

DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT **C**

CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS



Constitutional Affairs

Justice, Freedom and Security

Gender Equality

Legal and Parliamentary Affairs

Petitions

The impact of the crisis on fundamental rights across Member States of the EU

Country Report on Cyprus

STUDY FOR THE LIBE COMMITTEE





DIRECTORATE GENERAL FOR INTERNAL POLICIES

**POLICY DEPARTMENT C: CITIZENS' RIGHTS AND
CONSTITUTIONAL AFFAIRS**

CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS

The impact of the crisis on fundamental rights across Member States of the EU Country Report on Cyprus

STUDY

Abstract

Upon request by the LIBE Committee, this study looks into the impact of the economic crisis and the austerity measures which were introduced as a response thereto, to the enjoyment of a set of selected fundamental rights by individuals in Cyprus. It also contains recommendations on how to make sure that the enjoyment of these rights is ensured in the future.

**DOCUMENT REQUESTED BY THE
COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS**

AUTHORS

Corina Demetriou

Under the supervision of Milieu Ltd. (Belgium), 112 Chaussée de Charleroi, B-1060, Brussels, tel: +32 2 514 3601; Fax +32 2 514 3603; Project Director: Dr. Emma Psaila, e-mail: emma.psaila@milieu.be; Project Manager: Aleksandra Ivankovic Tamamovic, e-mail: aleksandra.ivankovic@milieu.be; web address: <http://www.milieu.be/>

RESPONSIBLE ADMINISTRATORS

Roberta Panizza
Sarah Sy
Policy Department C: Citizens' Rights and Constitutional Affairs
European Parliament
B-1047 Brussels
E-mail: poldep-citizens@europarl.europa.eu

LINGUISTIC VERSIONS

Original: EN

ABOUT THE EDITOR

Policy Departments provide in-house and external expertise to support EP committees and other parliamentary bodies in shaping legislation and exercising democratic scrutiny.

To contact the Policy Department or to subscribe to its monthly newsletter please write to: poldep-citizens@ep.europa.eu

European Parliament, manuscript completed in February 2015. Given the continuously changing situation in the Member State under examination, the cut-off date for the data collection was set for 30 June 2014.

© European Union, Brussels, 2015.

This document is available on the Internet at:
<http://www.europarl.europa.eu/studies>

DISCLAIMER

The opinions expressed in this document are the sole responsibility of the author and do not necessarily represent the official position of the European Parliament.

Reproduction and translation for non-commercial purposes are authorized, provided the source is acknowledged and the publisher is given prior notice and sent a copy.

CONTENTS

LIST OF ABBREVIATIONS	6
LIST OF TABLES	7
EXECUTIVE SUMMARY	8
1. IMPACT OF THE ECONOMIC CRISIS AND OVERVIEW OF THE MAIN MEASURES ADOPTED TO COPE WITH IT	12
1.1. The impact of the crisis in Cyprus	12
1.2. Overview of relevant measures	16
2. IMPACT OF THE AUSTERITY MEASURES ON THE RIGHT TO EDUCATION (COMPULSORY EDUCATION)	20
2.1. International and EU legal framework for the protection of the right to education	20
2.2. The right to education in Cyprus	21
2.3. Size of classrooms and school mergers	21
2.4. Austerity measures	23
2.5. Measures taken in alleviation	24
2.6. Concluding remarks	25
3. IMPACT OF THE AUSTERITY MEASURES ON THE RIGHT TO HEALTHCARE	26
3.1. International and EU legal framework for the protection of the right to healthcare	26
3.2. The right to healthcare in Cyprus	27
3.3. Systemic characteristics	27
3.4. New charges and restrictions in access to healthcare	29
4. IMPACT OF THE AUSTERITY MEASURES ON THE RIGHT TO WORK	31
4.1. International and EU legal framework for the protection of the right to work	31
4.2. The right to work in Cyprus	32
4.2.1. The right to work under the Constitution	32
4.2.2. The transformation of the right to work	32
4.3. Wage cuts and reforms in the public sector	38
4.3.1. Deductions in the salaries of public sector workers	38
4.3.2. Deductions of 3% from salaries of public sector contract employees	39
4.3.3. Promotions in the public service with pay rises suspended	39

4.3.4. Interchangeability in the public sector	39
4.4. Reforms in the private sector	40
4.4.1. Working hours of shop employees	40
4.4.2. The Finance Minister issues decree ordering the reduction of banking employees' wages	41
4.4.3. Greek language requirement	41
5. IMPACT OF THE AUSTERITY MEASURES ON THE RIGHT TO PENSION	43
5.1. International and EU legal framework for the protection of the right to pension	43
5.2. The right to pension in Cyprus	43
5.3. Impact of the legal changes	44
6. IMPACT OF THE AUSTERITY MEASURES ON THE RIGHT OF ACCESS TO JUSTICE	46
6.1. International and EU legal framework for the protection of the right of access to justice	46
6.2. Right of access to justice in Cyprus	47
6.3. Austerity measures concerning access to justice	47
7. RIGHT TO FREEDOM OF EXPRESSION AND ASSEMBLY: PROTESTS AGAINST AUSTERITY MEASURES	50
7.1. International and EU legal framework for the protection of the freedom of expression and assembly	50
7.2. Protection of the freedom of expression and assembly in Cyprus	51
8. OVERVIEW OF THE IMPACT OF THE AUSTERITY MEASURES ON OTHER FUNDAMENTAL RIGHTS IN CYPRUS	54
8.1. The Right to Property (confiscation of bank deposits)	54
8.2. Right to Housing	57
8.3. Right to collective bargaining and limitations as to its exercise and the right to a decent wage	59
9. MONITORING COMPLIANCE OF NATIONAL MEASURES WITH FUNDAMENTAL RIGHTS	62
9.1. Labour related authorities	62
9.2. The Ombudsman/Equality Body	63
9.3. The Supreme Court rejects applications regarding salary cuts	66
10. CONCRETE PROPOSALS FOR IMPROVING THE RESPECT OF FUNDAMENTAL RIGHTS IN TIMES OF ECONOMIC CRISIS	68
10.1. General recommendations	69
10.2. Specific recommendations	69

REFERENCES	72
Table of cases	72
ECtHR case-law	72
National case-law	72
Table of legislation	72
International law	72
European law	73
National law	73
Publications	74
European institutions	74
International organisations	75
National government and authorities	76
Media articles	77
Other publications	78
List of stakeholders consulted	80
ANNEX 1 - EXCERPTS FROM MEMORANDUM OF UNDERSTANDING ON SPECIFIC ECONOMIC POLICY CONDITIONALITY	81
ANNEX 2 - OVERVIEW OF RELATED STUDIES	87

LIST OF ABBREVIATIONS

- CADE** Convention against Discrimination in Education
- CEDAW** Convention on the Elimination of All Forms of Discrimination against Women
- CRC** Convention on the Rights of the Child
- CRPD** Convention on the Rights of Persons with Disabilities
- ECHR** European Convention on Human Rights
- ICCPR** International Covenant on Civil and Political Rights
- ICESCR** International Covenant on Economic, Social and Cultural Rights
- RESC** Revised European Social Charter
- UDHR** Universal Declaration of Human Rights
- WHO** World Health Organisation

LIST OF TABLES

TABLE 1

GDP	13
-----	----

TABLE 2

Percentage of the population unemployment	14
---	----

TABLE 3

Percentage of the population at risk of poverty	15
---	----

TABLE 4

Severely materially deprived people (Source: Eurostat)	15
--	----

TABLE 5

Main measures and impact related to the crisis in Cyprus, 2010-2014	18
---	----

TABLE 6

Indicators on education, school years 2008 to 2014	22
--	----

TABLE 7

Percentage of workforce working part-time	37
---	----

TABLE 8

Part-time and full time employment and unemployment per quarter	37
---	----

TABLE 9

Numbers of officers of the Equality Body, 2004-2012	64
---	----

TABLE 10

Budget of the Ombudsman and Equality Body, 2004-2010	65
--	----

TABLE 11

Number of employment-related complaints	66
---	----

EXECUTIVE SUMMARY

The economic crisis in Cyprus, exacerbated by the Greek debt crisis and national market distortions such as the size of the banking sector and its exposure to non-performing assets, have led the government to seek assistance from the EU's bail out mechanism. The deal with the Eurogroup, which was concluded and started to be implemented in March 2013, was a combination of a *bail-out/bail-in* coupled with a set of austerity measures intended to shrink the oversized banking sector, cut public spending and introduce structural reforms. The programme is still in the process of being implemented, against a backdrop of rising unemployment and poverty. In addition to the austerity measures adopted as a result of the Memorandum concluded with the Troika, additional measures were introduced by the new government which came into power in March 2013, such as the replacement of the public benefit with the minimum guaranteed income and the increased cost of and limited eligibility for healthcare, which have seriously undermined a number of fundamental rights.

A general freezing in recruitments in the public service has generated staff shortages in the many public sectors, as public employees who retire are not being replaced. Overall, the freezing in recruitments in the public sector has not affected the general quality of **education**, as teachers continued to be hired to fill in the gaps of those who retire, albeit on a contract basis. The filling in of the gaps however has been slow and inadequate as a result of which less time is now devoted to support teaching and to services for vulnerable students. The budget cuts in education are too recent to have an impact yet, as investment in infrastructure planned from the period prior to the crisis continued to take place in 2013-2014. It is anticipated that the impact from the budget cuts will become more apparent in the years to come, as the lack of investment funds will lead to reduction in the expenditure for maintaining school infrastructure. The introduction of a bus fare in 2013 for the transfer of school children to and from school, previously free of charge, has caused some children to have to walk miles to school every day and some parents to take turns in order to transport children to school.

Healthcare is one of the sectors worst hit by the measures adopted as a result of the crisis. The absence of a comprehensive healthcare system, coupled with a set of measures introduced in 2013 restricting eligibility to healthcare, has meant that access to free public healthcare is no longer based on need but on contributions. In particular, the new eligibility conditions restrict the right to free healthcare to those with at least three years of contribution to social insurance, and introduced charges for services which used to be free for the largest percentage of the population, including emergency healthcare and drugs.

The freezing in recruitments in the public service and the salary cuts of all public employees, in combination with the increased demand for public health services as a result of the crisis, has led to a shift of medical personnel from public hospitals to private clinics. This phenomenon further accentuated the problem of the created long queues at public hospitals and prolonged the waiting time of patients waiting to see a doctor.

The introduction of a national healthcare scheme that has been on the table for years is now being halted as the government pursues an alternative model of healthcare, involving private insurance companies.

Employees in the public sector were amongst the first to be affected by the austerity packaging, initially with a freeze in pay rises, then salary cuts and then a freezing in new

recruitments, in an effort to downsize the public sector and reduce the public payroll. Shortly afterwards, salary cuts were introduced to private sector employees. Wage cuts were also imposed by the government on banking employees in cooperative banking institutions, whilst the prolongation of the shops' opening hours has negatively affected the working conditions of the shop employees. The future of the semi-public employees, currently employed in the large semi-state owned service providers, such as electricity, telephony, airline, port management authority and others, remains uncertain as the privatisation of organisations is already under way.

Apart from the sharp rise in unemployment, the crisis has caused a rise in atypical and precarious forms of employment in various sectors of the economy and an increase in part-time work.

A number of measures were introduced in an effort to curb unemployment amongst Cypriots, leading to discrimination and exclusion of foreign nationals, such as the informal quota of hiring 'mostly Cypriots' and the Greek language requirement.

The welfare system was drastically reformed in 2014 through the introduction of a new scheme for the payment of a 'minimum guaranteed income' of €480 per month, replacing a number of benefits including **pensions**. The scheme carries a list of disadvantages for low income pensioners who are, on the one hand, not obliged to apply, but on the other stand to lose part of their pension if they do not apply.

In combination with other cuts and tax increases, the scheme will result in a drop by 30% of the standard of living of the low income pensioners. Against this backdrop, a Supreme Court decision declared as unconstitutional a law that sought to put an end to the practice of retired public servants taking up paid public posts following their retirement and receiving a double income from the state.

Concerning **access to justice**, the right to seek recourse to courts in order to challenge austerity measures affecting rights is in theory guaranteed, as the Court recognises a role for itself to check on interference with rights by the administration. There are however a number of Supreme Court decisions illustrating the Court's limitations in protecting rights from austerity packages.

No legal aid is available for administrative law recourses.

The delays traditionally suffered in trials of cases have been accentuated by the large volume of crisis-related and austerity-related cases. The crisis has led to a regression of the nucleus of rights into the concept of social protection, to the extent that there is little contestation or claiming of rights.

The **right to freedom of expression and assembly** has more or less remained at the same levels as in the pre-crisis period. Administrative and police practices have not changed after the crisis, with police brutality and authoritarian behaviour being mostly reserved for the migrants.

The crisis in Cyprus has affected the **right to property** in multiple ways. The measure that has affected the economy and society more than any other was the haircut of deposits, as bank customers were suddenly confronted with an emerging norm that their deposits in the bank are not their own absolute property but an investment which can be confiscated to cover the banks' bad debts.

Two measures are of interest regarding their effect on the **right to housing**. The first – that continues to be at the forefront of public debates – is the forced acquisitions of residential homes mortgaged in order to cover non-performing housing loans. The second measure – that has received little public attention or concern – is the drop in the housing

allowance for asylum seekers who are increasingly finding it impossible to lead a dignified existence in Cyprus.

The **right to collective bargaining** has been gradually undermined by a series of measures unilaterally adopted on the pretext of emergency and in order to avoid an economic catastrophe, a concept that has been deemed legitimate by the courts in most cases, except in the double pensions paid to retired public sector senior employees, as explained above. The economic crisis and mass unemployment have further undermined the bargaining power of the trade unions, in spite of legislation in 2012 aimed at strengthening trade union capacity to negotiate.

In the field of **monitoring mechanisms**, a number of authorities monitoring conditions at the workplace operate from within the Ministry of Labour, but with limited mandate or resources and of little effect in safeguarding fundamental rights.

The most important body as regards the monitoring of the implementation of fundamental rights is undoubtedly Ombudsman/Equality Body, with several independent authorities operating from its office. It is the only body with a sufficient mandate, political will and expertise to address the issue but is greatly understaffed and under resourced to do so. It is nevertheless the only body to publically and emphatically warn of the risks to fundamental rights posed by the crisis and by the austerity measures. The Equality Body has seen the number of employment related complaints submitted to its office drop sharply in 2013, as obviously employees are unwilling to risk their jobs by filing complaints against their employers in the face of mass unemployment.

Recommendations

General recommendations

The need to develop a mentality of prioritising rights across the board over and in spite of austerity must be central in the fight to defend fundamental rights at times of crisis. This must also be a primary consideration in the conceptualisation of rights, to avoid a regression of public debate by crisis-ridden terminology which essentially undermines the nucleus of rights which have until recently been seen as fundamental. Also, the devastating effects of the 'bail-in' on society, on the national economy and on its chances for recovery need to be examined carefully before this measure is contemplated again in the Cypriot or in another context.

In light of the long-term effects of austerity, educating and equipping the youth to maintaining the values of democracy, equality and respect for diversity becomes a primary goal

Recommendations addressing gaps and weaknesses identified in the various sectors of this study will only become meaningful and useful if austerity is seen as a measure and not as an ideology and there is political will to respect rights as a fundamental priority.

Specific recommendations

Right to education

In the sensitive sector of education, a measure addressing only the disadvantaged children will inevitably be unpopular, as no child would want to be associated with the stereotype of the underprivileged. Therefore, mechanisms assuring equal access to education, such as free transport to school, must be ensured.

Right to healthcare

In particular, reforms in healthcare which were recently introduced, restricting the eligibility of persons without social insurance contributions in the previous three years, need to be reviewed in light of the fact that vulnerable groups may only have had access to undeclared work in the past three years.

Right to work

First, the measure of freezing recruitments to the public service must be evaluated against its multi-faceted economic and social costs. Furthermore, privatisation of State owned enterprises need to be negotiated having in mind the interests of their employees who will otherwise find themselves out of work and having to draw on the State's limited resources to maintain subsistence levels.

Right to pension

Welfare benefits which were until recently available to the elderly and were removed through the introduction of the minimum guaranteed income need to be restored as a measure to combat the social exclusion and isolation of Cyprus' older population. To achieve this, the current legislation on the minimum guaranteed income needs to be substantially revised through consultation with the pensioners' representatives by removing problematic provisions such as the loss of the social pension for those who failed to apply for them, under the limited circumstances or the officials' discretion in decision-making.

Right to housing

The social repercussions of homelessness which will result from the implementation of the draft legislation on bank acquisitions of residential homes need to be taken into consideration in conditions that can move the debate beyond the monetary sphere and into the social sphere. What should especially be considered during the debate is the degree of vulnerability and the age of the persons to be subjected to homelessness, how homelessness will affect children's right to education, health and safety and how it will affect the home owners' access to the labour market among other rights.

Right to freedom of expression and protest

Freedom of expression and of protest has not been affected by any crisis-related measures although the issue of police misconduct affecting migrants and asylum seekers protesting against measures affecting them needs to be addressed.

Right of access to justice

The legislative framework would benefit from a comprehensive expansion of legal aid to all persons whose fundamental rights have been violated, including administrative recourses irrespective of income and without discretion from the courts. In addition, time limits should be introduced on lawsuits to address the problem of delays whilst compulsory training of judges on the EU fundamental rights acquis could potentially ensure a more rights-based approach in dealing with crisis-related law suits. The setting up of a mechanism for the administrative examination of complaints by a team of sociolegal experts could alleviate the courts' workload, address delays and provide cost-free and effective solutions for complainants in a short period of time.

Monitoring mechanisms

Human rights monitoring mechanisms such as the social partners and the equality body need to be empowered to monitor and bring change, through the allocation of adequate resources and the strengthening of their mandate.

1. IMPACT OF THE ECONOMIC CRISIS AND OVERVIEW OF THE MAIN MEASURES ADOPTED TO COPE WITH IT

KEY FINDINGS

- The economic crisis in Cyprus, exacerbated by the Greek debt crisis and national market distortions such as the size of the banking sector and its exposure to non-performing assets, has led the government to seek assistance from the EU's bail out mechanism.
- The deal with the Eurogroup was a combination of a bail-out/bail-in coupled with a set of austerity measures intended to shrink the oversized banking sector, cut public spending and introduce structural reforms. The programme is still in the process of being implemented, against a backdrop of rising unemployment and poverty.

1.1. The impact of the crisis in Cyprus

In 2009 the Cypriot economy started to be adversely affected by the default of the Greek bonds, where Cypriot bank shed large positions. The Cypriot banking sector, amounting to 860% of the GDP¹, was particularly affected by the write-downs in the Greek Private Sector Involvement (PSI) of February 2012. The decline of the economy continued as the banking sector started to demonstrate signals of failure. The banking sector's deficit was initially met with financial assistance from the state which soon discovered, however, that it lacked the capital needed to save the sector. In addition to the debt crisis in Greece, Cyprus' most major commercial partner, the exposure of Cypriot banks to the overleveraged local property developers soon led to the failure of the banking system. In June 2012, the government filed a request to the EU's bail out mechanism for assistance. The bail-out agreement with the Euro group was delayed until March 2013 when the new government came to power. Within weeks of coming into office, the new government signed the memorandum of understanding with the Troika (the programme)². Under the programme; the Cypriot government had to quickly implement a series of comprehensive structural reforms in various economic sectors, with the restructuring of the banking sector at the top of the list. In light of the large size of the banking sector compared to the country's GDP, the Euro group refused to provide a bail-out but a combination of a bail-in/bail-out deal: in return for the loan of €10 billion, the government agreed to close the country's second largest bank and impose a bank deposit levy³ on all uninsured deposits (i.e. deposits in excess of €100,000) in the country's two major banks, in what came to be known as the 'haircut of deposits'.

Under the memorandum, Cyprus is required to achieve a 4% of GDP primary surplus by 2018. The 2013 target for the headline balance was a deficit of 6.5% of GDP; this target was met (with an estimated deficit of 5.9% of GDP) as the economy performed better than

¹ Rabobank, Economic Research Department (2014), 'Country Report - Cyprus', available at <https://economics.rabobank.com/publications/2014/april/country-report-cyprus/>.

² Programme of Financial Support to the Republic of Cyprus (Πρόγραμμα Οικονομικής Στήριξης της Κυπριακής Δημοκρατίας), available on the website of the Ministry of Finance (Υπουργείο Οικονομικών), at <http://www.mof.gov.cy/mof/mof.nsf/All/307B9439AB112355C2257D5D0022C9A3?OpenDocument>.

³ All bank deposits in excess of €100,000 in the Cyprus Popular Bank, the country's second largest bank, were expropriated, along with all bank shares and bonds held by the bank's clients. Forty-seven per cent of all deposits in excess of €100,000 in the Bank of Cyprus, the country's largest bank, were confiscated, again along with all bank shares and bonds.

expected in 2014, contracting by 'only' 5.7% compared to the estimated 8.7% foreseen in the memorandum.

Table 1: GDP

Gross domestic product at market prices: Percentage change over previous period				
2009	2010	2011	2012	2013
-1.9	1.3	0.4	2.4	-5.4
Gross domestic product at market prices: Index, 2005=100				
2009	2010	2011	2012	2013
111.3	112.7	113.2	110.5	104.5

Source: Eurostat

The haircut of deposits had devastating effects on the economy, leading to a downgrading of the Cypriot government's credit rating by international credit rating agencies to junk status, an inability of the banks to finance business activity and a loss of trust by the public in the banks⁴. The increase in unemployment and the austerity measures drove almost a third of the population into poverty⁵.

⁴ Between 2012-2013 there was a drop of €20,823 million deposited in Cypriot banks. Between 2013-2014 this amount dropped further by €3,170 million. The amounts of loans in Cypriot banks also dropped in the same drop: by €6,547 million for the period 2012-2013 and by €5,208 million in 2013-2014.

(Source: Statistical Service of the Republic of Cyprus (Στατιστική Υπηρεσία της Δημοκρατίας της Κύπρου), Ministry of Finance (Υπουργείο Οικονομικών), 'Comparative Indicators 2011-2014', 2014. available at http://www.mof.gov.cy/mof/cystat/statistics.nsf/economy_finance_13main_en/economy_finance_13main_en?OpenForm&sub=3&sel=4#). There is no statistical record as regards the drop in *new* loans advanced by banks in the past few years; the amount recorded under 'loans' in the aforesaid data is likely to represent old loans because banks no longer offer new loan facilities.

⁵ Rabobank, Economic Research Department, 'Country Report - Cyprus', 2014, available at <https://economics.rabobank.com/publications/2014/april/country-report-cyprus/>.

Table 2: Percentage of the population unemployment

Year	Quarter	Men	Women	Male Youth (15-24)	Female Youth (15-24)	Youth (15-24)	Total
2014	1	17.2	14.6			39.6	16.9
	2	16.8	13.9			37.2	15.4
2013	Average	16.5	15.2	41.1	36.8	38.9	15.9
2012	Average	12.5	11.1	28.8	26.7	27.7	11.8
2011	Average	8.1	7.7	23.3	21.5	22.4	7.9
2010	Average	6.2	6.4	15.9	17.2	16.6	6.3
2009	Average	5.3	5.5	13.6	14.0	13.8	5.4
2008	Average	3.2	4.3	8.7	9.4	9.0	3.7
2007	Average	3.4	4.6	11	9.4	10.2	3.9

Source: Eurostat

The fact that unemployment has affected men worse than women is likely to be an indication of the fact that women are prepared to work under inferior working conditions and for less pay⁶. Also, the higher unemployment level amongst men is the result of certain economic sectors shutting down completely, which were predominantly staffed by men, such as the construction sector which has now come to a halt. The high rate of unemployment amongst the youth is a manifestation of the stagnation in economic activity in recent years, affecting newcomers to the labour market more than existing workers. To get a complete picture of the labour market, one would also have to look at the figures for part time and informal work, which are analysed in chapter 4 below.

⁶ Consultations with trade unionists and the Equality Body officer, September 2014.

Table 3: Percentage of the population at risk of poverty

Year	2007	2008	2009	2010	2011	2012	2013
Total population	25.2	23.3	23.5	24.6	24.6	27.1	27.8
Males	22.7	20.5	20.9	22.8	22.8	25.1	26.8
Females	27.6	25.9	26.0	26.3	26.4	29.0	28.8
Youth (18-24)	20.9	20.8	23.0	24.4	25.0	29.6	32.7
Male youth (18-24)	21.4	20.3	21.7	27.9	25.5	29.6	35.1
Female youth (18-24)	20.4	21.3	24.4	20.7	24.5	29.5	30.3

Source: Eurostat

Table 4: Severely materially deprived people⁷ (Source: Eurostat)

Year	2008	2009	2010	2011	2012	2013
Population %	9.1%	9.5	11.2%	11.7%	15%	16.1%

Source: Eurostat

A 2013 report estimated that the actual decrease of wages by 2013 would reach 30% in comparison to 2011. For 2012-2013 there was a drop of 15% in the average wage in comparison to 2011, whilst the rise in unemployment has meant that an additional 9% of the population were out of work. The trend has continued to the present day as the purchasing power of workers is continuously decreasing and unemployment is on the rise. It is thus not surprising that in 2013 an increase in the risk of poverty figures was recorded. The poverty risk index refers to the percentage of the population which lives under the poverty line, in households with serious material deprivation or have low employment rates. Those over 18 and in jobs faced the lowest poverty risk (8.9%). The figure for pensioners was 19.7%. In 2013, 16.7% of households without dependent children faced a poverty risk compared to 14.3% of households with dependent children. Among those renting a home the figure stood at 30% while those who had their own home or lived in social housing, the risk of poverty was 13.4%. In 2013, 33.6% of the population delayed paying their loan instalments on their primary home or their rents and utility bills because of financial constraints. Single parent families with dependent children faced the most difficulty⁸.

⁷ Eurostat, Table on *Severely Materially Deprived People*, last update October 2014, available at http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database, (last access September 2014). The collection "material deprivation" covers indicators relating to economic strain, durables, housing and environment of the dwelling. Severely materially deprived persons have living conditions severely constrained by a lack of resources, they experience at least 4 out of 9 following deprivations items: cannot afford i) to pay rent or utility bills, ii) keep home adequately warm, iii) face unexpected expenses, iv) eat meat, fish or a protein equivalent every second day, v) a week's holiday away from home, vi) a car, vii) a washing machine, viii) a colour TV, or ix) a telephone.

⁸ INEK-PEO, 'Report for the Economy and Employment' (*Έκθεση για την Οικονομία και την Απασχόληση*), 2013, available at http://peo.org.cy/images/PDF/inek/ekthessi2013/INEK_EKTHESI%20_2013_WEB.pdf

Economists contend that as a result of the combined effect of economic crisis and austerity measures there has been a sharp rise in poverty from 2013-2014:

"Relative inequality keeps falling, however marginally, in 2013, and 2014. The magnitude of the change depends on the index used, with Atkinson (1.5) displaying the largest proportional reduction. Poverty, according to all indices, falls between 2009 and 2012. However, it increases considerably in 2013 (13.1%-32.9%) and thereafter it stabilises at rather high levels. These results merit a careful interpretation. Firstly, they are partly driven by our methodological choice of setting a static poverty. This choice assumes that inflation will remain either positive or stable. In the long-run such premise is implausible, for prices will ultimately fall. In the short-run, however, we expect a rather sticky price level. Therefore, it is likely for the poor to experience an acute fall of their material well-being, but as product markets approach the equilibrium level their real purchasing power may strengthen"⁹.

In addition to the structural reforms which Cyprus started to introduce on the basis of the memorandum, a series of austerity measures were introduced, some as a result of the memorandum and others on the government's own initiative in circumstances where the distinction between the two types of interventions is often blurred¹⁰. These are discussed in the next section.

1.2. Overview of relevant measures

An example of the blurred distinction between what is required by the memorandum and what measures the government wants to introduce is the reform of the health system: the programme requires Cyprus to undertake significant reforms to prevent healthcare from becoming a drain on fiscal expenditures. Whilst the current healthcare system is, by general admission, costly and unsustainable¹¹, the introduction of the new comprehensive National Health System, which has been planned for several years and which would have significantly reduced the government's healthcare budget, was delayed by the government in order to propose the alternative system of assigning public healthcare to private insurance companies, similar to the model of Switzerland, the Netherlands and the USA.

In addition to the structural reforms to the healthcare and pension system, the programme requires Cyprus to downsize its public sector and reduce the State payroll; an average reduction of 15% on public sector employees is so far scheduled to be imposed by 2016¹². This requirement has partly been met with a wage cut for government employees and the freezing of pay rises, as well as a general freezing in new recruitments in the public service,

⁹ Koutsampelas C. and Polycarpou A., 'The Distributional Consequences of the Cypriot Crisis', *Cyprus Economic Policy Review*, Vol. 7, No. 1, 2013, University of Cyprus, Economic Research Centre, pp. 47-61.

¹⁰ In a statement to the Telegraph in February 2014, the Minister of Finance said: "We're aligned with the Troika. The memorandum could have been our own manifesto. It's a chance to correct our own shortcomings, and do what should have been done in Cyprus long ago." In Evans-Pritchard A., 'Stoic Cyprus back from the dead after banking collapse', *Telegraph*, 22 February 2014, available at <http://www.telegraph.co.uk/finance/financialcrisis/10655816/Stoic-Cyprus-back-from-the-dead-after-banking-collapse.html>

¹¹ Mercer, *Actuarial Study of Cyprus National Health Expenditure and National Health System*, Health Insurance Organisation, October 2013.

¹² Ministry of Labour, Welfare and Social Insurance, 'Cyprus National Social Report', 2014, p.18, at <http://www.google.com.cy/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CB4QFjAA&url=http%3A%2F%2Fec.europa.eu%2Fsocial%2FblobServlet%3FdocId%3D11769%26langId%3Den&ei=6bguVM-mK9f1av-SqdAG&usq=AfQjCNFN2AjKOEIWbcEq2vS4krmbRHtf2w>

which has led to shortages in several sectors. Pensions and social benefits were cut and at the same time a new pension system was introduced which became known as the 'Guaranteed Minimum Wage', explained under Chapter 5 of this study. Increases in VAT and other taxes were also introduced whilst public healthcare, which was previously free for the vast majority of the population, now comes at a price; this is discussed in Chapter 3 below. The programme further requires the privatisation of major state assets, mainly consisting of the large State-Owned Enterprises (SOE), which had so far provided essential services such as electricity, sea port management and telephony, and the fast-track acquisition by the banks of properties mortgaged as security for non-performing bank loans. All reforms, with the exception of a few, were introduced through legislation enacted by the Parliament, often after protracted negotiations with the opposition parties. In a few labour related issues, changes were introduced through decisions of the Council of Ministers or decrees issued by the Minister of Labour¹³, a practice which was severely criticised by the workers' unions and the opposition parties as unlawful and threatening to industrial peace. Some of these measures have been challenged in Court by the persons, or groups of persons, affected but with no success. The key court decisions are discussed in chapter 9 below.

The following sections of the national report will focus on the rights to education, healthcare, work and pension. These rights were selected in light of the research carried out at EU and international level on the impact of the crisis on fundamental rights which showed that these rights have been most significantly affected by the austerity measures imposed across Europe. However, to make sure that the study reflects the situation in the country, section 8 will provide a final overview of the national context reporting on other rights that might have been importantly affected in Cyprus. Finally, the study provides findings on the right to manifestation and assembly as well as on the right to access to justice which allow citizens to defend their positions against measures and actions linked to the crisis that negatively affect them.

¹³ These measures include the opening hours of retail shops, the qualifications required under certain employment schemes and adjustments to the minimum wage.

Table 5: Main measures and impact related to the crisis in Cyprus, 2010-2014

Year and category	Measure
2014	
Employment	<ul style="list-style-type: none"> Unemployment average during first quarter: 16.9%. Unemployment average during second quarter: 15.4%.
	<ul style="list-style-type: none"> Further wage cuts, marking a drop of 4.5% from 2013.
	<ul style="list-style-type: none"> Percentage of workforce working part time in the first quarter: 15.1%.
Health	<ul style="list-style-type: none"> The implementation of the new National Health Scheme is halted by the government and a new type of healthcare system, based on the U.S. and the Swiss model, is debated.
Justice	<ul style="list-style-type: none"> The creation of a new Administrative Court is decided, in order to address the long delays in the judicial system.
Social	<ul style="list-style-type: none"> Reform of the social security system: Guaranteed minimum wage is introduced
	<ul style="list-style-type: none"> Supreme Court decision annuls as unconstitutional a law seeking to prohibit the payment of multiple pensions to former civil servants taking public posts after retirement.
	<ul style="list-style-type: none"> A law to permit the forced sale of the residential homes of debtors is debated.
2013	
Economy	<ul style="list-style-type: none"> Memorandum of Understanding with the Troika is signed Confiscation of deposits in the country's two major banks in excess of €100,000. Restrictions in the movement of capital are introduced.
	<ul style="list-style-type: none"> GDP at market prices (index 2005+100) 104.5 International rating agencies downgraded the Cypriot government's bond credit to junk status The country's second largest bank is shut down.
Education	<ul style="list-style-type: none"> Marginal drop in the number of schools, not necessarily attributed to the crisis. Freeze in new recruitments creates staff shortages at schools. Bus fare for students taking the bus to school is introduced.
Employment	<ul style="list-style-type: none"> Wage reductions in the public and private sector. Freezing in pay rises in the public sector Freezing of new recruitments in the public sector
	<ul style="list-style-type: none"> Unemployment average: 15.9%. Youth unemployment: 36.8%. New legislative measures introduced in order to strengthen trade union power but never implemented. Percentage of workforce working part time: 17.5%.

Year and category	Measure
	<ul style="list-style-type: none"> Employers are encouraged to hire Cypriots first. Opening hours of retail shops are extended, causing shop employees to work longer hours. Number of employment-related discrimination complaints to the Equality Body drops from 106 in 2012, to 63. Greek language requirement introduced for certain sectors.
Health	<ul style="list-style-type: none"> New charges and restrictions are introduced to public healthcare, for services and drugs which were previously provided free of charge.
Social	<ul style="list-style-type: none"> Percentage of the population at risk of poverty: 27.8%.
	<ul style="list-style-type: none"> Percentage of severely materially deprived people: 16.1%. Social benefits and rent allowance to asylum seekers are severely restricted.
2012	
Employment	<ul style="list-style-type: none"> Unemployment average: 11.8%. Youth unemployment: 27.7%.
	<ul style="list-style-type: none"> Percentage of workforce working part time: 15.1%. Number of employment-related discrimination complaints to the Equality Body drops from 144 in 2011, to 106.
Social	<ul style="list-style-type: none"> Percentage of the population at risk of poverty: 27.1%. Percentage of severely materially deprived people: 15%.
2011	
Employment	<ul style="list-style-type: none"> Unemployment average: 7.9%. Youth unemployment: 22.4%.
	<ul style="list-style-type: none"> Percentage of workforce working part time: 14.2%. New law is introduced seeking to prohibit the payment of multiple pensions to former civil servants taking public posts after retirement (annulled in 2014 by Supreme Court).
Social	<ul style="list-style-type: none"> Percentage of the population at risk of poverty: 24.6%. Percentage of severely materially deprived people: 11.7%.
2010	
Employment	<ul style="list-style-type: none"> Unemployment average: 6.3%. Youth unemployment 16.6%. Percentage of workforce working part time: 14%.
Social	<ul style="list-style-type: none"> Percentage of the population at risk of poverty: 24.6% Percentage of severely materially deprived people: 11.2%

2. IMPACT OF THE AUSTERITY MEASURES ON THE RIGHT TO EDUCATION (COMPULSORY EDUCATION)

KEY FINDINGS

- The budget cuts in education are too recent to have had an impact yet, as planned investment continued to take place in 2013-2014. It is anticipated that the impact from the lack of investment will become more apparent in the years to come.
- Overall, the freezing in recruitment in the public sector has not as yet affected the quality of education, as teachers continue to be hired on the basis of temporary contracts for services to fill the gaps of those who retire. However, support teaching and other facilities have been reduced and a bus fare was introduced for the bus transfer to school which was previously free of charge.

2.1. International and EU legal framework for the protection of the right to education

The right to education is defined as a universal entitlement to education, and is recognised as a right that includes the right to free, compulsory primary education for all, as well as an obligation to provide for a system of secondary education which is not necessarily free, but is available and accessible to all, while the material conditions of teaching staff shall be continuously improved in accordance with the International Covenant on Economic, Social and Cultural Rights (the 'ICESCR')¹⁴. In addition, the right to education encompasses the obligation to combat discrimination at all levels of the educational system and to set minimum standards and to improve quality of education. As an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities¹⁵. Education needs to be provided under the principles of: availability, accessibility, acceptability and adaptability¹⁶.

The right to education has been reaffirmed in the 1960 UNESCO Convention against Discrimination in Education, Article 10 of the Convention on the Elimination of All Forms of Discrimination against Women (the 'CEDAW'), Articles 28 and 29 of the Convention on the Rights of the Child (the 'CRC') and Article 24 of the Convention on the Rights of Persons with Disabilities (the 'CRPD'). Furthermore, it is also guaranteed by Article 2 of Protocol No. 1 to the European Convention on Human Rights (the 'ECHR').

The EU Charter guarantees the right to education and access to vocational and continuing training, with the possibility to receive free compulsory education¹⁷.

¹⁴ International Covenant on Economic, Social and Cultural Rights, General Assembly Resolution 2200A (XXI) of 16 December 1966, 1976, article 13.

¹⁵ UN Committee on Economic, Social and Cultural Rights, 'General Comment No. 13 – Right to education', UN Doc. E/C.12/1999/10 (1999), §1.

¹⁶ *Ibid*, §6.

¹⁷ The EU Charter, Article 14.

2.2. The right to education in Cyprus

The right to education is guaranteed by article 20 of the Constitution which provides:

*"1. Every person has the right to receive, and every person or institution has the right to give, instruction or education subject to such formalities, conditions or restrictions as are in accordance with the relevant communal law and are necessary only in the interests of the security of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or the standard and quality of education or for the protection of the rights and liberties of others including the right of the parents to secure for their children such education as is in conformity with their religious convictions."*¹⁸

Attendance at pre-school, primary school and secondary school is compulsory until the student completes the pre-lyceum cycle or the 15th year of his life, whichever occurs first¹⁹.

2.3. Size of classrooms and school mergers

The crisis in Cyprus is a rather recent phenomenon and most statistical data do not yet reflect the impact of the crisis or of the measures taken in response. In general terms, the freezing in recruitment in the public sector has also affected public education as retiring teaching personnel are not being replaced by new permanent recruitments but instead by self-employed service providers. However, this has not as yet affected the number of children in the classroom or the ratio of the number of children per teacher. Although no statistics are available regarding secondary education, it is likely that the ratio has remained the same, or more or less the same, in secondary education too.

The maximum number of pupils allowed in each classroom (25) has not been altered in recent years. In order to overcome the hurdle of the general freezing in recruitment in the public sector, teachers are hired on a contractual basis and certain services are being outsourced. The number of primary schools has shrunk slightly since, on average, two schools per year merge with other schools. Although the Ministry of Education has not provided any explanations for these mergers, educationalists believe that they have resulted from the drop in the number of pupils below the minimum number of students foreseen by the regulations and not from an endeavour to cut down on costs; the views of educationalists converge that in such cases a merger is indeed necessary and recommended as there are several disadvantages attached to attending a very small school. One of these disadvantages is that in small schools when the number of pupils falls below the minimum prescribed by regulations, then classrooms of different grades will be merged; in such a case the maximum number of pupils in the classroom is 20²⁰.

The regulation as regards merging of classrooms has been in place for several years but was never implemented prior to the crisis. In the post crisis era and in light of shortages in teaching staff, classrooms falling below the minimum number of students are merged with

¹⁸ Constitution of the Republic of Cyprus (Το Σύνταγμα της Κυπριακής Δημοκρατίας), 1960. Available at <http://www.cylaw.org/nomoi/enop/non-ind/syntagma/full.html>.

¹⁹ Article 3 of the Law on Primary and Secondary Education (compulsory attendance and provision of free education) (Ο περί Δημοτικής και Μέσης Εκπαίδευσης Νόμος (Υποχρεωτική Φοίτηση και Παροχή Δωρεάν Παιδείας)) Ν.24(I)/1993, available at http://www.cylaw.org/nomoi/enop/non-ind/1993_1_24/full.html.

²⁰ Circular letter to all primary schools from the Director of Primary Education Ref. ΑΠ/ΑΠ ΕΓΙΚΛΙΟΙ2013-2014. ΕΝΑΡΧΙ dated 26 August 2013, available at <http://egkyklioi.moec.gov.cy/Data/dde3802a.pdf>.

the next grade. In the absence of qualitative data to support conclusions, one may argue that the transfer of pupils from schools which have shut down to new schools nearby cannot really be seen as placing a burden on children or as affecting their educational experience because these mergers took place in rural areas where distances between villages and schools are small, however transport may be an issue for some pupils, as explained below. The drop in the number of students observed in the statistics below was explained by educationalists as the result of emigration or of migrants returning to their countries of origin due to rising unemployment²¹.

Table 6: Indicators on education, school years 2008 to 2014

School year	'08-'09	'09-'10	'10-'11	'11-'12	'12-'13	'13-'14
No. of primary Schools	347	345	344	342	340	338
No. of pupils in primary schools	51,297	50,386	49,889	49,795	49,612	48,645
No. of teachers in primary schools	4,171	4,243	4,167	4,154	4,144	4,084
No. of special schools	9	9	9	9	9	9
No. of pupils in special schools	293	294	288	311	343	365
No. of teachers in special schools	137	134	139	139	148	154

Source: Ministry of Education²²

A slight drop in the number of schools operating as “optional all day schools” was also observed between the years 2011- 2012 (from 118 to 113 schools)²³. In the absence of any data, one cannot conclude that this drop relates to the crisis. The Ministry of Education did not provide any explanations, but it is likely that the drop is related to insufficient demand for this service by parents and/or to shortages of staff needed for this initiative. The optional all day school provides activities for pupils that enable them to remain at school until late afternoon, offering lunch, assistance with homework and creative activities such as sports or arts. It is funded by the parents of the pupils who attend the all day school and is mainly intended to facilitate parents who work long hours. Since 2011-12 the number of optional day schools in operation has remained constant.

²¹ Consultation with public education teachers, September 2014.

²² Available at http://www.moec.gov.cy/dde/pdf/statistika_el.pdf.

²³ Ministry of Education (Υπουργείο Παιδείας), *Child Poverty and Social Exclusion – ensuring investment in children*, 17 December 2013. Contribution of the Ministry of Education of Cyprus to European Commission, DG Employment, Social Affairs & Inclusion, *Investing in Children – Breaking the Cycle of Disadvantage. A Study of National Policies*, 2014.

2.4. Austerity measures

The policy of austerity and budget cuts did have a number of results. However, most will not become apparent for a few years yet, as the crisis in Cyprus essentially surfaced only in 2012-2013. Some of the measures likely to affect the quality of education are the following:

- Since the late 1990s buses transporting children from their homes to their schools and back were free for residents of rural areas and pupils enrolled in technical schools. The previous government (2008-2012) had introduced a general scheme of free bus transfers for all school children in order to encourage school attendance by pupils from the lower economic stratum. During this period, according to estimations of the national association of parents of school children, the buses were used by around 35,000 school children (including pupils of gymnasium, lyceum and technical schools). The Troika required that the general transport budget be reduced and the new government initially introduced a charge of €20 per pupil per month, reduced to €10 following mobilisations and protests from pupils. It is estimated by the National Parents' Association that as from 7 January 2014 onwards, when the bus fare was introduced, more than 50% of students stopped using the bus; some have to walk long distances to school or are driven by groups of parents on rotation. The parents' association reports that children often walk alongside bus routes unable to board the bus because of the fare, as buses drive past them with only 10 people inside whilst there are 50 seats²⁴. No data is available to suggest that the bus fare has led to school dropouts but at the same time no one can deny that walking long distances to school takes its toll on a child's ability to concentrate.
- The budget of the school secretariat, which covers building maintenance, consumables, cleaning expenses, secretarial services, stationery, equipment, books, etc. has reduced by 20% in 2013-2014 compared to the previous year²⁵. Although the Eurydice reports show a drop in the budget for education from 2012²⁶, the drop in expenditure is not yet apparent in the annual reports of the Ministry of Education²⁷. In fact a certain level of expenditure continued to be carried out even through to 2014 despite the budget cuts, because of commitment under contracts signed two or three years ago. The budget cuts are expected to demonstrate their impact in two to three years from now when the school infrastructure will be in need of maintenance but there will be no budget or plans for any investment expenditure.
- Support teaching for the non-Greek speakers, previously offered as a matter of policy in schools with a high concentration of children of a migrant background, has been reduced or eliminated in some schools, depending on need, as the migrant population of schools is gradually decreasing²⁸. The picture differs from school to school, but generally speaking support teaching is given only if there are surplus

²⁴ Consultation with the President of the National Parents' Association, September 2014.

²⁵ Consultation with teacher in public education, September 2014.

²⁶ European Commission/EACEA/Eurydice, *Funding of Education in Europe 2000-2012: The Impact of the Economic Crisis*, Publications Office of the European Union, Luxembourg, 2013. Available at http://eacea.ec.europa.eu/education/eurydice/documents/thematic_reports/147EN.pdf

²⁷ Ministry of Education (Υπουργείο Παιδείας), 'Annual Report 2013' (Ετήσια Έκθεση 2013), available at http://www.moec.gov.cy/etisia-ekthesi/pdf/annual_report_2013_gr.pdf

²⁸ School units submit reports annually to the Ministry of Education informing them of the number of non-native Greek speakers enrolled at the beginning of each year. Teachers in public education contend that the number of children of migrant background in the classrooms has dropped since the crisis started, as migrant families leave Cyprus because of difficulties in finding jobs. The number of language support teaching is decided at the level of the Ministry of Education according to need.

teachers. Prior to the crisis, schools would have always made sure that they have surplus teachers available. Following the general freeze in new recruitments, teachers who retire are not replaced or are replaced to a lesser extent, or the number of teachers contracted on a temporary basis is reduced²⁹. Although the impact of this has not been evaluated and is probably not visible yet, it may be expected that the integration of non-Greek speaking pupils into the school environment and their ability to follow the pace of the class will be slowed down.

- Prior to the crisis, primary school teachers of 1st and 6th grade, which are seen as the most crucial classes, were given two hours exemption from teaching for preparation and coordination. This has now been reduced to one hour, following instructions from the Ministry of Education³⁰. Also, the services of speech therapists and school psychologists, previously available to all pupils, are now only reserved for the very serious cases, as staff shortages resulting from the retirements and the freezing in new recruitments have also affected this category of public employees. According to data supplied to the press by the Department of Educational Psychology of the Ministry of Education, there are approximately 3,000 pupils per every educational psychologist at schools, whilst since the crisis emerged there has been an increase in the number of pupils referred to the school psychologists. In particular, in 2014 there was an increase of 9% in referrals to school psychologists compared to previous years, and 40% concerned new incidents. For the school year 2012-13, there were 5,500 referrals of pupils to the school psychologists, which meant 130-140 incidents per school psychologist, a very high number considering that each psychologist must visit about 10-15 schools and maintain regular and frequent contact with each pupil referred to him or her³¹.

2.5. Measures taken in alleviation

The only initiative adopted by the Ministry of Education in order to assist pupils and their families with the difficulties faced as a result of the crisis, is the provision of free breakfast (sandwich and drink) to 10,000 students identified as children in need by their schools³². For the academic year 2012-2013 the total cost of this initiative was €780,000, whereas for the academic year 2013-2014 the cost is expected to rise to €800,000 serving around 11,000 students. This initiative was co-financed by the private sector and the Ministry of Education. The implementation of this measure, however, was not uniformly successful. Teachers report that the 'breakfast' consists of just a dry slice of bread with cheese and children are not interested. Also, children do not like being singled out as poor or needy and, unless this meal is offered to them discreetly, they will not take it. The picture varies from school to school and in many communities, extended family will help with the needs of the children at school. In some schools, particularly in rural areas, volunteers from the community come to schools in the morning to make breakfast for all the children, which is far preferable to singling out the poorer children. No assistance is provided by the state to cover the cost of school uniforms, school bags and pencil cases for which poorer families have to rely on volunteers' initiatives³³.

²⁹ Consultation with public education teachers from primary schools, September 2014.

³⁰ Consultation with public education teachers from primary schools, September 2014

³¹ Soteriou S., 'Children, the collateral damage of the crisis' (*Τα παιδιά, οι παράπλευρες απώλειες της κρίσης*), *Haravgi* Newspaper, 28 September 2014, p. 12. Not available online.

³² Relevant announcements of the Ministry of Education and culture are available at: <http://egkyklloi.moec.gov.cy/Circulars/Index.aspx>

³³ Consultation with public education teachers from primary schools, September 2014.

Since the crisis started, as a matter of policy, inspectors of the Ministry of Education have been requiring teachers not to burden the parents' budget with unnecessary expenses³⁴, but each school has been implementing this recommendation only in the manner and to the extent it deems fit. As a result, extra-curricular activities and field trips, previously partly sponsored by the Ministry of Education, have been reduced to a minimum compared to previous years.

2.6. Concluding remarks

Education in Cyprus has always been free and continues to remain so in spite of the crisis. However, the contribution which the system requires from the families, in the form of buying school uniforms and other required equipment and consumables, which has not changed in recent years, nonetheless has become a significant amount for households facing poverty and unemployment. The impact of the budget cuts that have brought about the reduction in support teaching and the decrease of the budget for maintenance of school infrastructure are too recent to evaluate.

Overall, out of all educational policies in place, the only measure that may be said to amount to a denial of the right to education is the policy that has been practised on and off since 2004: the refusal of schools to enrol students whose parents have no residence permit in Cyprus, which is not the result of austerity measures or of the crisis itself but nevertheless worth mentioning as it amounts to a denial of the right to education. The Equality Body has over the years received a number of complaints about this policy and has repeatedly recommended the withdrawal of the Ministry of Education circular requiring school authorities to demand the contact details of the parents in order to enrol foreign children at schools³⁵. Although the circular did not expressly prohibit the enrolment of children of undocumented migrants, in practice it inevitably discouraged undocumented migrants from enrolling their children at school for fear of deportation. When the Third ECRI Report on Cyprus raised the issue and joined the Equality Body in criticising this practice, the Ministry expressed its willingness to review the matter. It was not possible to ascertain whether or how many individual school units continue to apply this practice in the post-crisis era.

³⁴ Consultation with public education teacher from a primary school, September 2014. The instructions are also contained in the circular letter distributed to all schools by the Ministry of Education at the beginning of the school year: Ministry of Education, Circular letter dated 8 August 2014.

³⁵ Anti-discrimination Authority, 'Report of the Anti-discrimination Authority regarding the enrolment of foreign children at schools' (*Έκθεση της Αρχής κατά των διακρίσεων όσον αφορά την εγγραφή των αλλοδαπών παιδιών στα σχολεία*), AKR AYT 2/2009 ; AKR 66/2010, 6 November 2011, available at: http://www.ombudsman.gov.cy/Ombudsman/ombudsman.nsf/presentationsArchive_gr/presentationsArchive_gr?OpenDocument.

3. IMPACT OF THE AUSTERITY MEASURES ON THE RIGHT TO HEALTHCARE

KEY FINDINGS

- Cyprus does not have a comprehensive healthcare system. The introduction of a national healthcare scheme that has been under preparation for years is now being halted as the government pursues an alternative model of healthcare, involving private insurance companies.
- A number of new measures were introduced, restricting the right to free healthcare to those with at least three years of contribution to social insurance, and introducing charges for services which used to be free for the largest percentage of the population.
- The shift of patients from the private sector to the public sector as a result of the crisis, coupled with budget cuts and the shift of medical personnel from public hospitals to private clinics have created long queues at public hospitals and prolonged the waiting time for a patient to see a doctor.

3.1. International and EU legal framework for the protection of the right to healthcare

Article 12 of the ICESCR guarantees the highest attainable standard of health. This right is repeated in the Constitution of the World Health Organisation³⁶. Right to health does not mean the right to be healthy, but contains different freedoms and entitlements, where the entitlements represent the right to a system of health protection, which provides equality of opportunity for people to enjoy the highest attainable standard of health. Nonetheless, a line must be drawn between the right to health and the right to healthcare. The right to health is broader and means that 'governments must generate conditions in which everyone can be as healthy as possible'³⁷. This entails ensuring availability of health services, healthy and safe working conditions, adequate housing and nutritious food. The right to healthcare, on the other hand, is limited only to the first component – the right to have access to health services. The right to health, and implicitly the right to healthcare, needs to meet the requirements of: availability, accessibility, acceptability and quality³⁸. This entitlement indeed represents the right to healthcare. The right to health (or healthcare) has been re-emphasised in Article 12 the CEDAW, Article 25 of the CRPD, Article 24 of the CRC and Article 11 of both the European Social Charter and the Revised European Social Charter.

Article 35 of the EU Charter guarantees the access to preventive healthcare and the right to benefit from medical treatment under the conditions established by national laws and practices.

³⁶ Constitution of the World Health Organisation, preamble.

³⁷ WHO, *Factsheet 323 on the right to health*, available at: <http://www.who.int/mediacentre/factsheets/fs323/en/> (last accessed 23 October 2014).

³⁸ United Nations Committee on Economic, Social and Cultural Rights, 'General Comment No. 14 – The right to highest attainable standard of health', UN Doc. (E/C.12/2000/4).

3.2. The right to healthcare in Cyprus

The Constitution does not provide for the right to healthcare, although in life threatening conditions the right to life foreseen in the Constitution³⁹ may be interpreted as referring to the right to healthcare.

3.3. Systemic characteristics

Cyprus is the only country in the EU without a public healthcare scheme. At 7% of its GDP, Cyprus' expenditure on healthcare is also one of the lowest in the EU⁴⁰. Half of the country's total public health expenditure is paid directly by the patients. In spite of the low health budget, the budget of the Ministry of Health was cut by €53M in 2014, whilst more budget cuts are expected for 2015 and 2016⁴¹. Currently, the healthcare system consists of two parallel sub-systems: the public sector hospitals and the private doctors. These two systems are currently operating separately, inefficiently and without coordination, leading to wastage of resources⁴². An investigation carried out by the European Commission and Eurostat on the magnitude of health inequalities across Europe shows that Cyprus has the second highest Gini coefficient in health inequalities after Greece⁴³. A proposed National Health System (NHS) has been on the table for several years. And although it is the product of consensus between social partners and political parties and has been legislated for⁴⁴, its introduction was originally delayed in order for public healthcare to be upgraded to the standard of private healthcare so that the two systems operate harmoniously and without unfair competition. When the new government came into power in February 2013, it concentrated efforts into promoting an alternative system of healthcare involving private insurance companies in providing the basic healthcare package (commonly referred to as the 'multi-insurance scheme'). However, foreign experts who were contracted to assess the sustainability of the private insurance company model have identified a number of major weaknesses, such as the financial unsustainability of this model when applied to Cyprus' demographic profile and health assumptions⁴⁵; the issue of which healthcare system is to be adopted remains pending. The proposed NHS provides that beneficiaries will contribute to the health system according to their income and will be able to choose their healthcare providers from both the public and the private sector. It will also invest in preventive care and will introduce the family doctor concept which will more efficiently organise the provision of primary healthcare. By contrast, the multi-insurance scheme is expected to contain the typical features of medical insurance policies: exclusion of pre-existing conditions, no investment in preventive medicine, pooling of 'bad risk' patients, high administrative costs etc.⁴⁶.

³⁹Article 7(1) of the Constitution provides that "every person has the right to life and corporal integrity".

⁴⁰ World Bank (2014), Analysis of the Function and Structure of the Ministry of Health of the Republic of Cyprus, 9 May 2014. On p.5, under the title "Cyprus devotes a low share of resources to the health sector" the report reads: "Total healthcare expenditures in Cyprus in 2011 accounted for 7.4 percent of GDP that is markedly below the EU average of 10.62 percent."

⁴¹ The state budgets from 2010 onwards including projections for 2015 are published on the website of the Ministry of Finance (Υπουργείο Οικονομικών), at http://www.mof.gov.cy/mof/mof.nsf/page15_gr/page15_gr?OpenDocument.

⁴² Mercer (2013); World Bank, Analysis of the Function and structure of the Ministry of Health of the Republic of Cyprus, 9 May 2014.

⁴³ Mercer (2013), p. 12-13.

⁴⁴ Law on the General Health System, 89(I)/2001 as amended, available at http://www.cylaw.org/nomoi/arith/2001_1_89.pdf.

⁴⁵ Mercer (2013).

⁴⁶ Consultation with NHS officials, September 2014..

Prior to the economic crisis, the flow of patients into private or public healthcare was about 50/50. In the post 2012 era, the flow towards public health has increased by at least 20-30% as a result of patients shifting from paid private healthcare to free or at least cheaper public healthcare⁴⁷, which has had multiple effects: long queues at public hospitals; public doctors choosing to become private due to salary cuts and increases in their workload, and thus creating severe shortages of personnel in public hospitals, accentuated by the general freeze in new recruitments in the public service; long waiting lists of several months for treatments which are often urgent and critical etc. Furthermore, such an environment has had its impact on the dignity of vulnerable patients who have to stand in line for hours, if not days, for their basic necessities. A system of co-payment introduced in 2013, discussed further below, which was intended to alleviate the long queues, has indeed removed from the system those beneficiaries who would access public healthcare without serious cause, but the decrease was not as big as the huge increase of new users still accessing public healthcare for serious reasons. There appears to be a waiting time of roughly seven months on average until a patient can see a doctor in a public hospital, which applies even for serious and life-threatening conditions⁴⁸. The budget for hospital consumables was also significantly reduced, as was the budget for preventive care⁴⁹. Although the impact of the former has become immediately noticeable and has been the subject of protests staged by public hospital staff, the lack of preventive care can certainly be expected to result in a sharp increase in health problems in two to three years, some with very serious and permanent effects⁵⁰.

There has been no reduction in the number of beds nor have any public hospitals been shut or merged with others. However, this does not necessarily mean that there is good management of resources or that the beds are indeed adequate to cover the increased demand in public hospitals. The ageing population of Cyprus⁵¹ is adding an extra demand on the public healthcare system, in addition to the pressure from the shift of patients from the private sector. Scholars estimate that the projection by 2060 is that the population growth in Cyprus will be amongst the largest in the EU causing problems in the old age dependency ratio⁵². The proportion of people aged over 65 is now estimated at 11.6% of the total population of Cyprus and is expected to rise to 20% by 2030. The rapid changes in social life in Cyprus over the last 20 years are likely to be accentuated even further due to the socio-economic crisis. The weakening of family ties, possible youth emigration due to a high youth unemployment rate and other factors have resulted in increasing social exclusion, loneliness and social isolation and other conditions that have put more pressure on health provisions. Empirical studies show that many elderly suffer from boredom, stress, depression, loneliness and anger⁵³. Together with the major transformations in pensions with the likely increase in old age poverty and rise in inequality, these social changes are likely to have the effect of placing greater pressure on the demand for free medical care from the public sector health system⁵⁴.

⁴⁷ No statistical data is available. The figure is an estimation of the NHS officials consulted.

⁴⁸ Information supplied by the Nicosia State Hospital and by all stakeholders consulted.

⁴⁹ National accounts submitted by the Ministry of Finance and approved by parliament,

⁵⁰ Consultation with NHS official, September 2014.

⁵¹ The Population Census of 2011 recorded an increase in persons aged 65+ to 15.2%, compared to 12.3% in 2001. The census also showed a drop in children aged 0-14 from 21.4% of the population in 2001 to 16.1% in 2011. The results of the census are available here: http://www.mof.gov.cy/mof/cystat/statistics.nsf/populationcondition_22main_gr/populationcondition_22main_gr?OpenForm&sub=2&sel=2.

⁵² Kouta, C. and Kaite, C., "Home Nursing in Cyprus", *Aging in European States, Healthy Aging in Europe*, Phellas, C. (ed.), Springer, New York, 2013, pp. 205-220.

⁵³ Phellas, C. (ed.), "Quality of Life and Older People: An empirical study amongst Older Cypriot", *Aging in European States, Healthy Aging in Europe*, Springer, New York, 2013, pp. 221-236.

⁵⁴ Consultation with official from the NHS, September 2014.

The biggest problem in the current system is undoubtedly the fact that persons in need of urgent and severe treatment are no longer entitled to free care. The new system of healthcare charges introduced in 2013 is detailed below.

3.4. New charges and restrictions in access to healthcare

In spite of the fact that the Troika did not specifically request a decrease in health expenditure, a new set of provisions regulating access to healthcare was introduced in 2013 with effect from 1 August 2013. The basic features are as follows:

- Free healthcare is now made available to Cypriots and EU citizens who are permanent residents of Cyprus provided they have paid social insurance for at least three years and have settled all of their tax obligations⁵⁵. The scope does not exclude the unemployed who had previously been in declared employment, as their contributions are paid on their behalf by the Social Insurance. The restriction regarding contributions to the social insurance had the effect of excluding from free healthcare a significant number of Cypriots (particularly Turkish Cypriots) and EU citizens working in undeclared employment⁵⁶. Turkish Cypriots working and paying social insurance in the Turkish-controlled north of Cyprus are no longer entitled to free healthcare, since the proof of payment of social insurance to the unrecognised 'Turkish Republic of Northern Cyprus' is not recognised by the authorities of the Republic of Cyprus, as it may allegedly be construed as recognition of the acceptance of the regime in the north of Cyprus.
- The income criteria for access to free healthcare have also been modified. Free healthcare is now available to persons without dependents whose gross annual income does not exceed 15,400 EUR and to families whose gross annual income does not exceed 30,750, increased by 1,700 for each dependent child. The definition of a 'dependent' child is extended to include children up to 21 or older provided they are maintained by their parents, such as soldiers or students⁵⁷.
- The members of families with three or more children are now entitled to free healthcare if they opt to contribute 1.5% of their gross family income to the healthcare system⁵⁸. Under the previous system, families with three or more children were entitled to free healthcare.
- All beneficiaries visiting public hospitals as outpatients, irrespective of income, now have to pay €3.00 for a visit to a general doctor, €6.00 to see a specialist, €0.50 for every sponsored medicine and every laboratory test with a ceiling of €10.00 per prescription or per referral to the laboratory⁵⁹. All of these were previously free to beneficiaries of free public healthcare, who amounted to about 95% of the country's population.

⁵⁵ Laws on Medical Institutions and Services (Regulation and Charges), N.40/78 1978-2013.

⁵⁶ Although the number is impossible to calculate, given that the number of people engaging in undeclared work can only be based on estimates, it is possible to assume that EU nationals and Cypriots in the post crisis period are ready to accept employment in undeclared circumstances. In the case of Turkish Cypriots, with the exception of a handful who work in declared employment in the south of the country, the new healthcare measures affected them all, given that their social insurance contributions in the north are not recognised.

⁵⁷ The State Medical Institutions and Services General (Amending) Regulations 2013, published in the Official Gazette on 30 April 2013.

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

- Patients who are not entitled to free public healthcare must pay €15.00 to see a general doctor and €30.00 to see a specialist⁶⁰.
- Everyone visiting the accident and emergency wards of public hospitals must pay €10.00 irrespective of income or of the treatment provided⁶¹. Recipients of public benefits, soldiers; disabled war veterans and residents of particular institutions are exempted. This service was previously free of charge to all.

The logic of all these changes, which had devastating effects on large sections of the population, were to make public healthcare available to those who contribute to its cost and not to those who need it most. The weight of these charges may seem negligible at first sight but to understand its significance one would have to juxtapose it with the drop in the income of vulnerable groups such as the disabled⁶² or the elderly⁶³ who are at a higher risk of poverty now compared to the pre-crisis situation. The increase in the at-risk-of-poverty rate in recent years has meant that an increasing number of persons have to resort to the public health system whilst their income is dropping. Although there are no indicators to measure the quality of healthcare offered in Cyprus and no qualitative studies to record the experience of patients and assess the impact of measures from their perspective, one would need to examine the trend of patients transferring from the private sector to the public sector for economic reasons against the backdrop of doctors choosing to move to the private sector, whilst new recruitments in the public sector are frozen⁶⁴ and budgets for consumables and infrastructure are reduced.

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

⁶² Based on statistics for the period 2008-2010, the 2012 report of the European Foundation Centre placed Cyprus amongst the 11 EU countries where persons with disabilities have more than 25% chance of being at risk of poverty. European Foundation Centre, *Assessing the Impact of European governments' austerity plans on the rights of people with disabilities*, October 2012.

⁶³ According to the Cyprus National Reform Program, *Europe 2020 Strategy for: Smart, Sustainable and Inclusive Growth*, 2014,, the at-risk-of-poverty rate (AROP) increased to 27,1% in 2012 compared to 24,6% in 2011: http://ec.europa.eu/europe2020/pdf/csr2014/nrp2014_cyprus_en.pdf. AROP had already suffered an increase of 8.11% between 2008-2010 (European Foundation Centre, 2012).

⁶⁴ The reforms in the public service introduced as a result of the implementation of the Memorandum of Understanding with the Troika, are discussed in chapter 4 below.

4. IMPACT OF THE AUSTERITY MEASURES ON THE RIGHT TO WORK

KEY FINDINGS

- The economic crisis and mass unemployment have undermined the bargaining power of the trade unions, in spite of legislation in 2012 aimed at strengthening trade union capacity.
- A number of measures were introduced in an effort to curb unemployment amongst Cypriots, leading to discrimination and exclusion of foreign nationals, such as the informal quota of hiring 'mostly Cypriots' and the Greek language requirement.
- Atypical and precarious forms of employment have arisen in various sectors of the economy and an increase in part time work.
- Wage cuts were imposed on employees in the public sector where a number of structural reforms continue to take place aimed at reducing the public payroll and increasing the public service's efficiency but leading to cuts on rights.
- Wage cuts were also imposed by the government on banking employees in cooperative institutions, whilst the prolongation of shops' opening hours has negatively affected the working conditions of shop employees.

4.1. International and EU legal framework for the protection of the right to work

There is no blanket guarantee in the international law of the right to work, if understood as the right to have and maintain gainful employment. Article 6 of the ICESCR recognises the right to work in the sense of opportunity of everyone to gain their living by freely chosen or accepted work. In that regard, States Parties are expected to take appropriate steps to safeguard this right, including by providing vocational and technical training and economic policies aimed at steady economic development and full employment. This right, according to the ICESCR implies that the Parties must guarantee equal access to employment and protect workers from being unfairly deprived of their employment, including by preventing discrimination. This right depends on a number of interdependent and essential elements, implementation of which will depend on the conditions present in each State Party, which may be identified as: availability, accessibility, acceptability and quality, while the states have the general obligation to respect, protect and fulfil this right⁶⁵. Moreover, the International Labour Organization (the 'ILO') has the right to work as the core of its activities, and numerous conventions have been adopted within its framework to protect and improve the enjoyment of the right to work.

Similarly, the EU Charter guarantees to everyone the right to engage in work and to pursue a freely chosen or accepted occupation⁶⁶, which corresponds to the guarantee from the ICESCR. The EU Charter, furthermore, provides for a guarantee for everyone to a free placement service⁶⁷, protection from unjustified dismissal⁶⁸ and the right to fair and just working conditions⁶⁹.

⁶⁵UN Committee on Economic, Social and Cultural Rights, *General Comment No. 18 – Right to work*, UN Doc. E/C.12/GC/18 (2006).

⁶⁶ The EU Charter, Article 15(1).

⁶⁷ The EU Charter, Article 29.

4.2. The right to work in Cyprus

4.2.1. The right to work under the Constitution

The Constitution does not explicitly provide for the right to work, although this may be presumed from the provisions relating to the right to practice any profession or to carry on any occupation⁷⁰ and the right to strike⁷¹.

4.2.2. The transformation of the right to work

To understand the transformation of the right to work and in work during the crisis-and-austerity era in Cyprus, one has to locate this situation in the wider context of employment relations. Since the imposition of the 'haircut' on bank deposits and the subsequent austerity measures the economy in Cyprus suffered a severe blow that has affected both employment levels and employment relations and has undermined the legal and regulatory system governing the employment relationship⁷².

Since the Memorandum agreed with the Troika began to be implemented in 2013, the economic and social indicators and figures have been declining. Recession is at its worst since the war in 1974: in the second quarter of 2014, the GDP fell by 2.5%, following a decline of 3.9% in the first quarter, marking the biggest percentage fall in the EU⁷³. Public debt is now at 112% of GDP and continues to rise⁷⁴. This broader economic and policy context has multiple effects on the right to work and employment relations, standards, norms and practices in work. This year Cyprus scored the worst record in the EU in pay cuts: in the second quarter of 2014, wages dropped by 4.5% compared to the same period in 2013⁷⁵.

The low economic activity, led by insufficient demand has caused several small and medium enterprises to a winding down or to a complete shut and to the dismissal of employees⁷⁶. The previously booming construction sector has been most severely hit, as the sharp drop in demand has led to a shut-down of activity and a loss of jobs.

⁶⁸ The EU Charter, Article 30.

⁶⁹ The EU Charter, Article 31.

⁷⁰ Article 25 of the Constitution.

⁷¹ Article 27 of the Constitution.

⁷² INEK-PEO, 'Report for the Economy and Employment' (*Έκθεση για την Οικονομία και την Απασχόληση*), 2013. Available at: http://peo.org.cy/images/PDF/inek/ekthessi2013/INEK_EKTHESI%202013_WEB.pdf, accessed on 15 September 2014; Ioannou G., "Employment in Crisis: Cyprus 2010–2013", *The Cyprus Review*, VOL. 26:1 Spring 2014, pp. 107-126; Kouta C. and Kaite C., "Home Nursing in Cyprus", Phellas, C. (ed.) *Aging in European States, Healthy Aging in Europe*, Springer, New York, 2013, pp. 205-220.

⁷³ A recent study by the University of Cyprus Forecasts suggests that the recession will continue into 2015.

⁷⁴ Statistical Service of the Republic of Cyprus (*Στατιστική Υπηρεσία της Δημοκρατίας της Κύπρου*), http://www.mof.gov.cy/mof/cystat/statistics.nsf/economy_finance_11main_en/economy_finance_11main_en?OpenForm&sub=1&sel=2.

⁷⁵ Statistical Service of the Republic of Cyprus (*Στατιστική Υπηρεσία της Δημοκρατίας της Κύπρου*), *Average Earnings of Employees by Quarter*, available at http://www.mof.gov.cy/mof/cystat/statistics.nsf/labour_31main_en/labour_31main_en?OpenForm&sub=1&sel=2.

⁷⁶ For instance the Indicator of the cycle in the industry was fell by 20,6% between November 2013 to November 2012 (i.e. 71,6 units with 2010 as the basis of 100); between January and November the indicator showed a drop by 14,9% for the equivalent period in 2012. In the processing sector, between November 2013 to November 2012 the indicator fell by 20,0% at 69,9 units (Source: CYSTAT).

Drivers undermining the right to work

The repercussions however extend much further, multiplying in a negative spiral at a socioeconomic level. Various knock-on effects set in motion vicious cycles which transformed sets of rights related to work itself, i.e. rights at work, particularly in certain fields, and how these are being practiced, observed and monitored.

The first driver in undermining the right to work appears to be mass unemployment⁷⁷, which has hit not only the economy as a whole, but has affected particular economic sectors and segments of the labour market, most notably the younger workers as well as other vulnerable groups, such as migrants, older workers and persons with disabilities⁷⁸. As such unemployment generates an abundance of labour supply which radically alters the balance of forces within the various sectors, which operates against labour and in favour of the employers. In such conditions many unemployed workers, with little, if any bargaining power, appear willing or are forced under the circumstances to accept inferior working conditions of employment than what was the norm before the crisis.

In various sectors the floor for these standards and norms was largely framed by the rich tripartite tradition, based on the close cooperation and established consultation between the Ministry of Labour, the employers' unions and the workers' unions. Historically the labour landscape was very much characterised by powerful trade unionism. However, the rising unemployment, work insecurity and employers' practices connected with the crisis have undermined the traditionally strong bargaining position of the workers' unions.

In alleviation, two laws were enacted in 2012 purporting to strengthen the framework of the unionisation of workers, to modernise labour relations and to counter possible employer abuses in the days of crisis⁷⁹. However, so far no trade union has utilised the new legal tools provided in organising sectors. It seems that, at least up to now, these measures have not been taken up due to the general climate of crisis-and-austerity.

The second combined and interrelated driver undermining the right to work has resulted in transformations in work as a result of employers' practices which undermine pay, norms and working conditions. There is however no uniformity, nor is there a study recording or a system monitoring these practices in a comprehensive manner. As a result, many sectors and firms have suspended rights found in collective agreements. On a few occasions these were done in consultation with trade unions, which were weakened by the situation but preferred to make agreements hoping to limit the scope and time frame of these measures⁸⁰; however, in most occasions this was taken up unilaterally, resulting in a sharp rise in the numbers of complaints to the Ministry of Labour for unlawful deduction of wages⁸¹, lack of payment of holidays and other arbitrary changes in the terms and conditions of employment⁸².

⁷⁷ Unemployment during the first quarter of 2014 was 16,9% while unemployment among the youth was 39,6% for the same period.

⁷⁸ Although statistics demonstrate the sharp rise in youth unemployment, the rise in unemployment amongst other vulnerable groups, although very much present, is not documented by statistical evidence: consultation with trade unionist from PEO and with disability activist from KYSOA, the confederation of disability organisations, September 2014.

⁷⁹ Law on Recognition of Trade Union Organization and the Right to Provide Trade Union Facilities in Recognition Thereof (2012) and the amendment to the Law ratifying the Convention on Workers' Representatives (2012).

⁸⁰ Consultation with trade unionist from the Pancyprian Federation of Labour PEO, September 2014

⁸¹ According to statistics of the Labour Relations Department of the Ministry of Labour given to the press, during the first quarter of 2013 a total of 67 criminal prosecutions were filed against employers for non-payment of salaries, in comparison with 46 cases filed during the first quarter of 2012. This marks an increase of 45.7%. An

The third driver, which operates in parallel to the second, derives from the austerity policies: direct government spending cuts, largely as part of the Troika-agreed Memorandum⁸³, but also as a result of the government's own manifesto and ideological programme have targeted specific jobs, mostly in the public but also in the private sector. Particularly in the public sector, measures are targeting job retirements and other types of downsizing such as restructuring, privatisation, outsourcing and laying off those on more flexible employment arrangements. Measures and incentive packages to encourage, or even force, early retirement have impacted directly on the right to work⁸⁴.

Crisis, immigration and free movement

The crisis has also brought immigration policy changes, in the form of restrictions to the permits granted to migrant workers and to changes in job descriptions, aimed at curtailing the numbers of foreign nationals working in Cyprus. Instances of these include the following:

- Restrictive immigration policies, which also affect EU citizens, are depicted and debated as measures to reduce unemployment amongst Greek-Cypriot workers. Politicians, officials and social partners supported more stringent controls on the employment of migrants, including EU citizens, and are almost unanimously calling for 'priority for employing Cypriots'. A set of measures announced by the government in April 2013 intended to "restart the economy" initially included a reference to a quota on 'foreign workers' at a 70-30 ratio, i.e. 70% Cypriots and 30% foreigners. Following an intervention by the Ombudsman this measure was removed from the package⁸⁵. The measure finally included in the package presented

increase was also recorded in the number of complaints filed by Cypriots to the Labour Relations Department for non-payment of salaries. In particular, whilst complaints filed by Cypriots for the protection of salaries reached 154 for the first quarter of 2012, this number rose to 175 in the first quarter of 2013, marking an increase of 13.6%. However, in the case of EU workers, there was a decrease in the number of complaints filed for the protection of salaries: whilst in the first quarter of 2012 the complaints recorded were 301, this figure was reduced to 266 in the first quarter of 2013, marking a decrease of -11.6%, perhaps suggesting also a drop in the number of Union nationals working in Cyprus.

⁸² Consultation with trade unionist from PEO, September 2014. The statistical records published by the Ministry of Labour are outdated and fragmented, an area also affected by the staff shortages (Source: Consultation with industrial relations journalist Antonia Lambraki, September 2014). The latest annual report of the Ministry is dated 2012 and the latest statistical data offered dates back to 2011 (available at [http://www.mlsi.gov.cy/mlsi/mlsi.nsf/All/22B31A2F4190919FC2257C9E003052CA/\\$file/YEKA_2012_updated.pdf](http://www.mlsi.gov.cy/mlsi/mlsi.nsf/All/22B31A2F4190919FC2257C9E003052CA/$file/YEKA_2012_updated.pdf)). The statistics offered by the Industrial Relations Department of the Ministry of Labour refers only to 2013 (http://www.mlsi.gov.cy/mlsi/dlr/dlr.nsf/page20_gr/page20_gr?OpenDocument), thus rendering a comparison with previous years impossible.

⁸³ For the Fourth version of the *Memorandum of Understanding on Specific Economic Policy Conditionality*, see [http://www.moi.gov.cy/moi/pio/pio.nsf/All/7783A585C03F5E3D42257CFD0030879C/\\$file/MoU%204th%20review%20clean%2020_5%20FINAL.pdf?OpenElement](http://www.moi.gov.cy/moi/pio/pio.nsf/All/7783A585C03F5E3D42257CFD0030879C/$file/MoU%204th%20review%20clean%2020_5%20FINAL.pdf?OpenElement).

⁸⁴ A number of voluntary retirement schemes were presented to employees in the public sector as well as in the banking sector during the past two years. For secondary school teachers, the terms of the voluntary retirements schemes are published here: <http://www.oelmek.com.cy/page.php?id=66&lng=GR>. The terms of voluntary retirement for public sector employees were amended in 2012 alongside a general reform of the retirement benefits of public employees, in an effort to reduce public spending (Law on retirement benefits of state employees and employees in the wider public sector including local self-governance (Provisions of general application) N. 216(I)/2012, available at http://www.cylaw.org/nomoi/enop/non-ind/2012_1_216/full.html). On September 2014 a government proposal to tax the lump sum payable to public employees upon retirement has given rise to increased early retirements in the public sector. In the banking sector, although early retirement schemes were voluntary in nature, employees have reported pressures from their managers to accept such schemes and take early retirement. In 2013, the trade union of banking employees protested against the unilateral and arbitrary introduction of an early retirement scheme (ETKY, *Without our consent: The scheme is arbitrary and provocative*, 2 July 2013) and issued a public warning towards the banks to stop exerting pressure on employees to accept such schemes (ETKY, *A voluntary exit scheme cannot be obligatory*, 20 September 2013).

⁸⁵ This quota was originally announced as a binding measure until the Ombudsman warned the government that such measure would violate the free movement acquis: Trimikliniotis N., *Report on the Free Movement of Workers in Cyprus in 2012-2013*, National Expert Report for the European Network on Free Movement of Workers within the European Union, 2013, available at http://works.bepress.com/nicos_trimikliniotis/41/.

to the press incentives for employers to hire unemployed persons lawfully and permanently domiciled in Cyprus for the past five years⁸⁶. The five-year restriction may also be deemed as indirect discrimination forbidden by the free movement acquis⁸⁷, which is why it was omitted from subsequent incentive schemes offered by the Ministry of Labour⁸⁸.

- The policy of requiring good or excellent knowledge of the Greek language in job descriptions, especially in the hotel and tourism sector. The practice of employers in the hotel industry to require an excellent command of Greek was debated in parliament as a policy aimed at promoting the employment of Cypriots⁸⁹. The debates around this issue are set out later in this chapter.
- The crisis has brought more precarity, insecurity, use and abuse of undeclared work, particularly affecting EU workers. A particular issue relates to the conditions of employment of EU citizens in hotels and restaurants offering 'all inclusive packages', where EU workers are used for 'social dumping': they are used in hotels in order to displace other workers who are regularly employed, because trainees have no contract and are not bound by collective agreements⁹⁰.

The growth of atypical, insecure and precarious forms of employment

Since the beginning of the economic crisis, the growth in insecure, flexible and precarious forms of employment, known as atypical work, can be located in the broader context of rising unemployment, particularly amongst the youth. No study has directly or empirically examined the connection between the crisis and the rise in insecure/flexible and precarious forms of employment. However, the connection between the two can be made because the predominant driver of these atypical arrangements is not the freedom of parties to choose the arrangements that suit them best, but the result of the changing balance of forces between the employers and organised labour, which has been weakened by the crisis, the rising unemployment, the austerity policies and the memorandum of understanding with

⁸⁶ Stockwatch (2013), 'Anastasiades' 48 measures for the economy', 19 April 2013, available at http://www.stockwatch.com.cy/nqcontent.cfm?a_name=news_view&ann_id=172687.

⁸⁷ Trimikliniotis N., "Migration and Freedom of Movement of Workers: EU Law, Crisis and the Cypriot States of Exception." *Laws*, 2, (4), 2013, pp. 440-468, available at <http://www.mdpi.com/2075-471X/2/4/440>.

⁸⁸ The schemes offering incentives to employers to hire unemployed persons are listed in the website of the Ministry of Labour, available at: http://www.mlsi.gov.cy/mlsi/dl/dl.nsf/dmlschemes_gr/dmlschemes_gr?OpenDocument

⁸⁹ This has already been implemented in the form of Greek language requirement as qualification for holding certain posts in the private sector for the jobs in the Hotel/Catering industry for eight vocations relating to the sector at the different required levels: Reception, Presentation of foods and drinks, Food Preparation and Cooking, Housekeeping, Travel Agency Operations, Bakery, Confectionery, Preparation and presentation of drinks. Officials from the Ministry of Labour and the Ministry of Interior consider that there is no binding policy as such for the private sector to impose restrictions on Union citizen workers, as the prototypes/models for jobs in hotels/catering.

⁹⁰ Equality Body report (2011), Position of the Equality Authority regarding the violation of the principle of equal treatment between Cypriots and union workers at the hotelier industry, File Number A.I.T 1/2011, 22 June 2011, available at <http://www.no-discrimination.ombudsman.gov.cy/ektheseis-aki>; see also the complaints of trade unions about Cypriot hoteliers replacing Cypriot workers with union workers: Cyprus News Agency (2014) 'He hired Union workers in exchange for food and board instead of a salary' (Πάφος: Προσέλαβε κοινοτικούς και τους παρέχει για μισθό φαγητό και διαμονή), 20 June 2014, available at <http://www.alfanews.com.cy/kypros/item/2027-%CF%80%CE%AC%CF%86%CE%BF%CF%82-%CF%80%CF%81%CE%BF%CF%83%CE%AD%CE%BB%CE%B1%CE%B2%CE%B5-%CE%BA%CE%BF%CE%B9%CE%BD%CE%BF%CF%84%CE%B9%CE%BA%CE%BF%CF%8D%CF%82-%CE%BA%CE%B1%CE%B9-%CF%84%CE%BF%CF%85%CF%82-%CF%80%CE%B1%CF%81%CE%AD%CF%87%CE%B5%CE%B9-%CE%B3%CE%B9%CE%B1-%CE%BC%CE%B9%CF%83%CE%B8%CF%8C-%CF%86%CE%B1%CE%B3%CE%B7%CF%84%CF%8C-%CE%BA%CE%B1%CE%B9-%CE%B4%CE%B9%CE%B1%CE%BC%CE%BF%CE%BD%CE%AE.html>

the Troika. As a result we have a process of *precariatization*,⁹¹ with a steady expansion of services based on precarious forms of employment⁹².

In the field of tertiary education, an important sector of the Cypriot economy, casual/precarious employment has become common in the post-crisis era, both for teaching/training as well as for research work. In the absence of research data, it is worthwhile illustrating the various casualised and precarious forms of employment that operate in Cyprus, particularly in this sector. Flexibility is positive if it is in the interests of both employer and employee and it is chosen freely by both parties in agreement; it is not positive if it is imposed by the employer. Since the creation and expansion of tertiary education, junior lecturers and other academic staff were often in precarious employment relationships. This practice seems to have expanded over the last decade and has intensified further over the last three years⁹³. Although it is difficult to verify without an in depth empirical study, there are strong indications that there is an expanding pool of 'peripheral workers' who work in the expanding field of research and part-time/fixed term teaching contracts. There are various workers categorised as "Special Teaching Staff" and "visiting lecturers", both in public and private universities and colleges; however, the percentage use of this sort of staff is restricted by law, and must not exceed 30% per school⁹⁴. In addition to that, there is an increasing number of "other flexible staff", who are often given different academic titles, but the employer has entered into individual contractual agreements that he/she is not obliged to provide the worker with stable employment, but only casual work if and when it arises. Often, retired persons who have no recourse to the Law on Termination of Employment are employed. Moreover, the employer will use the strong institution bargaining power on individuals to accept 'pro rata' arrangements contained in the part-time law to provide different levels of work when and if needed. Therefore one can safely estimate that the casual teaching labour certainly exceeds the 30% limit and may well be over 50%⁹⁵. The trend is to expand casualised/precarious arrangements that cut across all ranks. Nonetheless, the bulk is concentrated in the bottom of the academic hierarchy, suggesting that the trend towards casualised/precarious work affects more the newcomers into the profession, who are prepared to work under inferior working conditions in light of the high youth unemployment.

Temporary employees as percentage of the total number of employees

Over the last decade we have seen an expansion of the percentage of the total number of employees working as temporary employees by 4.4%.

⁹¹ As indicated by Guy Standing, "*precarity is now no longer restricted to those occupying a peripheral position in the labour force structure*". Standing, G., "*The Precariat Charter, From Denizens to Citizens*", Bloomsbury Academic, London and New York, 2014. Ioannou also notes "*The blurring of the lines between the core and the periphery, which was already underway before the crisis*". Ioannou, G., "Employment in Crisis: Cyprus 2010–2013", *The Cyprus Review*, VOL. 26(1), Spring 2014, pp. 107–126.

⁹² Constantinou, C., "Heterotopias of Production: Unveiling the Everydayness of the Cypriot Economy", *The Cyprus Review*, VOL. 26(1), Spring 2014, pp. 127–143.

⁹³ Consultation with trade unionist from the trade union PASEY – the Pancyprian Trade Union for Services September 2014.

⁹⁴ The Rules governing the public universities and other tertiary education institution provide for such restrictions. Also, art. 34(1) of the Private Universities law 109(I)/2005 requires that they are not more than 30%. The law is available at http://www.cylaw.org/nomoi/arith/2005_1_109.pdf.

⁹⁵ Consultation with officer from the trade union PASEY – the Pancyprian Trade Union for Services, September 2014

Table 7: Percentage of workforce working part-time

Year	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
%	13.1	14.0	13.2	13.3	14.0	13.8	14.0	14.2	15.1	17.5

Source: Eurostat

The major rise occurred during the crisis, i.e. 3.5% from 2010 onwards. However, this figure is particularly relevant for the age group of 15-24-year-olds who are the main source of precarious forms of employment: from 16.1% in 2004 it has gone up to 26.1%; during the crisis years particularly since 2011 it has gone up from 17% to 26.1%. According to data published by the state's Statistical Service, the percentage of part-time employment increased in the first quarter of 2014 to 15.1%, compared to 12.5% in the first quarter of 2013 and 11% in the first quarter of 2012⁹⁶.

The rise in part time work, which is paired with inferior working conditions, is attributed by analysts⁹⁷ to political interventions in the labour market, like the liberalisation of the weekly hours of operation of the retail shops and policies of subsidising certain forms of employment. In the private sector, a number of schemes subsidising the hiring of unemployed persons or persons from other vulnerable groups⁹⁸ have brought a general deterioration in the terms of employment of all workers, who are forced to accept inferior working conditions to be able to compete with the persons hired under the aforesaid schemes. In the public sector, the freezing in recruitment has led to the hiring of persons on a temporary and/or a part-time contract basis in order to fill the gaps created by retirements.

Table 8: Part-time and full time employment and unemployment per quarter

Quarter	Part-time		Full time		Unemployment	
	%	000s	%	000s	%	000s
2010						
1/2010	8.5	32	91.5	344	4.6	18
2/2010	8.6	33	91.4	350	5.2	21
3/2010	8.5	33	91.5	352	5.5	22
4/2010	8.8	34	91.2	354	6.0	25
2011						
1/2011	10.8	43	89.2	356	7.5	32
2/2011	10.1	41	89.9	362	7.2	31

⁹⁶ Statistical Service of the Republic (Στατιστική Υπηρεσία της Δημοκρατίας της Κύπρου), Labour Force Survey 2014, available at

http://www.mof.gov.cy/mof/cystat/statistics.nsf/labour_31main_en/labour_31main_en?OpenForm&sub=1&sel=2.

⁹⁷ Interview of journalist G. Hanni with trade unionist Pavlos Kalosynatos, head of the Cyprus Labour Institute, published in Stockwatch on 25 September 2014, available at

http://www.stockwatch.com.cy/nqcontent.cfm?a_name=news_view&ann_id=206986.

⁹⁸ The schemes subsidised by the Ministry of Labour are available at:

http://www.mlsi.gov.cy/mlsi/dl/dl.nsf/dmlschemes_gr/dmlschemes_gr?OpenDocument.

Quarter	Part-time		Full time		Unemployment	
	%	000s	%	000s	%	000s
3/2011	9.6	38	90.4	358	7.8	33
4/2011	10.3	41	89.7	354	8.9	39
2012						
1/2012	11.0	42	89.0	344	11.1	48
2/2012	10.4	40	89.6	347	11.3	49
3/2012	9.7	37	90.3	347	12.1	53
4/2012	11.7	45	88.3	338	12.7	56
2013						
1/2013	12.5	46	87.5	322	15.8	69
2/2013	12.4	45	87.6	319	15.4	67
3/2013	12.3	45	87.7	319	16.2	70
4/2013	13.5	49	86.5	315	16.0	69
2014						
1/2014	15.1	54	84.9	304	16.9	73

Source: Statistical Service of the Republic

4.3. Wage cuts and reforms in the public sector

A number of measures were introduced in recent years in an effort to reduce public spending. Below are some of the most important ones.

4.3.1. Deductions in the salaries of public sector workers

On 31 August 2011, a law was enacted providing for the monthly deduction from the net pay and pensions of employees and pensioners of the public sector and the wider public sector, whose salaries exceeded €1,500, of a percentage ranging between 1.5%-3.5%, for a period of two years, as a contribution to the Republic, in light of the prevailing economic crisis⁹⁹. From September 2011 onwards, this percentage started to be deducted from the salaries and pensions of all public employees whose salary was above the minimum exempted. Similar arrangements were also made for employees in the private sector but only four months after the measures were taken for the public servants¹⁰⁰. Eight public

⁹⁹ Law on the Extraordinary Contribution of Officers, Employees and Pensioners of the Public Service and the Wider Public Service N. 112(I)/2011, available at http://www.cylaw.org/nomoi/enop/non-ind/2011_1_112/full.html. The term 'wider public sector' is defined in this law as "any independent agency or authority or independent office, any public entity or public body, including the local authorities or the School Boards or any other public body having legal personality established by law in the public interest, whose capital is provided or guaranteed by the Republic".

¹⁰⁰ Law on the Extraordinary Contribution of Employees, Pensioners and self-employed persons in the private sector N. 202(I)/2011, available at http://www.cylaw.org/nomoi/enop/non-ind/2011_1_202/full.html.

sector employees applied to the Supreme Court seeking to set aside the decision of deducting amounts from their salaries and claiming that the law was unconstitutional for violating a number of constitutional provisions. The Supreme Court rejected this recourse based on the discretion of the state to manage its finances¹⁰¹. The case is explained in more detail in Chapter 9 of this report.

4.3.2. Deductions of 3% from salaries of public sector contract employees

On 14 February 2014 a new law was enacted¹⁰², providing for a 3% deduction from the monthly salaries of all employees working in the public sector, the wider public sector and in local governance organisations on the basis of an employment contract of private law, who are entitled to a lump sum payment upon reaching retirement age. The scope of the law does not include fixed term contract employees.

4.3.3. Promotions in the public service with pay rises suspended

In June 2014 a new law was enacted, marked as urgent, providing for promotions in the public service without pay increases until 2017. The pay rises will be paid in 2017 provided the current conditions of the economic crisis no longer prevail and no pay rise will be paid retrospectively¹⁰³.

Meanwhile, the Minister of Finance announced that the system of salary increases in the public sector will change as from 2016 onwards and the increases will be based on the real situation of the economy. The Minister stated that if the current system of pay rises and combined pay rises and the Cost of Living Allowance (COLA) system continue, then Cyprus will be faced with the brink of economic collapse again in a few years¹⁰⁴.

4.3.4. Interchangeability in the public sector

The government has prepared a bill, according to which one in three workers in the public sector will be faced with interchangeability¹⁰⁵. The scope of the schemes will include employees with a contract of indefinite period and will also foresee for transfers of personnel from one ministry to another to address the problem of staff shortages in some departments and surplus staff in others. According to the data submitted to the Parliamentary Finance Committee, the implementation of the schemes will lead to the increase of the percentage of public employees subject to interchangeability from the current 19% to 28%. The union of public employees expressed their disagreement over the power given to the Minister of Finance to decide about the transfers of personnel, arguing that the bill is unconstitutional and will promote favouritism in the public service. The representative of the Attorney General responded that according to the Constitution (Article

¹⁰¹ *Giorgos Charalambous et al v. The Minister of Finance and the Auditor General* (Case no. 1480/2011 etc), available at http://www.cylaw.org/cgi-bin/open.pl?file=apofaseis/aad/meros_3/2014/3-201406-1480-11etc_minor.htm&qstring=%E3%E9%E9%E9%E3%20and%20%E7%E1%E1%E1%EB%E1%EC%F0%EF%20and%201480%20w/1%202011.

¹⁰² Law Providing for the Payment of a Bonus to Workers Employed with a Contract at the Public Service and the Wider Public Service Including Local Governance Authorities (General Application Provisions) N. 14(I)/2014.

¹⁰³ Law on the non-payment of pay rises and COLA increases on the salaries of officials and employees and in the pensions of pensioners in the public and wider public sector laws 2011-2012 N.73(I)/2014, available at http://www.cylaw.org/nomoi/arith/2014_1_73.pdf.

¹⁰⁴ Theodorou, M (2014) *No more pay rises in 2016*, 11 July 2014, available at http://webapps.leventis.ucy.ac.cy:7786/dailypress/dailypress.manage_documents2.download?p_file=F690357152/POL20140711003%5B1%5D.pdf.

¹⁰⁵ This means that public employees will be transferred from one post to the other and from one Ministry to the other in order to fill in gaps and cover needs as they arise, in an effort to reduce outsourcing and overtime pay: Bill to amend the Law on Public Service (No. 6) of 2013, available at http://www2.parliament.cy/parliamentgr/008_05f/008_05_4169.htm.

58) the Finance Ministry is the competent authority for the transfers of personnel¹⁰⁶ and added that according to the bill the transfer procedure will not be initiated by the Minister but on the written recommendation of the permanent secretary of the Ministry and the head of the competent department¹⁰⁷. The bill is supported by the two government coalition partners and is thus likely to receive the majority of votes in order to become law in the near future.

4.4. Reforms in the private sector

4.4.1. Working hours of shop employees

In March 2013 the Minister of Labour issued an order enabling shops to remain open from Monday to Saturday from 5am till 10 or 11 pm (depending on location) and on Sundays between 10.30am and 7.30pm¹⁰⁸. Since then, the order has been renewed periodically for successive periods of two months each despite protests from workers' trade unions who claimed that, on the one hand the order was illegal as this was a matter to be decided by legislation and, on the other that it would result on imposing inferior working conditions on shop employees, forcing them to work long hours without extra pay. In particular, the Pancyprian Federation of Labour (PEO), one of the two largest trade union in Cyprus, protested over the continuation of the policy of the Labour Minister to allow the operation of retail shops 7-days a week from morning till night, arguing that the issue of orders extending the hours of operation of retail shops has essentially cancelled the legislation regarding the hours of operation of shops, at the expense of the shop employees who are now being denied the right to rest on Sundays and on holidays.

The Labour Minister has attempted to justify the extension of the hours of work of retail shops as a measure intended to create new jobs amidst Cyprus' fast rising unemployment. To curb disagreements, an agreement was signed between the employers' organisations and the associations of retail trade in the presence of the Labour Minister providing that the employers will continue to fill the gaps in their labour force by recruiting new employees and reiterated their obligations as regards the rights of employees. However, this policy has only yielded about 800 new jobs so far, as employers tend to put pressure on their employees to work longer hours, often without overtime pay, rather than hire new personnel¹⁰⁹.

¹⁰⁶ This is not entirely correct. Article 58 of the Constitution is rather vague and provides: "A Minister is the Head of his Ministry....The executive power exercised by each Minister includes ... (a) the execution of laws relating to, and the administration of all matters and affairs usually falling within, the domain of his Ministry;

(b) preparation of orders or regulations concerning his Ministry for submission to the Council of Ministers;

(c) the issuing of directions and general instructions for the carrying out of the provisions of any law relating to his Ministry and of any order or regulation under such law."

¹⁰⁷ Stockwatch (2014), '28% of public servants will be moved', 20 January 2014, available at http://www.stockwatch.com.cy/nqcontent.cfm?a_name=news_view&ann_id=190321.

¹⁰⁸ Order issued under article 27 of the Law regulating the operation of retail shops and the working conditions of their employees 2006-2011, 20 March 2013, available at [http://www.mlsi.gov.cy/mlsi/dlr/dlr.nsf/All/673C8831AD2DAF12C2257B360027D94A/\\$file/%CE%94%CE%99%CE%91%CE%A4%CE%91%CE%93%CE%9C%CE%91%CE%A4%CE%91%202013.doc](http://www.mlsi.gov.cy/mlsi/dlr/dlr.nsf/All/673C8831AD2DAF12C2257B360027D94A/$file/%CE%94%CE%99%CE%91%CE%A4%CE%91%CE%93%CE%9C%CE%91%CE%A4%CE%91%202013.doc). The latest order was published on 30 December 2014 and covers the period January-April 2015, available at [http://www.mlsi.gov.cy/mlsi/dlr/dlr.nsf/All/B400131C526E941EC22579D10027EEF6/\\$file/episimi%20efimerida.pdf?OpenElement](http://www.mlsi.gov.cy/mlsi/dlr/dlr.nsf/All/B400131C526E941EC22579D10027EEF6/$file/episimi%20efimerida.pdf?OpenElement)

¹⁰⁹ Consultation with trade unionist from POVEK, the association of small and medium enterprises, September 2014.

The repeated orders of the Labour Minister since 2013 regarding the hours of operation of retail shops are of questionable legality, because such hours are regulated by laws enacted by Parliament and can thus only be amended by new laws. The Labour Minister's right to extend the hours of operation is restricted to tourist areas but is now being used to extend the hours of operation of shops throughout the country and during the winter period which is the lowest tourist season of the year¹¹⁰.

4.4.2. The Finance Minister issues decree ordering the reduction of banking employees' wages

On 29 January 2014 the Ministry of Finance intervened with a decree to put an end to the industrial dispute between the co-operative banks and the trade unions of the banks' employees by issuing a decree ordering the reduction of salaries and benefits by 15% for the 300 employees belonging to the trade union ETYK¹¹¹. The remaining 2,700 employees of the banks belonging to other trade unions had consented to a similar wage reduction a few days earlier. According to the decree, the employer's contributions to the Provident Fund of the employees are reduced by seven percent, calculated on the total gross salary accruing after the decrease of the earnings.

The issuing of such a decree, which was unprecedented in Cyprus, was described by the workers' unions as unethical and reminiscent of 'outdated times'¹¹². The decree was issued with the approval and recommendation of the Central Bank of Cyprus a few hours before the leadership of the co-operative banks was due to confront the Troika to present its plans for the restructuring of the co-operative banks and after efforts for a consensual formula had failed.

The decree was issued in accordance with the Laws on the Restructuring of Credit Institutions N. 2011-2013 and after having secured the favourable opinion of the Attorney General. All trade unions described the decree as morally unjust and unethical.

4.4.3. Greek language requirement

A bill purporting to introduce Greek language and other professional requirements for persons working in the hotelier industry was debated in Parliament in 2014, intended to enter into force before the commencement of the new tourist season early in the summer of 2014. The MP heading the competent parliamentary committee described the measure of the Greek language prerequisite as "necessary in order to address high unemployment and the unfair treatment of Cypriots" towards other union citizens working in Cyprus, adding that the new law must also include mechanisms and safeguards against the ineffective and deficient implementation of the collective agreements as regards the terms of employment in the hotel industry. He referred, in particular, to the problem of students hired as trainees in the hotelier industry who are used by employers in order to fill up working posts. Other MPs also backed the introduction of the Greek language requirement, adding that even if it

¹¹⁰ The latest decree issued by the Labour Minister covers the period between 1 September -30 November 2014 and is available at

[http://www.mlsi.gov.cy/mlsi/dlr/dlr.nsf/All/8E5E3F3085C2C7A7C2257D4300397213/\\$file/%CE%BA%CE%B1%CF%84%CE%B1%CF%83%CF%84%CE%AE%CE%BC%CE%B1%CF%84%CE%B1-%CE%B4%CE%B9%CE%B1%CF%84%CE%AC%CE%B3%CE%BC%CE%B1%CF%84%CE%B1.%CF%84%CE%BF%CF%85%CF%81.2014-2.pdf](http://www.mlsi.gov.cy/mlsi/dlr/dlr.nsf/All/8E5E3F3085C2C7A7C2257D4300397213/$file/%CE%BA%CE%B1%CF%84%CE%B1%CF%83%CF%84%CE%AE%CE%BC%CE%B1%CF%84%CE%B1-%CE%B4%CE%B9%CE%B1%CF%84%CE%AC%CE%B3%CE%BC%CE%B1%CF%84%CE%B1.%CF%84%CE%BF%CF%85%CF%81.2014-2.pdf).

¹¹¹ The decree of the Minister of Finance is available at

[http://www.mof.gov.cy/mof/mof.nsf/All/58A9B33C5F4856B4C2257C6F0051CF79/\\$FILE/4754%2029%201%202014%20PARARTIMA%203o%20MEROS%20I.pdf?OpenElement](http://www.mof.gov.cy/mof/mof.nsf/All/58A9B33C5F4856B4C2257C6F0051CF79/$FILE/4754%2029%201%202014%20PARARTIMA%203o%20MEROS%20I.pdf?OpenElement).

¹¹² Press release of the Union of Banking Employees ETYK dated 30 January 2014.

does not reduce unemployment amongst Cypriots it will have the effect of pacifying public outrage for the fairer treatment of the local workforce. According to statistics presented by one MP to the parliamentary committee, undeclared work in the hotel industry has reached 20% and in night clubs 34%; 60% of employers do not inform employees regarding their working conditions; 30% do not keep the working hours schedule, 72% do not maintain a bill of rights in the service; and 44% do not maintain a schedule of annual leave of their personnel¹¹³.

A representative of the Attorney General's office said that, from a legal standpoint, the Greek language requirement must serve the principles of general interest and must not be introduced as a measure to combat unemployment. Although MPs, the workers' unions and the chair of the Cypriot Tourism Organization strongly supported this measure, the two employers' organisations were cautious, stating that the language criterion is likely to lead to discrimination and that the measure should move in the direction of offering incentives to employers to hire Greek speakers rather than introduce legally binding obligations. In the end, the Greek language requirement entered the job descriptions for posts in the hotel industry¹¹⁴; although there is no evidence as to how this measure is implemented in practice, it is a tool in the hands of employers to hire Cypriots or Greeks and exclude non-Greek speakers. In December 2014 the Minister of Labour announced that a bill was under preparation in order to introduce the Greek language requirement for certain professions¹¹⁵.

¹¹³ Cyprus News Agency (SEK), From deliberations of the Labour Committee of the House Parliament, 2014; 'SEK: Demands a study on the tourist industry' (ΣΕΚ: Ζητά μελέτη για την τουριστική βιομηχανία), 10 September 2014, available at <http://www.sigmalive.com/news/local/159914/sek-zita-meleti-gia-tin-touristiki-viomixania>; Offsite (2014) 'SEK demands increase of recruitment of Cypriots in the hotelier and tourist industry' (Η ΣΕΚ ζητεί αύξηση των προσλήψεων Κυπρίων στην ξενοδοχειακή και τουριστική βιομηχανία), 10 July 2014, available at <http://offsite.com.cy/sek-ziti-afxisi-ton-proslipseon-kiprion-stin-xenodochiaki-ke-touristiki-viomichania/>; Stockwatch (2014) 'Greek language at the forefront' (Η ελληνική γλώσσα στην πρώτη γραμμή), 2 December 2014, available at http://www.stockwatch.com.cy/nqcontent.cfm?a_name=news_view&ann_id=187509.

¹¹⁴ Trimikliniotis, T., 'Report on the Free Movement of Workers in Cyprus in 2012-2013', National Expert Report for the European Network on Free Movement of Workers within the European Union coordinated by the Radboud University, Nijmegen's [Centre for Migration Law](http://works.bepress.com/nicos_trimikliniotis/41/) under the European Commission's supervision, 2013, available at http://works.bepress.com/nicos_trimikliniotis/41/; Jensen, U.I., 'The Language Requirements under EU Law on Free Movement of Workers', Analytical Note for 2013, for the European Network on Free Movement of Workers within the European Union, October 2013 - updated February 2014, available at <http://ec.europa.eu/social/main.jsp?catId=475&langId=en>.

¹¹⁵ Philenews (2014) 'Greek language a necessary qualification for certain professions' (Ελληνική γλώσσα απαιτείται ως προσόν για ορισμένα επαγγέλματα), 2 December 2014, available at <http://www.philenews.com/el-gr/top-stories/885/174192/apaitoumeno-proson-gia-kapoia-epangelmata-i-elliniki-glossa>.

5. IMPACT OF THE AUSTERITY MEASURES ON THE RIGHT TO PENSION

KEY FINDINGS

- A new scheme is introduced providing for a 'minimum guaranteed income' of €480 per month, replacing a number of benefits including pensions. The scheme carries a list of disadvantages for low income pensioners who are, on the one hand, not obliged to apply, but on the other stand to lose part of their pension if they do not apply.
- In combination with other cuts and tax increases, the scheme will result in a drop of 30% of the standard of living of low income pensioners.

5.1. International and EU legal framework for the protection of the right to pension

There is no internationally guaranteed right to pension. However, pensions, including the contributory pensions, as well as the so-called social pensions (in so far as provided by applicable legislation); have been observed through the lenses of the right to property. Namely, having developed the doctrine of pensions as acquired rights, the European Court of Human Rights has observed pensions through the lenses of the right to property as guaranteed by Article 1 of Protocol No. 1 to the ECHR¹¹⁶.

With this understanding, Article 17 of the EU Charter guarantees the right for everyone 'to own, use, dispose of and bequeath his or her lawfully acquired possessions. No one may be deprived of his or her possessions, except in the public interest and in the cases and under the conditions provided for by law, subject to fair compensation being paid in good time for their loss.'

5.2. The right to pension in Cyprus

Until July 2014, the minimum pension from social insurance was €352 per month, supplemented by a social pension of €336 and a grant of €150 per month from the Ministry of Finance as part of a scheme to support low income pensioners. Therefore, the minimum amount which a pensioner was entitled to prior to the introduction of the 'minimum guaranteed income' exceeded €480 per month.

The minimum guaranteed income

However, on 11 July 2014 a new law came into force seeking to secure a minimum guaranteed income¹¹⁷, introducing a new system of social welfare, which was aimed at replacing the income from social welfare. The Labour Minister said that the government expects to receive more than 70,000 applications but the number of eligible persons would

¹¹⁶ See e.g. *Gaygusuz v. Austria*, case no. 17371/90, judgment of 16 September 1996, §41. For a full list of references to the regime of 'acquired rights' see *Grudić v. Serbia*, case no. 31925/08, judgment of 17 April 2012, §72.

¹¹⁷ Law on the Minimum Guaranteed Income and Generally on Social Provision of 2014 N. 109(I)/2014, available at http://www.cylaw.org/nomoi/enop/non-ind/2014_1_109/full.html.

be determined once the applications are examined. The scheme was expected to cost the government €25 million and would compile all social provision except those affecting persons with disabilities, student grants and child allowances, single parent families and the schemes of financial support to displaced persons. The amount to be granted to a family will depend on the size and the constitution of the household. The minimum guaranteed income is set at €480 per month, increased by 50% for every member of the family aged 14 and over, including the spouse.

5.3. Impact of the legal changes

It is estimated that pensioners were however, hit the hardest with this reform. In order to assess an applicant's eligibility for the minimum guaranteed amount, the authorities take into account remuneration from paid employment or self-employment and all other income or benefits excluding disability related benefits, student grants, pregnancy benefit and support benefit for pensioners. Persons who they themselves or a member of their family own immovable property the value of which exceeds €100,000 (excluding one's first home of up to 150m²) or who have deposits in the bank exceeding €5,000 (increased by €1,000 for each dependent) are excluded from the scheme.

Some MPs argued that the low level of minimum guaranteed income is likely to adversely affect minimum salaries and called on the government to take the necessary measures to protect these. The trade union of pensioners EKYSY protested against this measure on the ground that it will render pensioners worse off than before¹¹⁸.

Although pensioners were not obliged to apply for the minimum guaranteed income, if they did not apply for it they lost the social pension of €336 per month. Filing an application for the minimum guaranteed income required the filling out of forms and submission of documentation within a very tight deadline of a few weeks, which was difficult for people of advanced age and/or of low education¹¹⁹. The Ministry did not provide any assistance to pensioners for filing the application.

Eventually, the total number of applications was not as high as anticipated by the Labour Ministry: applications barely exceeded 63,000 whilst 30% of the low income pensioners did not apply by the deadline and therefore ceased to be eligible for either for the minimum guaranteed income or for the social pension¹²⁰.

To be eligible for the minimum guaranteed income, applicants must submit a full report about their income, bank deposits and property and to sign a statement that they give access to and consent for the investigation of their assets by the Ministry of Labour. The database of personal assets that will be created by such investigation will not be used

¹¹⁸ Consultation with Secretary General of EKYSY, the union of pensioners.

¹¹⁹ The law, which was published on 11 July 2014, immediately suspended all public assistance grants unless the prospective applicant filed an application for the minimum guaranteed income within 30 days. The Minister of Labour was given power to extend this period to 60 days, giving prospective applicants 60 days to submit their applications. Low income pensioners were allowed 60 days to submit an application. This time line was subsequently extended until 30 September 2014 by a revision of the law: Law revising the law on the minimum guaranteed income and general social provisions N. 135(I)/2014, available at http://www.cylaw.org/nomoi/arith/2014_1_135.pdf.

¹²⁰ The measure was very recent at the time of writing and no statistics were released as to the precise number of applicants. The reference to 30% of low income pensions not having submitted an application was made by the Secretary General of the Pensioners Trade Union EKYSY.

solely in order to determine eligibility to the minimum guaranteed income, but also for the purpose of assessing income tax liabilities.

Prior to the deadline for submission of applications for the minimum guaranteed income, the Labour Minister issued 'warnings' to prospective applicants through the press that their bank accounts will be checked thoroughly in order to determine whether they withdrew money for a year before applying in order to meet the ceiling of €5,000 in deposits required by the eligibility conditions; the statements caused angry reactions amongst, not only pensioners, but also trade unionists and social activists, who protested against the fact that instead of going after the large tax evaders and the politically exposed persons who transferred money out of Cyprus only days prior to the haircut of deposits, the government is going after the low income pensioners¹²¹.

The pensioners' trade union EKYSY has identified further weaknesses to the new scheme of the minimum guaranteed income:

- The new scheme does not address the needs and problems faced by the long term unemployed because of the conditions of eligibility it sets and particularly the condition that no member of the applicant's family should have property valued in excess of €100,000.
- The amount of €480 determined as the ceiling of the minimum guaranteed income is a survival amount and not sufficient for a dignified living, setting a very low standard. According to EKYSY's calculations, pensioners are now 30% worse off than they were two years ago, given the rise in taxes irrespective of income (e.g. sharp increases in VAT), the increase in the price of fuel, the new health charges introduced even for low income pensioners, the abolition of free transport for pensioners, the abolition of the 'Easter grant' paid to pensioners by the previous government and the introduction of a new property tax even for the homes of low income pensions.
- The fact that a number of issues are left to the discretion of Ministry officials.
- The fact that persons aged 18-28 cannot apply in their own right but only as members of the family unit, unless they are married, single parents or orphans.
- The condition that applicants must have at least five years of lawful stay in Cyprus to be eligible is problematic for the repatriated Cypriot elderly people who have no income or pension from elsewhere.

EKYSY further complained about the fact that prior to the introduction of this scheme it had sent no less than 13 letters to the Finance Minister calling for a meeting to discuss their concerns, all of which had been ignored, whilst the scheme was introduced without consultation with the social partners¹²².

In October 2014 the Supreme Court annulled as unconstitutional a law abolishing multiple pensions for state officials who take up a second post following their retirement¹²³. The decision came as a surprise to policy makers and legislators because in lawsuits concerning wage reductions or confiscation of bank deposits, the Court did accept the argument of the need to reduce public spending as a legitimate reason to forego otherwise inalienable rights.

¹²¹ Consultation with trade unionist from EKYSY, the pensioners' trade union.

¹²² Consultation with the secretary General of the pensioners' trade union EKYSY, September 2014.

¹²³ *Maria Koutselini-Ioannidou et al. v. the Republic*, 7 October 2014, available at <http://www.cylaw.org/cgi-bin/open.pl?file=apofaseis/aad/mero>.

6. IMPACT OF THE AUSTERITY MEASURES ON THE RIGHT OF ACCESS TO JUSTICE

KEY FINDINGS

- The right to seek recourse to courts in order to challenge austerity measures affecting rights is in theory guaranteed, as the court recognises a role for itself to check on interference with rights by the administration. However, the court's uneven treatment of rights affected by the austerity measures, coupled with a legal tradition of upholding doctrines of 'necessity' have impacted negatively on this right.
- Legal aid is discretionary upon the Court and subject to the 'means test', whilst its scope is restricted. No legal aid is available for administrative law recourses.
- The delays traditionally suffered in trials of cases have been accentuated by the large volume of crisis-related and austerity-related cases.

6.1. International and EU legal framework for the protection of the right of access to justice

While access to justice has not been explicitly guaranteed by international human rights law as such, it has however figured highly in the general requirements of the respect of rights of individuals. Hence, the UDHR, ICCPR, or ECHR, while guaranteeing procedural rights by means of the right to a fair hearing (or trial), do not make a reference to access to justice. The absence of a guarantee of the right of access to justice has not prevented the ECHR to effectively provide protection of this right by expanding the guarantee from Article 6 of the right to a fair trial to also mean the guarantee of the right to access to a court. Furthermore, Article 13 of the ECHR guarantees the right to legal remedy, which is also an important element of access to justice.

More recently, however, the Convention on the Rights of Persons with Disabilities¹²⁴ guarantees the right of people with disabilities on access to justice on an equal basis with others.

Access to justice is guaranteed by Article 47 of the EU Charter, which guarantees the right of everyone to an effective remedy before a tribunal established by the law, by means of a fair and public hearing within a reasonable time, with access to legal aid, if necessary. However, even though it is seen to typically mean having a case heard in a court, it can more broadly be achieved or supported through mechanisms such as national human rights institutions, equality bodies and ombudsman institutions, as well as European Ombudsman at the EU level¹²⁵.

¹²⁴ CRPD, Article 13.

¹²⁵ FRA, [Themes: Access to justice](#).

6.2. Right of access to justice in Cyprus

Access to justice is guaranteed by the Cypriot Constitution under a provision that is modelled along the lines of article 6 of the European Convention for Human Rights (ECHR)¹²⁶.

Since the majority of the austerity measures challenged have been introduced through legislation, the mandate of the court to act in order to safeguard fundamental rights is restricted to either declaring them unconstitutional¹²⁷ or to annulling an administrative act via the judicial review procedure¹²⁸.

6.3. Austerity measures concerning access to justice

Since austerity measures started to be adopted, the Courts have received applications seeking to declare the laws unconstitutional or seeking to set aside administrative decisions made in response to these¹²⁹. A number of these cases concern the haircut of bank deposits, the confiscation of bank bonds and bank shares belonging to the public and measures affecting working conditions, such as retirement age, cuts in wages, non-payment of salaries and others. To alleviate the pressing situation developed as a result of the huge volume of cases pending and the backload of cases awaiting trial¹³⁰, a new Administrative Court is to be set up, to try cases of an exclusively administrative nature, which are currently tried by the Supreme Court.

Because most of the austerity measures challenged have been introduced through legislation, the mandate of the court to act in order to safeguard fundamental rights is restricted to either declaring them unconstitutional or to annulling an administrative act under judicial review in accordance with article 146 of the Constitution. Interestingly, in examining a preliminary objection raised in connection with a group action against the Central Bank and the Ministry of Finance for the haircut of bank deposits in 2013, the court ruled that "in cases of individual rights protected by the Constitution which may be subjected to restrictions, like the right to property, any restriction to or interference with such right carried out by an administrative act under legislative sanctioning must be checked by the Supreme Court in order to ascertain whether the restriction or interference is justified for reasons of public interest, does not violate the nucleus of the right and is in compliance with the principle of proportionality"¹³¹. In other words, the Supreme Court

¹²⁶ Article 30 of the Constitution, under the title 'Access to Courts', draws heavily on ECHR article 6.

¹²⁷ Under article 144 of the Constitution.

¹²⁸ In accordance with article 146 of the Constitution.

¹²⁹ There is no statistical record of court cases per thematic subject, to enable an empirical search. The information is based on consultations with legal practitioners, September 2014.

¹³⁰ In fact, even before the flooding of the Courts as a result of the crisis, the Cypriot Courts were notorious for their delays and Cyprus has been repeatedly found by the ECtHR in violation of Articles 6 and 13 of the ECHR. See for instance *Clerides & Kynigos v. Cyprus*, 19/01/2006, Application no. 35128/02, European Court of Human Rights, regarding a national Court case that had lasted 12 years as a result of repeated adjournments and delays in transferring the file from the District Court to the Supreme Court. In 2010, Cyprus' compliance with the ECtHR's aforesaid decisions was placed under the supervision of the Council of Europe's Ministerial Committee, as a result of which the Law on effective remedies for the violation of the right to diagnose civil rights and obligations within a reasonable time N.2(I)/2010 was enacted, available at http://www.cylaw.org/nomoi/enop/non-ind/2010_1_2/full.html. The scope of this law, however, covers only civil law and not administrative proceedings such as those foreseen under article 146 of the Constitution.

¹³¹ *Myrto Christodoulou et al v. The Central Bank of Cyprus, the Governor of the Central Bank of Cyprus and the Finance Minister*, 551/2013, 7 June 2013, available at http://www.cylaw.org/cgi-bin/open.pl?file=apofaseis/aad/meros_3/2013/3-201306-551-13_etc_Miopsifia_Papadopolou.htm&qstring=%EF%E9%EA%EF%ED%EF%EC%E9%EA%*%20and%20%EA%F1%E9%F3*.

reserved for itself the right to check the acts of the administration, even where these are carried out in pursuance of a legislative act, when constitutional rights are at risk of violation. But when it comes to exercising such discretion, the court is more likely than not to decide in favour of 'public interest', in a reasoning that often does not meet the standards of the ECHR or the CJEU in safeguarding rights¹³².

In fact, Cypriot courts are not unaccustomed to the idea of applying doctrines of questionable legality to facilitate the systemic operation of the state in emergency situations: since 1964 they have been applying the 'doctrine of necessity' which effectively suspends the communal rights which the Constitution had granted to the Turkish Cypriot community, on the premise that the functioning of the government must continue in emergency situations¹³³.

Legal aid may be granted for civil proceedings against the Republic for human rights' violations concerning damage caused to an individual or criminal proceedings instituted by any person regarding human rights violations. The offences covered by legal aid are¹³⁴:

- Part II of the Constitution covering all rights protected by the ECHR¹³⁵;
- The European Convention for the Protection of Human Rights (Ratification) Law of 1962;
- The Convention on the elimination of All Forms of Racial Discrimination (Ratification) Laws 1967 to 1995;
- The International Covenants (Economic, Social and Cultural Rights and Civil and Political Rights) (Ratification) Law of 1969 ;
- The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (Ratification) Law of 1989;
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Ratification) Laws 1990 and 1993;
- The United Nations Convention on the Elimination of All Forms of Discrimination against Women (Ratification) Law of 1985;
- The Convention on the Rights of the Child (Ratification) Law of 1990.

¹³² Consultation with Equality Body official, September 2014. In its ruling against Cyprus in the case of Ibrahim Aziz, the European Court of Human Rights found that, although rights may be subject to limitations depending on the country's special situation, such limitations must be such so as "not to curtail the rights in question to such an extent as to impair their very essence". The Court concluded that in the case of Aziz who, like all Turkish Cypriots, was since 1963 denied the right to vote on the ground of 'necessity', "the very essence of the applicant's right to vote, as guaranteed by Article 3 of Protocol No. 1, was impaired": Aziz v Cyprus, Application No. 69949/01, 22 September 2004, available at [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-61834#{"itemid":\["001-61834"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-61834#{). Following this decision, a law was enacted granting the right to vote only to those Turkish Cypriots residing in the territory under its control for six months or more. However, the Courts in Cyprus continue to apply the doctrine of necessity in respect of other rights of Turkish Cypriots, such as the right to property.

¹³³ For more details on the doctrine of necessity, please see Demetriou, C., 'Report on measures to combat discrimination Directives 2000/43/EC and 2000/78/EC. Country report 2011, Cyprus', 2012, available at http://www.non-discrimination.net/content/media/2011-CY-Country%20Report%20LN_final_0.pdf.

¹³⁴ Law on Legal Aid N. 165(I)/2002 as amended, available at http://www.cylaw.org/nomoi/enop/non-ind/2002_1_165/full.html

¹³⁵ Constitution of the Republic of Cyprus (*To Σύνταγμα της Κυπριακής Δημοκρατίας*), Part 02, articles 6-35, available at [http://www.presidency.gov.cy/presidency/presidency.nsf/all/1003AEDD83EED9C7C225756F0023C6AD/\\$file/CY_Constitution.pdf](http://www.presidency.gov.cy/presidency/presidency.nsf/all/1003AEDD83EED9C7C225756F0023C6AD/$file/CY_Constitution.pdf)

The grant of legal aid is discretionary upon the Court and is subject to the financial means of the applicant, as these are assessed by the Social Welfare Services of the Ministry of Labour and Social Insurance. Thus, in order for the court to grant legal aid, it must be satisfied that the economic situation of the applicant, by taking into account his/her income from work and other sources and the basic needs of him/herself and his/her family, is such that s/he is unable to pay for legal advice or representation. In addition, the Court must be satisfied that the seriousness of the case is such that it is in the interests of justice for legal aid to be granted for the preparation and the handling of the case¹³⁶.

The legal aid law was amended in 2012 and 2014 in order to transpose the relevant provisions of the EU acquis as regards the return of undocumented migrants and the reception conditions of asylum seekers. Under these amendments, asylum seekers whose asylum applications have been turned down may challenge the rejecting decision in court and undocumented migrants may challenge the deportation decision issued against them. However, in these cases, in addition to the means test applied for all other situations, there is an additional test to be met: applicants must convince the court that their case has a good chance of success (known as the 'merits test'). In practice, this test can hardly ever be satisfied; NGOs and legal practitioners report that to their knowledge, out of the several hundreds of applications for legal aid submitted by rejected asylum seekers and undocumented migrants subject to return proceedings, only two have been granted¹³⁷. Apart from the aforesaid procedures relating to asylum and returns, the legal aid law does not cover administrative law cases. A general right to legal aid found in the Constitution¹³⁸ was held by the Supreme Court not to create any legal obligations for the state to provide legal aid where this is not foreseen in the law and therefore applicants cannot rely directly and solely on the Constitution to be granted legal aid¹³⁹. The information supplied by the courts Registrar as regards the amounts granted for legal aid shows a steady decrease of these amounts every year but provides no information as to the type of cases for which legal aid was granted, which makes it impossible to draw conclusions as regards trends in the availability of legal aid in fundamental rights cases.

Following the adoption of the law on forced acquisitions of properties¹⁴⁰ the legal aid law was further amended¹⁴¹ to cover lawsuits by lenders seeking to challenge the forced sale of their properties.

¹³⁶ Law on the provision of Legal Aid N.165(I)/2002 as amended, article 5, available at http://www.cylaw.org/nomoi/enop/non-ind/2002_1_165/full.html.

¹³⁷ Consultation with NGO Future Worlds, the Equality Body and advocate Mr Michael Paraskevas, September 2014.

¹³⁸ Article 30.3.(d) of the Constitution provides for the right of everyone "to have a lawyer of his own choice and to have free legal assistance where the interests of justice so require and as provided by law".

¹³⁹ Re. the application of Svetlana Shalaeva, Application no. 4/2005, 21 October 2005

¹⁴⁰ Discussed in chapter 8 below.

¹⁴¹ By amending law N. 140(I)/2014, available at http://www.cylaw.org/nomoi/enop/ind/2002_1_165/section-sc8463e27e-e8a7-b76d-fc2b-ac6f655eaab2.html.

7. RIGHT TO FREEDOM OF EXPRESSION AND ASSEMBLY: PROTESTS AGAINST AUSTERITY MEASURES

KEY FINDINGS

Administrative and police practices have not changed in the post-crisis period, with police brutality and authoritarian behaviour being reserved mostly for migrants.

7.1. International and EU legal framework for the protection of the freedom of expression and assembly

Freedoms of expression and assembly are guaranteed by Articles 20 and 23 of the UDHR, Articles 21 and 22 of the ICCPR, Article 8 of the IESCR, Articles 10 and 11 of the ECHR and Articles 5 of both ESC and RESC. Article 11 of the EU Charter guarantees the right of freedom of expression and information, while Article 12 provides for the protection of freedom of assembly and association.

Indeed, freedom of expression and freedom of assembly are two separate rights. The former guarantees the 'right to hold opinions and to receive and impart information and ideas without interference by public authority'¹⁴², whereas the latter provides for the protection of the 'right to freedom of peaceful assembly'¹⁴³. However, in the context of this particular study, they are being observed at the same time, and in relation with the same events – the protests in the Member States which were provoked by the austerity measures, and which at the same time served to express their opinions, however quite often by means of collective public assembly, through protests and other forms of manifestations, hence calling for the protection from either or both of these guarantees.

Like all other rights dealt with in the present study, these two rights are not absolute. In other words, they are guaranteed, but only under certain conditions. In that regard, one important element has to be present – the assembly needs to be peaceful. As soon as the assembly loses this attribute, the State has not only the right, but also the duty to intervene, in order to protect the rights and freedoms of others. At the same time, the opinion needs to be expressed without interference by a public authority, unless such an interference is 'necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary'¹⁴⁴.

¹⁴² ECHR, Article 10 and EU Charter, Article 11.

¹⁴³ ECHR, Article 11 and EU Charter, Article 12.

¹⁴⁴ ECHR, Article 10.

7.2. Protection of the freedom of expression and assembly in Cyprus

The overall picture emerging as regards the right to protest against austerity is that police practices and the administrative procedures involved in preparation for the protest events, have not changed from the pre-crisis period. Administrative procedures were not unnecessarily inhibited or impeded in the case of anti-austerity protests, at least not more than the practice followed in the pre-crisis era. Prior to the crisis, instances of police brutality were repeatedly recorded against migrants¹⁴⁵ and occasionally against Cypriots protesting alongside migrants in solidarity. In the aftermath of the crisis, and as the number of migrants and asylum seekers has decreased, police checks and instances of brutality have remained at the same level and in some cases they may even have decreased (or be under-reported).

With the advent of the crisis, new groups of protesters appeared in the streets: pensioners, bank employees, ordinary people protesting against the haircut in deposits, against the Troika and against other austerity measures. Anti-austerity demonstrations in Cyprus never assumed the volume or intensity experienced in some other countries in crisis, such as Spain and Greece. Security measures are always intensified as a protest march would approach government buildings, but there have not been cases of violence or riots during such events. Security measures are more relaxed in protest marches and meetings away from government buildings. As pointed out by social activists¹⁴⁶, it is impossible to know at any given time how many plain-clothed policemen are incognito circulating amongst protestors in demonstrations or how many secretly-placed cameras are filming the events; in any case the police claims for itself the right to film demonstrations against the advice of the Data Protection Commissioner who warned that filming or taking photographs in anticipation of trouble is unlawful¹⁴⁷. However, these surveillance measures have not so far transformed into overt forms of violence.

¹⁴⁵Council of Europe, 'Report to the Government of Cyprus on the visit to Cyprus carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 23 September to 1 October 2013', 9 December 2014, available at <http://www.cpt.coe.int/documents/cyp/2014-12-09-eng.htm>. The report highlights, amongst others, the ill-treatment of foreign nationals by the police in detention, consisting of slaps, punches and kicks to the head and body, the inappropriate use of tear gas in detention centres, the inappropriate conditions of detention and the detention of unaccompanied minors under conditions of solitary confinement. Further references to abuse of migrants by police can be found in the following reports: Amnesty International (2012) 'Punishment without a crime: Detention of migrants and asylum-seekers in Cyprus', available at www.amnesty.org/fr/library/asset/EUR17/001/2012/en/36f06387-9ce6-43df-9734-a4550fa413d6/eur170012012en.pdf; Amnesty International (2014) 'Cyprus: Abusive detention of migrants and asylum seekers flouts EU law', 18 March 2013, available at www.amnesty.eu/en/news/press-releases/region/eu/cyprus-abusive-detention-of-migrants-and-asylum-seekers-flouts-eu-law-0720/#.VIivOtKufTQ; Committee for the Prevention of Torture (2012), 'Report to the Government of Cyprus on the visit of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)', ReportRef. CPT/Inf (2012) 34, 06 December 2012, available at www.cpt.coe.int/documents/cyp/2012-34-inf-eng.htm#_Toc216522049; Ombudsman of the Republic of Cyprus (Επιτρόπος Διοικήσεως) 'Report regarding allegations of abuse of migrants by members of the police during arrest, detention and deportation', File nos. A/P 738/2013, A/P 960/2013, A/P 1063/2013, A/P 1283/2013, A/P 1378/2013, A/P 1470/2013, A/P 1472/2013, 18 September 2013, available at http://www.ombudsman.gov.cy/Ombudsman/ombudsman.nsf/presentationsArchive_gr/presentationsArchive_gr?OpenDocument; European Commission against Racism and Intolerance, 'ECRI Report on Cyprus, Fourth Monitoring Cycle', 31 May 2011, available at <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Cyprus/CYP-CbC-IV-2011-020-ENG.pdf>

¹⁴⁶ Consultation with officers from Future Worlds Centre and KISA, September 2014.

¹⁴⁷ Cyprus Mail, 'Police say there's nothing illegal in filming protests', 30 August 2012, available at <http://archives.cyprus-mail.com/2012/08/30/police-say-there-s-nothing-illegal-in-filming-protests/>.

Protests regarding austerity measures started even before the signing of the Memorandum of Understanding with the Troika and continue to this day. Albeit, with reduced intensity and turn out. In fact the period that preceded the Memorandum saw several angry and intense outbursts, with demonstrators storming bank headquarters and the house of parliament, even prior to the haircut, in order to protest about the loss of their investments. In addition to the bond holders, protests were staged by pensioners against the cuts in their pensions, by students against the introduction of a bus fare for their transport to and from school, by public servants regarding their wage cuts, by bank employees regarding the loss of their benefits, by social activists opposing privatisations, by teachers opposing budget cuts, and by all opposition, trade unions and social movements and against the haircut of deposits in March 2013. Below is an indicative list of some of these mobilisations which have attracted media attention:

- On 12 December 2012 angry investors, who believed that they had been duped by bankers into buying high-yield bank bonds, stormed the House of Parliament and disrupted a committee meeting discussion on the issue, in order to protest about the free-fall in the value of the bonds. The protestors were stopped by the police at the last minute before entering the conference area; the police claimed they used minimum force whilst the protestors claimed the force was above minimum but there were no injuries and no arrests. The event led the police spokesman to announce a stepping up of security measures at all government buildings in anticipation of more angry outbursts against the coming austerity measures¹⁴⁸.
- On 19 December 2012, secondary school teachers walked out of classrooms for the day's last period, protesting against the austerity measures impacting their sector. Under a new austerity policy, secondary education teachers must work for an extra period (40 minutes) a week, a move that will eventually cause 413 contract teachers to lose their job. The protest was staged as a criticism to the government's failure to adequately negotiate with the troika the terms of their employment¹⁴⁹.
- On 6 February 2013, only weeks before the haircut, the bondholders protested again, this time outside the headquarters of the Cyprus Popular Bank which was at the time rumoured to be on the brink of bankruptcy; when they were denied a meeting with the CEO they attempted to storm the building but were stopped by the police. They later marched to police headquarters where they met the Police Chief, in order to demand that criminal charges be brought against those responsible within the banks for the losses to their investments. During the preceding week, the bond holders stormed the Bank of Cyprus headquarters, pushing their way inside and damaging the furniture before the police arrived on the scene¹⁵⁰.
- On 10 April 2013, about 300 Cyprus Airways employees protested outside the Presidential Palace whilst the Council of Ministers was meeting to discuss the future of the airline. The employees asked for the government's support to prevent the airline from closing and for them to take an immediate political decision. The event was not marked by incidents¹⁵¹.
- By far the largest mobilisation was held on 19 March 2013, when all opposition parties and several other movements joined forces in order to protest en masse outside the House of Parliament against the adoption of a bill that would allow a

¹⁴⁸ Cyprus Mail, 'Security to be stepped up over growing protests', 12 December 2012.

¹⁴⁹ Cyprus Mail, 'Teachers walk out early to protest austerity', 20 December 2012.

¹⁵⁰ Cyprus Mail, 'Bondholders protest outside Popular Bank HQ', 7 February 2013.

¹⁵¹ Cyprus Mail, 'CY employees protest at palace', 11 April 2013.

haircut on all deposits in all banks including those under €100,000. This protest was one of the largest ever staged in Cyprus, with some commentators referring to it as 'the revolt of March 2013'¹⁵². In spite of this, there were no incidents of violence on either side.

Overall, protests in Cyprus in recent years have invariably been peaceful, especially when participated by the mainstream political parties or the trade unions, whose mechanism is well trained to ensure that no act or manifestation gets out of control, as this would attract negative media attention and cause them to lose the battle of winning over public opinion. In recent months there have been fewer protests than in the months preceding and following the haircut, presumably because social movements have to a large extent accepted the inevitability of the measures requested by the Troika.

¹⁵² Anagnosi, D., 'The revolt of March 2013', blogspot, available at <http://2hacy.blogspot.com/2014/03/2013.html>.

8. OVERVIEW OF THE IMPACT OF THE AUSTERITY MEASURES ON OTHER FUNDAMENTAL RIGHTS IN CYPRUS

KEY FINDINGS

- The crisis has affected the right to property in multiple ways. The measure that has affected the economy and society more than any other was the haircut of deposits, as bank customers were suddenly confronted with an emerging norm that their deposits in the bank are not their own absolute property but an investment which can be confiscated to cover the banks' debts.
- The second measure that continues to be at the forefront of public debate is the forced acquisitions of residential homes mortgaged in order to cover non-performing housing loans. The third measure that has received little public attention or concern is the drop in the housing allowance for asylum seekers who are finding it increasingly impossible to lead a dignified existence in Cyprus.
- The right to collective bargaining has been gradually undermined by a series of measures unilaterally adopted on the pretext of emergency and in order to avoid an economic catastrophe, a concept that has been deemed legitimate by the courts.

This section looks into three issues of concern: the right to property and in particular with reference to the confiscation of deposits; the right to housing; and the right to collective bargaining. These three areas were selected because of the magnitude and the long lasting effect they are expected to have on Cypriot society.

The confiscation of deposits has jeopardised the trust of both local and foreign investors in Cypriot banks system and has led to the downsizing of the banking sector overnight, whilst the inability of the banks to finance business activity has drained the market from liquidity and has led to the closure of several small and medium enterprises.

Forced acquisitions of residential homes will lead to homelessness, a phenomenon that had been absent from Cyprus until now, as well as social unrest, because it is a measure intended to benefit the banks, whose reckless policies of expansions are blamed for the Cypriot crisis.

The undermining of collective bargaining has downgraded the role of trade unions and has shaken the foundations of social dialogue, one of the long standing features of the Cypriot labour market. The role of trade unions, which becomes all the more crucial in times of economic crisis, will be extremely difficult to restore to its previous pre-crisis position.

8.1. The Right to Property (confiscation of bank deposits)

Article 23 of the Constitution provides:

1. *"Every person, alone or jointly with others, has the right to acquire, own, possess, enjoy or dispose of any movable or immovable property and has the right to respect for such right. The right of the Republic to underground water, minerals and antiquities is reserved."*

2. *No deprivation or restriction or limitation of any such right shall be made except as provided in this Article.*
3. *Restrictions or limitations which are absolutely necessary in the interest of the public safety or the public health or the public morals or the town and country planning or the development and utilisation of any property to the promotion of the public benefit or for the protection of the rights of others may be imposed by law on the exercise of such right. Just compensation shall be promptly paid for any such restrictions or limitations which materially decrease the economic value of such property, such compensation to be determined in case of disagreement by a civil court.*
4. *Any movable or immovable property or any right over or interest in any such property may be compulsorily acquired by the Republic or by a municipal corporation or by a Communal Chamber for the educational, religious, charitable or sporting institutions, bodies or establishments within its competence and only from the persons belonging to its respective Community or by a public corporation or a public utility body on which such right has been conferred by law, and only –*
 - (a) for a purpose which is to the public benefit and shall be specially provided by a general law for compulsory acquisition which shall be enacted within a year from the date of the coming into operation of this Constitution; and*
 - (b) when such purpose is established by a decision of the acquiring authority and made under the provisions of such law stating clearly the reasons for such acquisition; and*
 - (c) upon the payment in cash and in advance of a just and equitable compensation to be determined in case of disagreement by a civil court.”*

The right to property is also guaranteed under article 1 to the First Protocol to the European Convention on Human Rights (ECHR), which Cyprus has ratified. But although these provisions were deemed sufficient to protect the pensions of persons who are being paid an income as a result of holding public office or another public position,¹⁵³ they were deemed insufficient to protect the bank deposits of natural and legal persons in the country's two largest banks.

As a condition for receiving the €10 billion bailout package from the EU's bail out mechanism, in March 2013 Cyprus was forced to subsidise part of its bailout. This was agreed to be raised by levying shareholders, bondholders, and depositors of banks with more than €100,000 euro in their accounts, used as equity to recapitalise the country's two major banks. This move shocked both Cypriot society as well as the business world, particularly the small and medium enterprises forming the backbone of the economy as until then no one was made aware that deposits in the bank were seen as an 'investment' which might fail.

The 'bail-in' concept, or the idea of having depositors, rather than taxpayers finance the bailout, was suggested by the Troika lenders and embraced by the new government amidst heated protests. Initially the proposal was that all bank deposits in all banks, including the secure deposits would be levied with percentage of the amount of the deposit in order to raise the €7bn required by the Troika, but the government failed to secure a majority in

¹⁵³*Maria Koutselini Ioannidou et al v the Republic*, judgement delivered on 7 October 2014, available at http://www.cylaw.org/cgi-bin/open.pl?file=apofaseis/aad/meros_3/2014/3-201410-740-11etc_minor.htm&qstring=%EC%E1%F1%E9%E1*%20and%20%EA%EF%F5%F4%F3%E5%EB%E9%ED*, discussed in Chapter 5 above.

parliament to pass this measure and submitted a revised bill for confiscating deposits only in excess of €100,000 and only in the country's two major banks. The two banks affected by the haircut, namely the Cyprus Popular Bank (which was shut down completely) and the Bank of Cyprus, together accounted for 80% percent of the banking sector in Cyprus.

Following the agreement in the Euro group regarding Cyprus in March 2013, all Cypriot banks remained closed for several days, leaving their clients without cash. When the banks reopened, the Central Bank of Cyprus issued orders, renewed and updated weekly, imposing a number of restrictions on, *inter alia*, cash withdrawals (maximum of €300 per day) and transfers of money abroad¹⁵⁴. One of the restrictions still in force at the time of writing this report concerns the transfer of money abroad. In particular, the export of money outside Cyprus is restriction-free only for €5,000 per person per month¹⁵⁵. For any money in excess of this amount, permits must be granted provided a special committee is satisfied that the money is intended for the maintenance of students studying abroad (at a ceiling of €5,000 per quarter), payment of salaries of employees studying abroad or payments for transactions within one's usual professional activity (again ceilings apply). Thus a person wishing to export money in order to, for example, make an investment outside Cyprus can only do so at the rate of €5,000 per month. The restrictions in the movement of capital have created additional insecurity to consumers who feel their money is trapped in Cyprus risking confiscation at the next 'bail-in' deal.

The haircut had devastating effects both on individual businesses and households affected but also on the economy as a whole, as consumer trust in Cypriot banks was lost by both foreign investors and Cypriots alike, rendering bank deposits and unsound form of either funding or investment.

The prevailing mentality in society is that the bail-in was forced upon Cyprus because for years it served as a financial hot-spot for foreign investment¹⁵⁶, sending Euro scepticism to unprecedented high levels¹⁵⁷. In the aftermath of the haircut, media reports about prominent business people and politicians secretly having transferred money out of Cyprus just before the haircut or during the period that the banks were closed, have further angered Cypriot society¹⁵⁸.

¹⁵⁴ The restrictions change from time to time. For an indication of the restrictions applicable at the time of writing, see http://www.centralbank.gov.cy/nqcontent.cfm?a_id=12583.

¹⁵⁵ The restrictions in banking transactions are listed on the website of the Central Bank of Cyprus, available at http://www.centralbank.gov.cy/nqcontent.cfm?a_id=12583&lang=en.

¹⁵⁶ About 50% of deposits in the Bank of Cyprus belonged to non-EU residents, most of it suspected to belong to Russian oligarchs: Raposa K (2013) 'Russian Oligarchs Lose Friend In Cyprus Banks', Forbes, 17 March 2013, available at <http://www.forbes.com/sites/kenraposa/2013/03/17/russian-oligarchs-lose-friend-in-cyprus-banks/>; Goncharenko R. (2013) 'Russian oligarchs stung by Cypriot bank tax', DW, 19 March 2013, available at <http://www.dw.de/russian-oligarchs-stung-by-cypriot-bank-tax/a-16683064>; Dettmer, M., and Reiermann, C. (2012) 'Bailing Out Oligarchs: EU Aid for Cyprus A Political Minefield for Merkel', Spiegel online international, 2 November 2012, available at <http://www.spiegel.de/international/europe/german-intelligence-report-warns-cyprus-not-combating-money-laundering-a-865451.html>; Durden, T. (2013) 'Monetary Geopolitics: Have The Russian Oligarchs Withdrawn All Their Cash From Cyprus?' Global Research, 26 March, 2013, available at <http://www.globalresearch.ca/monetary-geopolitics-have-the-russian-oligarchs-withdrawn-all-their-cash-from-cyprus/5328511>.

¹⁵⁷ In the 2014 elections for members of the European Parliament the majority of Cypriot voters (56.03%) abstained from voting. In the 2009 Euro elections absenteeism was 40.60% and in 2004 27.5%: http://www.euroelections2014.gov.cy/en/09_EuroElections2004.htm.

¹⁵⁸ Guse A. (2013) 'Criminals in government: See how the Cyprus President's family transferred tens of millions to London days before deposits haircut by zero hedge', at <http://hpub.org/criminals-in-government-cyprus-presidents-family-transferred-tens-of-millions-to-london-days-before-deposit-haircuts-by-zero-hedge/>

8.2. Right to Housing

The Constitution does not guarantee the right to housing as such. The two relevant provisions in the Constitution are:

- The right to enjoy one's home without interventions¹⁵⁹; and
- The right to property¹⁶⁰.

The right to housing is however recognised by Article 25 of the Universal Declaration of Human Rights and by Article 11(1) of the International Covenant on Economic, Social and Cultural Rights. In addition, the Civil Procedure Law provides that immovable property consisting wholly or partly of residence(s) cannot be subject to a forced sale as a result of debt or an alternative residence must be given to the debtor, which in the view of the Court is absolutely necessary for the debtor and his or her family¹⁶¹.

The right of the banks to auction a defaulting borrower's first residence has been at the centre of heated debates between the government and opposition parties for several months. The law finally voted upon by a narrow majority at the house of parliament¹⁶² provides that, after a period of no less than 120 days from the date on which the loan becomes due, a lender who has placed a mortgage on the immovable property may proceed with its sale at an auction at a price not less than 80% of the value of the property as this has been assessed by two experts appointed by the bank and by the borrower, respectively. If the property cannot be sold at this price, then after three months the bank may further sanction its sale through auction, this time without a minimum amount. This latter option is not at all unlikely, given that the prices of property in Cyprus have significantly reduced in the last two years, as demand has sank to an all-time low¹⁶³.

The issue assumes a particular twist when one considers the ease with which banks advanced housing loans to consumers under circumstances which suggest that banking employees were rewarded by their employers for every housing loan made. Consumers who took up these loans under considerable pressure from the bank and who, as a result of the crisis, found themselves unable to meet the instalments, are now faced with losing their homes at an auction. Once this measure is implemented it is likely to spark off a social crisis of immense dimensions as enforcing these decisions is likely to be a challenge¹⁶⁴.

In addition to the risk of losing one's home to an auction, vulnerable groups, such as asylum seekers and the elderly, are faced with new austerity measures regarding the rental allowance paid to them. As already elaborated above, in the case of the elderly, the new pension regime introduced following the crisis has, according to the estimation of their trade union, rendered pensioners 30% worse off than previously¹⁶⁵, which has also affected

¹⁵⁹ Article 16.1 of the Constitution provides that "Every person's dwelling house is inviolable".

¹⁶⁰ This is guaranteed by article 23 of the Constitution which foresees a number of exceptions to this right, such as the provision that a property may be compulsorily acquired pursuant to a judgment or enforcing any contractual obligation or for public benefit.

¹⁶¹ Law on Civil Procedure Ch. 6, article 23, available at http://www.cylaw.org/nomoi/enop/ind/0_6/section-sc33bf4a76-1c48-44e5-a1bf-7673244473df.html.

¹⁶² Law amending the Laws on Transfer and Mortgage of Immovables 1965-2011 N. 142(I)/2014, enacted on 9 September 2014, available at http://www.cylaw.org/nomoi/arith/2014_1_142.pdf.

¹⁶³ Global Property Guide (2014) 'Will Cyprus bounce back?', 17 May 2014, available at <http://www.globalpropertyguide.com/Europe/Cyprus/Price-History>.

¹⁶⁴ The legal framework as regards this issue had still not been finalised at the time of writing.

¹⁶⁵ Consultation with the Secretary-General of the trade union of pensioners E.KY.SY., September 2014.

their ability to pay rent. In the case of asylum seekers, according to new regulations introduced in 2013, rent allowance is payable only if the applicant cannot be accommodated at the Reception Centre for Asylum Seekers in the village of Kofinou¹⁶⁶. If the Asylum Service or the Social Welfare Services deem that a person or a family ought to have stayed in the centre in Kofinou, then no allowance is paid to them. NGOs report of cases where asylum seekers who opted to reside close to a medical centre because of their children's need to frequent access to healthcare, were refused the grant intended for asylum seekers because they had turned down the offer of residing in the Reception Centre in Kofinou¹⁶⁷. It should be noted that the reception centre is in a remote location, far from all services including healthcare, with infrequent bus services.

An asylum seeker who is not offered the option of residing in Kofinou will be granted a rent allowance subject to conditions. The rent allowance is €100 per month for single persons or for 2 persons, €150 for a three-person household and €200 for a household of four or more persons¹⁶⁸. This amount is far too low in order for applicants to secure housing¹⁶⁹. The conditions that need to be fulfilled in order for an asylum seeker to be entitled to this amount include the following:

- No member of the applicant's family must be working;
- An applicant or other family member who can work must attend Greek language lessons or vocational training courses or must perform work without pay that is beneficial to the public at a premise to be indicated to him/her.
- When the applicant becomes entitled to work, s/he must not refuse offers twice for work for reasons which are not objectively justified¹⁷⁰.

The pension reforms are discussed in chapter 5 of this report.

¹⁶⁶ Regulations (Reception conditions of applicants) 2013, K.D.P. 255/2013, 12 July 2013, issued under the Law on Refugees, available at

[http://www.mof.gov.cy/mof/gpo/gpo.nsf/All/20E2336133F109F5C2257BA60036F2B7/\\$file/4696%20%2012%207%202013%20%20PARARTIMA%20%203o%20%20MEROS%20%20I.pdf](http://www.mof.gov.cy/mof/gpo/gpo.nsf/All/20E2336133F109F5C2257BA60036F2B7/$file/4696%20%2012%207%202013%20%20PARARTIMA%20%203o%20%20MEROS%20%20I.pdf), p. 1639. The conditions for claiming rental allowance are set out by the Ministry of Labour in a document attached to the application form, available from the Ministry's website at

[http://www.mlsi.gov.cy/mlsi/sws/sws.nsf/All/544FDB39E986717DC2257BBB0018C66F/\\$file/%CE%B5%CE%BD%CF%84%CF%85%CF%80%CE%BF%20%CE%A5%CE%9A%CE%95%20178.pdf](http://www.mlsi.gov.cy/mlsi/sws/sws.nsf/All/544FDB39E986717DC2257BBB0018C66F/$file/%CE%B5%CE%BD%CF%84%CF%85%CF%80%CE%BF%20%CE%A5%CE%9A%CE%95%20178.pdf)

¹⁶⁷ Consultation with officer from the NGO Future Worlds Centre, September 2014.

¹⁶⁸ Regulations on Refugees (Conditions of reception of applicants) 2005-2013, available at [http://www.mlsi.gov.cy/mlsi/sws/sws.nsf/All/544FDB39E986717DC2257BBB0018C66F/\\$file/%CE%B5%CE%BD%CF%84%CF%85%CF%80%CE%BF%20%CE%A5%CE%9A%CE%95%20178.pdf](http://www.mlsi.gov.cy/mlsi/sws/sws.nsf/All/544FDB39E986717DC2257BBB0018C66F/$file/%CE%B5%CE%BD%CF%84%CF%85%CF%80%CE%BF%20%CE%A5%CE%9A%CE%95%20178.pdf).

¹⁶⁹ Even after the drop in rentals following the crisis, it is still rare to find an apartment for under €300 per month: see for instance <http://housing.justlanded.com/en/Cyprus/Nicosia/For-Rent/Apartments/1>.

¹⁷⁰ As regards the definition of what is objectively justified, NGOs report that Muslim applicants are asked to work in pigsties and when they decline for religious reasons they lose the rental allowance and all other benefits.

8.3. Right to collective bargaining and limitations as to its exercise and the right to a decent wage

The right to collective bargaining is safeguarded by article 28 of the EU Charter and by a series of ILO Conventions which Cyprus has ratified¹⁷¹. The right to belong to a trade union is also safeguarded by the Constitution under the right to association¹⁷².

In Cyprus, industrial relations are regulated by a voluntary tripartite system, the “effective operation” of which rests “on two main pillars”: “The first refers to the commitment of the government and social partners (trade unions and employer organisations) to utilise social dialogue and tripartite cooperation as the main tool for decision making and policy setting. The second pillar focuses on the safeguarding of the fundamental rights to organise and to bargain collectively, rights that are provided for by the Constitution and by other international standards ratified by the Republic of Cyprus”¹⁷³.

During 2012, in an effort to counter or part-address the imbalance caused by the rise in unemployment and their relative loss of bargaining power of trade unions, two major laws were enacted that enhanced the right to organise and bargain collectively¹⁷⁴. The first law regulated the procedure of recognition of a trade union for the purposes of collective bargaining¹⁷⁵. The second law amended the law ratifying ILO Convention 135 on Worker Representatives, which is aimed at safeguarding the rights of union representatives and creating a legal duty for employers to allow union representatives to enter the workplace so as to inform employees about the benefits of joining a trade union¹⁷⁶. The combined effect of the two laws was to create a comprehensive framework safeguarding the substance and procedure for the recognition of workers’ representatives in the collective bargaining processes¹⁷⁷.

However, these two legislative instruments did little towards empowering trade unions in the collective agreement process, since a series of measures were adopted in their aftermath. This further weakened the right to collective bargaining. The first of these measures was the first package of austerity agreed between the government and the Troika regarding the working conditions of public sector employees (freezing pay and imposing higher social security contributions)¹⁷⁸, adopted with little consultation with the social partners and certainly without the consensus of the public sector trade unions¹⁷⁹.

¹⁷¹ ILO Convention No. 87, The Freedom of Association and Protection of the Right to Organise, 1948 and ILO Convention 98, The Right to Organise and Collective Bargaining, 1951, as ratified in Cypriot Law.

¹⁷² Article 21 of the Constitution provides that “Every person has the right to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.”

¹⁷³ Department of Labour Relations, “The Right to Organize and Bargain Collectively”, available at http://www.mlsi.gov.cy/mlsi/dlr/dlr.nsf/page06_en/page06_en?OpenDocument.

¹⁷⁴ Consultation with former Minister of Labour and social Insurance, September 2014.

¹⁷⁵ Law on the recognition of trade union activity and of the right to provide organising facilities for the purposes of recognition N. 55(I)/2012, available at http://www.cylaw.org/nomoi/indexes/2012_1_55.html.

¹⁷⁶ Law amending Law 30(III)/1995 ratifying ILO Convention No. 135, N. 10(III)/2012 (not available on line).

¹⁷⁷ For an analysis, “Law ratifying the ILO Convention of 1971 (07-06-2012)”, *European Labour Law Network Website*, at http://www.labourlawnetwork.eu/national_labour_law_latest_country_reports/national_legislation/legislative_developments/prm/109/v_detail/id_2087/category_7/index.html.

¹⁷⁸ Law on the Extraordinary Contribution of Officers, Employees and Pensioners of the Public Service and the Wider Public Service N. 112(I)/2011, available at http://www.cylaw.org/nomoi/enop/non-ind/2011_1_112/full.html.

¹⁷⁹ See statements and press releases of PASYDY, the trade union of state employees: PASYDY, *Uprooting of trade unionism*, 7 December 2012, available at <http://www.pasydy.org/announcement.aspx?id=58>; PASYDY, *We refuse to accept, 14 March 2012*, available at <http://www.pasydy.org/announcements.aspx?topicId=4>. In November 2013, PASYDY announced that the European Public Servants Union EPSU sent a letter to the Finance Minister to

This measure was contested in Court by public sector employees. However, the court rejected the arguments of the employees, upholding the cuts and freezes. However, the Court took a very different approach when it came to deciding on the legality of extending these austerity measures to the salaries of judges. In the case of the judges' salaries, the Court found the austerity measures to be unlawful because judges needed to maintain their independence to carry out their judicial functions impartially, raising an issue as to whether it was legitimate for judges to issue judgments about their own salaries¹⁸⁰.

More austerity measures followed the above, affecting the right to work of both public and private sector employees, again with little consultation and no consensus with the workers' trade unions¹⁸¹. The rhetoric employed by the government in 2013 in the aftermath of the haircut of deposits was that the measures were the inevitable outcome of the economic state of emergency, which left the Government no alternative but to take such drastic measures, often unilaterally, as it was forced to act swiftly and decidedly to avert an economic catastrophe¹⁸². Trade unions and opposition parties claimed that, despite the pressures and dangers facing the economy, there is no imperative logic of necessity to bypass labour rights, such as the right to be consulted and to bargain collectively. These arguments were contested in court but the court sided with the governmental position that labour rights can be curtailed in the face of emergency¹⁸³.

Trade unionists contend that the crisis has signalled the undermining of old norms as regards the procedural labour law rights¹⁸⁴. Views converge that the right to consultation and collective bargaining are being severely curtailed by the systematic use of unilateral actions of the government against public sector employees, which then serve as a model for private sector employers, who are facing far weaker workers' unions than the all-powerful public sector workers' unions. Some of the austerity measures adopted without consultation or collective bargaining are the following:

- The freezing and cuts in salaries of public sector employees, which were originally deemed to be temporary and would, in theory, be duly restored once the economic climate allowed it¹⁸⁵.
- The process of privatisation of state owned enterprises is continuing, unabated despite strong opposition by trade unions and in spite of mass protests¹⁸⁶.

protest against the undermining of social dialogue by the government and the imposition of measures without prior consultation, available at <http://www.pasydy.org/announcement.aspx?id=190>.

¹⁸⁰ Trimikliniotis, N., 'Supreme Court case of Alexandros Phylaktou v the Republic of Cyprus', European Labour Law Network Website, 2013, available at: http://www.labourlawnetwork.eu/national_labour_law%20latest_country_reports/national_court_rulings/court_decisions/prm/64/cs_11/v_detail/id_3266/category_7/index.html.

¹⁸¹ For details, please refer to Chapter 4, above.

¹⁸² The term "economic state of emergency" was used repeatedly by the Government, including the President, the Minister of Finance and Government Spokesperson, particularly in the context of the imposition of the "haircut" on Deposits. However, this discourse was not confined to public statements but was used as an argument by the attorney General in the numerous cases contesting the confiscation of deposits as illegal, as well as in other court cases contesting austerity measures affecting salaries and other working conditions.

¹⁸³ *Alexandros Phylaktou v the Republic of Cyprus* (Case no. 397/2012397/2012 and 480/2012); *Giorgos Charalambous et al v. The Minister of Finance and the Auditor General* (Case no. 1480/2011); *Christodoulou et al v the Republic of Cyprus* (case no. 551/2013).

¹⁸⁴ Consultation with trade unionists of PEO, SEK and DEOK and PASYDI, September 2014.

¹⁸⁵ Consultation with trade unionists of PEO, SEK and DEOK and PASYDI. The parliamentary debate in December 2012 leading to the adoption of this law did not make reference to the absence of consultation with the social partners: Minutes of the House of Parliament 6 December 2012, pp.646-654, available at http://www2.parliament.cy/parliamentgr/008_01_01/008_01_IB.htm

¹⁸⁶ Consultations with trade unionists of PEO and official of the anti-privatisation movement, September 2014.

- The unilateral imposition of the programme of the Minimum Guaranteed Income proceeds unabated; the Ministry of Finance has not given any responses to any of the 13 memoranda by the Pensioners Union (EKYSI) on the subject¹⁸⁷.
- The Ministry of Labour circular extended the working hours of shops during weekends despite strong opposition by trade unions and small shop owners, who claimed that this was aimed at shutting down small shops and benefiting the large shops and shopping malls¹⁸⁸.
- The unilateral decision of the government to halt the implementation of the new National Health System, a product of consensus between social partners, which had been legislated for, and was in the process of preparation for several years. The government halted the implementation of the National Health System without consultation, in order to promote an alternative system of cooperation with private insurance companies¹⁸⁹.

¹⁸⁷ Consultation with trade unionist of EKYSI, September 2014.

¹⁸⁸ Consultation with official of POVEK, the union of small and medium enterprises, September 2014.

¹⁸⁹ Consultations with trade unionist of PEO, NHS official and doctor in the public health sector, September 2014.

9. MONITORING COMPLIANCE OF NATIONAL MEASURES WITH FUNDAMENTAL RIGHTS

KEY FINDINGS

- A number of authorities monitoring conditions at the workplace operate from within the Ministry of Labour, but with limited mandate or resources and of little effect in safeguarding fundamental rights.
- The Ombudsman/Equality Body, with several independent authorities operating from its office, has sufficient mandate, political will and expertise to address the issue but is greatly understaffed and under resourced to do so. It is nevertheless the only body to publically and emphatically warn of the risks to fundamental rights posed by the crisis and by the austerity measures.
- A landmark Supreme Court decision illustrates the Court's limitations in protecting rights from austerity packages.

There is no single mechanism in Cyprus dealing with the impact of austerity measures. The parliament and its various thematic committees regularly debate on the subject, but the discourse often takes populist dimensions and when it comes to legislating they, in all cases but one¹⁹⁰, vote in favour of the austerity bill presented by the government. The Courts which are flooded with lawsuits relating to the enforcement of austerity measures demonstrate a trend of endorsing the government's logic that exceptional measures under emergency situations are legitimate.

Given the fact that the crisis in Cyprus is quite recent, the international human rights mechanisms, such as the European Court of Human Rights, or the UN treaty body mechanisms, have not commented on the impact of austerity measures to the rights from such instruments yet.

9.1. Labour related authorities

Various bodies monitoring labour market conditions, operate from within or under the supervision of the Ministry of Labour. The **Labour Inspection** (a department within the Ministry of Labour) deals mainly with issues relating to health and safety at work, focusing on the chemicals industry, industrial pollution, safety of machinery used in production, quality of the air, protection from radiation etc.¹⁹¹ A special department within the Ministry of Labour deals with equality and is called the **Promotion of Equality at the Workplace**¹⁹². Its mandate and powers derive from legislation on gender discrimination and their focus is thus on gender. The department is however understaffed and under-resourced and in light of the economic crisis the budgetary situation is likely to deteriorate rather than improve. The inspectors currently appointed and working in the field are also

¹⁹⁰ The only case in which the parliament rejected a governmental bill related to the haircut of bank deposits. The bill initially presented by the government following the Eurogroup meeting in March 2013 provided for a haircut of all deposits in all banks, including deposits under €100,000. This was rejected by the majority of the House, forcing the government to present a revised bill which increased the percentage of the haircut but restricted it to the 'unsecured deposits' (in excess of €100,000) kept at the two problematic banks, the Bank of Cyprus and the Cyprus Popular Bank.

¹⁹¹ Its mission statement is available here:

http://www.mlsi.gov.cy/mlsi/dli/dli.nsf/dmlmission_en/dmlmission_en?OpenDocument

¹⁹² http://www.mlsi.gov.cy/mlsi/dli/dli.nsf/dmlmission_en/dmlmission_en?OpenDocument

tasked with other duties and do not have adequate time to properly address issues within their mandate. There are additional departments operating within the Ministry of Labour, mostly dealing with gender based discrimination: The **Committee for Gender Equality** and the **Labour Relations Department**, which is tasked inter alia with the protection of vulnerable classes of employees (undefined) and particularly those who are not unionised¹⁹³. Its mission is generally focused upon social dialogue and prevention of labour tensions but it also can receive and investigate complaints, from either a named complainant or an unnamed (anonymous) complainant. A special department of the Ministry of Labour, the **Department for the Social Inclusion of Persons with Disability**, deals with issues pertaining to social and labour integration of persons with disability but has no mandate to investigate complaints or inspect workplaces¹⁹⁴.

9.2. The Ombudsman/Equality Body

A number of public competencies have, in recent years, been operated by the office of the Ombudsman/Equality Body, which consists of the Equality Authority and the Anti-Discrimination Authority. The institution has been greatly understaffed and under-funded since its inception in 2004. In its fourth country report on Cyprus, ECRI notes that "as noted in the 2010 Annual Report of the European Union Agency for Fundamental Rights, the lack of adequate human and financial resources is a major problem. Moreover, the situation is getting worse: due to budget cuts, the human rights and discrimination department has recently been reduced from five to three staff members..." and urged the authorities to ensure that "the human and financial resources that are necessary for this institution to carry out its functions effectively are swiftly made available; and that the adequacy of such resources is kept under regular review."¹⁹⁵

Staffing arrangements

The Equality Body does not have its own employees. It operates within the office of the Ombudsman, which provides office facilities, infrastructure, secretarial and other services to the Equality Body. Likewise, the officers of the Equality Body have to carry out Ombudsman's duties as well. For the years 2011-2012 there were 9 officers (7 legal and 2 administrative) exercising equality body duties in parallel to their duties as officers at the Ombudsman's office. This marks a decrease from 2010, where there were 8 officers plus two members of supporting staff. For previous years, please see the table below:

¹⁹³ http://www.mlsi.gov.cy/mlsi/dlr/dlr.nsf/page04_gr/page04_gr?OpenDocument

¹⁹⁴ Department for the Social Integration of Persons with Disability, Annual Report for 2012, available at [http://www.mlsi.gov.cy/mlsi/dsid/dsid.nsf/32BF365375E1D346C2257A7C002D2F7D/\\$file/Ετήσια%20Έκθεση%20012.pdf](http://www.mlsi.gov.cy/mlsi/dsid/dsid.nsf/32BF365375E1D346C2257A7C002D2F7D/$file/Ετήσια%20Έκθεση%20012.pdf)

¹⁹⁵ European Commission against Racism and Intolerance, 'ECRI Report on Cyprus, Fourth Monitoring Cycle', 31 May 2011, available at <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Cyprus/CYP-CbC-IV-2011-020-ENG.pdf>

Table 9: Numbers of officers of the Equality Body, 2004-2012

Year	2004 (operations commenced on 01.05.2004)	2005	2006	2007	2008	2009	2010	2011	2012
Number of staff	6 officers + 2 supporting staff, total 8	6 officers + 2 supporting staff, total 8	6 officers + 2 supporting staff, total 8	6 officers + 2 supporting staff, total 8	6 officers + 2 supporting staff, total 8	7 officers + 2 supporting staff, total 9	8 officers + 2 supporting staff, total 10	7 officers + 2 supporting staff, total 9	7 officers + 2 supporting staff, total 9
Number of professional/legal staff (full time equivalent)	6	6	6	6	6	7	8	7	7

Source: Table compiled by the expert based on information supplied by the Equality Body

Budgeting arrangements

The Equality Body does not have its own budget; it is operating within the budget of the Ombudsman, with whom the Equality Body shares office premises, personnel and the person at the top of the hierarchy, which is the same for both bodies. The figures in the table below represent the budget for all functions under the Ombudsman's office and not only for the Equality Body. The slight increase in the budget from year to year covers only the index-linked salary and other cost increases and does not allow for the hiring of additional personnel or the carrying out of any additional activities.

Table 10: Budget of the Ombudsman and Equality Body, 2004-2010

Year	2004 (operations commenced on 01.05.2004)	2005	2006	2007	2008	2009	2010
Budget (€)	885,000	1,186,000	1,395,000	1,527,000	1,669,885	1,877,000	2,046,330

Source: Table compiled by the expert based on information supplied by the equality body

In 2008 the mandate of the equality authority (one of the two bodies comprising the Equality Body) was expanded to include gender discrimination¹⁹⁶, resulting in a shift in emphasis in favour of gender discrimination¹⁹⁷. In 2009, the Ombudsman was appointed as the national mechanism for the prevention of torture, under the UN Convention against torture. Within two years, in 2011, two more authorities were added to the Ombudsman's mandate: the National Human Rights Institute (NHRI) and the Independent Mechanism for the Implementation of the UN Convention on the Rights of Persons with Disability. In 2013, the Ombudsman was appointed as the monitoring body for returns of irregular migrants under the Return Directive. These extensions of mandate were never accompanied by any increase in the members of staff or in the budget of this office. The budget cuts and understaffing of the Equality Body account for the delays in the examination of complaints which often take years to be completed, under circumstances where the delay may deny the complainants an effective remedy. A complainant awaiting the decision of the Equality Body may eventually be time-barred from filing a claim in Court, since the legislative limitation period is not suspended for the period during which the decision of the Equality Body is pending.

However, in spite of its limited budget and problems of understaffing, the Equality Body is the only organisation in Cyprus that has publically called for the protection of rights from the impact of austerity. In the body's Annual Report for 2012, the Ombudsman included a note which focused exclusively on the austerity measures and their impact upon vulnerable and excluded groups, stressing the significance of the equality principle at difficult times. The note states that the economic crisis has multiplied inequalities, rendering vulnerable groups like women, the elderly, persons with disabilities and migrants even more

¹⁹⁶ Law on equal treatment between men and women in access to and provision of goods and services N.18(I)/2008.

¹⁹⁷ The shift is manifested by the fact that every year since 2008 about 50% of the complaints concern gender discrimination

vulnerable. The note refers to a rise in complaints regarding cuts in social provisions towards asylum seekers, single parent families and persons with a disability, as well as restrictions in access to the labour market using ethnic origin as a criterion, pointing out that the possibilities of a meaningful intervention are becoming increasingly restricted as the austerity measures have also been affecting themselves. The note concludes that the economic crisis should not develop into a crisis of rights, as this will inevitably lead to a disruption of social cohesion and solidarity, pointing out the under-reporting of discrimination in the private sector, evidenced by the small number of complaints compared to previous years, as the economic crisis and the risk of unemployment have silenced victims of inequality at the workplace¹⁹⁸.

Unexpectedly, the number of complaints in the employment field submitted to the Equality Body in 2013 reached an all-time low, reflecting the fear of victims that if they complain, they may lose their jobs. In its Annual Report for 2013, the head of the Equality Body (who is also the Ombudsman) writes that there is a decreasing trend in the number of employment-related complaints received, which started from 2012 and continued in 2013, and which affects primarily the private sector and women employees who are subjected to gender-based discrimination. The Ombudsman attributed this phenomenon to the economic crisis, the rising unemployment and the deregulation of the labour market. To support this conclusion, the Ombudsman mentioned that whilst her office is receiving a great number of telephone complaints about discrimination at the workplace, very few of these actually materialise as complaints for investigation¹⁹⁹.

The number of employment-related complaints from 2007 until 2013 is as follows:

Table 11: Number of employment-related complaints

Year	2007	2008	2009	2010	2011	2012	2013
Number of complaints submitted	115	93	103	121	144	106	63

Source: Equality Body

9.3. The Supreme Court rejects applications regarding salary cuts

Following a law providing for deductions from the net pay and pensions of public sector employees in 2011²⁰⁰, a group of public sector employees applied to the Supreme Court seeking to annul the decision of deducting amounts from their salaries, claiming that the deductions violated the Constitution²⁰¹. The applicants also contested the exemption of the lower paid public servants from the scheme and claimed that, for all the above reasons, the law of 2011 was unconstitutional.

¹⁹⁸ Equality Authority Annual Report 2012, available at:

http://www.no-discrimination.ombudsman.gov.cy/sites/default/files/book_arxi_isotitas_2012_gr.pdf.

¹⁹⁹ Equality Authority, Annual Report 2013, p. 5, available at [http://www.ombudsman.gov.cy/Ombudsman/Ombudsman.nsf/All/C0E541C911E7857DC2257D8C0030C559/\\$file/Book%20ISOTITAS%202013%20GR%20electr%20edition.pdf?OpenElement](http://www.ombudsman.gov.cy/Ombudsman/Ombudsman.nsf/All/C0E541C911E7857DC2257D8C0030C559/$file/Book%20ISOTITAS%202013%20GR%20electr%20edition.pdf?OpenElement)

²⁰⁰ Law on extraordinary contributions of officials, employees and pensioners of the public service and the wider public sector of 2011 N. 212(I)/2011, available at http://www.cylaw.org/nomoi/indexes/2011_1_112.html

²⁰¹ *Giorgos Charalambous et al v. The Minister of Finance and the Auditor General* (Case no. 1480/2011 etc), available at http://www.cylaw.org/cgi-bin/open.pl?file=apofaseis/aad/meros_3/2014/3-201406-1480-11etc_minor.htm&qstring=%E3%E9%F9%F1%E3*%20and%20%F7%E1%F1%E1%EB%E1%EC%F0%EF*%20and%201480%20w/1%202011.

The Supreme Court arrived at a majority decision on 11 June 2014 rejecting these claims; three judges dissented with the decision and another judge had a concurring opinion. The decision elaborates the events that preceded the enactment of this law: the repeated recommendations from the Council of the EU towards the Cypriot government to take measures to reduce public spending and reduce public deficit and establishes that the constitutional principle of equality does not prevent a state from adjusting its public finance and tax system in a reasonable manner. The Court also added that the equality principle does not preclude action against a certain group which is necessary and reasonable. The Supreme Court concluded the decision must fall within the wide discretion of the state to manage its finances.

However, in sharp contrast with the above reasoning, in October 2014 the Supreme Court annulled as unconstitutional a law abolishing multiple pensions for state officials who take up a second post following their retirement²⁰². The law, which had been introduced in 2011²⁰³, provided that those state officials or retired public officers who take up another paid public function or office position following their retirement will have their pension suspended for the duration of such an appointment. The law had come as an effort to reduce public spending and as a response to public sentiment that considered multiple pensions to public officials amidst the crisis as unacceptable. The Court ruled the law as unconstitutional pursuant to applications from 52 different retired public officers who were affected by the law in the sense that they had their pensions reduced by the amount of the remuneration they received in their new post. The applicants claimed that the law violated article 1 to the First Protocol to the European Convention on Human Rights (ECHR) and article 23 of the Constitution, both safeguarding the right to property. By a majority decision, the Court found in favour of the applicants on the ground that any restrictions to fundamental rights can only be done in accordance with the Constitution and there has to be a pressing need for these, which must be shown in the provisions of the law and in the justification report attached to the law²⁰⁴. The Court further found that the law had to be declared unconstitutional also because it introduced discrimination, in violation of article 28 of the Constitution, between the applicants and those pensioners who take up work in positions outside the scope of this law.

The decision has received considerable publicity and has been at the centre of public debates, criticising the law makers for failing to adequately address the problem of the multiple pensions of public officers.

²⁰² *Maria Koutselini-Ioannidou et al. v. the Republic*, 7 October 2014, available at <http://www.cylaw.org/cgi-bin/open.pl?file=apofaseis/aad/mero>

²⁰³ Law on pensions of state officials (General Principles) of 2011, N.88(I)/2011, available at http://www.cylaw.org/nomoi/arith/2011_1_88.pdf. Article 3(b) provided that where the compensation for the new appointment is lower than the pension, the person concerned will be entitled to receive part of his/her pension so as to equate such compensation with the pension s/he is entitled to.

²⁰⁴ The Justification Report which had been attached to this law did not invoke public interest or a 'pressing need' but referred only to the need to modernise the pension system.

10. CONCRETE PROPOSALS FOR IMPROVING THE RESPECT OF FUNDAMENTAL RIGHTS IN TIMES OF ECONOMIC CRISIS

KEY FINDINGS

- The crisis has led to a regression of the nucleus of rights into the concept of social protection, which has now become the benchmark debated by policy makers and legislators. Recommendations addressing gaps and weaknesses will only become meaningful and useful if austerity is seen as a measure and not as an ideology and if there is political will to respect rights as a fundamental priority.
- Several recommendations can be made to improve the protection of the rights examined in this study: mechanisms assuring equal access to education, free transport to school for all students and the introduction and mainstreaming of fundamental rights in the school curricula.
- Recently introduced healthcare charges imposed irrespective of income need to be reviewed taking into account special situations of vulnerable groups.
- Freezing of recruitments in the public sector as well as privatisations of State owned enterprises need to be re-considered from the perspective of labour rights; the welfare grants abolished by the minimum guaranteed income need to be reinstated for the elderly, the poor and the persons with disabilities.
- The social repercussions of homelessness which will result from the implementation of the draft legislation on bank acquisitions of residential homes need to be given special attention.
- The issue of police misconduct affecting migrants and asylum seekers protesting against measures affecting them needs to be addressed.
- Legal aid must become available as a right and not as a discretionary grant by the courts to all persons whose fundamental rights have been violated irrespective of income; human rights monitoring mechanisms such as the social partners and the equality body need to be empowered to monitor and bring change, through the allocation of adequate resources and the strengthening of their mandate.

When the bail-in measure was imposed on Cypriot banks, no-one could predict the consequences. In the aftermath of the Cypriot bail-in, it is clear that the consequences are catastrophic both on the economy and on society. On the economic front, the irreparable loss of faith in the banks has triggered a chain reaction: a run on the banks, a drop in bank savings, the inability of the banks to finance economic activity, the draining of the market from liquidity, the demise of the small and medium enterprise sector in favour of large monopolies and the sharp rise in unemployment and poverty. On the societal front, the shock from the confiscation of one's cash deposits (and often one's life savings), the anger, frustration, despair and feelings of unfairness have inevitably impacted on the ability and spirit of individuals, civil society and social movements to pursue rights; Euro scepticism is on the rise and the unemployed youth become easy prey to far right ideologies. The failure of the national courts to support the vulnerable groups in these processes has undermined the legitimacy of the justice system. Overall the Cypriot experiment of the bail-in measure did not affect the foundations of the Eurozone because the small size of the Cypriot economy ensured that the case was non-systemic. But the bail-in had devastating effects

on the country's economy and its people, which need to be seriously taken into account before the bail-in is implemented again in any context.

10.1. General recommendations

In spite of the budgetary restrictions in all the fields examined, one can still identify areas where improvements can nevertheless be made. At the forefront of all is the need to develop across the board a mentality of defence of rights as a primary consideration in spite of the climate of austerity. If such a mentality of rights starts to permeate the entire spectrum of services and relations, this could signal the exit from the crisis. In the course of defending rights, we need to promote the nucleus of rights as a concept, which has recently regressed into being assimilated and often equated with concepts like 'social protection' and 'safety net'²⁰⁵. In addressing the younger generation, awareness raising measures and the content of school teaching must be adapted to the new realities facing Cyprus, offering age appropriate explanations for the manifestations of the crisis affecting children and the youth and stressing the importance of maintaining a value system of democracy and respect for diversity at difficult times such as these.

The list of recommendations of necessary reforms with little or no expenditure can become endless but the bottom line of all is the existence of the political will to give predominance to rights rather than to impose austerity as a principle and as an ideology. Failure to do so will mean that the democratic values which generations have fought for will have vanished by the time we finally exit from the economic crisis.

10.2. Specific recommendations

- Concerning the **right to education**, free transport to school must be provided to all who need it, irrespective of the family's income. In the sensitive sector of education, a measure addressing only the disadvantaged children will inevitably be unpopular, as no child would want to be associated with the stereotype of the underprivileged. This has already become evident through the implementation of the 'free breakfast' measure addressed to children of poor families, who showed that they would rather go without breakfast than be seen having the breakfast of the poor.
- In the field of **healthcare**, it is imperative that immediate and free of charge treatment is provided for serious and urgent conditions and that life threatening conditions be treated without restrictions or preconditions. Also the situation and needs of the long-term unemployed and people working in undeclared work must be addressed through measures ensuring their unrestricted and free of charge access to healthcare. All healthcare charges, irrespective of income, should be abolished and solutions to the long term problems of the sector must be sought through the introduction of a comprehensive system of healthcare and through its sound management.
- Regarding the **right to work**, privatisation of State owned enterprises need to be negotiated having in mind the interests of their employees who will otherwise find themselves out of work and having to draw on the State's limited resources to maintain subsistence levels.

²⁰⁵ Discussion with Equality Body official.

- In the field of **pensions**, a comprehensive reform is needed to address the needs of pensioners in general and specifically the needs of the most vulnerable amongst them, such as the low income pensioners. To achieve this, the current legislation on the minimum guaranteed income needs to be substantially revised through consultation with the pensioners' representatives by removing problematic provisions such as the loss of the social pension for those who failed to apply for them, under the limited circumstances or the officials' discretion in decision-making. Also the eligibility of persons with disabilities to the minimum guaranteed income must be disconnected from the problematic disability classification system, until a solution acceptable to the disability movement is reached; as things currently done now, newcomers to the welfare system become eligible to this income only if and when they become certified by a classification system which is not operational yet.
- In the field of **employment**, the measure of freezing recruitments to the public service must be evaluated against its multi-faceted economic and social costs: the inferior protection of labour rights in the temporary contracts currently used to fill in lieu of recruitment to the public service, the normalisation of the conditions of precarity in the labour market, the emergence of 'service providers' in lieu of employees and their cost to the state budget when compared to the cost of hiring new civil servants to fill in the gaps.

In addition, a rigorous mechanism to check the legality of contracts and employment schemes must be set up, in order to ensure that unnecessarily stringent language requirements and other indirectly discriminatory provisions are deleted.

- Concerning **home acquisitions**, the draft legislation on bank acquisitions of residential homes, currently at the centre of national debates, promoted as a measure to address the banks' problem of non-performing loans, does not take into account any social factors, profile or degree of vulnerability of the home owner affected; ultimately, the bill under discussion does not view the individual as a subject of rights whose interests are paramount and rank higher than those of the banks. The social repercussions of homelessness which will result from the implementation of this bill need to be taken into consideration in conditions that can move the debate beyond the monetary sphere and into the social sphere, in order to consider the degree of vulnerability and the age of the persons to be subjected to homelessness, how homelessness will affect children's right to education, health and safety and how it will affect the home owners' access to the labour market among other rights.
- The **right of expression** through public demonstrations has not really been an issue as yet in Cyprus for the Cypriots, however measures ought to be taken to address police brutality against migrants and asylum seekers protesting against austerity measures affecting them. These could include training and educating police officers but also an effective and independent system of addressing both police excesses and impunity from prosecution.
- To improve **access to justice**, a comprehensive reform of the legal aid legislation is necessary to create a rights-based access for persons seeking redress for the violation of fundamental rights irrespective of income, covering all areas of the law and primarily administrative law which is the legal tool primarily used by litigators to address excesses and violations by the state. Administrative law itself should be amended in order to empower the courts to automatically (i.e. without further recourse) provide a remedy, such as compensation or reinstatement, for administrative excesses and violations other than mere annulment of the act

challenged. The legal framework would further be strengthened by introducing strict time limitations to lawsuits, to address the problem of delays. Compulsory training for judges on the EU acquis on fundamental rights could potentially address the problems of the uneven treatment of cases and the reliance on 'necessity' doctrines; however, a more comprehensive solution would be the setting up of an administrative body of socio-legal experts to examine crisis-related complaints and issue binding decisions and recommendations.

- Regarding **monitoring of compliance**, the Equality Body, the only organisation with the expertise and the political will to bring about change, must be enabled, through sufficient funding and resources, to act as watchdog for human rights' violations and its mandate should be expanded to enable it to act as an advocate and defender of victims. The uneven application by the courts of the principle of necessity, invoked in order to legitimise wage cuts and confiscations of deposits at the banks, but ignored when the salaries and pensions of senior state officials are concerned, must be subjected to scrutiny by independent mechanisms at both national and EU level. This would introduce a system of accountability of the judiciary that would eventually restore the faith of the public in the judicial system.

REFERENCES

Table of cases

ECtHR case-law

- ECtHR, Grudić v. Serbia, no. 31925/08, 17 April 2012
- ECtHR, Gaygusuz v. Austria, no. 17371/90, 16 September 1996

National case-law

- [Giorgos Charalambous et al v. The Minister of Finance and the Auditor General \(1480/2011\)](#)
- Alexandros Phylaktou v the Republic of Cyprus (397/2012; 397/2012; 480/2012)
- [Myrto Christodoulou et al v. The Central Bank of Cyprus, the Governor of the Central Bank of Cyprus and the Finance Minister \(551/2013\)](#)
- [Supreme Court case of Alexandros Phylaktou v the Republic of Cyprus, 2013](#)

Table of legislation

International law

- WHO, Constitution, 1946, available at http://www.who.int/governance/eb/who_constitution_en.pdf
- Universal Declaration of Human Rights (UDHR), 1948, available at: <http://www.un.org/en/documents/udhr/>
- UNESCO Convention against Discrimination in Education, 1960, available at: http://portal.unesco.org/en/ev.php-URL_ID=12949&URL_DO=DO_TOPIC&URL_SECTION=201.html
- United Nations International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>
- United Nations International Covenant on Civil and Political Rights (ICCPR), 1966, available at: <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>
- United Nations Convention on the Elimination of All Forms of Discrimination against Women, 1979, available at: <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>
- United Nations Convention on the Rights of the Child, 1989, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>
- United Nations Convention on the Rights of Persons with Disabilities, 2006, available at: <http://www.un.org/disabilities/convention/conventionfull.shtml>

European law

- European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), 1950, available at: <http://conventions.coe.int/Treaty/en/Treaties/Html/005.htm>
- European Social Charter (ESC), 1961, available at : <http://conventions.coe.int/Treaty/en/Treaties/Html/035.htm>
- Revised European Social Charter (RESC), 1996, available at: <http://conventions.coe.int/Treaty/en/Treaties/Html/163.htm>
- Charter of Fundamental Rights of the European Union, OJ C 83/389, 30.03.2010, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:en:PDF>

National law

- [Constitution of the Republic of Cyprus](#) (*Το Σύνταγμα της Κυπριακής Δημοκρατίας*), 1960
- [Law on Civil Procedure \(KEF 6\)](#)
- Law ratifying The European Convention for the Protection of Human Rights, 1962
- Laws ratifying The Convention on the elimination of All Forms of Racial Discrimination, 1967 to 1995
- Law ratifying The International Covenants (Economic, Social and Cultural Rights and Civil and Political Rights), 1969
- Law on Medical Institutions and Services (Regulation and Charges), N.40/78/1978-2013
- Law ratifying The United Nations Convention on the Elimination of All Forms of Discrimination against Women, 1985
- Law ratifying The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 1989
- Law ratifying The Convention on the Rights of the Child, 1990
- Law ratifying The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1990 and 1993
- [Law on Primary and Secondary Education N.24\(I\)/1993](#)
- Law 30(III)/1995 ratifying ILO Convention No. 135, N. 10(III)/2012
- [Law on the General Health System N.89\(I\)/2001](#)
- [Law on the provision of Legal Aid N.165\(I\)/2002](#)
- [Law on Private Universities 109\(I\)/2005](#)
- [Law regulating the operation of retail shops and the working conditions of their employees 2006-2011](#)
- Law on equal treatment between men and women in access to and provision of goods and services N.18(I)/2008

- [Law on effective remedies for the violation of the right to diagnose civil rights and obligations within a reasonable time N.2\(I\)/2010](#)
- [Law restructuring financial institutions N.3/2011](#)
- [Law on pensions of state officials 2011, N.88\(I\)/2011](#)
- [Law on the Extraordinary Contribution of Officers, Employees and Pensioners of the Public Service and the Wider Public Service N. 112\(I\)/2011](#)
- Law on Recognition of Trade Union Organization and the Right to Provide Trade Union Facilities in Recognition Thereof, 2012
- Law ratifying the Convention on Workers' Representatives, 2012
- [Law on the recognition of trade union activity and of the right to provide organising facilities for the purposes of recognition N. 55\(I\)/2012](#)
- [Law on retirement benefits of state employees and employees in the wider public sector including local self-governance N.216\(I\)/2012](#)
- [Law on Public Service N. 6/2013](#)
- [Law on Refugees N.253/2013](#)
- [Law Providing for the Payment of a Bonus to Workers Employed with a Contract at the Public Service and the Wider Public Service Including Local Governance Authorities N. 14\(I\)/2014](#)
- [Law on the non-payment of pay rises and COLA increases on the salaries of officials and employees and in the pensions of pensioners in the public and wider public sector laws 2011-2012 N.73\(I\)/2014](#)
- [Law on the Minimum Guaranteed Income and Generally on Social Provision N. 109\(I\)/2014](#)
- [Law on the minimum guaranteed income and general social provisions N. 135\(I\)/2014](#)
- [Law amending the Laws on Transfer and Mortgage of Immovables 1965-2011 N. 142\(I\)/2014](#)

Publications

European institutions

- Eurofound, 'Incidence of telework', 2010 at http://www.eurofound.europa.eu/eiro/studies/tn0910050s/tn0910050s_3.htm
- European Commission against Racism and Intolerance, 'Report on Cyprus, Fourth Monitoring Cycle', 31 May 2011, available at <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Cyprus/CYP-CbC-IV-2011-020-ENG.pdf>
- Jensen, U.I., 'The Language Requirements under EU Law on Free Movement of Workers, Analytical Note for 2013', The European Network on Free Movement of Workers within the European Union, October 2013 - updated February 2014, available at <http://ec.europa.eu/social/main.jsp?catId=475&langId=en>

- Soumeli, E., 'Construction Unions Step Up Industrial Action', EIRO, 2013. Available at: <http://www.eurofound.europa.eu/eiro/2012/11/articles/cy1211039i.htm>, accessed on 7.9.2014.
- Soumeli, E., 'Cyprus: Changes to wage-setting mechanisms in the context of the crisis and the EU's new economic governance regime', EIRO, 2014. Available at <http://www.eurofound.europa.eu/eiro/studies/tn1402049s/cy1402049q.htm>
- Soumeli, E., 'Cyprus: Developments in collectively agreed pay 2013', EIRO, 2014. Available at: <http://www.eurofound.europa.eu/eiro/studies/tn1404020s/cy1404029q.htm>
- Soumeli, E., 'Framework Agreement Reached in the Semi-state Sector', EIRO, 2008, available at: <http://www.eurofound.europa.eu/eiro/2008/04/articles/cy0804019i.htm>, accessed on 7.9.2014
- Soumeli, E., 'New Collective Agreement for Construction Industry', EIRO, available at: <http://www.eurofound.europa.eu/eiro/2013/04/articles/cy1304019i.htm>, accessed on 8.9.2014.
- Soumeli, E., 'New Hotel Industry Agreement 2013–2015', EIRO, 2013, available at: <http://www.eurofound.europa.eu/eiro/2013/06/articles/cy1306019i.htm>, accessed on 11.9.2014.
- Stavrou, P., 'Collective agreement breaches in the hotel sector', European Working Conditions Observatory, 2013. Available at <http://www.eurofound.europa.eu/ewco/2012/11/CY1211019I.htm>
- Trimikliniotis, N., 'Social and employment situation in Cyprus', Briefing Note requested by the European Parliament's Committee on Employment and Social Affairs, 2012 (IP/A/EMPL/NT/2012-001 July 2012 PE 492.43) <http://www.europarl.europa.eu/committees/fr/studiesdownload.html?languageDocument=EN&file=75691>

International organisations

- Amnesty International, 'Cyprus: Abusive detention of migrants and asylum seekers flouts EU law', 18 March 2013, available at www.amnesty.eu/en/news/press-releases/region/eu/cyprus-abusive-detention-of-migrants-and-asylum-seekers-flouts-eu-law-0720/#.VIivOtKUfTo
- Amnesty International, 'Punishment without a crime: Detention of migrants and asylum-seekers in Cyprus', 2012, available at www.amnesty.org/fr/library/asset/EUR17/001/2012/en/36f06387-9ce6-43df-9734-a4550fa413d6/eur170012012en.pdf
- Committee for the Prevention of Torture, 'Report regarding allegations of abuse of migrants by members of the police during arrest, detention and deportation', File nos. A/P 738/2013, A/P 960/2013, A/P 1063/2013, A/P 1283/2013, A/P 1378/2013, A/P 1470/2013, A/P 1472/2013, 18 September 2013, available at http://www.ombudsman.gov.cy/Ombudsman/ombudsman.nsf/presentationsArchive_gr/presentationsArchive_gr?OpenDocument

- Committee for the Prevention of Torture, 'Report to the Government of Cyprus on the visit of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)', Ref. CPT/Inf (2012) 34, 06 December 2012, available at www.cpt.coe.int/documents/cyp/2012-34-inf-eng.htm#Toc216522049
- Council of Europe, 'Report to the Government of Cyprus on the visit to Cyprus carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 23 September to 1 October 2013', 9 December 2014, available at <http://www.cpt.coe.int/documents/cyp/2014-12-09-eng.htm>
- OHCHR, '[The Right to Adequate Housing](#)', undated, p. 3.
- United Nations Committee on Economic, Social and Cultural Rights, 'General comment no. 4 on the right to housing', [UN Doc. E/1992/23](#), 1991.
- United Nations Committee on Economic, Social and Cultural Rights, 'General comment no. 7 on forced evictions', [UN Doc. E/1998/22](#), 1997.
- United Nations Committee on Economic, Social and Cultural Rights, 'General Comment No. 13 – Right to education', UN Doc. (E/C.12/1999/10 1999).
- United Nations Committee on Economic, Social and Cultural Rights, 'General Comment No. 14 – The right to highest attainable standard of health', UN Doc. (E/C.12/2000/4).
- United Nations Committee on Economic, Social and Cultural Rights, 'General Comment No. 18 – Right to work', UN Doc. (E/C.12/GC/18) (2006).
- WHO, 'Factsheet 323 on the right to health', available at: <http://www.who.int/mediacentre/factsheets/fs323/en/> (last accessed 23 October 2014).
- World Bank, 'Analysis of the Function and structure of the Ministry of Health of the Republic of Cyprus', 9 May 2014.

National government and authorities

- Consortium for the Study of Flexible Employment, National Centre for Social Research, Institute for Social Innovation (*Κοινοπραξία Μελέτης Ευέλικτης Απασχόλησης, Εθνικό Κέντρο Κοινωνικών Ερευνών, Ινστιτούτο Κοινωνικής Καινοτομίας - ΕΚΚΕ*), 'Report on the environment of implementing forms of flexible employment in Cyprus' (*κθεση Διερεύνησης του περιβάλλοντος εφαρμογής μορφών ευέλικτης απασχόλησης στην Κύπρο*), Intercollege, September 2006, <http://www.eveliktes.kepa.mlsi.gov.cy/public/mlsi/pffe/iweb.nsf/WebContentDocsByID/ID-41717CD0F4BC826FC225717A003687B1>
- Department for the Social Integration of Persons with Disability, 'Annual Report for 2012', available at: [http://www.mlsi.gov.cy/mlsi/dsid/dsid.nsf/32BF365375E1D346C2257A7C002D2F7D/\\$file/Ετήσια%20Έκθεση%202012.pdf](http://www.mlsi.gov.cy/mlsi/dsid/dsid.nsf/32BF365375E1D346C2257A7C002D2F7D/$file/Ετήσια%20Έκθεση%202012.pdf)
- Equality Authority, 'Annual Report 2013', available at [http://www.ombudsman.gov.cy/Ombudsman/Ombudsman.nsf/All/C0E541C911E7857DC2257D8C0030C559/\\$file/Book%20ISOTITAS%202013%20GR%20electr%20edition.pdf](http://www.ombudsman.gov.cy/Ombudsman/Ombudsman.nsf/All/C0E541C911E7857DC2257D8C0030C559/$file/Book%20ISOTITAS%202013%20GR%20electr%20edition.pdf)

- Equality Body, 'Position of the Equality Authority regarding the violation of the principle of equal treatment between Cypriots and union workers at the hotelier industry', File Number A.I.T 1/2011, 22 June 2011, available at <http://www.no-discrimination.ombudsman.gov.cy/ektheseis-aki>
- Ministry of Education (Υπουργείο Παιδείας), 'Annual Report 2013' (Ετήσια Έκθεση 2013), available at http://www.moec.gov.cy/etisia-ekthesi/pdf/annual_report_2013_gr.pdf
- Ministry of Finance (Υπουργείο Οικονομικών), 'Programme of Financial Support to the Republic of Cyprus' (Πρόγραμμα Οικονομικής Στήριξης της Κυπριακής Δημοκρατίας), available at: <http://www.mof.gov.cy/mof/mof.nsf/All/307B9439AB112355C2257D5D0022C9A3?OpenDocument>
- Ministry of Finance (Υπουργείο Οικονομικών), Statistical Service of the Republic of Cyprus (Στατιστική Υπηρεσία της Δημοκρατίας της Κύπρου), *Comparative Indicators 2011-2014*, 2014. available at http://www.mof.gov.cy/mof/cystat/statistics.nsf/economy_finance_13main_en/economy_finance_13main_en?OpenForm&sub=3&sel=4#
- Statistical Service (Στατιστική Υπηρεσία της Δημοκρατίας της Κύπρου), 'Labour Force Survey 2012', Annual Report by Republic of Cyprus, Ministry of Finance, at [http://www.mof.gov.cy/mof/cystat/statistics.nsf/All/FA71F003F435D24BC2257777003EF934/\\$file/LFS-2012-130513.pdf?OpenElement](http://www.mof.gov.cy/mof/cystat/statistics.nsf/All/FA71F003F435D24BC2257777003EF934/$file/LFS-2012-130513.pdf?OpenElement) (accessed 10.9.2014)

Media articles

- Cyprus News Agency, 'SEK: Demands a study on the tourist industry' (ΣΕΚ: Ζητά μελέτη για την τουριστική βιομηχανία), 10 September 2014, available at <http://www.sigmalive.com/news/local/159914/sek-zita-meleti-gia-tin-touristiki-viomixania>
- Dettmer, M., and Reiermann, C., 'Bailing Out Oligarchs: EU Aid for Cyprus A Political Minefield for Merkel', Spiegel on line international, 2 November 2012, available at <http://www.spiegel.de/international/europe/german-intelligence-report-warns-cyprus-not-combating-money-laundering-a-865451.html>
- Goncharenko R., 'Russian oligarchs stung by Cypriot bank tax', DW, 19 March 2013, available at <http://www.dw.de/russian-oligarchs-stung-by-cypriot-bank-tax/a-16683064>
- Guse A., 'Criminals in government: See how the Cyprus President's family transferred tens of millions to London days before deposits haircut by zero hedge', *Huffington Post Union of Bloggers*, 1 April 2013, available at <http://hpub.org/criminals-in-government-cyprus-presidents-family-transferred-tens-of-millions-to-london-days-before-deposit-haircuts-by-zero-hedge/>
- Philenews, 'Greek language a necessary qualification for certain professions', 2 December 2014, available at <http://www.philenews.com/el-gr/top-stories/885/174192/apaitoumeno-proson-gia-kapoia-epangelmata-i-elliniki-glossa>
- Raposa K, 'Russian Oligarchs Lose Friend In Cyprus Banks', Forbes, 17 March 2013, available at <http://www.forbes.com/sites/kenrapoza/2013/03/17/russian-oligarchs-lose-friend-in-cyprus-banks/>

Other publications

- Antoniou, M., 'The Law Relating to the Termination of Employment in Cyprus' (*Το Δίκαιο Τερματισμού της Απασχόλησης στην Κύπρο*) Ομοσπονδία Εργοδοτών και Βιομηχάνων (OEB), 2000, Industrial Relations and Labour Law Department.
- Constantinou, C., 'Heterotopias of Production: Unveiling the Everydayness of the Cypriot Economy', *The Cyprus Review*, VOL. 26(1), Spring 2014, pp.127-143
- Durden, T., 'Monetary Geopolitics: Have the Russian Oligarchs Withdrawn All Their Cash from Cyprus?', Global Research, 26 March, 2013, available at <http://www.globalresearch.ca/monetary-geopolitics-have-the-russian-oligarchs-withdrawn-all-their-cash-from-cyprus/5328511>
- Global Property Guide, 'Will Cyprus bounce back?', 17 May 2014, available at <http://www.globalpropertyguide.com/Europe/Cyprus/Price-History>
- INEK-PEO, 'Report for the Economy and Employment' (*Έκθεση για την Οικονομία και την Απασχόληση*), 2013. Available at: http://peo.org.cy/images/PDF/inek/ekthessi2013/INEK_EKTHESI%202013_WEB.pdf, accessed on 15 September 2014
- Ioakimoglou, I., 'Wage inequality, low-wage workers and convergence of wages in Cyprus' (*Μισθολογικές ανισότητες, χαμηλόμισθοι εργαζόμενοι και σύγκλιση των μισθών στην Κύπρο με τον μέσο όρο της ΕΕ*), 2007, available at <http://ioakimoglou.netfirms.com/resources/past/Wage-Structure-Cyprus-final-for-IPE.pdf>
- Ioannou, G., 'Employment in Crisis: Cyprus 2010-2013', *The Cyprus Review*, Vol. 26(1), Spring 2014, pp. 107-126.
- Ioannou, G., 'Labour Relations in Cyprus: Employment, Trade Unionism and Class Composition' PhD Thesis, University of Warwick, 2011, available at: <http://wrap.warwick.ac.uk/47187/>
- Kouta, C. and Kaite, C., 'Home Nursing in Cyprus', Phellas, C. (ed.), 'Ageing in European States, Healthy Ageing in Europe', Springer, London and New York, 2013, pp. 205-220.
- Koutsampelas, C. and Polycarpou, A., 'The Distributional Consequences of the Cypriot Crisis', *Cyprus Economic Policy Review*, Vol. 7, No. 1, 2013, pp. 47-61, 1450-4561
- Koutsampelas, C., 'Aspects of Elderly Poverty in Cyprus', *Cyprus Economic Policy Review*, Vol. 6, No. 1, 2012, pp. 69-89, 1450-4561
- Kouzis, Y., 'Labour Relations and European Integration', INE/GSEE, Athens, 2001.
- Mercer, 'Actuarial Study of Cyprus National Health Expenditure and National Health System', Health Insurance Organisation, October 2013.
- Offsite, 'SEK demands increase of recruitment of Cypriots in the hotelier and tourist industry', 10 July 2014, available at <http://offsite.com.cy/sek-ziti-afxisi-ton-proslipseon-kiprion-stin-xenodochiaki-ke-touristiki-viomichania/>
- PASYDY, 'Uprooting of trade unionism', 7 December 2012, available at <http://www.pasydy.org/announcement.aspx?id=58>

- PASYDY, 'We refuse to accept', 14 March 2012, available at <http://www.pasydy.org/announcements.aspx?topicId=4>
- Phellas, C., 'Quality of Life and Older People: An empirical study amongst Older Cypriot', Phellas, C. (ed.), *Ageing in European States, Healthy Ageing in Europe*, Springer, New York, 2013, pp. 221-236
- Rabobank, Economic Research Department, 'Country Report - Cyprus', 2014, available at <https://economics.rabobank.com/publications/2014/april/country-report-cyprus/>
- Soumeli, E., 'The Precariat Charter, From Denizens to Citizens', Bloomsbury Academic, London and New York, 2014.
- Soumeli, E., 'The Precariat: The New Dangerous Class', Bloomsbury Academic, London and New York, 2011.
- Standing, G., 'Global Labour Flexibility: Seeking Distributive Justice', Macmillan Press, London, 1999.
- Stockwatch, '28% of public servants will be moved', 20 January 2014, available at http://www.stockwatch.com.cy/nqcontent.cfm?a_name=news_view&ann_id=190321
- Theodorou, M., 'No more pay rises in 2016', 11 July 2014, available at http://webapps.leventis.ucy.ac.cy:7786/dailypress/dailypress.manage_documents2.download?p_file=F690357152/POL20140711003%5B1%5D.pdf
- Trimikliniotis, N., 'Migration and Freedom of Movement of Workers: EU Law, Crisis and the Cypriot States of Exception', *Laws* 2, no. 4: 440-468, 2013 <http://www.mdpi.com/2075-471X/2/4/440>
- Trimikliniotis, N., 'Report on the Free Movement of Workers in Cyprus in 2012-2013', National Expert Report for the European Network on Free Movement of Workers within the European Union coordinated by the Radboud University, Nijmegen's [Centre for Migration Law](#) under the European Commission's supervision, 2013. Available at http://works.bepress.com/nicos_trimikliniotis/41/
- Trimikliniotis, N., 'Unemployment, Underemployment and Irregular Employment: a Research on Labour Uncertainty and Insecurity of the Youth in Cyprus', INEK, Nicosia, 2004.
- Ioakimoglou, I. and Soumeli, E., 'Wages in Cyprus: determinants and wage inequality' (*Οι Μισθοί Στην Κύπρο: προσδιοριστικοί παράγοντες και μισθολογικές ανισότητες*), Cyprus Labour Institute, 2008, available at <http://ioakimoglou.netfirms.com/resources/past/Wage-Structure-Cyprus-Book-final-135205.pdf>

List of stakeholders consulted

- Director of the General Health Scheme, a public organisation set up by law in order to oversee the introduction of the new national health system.
- Doctor in the public sector
- Officer, Future Worlds Centre, an NGO providing support and advice to asylum seekers and refugees in collaboration with UNHCR.
- Secretary general of the trade union of pensioners EKYSY, allied to the left wing opposition party AKEL.
- Officer at the Ministry of Education.
- Academic and trade unionist with the trade union of academic staff at the University of Nicosia.
- Teacher in public education
- Head of Human Rights Unit, Ombudsman/Equality Body.

ANNEX 1: EXCERPTS FROM MEMORANDUM OF UNDERSTANDING ON SPECIFIC ECONOMIC POLICY CONDITIONALITY

The economic adjustment programme is addressing short and medium-term financial, fiscal and structural challenges facing Cyprus. The key programme objectives are:

- to restore the soundness of the Cypriot banking sector and rebuild depositors' and market confidence by thoroughly restructuring and downsizing financial institutions and strengthening supervision;
- to continue the on-going process of fiscal consolidation in order to correct the excessive general government deficit by 2016, in particular through measures to reduce current primary expenditure, and maintain fiscal consolidation in the medium-term, in particular through measures to increase the efficiency of public spending within a medium-term budgetary framework, enhance revenue collection and improve the functioning of the public sector; and
- to implement structural reforms to support competitiveness and sustainable and balanced growth, allowing for the unwinding of macroeconomic imbalances, in particular by reforming the wage indexation system and removing obstacles to the smooth functioning of services markets.

State-owned enterprises and privatisation [P.15-16]

3.4. As regards extra-budgetary funds and entities, in particular the State-Owned Enterprises (SOEs) and other state-owned assets:

- the law regulating the creation and the functioning of SOEs at the central and local levels will be adopted by the HoR **by mid-June 2014**. The law will enhance the monitoring powers of the central administration, while including reporting on SOEs in the context of the annual budgetary procedure. No additional SOEs will be created until the law has been adopted;
- the Cypriot authorities will submit for consultation with programme partners a plan with detailed timelines for the review of those SOEs that are under internal review **by Q2-2014**; and
- each SOE will submit a strategic plan to the competent minister for approval, in consultation with programme partners, and in line with the FRBSL and SOEs Law provisions **by Q4-2014**.

3.5. The Cypriot authorities will implement the privatisation plan submitted to the programme partners to help improve economic efficiency by encouraging more vigorous competition and greater capital inflows and restore debt sustainability. The plan includes the privatisation of, inter alia, CyTA (telecoms), EAC (electricity), CPA (commercial activities of ports), as well as real estate and land assets. CyTA and CPA **will be privatised within the programme period** and EAC **by mid-2018**. An appropriate regulatory framework is a prerequisite for the privatisation of natural monopolies. The provision of basic public goods and services by privatised industries will be fully safeguarded, in line with the national policy goals and in compliance with the EU Treaty and

the relevant secondary legislation. In order to pursue the privatisation process in the most diligent way, the Cypriot authorities will:

- establish the Privatisation Unit through the appointment of its Head and its experts, in line with the provisions of the Privatisation Law; the Unit will be fully operational **by June 2014**;
- appoint independent advisors for the CPA privatisation **by Q2-2014**, in accordance with the privatisation plan;
- appoint independent advisors for the privatisation of CyTA and EAC **by Q3-2014**, in accordance with the privatisation plan;
- approve, through the Council of Ministers and on the basis of the recommendations of the advisors, a detailed plan for the privatisation of CyTA, including the main characteristics of the transaction, **by Q4-2014**. CyTA will be converted into a Limited Liability company **by December 2014**;
- appoint independent advisors with relevant expertise and develop a plan with detailed intermediate steps and timings for disposing of the identified real estate assets **by Q3-2014**.

The privatisation plan identified by the Government after consultation with the programme partners will raise at least EUR 1 billion **by the end of the programme period** and an additional EUR 400 million **by 2018 at the latest**, which will be used for public debt reduction.

Public administration reform [P19-20]

3.9. The Cypriot authorities have commissioned an independent external review of possible further reforms of the public administration. The review includes a horizontal and a sectoral element.

The horizontal element is undertaken by the World Bank and the UK public administration and will include reviews of:

- the appropriate system of remuneration and working conditions/conditions of employment in the public sector (e.g. annual vacation leave, sick leave, maternity leave, working time), in relation to the private sector and to other EU countries and based on best practices; and
- the introduction of a new performance based appraisal system in the public sector, for development and promotion purposes, linking performance with the remuneration system/ increments. The results of the horizontal review will be presented **by Q3-2014**. Based on the findings of this review, the Cypriot authorities will agree on a reform after consultation with the programme partners, submit it to the House of Representatives for approval and implement it **by Q4-2014**.

The sectoral element will examine:

- the role, competences, organisational structure, size and staffing of relevant ministries, services and independent authorities;
- the possibility of abolishing, merging or consolidating non-profit organisations or companies and state-owned enterprises; and
- the possibilities for the re-organisation and re-structuring of local government, and comprises two batches:
- the first batch is undertaken by the World Bank and the UK public administration and covers the Ministries of Agriculture, Education and Health, as well as local government and the Department of Registrar of Companies. Based on the findings of this first batch, the Cypriot authorities will agree on a reform plan after consultation with programme partners, which will be approved by the Council of Ministers **by Q2-2014**. The relevant legislation in relation with the reforms in Agriculture, Education, local government indicated as high priority will be adopted by the House of Representatives **by Q3-2014**. The relevant legislation indicated as high priority on the Companies Registrar will be adopted **by October-2014**. The reform will start to be implemented **by Q4-2014**, in accordance with the reform plan.
- the second batch will cover all remaining Ministries (Labour, Welfare and Social Insurance, Communications and Works, Energy, Commerce, Industry and Tourism, Interior, Defence, Justice and Public Order, Foreign Affairs), and the Ministry of Finance, including the Treasury and the Directorate General for European Programmes, Coordination and Development (former Planning Bureau) being covered under the PFM. It will also include all SOEs (subject to the decisions taken under the provisions of 3.4 and 3.5 regarding privatisation, restructuring or liquidation). Finally, it will cover the President's Office and the Council of Ministers, as well as the Constitutional and Independent Services (see Annex 3 for a detailed list). The results of the second batch will be presented **by Q4-2015**. They will include cost estimates and implementation timelines with detailed intermediate steps. Based on the findings of this review, the Cypriot authorities will agree on a reform plan after consultation with programme partners, which will be approved by the Council of Ministers **by Q1-2016**. The relevant legislation in relation with the reforms indicated as high priority will be adopted by the House of Representatives **by Q2-2016**. The reform will start to be implemented **by Q3-2016**, in accordance with the reform plan.

In addition, the authorities will review the impact of the changes to the public sector working hours and will present their findings to the programme partners **by Q4 2014**.

Welfare system [PAGES.20-21]

3.10. The existing welfare system in Cyprus encompasses a broad range of individual benefits provided by different Ministries and Departments. To ensure efficient use of public funds within the welfare system, while at the same time ensuring an appropriate balance between welfare benefits and incentives to take up work (as further specified in section 4.4 below), and enhancing the protection of vulnerable households, the Cypriot authorities will implement the reform plan of the welfare system, **as of 1 July 2014**. The Cypriot authorities will ensure that the reform will be achieved through:

- consolidating the existing social benefits by streamlining, and, inter alia by merging some benefits and phasing out others, and integrating them under the Ministry of Labour, Welfare and Social Insurance;
- improving the targeting of benefits; and
- providing work incentives to avoid welfare dependency.

To this end, the Cypriot authorities will take the following steps:

- adopt the final design of the reformed welfare system by the Council of Ministers **by mid-June 2014** after consultation with social partners, followed by consultation and review by programme partners. The adopted reform would define all benefits, their respective level, and eligibility criteria, as well as the overall costing of the system, along with provisions on the mandatory participation of beneficiaries to active labour market programmes;
- **by end-June 2014** establish a monitoring unit to assess the GMI outcomes (i.e. number of applications and costs, targeting accuracy, coverage and impact on poverty);
- provide for consultation with the programme partners **by end-June 2014** a list of social benefits outside the GMI of which the beneficiary profiles and eligibility will be examined and **by mid-July 2014**, contingency measures to ensure fiscal neutrality of the reform in 2014;
- by **Q3-2014**, on the basis of an assessment of the possible fiscal impact of the welfare reform and as part of the budgetary process for 2015, update the costing of the GMI and identify possible additional rationalisation of social benefits outside the GMI in order to achieve fiscal neutrality of the reform;
- ensure that a comprehensive database and the necessary IT requirements, including all required interfaces with different databases to allow for the comprehensive verification of eligibility criteria, are in place to support the administration of the reformed welfare system **by end-June 2014**; and
- transfer all the relevant competences and responsibilities related to the administration and provision of all social benefits to the Ministry of Labour, Welfare and Social Insurance, which should be appropriately equipped in terms of financial and human resources, the latter being reassigned from other departments of the public administration;
- **by Q2-2014**, except the benefits to be provided by the Ministry of Education and Culture (education benefits) and the Ministry of Interior (benefits to displaced people).

The reformed welfare system must be consistent with the fiscal targets defined in this MoU. Draft legislation providing for the new guarantee minimum income scheme (GMI) will be submitted for review to the programme partners before submission to the House of Representatives. The law will be adopted **by Q2-2014**.

FISCAL MEASURES WITH EFFECT IN 2013

[P.30] FISCAL MEASURES:

I.11 Reduce certain benefits and privileges for state officials and senior government officials, in particular by:

- suspending the right to travel first/business class by state officials, senior government officials and employees with the exception of transatlantic travel. The right to business class travel shall be maintained for the President of the Republic of Cyprus and the President of the House of Representatives;
- abolishing the right to duty free vehicles for employed and retired senior public-sector officials; and
- extending the wage freeze and temporary contribution on gross earnings to cover all state officials and permanent secretaries (129 individuals) for 2013-2016, including members of the House of Representatives. Include pensionable and tax-free allowances of these individuals in the calculation of their taxable income. Introduce a contribution of 6.8% on the pensionable earnings of these individuals.

I.12 Implement the following measures regarding the Government Pension Scheme (GEPS):

- freeze public sector pensions;
- increase the statutory retirement age by two years for the various categories of employees; increase the minimum age for entitlement to an unreduced pension (by six months per year) to be in line with the statutory retirement age; while preserving acquired rights, introduce an early retirement penalty of 0.5% per month of early retirement so as to make early retirement actuarially neutral;
- reduce preferential treatment of specific groups of employees, like members of the army and police force, in the occupational pension plans, in particular concerning the contribution to the lump-sum benefits;
- introduce a permanent contribution of 3% on pensionable earnings to Widows and Orphans Fund by state officials who are entitled to a pension and gratuity. Introduce a contribution of 6.8% on pensionable earnings by officials, who are entitled to a pension and gratuity but are not covered by the government's pension scheme or any other similar plan;
- amend Article 37 of the Pensions Law to abolish the provision according to which, in the case of death of an employee, if the deceased had a wife/husband at the time of his/her retirement and thereafter he/she remarried, his/her last wife/husband is considered a widow/widower. With the abolition of this provision, the second wife/husband will not be considered a widow/widower and thus she/he will not be entitled to a pension;
- increase the contribution rate on the pensionable earnings of the members of the Tax Tribunal Council and the Tender Review Authority from 3.4% to 6.8%; and
- the contributions to the Widows and Orphans Fund will no longer be reimbursable.
- introduce an automatic adjustment of the statutory retirement age every 5 years in-line with changes in life expectancy at the statutory retirement age, to be applied

for the first time in 2018;ix. introduce a change of indexation of all benefits from wages to prices; and

- pension benefits will be calculated on a pro-rata basis taking into account life-time service as of January 2013 (in place since January 2013).

I.13 Implement further reform steps under the General Social Insurance Scheme by:

- actuarially reducing pension entitlements from the General Social Insurance Scheme by 0.5% per month for retirements earlier than the statutory retirement age at the latest from January 2013, in line with the planned increase in the minimum age for entitlement to an unreduced pension to reach 65 (by 6 months per year), between 2013 and 2016;
- freezing pensions under the Social Security Fund for the period 2013-2016;
- abolishing the increase of pensions for a working dependent spouse under the General Social Insurance Scheme at the latest from January 2013 onwards.
- increase the minimum age for entitlement to an unreduced pension by six months per year to be brought in line with the statutory retirement age;
- introduce an early retirement penalty of 0.5% per month of early retirement so as to make early retirement actuarially neutral;
- introduce an automatic adjustment of the statutory retirement age every five years in line with changes in life expectancy at the statutory retirement age, to be applied for the first time in 2018;
- gradually (1 year per year) extend the minimum contributory period in the system from the current 10 years to at least 15 years over the period 2013-17 (in place since December 2012); and
- ensure that pension entitlements that will accrue after 1 January 2013 are considered as personal income, thus becoming fully taxable also in the case in which they are received as a lump-sum payment. At the same time, employees will be granted the option of converting all or part of the lump-sum into an actuarially neutral annuity (in place since January 2013).

I.14 Reduce transfers by EUR 25 million from central government to state-owned enterprises and semi-public institutions.

I.15 Ensure a targeted reduction of budgetary appropriations for a series of semi-governmental organisations in the 2013 Budget Law, supported by well-defined activity reducing measures.

I.16 Implement a four-year plan as prepared by the Public Administration and Personnel Department aimed at the abolition of at least 1880 permanent posts over the period 2013-2016.

ANNEX 2 - OVERVIEW OF RELATED STUDIES

Name of the Study	PE number	ISBN number
The impact of the crisis on fundamental rights across Member States of the EU - Comparative analysis	PE 510.021	978-92-823-6598-4 print edition 978-92-823-6599-1 online edition
The impact of the crisis on fundamental rights across Member States of the EU Country Report on Belgium	PE 510.015	978-92-823-6553-3 print edition 978-92-823-6552-6 online edition
The impact of the crisis on fundamental rights across Member States of the EU Country Report on Ireland	PE 510.016	978-92-823-6547-2 print edition 978-92-823-6546-5 online edition
The impact of the crisis on fundamental rights across Member States of the EU Country Report on Greece	PE 510.014	978-92-823-6539-7 print edition 978-92-823-6538-0 online edition
The impact of the crisis on fundamental rights across Member States of the EU Country Report on Spain	PE 510.019	978-92-823-6569-4 print edition 978-92-823-6568-7 online edition
The impact of the crisis on fundamental rights across Member States of the EU Country Report on Italy	PE 510.018	978-92-823-6564-9 print edition 978-92-823-6565-6 online edition
The impact of the crisis on fundamental rights across Member States of the EU Country Report on Cyprus	PE 510.017	978-92-823-6563-2 print edition 978-92-823-6562-5 online edition
The impact of the crisis on fundamental rights across Member States of the EU Country Report on Portugal	PE 510.020	978-92-823-6571-7 print edition 9978-92-823-6570-0 online edition

DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT CITIZENS' RIGHTS AND CONSTITUTIONAL AFFAIRS **C**

Role

Policy departments are research units that provide specialised advice to committees, inter-parliamentary delegations and other parliamentary bodies.

Policy Areas

- Constitutional Affairs
- Justice, Freedom and Security
- Gender Equality
- Legal and Parliamentary Affairs
- Petitions

Documents

Visit the European Parliament website: <http://www.europarl.europa.eu/studies>

PHOTO CREDIT: iStock International Inc.



ISBN: 978-92-823-6562-5
DOI: 10.2861/320