

# Franet National contribution to the Fundamental Rights Report 2020

**Cyprus**

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## Franet country study: policy and legal highlights 2019

<b>Issues in the fundamental rights institutional landscape</b>	<p><b>Developments as regards the operation of the Equality body</b> The Equality Body has changed its mode of operation since 2017, to the effect that it no longer examines complaints from NGOs and stakeholders and the Equality Directives are no longer used in order to examine complaints submitted. Since 2017 the statistical record on complaints is fragmented and limited.</p> <p><b>New strategy on fundamental rights under way</b> The Ministry of Justice has compiled a draft of the first National Strategy on Fundamental Rights, intended to form the basis of the first national action plan to be compiled in 2020. The strategy will enter into force once it is adopted by the Council of Ministers.</p>
<b>EU Charter of Fundamental Rights</b>	<p><b>Charter is used only in the context of judicial proceedings</b> Use of the Charter at national level is limited and mostly restricted to judicial proceedings. The majority of cases where the Charter is cited involve data retention and claims by suspects in criminal proceedings to invalidate police access to retained data that implicates them to serious crime.</p>
<b>Equality and non-discrimination</b>	<p><b>Bill on gender identity</b> A new bill regulating the change of gender identity underwent consultation in 2019 but was not adopted by year's end.</p> <p><b>Homophobic hate speech by church leaders</b> <a href="#">Complaints</a> submitted to the Attorney General by NGOs and other stakeholders against church leaders for homophobic hate speech did not result in any prosecutions.</p>
<b>Racism, xenophobia &amp; Roma integration</b>	<p><b>Racial motive / hate speech</b> There is no mechanism or method to identify racial motivation in crimes and no system in place to locate and address institutional racism. The Framework Decision on Racism and Xenophobia has never been used since its adoption in 2011, as prosecutions can only be initiated by the Attorney General.</p> <p><b>Roma integration</b> There are no measures and no strategy specifically for Roma integration. The Roma are not recognised as a national minority. Instead they are seen as part of the Turkish Cypriot community and are expected to benefit from horizontal measures targeting vulnerable parts of the population in general.</p>
<b>Asylum &amp; migration</b>	<p>There is no comprehensive plan to address issues facing children in the transition towards majority age. As the numbers of unaccompanied children are rising, authorities are considering measures to address gaps and needs through utilising the expertise of NGOs.</p>
<b>Data protection and digital society</b>	<p><b>National law continues to sanction data retention for law enforcement purposes</b> The DPA has increased its workforce in order to deal with the increased workload as a result of the GDPR. There are no initiatives on Big Data or the Internet of Things. The national <a href="#">law on data retention</a> remains in force and Court decisions continue to adjudicate on its compliance with the Charter and the CJEU jurisprudence.</p>
<b>Rights of the child</b>	<p><b>New comprehensive legislation under way on procedural safeguards for children</b> A bill is currently purporting to transpose <a href="#">Directive 2016/800 on procedural safeguards for children</a> is currently debated in parliament but due to its size and complexity it is anticipated that it will not be finalised soon.</p> <p><b>Internet safety measures:</b> A number of programmes on internet safety are currently run in schools.</p>
<b>Access to justice, including victims of crime</b>	<p>There are no initiatives relating to the implementation of the Victims Directive.</p> <p><b>New laws under way:</b> Two bills are currently under way to address gender based violence: a bill on stalking and a bill aimed at bringing national legislation in line with the Istanbul Convention.</p>
<b>Convention on the Rights of</b>	<p><b>Implementation measures</b> Few measures have been adopted in 2019 as part of a national action plan for the implementation of the CRPD. A bill on special education is currently debated amongst</p>

<b>Persons with Disability</b>	stakeholders. The coordinating mechanism for monitoring the implementation of the CRPD is not functional since 2013.
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# Chapter 1. Equality and non-discrimination

## 1. Legal and policy developments in 2019 relevant to combating discrimination based on gender identity, religion or belief, disability, age or sexual orientation

### 1.1. Gender Identity bill

A bill purporting to regulate the change of gender identity, which had been put to public consultation in 2018<sup>1</sup> was still pending at the end of 2019.

The Parents' Group of the NGO Accept LGBT presented their views to parliament, alongside with the Commissioner for the rights of the child and an officer from the Ombudsman's office. The group of parents described the problems facing transgender persons as a result of the non-regulation of the change of identity, which include problems in accessing state services, in obtaining a driving license, in entering the labour market, the public humiliation in governmental offices which inevitably impacts their psychological condition, the bullying, depression and suicidal tendencies. The bill is still awaiting technical processing by the Attorney General's office for two years after it was submitted by the Ministry of Justice. Disagreements which arose over the supporting documentation needed as a precondition for the change of gender identity were resolved in favour of a simple self-identification without medical or judicial certifications. The only issue still awaiting resolution is the procedure of change of gender identity of one spouse in a marriage. One suggestion submitted was for the automatic conversion of the marriage into a civil partnership whilst another proposal on the table is to set a requirement that applicants must be single when they apply for recognition of their new gender identity; this issue was still under discussion at the time of writing. The bill is expected not to set a minimum age for the change of gender identity, but in the case of children under 18 both parents must consent to the change and, additionally, a special committee must determine that the child is aware of the seriousness of the change of gender identity. The drafting of the bill was not finalized before the end of 2019.<sup>2</sup>

### 1.2. Religion- Islamic clothing in education

On the first day of the school year 2019-2020, the newly appointed school principal of a public school in Nicosia asked a Syrian female student to remove her headscarf or go home. The student left the school grounds as the principal was heard saying that his school was not a place 'either for Taliban sympathizers or nuns'. The student had already attended the same school wearing her headscarf for two years under the previous headmaster without any issues. The new school principal argued that he was merely following the rules which require that student's heads should be left uncovered, pointing out that he had no issues with anybody's religion. The superintendent of secondary education however stated that there were no rules against religious dress and that schools were not instructed to discriminate against students based on their dress code. The family of the student told the press that, when they visited the Ministry to file their complaint, they were initially advised to transfer to another school to avoid problems with the particular principal.

Reactions to the school principal's act varied, but most stakeholders positioned themselves against it. The national confederation of parents' associations promptly issued a statement using strong language against the school principal, pointing out that educationalists are under a duty to teach respect to

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<sup>1</sup> Cyprus, Bill entitled 'Law on legal recognition of gender identity of 2018' (Νομοσχέδιο με τίτλο 'Ο περί νομικής αναγνώρισης της ταυτότητας φύλου Νόμος του 2018').

<sup>2</sup> Consultation of the research team with a representative of the Parents' Group of Accept LGBT, the Presidential Advisor on Equality Matters, legal advisor to the Ministry of Justice and officer of the Ministry of Justice, 3-6 October 2019.

diversity and to the children's religious beliefs and to refrain from teaching racism to the children.<sup>3</sup> Similar statements were issued by teachers' unions,<sup>4</sup> whilst the communist party AKEL<sup>5</sup> and the Commissioner for the rights of the child<sup>6</sup> called for an investigation by the Attorney General. The Ministry of Education issued a statement that it condemns "arbitrary policies from heads of schools which are contrary to the Ministry's expressed educational policy, which respects the personality of each student irrespective of specificities, identities or beliefs".<sup>7</sup> In a symbolic gesture, the Minister of Education personally visited the school and had himself photographed together with the headscarved student and the school principal. The student population of the school planned a symbolic takeover of the school in order to stop the headmaster from entering the school grounds, following which the Ministry of Education swiftly transferred the school principal to another senior position in a public training institute. The student was able to remain in school with her headscarf.

At the time of writing, no investigation was completed and no report was published. The far right party ELAM, a sister organisation to Greece's Golden Dawn party, submitted a proposal to Parliament for the prohibition of Islamic clothing in the public sphere citing issues of security, the emancipation of women and the preservation of the Greek orthodox character of Cyprus. ELAM alleged that there are ECtHR decisions that support the legitimacy of such measures in other countries.<sup>8</sup> ELAM also claimed before parliament that in a particular school the teachers forcibly removed a cross from a student's bracelet,<sup>9</sup> which was subsequently found to be false.<sup>10</sup>

### *1.3. Homophobic statements by a religious leader*

In July 2019, a bishop of the Orthodox Church of Cyprus made a number of statements to the media arguing that homosexuality is a 'problem' transmitted from the parents to the child at the time of conception and that anal intercourse during or after conception, provided the woman enjoys it, will lead the child becoming a homosexual. He added that homosexuality had a certain nasty smell. The statements caused reactions from several civil society actors, journalists and politicians who called upon the Attorney General to prosecute him for hate speech.

The Ombudsman published a four-page position stating that freedom of expression must be safeguarded as one of the pillars of a democratic society which, however, may be restricted in some cases for reasons including the protection of one's dignity and the rights of others. The statement added that the bishop undoubtedly offended women, maternity and diversity as regards the choice of sexual orientation and is particularly offensive because of references to 'bad smell'. She added that although the statements may fall short of incitement to hatred or violence so as to be classified as hate speech, the discourse carried elements of rejection and degradation that may lead to feelings of hostility and hatred. The statement included references to an ECtHR judgement which stressed that sexual orientation discrimination is as serious as racial discrimination and is not protected by the right to expression. The

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<sup>3</sup> Cyprus, National Confederation of Parents Associations of Secondary Education (2019), 'Secondary Education Parents: The behaviour of the school principal in Nicosia's Lyceum is unacceptable', press release, 6 September 2019.

<sup>4</sup> Cyprus, Organisation of Greek Secondary Education Teachers OELMEK (2019), 'OELMEK condemns the action of the principal to send away a student because she was wearing a head scarf', press release, 07 September 2019.

<sup>5</sup> AKEL (2019), 'An effort to cover the racist behaviour of a school principal', press release 07 September 2019.

<sup>6</sup> Reporter (2019), 'Koursoumba calls for the intervention of the Attorney General for the student in headscarf', 7 September 2019.

<sup>7</sup> Cyprus, Ministry of Education (2019), 'Press release regarding the incident at a Nicosia Lyceum', 6 September 2019, available

<sup>8</sup> ELAM (2019) 'No to the Islamic dress which refers to women's emancipation), <https://elamcy.com/ch-christou-ochi-sti-islamiki-endymasia-pou-parapempei-sti-cheirafetisi-ton-gynaikon/>

<sup>9</sup> ELAM (2019), 'They removed a cross from a student but no-one cared', press release, 11 September 2019.

<sup>10</sup> Offsite (2019) 'POED says differently about the removal of the cross', 11 September 2019.

Ombudsman concluded that the authorities must ‘maintain a consistent approach of condemning statements which incite hatred, hostility, discrimination and racism’, but did not refer to legal action.<sup>11</sup>

In September the Attorney General announced that, following investigation, it emerged that no criminal offence could be established, as was the opinion of the police on the basis of the evidence collected. The Attorney General stated that although the bishop’s statements could be criticised and disagreed with, the explanations he gave during investigation as to the true meaning of his words with reference to the position of the church and of its fathers, do not amount to an effort to incite violence or hatred on the ground of sexual orientation or gender identity nor could they be described as hate speech. The Attorney General urged religious leaders to avoid answering questions without preparation and to refrain from using words that can have multiple interpretations beyond those endorsed by the church, particularly on ‘sensitive’ issues such as homosexuality and particularly to an audience that is not duly educated on the original position of the church on the matter.<sup>12</sup>

The national NGO Accept LGBTI filed a complaint about the Bishop’s statements with various EU and UN institutions, expressing its dissatisfaction with the failure of the authorities to prosecute the Bishop for hatespeech. Accept LGBTI argued that similar statements had been considered by the ECtHR in the context of the *Vejdeleand* case and were found to amount to hatespeech. The group sought support from EU and UN bodies in order to exert pressure at the national level towards tackling hate speech.<sup>13</sup>

#### *1.4. Religion- Court case*

In January 2019 the Court acquitted a person who refused to pay taxes for a cemetery on the ground that he had no use for the cemetery since he was not a Christian and did not want a Christian burial. The defendant, who refused to testify on oath, told the Court that he had been agnostic since the age of 16, he had a civil wedding and he did not baptize his children. The municipal council which had levied the cemetery tax argued that the defendant did not present any proof of his allegations about his faith and that in the absence of such proof it is self-evident that all Greeks are at the same time Christians. The municipal council claimed that a mere declaration about one’s faith should not suffice to lift the obligation to pay taxes and that if every resident claimed to be non-Christian without proof, this would result in chaos. The council told the court that the cemetery was open to use by everyone irrespective of religion due to the multicultural character of the community. The law provides that the failure to pay taxes is a criminal offence. The municipal council claimed that the burden is on the defendant to show that he is not a Christian, failing which there is a presumption that he is a Christian.

The Court rejected the position of the municipal council and held that a statement as to one’s belief is perfectly legitimate without any other formality. The Court held that the testimony delivered by the defendant gave rise to reasonable doubt as to whether or not he belongs to the Christian community. As a result, despite the law which excludes exemptions from tax obligations, the imposition of the cemetery tax in this case would interfere with his religious freedom, since burial procedures are closely linked to one’s religious beliefs. The Court cited the provisions of the Cypriot Constitution safeguarding freedom of religion and equality of all religions before the law and the Universal Declaration of Human Rights. It also invoked the ECHR and, in particular, its provision on the right to private and family life (article 8) which it interpreted as inclusive of the right to decide about burial procedures. The Court further

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<sup>11</sup> European Court of Human Rights (ECtHR), *Vejdeleand et al v. Sweden*, Case No. 1813/07, 9 February 2012.

<sup>12</sup> Phileltheros (2019), ‘Γ.Εισαγγελέας: Δεν διέπραξε ποινικό αδίκημα ο Μόρφου’, 9 September 2019.

<sup>13</sup> Cyprus, Accept LGBTI, ‘Recent Homophobic statements by Religious Leader and Conversion Therapies in Cyprus’, 22 October 2019.

cited the CJEU rulings in *Markus Achatzi*<sup>14</sup> which established that ‘religion’ must be defined as including both the existence of beliefs as well as the public manifestation of beliefs; and in *Egenberger*<sup>15</sup> where the CJEU instructed the German Court to guarantee the full effectiveness of the Employment Equality Directive by disapplying, if necessary, any contrary provision of national law.<sup>16</sup>

### 1.5. ECRI Conclusions about the Equality Body

In June 2019 ECRI published its conclusions on the implementation by the Cypriot government of the recommendations issued by ECRI in June 2016.<sup>17</sup> ECRI’s conclusions expressed concern over the fact that the office of the Commissioner for Administration (Ombudsman) which is also the national equality body continues to be unable to appoint its own members of staff, as this remains, by virtue of the Constitution, the responsibility of the Public Service Commission. The operating budget of this office was slightly increased from 2016 to 2017 but no further data was made available as regards subsequent years. The report noted with concern that the Office has not carried out any activities aimed at supporting vulnerable groups or communication activities and has not issued any publications or reports, including annual reports, or recommendations on discrimination issues since 2016.<sup>18</sup> ECRI stated that it will follow up on these matters in its sixth monitoring cycle. In response, the Ombudsman rejected ECRI’s criticisms, arguing that it had carried out an information campaign targeting the police regarding human rights violations and that it participates in a project regarding awareness for homophobia at schools.<sup>19</sup> She added that the annual report for her office for the year 2017 has been published and that the preparation for the 2018 report is currently under way.<sup>20</sup>

Earlier in the year, the Ombudsman had issued a press statement in response to criticisms from a member of parliament because of the Ombudsman’s refusal to examine a complaint about an incident of racial harassment. The Ombudsman’s response clarified that there is no longer an Anti-discrimination Authority or Equality Authority, ‘as wrongly believed by some people’ but merely an extension of the mandate of the Ombudsman to cover ‘discrimination and human rights violations’. She attempted to explain the reference to these two Authorities on the website of the Ombudsman’s office as merely indicative of the scope of the subject and her competencies.<sup>21</sup> The law setting out the mandate of the Equality Body has not been amended since its adoption in 2004.<sup>22</sup>

ECRI relied solely on data available on the website of Equinet and missed the fact that the Annual Reports for the years 2015-2016 have also not been issued. The statistical data which used to be included in the annual reports are no longer published, the last record available is for the year 2014. The non-availability of the statistical data for the period 2015-2018 was the subject of a dispute between the Auditor General the Ombudsman in 2019. The Auditor General deemed it was necessary to conduct an administrative audit to investigate whether the office uses its available human resources in an efficient

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<sup>14</sup> Court of Justice of the European Union (CJEU), C-193/17, *Cresco Investigation GmbH v. Markus Achatzi*, 22 January 2019.

<sup>15</sup> Court of Justice of the European Union (CJEU), C-414/16, *Egenberger v. Evangelisches Werk für Diakonie und Entwicklung eV*, 17 April 2018.

<sup>16</sup> Cyprus, District Court of Larnaca (*Επαρχιακό Δικαστήριο Λάρνακας*), *Voroklini Community Council v. XXXX Zarifis et al.*, No. 1243/2018, 25 January 2019.

<sup>17</sup> Council of Europe, European Commission against Racism and Intolerance (ECRI) (2009), *ECRI Conclusions on the implementation of the recommendations in respect of Cyprus subject to interim follow up*, Strasbourg, Council of Europe, 6 June 2018.

<sup>18</sup> The footnote of the ECRI report contained the following broken link from the website of Equinet: [http://equineteurope.org/author/cyprus\\_ombudsman/](http://equineteurope.org/author/cyprus_ombudsman/)

<sup>19</sup> The project is ‘HOMBAT’. The partner for Cyprus is the NGO ‘Accept LGBT Cyprus’.

<sup>20</sup> Omegalive (2019), ‘Η Επίτροπος Διοικήσεως απορρίπτει τις αναφορές ECRI για το Γραφείο της’, 6 June 2019.

<sup>21</sup> Ombudsman (2019), ‘Ανακοίνωση Επιτρόπου Διοικήσεως και Προστασίας Ανθρωπίνων Δικαιωμάτων’, press release 25 April 2019.

<sup>22</sup> Cyprus, *Law on combating racial and other forms for discrimination (Commissioner) of 2004* [Ο περί Καταπολέμησης των Φυλετικών και Ορισμένων Άλλων Διακρίσεων (Επίτροπος) Νόμος του 2004],



and economic manner, in light of indications that the volume of output produced by the Ombudsman’s office was considerably reduced compared to previous periods. The Attorney General has also opined that the Auditor General has the power to perform such an audit.<sup>23</sup> The Ombudsman declined access to her office’s archives, claiming that the Auditor General’s demand to conduct an administrative audit when his mandate is restricted to a financial audit, amounts to an interference with the independence of the institution she heads.<sup>24</sup> Under the previous ombudsman, annual reports were issued separately for the Equality Body mandate of the office, but since the new ombudsman was appointed in 2017 this is no longer the practice. The 2017 annual report of the Ombudsman includes a section on discrimination. The statistical record mentions the number of complaints received per ground but does not include the extensive information contained in the Equality Body reports of previous years. The report provides the following data on the number of discrimination related complaints received:

<b>Ground of discrimination/subject</b>	<b>Number of complaints received</b>
<b>National origin</b>	10
<b>Disability</b>	8
<b>Gender</b>	8
<b>Harassment</b>	7
<b>Ethnic discrimination</b>	6
<b>Sexual harassment</b>	6
<b>Sexual orientation</b>	5
<b>Age</b>	4
<b>Religion</b>	3

In contrast with previous years, there is no mention of the number of complaints investigated, found groundless, justified, outside its jurisdiction or mediated to the complainant’s satisfaction. Also there is no information on the profile of the victim or the perpetrator or on whether the complaints concerned the public or the private sector.

. In all the decisions listed in the report, there is no legal analysis based on laws transposing the equality acquis and no clear position is taken as to whether the complaint is justified or not.<sup>25</sup>

## **2. Research findings, studies or surveys on either experiences of discrimination or rights awareness**

<sup>23</sup> Audit Service of the Republic (2019), *Ελεγχος του Γραφείου της Επιτρόπου Διοίκησης και Ανθρωπίνων Δικαιωμάτων*, 14 October 2019.

<sup>24</sup> Ombudsman (2019), ‘Stern message issued by European ombudsmen during Nicosia conference’, Press release 15 December 2019.

<sup>25</sup> Cyprus, Ombudsman (2019), ‘Annual Report 2017’.

### *2.1. All grounds: Annual report of the European Network of legal experts in the non-discrimination field*

In 2019 the European Network of legal experts on non-discrimination published its 2018 country report on the transposition and implementation of the Racial Equality Directive and the Employment Equality Directive. The report highlighted the fact that the issuance of discrimination related decisions both by the Courts and by the Equality Body were increasingly becoming fewer each year. The Equality Body has stopped examining complaints on the basis of the two anti-discrimination Directives and will no longer examine complaints from NGOs or other stakeholders on behalf of victims. There were only three cases decided by Courts in 2018 which have an anti-discrimination angle but do not directly relate to discrimination. A number of minor transposition issues identified in previous years remained, such as the absence of a mechanism to identify and address discriminatory provisions in legislation and practice as well as the fact that the Equality Body's mandate does not include the power to provide assistance to victims beyond the extra-judicial examination of their complaints. The report refers to the institutional framework governing the appointment of the head of the Equality Body, arguing that the framework provides no guarantee that the specialised body will perform its functions effectively or independently. There is no requirement for the Ombudsman to possess any qualifications or experience, no obstacles for politically exposed persons to be appointed and no duty to exclude conflict of interest, thus paving the way for the executive to appoint a person that serves its agenda and does not expose systemic weaknesses.<sup>26</sup>

### *2.2. Religion: U.S. Department of State Report on International Religious Freedom on Cyprus*

The U.S. Department of State of 2019 report records incidents of violence and degrading behaviour against Muslims reported by NGOs. It also provides the legal and policy framework as well as the practice that facilitates the predominance of the Christian Orthodox Church over all other religions in Cyprus. The report found that despite efforts to facilitate the observance of the Islamic faith through access to mosques, the freedom to practice one's religion is curtailed by practices of prioritising Christianity over all other religions, most notably in education.<sup>27</sup>

### *2.3. Racial or ethnic origin: Perceptions of Cypriots about refugees and migrants: An opinion poll conducted for UNHCR*

This is a survey study based on both qualitative i.e. focus groups and quantitative methods, i.e. interviews via telephone and face-to-face. The quantitative phase included a large-scale telephone survey for the Greek Cypriot respondents, while a large-scale face-to-face survey was conducted for the Turkish Cypriots. The data collected via phone and face-to-face interviews were analysed using quantitative methods. The samples of the quantitative survey consisted of 1408 interviews, out of which 701 were with Greek Cypriots and 707 with Turkish Cypriots.<sup>28</sup>

The analysis of the data showed that the participants' responses as regards refugees could be grouped into three main categories, namely, the suffering of refugees, the responses of the community and the problems (practicalities) emerging from their presence in Cyprus. Compassion and solidarity towards refugees were more prevalent in the participants' discourse than negative attributions towards refugees, such as scams or causing problems. However, themes demonstrating concern were particularly

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<sup>26</sup> Demetriou C. (2019) *Country report 2019 on the non-discrimination directives, Reporting period 1 January 2017 – 31 December 2018*, European network of legal experts in gender equality and non-discrimination.

<sup>27</sup> U.S. Department of State (2019), *2018 Report on International Religious Freedom: Cyprus*, 21 June 2019.

<sup>28</sup> Psaltis, C, Kadianaki, I., Nicolaou, A., Panayiotou, E. (2019), *'Perceptions of Cypriots about refugees and migrants: An opinion poll conducted by the University of Cyprus Center for Field Studies (UCFS), UNHCR, the UN Refugee Agency in Cyprus'*, 8 March 2019.

prevalent, like unemployment, the economic crisis, ‘illegal’ immigrants, the perceived negative impact on economic growth, the rise in crime and the concern that Cyprus cannot host ‘so many’ refugees and migrants.

#### *2.4. Religion/ethnicity: NGO study Hate Speech in Public discourse Cyprus*

In 2019 the migrant support NGO KISA published a report on hate speech in public discourse Cyprus, based on a desk-top study, policy analysis and content analysis of media.<sup>29</sup> The report examines public debates via stereotypes and prejudices analysing discourses which are xenophobic and discriminatory. The study found that asylum-seekers are depicted as lazy and bogus, whilst Muslim asylum-seekers are particularly targeted and connected to the narrative of ‘Islamisation/Turkification’ of Cyprus. It demonstrates that the narrative is supported by fake news that connect migration, refugees and Turkish-Cypriots with Turkey as the eternal enemy and link these to terrorism. Also, NGOs and those resisting racism are targeted as “traitors”, “anti-Greeks” and “the enemy’s agents”, whilst Turkish-Cypriots are depicted as agents of Turkey.

#### *2.5. Sexual orientation and gender identity: Study on Homophobic and transphobic bullying within the school community in Cyprus*

The study examines homophobic and transphobic bullying through a thematic analysis of the experiences of school professionals, parents and children, based on a qualitative research conducted as part of the European Commission supported HOMBAT (Combating HOMophoBic And Transphobic bullying in schools) project in Cyprus. Thematic analysis was used to analyse extracts of interviews from three focus groups: two groups with teachers in primary and secondary education, school psychologists and school counsellors; and one group with parents and children attending primary and secondary education in Cyprus. Researchers constructed a semi-structured group interview schedule comprising of open-ended questions on the areas mentioned above. The focus groups were conducted over a period of two weeks.

The study reveal that homophobic and transphobic bullying is becoming more visible in schools and both school staff and children frequently witness incidents of bullying on the basis of differing sexual and gender identity/self-expression. The majority of school professionals reported that even though homophobic and transphobic bullying is prevalent in schools it is not addressed adequately but swept under the carpet. The perpetrators include both school teachers and students. The school professionals also reported feeling powerless to combat homophobic and transphobic bullying within the school community; sexuality and gender identity issues must not be discussed in class as this can place the individual concerned at risk of being exposed and marginalised within the school community. Finally, the study finds that the school environment appears to be a context in which homophobic and transphobic discrimination, violence and bullying are prevalent. It concludes that it is pertinent to establish a public discourse that not only will move away from any form of homophobic and transphobic behaviour and attitudes but will allow, legitimise and encourage different forms of self-expression with respect to sexuality and gender identity. Overall, the findings highlight that even though, over the past decade, Cyprus has made significant steps towards ensuring LGBT rights, there is a long way to go before it becomes an inclusive society that embraces all forms of diversity in self-expression and ways of being.<sup>30</sup>

#### *2.6. Religion/ race/ ethnicity/sexual orientation: Study on inter-cultural beliefs and intra-cultural hate speech*

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<sup>29</sup> KISA (2019), ‘[Hate Speech in Public discourse Cyprus](#)’, Report of study by the NGO KISA, co-funded by the Europe for Citizens Program for the European Union, June 2019.

<sup>30</sup> Apostolidou, Z. (2019), ‘[Homophobic and transphobic bullying within the school community in Cyprus: a thematic analysis of school professionals’, parents’ and children’s experiences.](#)’ *Sex Education*, DOI: 10.1080/14681811.2019.1612347.

This is an article based on a study that investigated hate speech among a sample of Greek Cypriot youth so as to identify motivators/factors that might produce hate. The methodology included questionnaires and face-to-face interviews conducted in 2018 and 2019 which were processed through discourse analysis. The study found that external calls for acceptance in European discourses had impacted the intra-cultural beliefs and attitudes, highlighting a process of negotiation between the rejection of outgroups and the calls for tolerance. The absence of such negotiation often leads to the endorsement of the far-right discourse which considers the core common ground as non-negotiable.

The questionnaires identified keywords that framed the hate speech debate such as comments emphasising continuity and the desire to preserve, support and protect national identity marked by history and religion. The study located widespread use of discriminatory language and hate speech on skin colour, religion, ethnicity and sexuality. The study revealed the ambivalence and contradictions noted in earlier studies<sup>31</sup> as manifested in what the research calls a ‘double act stance’ based on what is and what is not acceptable regarding obvious hate speech. It confirmed an earlier study,<sup>32</sup> which had found that the distinction between ‘hard’ and ‘soft’ variables is important in addressing discriminatory attitudes and beliefs in conflict resolution settings: ‘Hard variables’ comprise of class, ethnicity, gender, age, religion and refugee status, as these parameters modulate beliefs and attitudes, and they are very difficult to change since they are intrinsic variables. The ‘softer’ and more “experiential variables” include social and experiential parameters such as educational experiences, civic involvement and contact with and exposure to cultural ‘others’ in educational programs, as well as sharing traumatic experiences of war and violence. The author argued that the findings of this study would be useful in developing educational programs to address the core issues of hate speech, which use history and religion to imagine an essentialist Self and Other.<sup>33</sup>

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<sup>31</sup> Trimikliniotis, N., Demetriou, C. (2012) ‘Cyprus’, Ricard Zapata-Barrero and Anna Triandafyllidou (eds.) *Addressing tolerance and diversity discourses in Europe, A Comparative Overview of 16 European Countries*, CIDOB. Barcelona Centre for International Affairs, pp. 275-293.

<sup>32</sup> Sitas, A., Latif, D., Loizou, N., (2007) *Prospects of Reconciliation, Coexistence and Forgiveness in Cyprus- A Research Report*. Report 4/2007, PRIO Cyprus.

<sup>33</sup> Baider, F., (2019) ‘Double speech act: Negotiating inter-cultural beliefs and intra-cultural hate speech’, *Journal of Pragmatics*, 11 June 2019.

## Chapter 2. Racism, xenophobia and related intolerance

### 1. Legal, policy developments and measures relating to the application of the Racial Equality Directive

There were no developments in 2019 relating to the application of the Racial Equality Directive. There were no relevant Court decisions nor any Equality Body or NHRI decisions. The Ombudsman has dealt with complaints regarding rejections of family reunification claims, the grant of Cypriot nationality and reception conditions for asylum seekers but has not given a racial discrimination angle to her decisions.<sup>34</sup>

The Ministry of Justice has compiled and presented a human rights strategy which is expected to be adopted by the Council of Ministers during 2020. The strategy is intended to form the framework for a national action plan on human rights, the first ever in Cyprus. The strategy includes a chapter on combating racial and ethnic discrimination.<sup>35</sup>

### 2. Legal, policy developments and measures relating to the application of the Framework Decision on Racism and Xenophobia

There were no developments or measures with regard to the Framework Decision on Racism and Xenophobia. Although the Framework Decision was transposed in 2011, there were never any Court decisions relying on this legislation. On a few occasions where NGOs applied to the Attorney General requesting him to prosecute a public person for hatespeech, the Attorney General's response was negative.<sup>36</sup>

During 2019 a court convicted a woman (the defendant) who had posted a racist comment on facebook and imposed a fine of 800 Euros. Her comment was that a Cypriot man (the complainant) was 'stupid' to have adopted children from Asia. The complainant filed a complaint to the Commissioner for the rights of the child who, in turn, filed a report to the police. After eight months the police invited the defendant for a statement. She admitted having posted the comment but denied having a racist motive. The defendant was charged under the Law ratifying the Additional Protocol to the Convention against cybercrime regarding the criminalisation of acts of a racist and xenophobic nature committed through computer systems N. 26(III)/2004 and not under the law transposing the Framework Decision on Racism and Xenophobia. In Court she admitted the charge and there was no hearing. Since there was an admission and therefore no case to prove, the Court's reasoning focused on the mitigation factors to conclude that, although racial hate speech is a serious problem, the particular incidence was not serious enough to warrant a prison sentence. The Court pointed out that, contrary to the submissions of the defence, Cypriot society is facing a problem of racism and the fact that no prosecutions are filed does not meet the problem does not exist. The Court did not refer to the reason why there are not enough prosecutions.<sup>37</sup>

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<sup>34</sup> See the Ombudsman's website at

[www.ombudsman.gov.cy/ombudsman/ombudsman.nsf/index\\_new/index\\_new?OpenForm](http://www.ombudsman.gov.cy/ombudsman/ombudsman.nsf/index_new/index_new?OpenForm)

<sup>35</sup> Consultation with officer from the Ministry of Justice, 8 October 2019.

<sup>36</sup> Cyprus, KISA (2017), '[Η ΚΙΣΑ καταδικάζει το νέο παραλήρημα ρητορικής μίσους και ισλαμοφοβίας του Αρχιεπισκόπου Κύπρου](#)', press release 31 December 2017; Cyprus, KISA (2017), '[Καμία ανοχή και δικαιολογία σε εγκλήματα και ρητορική μίσους](#)', press release 26 May 2017; City (2016), '[Η ACCEPT Κύπρου ζητά την παρέμβαση του Γεν. Εισαγγελέα για τις δηλώσεις του Αρχιεπισκόπου](#)', 01 November 2016.

<sup>37</sup> Cyprus, District Court of Nicosia (*Επαρχιακό Δικαστήριο Λεκωσίας*), *Nicosia Police Director v. XXX Merkouri*, Case No. 775/2018, 7 January 2019.

Research on hate speech conducted in 2019 by a public university in the framework of a transnational Erasmus+MATE programme revealed that a person's appearance is the most common target of hate speech, with race and ethnic origin ranking second. The difference between the markers is unclear, however, as the term appearance may include colour and religious symbols which are also identifiers of ethnicity. Persons who admitted having used hate speech claimed that they were merely expressing their opinion and two thirds said that they did not know hate speech was illegal. The results at the transnational level revealed that hate speech in real life is twice as common as on-line hate speech. It also established that hate speech focused on race and ethnicity derives primarily from perceptions of superiority developed in the family environment and reproduced in public discourse. The findings on Cyprus relied on a focus group of ten persons which shaped the questionnaire of the survey that followed. The survey consisted of 222 responses, out of which 188 were from EU nationals living in Cyprus including Cypriots, 11 were third country nationals and 23 respondents did not specify their nationality.<sup>38</sup>

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<sup>38</sup> Cyprus, Cyprus University of Technology (CUT) (2019). [Common Forms of Hate Speech Online \(Social Media\) and Offline \(Face to Face communication\)](#), compiled in the context of the Erasmus project 'Mate', December 2019.

## Chapter 3. Roma integration

### 1. Measures and developments addressing Roma/Travellers segregation

There were no measures in 2019 addressing Roma segregation. The Roma remain segregated largely as a result of housing policy and educational needs of Roma children who are expected to attend school near their residence. There are no plans to address the housing situation of the Roma.

The educational goals supported by all stakeholders are not disaggregation of education. The concentration of Roma in specific schools enables the implementation of targeted support measures by trained teachers using specially designed tools and, where possible, involving the Roma parents into the school community as a means of reducing early school leaving and enhancing school performance.<sup>39</sup>

There are no Travellers in Cyprus.

### 2. Policy and legal measures and developments directly or indirectly addressing Roma/Travellers inclusion

There were no measures in 2019 addressing Roma inclusion. A couple of transnational EU funded programs run at a Limassol school attended by a large number of Roma children have now come to a close. In 2019 the school program ‘DRASE’ funded by the EU’s Structural Funds at 85% was run at 96 school units all over Cyprus, selected on the basis of the socioeconomic conditions of the area of the school. DRASE was the only program in operation during 2019 that may indirectly address the school inclusion of Roma children, although it is not specifically designed or targeted for the Roma. Rather, it purports to address the needs of poor communities throughout Cyprus.

The program started to be implemented in kindergarten and elementary schools in 2015-2016 in an effort to address the negative consequences of the economic crisis on students, to strengthen social cohesion and to limit the risk of social marginalisation and exclusion by improving school performance and reducing school failure, delinquency and early school leaving. The program includes extra hours of teaching, counselling, professional orientation, support to families to improve their Greek language and social skills, creative occupation of students during and after school like theatre, dance, sports, music etc.<sup>40</sup>

DRASE’s budget was increased from 14 million for the school year 2017-2018, to 29 million Euros for 2018-2019 and then further increased to €35,962,700 for 2019-2020. For the school year 2019-2020, a total of 102 schools will be covered by the program, increased from 96 schools in 2018-2019. The number of consultants and clinical psychologists assigned to the program was increased from 19 in 2018 to 25 in 2019.<sup>41</sup> All schools with a high concentration of Roma are covered by the DRASE program. The Cypriot government does not recognise the Roma as a minority.<sup>42</sup> The Cypriot Roma are historically seen as part of the Turkish Cypriot community and the Roma who arrive from other EU countries are often not identified as Roma. Because of this policy, there is no official data on the precise number of Roma children in education. The Cypriot Roma child are classified in education statistics as an indistinguishable part of the category of ‘Turkish speakers’, which also covers children who are not of Roma origin.

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<sup>39</sup> Kapsouli P. (2019), ‘Ημερίδα με θέμα την εκπαίδευση των παιδιών Ρομά’ (Seminar on Education of Roma Children), *Lemesos*, 1 July 2019.

<sup>40</sup> Cyprus, Ministry of Education (2016), ‘Δράσεις σχολικής και κοινωνικής ένταξης «ΔΡΑΣΕ»’ (Actions for school and social integration ‘DRASE’), 16 September 2016.

<sup>41</sup> Cyprus, Ministry of Education and Culture (Υπουργείο Παιδείας και Πολιτισμού) (2019), *Annual Report 2018*.

<sup>42</sup> Cyprus, Ministry of Labour, Welfare and Social Insurance, Social Welfare Services, ‘Κυπριακή Εθνική Πλατφόρμα για τους Ρομά’ (*Cyprus National Roma Platform*), press conference, 13 July 2016.

## Chapter 4. Asylum, visas, migration, borders and integration

### Unaccompanied children reaching the age of majority

Area of support	Description
<p><b>Residence permit</b></p> <p><i>Reception conditions Directive (article 6 and 7) and Qualification Directive (articles 24 and 31)</i></p>	<p><i>Please explain whether unaccompanied children (non-asylum seekers and asylum seekers) get temporary permits and if they expire when turning 18. Please elaborate on which type of permit is granted when they reach 18 years and under which conditions (e.g. being enrolled in education, or having an employment contract.)</i></p> <p>There are no special permits or programs to cover the transition period of unaccompanied children before and after the age of majority. In essence, before reaching 18 they are treated as children and after 18 they are treated as adults.</p> <p>Unaccompanied children, irrespective of whether they apply for asylum or not, are automatically deemed to be under the care of the Social Welfare Services who take the role of the guardian.<sup>43</sup> Although there are no restrictions as to their residence or movement, the Social Welfare Services will place them either with relatives in Cyprus, if they have any, or in foster care or in special shelters for children.<sup>44</sup> There are no special temporary permits granted for the transition period before and after reaching majority age. Permits are issued in the context of their legal status, which may be granted at any stage before or after maturity. For asylum seeking children, these are: the refugee status, the subsidiary protection status and humanitarian protection. Unaccompanied children seeking asylum may be granted one of these statuses or have their asylum applications rejected at any point before or after 18.</p> <p>Most of the unaccompanied children arriving to Cyprus are aged 16-18.<sup>45</sup> In these instances, by the time the children turn 18, their applications are usually not yet determined because they are not examined as a matter of priority by the</p>

<sup>43</sup> Cyprus, Law on children (*Ο περί παιδίων νόμος*), Cap. 356, articles 3-6.

<sup>44</sup> Cyprus, Law on refugees (*Ο περί προσφύγων νόμος*) N. 6(I)/2000, articles 9KC, 9KD, 9KE and 10.

<sup>45</sup> Consultation with Protection Officer of UNHCR in Cyprus, 8 October 2019.



	<p>Asylum Service.<sup>46</sup> As a result, most children are still asylum seekers upon reaching majority age, carrying the rights and duties of that status, without any differentiation from adults. If the asylum application is rejected before the children turn 18, then their appeal is handled by Commissioner for the rights of the Child.<sup>47</sup></p>
<p><b>Guardianship</b> (<i>representative under Reception Conditions Directive Article 24.1</i>)</p>	<p><i>Please elaborate on how the role of guardians is affected when the child reaches 18, and of any initiatives to expand the guardian’s support, for example transforming the guardian into a ‘mentor’ supporting the child until a certain age.</i></p> <p>The guardianship of the Social Welfare Services is automatically terminated when a child reaches 18. Nevertheless the Social Welfare Services continue to monitor the situation after a child becomes 18 and to provide support or guidance as and where necessary, on a case-by-case basis, as regards their accommodation. There are no protocols or guidelines on the type of support or service to be rendered to young adults. An officer of the Social Welfare Services will consult with the foster family or the shelter accommodating the young adult and provide assistance as necessary depending on the case. There are no schemes to assist them with claiming rights, training or entering the labour market.<sup>48</sup> After turning 18, the Commissioner for the rights of the child can no longer represent them in appeal proceedings, if their asylum application is rejected. For the purposes of the appeal procedure, young adults have the same rights as all other adults in the same situation.</p>
<p><b>Accommodation</b> <i>Reception Conditions Directive Article 24.2</i></p>	<p><i>Please explain what children reaching 18 years are entitled to in terms of accommodation, for example extension of foster care programmes until the age of 21, only transfer to an adult accommodation, or other accommodation support.</i></p> <p>The rights to accommodation of unaccompanied children reaching 18 depend on their status and they are exactly the same as all other adults in the same situation. There is no adult accommodation offered by the state to children turning 18. The only adult accommodation for asylum seekers and refugees is the Kofinou Reception Centre which is designated only for families seeking asylum or who already have been granted a status and does not accommodate single persons. Children turning 18 who have been granted international protection have the same rights as adults with international protection, which include the right to a housing benefit and a minimum income subject to a number of</p>

<sup>46</sup> Consultation with Protection Officer of UNHCR in Cyprus, 8 October 2019.

<sup>47</sup> Cyprus, Commissioner for the Protection of Children’s Rights (Commissioner Appointment by the Court as Child Representative) Procedural Rules of 2014.

<sup>48</sup> Consultation with officer of Social Welfare Services for unaccompanied children, 5 October 2019.

	<p>eligibility conditions. The minimum guaranteed income paid to eligible persons is €480 per month increased by 50% for every member of the family aged 14 and over, including the spouse.<sup>49</sup> The amount of the state housing benefit is too low to enable a person to rent accommodation in Cyprus without extra assistance. When unaccompanied children residing in shelters turn 18, the staff operating the shelters offer assistance to them in claiming their benefits and in finding accommodation elsewhere. Although there is no formal extension of guardianship or foster care after 18, children who reach majority age are not automatically evicted from their residence. Both the shelter staff and the Social Welfare Services will endeavour to identify suitable accommodation for them in the community.<sup>50</sup></p> <p>Children turning 18 who have applied for asylum but their cases have not yet been determined are entitled to the same benefits as asylum seekers, without differentiation, which is a small housing benefit and a set of coupons to buy basic goods from specific supermarkets.</p>
<p><b>Return</b> <i>Return Directive, Article 10</i></p>	<p><i>Please explain whether there are any special measures to prepare unaccompanied children for a return procedure and whether young adults receive any form of free assistance during eventual return procedures</i></p> <p>Unaccompanied children are not deported unless they themselves request to return to their countries of origin. In recent years there were a few cases of children who expressed the wish to return to their countries and consequently arrangements were made by IOM for them to return through assisted voluntary return programs. In the framework of the assisted voluntary return programs, NGOs and UNHCR help to prepare children young adults who want to return. IOM locates the family in the destination, issues travelling papers and gives them a certain amount of money. UNHCR provides information about the situation in the destination country and whether it is safe for the persons to return given</p>

<sup>49</sup> Cyprus, Law on the Minimum Guaranteed Income and Generally on Social Provision of 2014 (*Ο Περί Ελάχιστου Εγγυημένου Εισοδήματος και Γενικότερα περί Κοινωνικών Παροχών Νόμος του 2014*) N. 109(I)/2014, available at [http://www.cylaw.org/nomoi/enop/non-ind/2014\\_1\\_109/full.html](http://www.cylaw.org/nomoi/enop/non-ind/2014_1_109/full.html).

<sup>50</sup> Consultation with officer of Social Welfare Services for unaccompanied children, 5 October 2019.

	<p>their profile.<sup>51</sup> Children or young adults attending school will not be returned in the middle of the year; they will complete the school year before return.<sup>52</sup></p> <p>After they turn 18, legally they can also be deported under the law transposing the Return Directive.<sup>53</sup> Upon turning 18, the guardianship of the Social Welfare Services automatically terminates. However the Social Welfare Services will continue to monitor the situation of the young adult in return proceedings on an ad hoc basis and provide support if and where necessary, although there are no protocols, rules or structures for such monitoring and support.</p>
<p><b>Others</b></p>	<p><i>e.g. special permissions to stay based on education or employment programme, etc.</i></p> <p>There are no special permissions, programs or schemes for unaccompanied children reaching majority age. There is no comprehensive plan to address the needs of unaccompanied children reaching majority age. As the number of unaccompanied children rises, the Social Welfare Services are becoming increasingly aware of the gap which they cannot fill themselves, as they lack both the human capacity and expertise. The intention of the Social Welfare Services is to fund NGOs with expertise to provide services, so they have recently launched calls inviting NGOs to provide services in this field, but without a comprehensive or holistic plan or a prior needs assessment. The invitations to NGOs mostly concern the operation of shelters for unaccompanied teenagers, housing assistance in the form of locating and managing accommodation in the community and the provision of language training so as to prepare children reaching majority age to better integrate in society and in the labour market. For the time being, there is no fixed maximum age for beneficiaries of these services, although the age of 21 may eventually be fixed as the ceiling.<sup>54</sup></p>

## Chapter 5. Information society, data protection

### 1. Activities developed and launched by national data protection supervisory authorities (SAs) to implement and enforce the GDPR

<sup>51</sup> For more on assisted voluntary returns, see the IOM webpage <https://cyprus.iom.int/about-avrr>

<sup>52</sup> Consultation with Protection Officer of UNHCR in Cyprus, 8 October 2019.

<sup>53</sup> Cyprus, Aliens and Immigration Law (*Ο περί Αλλοδαπών και Μετανάστευσης Νόμος*) Cap 105, articles 18OC-18PST.

<sup>54</sup> Consultation with Protection Officer of UNHCR in Cyprus, 8 October 2019.

Cyprus does not have a separate Supervisory Authority currently. The national DPA published the following data as regards the implementation of the GDPR for one year until the end of June 2019:

- It received 464 complaints, out of which 146 concerned advertising messages (spam);
- It received 55 notifications of personal data violations;
- It issued 20 decisions in 9 of which a fine was imposed. The aggregate amount of all fines was €36,900;
- It carried out nine self-initiated investigations.<sup>55</sup>

The statistics of one year before from the implementation of the GDPR are not yet available, therefore no comparative assessment of the workload before and after the GDPR is possible.

In 2019 the workforce of the DPA was increased by six staff members who assumed tasks as DPA officers.

The annual budget of the DPA from 2016 onwards is as follows:

<b>Year</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
<b>Allocated budget in thousand (approx.)</b>	235	270	376	503
<b>Executed budget in thousand (approx.)</b>	223	241	271	Not yet

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<sup>55</sup> Cyprus, Office of the Commissioner for the protection of personal data (2019), [Statistical Data from the implementation of the Regulation](#), 28 June 2019.

The annual budget covers overheads, operational costs, training etc but no staff costs, which are paid from another budget.<sup>56</sup>

Since the adoption of the GDPR the Data Protection Commissioner has repeatedly appeared in the media to explain its contents and impact. An information note with links was also uploaded on the DPA's website.<sup>57</sup>

## 2. Artificial intelligence and big data

There were no initiatives or other developments in 2019 with regard to artificial intelligence or big data.<sup>58</sup>

MS	Actor*	Type*	Description	Are Ethical concerns mentioned? (yes/no)	Are Human Rights issues mentioned? (yes/no)	Reference

\*For the actors, please pick from the following suggestions:

- Government/ Parliamentary
- DPA
- NGO/Other Non Profit

<sup>56</sup> Consultation with DPA Officer, 4 October 2019.

<sup>57</sup> Cyprus, Office of the Data Protection Commissioner (2019), 'Γενικός Κανονισμός για την Προστασία Δεδομένων (ΕΕ)', undated.

<sup>58</sup> Cyprus, Office of the Data Protection Commissioner (2019), 'Γενικός Κανονισμός για την Προστασία Δεδομένων (ΕΕ)', undated.

- Academia
- Domestic Courts
- Business
- Independent State Institution
- Other

\*\* for the type, please pick from the following suggestions:

- National Draft Acts / Adopted Acts
- report/study
- other projects

### 3. Data retention

As in previous years, in 2019 the national data retention law<sup>59</sup> remained valid and unaffected by the invalidation of the Data Retention Directive.

Cases decided by national courts during 2019 reiterated the reasoning of previous decisions that access to data retained for the purpose of combating crime does not infringe the Charter of Fundamental Rights. In the case of *Polydorou*, the Court concluded that Union law permits the retention of and access to data for the purpose of combating crime. With references to *Tele 2 Sverige AB*<sup>60</sup> as well as to the Digital Rights Ireland case, the Court found that national legislation on data retention is lawful so long as this does not sanction indiscriminate and general surveillance of the entire population. It found that the access to retained data is lawful so long as the principle of proportionality is complied with. The Court added that in the case of *Ministerio Fiscal*<sup>61</sup> the CJEU concluded that article 15.1 of Directive 2002/58, interpreted under the light of articles 7 and 8 of the Charter of Fundamental Rights permits access to retained data of sim card owners activated by a stolen telephone, such as the surname, name and address of the users and that the retention of such data did not amount to a serious interference with private life.<sup>62</sup>

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<sup>59</sup> Cyprus, Law on the Retention of Telecommunications Data for the purpose of investigating serious crimes (*Ο περί Διατήρησης Τηλεπικοινωνιακών Δεδομένων με Σκοπό τη Διερεύνηση Σοβαρών Ποινικών Αδικημάτων Νόμος του 2007*) N.183(I)/2007. Available at [www.cylaw.org/nomoi/enop/non-ind/2007\\_1\\_183/full.html](http://www.cylaw.org/nomoi/enop/non-ind/2007_1_183/full.html).

<sup>60</sup> Court of Justice of the European Union (CJEU), C-203/15 and C-698/15, *Tele2 Sverige AB v. Post- och telestyrelsen and Secretary of State for the Home Department*, 21 December 2016.

<sup>61</sup> Court of Justice of the European Union (CJEU), C-207/16, *Ministerio Fiscal*, 2 October 2018.

<sup>62</sup> Cyprus Supreme Court (*Ανώτατο Δικαστήριο Κύπρου*), Appeal Jurisdiction, *Polydorou v the Republic*, Case No. 141/2017, 31 May 2019.

A similar line was taken by the Supreme Court in another decision delivered in 2019, concerning an order to access telecommunication data of a suspect in a child pornography case.<sup>63</sup> Here, the suspect contested an order which the police had secured in 2018 on the basis of which the telecommunications provider delivered to the police telecommunications data from his IP address of a specific date and time that implicated him to child pornography. The application relied on the national data retention legislation and sought to investigate a child pornography case, following information received through Europol. The applicant argued that the court order of 2018 permitting access to his data was unlawful for infringing article 15(1) of Directive 2002/58, since it is contrary to articles 7, 8, 11 and 52 of the Charter of Fundamental Rights. Citing *Tele2 Sverige AB* the applicant claimed that telecommunication providers are not permitted to retain data arbitrarily without a particular purpose and without the consent or knowledge of the data subjects and that their retention is unlawful even if intended to combat serious crime. He further argued that the law relied upon by the Court permitted the retention of data arbitrarily and indiscriminately for six months without justification and as such it infringes the Charter of Fundamental Rights and Directive 2002/58. He argued that since the testimony against him was unlawfully obtained, the search and access warrant must be invalidated. The Court rejected this application, ruling that the principle of data protection is not absolute and that the investigation and prosecution of serious crime is one of the reasons recognized by the CJEU as legitimate so as to justify a deviation. The proportionality principle was not infringed since the data to which access was requested was specific to a certain date and time.

The compliance of the national data retention law with the EU Charter was examined in passing by the Supreme Court in a judgement in September 2019.<sup>64</sup> The case concerned access to the telephone data of a suspect in a drug related case. The police had identified the applicant as a suspect and secured an order from the Court in order to access his telephone data. The applicant applied to the Court for an order to set aside the earlier order which the police had secured and which was sanctioning access to his telephone data, arguing that the data retention law, which formed the legal basis for the accessing of his data. The applicant's argument was that the national data retention law infringed the Constitution, the EU Charter, the TFEU, Directive 2002/58/EC as amended by Directive 2009/136/EC and the principle established by the CJEU in the case *Tele2 Sverige AB και Secretary of State for the Home Department*.<sup>65</sup> The applicant further argued that the national data retention law does not comply with the proportionality principle since it does not provide clear and specific procedures for data retention, access, use and processing of telephone data and, instead, permits the general and indiscriminate retention of all data of all subscribers and registered users without the exceptions foreseen in the Council Directives and without any fundamental rights safeguards. The Court decided to grant the order sought by the applicant, annulling the search into his telephone data, pointing out that the national data retention law may potentially infringe the Charter. The Court was nevertheless reluctant to examine and conclude on the legality of the data retention law. It restricted itself to granting the order required by the applicant, stating that the assessment of compliance of the national data retention law with the Charter is a matter for the full bench of the Supreme Court.

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<sup>63</sup> Supreme Court of Cyprus (*Ανώτατο Δικαστήριο της Κύπρου*), Primary jurisdiction, *Re. the application of XXX Michael DT and CCC Michael DT.XXX for permit to file for a certiorari order*, Civil application No. 3/19, 16 January 2019.

<sup>64</sup> Cyprus Supreme Court, *Re. the application of XXX Kyriakou*, Civil Application No. 145/2019, 18 September 2019.

<sup>65</sup> Court of Justice of the EU (CJEU), C-2013/15 and C 698/15, 21 December 2016.





# Chapter 6. Rights of the child

## 1. Procedural safeguards for children who are suspects in criminal proceedings

<b>Legislative changes</b>	<i>e.g. reform of the criminal code</i>
<b>Policy developments</b>	<i>e.g. guidance or training for law enforcement officers on the treatment of child suspects; amendment of police academy curriculum; training of judges; developing indicators to monitor the situation of child suspects and improve data collection</i>
<b>Other measures or initiatives</b>	<i>E.g. relevant activities to promote alternatives to detention; community involvement or general initiatives related to the dissemination and information in relation to the entering into force of the Directive.</i>

Parliamentary discussion on a comprehensive bill purporting to transpose Directive 2016/800 on procedural safeguards for children started only in September 2019. The bill contains 160 articles, i.e. it is fairly large in size and it is estimated that its examination will take time, because it involves the setting up of new mechanisms and procedures involving multi-disciplined committees and councils which will take time to process and organise. The Ministry of Justice anticipates that the bill may have to be adopted in the next few months but with a future date of coming into force, because time-wise it will be impossible to implement its provisions immediately. The bill is still in the process of review and amendment and there is no copy available in the public sphere.<sup>66</sup>

## 2. Legal and policy measures or initiatives developed about child internet safety

There were no legal or other measures or initiatives about child internet safety in 2019. There are, however, programs on informing school children and their parents on internet safety already in operation from previous years which continued through to 2019. To facilitate these programs, the Paedagogical Institute of the Ministry of Education develops and offers to educationalists material on internet safety tailored to various ages, for use by teachers in schools either as part of the curriculum, or in the context of extra-curriculum activities like camps, or as material for school competitions. Below are two examples of such programs:<sup>67</sup>

### *Small Trainers Internet 2.0*

"Small Trainers for Internet 2.0" seeks to engage pupils and students in educating others about the creative and safe use of the Internet. With the guidance of their school teachers and expert support, pupils are required to develop an action plan for their school unit and to design and implement actions to inform others about online issues. They are also invited to train others on the potential of the Internet as an excellent, prudent, fun but also creative and enjoyable way and to deliver suggestions for protection from potential challenges and risks inherent in the use of the Internet. Finally, the pupils are invited to raise awareness and educate other children, their classmates and friends, as well as parents and teachers at their school. Their action can be

<sup>66</sup> Consultation with officer of the Ministry of Justice, 7 October 2019.

<sup>67</sup> The programs are available on the [website](#) of the Paedagogical Institute.

expanded to the community to which their school belongs and to other organized activities on the subject.

*Secure School for the Internet*

This program aims at disseminating information on the Internet and to develop 21st Century skills for both students and teachers as well as the parents and the wider school community. At the same time it provides the tools for schools to explain the risks inherent in using the Internet. Schools that choose to participate in the Program can claim their school's certification as a Safe Online School by implementing online activities. Schools participating in the Program gain access to Cyber Safety experts and collaborators who can visit the school for presentations and experiential workshops and can offer additional support as and when needed.

**Promising practice:** There is no promising practice in relation to topics addressed in this Chapter.

**Case law:** There is no relevant court decision in relation to any of the topics in this Chapter.

## Chapter 7. Access to justice including crime victims

### 1. Victims' Rights Directive

No measures were adopted in 2019 for the implementation of the law transposing the Victims Directive.<sup>68</sup> There were no action plans or information campaigns and no measures to enhance the victims' position and participation in judicial proceedings. No statistics are kept about the cases handled either by the police or the Social Welfare Service under this law.

### 2. Violence against women

The Ministry of Justice compiled a bill purporting to bring national legislation in line with the Istanbul Convention, which is undergoing technical processing by the Attorney General's office. It is expected that it will be finalized before the end of 2019 and that it will be tabled in Parliament. The Justice Ministry has also prepared a separate bill on stalking which is currently under discussion in parliament; it is estimated that it will be adopted before the end of 2019. The existing legislation on domestic violence was deemed to comply with the Istanbul Convention and will therefore not be revised.<sup>69</sup>

In July 2019 the police arrested a 19 year old English woman who had previously filed a complaint to the police about having been gang raped by 12 Israeli men and boys and subsequently retracted. The woman was charged with making a false statement and was sentenced to a suspended prison term of four months. The case attracted considerable national and international publicity, as the woman's defence lawyers claimed that she was put under serious psychological pressure by the police in order to retract her rape allegations. Amongst other claims, her defence stated that her right to a lawyer had been infringed as she was kept in isolation for several days, she was questioned for more than six hours and was made to sign a retraction of her complaint without the presence of her lawyer. The Israeli men and boys involved in the incident returned to Israel shortly after the retraction of her complaint without being charged with rape. Authorities in UK expressed concerns about the judicial system in Cyprus and about whether she had indeed been given a fair trial.<sup>70</sup>

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<sup>68</sup> Cyprus, [Law establishing minimum standards on the rights, support and protection of victims of crime](#) (*Ο περί θέσπισης ελάχιστων προτύπων σχετικά με τα δικαιώματα, την υποστήριξη και την προστασία θυμάτων της εγκληματικότητας νόμος του 2016*) Ν. 51(I)/2016, 22 April 2016, article 2.

<sup>69</sup> Consultation with officer from the Ministry of Justice, 8 October 2019.

<sup>70</sup> BBC News, 'Ayia Napa Briton returns home after false rape claim sentence in Cyprus', 7 January 2020.

# Chapter 8. Developments in the implementation of the Convention on the Rights of Persons with Disabilities

## 1. CRPD policy & legal developments

*Measures in 2019 towards implementing the second national disability action plan 2018-2020*<sup>71</sup>

-The Council of Ministers approved the setting up of a Center of multi-thematic assessment for autism, in order to better integrate and coordinate expertise for early diagnosis, assessment and intervention of autism in children of pre-school age, providing also counselling to the children and their families. The project is co-funded by the European Social Fund and is expected to benefit around 300 children every year.

-As of May 2019, a system of evaluation of students graduating from special education was put into place, aiming at supporting special education graduates in finding suitable employment. By October 2019 there were 37 referrals, out of which 16 school graduates were evaluated and referred to special programs and structures; 10 are to be invited shortly for evaluation; and 11 graduates did not respond or responded that they are not interested to be evaluated.

-Information campaigns are carried out at schools targeting mainly educationalists and addressing stereotypes against persons with disabilities including women and girls with disabilities. The information includes good practices that may be used by teachers in order to reinforce amongst the school community a culture of rights as opposed to the 'charitable' approach towards disability.<sup>72</sup>

- The scheme for providing wheelchairs was amended by providing money to eligible applicants in order to buy the wheelchairs themselves. The new scheme replaced a previous time-consuming procedure followed in the past, where the Ministry of Education used to acquire the wheelchairs through public procurement in order to make them available to children with disabilities, leading to long delays and inconvenience.

No external or independent evaluation is being carried out for the actions carried out in the context of the national action plan. Instead, the implementing authority presents and self assesses its actions. The Department for Social Integration of persons with disabilities compiles the contributions of all implementing departments into a report that is presented at a public event in the presence of representatives of disability organisations.

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<sup>71</sup> Consultation with Department for Social Integration of Persons with Disabilities of the Ministry of Labour, Welfare and Social Insurance, 8 October 2019.

<sup>72</sup> Symeonidou S. (2018), 'The integration of children with disabilities at the general school', The University of Cyprus, Pancyprian training of school principals at pre-primary, primary and secondary education, January 2018.

### *New bill on special education for children with disabilities*

A bill compiled by the Ministry of Education in collaboration with the Structural Reform Support Service (SRSS) of the European Committee and the European Forum on special education<sup>73</sup> was met with negative reactions from the Confederation of Disability Organisations KYSOA for promoting entrenched separation and exclusion of children with disabilities from the educational system. KYSOA argues that the bill does not comply either with the spirit or the letter of the CRPD and infringes the right to inclusive education safeguarded by the CRPD and expressed its dissatisfaction over the fact that the draft was compiled with non-transparent procedures whilst all its proposals were ignored.<sup>74</sup>

In particular, the Pancyprrian Alliance of Disability Organisations, in collaboration with KYSOA objected to the following:

- The fact that the obsolete segregated units which have been in operation for several decades are still foreseen in the new law, which have resulted in the marginalization and exclusion of children with disabilities.
- The text of the new law does not use the term ‘disability’ suggesting that the term contains a stigma. This amounts to a phobic approach to disability which leaves no room for overcoming stereotypes and prejudices.
- The text of the proposed law is at odds with articles 5, 7, 9, 19, 20, 24 and 28 of the CRPD which create duties for educational methods, reasonable accommodation, supportive technology and training on its use. The proposed law creates no duties for teachers to provide all children including children with disabilities with quality education on an individual and comprehensive basis and instead places emphasis on the segregated model.
- The Ministry of Education adopted proposals put forward by certain organisations and parents’ association which operate with lack of transparency and, unlike KYSOA, do not have legal standing as social partners.
- The proposal of KYSOA for the transformation of the segregated special education units into support structures for integrated education was ignored.
- The proposal of KYSOA for students with additional educational needs to spend at least 80% of their school time with their peers in integrated classrooms was ignored.
- The new law does not encompass a commitment for integrated education to every student. Instead it provides for the allocation of students to special segregated units following evaluation by a special committee.
- The draft law does not define discrimination and it is not clear whether the failure to provide reasonable accommodation or the allocation of students to segregated units amounts to discrimination.
- The draft law does not provide for the different types of discrimination, including harassment and multiple/intersectional discrimination.
- The draft law makes no provision for the obligatory training of teachers and other school staff members.
- The draft law makes no provision for the prompt identification and intervention at pre-school age.
- The draft law makes no provision for collaboration between Ministries and departments in respect of services to very young students aged 0-3.

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<sup>73</sup> Bill entitled “Law on integrated education (Support structures) of 2019”. Not available on line

<sup>74</sup> KYSOA (2019), ‘Statement from KYSOA and the Pancyprrian Alliance on Disability: The position of the disability movement on the bill entitled ‘Law on special education (Support structures) of 2019.

### *Accessibility in beaches*

In October 2019 the deputy Ministry of Tourism announced a scheme to improve the infrastructure and safety at Cypriot beaches from 2019 until 2020, with a focus on people with disabilities. The scheme purports to fund municipalities and community councils to acquire accessibility equipment such as ramps, special wheelchairs, signs in Braille etc. A total of €15,000 is available for each local authority under the budget of the ministry for 2019-2020. The money will cover up to 70 per cent of each project, excluding VAT.<sup>75</sup> At the time of writing, Cyprus already had 50 beaches with facilities for wheelchair users or for persons with limited mobility, out of which 29 are fully accessible and 21 are partly accessible.<sup>76</sup>

### *Court decision on the right to integrated education*

In 2019 the national administrative court ruled in favour of a disabled applicant child, who challenged an administrative decision to attend a special rather than an integrated school. The multi-thematic committees foreseen by the legislative framework on special education had examined her and concluded that she was unable to care for herself, follow instructions or comply with rules and should therefore be placed in a special education unit in order to be supported and treated by specialists. The applicant's parents applied to the Court claiming the decision infringed their child's right to education in a regular school where she can develop skills, socialise and develop with dignity and self-respect. The applicants claimed that the decision to place their disabled child in special education infringed articles 1-4 and 5-24 of the CRPD, as it restricted her to exclusion and segregation due to her disability, it failed to place the best interests of the child as a first priority issue and restricted her right to quality education.

The Court concluded that, although the CRPD safeguards the right to education, it does not regulate the manner and the procedure for implementing this right. The Court admitted that it lacks the specialised expert knowledge necessary in order to determine which is the best way for realising the right to education and therefore could not decide on the merits of the decision challenged. It rejected the applicants' position that special education a priori infringed the CRPD but proceeded to annul the administrative decision challenged in this case for not having been adequately justified. The justification offered to the parents, that their child must be placed in special education in order for her needs to be better served, was far too vague to be acceptable.<sup>77</sup>

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<sup>75</sup> Brief (2019), 'Κάντε τις παραλίες και για ΑμεΑ – Επιχορήγηση από Υφ Τουρισμού', 7 October 2019.

<sup>76</sup> Cyprus, Deputy Ministry of Tourism (2019), 'Προσβασιμες παραλίες για άτομα με κινητικές δυσκολίες', December 2018.

<sup>77</sup> Cyprus Administrative Court, [E.A. through her parents and guardians v The Republic of Cyprus through the Minister of Education and Culture](#), Case No. 1594/2018, 2 September 2019.

## 2. CRPD monitoring at national level

Table: Structures set up for the implementation and monitoring of the CRPD

<b>EUMS</b>	<b>Focal points within government for matters relating to the implementation of the CRPD – Article 33 (1)</b>	<b>Coordination mechanism – Article 33 (1)</b>	<b>Framework to promote, protect and monitor implementation of the CRPD – Article 33 (2)</b>
<b>CY</b>	Ministry of Labour, Welfare and Social Insurance, Department for Social Inclusion of People with Disabilities (Τμήμα Κοινωνικής Ενσωμάτωσης Ατόμων με Αναπηρίες, Υπουργείου Εργασίας, Ευημερίας και Κοινωνικών Ασφαλίσεων)	Pancyprian Council for Persons with Disabilities	<a href="#">Independent authority for the promotion of the rights of persons with disabilities</a> (Ανεξάρτητη Αρχή Προώθησης Δικαιωμάτων ΑμεΑ) within the <a href="#">Office of the Commissioner for Administration and Human Rights</a> (Γραφείο Επιτρόπου Διοικήσεως και Ανθρωπίνων Δικαιωμάτων)

## Annex 1 – Promising Practices

Thematic area	<p><b>EQUALITY AND NON-DISCRIMINATION</b></p> <p>Please provide one example of a rights awareness campaign held in your country in 2019 relevant to equality and non-discrimination, preferably one conducted by a national equality body. Where no such campaign was held, please provide an example of a promising practice implemented in 2019 in your country (this could include innovative initiatives at local level) to combat discrimination on any one of the following grounds: religion or belief, disability, age, sexual orientation, gender identity or sex characteristics. Where relevant, always highlight any relevance or reference to multiple discrimination.</p>
	No promising practice has been identified for this thematic area.
Thematic area	<p><b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b></p> <p>Please provide one example of a promising practice to address discriminatory ethnic profiling within law enforcement agencies and other relevant national authorities. Where no such practice exists, please provide one example of a promising practice related to combating racism, xenophobia and related intolerances.</p>
	No promising practice has been identified for this thematic area.
Thematic area	<p><b>ROMA INTEGRATION</b></p> <p>Please provide one example of promising practice in relation to addressing a Roma/Travellers segregation at either national, regional or local. These could be (not limited to) in the area of segregation in education, residential segregation, segregation in healthcare services or in employment.</p>
	No promising practice has been identified for this thematic area.
Thematic area	<p><b>Asylum, visas, migration borders and integration</b></p> <p>Please provide a promising practice on the support provided to unaccompanied children when reaching majority.</p>
	No promising practice has been identified for this thematic area.
Thematic area	<p><b>INFORMATION SOCIETY, DATA PROTECTION</b></p> <p>Please provide one example of a promising practice in relation to one of the topics addressed in this Chapter</p>
	No promising practice has been identified for this thematic area.



Thematic area	<b>RIGHTS OF THE CHILD</b> Please provide one example of a promising practice in relation to one of the topic ad-dressed in this Chapter.
	No promising practice has been identified for this thematic area.

Thematic area	<b>ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS</b> Please provide one example of a promising practice in relation to one of the topic ad-dressed in this Chapter
	No promising practice has been identified for this thematic area.

Thematic area	<b>DEVELOPMENTS IN THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD)</b> Please provide one promising practice example of projects or programmes implementing the CRPD or furthering the rights of persons with disabilities.
	No promising practice has been identified for this thematic area.

## Annex 2 – Case law

Thematic area	<b>EQUALITY AND NON-DISCRIMINATION</b>  Please provide one high court decision addressing discrimination on any one of the following grounds: gender identity, religion or belief, disability, age, or sexual orientation. Where relevant, always highlight any relevance or reference to multiple discrimination in the case you report
	No case law has been identified for this thematic area.

Thematic area	<b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b>  Please provide the most relevant high court decision concerning the application of either the Racial Equality Directive, the Framework Decision on racism and xenophobia, or relevant to addressing racism, xenophobia and other forms of intolerance more generally.
	No case law has been identified for this thematic area.

Thematic area	<b>ROMA INTEGRATION</b>  Please provide the most relevant high court decision addressing violations of fundamental rights of Roma in the context of education, employment, health, housing, etc. In particular, focus on cases where discrimination or segregation (not limited to segregation in education or housing) are addressed.
	No case law has been identified for this thematic area.

Thematic area	<b>INFORMATION SOCIETY, DATA PROTECTION</b>  Please provide the most relevant high court decision in relation to one of the topic addressed in this Chapter
Decision date	31 May 2019
Reference details	Cyprus Supreme Court (Ανώτατο Δικαστήριο Κύπρου), Appeal Jurisdiction, Polydorou v the Republic, Case No. 141/2017.
Key facts of the case (max. 500 chars)	The police located a quantity of controlled drugs which appeared to have been imported from Greece via DHL. The applicant in this case was arrested through a European Arrest Warrant in Bulgaria and was surrendered to the Cypriot authorities. He denied involvement despite having been named by other suspects. The police sought and obtained a Court order to reveal his telecommunication data He was convicted and he appealed the first instance decision on the ground, amongst others, that the order for discovery of his data violated his rights. He challenged the trial court decision on a number of grounds, including the legality of the discovery order and of the retention of his data.

<p>Main reasoning/argumentation (max. 500 chars)</p>	<p>With references to Tele 2 Sverige AB<sup>78</sup> as well as to the Digital Rights Ireland case, the Court found that national legislation on data retention is lawful so long as this does not sanction indiscriminate and general surveillance of the entire population. Access to retained data is lawful so long as the principle of proportionality is complied with. The Court added that in the case of Ministerio Fiscal<sup>79</sup> the CJEU concluded that article 15.1 of Directive 2002/58, interpreted in light of articles 7 and 8 of the Charter of Fundamental Rights permits access to retained data of sim card owners activated by a stolen telephone, such as the surname, name and address of the users and that the retention of such data did not amount to a serious interference with private life.<sup>80</sup> It concluded that the neither the retention of data nor the discovery of such data infringed Union law, since the data obtained was limited in scope and the purpose was combating crime.</p>
<p>Key issues (concepts, interpretations) clarified by the case (max. 500 chars)</p>	<p>The Court held that Union law permits the retention of data for combating crime and that Tele2Sverige must be interpreted as sanctioning data retention where this is not so indiscriminate so as to amount to a general surveillance of all citizens. What is prohibited by Union law is the general and indiscriminate retention of all traffic and position data of all users in relation to all means of electronic communication. Also, legislation for data retention which is not aimed at combating crime is also prohibited.</p>
<p>Results (sanctions) and key consequences or implications of the case (max. 500 chars)</p>	<p>The order of discovery of his telecommunication data did not infringe any rights. It was lawful because it aimed at combating crime and the principle of proportionality was respected because the data obtained were restricted to the legitimate purpose for which they were intended, which was the combating of crime.</p>
<p>Key quotation in original language and translated into English with reference details (max. 500 chars)</p>	<p>Η ουσία της Tele 2 Sverige - ανωτέρω - είναι ότι η εθνική ρύθμιση για τη διατήρηση των τηλεπικοινωνιακών δεδομένων δεν πρέπει να είναι τόσο αδιάκριτη ώστε να εξισούται στην ουσία με μια γενική παρακολούθηση όλων των πολιτών του κράτους. Διατηρείται όμως η δυνατότητα πρόσβασης για την καταπολέμηση του σοβαρού εγκλήματος τηρώντας πάντοτε και τις αρχές της αναλογικότητας. Το ΔΕΕ είχε αποφασίσει ότι η Οδηγία δεν διαφοροποιούσε την ανάγκη για ισορροπία μεταξύ του ατομικού δικαιώματος στην ιδιωτική ζωή και της δυνατότητας τα κράτη-μέλη να θεσπίζουν μέτρα αναγκαία για τη δημόσια ασφάλεια κλπ., που περιλαμβάνουν και τις αναγκαίες διεισδύσεις στα ατομικά τηλεπικοινωνιακά δεδομένα. Το Άρθρο 15.1 της Οδηγίας δεν αντίκειται στο Χάρτη Θεμελιωδών Δικαιωμάτων, επιτρεπόμενης συνεπώς της παρακολούθησης με σκοπό την καταπολέμηση του σοβαρού εγκλήματος εφόσον η διατήρηση των δεδομένων περιοριζόταν στις περιπτώσεις αυτές και η πρόσβαση υπόκειτο στον προηγούμενο έλεγχο Δικαστηρίου ή ανεξάρτητης διοικητικής αρχής. Εκείνο που δεν επιτρεπόταν ήταν εθνική νομοθεσία η οποία, με σκοπό την καταπολέμηση του εγκλήματος, προνοεί για μια γενικευμένη και χωρίς διάκριση διατήρηση όλων των τροχαίων και δεδομένων θέσης όλων των</p>

<sup>78</sup> Court of Justice of the European Union (CJEU), C-203/15 and C-698/15, *Tele2 Sverige AB v. Post- och telestyrelsen and Secretary of State for the Home Department*, 21 December 2016.

<sup>79</sup> Court of Justice of the European Union (CJEU), C-207/16, *Ministerio Fiscal*, 2 October 2018.

<sup>80</sup> Cyprus Supreme Court (*Ανώτατο Δικαστήριο Κύπρου*), Appeal Jurisdiction, *Polydourou v the Republic*, Case No. 141/2017, 31 May 2019.

	<p>χρηστών αναφορικά με όλα τα μέσα ηλεκτρονικής επικοινωνίας. Και επίσης ότι εθνική νομοθεσία που δεν στόχευε στη διατήρηση των δεδομένων για σκοπούς καταπολέμησης του σοβαρού εγκλήματος δεν επιτρεπόταν.</p> <p>[unofficial English translation]  The essence of Tele 2 Sverige - above - is that national legislation on the maintenance of telecommunications data should not be so indiscriminate that it is essentially equated with a general surveillance of all citizens of the State. However, the possibility of access for the purpose of combating serious crime is maintained, while always respecting the principles of proportionality. The CJEU had decided that the Directive did not differentiate between the need for a balance between individual right to privacy and the ability for Member States to adopt measures necessary for public security etc., including the necessary infiltrations to individual telecommunications data. Article 15.1 of the Directive was not contrary to the Charter of Fundamental Rights, thus permitting surveillance with a view to combating serious crime as long as the retention of data was restricted in such cases and access was subject to prior scrutiny by a Court or an independent administrative authority. What was not allowed was national legislation which, with a view to combating crime, provided for a generalized and non-discriminatory maintenance of all traffic and location data of all users in relation to all electronic media. And also that national legislation that was not intended to retain data for the purpose of combating serious crime was not allowed.</p>
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Thematic area	<b>INFORMATION SOCIETY, DATA PROTECTION</b>  Please provide the most relevant high court decision in relation to one of the topic addressed in this Chapter
	No case law has been identified for this thematic area.

Thematic area	<b>RIGHTS OF THE CHILD</b>  Please provide the most relevant high court decision in relation to one of the topic addressed in this Chapter.
	No case law has been identified for this thematic area.

Thematic area	<b>ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS</b>
	Please provide the most relevant high court decisions in relation to one of the topic ad-dressed in this Chapter..
	No case law has been identified for this thematic area.

Thematic area	<b>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD)</b>
	Please provide the most relevant high court decision making reference to the CRPD or employing the CRPD in their reasoning.
	No case law has been identified for this thematic area.