

DEMOCRACY AND HUMAN RIGHTS

THE COVID-19 PANDEMIC AND FUNDAMENTAL RIGHTS IN CYPRUS

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This report investigates fundamental rights during the Covid19 pandemic. It finds that the pandemic was used to legitimise executive/ administrative excesses and locates gaps in democratic and legal accountability.



The closure of the checkpoints generated mistrust against the government, which subsequently escalated into a generalized opposition to measures. As the various waves of the pandemic unfolded, so did undue processes of exclusion, racialization, marginalisation and expulsion of those deemed 'deviant'.



The police were granted unprecedented powers and discretion and there was a generalised ban on protests. Also, the welfare rights of vulnerable persons were inadequately protected during the lockdown and persons with disabilities were exposed to risks. Finally, the pandemic revealed the inadequacy of the institutional mechanisms for the protection of fundamental rights and the absence of effective complaints mechanisms.

Contents

EXECUTIVE SUMMARY	2
1. INTRODUCTION	4
2. CLOSURE OF THE CHECKPOINTS ALONG THE CEASEFIRE LINE	5
3. UNEVEN TREATMENT AND HEAVY HANDEDNESS OF THE POLICE	7
4. FREEDOM OF ASSEMBLY, THE RIGHT TO PROTEST AND THE ATTACK ON NGOS	9
5. DATA PROTECTION, MASS DATA RETENTION AND PHOTOGRAPHING PROTESTERS FOR THE PURPOSE OF IMPOSING FINES	12
6. IMPACT OF MEASURES ON RIGHTS OF PERSONS WITH DISABILITIES ..	13
6.1 Exclusion, suspension of services, lack of targeted adjustments	13
6.2 Pandemic austerity v. independent living	13
6.3 Access to welfare	14
6.4 Children and trainees with disabilities – problems with distant learning	14
7. IMPACT ON THE RIGHTS OF WORKERS AND VULNERABLE GROUPS ...	16
7.1 People in precarious work	16
7.2 Vulnerable groups and parents return to work	16
7.3 Referral of law extending tenants’ evictions until end of the year	17
7.4 Pandemic and recession	17
7.5 Impact of Covid-19 on elderly people	18
8. IMPACT ON WOMEN	19
8.1 Domestic violence	19
8.2 The situation of working women during the pandemic	19
8.3 Domestic workers	20
8.4 Single parents: informal work and absence of state support	20
9. VACCINATION ROLL-OUT	22
10. THE SAFEPASS	25
11. THE DEBATES OVER THE SAFEPASS AND RIGHTS	26
12. CONCLUSION	29

EXECUTIVE SUMMARY

This report covers the period of the global pandemic, from when it started in March 2020 until December 2021. The measures introduced to curb and contain the pandemic had a devastating impact on several vulnerable groups in society, including disabled persons or because of their political beliefs, women who were at risk of gender-based violence, precarious workers, migrants, asylum seekers, refugees and others. The measures were marked by governmental failures in supporting vulnerable persons to survive the lockdowns and its various impacts and by excessive and unequal impacts that led to discrimination on multiple grounds. The government's intentions to use the pandemic in order to further pre-existing plans was first manifested by the closure of the checkpoints, even before any Covid-19 infections were located and whilst international airports remained open. The checkpoint closure had a devastating effect on bi-communal contacts, marking a sharp decline in civil society collaborations for the first time since they were opened in 2003. The demonstrations against the closure of the checkpoints also led to the first use of police violence against demonstrators, which would escalate in 2021 to unprecedented levels, when left wing activists and anarchists claimed their right to protest publicly. The ban on protests remained in place almost for the duration of the pandemic, even when infections were at the lowest level and all other measures had been lifted.

The reasonableness and proportionality of the restrictions to fundamental rights has been at the core of debates amongst academics, human rights lawyers and activists. Although several complaints were filed in court and with administrative authorities who have the competency to investigate complaints, the slow pace of these mechanisms did not yield a decision on this issue by the time of writing.

The pandemic had a devastating effect on people seeking asylum in Cyprus. Not only was it invoked as a reason to push boats back to sea and to prevent prospective applicants from entering through the buffer zone, but the refugee accommodation camps were turned into closed structures resembling substandard prisons, leading to multiple human rights violations regarding freedom from detention, safety, protection of unaccompanied minors and children's right to education.

Beyond the impact of policies seeking justification from the pandemic, there were also the unintended but foreseeable

consequences of persons at risk of social and labour exclusion and poverty. Such were the cases of persons with disabilities, who were not given the suitable adjustments and tools to protect themselves from the coronavirus, and they were further marginalised and driven to unemployment, poverty and dependence, and many had their welfare benefits discontinued. Children with disabilities faced a differentiated regime in accessing distant education as well as in attending school with physical presence when all other children returned to the classrooms. Persons in atypical employment were excluded from government benefits granted to other employees by way of support during the closure of businesses, whilst other employees were forced to return to work without notice, even when schools were still closed and they had nowhere to leave their kids. Overall, the measures appear to have been dictated by the need to protect the economic interests of private business rather than public health or vulnerable groups.

Amongst other vulnerable groups, women were badly hit by the pandemic in multiple ways. Domestic violence complaints rose by 30%, as the victims were locked up with their abusers during lockdown, but also because the economic insecurity generated by the pandemic-linked economic crisis forced women to stay or return to their abusers. The closure of schools also forced children to stay at home, witness and suffer domestic violence without being able to resort to school staff who could provide help. Like atypical workers, women who mostly work in flexible forms of employment had a reduced share in the support schemes available to affected workers during the pandemic, whilst they had to deal with increased labour in the house, performing unpaid housework and supporting children through distant education. During the lockdown, domestic workers, in their vast majority migrant women, faced unemployment without having access to welfare, and many became irregular. Single parents, most of whom worked in the informal sector, were not afforded any support benefits, and many lost their jobs and had to survive on charity initiatives.

When the vaccination rollout started in the first quarter of 2021, the government identified groups to be prioritized, along similar lines followed by other countries. The implementation of the plan, however, revealed significant inadequacies. The portal for booking vaccination appointments is

not user-friendly and often crashed, causing people to miss their turn in booking their appointment. There was no possibility to book an appointment any way other than through this portal, except in specific narrow cases. People with disabilities were offered no facilitation or priority in booking their appointment nor any suitable vaccination-related information; the vaccination portal is not accessible to blind persons. A procedure for booking appointments for persons not registered in GESY, the national health system, was made available; however, its implementation was fragmented and slow and only the AstraZeneka vaccine was available through this process. Taking stock of these gaps in the vaccination rollout, the introduction of the SafePass could arguably amount to an attempt to exclude persons from the public sphere on grounds of age, disability, race or class. As soon as the vaccination became available to all without restrictions, the character of the SafePass assumed a different dimension. Alongside other measures restricting certain freedoms, the SafePass and the consequent exclusion of the unvaccinated from certain areas of the public sphere raised concerns of illegality. This position has been challenged and can by no means be seen as valid or final.

By April 2022, all pandemic related restrictions were removed, save for new arrivals of asylum-seekers in the Pour-nara camp, which seems nonsensical, disproportional and discriminatory.

1

INTRODUCTION

Like all global crises, Covid-19 is leaving its mark on democracy and fundamental rights in ways which are already visible and will probably become more apparent and intense in the future. Although most of the restrictions are gradually being phased out in a race to assist the market economy return to profitability, there emerge two types of alarming phenomena which permeate state responses:

- Excessive policing of excessive measures, such as the prohibition to sit on the beach and violent arrests of swimmers witnessed in the months of May and June, fining migrants and persons with intellectual disabilities for being outdoors without a permit during lockdowns, even though no targeted measures were taken to inform them of the restrictions;
- The use of Covid as a pretext to suspend rights, such as the right to asylum, freedom from detention, freedom of assembly and the right to protest;
- The economic management of the pandemic, which shifts economic resources towards policing the measures and fining private individuals, whilst support to those most badly hit by the pandemic, such as small business owners, atypical workers and vulnerable persons in need of state support has been inadequate;
- The role of communications and media, both conventional and social media, has been crucial in these processes. On the one hand, the development of communication and media technologies has been of vital importance, providing speedy information and allowing for communication and support during the difficult times of the lockdown. On the other hand, the public dependence on the communication and media systems has proved to be ‘the Achilles’ heel’ in the process, where the media and communications have spread inaccurate information, exaggerated and amplified news, as well as fake news and conspiracy theories that questioned medicine, science and government measures, leading to further confusion, uncertainty and unwarranted fear and insecurity in situations, which are already tensed and worrying.

These phenomena must be seen against the backdrop of the authorities’ uneven handling of non-compliance issues, the measures and the relaxations in the measures affecting private interests and a general climate of expanding administra-

tive discretion with repeated issues of new ministerial orders, many of questionable legality. The ministerial orders must inevitably now be seen against a growing body of jurisprudence across the EU, which successfully challenged curfews, fines and disproportionate suspension of constitutional rights.

This report will attempt to address those measures adopted in Cyprus against Covid-19 which are anticipated to have a lasting impact on democracy and fundamental rights.

2

CLOSURE OF THE CHECKPOINTS ALONG THE CEASEFIRE LINE

The government's first reaction to Covid-19 was the announcement on 28 February 2020 of the following set of measures:

- General cautions to the public to avoid crowded spaces and self-isolate if possible;
- Announcements about possible future measures to be adopted if necessary;
- The closure of four checkpoints along the ceasefire line separating south (the Republic of Cyprus) from north (the Turkish occupied "Turkish Republic of Northern Cyprus"),¹ which had never been shut since 2003, when they were opened by the Turkish army.

Given the absence of any other substantial measures at the time, the closure of the checkpoints generated a negative reaction from peace activists in both communities,² from the main opposition party AKEL³ and from the UN Peacekeeping Force in Cyprus,⁴ all of whom urged the government to choose collaboration with the Turkish Cypriot community over unilateral actions to jointly face the challenge without undermining trust between the two communities. NGOs and the main opposition party argued that there was no scientific premise for the closure of the checkpoints, since at the time there were no Covid-19 incidents in the north and particularly given the fact that the external borders of the country remained open, without any checks or health screens being carried out on visitors at the airports. A spontaneous protest was held at one of the sealed checkpoints on the day following the announcement during which the demonstrators clashed with police who tried to block their way through the checkpoint, leading to an arrest and to other protesters being charged with rioting.⁵ Protests continued in the days

which followed with the police spraying Turkish Cypriot protesters with teargas in the buffer zone for the first time.⁶ Whilst public debates and confrontations continued for several days between the government and the opposition regarding the closure of the checkpoints,⁷ one particular incident continued to top the news for several months to follow: that of a montaged video showing a demonstrator pushing a soldier, which became viral. The demonstrator was shown on the video to repeatedly push a soldier in the crowd, however the original video which showed the soldier pushing and hitting the crowd of protesters until the demonstrator pushed the soldier once and immediately apologised and hugged him, received little attention from the media. The incident was amplified by both social and mainstream media which screened the montaged video, time and time again, calling for the demonstrator to be strictly punished. Several public officials, including the Minister of the Interior, the Minister of Defence, the Minister of Justice, the government spokesman, the police and three political parties, made public statements to the effect that the demonstrator was guilty and must be punished in an exemplary manner, depicting him as guilty even before he was charged, in circumstances that arguably infringe the right to be presumed innocent. The demonstrator's name and photo were paraded in the headlines of many newspapers for weeks, attracting high volumes of hate speech and calls to violence. The demonstrator's trial was postponed several times and continues to this date. Although it is impossible to predict the outcome, Cypriot courts do not have a strong tradition in acquitting defendants because their right to be presumed innocent was infringed.⁸

Following the initial closure of some of the checkpoints by the Republic of Cyprus, the rest of the checkpoints were also closed by the Turkish Cypriot community a few days later. Inter-communal personal contact came to a sharp suspension and several protests were voiced about Turkish Cypriots

¹ Cyprus, Council of Ministers, *Series of measures decided by the Ministerial Council for addressing the coronavirus epidemic* (Σειρά μέτρων αποφάσισε το Υπουργικό Συμβούλιο για αντιμετώπιση της επιδημίας του κορωνοϊού), (28 February 2020).

² Physician's Weekly, 'Cyprus to shut checkpoints for first time since 2003 over coronavirus' (28 February 2020).

³ AKEL, 'End the unilateral suspension of the operation of the checkpoints and install the necessary control mechanisms', Press release (2 March 2020).

⁴ UNFICYP, 'Statement on closure of crossing points along the buffer zone' (5 March 2020).

⁵ Katie Turner, 'Remand after scuffles at Ledra street closure protest

(update 5)', *Cyprus Mail* (1 March 2020).

⁶ DW (2020), 'Cyprus: Protesters, police clash at closed checkpoint' (7 March 2020).

⁷ Philenews (2020), *Αντιπαράθεση κυβέρνησης - ΑΚΕΛ για κλείσιμο οδοφραγμάτων* (7 March 2020).

⁸ Nicos Trimikliniotis and Corina Demetriou, *Cyprus Country report: Presumption of Innocence and procedural rights in criminal proceedings*, European Union Agency for Fundamental Rights, Vienna (June 2020).

being unable to access schools and universities, hospitals, their jobs, or other governmental services. Turkish-Cypriots undergoing treatment in hospitals in the south applied to the President for permission to cross the checkpoints for urgent medical treatment.⁹ Some relaxations were gradually introduced for specific groups after the lockdown ended on 21 May 2020,¹⁰ mainly students, workers and religious minorities who wanted to visit their ancestral homes on the other side of the barbed wire. As of 8 June 2020, it was possible to cross to the other side with a negative Covid test conducted no more than 72 hours prior to the crossing,¹¹ although the practice at the checkpoints remained inconsistent, as regards persons crossing from north to south.

The 72-hour Covid test was required by both sides of the checkpoint, but, depending on the officer in charge, the test conducted on one side might not be recognised by the other side, in which case entry into the territory is not permitted.¹² Inter-communal contact and collaboration came to a standstill at a time when collaboration was crucial to ensure that there was a common understanding and approach as regards the turmoil surrounding the natural gas in the Exclusive Economic Zone (EEZ). There was little possibility of forging collaborations in order to support the upcoming negotiations for a political solution, which took place on 27 April 2021 and led to another deadlock.

With the second coronavirus wave starting in November 2020, the Turkish Cypriot administration prohibited people from crossing at the checkpoints except for those crossing for health reasons, students and diplomatic personnel. The Republic of Cyprus permitted only its citizens who are habitually resident in the areas under its control to cross. In June 2021, the two sides announced the opening of the checkpoints subject to a negative rapid test or a PCR test. The checkpoints have been opened but they are subject to maintaining Covid19 under control.

⁹ Consultation with officers of the Ministry of Labour and Ministry of Justice (4 May 2020).

¹⁰ Kyriacos Kousios, Statement by the Government Spokesperson. Press and Information Office, Cyprus https://www.pio.gov.cy/coronavirus/press/19052020_13.pdf (19 May 2020).

¹¹ Announcement of the Ministry of Interior regarding the measures for crossing to and from the areas under the effective control of the government of the Republic of Cyprus, from June 21, 2020

¹² Consultation with the NGO Bi-communal Peace Initiative United Cyprus (2 November 2020).

3

UNEVEN TREATMENT AND HEAVY HANDEDNESS OF THE POLICE

Given that no state of emergency was declared, as provided by the constitution, the government instead relied on the Quarantine Law, which empowers the Council of Ministers, the Minister of Health and other Ministers to issue decrees to deal with the emergency situation. Human rights scholars expressed concern that the government used an old colonial statute to restrict fundamental rights protected by the Constitution and international human rights instruments, often in disregard of the requirement that restrictions to rights must be reasonable and proportionate.¹³ The Republic of Cyprus has had a highly problematic tradition of using and abusing emergency powers, even before the outbreak of the pandemic, embedded in its' constitutional and political order in the form of the 'doctrine of necessity'. The emergency powers, arbitrarily assumed by the executive in the context of a kind of new 'hygiene regime', are arguably another type of proliferation of the 'Cypriot states of exception'.¹⁴

The lockdown measures introduced in March 2020 included initially an administrative fine of €150 to persons violating the curfew. Three days later, the Council of Ministers approved an increase of the fine to €300. Depending on the severity of the case, police officers could exercise discretion not to impose a fine, but instead to file a criminal case in court, where a fine of up to €3,000 could be imposed.¹⁵ The police's unfettered discretion was exercised unevenly and arbitrarily, attracting criticism for being heavy-handed and discriminatory. Migrants, who had no access to information about the measures, were targeted and fined.¹⁶ Migrants sharing a

home where more than ten persons stayed under one roof and who did not speak Greek or English were also fined.¹⁷ Fines were imposed on persons with intellectual disability¹⁸ and on homeless persons. Migrant support NGO KISA asked the government to detach immigration control checks from the checks on compliance with Covid-19 measures, so as not to discourage migrants falling sick with Covid-19 from seeking medical help. The NGO Ypatia highlighted the situation of several thousand irregular migrants who are at risk of going hungry, falling sick and dying without help, because they could not use the SMS system to leave the house.¹⁹

Media reports recorded a number of excesses by the police in checking vehicles, asking the drivers questions which were not relevant to restrictions relating to Covid-19, such as their date of birth, whether the vehicle was registered in the name of the driver, the driver's telephone number, whether the characteristics of the car matched those mentioned in the registration certificate and other information, suggesting that the police were not merely checking compliance with the movement restrictions.²⁰ On one occasion, a video was circulated on social media showing police officers violently assaulting a person in while checking for compliance with the restriction measures. The victim filed a complaint with the Independent Authority for Investigating Complaints Against the Police, which sought and secured permission from the Attorney General to appoint a criminal investigator.²¹ Between 12 March and 6 April 2020, a total of 13 complaints were filed by citizens to the Independent Authority for Complaints Against the Police regarding police checks for compliance with the restriction measures.²² The citizens complained that the police used force, imposed arbitrary and

¹³ Kathimerini 'Καθηγητής Παν. Κύπρου: Η πανδημία ξεσκέπασε χρόνια δομικά προβλήματα της δικαιοσύνης', Kathimerini (30 May 2020); L. Kaoulla, 'Πρόεδρος Νομικής ΠΚυ: Αντισυνταγματική εφαρμογή των μέτρων στις παραλίες', SigmaLive (18 May 2020); Astra 'Στέργιος Μήτσας - Η Δικαιοσύνη και η Αλληλεγγύη την εποχή της Πανδημίας', Astra (27 April 2020).

¹⁴ Astra 'Στέργιος Μήτσας - Η Δικαιοσύνη και η Αλληλεγγύη την εποχή της Πανδημίας', Astra (27 April 2020); N. Trimikliniotis, 'The Proliferation of Cypriot States of Exception: The Erosion of Fundamental Rights as Collateral Damage of the Cyprus Problem', *Cyprus Review*, Vol. 18, no. 2, (Fall 2018); S. Mitas, 'The Case of Ibrahim', *Cyprus Review*, Vol. 18, 30, no. 1 (Spring 2017).

¹⁵ Cyprus, Press and Information Office, 'Ministerial Council decision increases to €300 the fine for violators of the Quarantine Law', *Statement by the Minister of Justice and Public Order, Mr. George Savvides*, (31 March 2020).

¹⁶ M. Demetriou, 'Πλήρης αδιαφορία για μετανάστες στην Κύπρο εν μέσω κρίσης του κορωνοϊού', *24Hours* (5 April 2020).

¹⁷ Consultation with teachers in minority school in Nicosia (24 April 2020).

¹⁸ Dialogos, 'Επέβαλαν πρόστιμο 300 ευρώ σε άτομο με νοητική αναπηρία!', (31 March 2020).

¹⁹ M. Demetriou, 'Πλήρης αδιαφορία για μετανάστες στην Κύπρο εν μέσω κρίσης του κορωνοϊού', *24Hours*, (5 April 2020).

²⁰ Dialogos (2020), 'Υπερβολές από αστυνομία σε ελέγχους - «Το κοτσιάνι γράφει ότι εν γκρίζο το αυτοκίνητο;» (3 April, 2020).

²¹ Offsite, 'Ποινικός ανακριτής για το περιστατικό με πολίτη & αστυνομικούς' (7 April 2020).

²² Dialogos, 'Υποβλήθηκαν δεκατρία παράπονα από πολίτες εναντίον αστυνομικών σε σχέση με τα περιοριστικά μέτρα' (6 April 2020).

unjustified fines and put lives at risk when they refused to allow an ambulance carrying a critically ill person to pass through a checkpoint in order to reach the hospital.

On 12 May 2020, the criminal court convicted a person for violating the Covid-19 regulations issued under the Law on Infections when he was driving his car from his workplace to his residence without having obtained a permit through SMS. The police claimed that the suspect had refused to produce his permit and that they had read his rights to him. The suspect claimed that according to the regulations applicable at the time, he could exit having only a written statement with him, as the SMS was not obligatory yet, that he had his statement with him and that the police never told him he was going to be prosecuted. The judge chose to believe the police version of events and found him guilty, imposing a prison sentence of 45 days.²³ The court decision gave rise to considerable criticism and reactions, including an online appeal asking for the reversal of the sentence imposed by the court, leading the President of the Republic to grant him a presidential pardon.²⁴

The reasonableness and proportionality of the measures, and of the policing of compliance with the measures, were particularly challenged, as the restriction measures started to be gradually eased in May 2020. Human rights lawyers questioned the legality of such measures, particularly the strict liability measures of fining persons.²⁵ Scholars argued that some of the measures, for instance the curfew and the banning of swimming at sea, were disproportionate and could not be justified as reasonable and necessary. Fitness training, walking and swimming were allowed on 23 May 2020,²⁶ however sitting or sunbathing at the beach were not permitted; persons were fined for merely sitting down or watching their children play in the sea, for sunbathing or playing ball at the beach, whilst at the same time, the government assured the public that closed spaces, such as schools and supermarkets have low infection risks.²⁷ In May, a three member police committee, especially appointed by the Chief of Police, examined complaints from members of the public for police excesses in the implementation of the Covid-19 measures. By 13 May, the committee had received 710 complaints, examined approximately 400 and decided that 127 were well-founded, ordering suspension of the prosecutions. These concerned mostly fines imposed in cases where the police arbitrarily decided that the reasonable duration of the exit permit had been exceeded. By mid-May, the Independent Authority for Investigating Allegations and Complaints Against the Police had received about 70 complaints for police misconduct during the two months of Covid-10 meas-

ures, two thirds of which were deemed to be outside the jurisdiction of the Authority and had to be resolved in court, while others were deemed to be of minor significance and were referred back to the police for handling.²⁸

In August 2021 the Court delivered its judgement over a criminal prosecution against a person who was attending church services while this was not allowed due to Covid-19 measures.²⁹ The accused person argued that the prohibition of attending mass infringed the proportionality principle and did not serve any legitimate purpose; that the restriction order was unconstitutional since it infringed Article 28 of the Constitution, which safeguards the equality principle, because while going to church was prohibited, shops and other businesses were permitted to operate; and that the ministerial orders regarding the pandemic were issued in excess of the minister's competencies.

The Court rejected all arguments of the accused, ruling that ministerial orders were lawfully issued, that the prohibition of physical attendance at a church service was necessary under the prevailing epidemiological circumstances and as such the order was not unconstitutional. The Court added that the state has a positive duty under Article 7 of the Constitution and Article 2 of the ECHR to safeguard the right to life and to bodily integrity, and this right is classified as one of the most fundamental provisions of the ECHR, clarifying that the general interest of protecting public health is ranked higher than any religious duty. The restrictions were temporary and directly linked to the epidemiological situation and did not affect the nucleus of the right – the mass was transmitted live on TV and people were permitted to attend the church and to pray at times other than during service. The accused was found guilty as charged.

²³ Cyprus, District Court of Famagusta, *Famagusta Police Director v. XXX*, Case No. 1797/20 (12 May 2020).

²⁴ Financial Mirror, 'COVID19: President releases man jailed for breaking curfew to see girlfriend' (14 May 2020).

²⁵ L. Kaoulla, 'Πρόεδρος Νομικής ΠΚυ: Αντισυνταγματική εφαρμογή των μέτρων στις παραλίες', SigmaLive (18 May 2020).

²⁶ https://www.pio.gov.cy/coronavirus/press/19052020_13.pdf

²⁷ Sigmalive, 'Πρόεδρος Νομικής ΠΚυ: Αντισυνταγματική εφαρμογή των μέτρων στις παραλίες' (2020)

²⁸ Reporter, 'Αναστέλλονται διώξεις πολιτών, πάνω από 700 τα παράπονα στην τριμελή επιτροπή' (18 May 2020).

²⁹ District Court of Nicosia, *Police v Mouskoviás*, Case 781/2021 (31 August 2021).

4

FREEDOM OF ASSEMBLY, THE RIGHT TO PROTEST AND THE ATTACK ON NGOS

Even when all other restrictions were removed and private businesses could reopen, the government continued to ban public assemblies, demonstrations and meetings for months afterwards. This did not stop people from holding protest marches in public spaces, giving rise to further controversy, as the police chose to fine only anti-government protesters. Other people in the same public space but not participating in the protest were not seen as violating the order, essentially stretching police discretion and arbitrary sanctions to unprecedented limits. Scholars, lawyers and NGOs questioned the legality of retaining the ban of public assemblies and demonstrations, arguing it was neither necessary nor proportional in a democratic society,³⁰ as required by the ECHR,³¹ the Charter for Fundamental Rights³² and the Constitution.³³

The first of such protests was sparked following the decision of the Council of Ministers, dated 20 May 2020, to declare scabies a “dangerous infectious disease” and that the Pournaras reception centre as an ‘infected area’, essentially extending the detention of asylum-seekers indefinitely.³⁴ In response, on 24 May 2020, about 70 activists demonstrated against the detention of asylum-seekers outside the Pournara camp. Although the demonstrators observed the hygiene rules and kept a distance for every 10 activists,³⁵ the police rushed to the scene and told the protesters to disperse for violating the ban on public assemblies. On the same day

there was another demonstration in Limassol against 5-G antennas and immigrants, but the police did not interfere. On 31 May 2020, antiracist and anti-fascist groups marched in Nicosia to protest against the government’s immigration policy. The march was heavily policed throughout, and, afterwards, 16 demonstrators were fined for violating the ban. The police had attempted to prevent the demonstration by threatening to charge the organisers.³⁶ Antiracist protesters complained about the selective and discriminatory use of power against them, arguing that the ban on demonstrations was illegal and disproportional.³⁷

In an official statement, the Minister of Interior condemned the antiracist demonstrations and pledged to stamp out the ‘phenomena of anarchy’.³⁸ The statements by the Minister of Interior provoked a strong response by the main opposition party, which accused the Minister of stirring up anti-immigrant and xenophobic hatred and authoritarianism.³⁹ Anti-immigrant journalists wrote that NGOs ‘profiteer’ from migration,⁴⁰ advocating for harsher anti-immigration measures and detention of asylum-seekers.⁴¹ The attack on government critics culminated with the Interior Minister’s statements that, according to the Council of Europe’s Moneyval report on Cyprus, NGOs are connected to money laundering and terrorism. Several media outlets reproduced the Minister’s statements,⁴² without checking the Council of Europe’s report, which in fact does not connect NGOs with any such activities; on the contrary, the Council of Europe warned the government against acts that could undermine the NGOs’ legitimate work.⁴³

³⁰ Kathimerini ‘Καθηγητής Παν. Κύπρου: Η πανδημία ξεσκέπασε χρόνια δομικά προβλήματα της δικαιοσύνης’, Kathimerini (30 May 2020).

³¹ Council of Europe, *European Convention on Human Rights*, article 11. Cyprus. *Law ratifying the European convention of Human rights and Fundamental Freedoms plus the Protocol* (Νόμος επικυρών την Ευρωπαϊκή Σύμβαση για τα Δικαιώματα του Ανθρώπου και Θεμελιωδών Ελευθεριών μετά προσθέτου Πρωτοκόλλου), 6 November 1962. G. Tornaritis, *The Operation of the European convention for the Protection of Human rights in the Republic of Cyprus*, Republic of Cyprus Publications, Nicosia (1983).

³² EU Charter of Fundamental Rights, *Article 12*, which is connected to *article 10* and *article 11*

³³ Cyprus, *Constitution of the Republic of Cyprus* (Σύνταγμα της Κυπριακής Δημοκρατίας) article 21.

³⁴ Cyprus, the Quarantine (Determination of Measures to Prevent the Spread of COVID-19 Coronavirus) Decree (No.24) of 2020, (Διάταγμα 90 0/2020 δυνάμει του περί Λοιμοκαθάρσεων Νόμος, Κεφ. 260), No. 5276, 218/2020, Cyprus Gazette (20 May 2020). English version of the Quarantine (Determination of Measures to Prevent the Spread of COVID-19 Coronavirus) Decree (No.24) of 2020.

³⁵ Interview with organisers of demonstrations, 1 June 2020.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ministry of Interior ‘Δελτίο τύπου για τα πρόσφατα συμβάντα στο ΚΕΡΥ Πournάρα’, Statement by Ministry of Interior (26 May 2020).

³⁹ AKEL, ‘ΑΚΕΛ: Ο Νουρής αναλώνεται σε δηλώσεις τρομοκρατίας αλλά αποφεύγει να δώσει απαντήσεις’, *Dialogos* (28 May 2020).

⁴⁰ A. Michaelides, ‘Μισός πλανήτης πρόσφυγες*’, *Pileleftheros* (2 June 2020).

⁴¹ A. Michaelides, ‘Τι εύκολο να βαφτίζεις όλους τους άλλους ρατσιστές’, *Phileleftheros* (2 June 2020).

⁴² For example, see Vassos Vassiliou, ‘Ο Νουρής δείχνει έμμεσα ΜΚΟ για ξέπλυμα – τρομοκρατία’, *Phileleftheros* (18 July 2020); Signalive, ‘<https://www.signalive.com/news/politics/614243/types-elegchos-se-mkogia-kseplyma-amp-tromokratia-ameilikti-i-kyvernisi-vid>’ (3 March 2020).

⁴³ Council of Europe, ‘Cyprus should pursue money laundering from criminal proceeds generated outside of the country more aggressively’ (12 February 2020).

In June 30, the Interior Minister announced that his ministry was preparing letters to dissolve the NGOs that have not been registered, expressing at the same time discontent over NGOs that criticised the government's immigration policy and played a 'negative role on immigration'.⁴⁴ The Minister referred to two NGOs, without naming them, who allegedly reported Cyprus abroad of human rights violations inside the refugee camps, for soap shortages in the camps and for detaining minors at the Pournara camp.⁴⁵ The Interior Minister added that it is disturbing for NGOs to defame their country abroad by relying on unfounded allegations, merely because they disagree with the government's immigration policy.⁴⁶

Prior to the Minister's statements, two migrant and refugee support NGOs, namely the Cyprus Refugee Council and Caritas Cyprus, had expressed concern over the inhumane conditions at the Pournara camp, pointing out that the situation infringes EU and national law.⁴⁷ The UNHCR had also reported to Parliament that conditions at the Pournara camp were unacceptable, that unaccompanied children, before their ages were assessed, were detained in mixed spaces with adults and that some children had reported sexual abuse from adult detainees.⁴⁸ On the eve of the parliamentary session, the UNHCR reported that the presence of unaccompanied children in the closed camp was also verified by the Social Welfare Services, whose officers were Guardians for 47 children. The Interior Minister told the Parliament that they were only 'alleged children' pending age determination. The Commissioner for Children's Rights submitted a written statement to Parliament disputing the Minister's allegation, clarifying that whenever there is doubt as to whether a person is a minor or not, the benefit of such doubt must always be given to the person who alleges to be a minor. Pending the results of age determination, she said, the person who claims to be a child must be treated as a child and enjoy the rights afforded to all children, including the right not to be detained. Quoting a Council of Europe report on unaccompanied minors, the Children's Commissioner stated that the risks for a child wrongly placed in a camp with adults are much higher than the potential abuse of child benefits by adults falsely claiming to be children.⁴⁹

On 19 August 2020, the authorities introduced a set of moderate restrictions, which mainly remained in place until 22 October 2020. These measures prohibited gatherings of over 50 persons at house parties, but allowed 350 persons at out-

door wedding and christening parties, and 150 persons indoors and 250 persons outdoors at catering establishments. Fairs, festivals, exhibitions and concerts in stadiums continued to be banned, although concerts and theatrical performances at open air amphitheatres were permitted subject to seating and ticketing arrangements.

At the end of August, a large crowd of demonstrators gathered in Nicosia to protest against the Covid-19 measures. The protesters did not wear masks and did not keep distances between them. No arrests were made or fines issued on the spot. The police stated that there were too many protesters for the police to start arresting persons or issuing fines, as that would have led to tensions and to larger problems and infection risks.⁵⁰ The initial reaction of the Justice Minister was to announce that all persons who participated in the event would be charged; this was changed a few hours later, when a fresh ministerial order permitted street protests for the first time since March, subject to the organisers being responsible for all demonstrators wearing masks and keeping distances.⁵¹ According to the guidelines from the Ministry of Health, during outdoor peaceful protests participants must use masks and maintain a distance of 1.5 metres between each other; they cannot distribute leaflets or other papers; they cannot sell any items; and the organiser must notify the police in advance and nominate a person to be the interlocutor with the police and who will be responsible for compliance with the measures.⁵²

The legality of this order is debatable. There is little justification for the different treatment between demonstrators and other people in public spaces, who are not required to wear masks or keep distances. The absurdity of this requirement became apparent when the police tried to fine people standing in the same space for participating in a protest without wearing masks. but the people responded that they were not part of the protest. An additional absurdity is the burden placed on the protest organisers to ensure compliance with the measures, which essentially creates a strict liability offence for persons who have neither the means to police the event nor the necessary mental state to commit an offence.

On 28 October, another street march against the coronavirus measures, 5G and migrants resulted in violence, as demonstrators started throwing Molotov cocktails at police cars, causing one of them to catch fire. Four police officers and a fireman were injured. Some hours later, the police arrested seven persons on suspicion of rioting, car arson, malicious damage, unlawful possession of explosives and conspiracy to commit a misdemeanour.⁵³ The police presented the arrested

⁴⁴ A. Tomaras, 'Λουκέτο σε ΜΚΟ που δεν έχουν εγγραφεί στο μητρώο', *Kathimerini* (30 June 2020).

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Knews, 'NGOs raise alarm over inhumane conditions at overcrowded migrant camp: Some 700 migrants and refugees have been locked inside the Kokkinotrimithia camp, Cyprus Refugee Council and Caritas Cyprus say', *Kathimerini* (29 June 2020).

⁴⁸ V. Vasiliou, 'Πορνάρα: «Όταν έφευγα, παρακαλούσαν να μείνω»', *Phileleftheros* (23 June 2020).

⁴⁹ Commissioner for the Protection of Children's Rights, Σημείωμα Επιτρόπου, για τη συζήτηση στην Κοινοβουλευτική Επιτροπή Ανθρωπίνων Δικαιωμάτων και Ίσων Ευκαιριών μεταξύ Ανδρών και Γυναικών, 'Η κατάσταση που επικρατεί στο κέντρο προσωρινής φιλοξενίας αιτητών ασύλου στην Κοκκινότριμιθιά', Press release (22 June 2020).

⁵⁰ Sigmalive 'Αστυνομία: Έκτακτη σύσκεψη για την εκδήλωση διαμαρτυρίας στο Προεδρικό' (30 August 2020).

⁵¹ Ministry of Justice and Public Order, 'Δηλώσεις Υπουργού Δικαιοσύνης και Δημόσιας Τάξης κας Έμιλυσ Γιολίτη μετά τη συνάντηση με τον Αρχηγό Αστυνομίας και Λειτουργούς του Υπουργείου Υγείας για το θέμα των Διαδηλώσεων εν μέσω της πανδημίας' (31 August 2020).

⁵² Cyprus Ministry of Health, 'Κατευθυντήριες οδηγίες για ειρηνικές διαδηλώσεις σε εξωτερικούς χώρους' (31 August, 2020).

⁵³ Cyprus, Police press report No.2, 'Όχλαγωγία – Εμπρησμός

persons in court requesting that they be remanded in custody, but the court rejected the request because there was no testimony connecting the arrested persons to the offences they were suspected of. The seven persons were released without being charged.⁵⁴ The Justice Minister told the press that she was troubled by the young age of the persons arrested and by the fact that some of them were asylum seekers, adding that they left their countries with the excuse that they were in danger, but they were putting Cypriots in danger.⁵⁵ NGOs criticised the Minister's statements for violating the presumption of innocence and containing racist overtones. The NGOs particularly criticised the fact that the Justice Minister's partner, a well-known journalist, sought to justify the Minister's statements, by posting on social media a video from 2017 involving violent incidents amongst Cypriots.⁵⁶ The Justice Minister's statements came at a time when the European Commission served a formal notice on Cyprus about the incomplete transposition of the Directive on the Presumption of Innocence, including shortcomings in relation to public officials making public references to someone's guilt and the availability of effective measures if this happens.⁵⁷

The ban on protests, although never formally lifted, was never enforced uniformly. On 13 February 2021, when a coalition of left-wing and anarchist organisations staged a street protest, the police attacked unsuspecting and peaceful demonstrators with batons and water-cannon, causing serious bodily harm to several demonstrators. Amnesty International noted:

AI is profoundly concerned over reports supported by audio-visual material of police using excessive and otherwise unlawful force against peaceful protesters during an anti-corruption demonstration in Nicosia, Cyprus on 13 February 2021. The organization urgently calls the Cyprus authorities to ensure that all reported incidents of human rights violations by Cyprus police during the 13 February demonstration are promptly, thoroughly, and impartially investigated and to revoke the blanket ban on demonstrations. Each assembly should be assessed on a case-by-case basis, and restrictions must be imposed only to the extent necessary and proportionate to achieve a legitimate end.⁵⁸

While it is recognised that there is a need for prevention and protection measures to restrict the spread of the virus, it is

αυτοκινήτου – Πρόκληση κακόβουλης ζημιάς σε περιουσία – Παράνομη κατοχή εκρηκτικών υλών – Συνωμοσία προς διάπραξη κακούργηματος – Παράνομη κατοχή ναρκωτικών' (29 October 2020).

⁵⁴ Phileftheros, *Ελεύθεροι οι 7 νεαροί για τα έκτροπα της Λεμεσού* (29 October 2020).

⁵⁵ Dialogos, *'Γιολίτη: Αιτούνται φιλοξενίας και την ίδια ώρα εξαπολύουν μολότοφ και πετροβολούν'*, (29 October, 2020).

⁵⁶ KISA, Press release (1 November 2020); Racism Watch, Press release (1 November 2020).

⁵⁷ European Commission, *'October infringements package: key decisions'* (30 October 2020).

⁵⁸ Amnesty International *Cyprus: Serious allegations of police abuse must be investigated and blanket ban on assemblies lifted*, Index number: EUR 17/3749/2021 (24 February 2021).

equally crucial that there is legal and democratic scrutiny of the scope and nature of such restrictions so that there is no inconsistency due to unreasonableness or political expediency and no possible abuse of power via measures that are disproportionate.⁵⁹

From the outset of the pandemic, public discussions highlighted the anti-democratic and authoritarian character of the measures and the use of a colonial law⁶⁰ in a manner far exceeding its scope and purpose. The use of the pandemic as a justification for the prolonged and absolute deprivation of the right to free assembly must be located within the context of 'the Cypriot states of exception',⁶¹ producing democratic deficits⁶² at the expense of civil rights.⁶³ The new normality created by the pandemic may well be already undermined in terms of the protection of civil and social rights.⁶⁴ Article 21.1 of the Constitution of the Republic of Cyprus safeguards that 'everyone has the right to assemble peacefully'. Restrictions may be imposed when expressly provided by law and are absolutely necessary for reasons of public security or public health. However, public demonstrations are not scientifically proven to pose a health risk, especially when gatherings in closed spaces are permitted. The right to demonstrate⁶⁵ plays a vital role for civil society movements and organizations who are faced with the phenomenon of 'shrinking civil society space'; a free public sphere for social action is essential in a democratic state and society.⁶⁶

⁵⁹ Y. Hadjicosta, 'Ο Δρ Παρασκευά για την «Ως Δαμέ»/Αστυνομική βία: Ο πυρήνας του δικαιώματος της ειρηνικής συνάθροισης είναι απαραβίαστος', *Politis* (16 February 2021).

⁶⁰ Law on infectious diseases (*Ο περί Λοιμοκάθαρσης Νόμος*), cap 260.

⁶¹ C. M. Constantinou, "On the Cypriot states of exception", *International Political Sociology*, Vol. 2, (2008), 145-164.

⁶² N. Trimikliniotis, *Η διαλεκτική του έθνους-κράτους και το καθεστώς εξαίρεσης – συνταγματικές και κοινωνιολογικές μελέτες για την ευρωκυπριακή συγκυρία και το εθνικό*, Σαββάλας, Αθήνα (2010).

⁶³ N. Trimikliniotis, "The proliferation of Cypriot states of exception, The Erosion of Fundamental Rights as Collateral Damage of the Cyprus Problem", *Cyprus Review*, Volume 30, no.2, 43-84, (2018).

⁶⁴ N. Trimikliniotis and C. Demetriou, *Coronavirus pandemic in the EU – Fundamental rights implications*, (Bulletin 1 February to 20 March 2020), EU Fundamental Rights Agency.

⁶⁵ Also safeguarded by art. 12 of the CFR and art. 11 of ECHR and art. 21 of the CRC.

⁶⁶ FRA, *Civil society space: Views of organisations, Conference paper Contribution to the fourth Annual Colloquium on Fundamental Rights*, Οργανισμός για τα Θεμελιώδη Δικαιώματα της ΕΕ (November 2018) https://fra.europa.eu/sites/default/files/fra_uploads/fra-2018-ec-colloquium-paper-civil-society-space_en.pdf

5

DATA PROTECTION, MASS DATA RETENTION AND PHOTOGRAPHING PROTESTERS FOR THE PURPOSE OF IMPOSING FINES

In summer 2020, the police informally introduced a method of photographing persons attending public protests, and from the photos they identified persons who were not wearing masks or social distancing, so as to mail them the €300 fine.⁶⁷ Although this practice would inevitably lead to unrestricted retention of mass amount of data, the Data Protection Authority did not comment on the legality of this practice and its compatibility with Article 6 of the EU Data Protection Regulation. By contrast, in the case of Al Jazeera releasing the video regarding Cyprus' citizenship by investment programme,⁶⁸ the Data Protection Commissioner found that there was a data protection breach, without examining whether processing was necessary for one of the reasons listed in Article 6(1) of the GDPR.⁶⁹

⁶⁷ Kathimerini, Στις 7.500 ευρώ τα πρόστιμα από την πορεία διαμαρτυρίας στο Προεδρικό' (30 October 2020).

⁶⁸ Al Jazeera, *The Cyprus Papers* (23 August 2020).

⁶⁹ Cyprus Data Protection Authority, 'Ανακοίνωση Επιτρόπου Προστασίας Δεδομένων Προσωπικού Χαρακτήρα για ενδεχόμενη παραβίαση δεδομένων προσωπικού χαρακτήρα' (25 August 2020).

6

IMPACT OF MEASURES ON RIGHTS OF PERSONS WITH DISABILITIES

6.1 EXCLUSION, SUSPENSION OF SERVICES, LACK OF TARGETED ADJUSTMENTS

The measures announced that certain categories of workers were classified as vulnerable and were permitted to remain at home during the lockdown to protect themselves from the virus. The Ministry of Labour, however, failed to classify the pre-existing aggravating factors of persons with disabilities as a vulnerable condition, and therefore, persons with disabilities had to go to work during the lockdown or risk their jobs. Many persons with disabilities are frontline workers who serve the public, and they face an increased risk of contracting the virus and falling severely ill because of pre-existing health issues. Since 2010, a quota has been in place to employ persons with disabilities in the public sector, often in positions serving the public. Through the quota system, blind persons find employment as telephonists in the public sector and most are placed in public hospitals.

Given the fact that persons with disabilities have an increased reliance on others in order to access the built environment and in order to go to work, they are at higher risk of contracting Covid-19.⁷⁰ However, the government took no measures to inform, guide or otherwise protect them. Many worked throughout the lockdown, but no measures were adopted to make sure their transportation to work was safe, risking their own health and the health of their families and colleagues. They were not able to maintain safe distances from their colleagues, and masks and antiseptic gel were not provided. When someone did become ill with Covid-19, the rest of them continue working on the frontline without having to self-isolate for a period of time, and the workplaces were not closed for 48 to 72 hours in order to be disinfected.

Although no information is available as to the number of persons with disabilities who became infected with Covid-19, the Cyprus Confederation of Disability Organisations (KYSOA) became aware of six blind telephonists working at Makarios Children's Hospital who tested positive for Covid-19, which suggests that they contracted the virus at work where appar-

ently the protection measures were inadequate. KYSOA asked the President to ensure that paid leave is granted to those persons with disabilities who refrain from working because of health problems and to ensure that persons with disabilities are consulted in all decisions affecting them.⁷¹

During the lockdowns, when people were restricted from leaving their homes, organisations in support of autistic persons also complained that no provision was made for autistic adults and children to take walks outside the house more easily, which are necessary for their mental health. Following their intervention, restriction measures were modified to include a special permit for autistic persons to leave home with a medical certificate confirming their condition.⁷²

With few exceptions, all services supporting the right of persons with disabilities to live independently were suspended, whilst no measures were taken to inform them or to protect them, despite the fact that a high number of them are institutionalised. It is estimated that there are about 80,000 persons with disabilities in Cyprus, but the precise number of those institutionalised is not known. Many persons with intellectual disabilities reside with their families who get state assistance to care for them, but if the person is institutionalised, the assistance is withdrawn. Since 2015 a de-institutionalisation project has been in place, and the number of persons transferring from institutions to homes in the community is constantly changing. However, even in the homes in the community, there was no dissemination of information or a protocol for protective measures.⁷³

6.2 PANDEMIC AUSTERITY V. INDEPENDENT LIVING

The Confederation of Disability Organisations, KYSOA, raised further concerns that the austerity agenda, as a means of addressing the economic crisis resulting from the pandemic,

⁷⁰ Consultation with head of the Cyprus Confederation of Disability Organisations KYSOA (11 May 2020).

⁷¹ KYSOA, Open letter to the President of the Republic from the President of the Cyprus Confederation of Disability Organisations KYSOA (2 April 2020).

⁷² Consultation with the Committee for Persons with Mental Disabilities (15 April 2020).

⁷³ Consultation with head of the Cyprus Confederation of Disability Organisations KYSOA (11 May 2020).

is negatively impacting the long-term project of de-institutionalisation and independent living of persons with disabilities. The Confederation believes the imperative need for independent living became more obvious with the advent of Covid-19, when at least half of the victims of the pandemic in Europe were persons in closed institutions and care homes, fully dependent and without rights, and forgotten by both the state and society. Persons with disabilities and chronic illnesses were the first to have to lock themselves at home in order to preserve their health and that of their family members, and they were more negatively affected by the impact of isolation, the rise in domestic violence, the degradation of health care, the lowering of their income, the suspended operation of essential services to them, the educational inequalities and the increasing poverty and unemployment. In order to address these, the Confederation is submitting a comprehensive proposal for the implementation of the right of persons with disabilities to live independently. Their proposal calls for the actual cost of disability and welfare to be calculated. Then they want measures to be adopted to cover those costs. They also recommend the government to develop a comprehensive legislative framework for the implementation of a deinstitutionalisation strategy, which could be adequately funded by reallocating funds currently expended on institutionalisation. This strategy would be premised on respecting the dignity of persons with disabilities and chronic illnesses.⁷⁴

6.3 ACCESS TO WELFARE

The Confederation of Organisations for Persons with Disabilities, KYSOA, reported a significant deterioration in access to welfare for persons with disabilities. The category affected most adversely were persons with intellectual disabilities, although other categories also experienced a reduction and in some cases termination of welfare benefits. Persons with intellectual disabilities who participated in the state programme of supported employment received amounts of €30 to €50 for two months through procedures which the Confederation described as humiliating. Almost all of the hundreds of persons with intellectual disabilities in the supported employment programme, who earned wages of €1.8 to €3 per hour, were forced to stay at home for two or more months during the Covid-19 lockdown, on the justification that they belonged to a vulnerable category. During this period, their employers paid them no salary.⁷⁵

The Ministry of Labour issued a circular encouraging persons with disabilities who were asked by their employers to stay home during lockdown to apply for the loss of wages benefit, without explaining that this would lead to a reduction of their Minimum Guaranteed Income. Those who applied received benefits which were often equal to one third of the amount subsequently deducted from their Minimum Guaranteed Income, leading to a loss of income which was crucial

for their subsistence. Other persons with disabilities reported that their Minimum Guaranteed Income was suspended during lockdown without any warning or explanation up until the time of writing.⁷⁶ Many persons employed under the state programme of supported employment were informed by their escorts that applying for a benefit because of a loss of wages during the lockdown was a trap and would lead to deductions of amounts much higher than the benefit or even indefinite suspension of their Minimum Guaranteed Income. As a result, they refrained from applying for this benefit.

Many of the persons with intellectual disabilities who returned to work after the lockdown received only 50% of their salaries, whilst others had their employment terminated on the justification that the workspace is limited or that the circumstances developed in the post-Covid 19 period led to a reduction in the volume of work and that there was not enough work for them.⁷⁷

The Confederation reported that during lockdown the Social Welfare Services searched the files of persons with disabilities who were receivers of the Minimum Guaranteed Income in order to identify cases where this benefit could be terminated. The result was the arbitrary termination of this benefit for persons with disabilities and their families without any explanation or warning, including pensioners with disabilities who were classified as 'willingly unemployed', persons with disabilities whose child was in paid employment for a short period of time in 2019 or persons with disabilities who allegedly changed address without informing the authorities.⁷⁸

6.4 CHILDREN AND TRAINEES WITH DISABILITIES – PROBLEMS WITH DISTANT LEARNING

Access to distant learning and the resulting inequalities were key factors for the increasing marginalisation and eventually total exclusion from education of children with disabilities. KYSOA, the Confederation of Disability Organisations, published a statement that this was the result of the Ministry of Education refusing to design a suitable distant education platform for almost one year after the outbreak of the pandemic in order to safeguard the unobstructed participation of children with disabilities in education and their full involvement in all distant learning processes. The lack of a distant learning programme for these children impacted on their participation and integration into the community and on the protection and dissemination of democratic values and human rights. KYSOA submitted a statement to the Education Parliamentary Committee with proposals for reasonable adjustment measures to lift the barriers that children and adults with disabilities encounter to participate in education and adult learning. Their statement also addressed the shortcomings, such as the inaccessible internet platforms; the deficient

⁷⁴ Dialogos, 'ΚΥΣΟΑ: Όχι στο άλλοθι της λιτότητας για μη υλοποίηση δικαιωμάτων αναπήρων' (7 May 2020).

⁷⁵ Communication via e-mail with Confederation of Disability Organisations KYSOA (6 July 2020).

⁷⁶ Ibid..

⁷⁷ Communication via e-mail with Confederation of Disability Organisations KYSOA (6 July 2020).

⁷⁸ Ibid..

access to connectivity for some students with disabilities; the absence of technical support to guide students with disabilities and their families on how to connect and use the internet education platforms; the unsuitability of the internet material, which is not adjusted to the learning needs of children with disabilities; the lack of training of teachers on how to provide accessible educational material in digital form; and the failure to provide specialised individual support to children with mental disabilities that would enable them to join the classroom and interact with their peers.⁷⁹

⁷⁹ Paideia-News, ΚΥ.Σ.Ο.Α.: Η περιθωριοποίηση των μαθητών και των εκπαιδευόμενων με αναπηρίες συνεχώς επιδεινώνεται, Press release (31 December 2020).

7

IMPACT ON THE RIGHTS OF WORKERS AND VULNERABLE GROUPS

7.1 PEOPLE IN PRECARIOUS WORK

According to the Cypriot Network against Poverty, Cyprus is facing the greatest poverty crisis of modern times.⁸⁰ Workers in precarious jobs in non-standard employment were particularly affected by the lockdown measures without access to the support benefits provided by the government.⁸¹ The Ministry of Finance estimates a possible double-digit contraction of the GDP, which is expected to have a most serious impact on precarious workers. Cyprus has a rather high share of non-standard employment,⁸² and it is marked by one of the highest adjusted wage gaps in the EU between permanent and temporary employees.⁸³ The percentage of employees on temporary contracts was 14.3% in 2016 (compared to 11.2% in 2008), 3.1 percentage points above the EU28 average. The part-time employment rate stood at 13.3% in 2016 (below the EU28 average of 18.9%; albeit significantly higher than its pre-crisis level of 6.5% in 2008).⁸⁴

Many workers in precarious jobs work in the informal sector, which attracts most migrant workers in an irregular situation. The informal sector is estimated to be over 25% of the Cypriot economy, which is the sixth largest percentage in the EU; only eastern European countries have larger informal economies.⁸⁵ Cyprus and Latvia are the only countries where informal wage employment is more prevalent than self-employment across all EU Member States covered by the comparative study undertaken.⁸⁶ Whilst non-standard employment is

more likely to be carried out by women and young persons, following the financial crisis in Cyprus after 2012, non-standard employment increased considerably among men and persons with tertiary qualifications. Studies have shown how the crisis has adversely affected these precarious workers, in terms of their rights⁸⁷ and their income and benefits.⁸⁸ Inequalities in the labour market are translated into higher risk of in-work poverty and disparities in social provisions, mostly in regard to the adequacy of earnings-related benefits, including pensions.⁸⁹ In 2018, about 34% of Cyprus' population with a disability was at risk of poverty or social exclusion compared to 20% with no limitation, according to Eurostat figures.⁹⁰ Most of precarious workers, particularly those in the informal sector, are not covered by the schemes announced by the Ministry of Labour, either because they are not protected by social insurance or because irregular third-country migrants are not allowed to work, and they risk deportation at any interaction with the authorities.

7.2 VULNERABLE GROUPS AND PARENTS RETURN TO WORK

The gradual phasing out of the restrictions was marked by lack of comprehensive planning and failure to consult and promptly notify the persons affected. Executive decisions on the phasing out of restrictive measures appeared to social media users to be dictated less by the need to protect public health and more by the need to 'restart' the economy, as repeatedly tweeted by the employers' lobby. On 12 June 2020, the Finance Ministry announced that the special measures for vulnerable employees would cease as of midnight that same day. That applied to employees whose children were still at home and were up to 15 years old or whose children had disabilities irrespective of age.⁹¹ Under the regu-

⁸⁰ Cyprus Times, 'Σειρά εισηγήσεων από το Κυπριακό Δίκτυο Ενάντια στη Φτώχεια', *Cyprus Times* (27 April 2020).

⁸¹ Interview with trade unionist (2 May 2020).

⁸² G. Ioannou, 'Labor force fragmentation in contemporary Cyprus', *Working USA: the Journal of Labor and Society*, Vol. 18, No. 4 (2015), 595-612.

⁸³ A. Da Silva and C. Turrini, 'Precarious and less well-paid? Wage differences between permanent and fixed-term contracts across the EU countries', *European Economy, Economic Papers* No. 544 (2015).

⁸⁴ C. Koutsampelas, 'Non-standard employment in Cyprus: Trends and policy responses', *Cyprus Economic Policy Review*, Vol. 12, No. 1, pp. 41-58 (2018) 1450-4561.

⁸⁵ OECD, *Policy Brief on Informal Entrepreneurship Entrepreneurial Activities in Europe*, European Union/OECD, (2015).

⁸⁶ Hazans, 'Informal Workers across Europe: Evidence from 30 Countries', *IZA Discussion Paper* No. 5871, Institute for the Study of Labor, Bonn; OECD, *Policy Brief on Informal Entrepreneurship Entrepreneurial Activities in Europe*, European Union/OECD (2015).

⁸⁷ C. Demetriou, 'The impact of the crisis on fundamental rights across Member States of the EU: Country Report on Cyprus', Directorate General for Internal Policies, European Parliament (2015).

⁸⁸ G. Ioannou, 'Employment in crisis: Cyprus 2010-2013'. *The Cyprus Review*, Vol 26, No. 1 (2014), 107-126.

⁸⁹ C. Koutsampelas, 'Non-standard employment in Cyprus: Trends and policy responses', *Cyprus Economic Policy Review*, Vol. 12, No. 1, pp. 41-58 (2018), 1450-4561.

⁹⁰ In-Cyprus, '34% of population with disability at risk of poverty', In-Cyprus (29 October 2019).

⁹¹ Cyprus, Ministry of Finance, 'Κατάργηση ειδικών ρυθμίσεων

lations applicable until then, persons falling into this category were entitled to work from home, and where this was not feasible due to the nature of their duties, they were eligible for sick leave. After 12 June, the only possibility for the parents of children with disabilities or children 15 years and under to stay at home would be to make use of their annual leave. The workers' union 'Isotitia' issued a press release expressing its opposition to the measure, as it was forcing parents without warning to either commit a crime by leaving their children alone or to leave their children with grandparents, risking their lives, or to take them to work. The union criticised the fact that the measure was announced without warning or consultation, giving the workers no time to make arrangements for their children, and forcing parents to make use of their annual leave, and that it was measure to reduce the number of persons eligible for payments from the support scheme.⁹² The Finance Ministry's announcement was also criticised by the main opposition party AKEL, which accused the Government of deciding unilaterally, suddenly and arbitrarily, ignoring the problems caused to workers, society and public health.⁹³ The workers' union filed complaints with the Commissioner for Administration and Protection of Human Rights and the Commissioner for the Protection of the Rights of the Child, alleging violations of labour rights and children's rights.⁹⁴

7.3 REFERRAL OF LAW EXTENDING TENANTS' EVICTIONS UNTIL END OF THE YEAR

At the beginning of October 2020, parliament adopted a law extending the prohibition of fast track evictions of tenants from 30 September, as was the law at the time, until 31 December 2020. The law, which was proposed by the opposition, was adopted almost unanimously with 47 votes in favour and only one against it.⁹⁵ On 29 October, however, the president of the Republic referred this law back to parliament, claiming that this extension infringed the freedom to enter into a contract, the separation of powers and the right to access justice. The president's referral claimed that the law was unconstitutional because it amounted to an unjustified interference of the legislature with signed and partly executed agreements, adding that such interference may have been justified, even if marginally, during the total lockdown, but it could not be justified under the current limited restriction measures; that the legislature is interfering with eviction decisions already in progress before the court; and it deprived landlords of the right to access justice. Tenants' evictions

were originally suspended until 31 May 2020, and then the suspension was extended until 30 September. The main opposition party criticised the government for referring back to Parliament and to the Supreme Court all laws protecting social rights, whilst it goes out of its way to serve the interests of the banks and large businesses.⁹⁶ The main opposition party called on Parliament to oppose the president's plan and to join forces to protect social rights of vulnerable groups hit by the pandemic.⁹⁷ The Association of entertainment and restaurant owners expressed its opposition to the president's referral of the suspension of evictions law, stating that this will be the final blow to the entertainment and restaurant sector, which was hit by the pandemic, leading to evictions from their premises, bankruptcies and job losses.

7.4 PANDEMIC AND RECESSION

Whilst the Cypriot economy has recovered, with the 2021 GDP projected to grow by 5.1%, during the first year of the pandemic, 2020, the Cypriot economy contracted by an annual 5%. The purchasing power of the average real wage has declined to the level of 2013, despite its economic growth mediated from 2015 to 2019 and unemployment lowered by five percentage points, from 7% in 2019 to 12% in 2020. The study found that there are strong indications that unless drastic measures are taken, Cyprus may be facing one of the greatest poverty crises of modern times. The economic consequences of the lockdown and the bleak economic forecasts of a mainly tourist driven economy, are likely to have a serious impact on those working in precarious jobs. This is because Cyprus is characterised by a relatively high share of non-standard employment and labour fragmentation, and it has one of the highest adjusted wage gaps in the EU between permanent and temporary employees. In any case, the pandemic is lasting longer than expected and the economy and employment will suffer the consequences of the measures taken globally and locally to curtail the spread of the disease.

Cyprus has a special category of the working poor, who live in relative poverty and are at risk of social exclusion, because of low wages.⁹⁸ The at-risk-of-poverty rate (AROP) is defined as the share of people with an **equivalised disposable income** (after social transfer) below the at-risk-of-poverty threshold, which is set at 60% of the national **median** equivalised disposable income after **social transfers**.⁹⁹ Even though, according to national official statistics, the AROP for the general population was 23.3% and 22.3% for 2008 and 2019, respectively, this picture is in fact inaccurate because the cal-

Κατηγορίας Β του καταλόγου των ευπαθών ομάδων και εργαζομένων γονέων που έχουν την ευθνη φροντίδας παιδιών ηλικίας μέχρι 15 ετών ή παιδιών με αναπηρία ανεξαρτήτως ηλικίας', Circular No. 1623 (12 June 2020).

⁹² Workers Union Isotita, Press release (13 June 2020).

⁹³ Dialogos, 'AKEL: Ένδειξη παντελούς αδιαφορίας η περικοπή του επιδόματος σε εργαζόμενους γονείς', Statement by the party spokesperson (15 June 2020).

⁹⁴ Workers Union Isotita, Press release (13 June 2020).

⁹⁵ Cyprus, Law amending the Rent Control Act (Temporary Provisions) No. 3 of 2020 [Ο περί Ενοικιοστασίου (Προσωρινές Διατάξεις) (Τροποποιητικός) (Αρ.3) Νόμος του 2020] (7 October 2020).

⁹⁶ M. Hambi, 'Αναπομπή νόμου για παράταση προστασίας από εξώσεις', Stockwatch (30 October 2020).

⁹⁷ AKEL, 'Η κυβέρνηση με κραυγαλέα κοινωνική αναληγσία επιλέγει να αφήσει απροστάτευτους οικογένειες και μικροεπιχειρηματίες από το κίνδυνο να βρεθούν κυριολεκτικά στο δρόμο' (30 October 2020).

⁹⁸ E. Ioakimoglou, and N. Trimikliniotis, *The Post-pandemic stimulus to restart the Cypriot economy: A wage-led growth strategy*, Policy brief for the Friedrich-Ebert-Stiftung Foundation (forthcoming).

⁹⁹ Eurostat Statistics explained, 'Glossary: At-risk-of-poverty rate'.

ulation is linked to the GDP,¹⁰⁰ which has fallen significantly. As a result there is a paradox where the AROP appears lower than what it actually is, because of a drop in the GDP and a change in the poverty threshold. In order to address this and provide a more accurate picture, Eurostat now publishes additional poverty indicators based on the poverty threshold of previous years. The poverty indicator, as corrected by Eurostat, shows the percentage of AROP in Cyprus to be at 15.9% in 2008, 17.4% in 2010, 13.1% in 2015, 28.3% in 2017 and 22% in 2019.¹⁰¹ Based on the poverty threshold of one in six persons in 2008, in 2019, one in four persons in Cyprus was at risk of poverty.¹⁰² In October 2020, unemployment rose by 90.3%, compared to October 2019,¹⁰³ which is likely to yield significant deterioration in poverty levels in the forthcoming months.

7.5 IMPACT OF COVID-19 ON ELDERLY PEOPLE

At the end of October 2020, an elderly resident of a care home died from coronavirus. This was the first instance of a care home death in Cyprus. The deceased person's relatives filed a complaint with the police against the care home for their failure to follow the health protocols and take measures to stop the spread of Covid-19. The deceased person was infected by one of the nurses working at the care home, who had tested positive for Covid-19 on 10 October. The relatives of the residents were not informed of this until 25 October, when the management of the care home sent them an SMS, explaining that a nurse had been sent home as soon as the Covid-19 symptoms appeared and was subjected to three tests, of which the first two were negative and the third was positive. The deceased person tested positive for Covid-19 on 27 October, after her health condition had already deteriorated beyond the point of no-return. She was transferred to the reference hospital where she died of Covid-19 three days later.¹⁰⁴ The deceased person had not been institutionalized for long; she had been transferred from her family home to the care home on 3 October in order to be protected from Covid-19. Before that, she was living with her grandchildren and great grandchildren and the family feared a high risk of infection.

The Health Ministry subsequently carried out 106 Covid-19 tests at the same care home. They found that 35 persons, including staff members, tested positive.¹⁰⁵ Shortly after this, another resident of the same care home lost his life.¹⁰⁶

The National Union of Pensioners reported that, during the summer, there were incidents of elderly residents of care homes urgently being transported to hospitals because of over-heating, as the care homes did not use air conditioners, using the Health Ministry Covid-19 protocols as a justification. The Union also criticised the Health Ministry for a lack of planning to promptly order a sufficient quantity of flu vaccines, resulting in vaccine shortages that may cause many elderly people to fall sick with flu and run increased risks of Covid-19 complications. The Union stated that although there are 140,000 pensioners in Cyprus, the Health Ministry ordered only 135,000 vaccines to be used both for the elderly and for children under 15 years old. Out of the 135,000 vaccines ordered, only 32,000 arrived and were quickly used up before the next quantity was due. The Union feared that unvaccinated elderly people will catch flu, confuse their symptoms with Covid-19, leading to panic and pressure on the health system.¹⁰⁷

The National Union of Pensioners warned of the uncharted psychological impact of the pandemic on elderly people, who suffer from exclusion and isolation in the house and are deprived from their family environment. They also have increased need of help with shopping and other household chores, which they abstain from for risk of infection.¹⁰⁸

¹⁰⁰ Eurostat Statistics explained, 'Income poverty statistics'.

¹⁰¹ Eurostat, 'At risk of poverty rate anchored at a specific point in time (2008) by age and sex -EU SILC Survey'.

¹⁰² Cyprus Labour Institute, 'Έκθεση για την Οικονομία και την Απασχόληση 2019', p. 5 (December 2019).

¹⁰³ Economy Today, 'Διπλασιάστηκαν σε 12 μήνες οι άνεργοι στην Κύπρο' (4 November 2020).

¹⁰⁴ Cyprus Times, 'Καταγγελία στην Αστυνομία για τη γιαγιά Δέσποινα που απεβίωσε. «Κόλλησε covid-19 από το γηροκομείο» λένε οι συγγενείς' (1 November 2020).

¹⁰⁵ Offsite, Συναγερμός σε γηροκομείο στη Λεμεσό-35 άτομα θετικά στον κορωνοϊό (2 November 2020).

¹⁰⁶ Kathimerini, 'Έπληξε τους ευάλωτους ο κορωνοϊός' (2 November 2020).

¹⁰⁷ Consultation with Union of Cypriot Pensioners, ESKYSY (2 November 2020).

¹⁰⁸ Ibid..

8

IMPACT ON WOMEN

8.1 DOMESTIC VIOLENCE

Reporting domestic violence was an issue even prior to the lockdown; there are generally few support measures for the victims, and they are conditional upon the victim visiting a police station, often alone, to report the abuse to unsympathetic police offices. These elements became even more acute during the lockdown, when the Social Welfare Service and support NGOs suspended their services and the police were occupied enforcing compliance with the measures in the street, and abusers had a clear space to act. Closing abusers and victims into the house inevitably led to increased domestic violence.

SPAVO, which supports victims of domestic violence, reported an increase of 30% in the number of calls to their helpline between 9 March 2020, when the first case of coronavirus was confirmed in Cyprus, until 17 March 2020.¹⁰⁹ During this period, SPAVO received five new applications for admission into shelters and four new requests for individual consultations, which marked a sharp increase. The NGO states that women being forced to stay at home with their abuser under such crisis conditions, their isolation from social and working life and their exclusion from social support offered fertile ground for the perpetrator to consolidate control over the victim. The quarantine in the private sector, which ordinarily attracts women workers, reinforced the feeling of economic insecurity through lower salaries and fears of dismissal, exacerbating the conditions where they would be dependent on and under control of the perpetrator of mental and physical violence.

Economic insecurity is often a reason for victims to return to their abusers, leading to situations of increased violence. When schools were shut down, women were forced to stay at home and they had to carry out the work traditionally charged to them by the social construction of gender. Consequently, these women were socially isolated and unable to seek help. Children who stayed at home when schools closed became even more vulnerable to domestic violence, as they were exposed to the abuser without access to help from their

schools. No measures were taken to assist victims during the lockdown or to identify cases of unreported abuse, address trauma and ensure future protection.

8.2 THE SITUATION OF WORKING WOMEN DURING THE PANDEMIC

A journalistic survey conducted in June shows that the pandemic hit working women significantly worse than men for a variety of reasons having to do with stereotypes at home and at work and the type of jobs that attract mainly women. For example women took more responsibility for additional household chores and to care for the children and help them with their education. The journalist interviewed working mothers whose responses were consistent with the findings of a survey conducted by the Boston Consulting Group,¹¹⁰ according to which women spent on average 65 hours per week in unpaid work during lockdown, which is one third more than men. So, along with an increased risk of domestic violence and earning lower salaries, some women were also forced to give up some of their paid work in order to undertake unpaid work at home, as with the entire family staying home during the lockdown there was a higher volume of housework. According to the women who participated in the survey, the hours of unpaid housework doubled for them, and two thirds of the women said that they were concerned about their mental health, compared to only one half of the men who expressed similar concerns.

The Women's Office of the trade union PEO raised concerns about the fact that the pandemic and the increased unpaid work in caring for the house, the children and the elderly posed obstacles in women's professional lives. At work, women were at the frontline of serving the public, since the vast majority of workers in the healthcare sector and retail shops are women. They were forced to work and at the same time find ways to care for and protect their families. Women form the majority of workers in flexible forms of employment, with seasonal, part-time, uninsured work, and as a result their share in the available support schemes for workers during the pandemic and the amount of benefits received

¹⁰⁹ Cyprus, Association for Prevention and Handling of Domestic Violence, 'Ο περιορισμός λόγω covid-19 δημιουργεί έφορο έδαφος για επιδείνωση της ενδοοικογενειακής βίας' (17 March 2020).

¹¹⁰ M. Krentz, E. Kos, A. Green, J. Garcia-Alonso, *Easing the COVID-19 burden on working parents*, Boston Consulting Group (21 May 2020).

were lower than other workers received, and, in some cases, they were non-existent. Migrant women faced a particularly hard situation, as many did not have a supportive environment nor access to the government schemes available during the pandemic. Many had to seek help in order to secure food for themselves and their children.¹¹¹

The survey included interviews with a number of working women who reported their experiences during the pandemic as particularly stressful. A teacher reported struggling to find time to assist her children at home and her pupils at school, and that she had to spend long hours planning the distant education lessons for her students only after her children went to bed. It was also stressful because her children had also been deprived of their school environment, friends and grandparents. A woman working in a retail shop whose operations were suspended during the pandemic reported fear and insecurity because her husband's work was also suspended, and the benefit which she was expecting from the government scheme never reached her. Her repeated efforts to contact the authorities to enquire about this benefit did not yield results, as she was unable to speak to the person in charge. After the lockdown she was not asked to return to work, and she fears she will be unable to find work in the current environment. A woman, working as a supermarket cashier and with two children in school, had to work throughout the pandemic. She was afraid that if she had asked to stay at home this would impact on her possibilities of returning to her post after the pandemic. She lived in fear of catching Covid-19 at work and transmitting it to her family. Her husband was also forced to continue working and she was forced to ask relatives and friends to look after her children when the school was closed. A public sector worker with three small children was permitted to work from home, but she reported having difficulties to combine work with caring for her children who were constantly seeking her attention and needed her assistance with distant education.¹¹²

8.3 DOMESTIC WORKERS

The NGO Ypatia addressed an open letter to the government and the Ombudswoman complaining about the fact that none of the relief measures issued in support of workers affected by the crisis included men or women migrants. The information was published in languages they did not understand, there were no support measures in case they were fired and no healthcare if they get sick with Covid-19. Many migrant women who were domestic workers lost their jobs during the pandemic without having access to any welfare or assistance with food, clothing or housing, even though they contributed significantly to the Cypriot economy.¹¹³ There is no data on how many domestic workers lost their jobs during the pandemic, and indeed the number of domestic work-

ers in Cyprus is not known either. The only record available is the number of permits issued every year; for the year May 2018-May 2019, the Migration Department issued 20,543 residence permits for third-country nationals to work as domestic workers.¹¹⁴ There is an unknown number of migrant domestic workers working informally in an irregular situation, estimated by experts at around 30,000,¹¹⁵ who were unable to access work as a result of the restriction measures because they could not secure an exit permit through SMS.

The lockdown exacerbated the bad working conditions of migrant domestic workers who are forced to work long hours for very little pay, behind closed doors and away from labour inspectors and trade unions. Even though their contribution as carers of elderly and disabled persons was crucial in reducing Covid-19 deaths in care homes, their position in the labour market is likely to become even more volatile and vulnerable with the economic situation that is developing from the Covid-19 crisis.

8.4 SINGLE PARENTS: INFORMAL WORK AND ABSENCE OF STATE SUPPORT

The Pancyprian Association of Single Parent families reported that single parents were particularly hit by the pandemic and yet remained invisible to policy makers throughout the lockdown.¹¹⁶ The social distancing measures made it impossible for them to leave their children to a relative or a friend or a professional in order to do necessary errands or go to work. Most single mothers work in the informal sector, because their responsibilities at home do not allow for a full-time job schedule, and work afternoon hours and shifts. Before the pandemic, many used to work from home as beauticians, nail artists, hairdressers or tailors. With the outbreak of the pandemic, they were left without work and without any type of state support because there were no support schemes for the uninsured workers.

Despite pleas to the Minister of Labour to include in the plans an extra scheme for single parent families, the Labour Ministry did not foresee any scheme for this category and did not request a budget from Parliament to support single parents in the informal market. There was no time to apply for the government minimum income because processing the applications takes several months under normal circumstances and much longer when governmental services were effectively brought to a standstill because of the lockdown. For single parents, there is no other family income, and the loss of livelihood without any state support led many into extreme poverty. Their only support came from initiatives of NGOs and private initiatives in the form of food and super-

¹¹¹ A. Michael, 'Η πανδημία έπληξε περισσότερο τις εργαζόμενες γυναίκες', *Ergatiko Vima* (25 June 2020).

¹¹² A. Michael, 'Η πανδημία έπληξε περισσότερο τις εργαζόμενες γυναίκες', *Ergatiko Vima* (25 June 2020).

¹¹³ M. Demetriou, 'Πλήρης αδιαφορία για μετανάστες στην Κύπρο εν μέσω κρίσης του κορωνοϊού', *24Hours* (5 April 2020).

¹¹⁴ In Cyprus, 'More than 20,000 residence permits for domestic workers issued last year' (14 June 2019).

¹¹⁵ N. Hadjigeorgiou, and N. Alkiviadou, 'Exploring the Socio-legal Challenges Faced by Foreign Domestic Workers in Cyprus' (2020); Nasia Hadjigeorgiou, *Helping those that help us: Challenges faced by foreign domestic workers in the Republic of Cyprus*, Report 2/2020, Peace Research Institute Oslo (PRIO) (2020).

¹¹⁶ Consultation with President of the Association of Single Parent Families (30 June 2020).

market coupons. In many cases, the single mothers did not receive alimony payments from their former spouses because they had also stopped working. The Pancyprian Association of Single Parent families estimates that there are approximately 30,000 single parent families in Cyprus, but only about 10,000 of them receive the single parent benefit because of the several stringent eligibility conditions foreseen in the law.¹¹⁷

¹¹⁷ Consultation with President of the Association of Single Parent Families (30 June 2020).

9

VACCINATION ROLL-OUT

The vaccination roll out was also marked by fundamental rights concerns on many levels. These are important to list, not only from a public health perspective but because, shortly after the roll out commenced, the vaccination certificate became a central prerequisite in order to access several closed spaces.

- A government portal was set up by the Ministry of Health in collaboration with the Deputy Ministry of Research, Innovation and Digital Policy, the Department of Information Technology Services, the Health Insurance Organisation and the digital systems company NCR.¹¹⁸ The portal opened at specific days and times announced in the daily press, usually with two to three days' notice, enabling specified population groups to register for a personal vaccination appointment. Once inside the portal, the person could choose the city, venue, date and time for the vaccination, as well as the type of vaccine, provided the preferred choice was available.¹¹⁹ Often, there was an overload of persons trying to book a vaccination appointment, causing the system to collapse and remain unavailable for the remainder of the day. This caused several people to miss their chance to register, because the portal remained closed for the day(s) set for their age group, and they had to wait until the next government announcement for their age group, which could be days or weeks later. At the end of March, the vaccination portal was upgraded, rendering the procedure of booking a vaccination appointment simpler and more user-friendly.¹²⁰ In response to several problems which continued to be encountered by members of the public in their efforts to book a vaccination appointment, the vaccination portal was upgraded again on 5 May 2020 to enable people to book appointments through a representative, who would be deemed as duly appointed if he or she is in possession of the personal details of the person who seeks a vaccination appointment.¹²¹
- The portal and the process of booking a vaccination appointment are available only in Greek and English.¹²² Information about the vaccination plan, the application process for registering on the portal and the documents that persons who are not registered on the national health system must present is also available in French, Arabic and Somali,¹²³ however one would need to read English to be able to locate it in the portal. Translation and assistance for asylum seekers and persons with international protection is provided by the UNHCR¹²⁴ and its implementing partner, the Cyprus Refugee Council.¹²⁵
- No special arrangements were made to enable persons with disabilities to book their vaccination appointment. There was no easy-to-read material and the portal is not accessible to persons with mental disabilities¹²⁶ or with visual disabilities, as extensive use of the mouse is needed in order to make an appointment.¹²⁷ Booking a vaccination appointment had to be done either by friends or relatives or by a person's representative organisations. No government service was set up to provide support, other than a helpline which can only guide the person to navigate the portal.
- Persons with disabilities were not deemed to be a vulnerable category unless they were institutionalised or they met any of the criteria set by the Ministry of Health. Persons with tetraplegia were the only category of persons who met the legal definition of having a disability and which were included in the vulnerable groups and therefore prioritised for vaccination.¹²⁸ The Committee for Persons with Mental Disabilities sent a

ranging appointments through the COVID-19 Vaccination Portal as of Thursday 6/5/2021', Press release (4 May 2021).

¹²² For more details, see the portal [here](#).

¹²³ The announcements in French, Arabic and Somali are listed [here](#).

¹²⁴ UNHCR, 'COVID-19 Vaccinations in Cyprus' (2021).

¹²⁵ Cyprus Refugee Council, 'Information on COVID-19 National Vaccination Plan Cyprus' (3 March 2021).

¹²⁶ Consultation with officer of the Committee for Persons with Mental Disabilities (4 May 2021).

¹²⁷ Consultation with the Confederation of Organisations of Persons with Disabilities (KYSOA) (4 May 2021).

¹²⁸ Cyprus, Press and Information Office, 'Ανοίγει αύριο η Πύλη Εμβολιασμού κατά της COVID-19 για άτομα που επιτίτουν σε συγκεκριμένες ευπαθείς ομάδες', Press release (10 April 2021).

¹¹⁸ For more details, see the portal [here](#).

¹¹⁹ The manual for use of the vaccination portal is available [here](#).

¹²⁰ Cyprus Ministry of Health, 'Over 19,000 appointments for individuals with Diabetes Mellitus and Severe Obesity –Simplified appointment procedure for vaccination against COVID-19', Press release (28 March 2021).

¹²¹ Cyprus Press and Information Office, 'Changes in the process of ar-

letter to the authorities requesting that persons with mental disabilities be prioritised alongside the other vulnerable groups, but there was no response.¹²⁹ The Cyprus Confederation of Disability Organisations did not request prioritisation of persons with disabilities, as the Board did not reach a decision on whether they should encourage their members to be vaccinated.¹³⁰

Other than persons with tetraplegia, who were prioritised as a vulnerable group, the vaccination appointments for persons with disabilities were made when their age group was called, like all other persons.

- The portal is not accessible to blind persons, due a mouse is needed in order to insert data. Therefore, blind persons can only make an appointment if assisted by another person with digital skills.¹³¹ The lack of accessibility features has prevented several persons with disabilities from booking their vaccination appointments on the dates that their age group is called. This means that they lose their turn and have to wait for days or weeks until their age group is called again to register for an appointment, in which case the same process of exclusion may possibly be repeated.¹³² No accessible information material was made available for persons with mental or physical disabilities about vaccination. The government offered seminars to the staff of institutions accommodating persons with disabilities but not to the persons with disabilities themselves. The seminars were described as low quality.¹³³ In light of this lack of information about the safety of vaccines to persons with health conditions, the board of the Confederation of Disability Organisations could not agree on promoting and recommending vaccinations to its members.¹³⁴
- The Confederation of Disability Organisations (KYSOA) reported issues with the accessibility of vaccination centres, whilst only one vaccination centre administered the vaccine outside its building in order to facilitate persons with disabilities encountering barriers in leaving their cars. The particular vaccination centre was only administering the AstraZeneca vaccine, which many persons with disabilities were reluctant to take due to the reported risks of blood clots. At the same time, the AstraZeneca was the only vaccine that could be administered to persons with disabilities without leaving their cars, as it is the only vaccine that does not require to be stored at -70°C ¹³⁵
- Persons belonging to minority groups, experiencing homelessness, with a drug addiction or low literacy

were not prioritised or supported in making a vaccination appointment; they had to register for a vaccination appointment with their age group like other population groups.

- There were no alternatives to digital access to vaccine registration or any support to those who need it. Persons without access to the internet or without digital skills must have their appointment booked by someone else, like a family member or a health professional who might volunteer to book the online appointment on their behalf.
- Persons not registered on the national health system reported difficulties while trying to book vaccination appointments, despite procedures in place. They complained of lengthy application procedures and the lack of choice over vaccines: they were forced to choose between AstraZeneca or nothing. Persons registered on the national health system can access the vaccination portal online on the days corresponding to their age group, where they are normally given a choice between available vaccines, with AstraZeneca remaining the most unpopular choice, as thousands of appointment slots remained unclaimed every time the portal opened. Despite official announcements from January that vaccinations would be available for those not registered on the national health system, the process of securing an appointment involves the filling out of a form and waiting for a call to arrange their appointment, where they are only given the AstraZeneca option, even if they have a special condition putting them at risk of blood clots. People reported delays of nearly three months from submitting their form until they got a vaccination appointment, which left vulnerable individuals exposed to the virus for longer. EU and British nationals residing in Cyprus called the practice ‘a blatant discrimination and injustice’, stating that it is ‘creating a two-class system in order to force more AstraZeneca vaccinations onto the population’.¹³⁶

Many of the problems reported above started to be alleviated in July 2021, when the government commenced operation of walk-in vaccination centres in urban centres throughout the country where people with or without papers could be vaccinated without appointment and with minimum formalities – they only needed to show their identification papers.¹³⁷ As measures gradually started to be introduced towards the end of 2021 restricting access of unvaccinated people to specific closed spaces, an increasing number of persons were using the walk in centres in order to get vaccinated, leading to long queues and delays. Despite the government making vaccinations available to all, little effort was devoted towards communicating the benefits of vaccination; instead measures focused on providing incentives for the vaccinated and disincentives for the unvaccinated. This led to reactions amongst various sectors and classes of the popula-

¹²⁹ Consultation with officer of the Committee for Persons with Mental Disabilities (4 May 2021).

¹³⁰ Consultation with the Confederation of Organisations of Persons with Disabilities (KYSOA) (4 May 2021).

¹³¹ Ibid.

¹³² Consultation with Confederation of Disability Organisations KYSOA (4 May 2021).

¹³³ Ibid.

¹³⁴ Ibid.

¹³⁵ Consultation with Confederation of Disability Organisations KYSOA (4 May 2021).

¹³⁶ A. Pitta, ‘We’re second-class citizens, say non-Gesy members’, *Cyprus Mail* (25 April 2021).

¹³⁷ Press and Information Office, ‘COVID-19 – The access of citizens to vaccination is facilitated through the “walk-in” centres’ (14 July 2021).

tions, who resisted getting vaccinated for different reasons and who opposed the restrictions introduced on the basis of vaccination status. The poor communication channels between the government and various social and / or disadvantaged groups raised suspicions about the safety of the process. In addition, no official information campaign was carried out targeting the migrant and refugee population, who were essentially left to their own devices in collecting information of questionable scientific validity from the internet and from each other.¹³⁸

¹³⁸ Consultation with the Cyprus Refugee Council (4 April 2021).

10

THE SAFEPASS

On 10 May 2021, the government introduced the 'SafePass' scheme according to which persons visiting crowded places should carry either a vaccination certificate with at least one dose and after a period of 3 weeks has passed; proof that the person has contracted COVID-19 in the last 6 months; or, "as a temporary solution", citizens aged 12 and over can carry proof of a negative PCR or rapid test, taken in the last 72 hours. The SafePass was a mandatory requirement in order to enter closed and open areas listed in the ministerial order, but it was not needed to enter other areas, some of which were indoors and some outdoors.¹³⁹ When seen against the backdrop of the vaccine roll-out deficiencies of the first semester of 2021, the introduction of the SafePass could arguably be seen as indirect discrimination against people who did not have access to the vaccine at the time that it was introduced. Most concerns in the public sphere, however, emanated from persons who refused to be vaccinated and saw the SafePass as a way of indirectly turning vaccinations obligatory. By the end of November 2021, businesses were required to use the CovScan application to scan barcodes on SafePasses, which people must download from the website of the European Digital Certificate to present in digital form on a mobile phone (smartphone) or in printed form. Vaccinated individuals and those who have recovered from COVID would only need to upload their information once to receive their certificate, whilst the unvaccinated needed to be tested regularly and upload their test results to get their certificate.

From 15 December 2021, only vaccinated persons could enter sports grounds (athletes excepted), theatres, cinemas, event venues, restaurants, night clubs and discos (employees of the venues excepted).¹⁴⁰ This measure gave rise to considerable criticism from unvaccinated members of the public and owners of affected businesses, claiming that it was unlawful and amounted to obligatory vaccination. The chair of the Criminal Law Section of the Cyprus Bar Association claimed that the exclusion of the unvaccinated from certain spaces and activities violates fundamental rights, citing two resolutions of the EU Council which safeguard the right to choose whether to get vaccinated or not, and the EU Regulation of 14 June 2021 regarding the issue of the digital certificate facilitating free movement, claiming that these instruments prohibit discrimination against persons who cannot or choose not to get vaccinated.¹⁴¹

¹³⁹ Ministry of Health, 'Implementation of the "SafePass" Decision as of 10 May' (8 May 2021).

¹⁴⁰ Ministry of Health, 'Διευκρινίσεις Υπουργείου Υγείας σχετικά με τα νέα μέτρα αναχαίτισης της πανδημίας' (26 November 2021).

¹⁴¹ Phileleftheros, 'Νομική βόμβα για αποκλεισμό ανεμβολίαστων' (16 December 2021).

11

THE DEBATES OVER THE SAFE PASS AND RIGHTS

Once the question of access to vaccination was resolved, the debates shifted to the extent to which there should be restrictions to access services, education and employment for unvaccinated, as opposed to the general restrictions for all. The SafePass issue opened up legal and ethical questions over the nature and limits of rights of the unvaccinated vis-à-vis those who were vaccinated: Is there protection of the right of unvaccinated to access public services as a matter of belief?

- From the point of view of the vaccinated, if the unvaccinated have the right to move freely and to access all goods and services, does the fact, according to scientific/medical evidence, they are more in danger to be infected, and, if they are infected, they carry additional viral load, should not the vaccinated be protected? Do the unvaccinated have a duty to take additional measures so as not to spread the disease to others?
- Also, given that the unvaccinated (by choice) place additional burden on the already overstretched health systems, should the state place restrictions on them to protect society and the health system? The logic behind this is that the right not to be vaccinated (due to self-determination of one's body) entails obligations towards others and society that legitimizes reasonable restrictions to protect society during the Covid19 pandemic.

So far, cases before Cypriot courts questioning the constitutionality of the restrictive measures failed. Despite claims by the Cyprus Bar Association that these measures are unconstitutional,¹⁴² no court upheld such claims. In July 2021, the District Court of Nicosia rejected in its entirety the interim application submitted, requesting the issuance of a number of interim orders which prohibit the Republic of Cyprus from imposing and obliging, inter alia, the presentation of a negative test for Covid-19 or a vaccination certificate or proof of illness, i.e., a SafePass, as a condition for entry and/or presence in various areas, as well as the mandatory use of a mask.¹⁴³ The Court held that the procedure that the Ministry of Health followed to issue decrees was lawful and the pow-

er delegated to the Minister of Health to issue those decrees was in accordance with the Constitution and the applicable legislation.

As more European countries are placing further restrictions on unvaccinated people, the Commissioner for Administration (Ombudswoman) and the Human Rights committee of the Cyprus Bar Association upheld that any restrictions on unvaccinated people from accessing services is 'discriminatory' and 'disproportional', contrary to human rights law, the EU acquis and the national Constitution. The Court decisions on the matter took a different view, upholding that the state has a duty to safeguard public health during the pandemic based on a proper evaluation of the dangers to others and society as a whole, as demonstrated by scientific knowledge in the current conjuncture. The Ombudswoman's position relied on the law establishing the Equality Body, arguing that the decision of the Cyprus Technological University to exclude unvaccinated students from the classroom and offer them online teaching instead amounted to discrimination on the grounds of the belief in access to education.¹⁴⁴

It is however questionable whether every opinion held by a person, such as the opinion against Covid vaccination, meets the definition of 'belief' as foreseen in EU Directive 78/2000/EC on which the national law relied. The ECtHR authority cited in the Ombudswoman's report¹⁴⁵ is irrelevant to the current subject matter and the context of the pandemic differs immensely from the 1970s, which is the period examined by the ECtHR ruling. It is highly questionable whether the decision on whether not to be vaccinated qualifies as a reason protected by the ECHR.

There has been considerable debate about the definition of belief as there is no agreement amongst scholars;¹⁴⁶ howev-

¹⁴² "Cyprus Bar Association insists coronavirus 'SafePass' is unconstitutional", *In-Cyprus* (12 May 2021).

¹⁴³ Case 1322/2021, ECLI:CY:EDLEF:2021:A396, ΕΠΑΡΧΙΑΚΟ ΔΙΚΑΣΤΗΡΙΟ ΛΕΥΚΩΣΙΑΣ, before Efrem J (27 July 2021).

¹⁴⁴ Equality body decision, *ΕΚΘΕΣΗ ΕΠΙΤΡΟΠΟΥ ΔΙΟΙΚΗΣΕΩΣ ΚΑΙ ΠΡΟΣΤΑΣΙΑΣ ΑΝΘΡΩΠΙΝΩΝ ΔΙΚΑΙΩΜΑΤΩΝ* Ως Φορέας Ισότητας και Καταπολέμησης των Διακρίσεων ΑΝΑΦΟΡΙΚΑ ΜΕ ΤΟ ΠΡΩΤΟΚΟΛΛΟ ΤΕΠΑΚ ΓΙΑ ΤΟΝ ΤΡΟΠΟ ΔΙΕΞΑΓΩΓΗΣ ΜΑΘΗΜΑΤΩΝ ΚΑΤΑ ΤΟ ΦΘΙΝΟΠΩΡΙΝΟ ΕΞΑΜΗΝΟ ΤΟΥ ΕΤΟΥΣ 2021,

¹⁴⁵ Case of *Campbell and Cosans v. The United Kingdom*, Application no. 7511/76; 7743/76. The case was referred at p. 55 of the Ombudswoman's report.

¹⁴⁶ "Some commentators have argued that protecting too broad a set of religions or beliefs 'leads to a real danger of trivialising the equality

er, the belief has to genuine, serious and somehow resemble a philosophical system. Moreover, the case of *Arya v London Borough of Waltham Forest*, Edge and Vickers noted, '[Belief] must be worthy of respect in a democratic society, not be incompatible with human dignity and not conflict with the fundamental rights of others.'¹⁴⁷

Major religions and organised churches, including the Christian Orthodox church of Cyprus, have supported vaccination, but some individual bishops have opposed it. In Cyprus, no one has claimed so far that they are antivax for religious reasons, rather they may claim that it derives from their 'belief'. Legal experts on religious discrimination strongly doubt if anti-vaccination would be a legal protected ground for belief.¹⁴⁸

The Ombudsman cited a [FRA report](#) stating that:

'The risk of discrimination between vaccinated/immunised persons and those who have not been vaccinated, when they exercise individual freedoms or access certain services, should be mitigated. Negative tests should also allow people to exercise the same rights and freedoms as vaccination certificate holders.'

However, at the time that the FRA opinion was issued (May 2021) the main concern was to safeguard *equality of access in the vaccination rollout*; the concern to protect the unvaccinated stemmed from the principal position of equality of access to the vaccine. The FRA report referred to EU Parliament statements¹⁴⁹ and the Committee on Bioethics as follows:¹⁵⁰

'The principle of equitable access to healthcare laid down in Article 3 of the Oviedo Convention [requires that] particular attention must be paid to individuals in vulnerable situations and to the exacerbation of inequalities within such groups due to the public health crisis, including in their access to vaccination.'

The FRA report referred to the need to 'mitigate' the future risk of discrimination, implying that the matter is a question of degree and fact, to be evaluated and measured with view

principle' (Pitt, 2011), or watering down the concept of religion or belief so as to bring it into disrepute (Donald, 2012: 54).¹⁴ An alternative view of the breadth of the emerging definition of belief, as outlined by the Public and Commercial Services Union in the EHRC's call for evidence, is that it 'provides a broad level of protection and promotes tolerance more effectively than a narrower protection would' (Mitchell and Beninger, 2015: 156)", Peter Edge and Lucy Vickers, *Review of equality and human rights law relating to religion or belief*, Equality and Human Rights Commission Research report 97, Equality and Human Rights Commission (First published Summer 2015), p. 15

¹⁴⁷ Peter Edge and Lucy Vickers, *Review of equality and human rights law relating to religion or belief*, Equality and Human Rights Commission Research report 97, RESEARCH REPORT #94, p. 17.

¹⁴⁸ For instance, Douglas Laycock, Professor of Law, School of Law, University of Virginia. See Douglas Laycock, 'What's the law on vaccine exemptions? A religious liberty expert explains', *The Conversation* (15 September 2021).

¹⁴⁹ European Parliament on 29 April 2021, P9_TA(2021)0145.

¹⁵⁰ DH-BIO, 'Statement on human rights considerations relevant to "vaccine pass" and similar documents', (2021) p. 3.

to the principle of proportionality in the context of the specific situation of the current pandemic; it is not cast in stone.

The question of rights during the pandemic is crucial, as scholars attempt to consider the right balance between rights of different groups of people, society as whole, and the nature and limits to emergency powers to curtail the disease. Alan Greene, for instance, rightly distinguished derogable and non-derogable rights (those rights that can and those that cannot be reduced by emergency powers).¹⁵¹ But the issue of discrimination of the unvaccinated is only triggered if it is connected to persons who do not have access to vaccination, not for those who refuse to be vaccinated. This is the only context which may be thought of or imagined as potentially discriminatory.¹⁵² This why Greene¹⁵³ considers that, in a work situation, an employer may reasonably refuse to employ an unvaccinated person, unless the lack of vaccinated is reasoned on health reasons, but even then, the use of immunity grounds may be a valid reason to refuse employment:

'It is, in principle, feasible to imagine that a potential employer would ask a person for their immunity certificate during a job interview. The employer may then choose not to hire the person on the basis that they may get sick or may have to self-isolate in the future, thus making themselves unavailable for work.'

Further, while this may seem rational, the fact that a person does not have immunity may become a way of discrimination by proxy for other protected characteristics. Some people, for example, may not be able to get a vaccine for health reasons, such as a disability that is protected under equality legislation. But a potential employer could then use the immunity grounds to refuse to employ them.'

In line with the above reasoning, the Slovenian Equality Body rejected a complaint from a group of unvaccinated employees in the tourist sector for discrimination in that they were asked to test before going to work (48 hours rapid test or 72 hours PCR test). The Equality Body concluded that the unvaccinated status is not a protected grounds of discrimination, in light of the fact that vaccines were at the time available to the entire population free of charge and without restrictions, the only exception to the rule being those persons who cannot get vaccinated for health reasons.¹⁵⁴

¹⁵¹ Alan Greene, *Emergency Powers in a Time of Pandemic*, Bristol University Press, Bristol (2020).

¹⁵² This is the context that Alan Greene compares distinguishing the vaccinated from the unvaccinated bears as resemblance to the 2011 film *Contagion*, in which those who had received the vaccine wore wristbands with barcodes on them (p. 108).

¹⁵³ Alan Greene, *Emergency Powers in a Time of Pandemic*, Bristol University Press, Bristol (2020), p. 109.

¹⁵⁴ Republic of Slovenia, Advocate of the Principle of Equality, 'Assessment of discriminatory character of the Ordinance Temporarily Prohibiting the Offering and Sale of Goods and Services to Consumers in the Republic of Slovenia and the Decree on the Implementation of Screening Programs for the Early Detection of SARS-CoV-2 Virus Infection (Article 38 of the Protection Against Discrimination Act - "ZVarD", Ref. 050-27/2021/6 (18 August 2021).

In fact, discrimination experts consider that the SafePass requirements, which in turn produce restrictions for those willingly unvaccinated (note that there is unlimited access to vaccination in Cyprus) are not discriminatory. As Alberto Giubilini¹⁵⁵ noted:

‘COVID status is different from these cases because, in principle, it expresses a morally relevant feature: the level of risk of harming other people by infecting them with COVID. The risk of harm to others is often a valid justification for limiting the freedom of certain people. Sometimes we do that precisely through some form of pass. For example, driving licences are a type of pass intended to minimise the risk drivers pose on others by ensuring that only those who have met some driving safety standards (by passing a driving test) can drive a car.

‘If the restriction is justified on independent ethical grounds, such as minimisation of harm, then we normally do not think it is discriminatory. For example, we do not think of driving licences as discriminatory against those who did not pass the test (assuming tests are themselves fair) or who freely chose not to take the test.

‘The question is always whether the restriction of freedom is justified by the kind of good (for instance, minimisation of the risk of harm) it is meant to bring about. If it is justified, then it makes no sense to say that the restriction is discriminatory, no more than it would make sense to say that driving licences or smoking bans in the workplace are (unfairly) discriminatory against those without a licence or against smokers. The only discrimination occurring would be discrimination between those who abide by a justifiable law and those who do not. But that is not unfair discrimination.’¹⁵⁶

In this context Giubilini examines the particular question about whether COVID passes are ethically justified:

‘So, the real question is whether COVID passes are ethically justified. This is a question about (un)justified limitations of freedoms, not about discrimination.

‘COVID passes obviously entail limitations of individual freedoms. Depending on how they are implemented, they entail the limitation of the freedom to enjoy certain public spaces, to access public transport, workplaces, and so on. If the limitations of freedom are very large, such as prohibition to work in certain settings if one is not vaccinated, then de facto they become severe limitations of the freedom to refuse the vaccine. It would simply become unreasonable for many people to refuse the vaccine if that entails, say, losing their job.

‘Whether such limitations are justified depends on how we make tradeoffs between individual freedoms and the goods we want to achieve. It also depends on the risks and benefits for certain groups (for example, the risks of vaccines compared with their benefits for different age groups), as well as on how likely it is that we can achieve those goals.’

Many European countries have introduced restrictions of movement of the unvaccinated, such as Austria,¹⁵⁷ Germany,¹⁵⁸ and Greece.¹⁵⁹ In the winter of 2021, as the infection rate kept rising European governments tightened the restrictions further on the unvaccinated to avoid tougher measures such as complete lockdowns.¹⁶⁰ The Netherlands imposed lockdown and “puts limits on Christmas celebrations, while France and other countries toughen restrictions as Covid cases climb across Europe to slow the spread of Omicron.”¹⁶¹

In 2022, restrictions were eased as infections fell and there were fewer hospitalisations. Cyprus, like other EU countries, eventually abolished all restrictions. However, as infections are increasing and emerging variants, restrictive measures cannot be ruled out. Reflecting on fundamental rights and learning from how the pandemic was managed is essential for any democratic society.

¹⁵⁵ Alberto Giubilini is Senior Research Fellow, Oxford Uehiro Centre for Practical Ethics, University of Oxford.

¹⁵⁶ ‘Why COVID passes are not discriminatory (in the way you think they are)’, *The Conversation* (12 November 2021).

¹⁵⁷ Bethany Bell, ‘Covid: The country locking down the unvaccinated’, *BBC News* (16 November 2021).

¹⁵⁸ ‘Covid: Germany puts major restrictions on unvaccinated’, *BBC News* (2 December 2021).

¹⁵⁹ Karolina Tagaris, ‘Greece imposes further restrictions on unvaccinated’, *Reuters* (18 November 2021).

¹⁶⁰ Jason Horowitz, “Europe Toughens Rules for Unvaccinated as Fourth Covid Wave Swells”, *New York Times* (16 November 2021).

¹⁶¹ “Netherlands to enter lockdown as nations across Europe tighten curbs to slow Omicron spread”, *The Guardian* (19 December 2021).

12

CONCLUSION

The management of the pandemic led to some inevitable measures. Some of them can be evaluated as proportionate measures, but others not. There are issues of consistency, timing and arbitrariness in the choices of the kind of measures selected each time. The balance between the need for proper information, solidarity and to support those in need to ensure that any coercive measures such as sanctions are kept to the minimum was not always observed.

There is little doubt however that the measures, which may be considered as proportionate to many, had a *disproportionate impact on vulnerable groups*. The absence of a comprehensive plan, with measures to counteract the negative impact, the suspension of support services and the climate of emergency led to widespread infringement of rights, in some cases abuse that has largely gone undetected and unaddressed. At times there was arbitrary and disproportional measures imposed such as the closures of the checkpoints without proper engagement of the bicomunal health committee and the long incarceration of refugees and asylum-seekers.

In addition to the proportionate and reasonable measures, there were also disproportionate and unreasonable measures taken partly as a result of bad management and partly because the government saw an opportunity to introduce unpopular measures with little resistance. To a large extent, Cyprus is experiencing a world-changing crisis that requires targeted measures to alleviate its impact and resistance to stop the rise of policies aimed at abolishing rights and restricting freedoms.

The nature of the pandemic requires that scientists from different related disciplines are involved in advising and devising effective measures to contain the disease. The government has appointed such an advisory committee, including one for the vaccination process. The role of these committees has been extremely important throughout the pandemic. However, there are issues pertaining to the information to the public, the extent to which the government has adhered to the scientific measures proposed and how these are properly applied so that they are framed and embedded within the context of the sociolegal and sociocultural realities of Cyprus.

Whilst there have been consultations with employers' associations, business groups, trade unions and some others in civ-

il society, when it came to developing and implementing measures to support business and workers, there has been little consultation with and participation by civic organisations representing vulnerable groups and those excluded. Moreover, at times the more powerful groups used their lobbying power to be exempted from measures applied to others, rendering the measures ineffective and/or illegitimate to the rest of the public. Such practices undermine the confidence and trust in the governance and stir cynicism, defiance and discontent.

Covid-19 and the measures adopted in addressing it have left a mark on rights attached to citizenship, and they are reshaping the boundaries of the governance of these rights, forging new states of exception and intensifying and modifying some of the existing ones. The new states of exception and derogation of rights are not restricted to the disproportionate measures and the excessive policing practices. They extend to the use of Covid-19 as a pretext to suspend rights and foment a climate of mistrust in society, paving the way for the emergence of conspiracy theories which threaten public health. We propose to study these phenomena through focus groups with people identified by previous research¹⁶² as having been disproportionately affected by Covid-19 measures and through a multi-level and multi-disciplinary analysis, so as to develop policy-relevant recommendations and enhance the knowledge base around the impact of this pandemic that is gradually being built around the globe.

¹⁶² N. Trimikliniotis and C. Demetriou, 'Coronavirus COVID-19 outbreak in the EU: Fundamental Rights Implications, Cyprus Country Report 1', EU Agency for Fundamental Rights, Vienna (March 2020); N. Trimikliniotis and C. Demetriou, 'Coronavirus COVID-19 outbreak in the EU: Fundamental Rights Implications, Cyprus Country Report 2', EU Agency for Fundamental Rights, Vienna (April 2020); N. Trimikliniotis and C. Demetriou, 'Coronavirus COVID-19 outbreak in the EU: Fundamental Rights Implications, Cyprus Country Report 3', EU Agency for Fundamental Rights, Vienna (May 2020); N. Trimikliniotis and C. Demetriou, 'Coronavirus COVID-19 outbreak in the EU: Fundamental Rights Implications, Cyprus Country Report 4', EU Agency for Fundamental Rights, Vienna (June 2020).

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THE COVID-19 PANDEMIC AND FUNDAMENTAL RIGHTS IN CYPRUS

This report examines the fundamental rights implications of the Covid19 measures in Cyprus. The text focuses on the measures restricting rights and liberties on the grounds of emergency and locates executive and administrative excesses and gaps in democratic accountability and institutional failures in providing protection to citizens and non-citizens, particularly the most vulnerable ones. The various measures introduced were questioned as illegitimate and disproportionate. The first measure imposed was the abrupt closure of the checkpoints in the de facto divided country, which caused mistrust

and outrage. The measures generated a climate of mistrust against the government, which subsequently escalated into a generalized opposition to several measures. The police were given unprecedented powers and discretion. Given the existing legal gap in explicitly prohibiting racial profiling, there were numerous allegations for discriminatory stop and search. Despite the government packages purporting to protect workers during the lockdown suspension of operations, there were no measures to protect vulnerable persons, frontline, agricultural and precarious workers in the informal sector

whose welfare and rights. In education, there was discriminatory treatment and exclusion of children with disabilities, migrant children in closed camps and Roma children. The pandemic revealed the inadequacy in the institutional mechanisms for the protection of fundamental rights, as well as the gaps in effective the participation of the affected groups themselves. It has located the need for institutional frameworks that are genuinely independent with effective power to provide protection and ensure state accountability.