14:30) whilst their colleagues have to serve on a twenty- four hour basis in military camps. In addition, the degree of difficulty and physical strain (military training, military exercises, security duties and duties in observation posts, alongside the ceasefire line) that normal conscripts have to endure is much greater in relation to those of conscientious objectors.

252. Thus, the duration of the "alternative service" of the conscientious objectors is considered reasonable and proportionate in comparison to the duration of the military service to be served by other conscripts.

253. Taking into consideration the particular situation that exists in Cyprus due to the continuous occupation of 36, 2 per cent of the territory of Cyprus by the Turkish army, we consider that the said amended provisions of the Law comply with international standards for the protection of human rights.

254. Finally, it is important to mention that, until the enactment and entry into force of the said amending Law, the conscientious objectors were obtaining, after a submission of a request, a suspension in their enrolment to the National Guard.

Reply to the recommendations contained in paragraph 18 of the concluding observations

255. In relation to the rights of Turkish Cypriots, particularly in the field of employment, the following is noted. A considerable number of Turkish Cypriots choose to work in the Government controlled areas. They possess Cyprus identity cards issued by the Republic irrespective of whether they live in the Government controlled areas or not. The number of Turkish Cypriots in the areas not under the effective control of the Government who work in the Government controlled areas on a daily basis has greatly increased since April 2003, as a result of the partial lifting of the restrictions on movement to and from the areas not under the effective control of the Government.

256. Measures taken by the Government since April 2003, in order to assist Turkish Cypriots to secure employment in the Government controlled areas, include the following:

257. In order to provide Turkish Cypriots with better information and guidance for employment, Turkish speaking staff is employed at the Aglandjia Local Labour Office, in Nicosia.

258. Information about the employment of Turkish Cypriots appears on the website of the DOL which is linked to the Public and Information Office (PIO) website that provides full information on the measures taken in an effort to facilitate Turkish Cypriots.

259. Moreover, Turkish Cypriots as citizens of Cyprus are entitled to, and have been issued with, official certificates and documents. This documentation allows them to be employed in the Government controlled areas as well as to enjoy all the benefits stemming from Cyprus' EU membership. Consequently, Turkish Cypriots can study, travel, work and settle freely in all EU member States and enjoy, inter alia, consular protection in third countries. These benefits are enjoyed, despite the fact that the *aquis communautaire* is currently suspended in the areas not under the effective control of the Government where the Government is unable to exercise effective control, due to the ongoing Turkish occupation.

260. The same above mentioned procedures apply also to Greek Cypriots.

Reply to the recommendations contained in paragraph 19 of the concluding observations

261. Refer to answer under article 7 of the report.

Reply to the recommendations contained in paragraph 20 of the concluding observations

266. The provisions of the Covenant and the Protocols are part of the domestic Law and they are published in the Official Gazette as Laws [(Covenant (L.14/1969), *Optional Protocol (L.17 (III)/1992*), *Second Optional Protocol (L.12 (III)/1999*), *as amended by Law 10(III)/2003*]], thus the legal profession, the Legislative Judicial Authorities, are well aware of them.
