

## Cyprus

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*Commissioner for Administration (Ombudsman)*

### Independence and effectiveness of the NHRI

#### International accreditation status and SCA recommendations

The Cypriot NHRI was first [accredited](#) with B status in November 2015.

In its review, the SCA be made certain recommendations and observations on the appointment of the Ombudsman, the allocation of resources to the NHRI and the management of its budget.

The Cypriot NHRI's comments on independence and effectiveness, cited below, touch upon the relevant recommendations/observations of SCA.

#### Developments relevant for the independent and effective fulfilment of the NHRI's mandate

In relation to the **reinforcement of our Institution's personnel**, which directly affects our "effectiveness", the Commissioner has achieved 4 new staff positions, that are expected to start working in the next few months. Also, 3 more positions have been approved in 2019 that will be filled with the new procedure. However, given the broad expansion of the Office's mandate, and in order to carry out her functions even more effectively and timely, the Commissioner has requested and achieved further reinforcement of her staff (3 more) for 2020.

Recently our Institution faced a challenge which, we believe, was at the core of our ability to exercise our competences in an independent manner. Specifically, the Auditor General of the Republic of Cyprus attempted to **investigate the way the Commissioner is exercising her powers to assign, delegate and oversee the work** performed by our Institution and its Officers. In view of the Commissioner's refusal to allow such an investigation to take place, because of the independence of the Institution, the Auditor General referred the matter to the Attorney General and asked him to prosecute the Commissioner.

The Commissioner informed, in writing, the International Ombudsman Institute (IOI) about the issue that arose and the fact that her independence was under threat. This led to the issuance of a Statement by the IOI, which supported the Commissioner's position on the matter and expressed the opinion that the Auditor General's stance was not compatible with the "Principles on the Protection and Promotion of the Ombudsman Institution", (The Venice Principles), adopted by the Venice Commission in March 2019. The IOI sent its opinion in writing to the President of the Republic, the President of the Parliament and the Attorney General. Eventually, the Attorney General agreed with the IOI's opinion and stopped the procedure.

Regarding the **selection and appointment of the Commissioner**, - an issue which extends to independence of our Institution and was raised by the Sub-Committee on Accreditation of GANHRI - we feel that the fact should be noted that both the executive and the legislative powers participate in the existing procedure. Specifically, the Commissioner is appointed by the President of the Republic, at the suggestion of the Council of Ministers, and with the prior agreement/approval of the majority of the House of Representatives. The independence of the Commissioner's appointment is further enhanced by the fact that Cyprus has a Presidential Democracy (not a Parliamentary Democracy) and the ruling political party does not have majority in Parliament. So, it is necessary for other political parties to approve the Commissioner before the appointment.

### Changes in the national regulatory framework applicable to the NHRI change since the last review by the SCA

The **procedures for appointing the staff** of our Organisation were, until recently, the same as the procedures followed for the appointment of the staff of other public authorities, (eg. applicants took the same general examinations).

However, the Commissioner has recently achieved to change the procedure (approved by both the Council of Ministers and the Parliament) and, henceforth, the procedure for appointing our staff will be specific for positions in our Office. With the new procedure the applicants will be excluded from the general examinations applicable for other public authorities, and will, instead, be required to take specialized exams, that will be organized by the Commissioner. The final selection of any new staff will be made by the Public Service Commission, from the pool of applicants who succeed in the exams, after consultation with the Ombudsman and upon her recommendation.

### *References*

- IOI Website: subject : "CYPRUS | Attorney-general refers to 'Venice Principles' to support Cypriot Ombudswoman over administrative audit." <https://www.theioi.org/ioi-news/current-news/attorney-general-refers-to-venice-principles-to-support-cypriot-ombudswoman-over-administrative-audit>

## Checks and balances

The Organisation has not found any evidence of laws, processes or practices that erode the separation of powers, participation of rights holders, and the accountability of State authorities.

Recently, legislative measures to control the spread of COVID-19 were introduced in an "expeditious" (or accelerated) manner, but this can be regarded as necessary in view of the circumstances.

### *References*

- Information regarding the legislative and administrative measures taken in Cyprus in view of the pandemic, can be found, in detail, in a relevant page in the Ministry of Health's website: <https://www.pio.gov.cy/coronavirus/en/>

## Functioning of justice systems

Even though the Organisation has no mandate to intervene on the operation of the Courts, we would like to mention the fact that, some problematic aspects/challenges of the judicial system in Cyprus have been highlighted on a number of international Reports. Special reference is made to the **delays observed in the completion of court proceedings** and the **backlog of cases** pending before Courts.

### References

- <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/16808d267b>
- [https://www.cyprusbarassociation.org/files/publications/Functional\\_Review\\_of\\_Courts\\_System\\_of\\_Cyprus\\_IPA\\_Ireland\\_-\\_Final\\_Report.pdf](https://www.cyprusbarassociation.org/files/publications/Functional_Review_of_Courts_System_of_Cyprus_IPA_Ireland_-_Final_Report.pdf)

## Corruption

Regarding corruption, we would like to note that:

- A “National Anti-Corruption Strategy” has been approved by the Council of Ministers in November 2017;
- A draft bill which provides for the establishment of an “Independent Body against Corruption” and the protection of whistle-blowers, is pending for discussion before the Committee for Legal Affairs of the House of Representatives. Our Institution is engaged in the process of finalizing the Bill and the Commissioner has prepared a relevant Note to the competent parliamentary Committee with comments/recommendations.

## In-focus section on COVID-19 measures

### Most significant impacts of measures taken in response to the COVID-19 outbreak on the rule of law in the country

In response to the COVID-19 outbreak, several emergency measures have been taken in Cyprus which affected rights of citizens, like: restrictions in movement both inland and internationally (repatriations), prohibition of gatherings, and closure of businesses.

So far, the measures taken have been legally-based and time-limited (eg. the decrees issued by the Minister of health provide the specific time frame that they are in effect). Also, citizens have the right to challenge these measures at Court (see relevant reference below).

Despite the above, we share the many concerns that ENNHRI raised in the relevant Statement issued on 23 April 2020, that “measures cannot have any **discriminatory impacts**” and that “**situations of vulnerability** must be addressed. In view of this, we have already made the following 3 interventions:

- On March 26th, 2020, we sent a letter/statement to the Ministry of Justice and Public Order, the Ministry of Health and the Ministry of Labour, Welfare and Social Insurance, with a list of guidelines and specific recommendations, in accordance with the CPT's Statement of Principles relating to the treatment of **persons deprived of their liberty** in the context of the coronavirus disease (COVID-19) pandemic and requested that these ministries adhere to them. Following the letter/statement, the Ministry of Justice proceeded with the amendment of the relevant Law and as a result, a number of detainees received early release from the Nicosia Central Prison. A number of detainees were also placed under the Open Prison Scheme, while others started serving the remainder of their sentence at home, under electronic monitoring (bracelet);
- On April 3rd, 2020 we issued a Statement regarding the **access of persons with disabilities to information on the coronavirus pandemic**. The Statement was also forwarded to the relevant ministries, that oversee psychiatric institutions and social care homes;
- On April 9th, 2020, the Commissioner conducted a visit to the Temporary Reception and Accommodation Centre for **asylum seekers**, to observe how the measures to contain the spread of COVID-19 were being implemented and how the fundamental rights of the persons residing there were safeguarded under these circumstances. In the framework of the visit, The visit, was conducted in cooperation with the staff of the Centre, who provided all requested information. Furthermore, confidential interviews were conducted with residents at the Centre. A relevant Report was issued on April 23rd, 2020 and has been forwarded to the Minister of Interior, the Minister of Justice and Public Order, the Minister of Health and the Minister of Labour, Welfare and Social Insurance with recommendations on strengthening the protection of the residents;
- Lastly, following a written communication with the Director of Immigration department, two aliens who were arrested under the alien's legislation were, in view of the COVID-19 situation, released from custody, under specific terms.

### Most important challenges due to COVID-19 for the NHRI's functioning

Firstly, it's important to note that on April 29th, in an address to the nation, the President of the Republic has announced a timetable/program for the gradual easing of the restrictive measures that were adopted to contain the COVID-19 pandemic. The easing of measures will start from May 4th 2020 onwards.

Regardless of the above development, in view of the outbreak of COVID -19 in Cyprus, instructions were issued by the Ministry of Health in March 15th regarding the operation of Public Authorities. Based on these instructions, our Institution started, since then, to operate with a limited number of safety/emergency staff in our premises, rotating per week or per day, depending on duties. All other staff has been working from home. (Note: according to the easing of the measures announce by the President, from May 4th, public authorities resume normal operation, with the exception of certain categories of public employees – specifically: people with specified medical problems and parents of young children).

As expected, during the time period in which the restriction measures applied, our **monitoring capacity** as a NHRI was, to a degree, reduced. However, we were still able to make, during this challenging period, important interventions for the protection and respect of human rights in a number of cases/issues.

In order to maintain operational continuity «in the COVID-19 context» we issued a public announcement with which we encouraged the public to use **alternative methods to submit a complaint** using either electronic submission, by fax, via our website or by post. Furthermore, we urged the public to contact our Office through specific phone numbers for any further information that they required.

## References

- Detailed Information regarding the legislative and administrative measures taken in Cyprus in view of the pandemic, can be found in Relevant Page in the Ministry of Health's website : <https://www.pio.gov.cy/coronavirus/en/>
- Court Case regarding recourse to Court on the restriction to repatriation by a Cypriot student in the UK: <https://www.financialmirror.com/2020/04/02/COVID19-cypriot-students-take-legal-action-over-repatriation/>
- <https://in-cyprus.philenews.com/court-rejects-student-challenge-to-repatriation-rules/>
- Links to our website where the COVID-19 related interventions of the Commissioner are published:
- [http://www.ombudsman.gov.cy/ombudsman/ombudsman.nsf/All/4D78C79481321A4AC225855700301B99/\\$file/NPM.pdf?OpenElement](http://www.ombudsman.gov.cy/ombudsman/ombudsman.nsf/All/4D78C79481321A4AC225855700301B99/$file/NPM.pdf?OpenElement)
- [http://www.ombudsman.gov.cy/ombudsman/ombudsman.nsf/All/7EE18391CBE8E56CC2258542002907CB/\\$file/AYT\\_9\\_2020.pdf?OpenElement](http://www.ombudsman.gov.cy/ombudsman/ombudsman.nsf/All/7EE18391CBE8E56CC2258542002907CB/$file/AYT_9_2020.pdf?OpenElement)
- [http://www.ombudsman.gov.cy/Ombudsman/ombudsman.nsf/All/BDDE33B1D61926DBC22585370040AFB1/\\$file/NPM%20COVID-19\\_26032020.pdf?OpenElement](http://www.ombudsman.gov.cy/Ombudsman/ombudsman.nsf/All/BDDE33B1D61926DBC22585370040AFB1/$file/NPM%20COVID-19_26032020.pdf?OpenElement)
- Information on the Cyprus news Agency website on the gradual easing of measures:
- <http://www.cna.org.cy/WebNews-en.aspx?a=8623b28898b94f10851cc5fa7f8c0560>

