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Working Paper 2

**Mapping and evaluating migration and integration policies
- The case of Cyprus**

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PRIMTS project

**Prospects for Integration of Migrants from “Third countries” and their Labour
Market Situations: Towards Policies and Action**

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1. Introduction

This report presents the key features of the basis of the Cypriot migration and integration policies. From the outset it has to be noted that mapping and evaluating this area is not an easy task, given that we are dealing with a field of policy and study, which can only be schematically imagined, given that until 2010 one cannot locate such an explicitly stated *integration policy* with any in history. It is only very recently that the current Minister of Interior first referred to *the making of an integration policy*: as this report is being written, the policy document, which contains the basic parameters of such a policy, is being finalised. The document put before the inter-ministerial committee on integration¹ and will be then open to submissions and comments by all stakeholders and will then be amended accordingly and be adopted as the policy framework.²

The very concept ‘integration’ is contested if not altogether disputed as essential being a ‘new assimilationism’: a kind of repackaged version of the much criticised version of the ‘old’ expectation that “newcomers to a country will, over time, assimilate the norms of that society and blend in with those already there”³ However, given the EU-wide use of the term, many scholars have attempted to give a more positive interpretations as essentially being about participation, access and belonging for migrants.⁴ Moreover, in the particular case of Cyprus the issue of integration has for years been a non-starter. As the initial study conducted prior to change of policy allowing migrant labour in 1989, it was considered by policy-makers that Cyprus only required temporary ‘foreign labour’ to cover the developmental needs given the shortage of labour; therefore they proposed labour on short-term contracts for the specific sectors of the economy (Planning Bureau 1989; Trimikliniotis 1999; for an analysis see WP1). migrant labour, or the chapter called ‘foreign workers’ was intended to be a short-term affair: the economy would eventually adjust and the need for ‘foreign labour’ would cease as the economy would restructure, via technological innovation and the re-training of the Cypriot labour force would eventually cover the economic needs (Planning Bureau 1989; Matsis and Charalambous 1993). Hence, according to the original policy considerations there was no need to debate a ‘migration policy’ as such, never mind an ‘integration policy’. This may have had some credibility as an assessment, even though the logic is problematic from its’ inception and most importantly it was apparent from the early days, at least from early to mid 1990s that the that this was proved false if one examined the actual transformation in the employment and socio-economic reality in Cyprus 1990s (see Matsis and Charalambous 1993; Trimikliniotis 1999). As for the claim that Cyprus is a new destination country for migrants, it is no longer convincing: the argument carries little if any weight twenty years since the change of policy, when the official numbers of non-Cypriots residing in the area under the control of the Republic of Cyprus, the vast majority of whom are migrant workers, are

¹ Neoclis Sylikiotis, “Η ένταξη και η συμμετοχή των μεταναστριών στα κοινά”, Lecture by the Minister of Interior, Mediterranean Institute for the Gender Studies conference *Equal Rights, Equal Voices: Migrant Women in the EU*, 21/12/2009.

² Personal communication from the minister of interior to the author.

³ Ali Rattansi (2004), ‘New Labour, new assimilationism’, *Open Democracy*, 7 Oct. 2004 http://www.opendemocracy.net/arts-multiculturalism/article_2141.jsp (accessed 26.10.09).

⁴ This is the basic conceptual position adopted by the PRIMTS project proposal, but other EU projects have used similar concepts.

estimated to be over 130,000, half are EU citizens, the other half TCNs. According to the current official figures,⁵ there are 76,000 legal third country migrants, out of whom 60,000 are workers: 33,000 are domestic workers and a large number are Russian speakers or Russian citizens. The irregular migrants are estimated to be around 25,000-30,000. During 2009 there was a reduction of the inflow of irregular migrants from the Turkish controlled north of Cyprus: whilst in 2008 the number was 5,162, up until September 2009 there were only 3,154.⁶

Three inter-related difficulties can be located in this endeavour: Firstly, the literature available on the subject is mostly international, and as such we are forced to erect artificial 'national' or 'state boundaries' in order to confine the ambit of our work. Secondly, there is an inherent contextual problem relating to the *de facto* division of the Cyprus, which was set up as a bi-communal and bilingual country; this paper only covers the area under control of the Republic of Cyprus, i.e. the southern part of the country.⁷ The third difficulty relates to the fact that the subject of *integration in general in the context of Cyprus* has never been a subject of study, save for some exceptions.⁸ This reflects the absence of public debate on the general subject matter of 'integration'; if anything the public debate is one which concentrates on 'numbers games', allegations that migrants and asylum-seekers receive 'too many benefits' and are responsible for the rise in crime, car accidents and diseases.⁹ What follows is an attempt to piece together and locate the knowledge derived from disparate sources, including academic and research papers as well as various technical reports, such as governmental and non-governmental reports, policy-documents and other publications, which provide us with insights into the role of local actors, policy-makers, the assumptions underpinning policies and the contestations over the making and implementation of policies.

Attempts to study the integration policies of Cyprus for the period leading up and in the immediate aftermath to the 2004 accession to the EU (i.e. 2000-2006) have been made; however, it was difficult to locate and evaluate something that resembled an 'integration' policy as such.¹⁰ From its inception immigration policy had been highly problematic: the 'model' is based on the same problematic assumptions that labour immigration to Cyprus is a temporary phenomenon to cover labour shortages in specific areas which are unpopular with Cypriot. It follows from this logic that any policy measures must be a transient and short-term nature, until there is labour retraining, technological innovation and adjustment in the Cypriot labour force (see Planning Bureau 1989; Matsis and Charalambous 1993; Trimikliniotis 1999; Trimikliniotis and Pantelides 2003). Hence policy-makers persistently defend the sort-term visa model for specific jobs and specific employers a kind of *Gastarbeiter* model

⁵ The Minister of Interior has announced to the Parliamentary Committee on Internal Affairs the latest immigration figures (see <http://www.ikypros.com/cgibin/hweb?-A=65620&-V=ikypros&w> accessed 26.10.09).

⁶ In the same meeting the Minister of Justice announced that with the completion of the construction of a detention centre for irregular migrants at the village of Menoyia by 2010, a total of 256 can be detained. See <http://www.ikypros.com/cgibin/hweb?-A=65620&-V=ikypros&w> (accessed 26.10.09)

⁷ Due to EU-related budgetary reasons and political issues research fails to properly capture the situation *in the whole of Cyprus*; the regime regarding integration in the area under the control of the breakaway and unrecognised Turkish Republic of Northern Cyprus is not covered by this paper. It only covers matters which rights afforded by the EU *acquis* and other laws are relevant by persons residing in the northern part of the country. Few studies published on the question of migration, migrants and settlers in the north. The issue is controversial and there are disputed views on the subject (see Hatay 2006; 2008 and Faiz 2008a, 2008b)

⁸ The few research projects embarked were primarily written by the current researcher and his collaborators, MIGS on domestic workers; see literature review and bibliography that follows.

⁹ These are the findings of almost all the studies on the subject.

¹⁰ I was preparing the Cypriot country report for the *Migrant Integration Policy Index*; the information on Cyprus is available at <http://www.integrationindex.eu/topics/2318.html>

(Trimikliniotis 1999; Trimikliniotis and Pantelides 2003; Trimikliniotis and Demetriou 2006; 2008). In previous work on the subject we have referred to the existence of an “immigration-integration conundrum”.¹¹ Up to 2006-2007, we couldn’t even identify any official or Ministry in charge of coordination or development of an integration and integration, as there was *no declared integration policy*; hence, if we were to make any sense of some kind of ‘integration policy’ we were forced to rely on deducing a ‘policy’ deriving from praxis, as a ‘de-facto policy’ derived from the assessment of the practice of policies in a number of fields, even though officials and policy-makers never actually designated or referred to such disparate and uncoordinated policies as such:

- (a) Employment policies – promoting for instance equal rights and labour standards for all at the insistence of trade unions.
- (b) Education policies for non-Cypriot students
- (c) Immigration policies
- (d) Citizenship and naturalisation policies
- (e) General treatment of TCNs by the authorities
- (f) Civic organizations that allowed civic participation of TCNs

Within the last decade there have been some important changes. In the place of the usual anti-immigrant populist appeals by politicians, particularly ministers of interior, of the early and mid-2000s, we have a new integration discourse articulated by the current Minister of Interior, who was appointed Minister in February 2008. There is a new policy framework in the making, which the minister of Interior insists in describing, rather ambitiously, as “comprehensive and composed”, despite acknowledging the delays and gaps derived from the past absence of a declared policy for such a long time.¹² The minister set out in rudimentary form the basic parameters of this policy, which this paper intends to analyse.¹³ Over the last two years there has certainly been a concerted effort to shape an immigration and integration policy under the coordination of the Ministry of Interior.

2. Migration and integration policies & their specific effects on TCNs

A useful starting point for analysis of the situation as it stands before the introduction of the new policy is the overview provided for the purposes of the *Migrant Integration Policy Index*¹⁴, which locates Cyprus in a generally *unfavourable* integration position. We needn’t rely or accept at face value the analytical and theoretical underpinnings of the particular approach; nevertheless the index does provide a point of departure and comparison across the EU: “Cyprus is one of only five EU Member States where the majority of non-nationals are from other EU countries; 5.7% of the total population is from outside the EU. Asylum seekers and international students make up a large part of the immigration flows. Integration policies have remained underdeveloped in Cyprus, with no lead or coordinating ministry tasked with integration. Legislative action has revolved around the late transposition of the EC Directives

¹¹ I first presented on the subject of “Integration and Migration of Female Immigrants in the Labour and Market and Society - Policy Assessment and Policy Recommendation”, on 18.10.2006, at Goethe-Zentrum Nicosia; see also Trimikliniotis and Furlias-Souroulla 2010.

¹² See for instance his article in the daily newspaper ‘*Politis*’, entitled ‘Ολοκληρωμένη και συγκροτημένη μεταναστευτική πολιτική’, *ΠΟΛΙΤΗΣ*, 05.10.2009, available at <http://www.politis-news.com/cgi-bin/hweb?-A=900332&-V=archivecolumns>. He reiterated this on numerous occasions in public and in personal communication to the author.

¹³ Neoclis Sylikiotis, “Η ένταξη και η συμμετοχή των μεταναστριών στα κοινά”, Lecture by the Minister of Interior, Mediterranean Institute for the Gender Studies conference *Equal Rights, Equal Voices: Migrant Women in the EU*, 21/12/2009.

¹⁴ See the Cypriot country situation for *Migrant Integration Policy Index*, available at <http://www.integrationindex.eu/topics/2318.html>

on family reunion and long-term residence, as well as a bill to transpose article 8(1) on the shift in the burden of proof from the EC Directive on Racial Equality.’

The study analyses the areas in which Cyprus fares well in comparison to other EU countries and where it is ‘weak’:

Anti-discrimination is the strongest of the six areas of integration policy measured by MIPEX, although it is still a full 40 percentage points away from best practice. **Political participation** scores unfavourably, with several critically weak policy dimensions. Even with the late transposition of the EC Directives on **family reunion** and **long-term residence**, Cyprus has the worst score on family reunion out of the 28 MIPEX countries, and the second worst on long-term residence, and the fourth worst on **labour market access**.

All major studies on third country migrant workers in Cyprus point to the same conclusion: that they remain in ‘a vulnerable position’,¹⁵ in spite of the improvements to the institutional and legal framework, as recognised by the Third ECRI Report on Cyprus. Moreover, studies are recorded which indicate that the category of ‘vulnerable groups’ may now be considered to include EU citizen workers, such as Turkish-Cypriots and Roma. With the accession to the EU, apart from the enactment of anti-discrimination legislation in 2004, the introduction of national action plans for social inclusion and employment have created a national point of focus for the development of antidiscrimination policies. The Report records that a number of major EU projects and local initiatives have begun to operate. The Third ECRI report on Cyprus welcomes the strengthening of the legal framework with the adoption of the new anti-discrimination legislation as well as the ratification by the Cypriot government of Protocol 12 to the European Convention on Human Rights,¹⁶ but points out to two main weaknesses that still need to be addressed, such as the continuing lack of a comprehensive immigration and integration policy, which results in human rights violations, exploitation and discrimination against immigrants and asylum seekers.¹⁷

2.1 Overview & Critical evaluation of country specificities: Immigration and integration policies in perspective

The current regime for the employment of TCNs was the result of the labour shortages which were associated with the dramatic economic growth in the 1980s and 1990s, referred to as ‘the economic miracle’.¹⁸ This was the basic reason for radical change of policy in 1990 which allowed migrant workers in Cyprus. The so-called ‘economic miracle’ of the late 1970s and 1980s was structured by a number of ‘external’ factors, following the devastation which resulted from the Turkish occupation of the north since 1974. Prior to 1990 immigration policy was restrictive hence very few migrants were allowed. The failure to develop a proper integration policy can mostly be attributed to the policy assumption that the employment of migrant workers would be short-term, temporary and restricted to specific sectors. The

¹⁵ As the Second ECRI Report on Cyprus described them; see ECRI (2001) Second Report on Cyprus, European Commission against Racism and Intolerance, Council of Europe, Strasbourg, 3 July 2001.

¹⁶ By enacting Law No. 13(III)/2002 dated 19.04.2002.

¹⁷ ECRI (2006), Third Report on Cyprus, Adopted on 16 December 2005, Strasbourg 16.05.2006, p.6.

¹⁸ See Christodoulou, Demetris 1992: *Inside the Economic Miracle. The Labours of an Embattled Economy*. Minneapolis: University of Minnesota.

question remains: why has there been no review of these policy assumptions over the last two decades..

The regional and international reasons that account for the migratory flows to Cyprus are the following: On the one hand, economic developments such as the worldwide growth in tourism and migration flows resulted in economic growth which increased the demand for labour in Cyprus. On the other hand, political developments such as the collapse of the Soviet Union resulted in the migration of labour from ex Soviet countries but also to the migration of a large number of Pontiacs from the Caucasus region who were granted Greek nationality and were thus able to enter Cyprus without too many formalities. In addition, the Gulf war, successive crises in the Gulf region and unrest in Israel/Palestine has caused the inflow into Cyprus of both economic as well as political refugees from the affected countries. Moreover, the process of accession to the EU is thought to have made Cyprus an attractive destination for migrants and asylum-seekers and the response of policy-makers was to keenly transform themselves to 'border-guards of Europe'.¹⁹ Cyprus is a prime instance of a southern European country which "functions as the 'entrance hall' to the EU, and often serves as a 'waiting room' for many migrants who have the Northern European countries as a destination" (Anthias and Lazaridis 1999: 3). New migration has the conditions for the 'racialisation of migrant workers' (Trimikliniotis 1999) and the patterns of discrimination and ill treatment, particularly of migrants are well documented.²⁰

The current economic crisis is an issue that is beginning to creep into the immigration and employment debates in Cyprus. Unemployment is climbing upward, even though it remains the second lowest rate in the EU; it has doubled over the last year. According to figures released by Eurostat unemployment in Cyprus reached 6.2% in November 2009: Unemployment increased in November 2009 by 0.1% compared to October 2009; despite the slight increase, Cyprus presents the fourth best unemployment rate in the EU. Cyprus unemployment was mainly affected by job cuts in the tourist and construction sectors due to the financial crisis. Unemployment among men in Cyprus reached 6.2% in November (6.0% in October) and 6.3% among women (6.2% in October), while unemployment for young people under 25 years old reached 14.7% in September.²¹ Some trade unions are calling for more restrictions in the employment of TCNs, whilst other fringe and extreme right groups and initiatives have emerged connecting unemployment to the employment of migrant workers.

The Making of an Integration Policy: Signs of Change

The parameters of the integration policy have been outlined by the Minister of Interior himself in a public lecture in what he declared be the 'National policy of

¹⁹ During his address to the EU summit in Thessalonica, the President of Cyprus referred to the experience of Cyprus in dealing with migrants and asylum-seekers and offered to share 'expertise' with the European Community.

²⁰ See ECRI, ECRI (2001) *Second Report on Cyprus*, European Commission against Racism and Intolerance, Council of Europe, Strasbourg, adopted 15th December 2000.

²¹ Cyprus News Agency, http://www.hri.org/news/cyprus/cna/2010/10-01-08_2.cna.html . In terms of the actual figures, the average number of registered unemployed persons for the entire year, 2009, reached 17,505, compared to 11,541 in 2008, recording an increase of 51.7%. The increase was mainly recorded in the sectors of construction, trade, hotels and restaurants, real estate and business activities, manufacturing as well as to newcomers in the labour market. According to the Statistical Service, the number of unemployed persons in Cyprus, registered at the District Labour Offices on the last day of December 2009, reached 21,530, according to the latest figures released by the Statistical Service. These figures show that, based on the seasonally adjusted data, the number of registered unemployed reached 19,745 persons in December, recording a decrease of 2,8% compared to the previous month (*The Famagusta Gazette Online*, 7.10.2010).

Inclusion/Integration'.²² Interestingly, he used the term '*entaksi*',²³ i.e. inclusion, which is the state of art in the Greek language terms rather than the term '*ensomatosi*',²⁴ which is another sign of awareness the current debates on the subject amongst Greek scholars,²⁵ but more importantly it indicates that he favours more sensitive treatment of migrants and positive appraisal of the role of migration, when compared to his predecessors, who were often accused of making statements which were inflammatory and contributed to xenophobic climate.²⁶ According to the Minister of Interior, the proposed National Inclusion Policy (NIP) will consist of a comprehensive plan of support and information of TCNs who are legally residing in the country in the relevant integration sectors or aspects of social inclusion will refer specifically to the rights and obligations of migrants. Also the NIP will utilise and/or activate local government and the participation of civil society. He referred to the use of the annual programs of 2007 and 2008 of the European Integration Fund, prepared with the consultation of all stakeholders contain such actions, but their fulfilment depends on the contribution of NGOs and local government. He also noted the importance of participation of women and the promotion of equality between men and women as priority target within all policies,²⁷ under the supervision of Equality Unit of the Ministry of Justice and Public Order, the governmental unit responsible for the development, coordination and implementation of Government policy on equality matters as well as following the relevant international developments. Also, he stated that the Ministry is studying the progressive harmonisation of the participation in public life of migrants with long-term stay so that the conditions are created which will allow migrants with long-term stay to exercise their rights as citizens"; he also stated that the outcome of this process will depend on whether "all kinds of associations and organisation, from athletic organisations to political parties accept migrants in their ranks" as such organisations can contribute to the depiction of a an intercultural reality by implementing equal opportunities policies, by electing migrants in all responsible levels of representation and cooperating with migrant organisations.

The Minister stated that "the integration/inclusion of migrants in the receiving societies is amongst the greatest challenges and priorities for the receiving countries of the EU member states" and defined the notion of inclusion/integration as "a dynamic, permanent, multifaceted and reciprocal process of mutual duties and rights between migrants and the receiving society". He insisted that the success of this process requires on the one hand national initiatives and actions and on the other financial support of the actions by the state and the EU, which is a long process with many different aspects which calls for ability to adapt by all stakeholders including the migrants themselves. Amongst others the Minister referred to the need to properly evaluate the migration phenomenon and legislate accordingly to properly

²² In Greek "*Εθνική Πολιτική Ένταξης*".

²³ In Greek the term is referred to as *ένταξη*.

²⁴ In Greek the term is referred to as *ενσωμάτωση*.

²⁵ For the Greek debates on the subject the book by Pavlou and Christopoulos (2004) remains one of the best on the current policy debates, particularly in the Greek and European context.

²⁶ Some nationalists and far-right politicians and fringe groups have repeatedly accused the Minister of Interior as being too 'pro-migrant'. The most recent accusations came following his condemnation of heavy-handed policing and arrests of TCNs in the city centre of the Cypriot capital, Nicosia, in November 2009. On the contrary the philosophy and discourse of the Minister was commended by many experts during the European Conference on Free movement of workers, which was addressed by the Cypriot Ministers of Interior, Neoclis Sylikiotis and the Minister of Labour and social Insurance, Sotiroulla Charalambous. This was communicated to the author by a number of experts who were impressed by the emphasis on human rights, inclusion, non-discrimination, the enhancement of labour rights, which provided a positive vision for migrant labour to Cyprus and Europe at large, TCNs and EU nationals.

²⁷ This is under the supervision and direction of Equality Unit of the Ministry of Justice and Public Order (Μονάδα Ισότητας του Υπουργείου Δικαιοσύνης και Δημόσιας Τάξης) and the National Mechanism for the Rights of Women (Εθνικός Μηχανισμός για τα Δικαιώματα της Γυναίκα).

include the large numbers of migrants residing and working in the country. Hence he called for:

- Valid and accurate statistical data
- The development of valid indicators (quantitative and qualitative) of inclusion/integration
- Systematic evaluation and review of such indicators
- Utilisation of such data for the development of realistic action plans.

The strategy he proposes for inclusion/ integration is based on the EU and international standards and norms but also to properly reflect the needs and particularities of the Cypriot situation. He referred to the EU directives for long-term residence, family reunification, entry for study or voluntarism, asylum and combating discrimination, as a policy framework which facilitates the inclusion/integration of migrants. Beyond the legislative changes, a number of accompanying measures are taken such as:

- Actions for provision of relevant information, awareness-raising and training
- Language classes
- Promotion of equal treatment at work
- Access to justice
- Seminars for employers and employees on labour relations; vocational training health provisions at schools and maternal services (all provided free of charge irrespective of nationality).
- Educational measures for the integration of children at schools
- European Refugee Fund projects and under the EQUAL Community Program.

The Minister noted that despite the emphasis is on socioeconomic integration, the socio-cultural dimension of inclusion, access, participation and belonging in all aspects of social and local political life. Moreover, he referred to the need for enhancement of various measures directed for facilitating and addressing the needs of female migrant workers such provisions for child care, work-related measures and their civic participation.

From 2009 the Ministry had set up a committee of experts on the integration of migrants in Cyprus and various governmental departments and others made submissions. The Ombudsman's office had made submissions, which will be discussed as they are highly relevant to the current debates.²⁸ The Ombudsman proposes 12 key proposals as the main parameters of the policy, which appear by and large to have been adopted in the integration strategy by Ministry. Interestingly, the Ombudsman's proposals only cover legally resident migrants, leaving the large number of irregular migrants beyond the scope of such policy; there is only one reference to the needs of irregular migrants, where the ombudsman calls for entitling them with access to social services such as the protection of their life, health, human dignity and the provision of basic subsistence such as health and social welfare. The basic pillars proposed by Ombudsman are the following:²⁹

- Access of children to education and genuine intercultural education via “a mutual process of inclusion/integration”³⁰ for migrants who will learn the language, history and culture of Cyprus and local students who will come into contact with new cultures

²⁸ This submission note was made available to research team in January 2010.

²⁹ See the note of Ombudsman to the minister of interior, entitled, “4^η Σύσκεψη Ειδικής Επιτροπής Εμπειρογνώμων για τη διαμόρφωση πλαισίου πολιτικής για την ένταξη των νομίμων μεταναστών στην Κυπριακή κοινωνία” (dated 29.05.2009, AKP 5.21.02).

³⁰In Greek the terms used are “αμοιβαία διαδικασία ένταξης”.

and traditions. A prime goal of such an educational policy is the eradication of racism and discrimination, the promotion of tolerance and diversity and active participation of migrants in society. Access to education for children should not be connected to legal or non-legal immigration status and stay of the children or parents.

- Language learning and seminars on history and the Cypriot institutions must be available to adult migrants.
- Access in practice to work, combating discrimination, equal treatment and pay and full access to opportunities for career advancement and full participation in vocational training programs.
- Social rights, and social insurance and equal access to goods and services. This is based on full implementation of EU antidiscrimination directive³¹ which forbids discrimination on the ground of race or ethnic origin in education, social insurance, health; access to goods and services, including housing and equal access to all rights without regard to race or ethnic origin.
- Right of migrants to acquire citizenship with transparent and lucid procedures at the final stages of the process of social integration/inclusion.
- Full implementation in practice of the right to family reunification in a manner which complies with the principles of the ECHR and *acquis* as to entry and residence in Cyprus of members who reside permanently in the country.
- Enhancement of social inclusion in public policies, with emphasis at the local level.
- Interaction between migrants and Cypriots via the development of civil society, dialogues and promotion of actions aiming at bringing locals and migrants closer and eradicate racist and xenophobic phenomena. The role of the media is crucial in shaping public opinion in redressing the current negative climate where migrants are depicted as a threat to Cypriot society and the undervaluation their positive contribution to society. The media must provide a voice for migrants.
- Effective implementation of the penal provisions for combating racist crimes and incidents and better support for victims.
- Civic rights for voting and election, at least as regard local government, in accordance with the recommendations of the council of Europe and the EU.
- Clarification of specific aims and mechanisms of evaluation for the development of a police of inclusion/integration, exchange of information and best practices between the EU member states.
- Participation of migrants and NGOs in the making of inclusion/integration policy.

2.2 The implementation of EU and other International provisions: A critique of the current system

a. EU Directives and International conventions: Residence and migrant Rights

Cyprus has ratified a number of international conventions on human rights which at least on paper can be used to improve the situation on the treatment of TCNs. A new EU *acquis*-based anti-discrimination system was eventually established and increasing awareness and activism in favour of migrant workers gradually emerged. However, the approach taken by the authorities is not one which is based on a thorough reading of the intended mischief trying to remedy any gaps by adopting measures to enhance the rights of migrant workers but to meet

³¹ 43/2000/EC was transposed by law 42 (I) 2004.

the bare minimum for the EU directives to be in force.³² The Convention on the Participation of Foreigners in Public Life and Local Level has not been ratified yet, in spite of recommendations from the Ombudsman to proceed with ratification and despite the Ombudsman's criticisms for the lack of governmental policies towards social integration of migrants.³³

A law purporting to transpose the EU Directive regarding long-term residence permit³⁴ was adopted in spring 2007, was transposed. The scope of the amending law³⁵ covers third country nationals staying lawfully in the areas controlled by the Republic for at least five uninterrupted years.³⁶ Excluded from the scope of the law are the foreign students, persons on a vocational training course, persons residing in the Republic under the Refugee Law, persons staying in the Republic for reasons of a temporary nature and foreign diplomats.³⁷ A decision by the Supreme Court has, however, stalled the process as it excludes the vast majority of third country migrants residing in Cyprus. The case of *Motilla*³⁸ stands out amongst these as a most significant development in the transposition and implementation of Directive 2003/109/EC on long-term residency of third country nationals, affecting many thousands of migrants who will not be able to access the residency rights provided in the Directive. The decision of the Supreme Court of Cyprus in the above case has stalled the process as it excludes the vast majority of third country migrants residing in Cyprus.³⁹ The applicant was a female migrant who arrived in Cyprus in 2000 and was since lawfully working as a domestic worker. On 25 Jan 2006, i.e. as soon as the deadline for the transposition of Directive 2003/109/EC expired, the applicant applied to the Interior Minister for the status of a long term migrant, as provided by the Directive. The applicant applied to the Supreme Court appealing against the refusal of the Interior Minister to allow third country migrants on short-term contracts to benefit from the long-term residence directive. The Supreme Court, by a majority decision of nine judges against four, rejected the appeal and confirmed the Interior Minister's decision.⁴⁰ This decision was widely reported in the media, since it essentially

³² For an account for the various legal measures adopted see Trimikliniotis and Demetriou 2008.

³³ Cyprus Ombudsman Report No. AKR 61/2004, dated 10 June 2005. The Report was communicated by the Ombudsman to the Ministers of Interior, External Affairs and Justice and to the House of Representatives.

³⁴ Directive 2003/109/EC.

³⁵ Law 8(I)/2007.

³⁶ Aliens and Immigration Law, as amended by Law 8(I)/2007, article 18Z(1).

³⁷ Aliens and Immigration Law, as amended by Law 8(I)/2007, article 18Z(2).

³⁸ *Cresencia Cabotaje Motilla v. Republic of Cyprus through the Interior Minister and the Chief Immigration Officer*, Supreme Court Case No. 673/2006 (21 Jan 2008). Although the said Directive was not transposed into Cypriot law until 14 Feb 2007 (Law 8(I)/2007), the Court accepted that, based on the ECJ decision on the case of *Pubblico Ministero v. Tullio Tatti*, the application had to be examined in light of the said Directive and the law which subsequently transposed it.

³⁹ The Ministry's rejection of the application was based on article 18Z(2) of the Aliens and Immigration Law Cap 105, as amended by Law 8(I)/2007 purporting to transpose Directive 2003/109/EC, which excludes from the scope of the law *inter alia* 'persons whose residence permit has been officially restricted as regards its duration'. The aforesaid provision was intended to transpose Directive article 3(2)(e); however whilst the Directive states 'persons whose residence permit has been formally limited', the Cypriot law states 'persons whose residence permit has been formally limited **as to its duration**'.

⁴⁰ On the ground that the fixed term duration of the applicant's visas did indeed fall within the exception of article 18Z(2) of the Cypriot Law Directive article 3(2)(e). The decision noted that the transposition of the Directive and the addition of the phrase 'as to its duration' did not deduct from the effectiveness of the Directive and that the fixed term nature of the residence visas granted to the applicant did not create a reasonable expectation 'that the person has put down root in the country', as provided by Recital 6 to the Directive. In their dissenting opinion, four judges stated that the addition of the phrase 'as to its duration' fundamentally transform the essence of the exception provided for in Directive Article 3(2)(e), since it is clear that the intention of the Directive is to exclude persons residing in the EU temporarily or on a permit which has been limited for a specific purpose, a fact evident by the examples given in the Directive article itself. The dissenting judges⁴⁰ referred to a conference of experts which took place in Brussels between 7-8 July 2005 where it was stated that the said exception should be interpreted restrictively and in accordance with the examples given in the Directive (e.g. seasonal workers, volunteers, posted workers etc) and that the mere fact that a residence permit is of fixed duration does not place it

‘freezes’ the opportunities of the vast majority of the persons entitled to acquire the long term residency, who are on a fixed duration visa. The decision was heavily criticized by human rights NGOs;⁴¹ a protest which was spontaneously held against this decision on 27 Jan 2008 led to violence by the police, to the arrest of a migrant rights supporter and to the rushing into hospital of a female migrant because of shock.⁴² The decision has affected thousands of migrant workers who are, as a matter of policy, issued with fixed term residence visas and who are by virtue of this decision excluded from the scope of the law transposing the Directive. The Minister of Interior has since noted that there will be an amendment of the legislation as part of the integration policy he is proposing.

The EU directive on family reunification⁴³ was transposed into Cypriot law in without making use of the provision found in Article 4/3 of the Directive. The law purporting to transpose Directive 2003/109/EC does not include the restrictive criteria originally proposed for granting long-term migrants this special status such as requirements of proficiency in Greek language, history and civilisation. Such provisions were eventually dropped by the parliament following criticism by NGOs and strong trade union opposition. The effect is that the right to family reunification is not extended to the unmarried partner of the sponsor with whom the sponsor is in a duly attested stable long-term relationship, or to a person who is bound to the sponsor by a registered partnership. The current legal framework essentially excludes homosexual partners of the sponsor, although the question remains whether the right to family reunification may cover the homosexual spouse of the sponsor – lawfully married in accordance with the laws of another jurisdiction remains open – as recognised by the recent Equality Body Report on the subject.⁴⁴

The Republic of Cyprus also enacted laws enabling the free movement and residence of EU citizens in Cyprus pertaining to the free movement and stay of citizens of EU member States and their family members,⁴⁵ which came into force on 30.4.2004 and introduced the forms to be completed by residence applicants. In 2007 the Republic of Cyprus enacted Law, which purported to transpose the Directive on free movement of workers.⁴⁶ Since 2004, we have witnessed a steady rise in the number of Union citizens taking up the right of movement of workers to work in Cyprus (see WP1).⁴⁷

Other relevant changes in law and policy include the following:

within the exception of the Directive. The judges did not seek the opinion of the ECJ on the matter through then-Article 234 EC.

⁴¹ See for instance press release of KISA dated 22 Jan 2008.

⁴² See KISA press conference 28 Jan 2008.

⁴³ Council Directive 2003/86/EC.

⁴⁴ See File No AKP 68/2008

⁴⁵ Law 92(1)/2003 on the *Free Movement and Residence of EU Nationals and their Families*; Administrative Directive 460/2004. Moreover relevant are Law 126(1)/2004 for the *Free Movement and Residence of Citizens of Member States and their Family Members (Amendments)* that amended some provisions of Law 92 (1)/2003; Aliens and Immigration Laws 1972-2002 and the Regulations passed by Parliament to implement those laws; and Directives 2004/38 and 2003/109.

⁴⁶ This means introducing legislation that would integrate the content of the Directive within the Cypriot legal framework. Law 7(1)/2007 purported to transpose Directive 2004/38

⁴⁷ For more on the subject see Nicos Trimikliniotis (2008) Report on Cyprus2007, Network on the Free Movement of Workers within the European Union, University of Nijmegen Network on the Free Movement of Workers within the European Union, <http://ec.europa.eu/social/keyDocuments.jsp?policyArea=24&subCategory=475&mode=advancedSubmit&langId=en>; and N. Trimikliniotis (2009) Report on Cyprus2008-2009, Network on the Free Movement of Workers within the European Union, organized by the Centre for Migration Law, University of Nijmegen Network on the Free Movement of Workers within the European Union.

- The EU directive allowing foreign students from third countries⁴⁸ was transposed in Cyprus with an amendment⁴⁹ to the Aliens and Immigration law that entitles students from third countries to work on a part-time basis, up to 20 hours during the term and 40 hours during their holidays.
- The visas of cabaret dancers⁵⁰ were abolished in November 2008 after the embarrassment that the Republic Cyprus faced by the reference by international human rights reports, NGOs and bad press in the EU and the USA, which depicted Cyprus as hub for sex trafficking of women. The Government introduced the same procedure as with domestic and other third country migrant workers in Cyprus, who are under the jurisdiction of the Ministry of Labour rather than the Ministry of Interior (the Immigration department). However, anti-trafficking and human rights organisation claim that the measure has not hindered trafficking: even within cabarets the problems of debt and labour bondage are not addressed and much of the sex industry continues to produce various trafficking practices in the form of works in bars and massage parlours. Cyprus remains a destination country for a large number of women from Eastern Europe, the former Soviet Union, Russia, Latin America, and the Philippines trafficked for the purpose of commercial sexual exploitation. Recent trends indicate an increasing number of women trafficked to Cyprus from Latin America, Morocco, and Syria.
- The recommendation of the Equality body of three in 2005 that female migrant domestic workers face direct discrimination on the ground of race or ethnic origin and indirect discrimination manifested in the low salaries paid to them and that they should receive a pay rise has finally met with at least partial compliance.⁵¹ In a circular by the Ministry of Employment and Social Insurance there has been a salary increase by 10% on their net salary from 150 to 165 Cyprus pounds for domestic workers. Currently there is a review proposal to reform the regime governing domestic workers but this is not publicly available yet.

b. Regularisation, Immigration control, visa and border control

The issue of integration must be connected to the general issues of immigration control and the form this takes. In southern Europe, where there are large numbers of irregular migrants, it is considered that *a precondition for integration measure is dealing with the issue of irregular migration* (see Balibar 2004; Pavlou and Christopoulos 2004; Pavlou 2010). There is an operative paradox when dealing with immigration regulation, as tougher immigration control reproduces irregularity; hence many countries are forced to adopt regularisation policies.⁵² In the case of Cyprus there is no debate on regularisation as the ‘Cyprus problem’ dominates the political scene and the population issue is one of the contested in the current discussions to resolve this long-lasting ethnic/state/international conflict.

⁴⁸ COUNCIL DIRECTIVE 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service.

⁴⁹ Law 184(I) of 2007.

⁵⁰ They are known as ‘καλλιτέχνιδες’ or ‘αρτίστες’.

⁵¹ In the Ombudsman Report their income is calculated at CYP 0.82 per hour, contrasted with CYP 4-5 per hour for Cypriots carrying out the same work (Cyprus Ombudsman Report File No. A.K.I 2/2005, dated 4.11.2005, page 4). For more details see National Data Collection Report 2006, 27.

⁵² See Trimikliniotis, N. (2009) ‘The Use and Abuse of Undeclared and Unprotected Labour: Migration, Europeanisation and the Role of Trade Unions’, Neergaard, A. (ed.) *European perspectives on exclusion and subordination: The Political economy of migration*, Maastricht: Shaker, 2009.

In reality the political debate, which media generated and amplified, depicts ‘the problem’ of ‘too much immigration’ and ‘failure to control the flow of migrants’. In anti-immigrant politicians and media discourses connect migration to asylum-seekers in what is invariably a constantly replayed ‘numbers game’.⁵³ In any case, the official figures⁵⁴ show that there was a reduction of the applications for asylum to 1.180 applications when compared to 2.500 for the same period. This is explained as “a result of better surveillance of the ‘Green Line’ and the expediting of the application procedure” which reduced the motive of the applicants to obtain benefits whilst the application was pending: pending applications were massively reduced from 8.500 in 2008 to 1.500 in 2009. The Minister of Interior⁵⁵ suggested that “Cyprus is a good route in restricting illegal migration and asylum applicants and the better management legal migration” and is currently in the process of developing a specific plan on the integration of migrants” in Cypriot society. He added that during 2009 there was a reduction of the inflow of irregular migrants from the northern Turkish occupied part of Cyprus: whilst in 2008 the number of irregular migrants from the north was 5,162, in 2009 up until September there were only 3,154. In the same meeting the Minister of Justice announced that with the completion of the construction of a detention centre for irregular migrants at the village of Menoyia by 2010, a total of 256 can be detained; by 2013 the capacity will increase to 350 persons. The authorities are confident that the detention centre will be constructed in line with the EU standards.⁵⁶

Cyprus has not transposed the EU Directive⁵⁷ which sets minimum standards on sanctions and measures against employers of illegally staying third-country nationals, although national legislation does provide for certain sanctions, which are described below.⁵⁸ The basic immigration law of Cyprus⁵⁹ renders the employment of an undocumented migrant or the employment of any person in violation of his work permit or in violation of any law or regulation an offence punishable by imprisonment of up to three years and/or a fine of up to CYP 5,000 (Euros 8,540) and/or the deprivation of the right to hire migrant workers for a period of time to be decided by the Court. This provision is generally applied by the Court, although the term of imprisonment is usually only a few months. The law grants the Chief Immigration Officer extensive powers to refuse entry to any person who is not a Cypriot citizen or British citizen permanently residing in Cyprus for at least seven years and wide powers to issue deportation orders which are rigorously applied, a fact often criticised by Court decisions, by the ombudsman, by members of parliament and by NGOs⁶⁰. During 2008, 749 employers were prosecuted for illegal employment of 1,094 irregular migrants. In 2007 there were 734 employers arrested, who employed 1,126 third country nationals, whilst during

⁵³ See my work, Trimikliniotis 1999; and Trimikliniotis and Demetriou 2006; Charakis, 2007.

⁵⁴ Statement by the Minister of Interior speaking before the House of Representatives (Parliamentary Committee on Internal Affairs).

⁵⁵ Speaking before the House of Representatives (Parliamentary Committee on Internal Affairs)

⁵⁶ “Η Κύπρος σε πολύ θετική πορεία όσον αφορά στον περιορισμό της παράνομης μετανάστευσης”, *iKypros*, <http://www.ikypros.com/cgi-bin/hweb?-A=65620&-V=ikypros&w> accessed 26.10.09

⁵⁷ 2009/52/EC.

⁵⁸ Officials from the Ministry of Interior have informed the author that the Ministry of Interior is currently discussing transposition measures for the Directive with the Ministry of Justice, the Ministry of Labour and the Police.

⁵⁹ Article 14B of the Aliens and Immigration Law Cap. 155.

⁶⁰ An MP recently has proposed an amendment to the immigration law aiming at restricting the powers of the Chief Immigration Officer by setting up a three-member committee with the mandate of checking all the Chief Immigration Officer’s decisions deriving from the powers granted to him/her by the law. In his supporting statement, the MP stated that the lack of check on the Chief Immigration Officer’s decisions have on many occasions led to great human misery, referring to the large number of unjustified deportations and generally to the cruel treatment to which many foreigners, particularly Arabs, were being subjected to by the Chief Immigration Officer.

2009 (up until September) 991 employers were reported and 1,032 third country nationals arrested.⁶¹

c. Access to Citizenship and Naturalisation

The regime of acquisition of citizenship is based on the discretionary power of the authorities. Moreover, given that there has been a policy that migrant worker permits cannot be extended beyond four years, the chance of acquiring citizenship for these groups is rather slim, unless they are married to a Cypriot or are granted leave to stay on other exceptional grounds. Cypriot authorities have been very reluctant to grant citizenship to migrants.

The law purporting to transpose Directive 203/109/EC was passed in February 2007, but it is questionable whether the provisions relating to the right to access to long residence are properly transposed. This report has referred to the decision of the Supreme Court of Cyprus in the case of *Motilla* which excludes the vast majority of third country migrants. Cypriot policy-makers have followed the ‘mixed’ principle that combines *ius soli* and *ius sanguinis*. However, *ius sanguinis* is far more important in the regulations than *ius soli*, as Cypriot descent is the primary criterion for acquisition of citizenship. Citizenship can be acquired automatically, by registration and by naturalisation, but at the core of citizenship policy remains the notion that all persons of Cypriot descent are entitled to apply. The mechanics of acquisition of citizenship revolves around Cypriot descent: persons of Cypriot origin are basically entitled to citizenship, whilst persons of non-Cypriot descent may be allowed—if they have resided in Cyprus for seven years—to apply to acquire citizenship via registration and naturalisation mechanisms.

Certain categories of population connected (due to descent or marriage) to Cypriots are entitled to acquisition of citizenship via registration upon application to the relevant Minister. These are the following under certain conditions outlined below:

1. Citizens of the United Kingdom and Colonies or a country of the Commonwealth,⁶² who are of Cypriot descent,⁶³ provided that they:

- a) ordinarily reside in Cyprus and/or resided for a continuous period of twelve months in Cyprus or a shorter period that the Minister may accept under special circumstances of any specific case, immediately before the date of the submission of their application,
- b) or are serving in the civil or public service; are of good character; intend to remain in the Republic, or depending on the circumstances, continue serving in the civil or public service (sub-s. 110(1) Law on the Population Data Archives No. 141(I)/2002); and
- c) sign an official confirmation of loyalty to the Republic.

⁶¹ Statement of the Minister of Justice and Public Order, speaking before the Parliamentary Committee.

⁶² For Sub-sect. 110, ‘a country of the Commonwealth’ includes every country excluding the Republic of Cyprus, on the date of entry into force of the Law, which is a member of the British Commonwealth, and additionally includes Ireland and any other country that has been declared by an Order of the Council of Ministers as a Commonwealth country for the purposes of this section.

⁶³ For the purposes of Sub-sect 110, a person of Cypriot descent is defined as any person born in Cyprus and whose parents ordinarily resided in Cyprus at the time of his or her birth and includes every person that descends from these persons.

2. Spouses or widow(er)s of persons who were citizens of the Republic, or spouses of persons who, had they not been deceased, would have become or would have had the right to become citizens of the Republic, provided that they fulfil the following conditions:

- a) ordinarily reside in Cyprus and/or resided there for a period not less than three years;⁶⁴
- b) are of good character;
- c) intend to remain in the Republic, or depending on the circumstances, continue serving in the civil or public service of the Republic or the educational service of the Republic or the Police force of the Republic even after registration as citizens of the Republic (Sub-section 110(2)); and sign an official confirmation of loyalty to the Republic.

3. Underage children of any citizen. In this case the application for citizenship has to be submitted by the parent or the guardian of the child.

Acquisition via naturalisation⁶⁵ is provided for in the law: a non-Cypriot who resides lawfully in the Republic may acquire citizenship via discretionary naturalisation if he or she fulfils all of the following conditions:⁶⁶

1. He or she has lawfully resided in the Republic of Cyprus for the entire duration of twelve months immediately preceding the date of application;
2. Over and above the twelve months referred to above, for an additional continuous period of seven years in the period immediately prior to this, the applicant must have ordinarily resided in the Republic, or have been serving in the civil or public service of the Republic, or a bit of both, for periods amounting in total to no less than four years;
3. He or she is of good character; and
4. He or she intends to reside in the Republic.

The law also provides for acquisition of citizenship via naturalisation for students, visitors, self-employed persons, athletes and coaches, domestic workers, nurses and employees who reside in Cyprus with the sole aim of working there as well as spouses, children or other dependent persons. The prerequisites are that they must have ordinarily resided in the Republic for at least seven years; also one year in the period immediately prior to the application their stay must be ‘continuous’.⁶⁷ In addition there are exceptional situations where citizenship may be granted.⁶⁸

The regime is based on discretionary power of the authorities and in particular the discretion of the Council of Ministers and the Minister of the Interior. Therefore the naturalisation procedure has been criticised for its discretionary nature by international reports and NGOs. The Second ECRI Report on Cyprus criticised the fact that the conditions for naturalisation ‘leave a wide margin of discretion to the Naturalisation Department as concerns decisions to grant citizenship’; moreover the same Report claims that ‘there have been complaints that

⁶⁴ There are also specific provisions allowing the minister to take measures after less than three years, but it is restricted to a minimum of two years. Also, for the purposes of this subsection ‘ordinary residence’ requires at least six months stay in Cyprus but in any case the total residence in Cyprus during the preceding three years prior to submission of the application must not be less than two years.

⁶⁵ In Greek Πολιτογράφηση (politográphese)

⁶⁶ Contained in Table 3 annexed to the law (sub-section 111).

⁶⁷ Introduced by amendment 58(1)/1996.

⁶⁸ Introduced by amendment 70(1)/1996.

these decisions are sometimes discriminatory' (ECRI 2001: 9). The same practice was criticised by the Third ECRI Report on Cyprus (2006: 8), which also notes that 'decisions are still excessively discretionary and restrictive' but that 'this is reflected not only in the use made of public order considerations, but also in the application of residency and language requirements'. Several decisions by the Ombudsman have criticised a number of practices of the Population Data Archives regarding the process of granting citizenship. In particular, criticism is directed at the restrictive approach of the Director of the Population Data Archives as regards the acquisition of citizenship via registration and naturalisation; particularly critical are the decisions regarding the rejection of applications for citizenship based on marriage with Cypriots.⁶⁹ Moreover, the decisions highlight considerable delays in the processing of the applications, prejudice based on the religion of the applicant and the exercising of administrative discretion in the interpretation of the regulation that excludes those who have entered the country illegally from acquiring citizenship.⁷⁰ Also, the 'Cyprus problem' is often quoted as a 'national priority' and is invoked by Greek-Cypriot authorities as the reason for their reluctance to open up citizenship rules so as not to alter the demography, particularly in the context of the Turkish policy of settlement in the occupied northern territories. However, this does not withstand close scrutiny as numerous amendments were made to facilitate various population policies that benefit what is perceived as 'the Greek-Cypriot interest'.

Overall, the implementation of the rules on naturalisation and with the wide margin of discretion provided for by the legislation is an issue of concern regarding the fairness of these policies. There is little encouragement and information for persons entitled to be naturalised and there are bureaucratic obstructions that make the application for naturalisation unattractive and cumbersome. One can explain this policy as a mixture of the colonial legacy and the keenness of the authorities to hold on to their 'sovereignty' concerning entry, sojourn, residence and citizenship, particularly as the protracted Cyprus conflict is often invoked as a pretext. The consequence is a restrictive regime that requires reform if it is to observe international law standards on the subject.

2.3 Gender and regional/local dimension in integration mechanisms

a. Gender specificities

In general there is little or no literature on the subject of gender and regional/local dimension in integration mechanisms in Cyprus. Little concern has been given in the literature on gender in Cyprus: gendered employment has so far failed to examine the migrant women as part of female labour of Cyprus in the same way that the few studies that exist on labour in Cyprus generally do not consider migrant labour as part of the working class, as pointed out in other works (see Trimikliniotis & Souroulla 2010).⁷¹ However, more recently literature on migrant labour and migration in Cyprus has increasingly begun to consider the issues relating to the hierarchies in the labour market, discrimination and exploitation of various categories and social groups, geographical factors and gender specificities.⁷²

⁶⁹ See relevant Ombudsman Reports, Files No. 2599/2005, 1958/2005, 2059/2005, 2368/2005, 2599/2005, 2780/2005.

⁷⁰ See Ombudsman Report, File No. 727/2006.

⁷¹ See also Trimikliniotis 1999; 2006.

⁷² See INEK 2004 and 2005; Trimikliniotis 1999, 2007; Trimikliniotis and Demetriou 2005, 2006; 2007a, 2007b, 2008, 2009; Trimikliniotis and Fulas-Souroulla 2006a; Agathangelou 2004; Harakis et al. 2005; Panayiotopoulos 2005; MIGS 2008.

The position of women in the labour market, not only migrant women, the legislative framework for gender equality and collective bargaining shows a serious gender gap.⁷³ Women have a lower employment rate than men and a higher unemployment rate, and are more likely to work part-time or on a temporary basis, while their average pay is lower than that of men. Even though specific legislation on workplace gender equality has been introduced only recently, bargaining does not appear to deal with equality matters and women's share of overall employment is significantly lower than that of men. The gap between the numbers of employed men and women in Cyprus is greater than in most of the current EU member states. Overall, in recent years the composition of employment has displayed a small but steady shift in women's favour. Despite the greater numbers of women in the labour market and, to some extent, a change in the 'patriarchal' structure of employment, the overall situation of women's employment remains "particularly disadvantageous vis-à-vis that of men" given that "women's employment rate lags significantly behind that of men, women's unemployment rate is almost double, and women prefer or are preferred in positions of flexible employment, particularly part-time and temporary employment". Moreover, "women continue to be over-represented in low-skilled jobs, and there are indications that they fill a significant number of jobs in the clandestine economy".⁷⁴ This last category includes the large number of female migrant workers employed in the so-called 'sex industry', as well as many migrants employed as domestic workers. In addition, women as a whole constitute the majority of unpaid workers in family enterprises. It should be noted that the largest increase in employment was related to private households that employ domestic staff, and was due to the continued increase of migrants employed as domestic workers (see Soumeli and Trimikliniotis 2004). The position of women in the Cypriot labour market is clearly worse than that of men, in respect to their participation in employment and unemployment and in relation to the quality of their employment. The same is true with regard to the wage gap between men and women.

The issue of women's participation in the migration process and the reasons for which they migrate is important. Whilst there were always women migrants, there is an increasing trend of specific female migration, which is worth analysing; indeed, in Cyprus the majority of migrant workers are women (see WP1; Trimikliniotis and Souroulla 2010). This change also represents one of the most significant trends in recent international migration streams and is referred to as the 'feminisation of migration'; and this is also true of Cyprus.⁷⁵ It influences the shaping of roles and affects relationships between men and women in countries of origin as well as of destination. The issue of gendered migration in the Cyprus context has been raised in various previous works.⁷⁶ Whether as an issue of public discourse or violation of employment/human rights of domestic workers and in particular South-East Asians (Kadir 2001; Lenz, 2001), or a general issue of belonging and participation of women migrants in civic life (Trimikliniotis 2003b), the exclusion and racism targeting migrant women assumes specific forms and raises its own particularities. Even though many women "endeavour to establish gender equality, the 'androcentric' evaluation of gainful labour versus unpaid or at best lowly reproductive work" reproduces gender inequality, but on a "racialised level" (Lenz 2001:75).

⁷³ See for instance Soumeli and Trimikliniotis 2004

⁷⁴ See Soumeli and Trimikliniotis 2004.

⁷⁵ For more details see also FeMiPol WP3 report, section about Cyprus, available at: http://www.femipol.uni-frankfurt.de/docs/working_papers/wp3/statistical_analysis.pdf

⁷⁶ See Trimikliniotis 1999, 2001; Trimikliniotis and Pantelides 2003; Kadir 2001; Lenz 2001; Trimikliniotis, Demetriou and Souroulla 2008; Trimikliniotis and Souroulla 2010.

, The question of gender and migration in Southern Europe as an academic and policy question is the subject of debate in recent literature, including some references to Cyprus (see for instance Anthias and Lazarides 2000). Anthias and Lazaridis (2000:17) have developed a conceptual framework for gendering the migration process drawing on the case of Cyprus “to explore more substantively some of the issues relating to the feminisation of migration within new migration processes, particularly as they relate to Southern Europe”. Issues relating to women migrants and gendered work illustrate the importance of their location in the labour market “within a secondary, service-oriented or hidden labour market that is divided into male and female sectors and reproduces an ethnically and gendered divided labour market”. There is concentration of women’s participation in the service sector, particularly domestic/care service and within the sex or leisure industry. Anthias and Lazarides (2000: 26) argue that within the service sector, “the undocumented nature of much migration is therefore important in structuring its relation to the market, in terms of the hidden or private economies”. Other studies also examine the issue of gendering migration in the Cypriot context in the context of the labour market (Trimikliniotis 1999; Trimikliniotis and Pantelides 2003). Generally, almost all empirical research published focus on the experiences of domestic workers and women in the sex industry; however there is a research gap in relation to other groups of women migrants (workers) in Cyprus. Empirical research has illustrated a number of problematic features of gendered migration and employment in Cyprus. It has shown that the overall absence of interest on specific policies that would enhance the position and rights of female migrants has a highly gendered policy implications and practices (Trimikliniotis, Demetriou and Souroulla 2008). Other research has illustrated the violation of employment/human rights of domestic workers, in particular South-East Asians (Kadir 2001; Lenz 2001; Mediterranean Institute of Gender Studies 2008); the globalisation of care with a focus on experiences of Filipina domestic workers as carers for the elderly (Panayiotopoulos 2005) and the problematic manner which the rights of migrants belonging and participation of women migrants in civic life (Trimikliniotis and Demetriou 2005a, 2007a). Furthermore, other studies have focused on the migrant women in the sex industry (Lenz, 2007; Mediterranean Institute of Gender Studies 2007) Agathangelou (2004) examines the movement of domestic and sex workers to Cyprus, Greece and Turkey and demonstrates that gender, race (ethnicity), and nationality are crucial elements in the constitution of desire economies.

The decision by the European Court of Human Rights (ECtHR) in the case of *Rantsev v. Cyprus and Russia*,⁷⁷ which received international attention human rights organisations, was issued on 7 January 2010. It is considered to be 'an historic first judgment concerning cross border human trafficking in Europe', as the ECtHR has found that Cyprus and Russia committed a number of human rights violations. The case concerns the death of a twenty year old Russian woman, Oxana Rantseva, who was trafficked from Russia to Cyprus, a destination country for women trafficked from Eastern and Central Europe for the purpose of sexual exploitation. In Cyprus under the “artiste” visa scheme, she was subjected to sexual exploitation in a cabaret in the island’s largest coastal resort, Limassol. Ms Rantseva was found dead in March 2001 below the balcony of an apartment belonging to an employee of the cabaret, having been taken there from a police station by the cabaret’s owner. The police found a bedspread tied to the railing of the balcony on the upper floor of the apartment. An inquest in Cyprus found she had died as a result of injuries sustained when she jumped from the balcony. The case was brought by Nikolay Rantsev, Ms Rantseva’s father. He argued that there was no adequate investigation into the circumstances surrounding his daughter’s death,

⁷⁷ Application no. 25965/04. For a short report of the case see <http://www.interights.org/rantsev>

that she was inadequately protected by Cypriot police while she was still alive and that there was a complete failure to punish the individuals responsible for exposing his daughter to the sexual exploitation and ill treatment which ultimately led to her death. He also complained about the lack of access to the judicial process in Cyprus. The Court found that Cyprus, had not only failed to protect Ms Rantseva from being trafficked or from being unlawfully detained prior to her death, but it had also failed to adequately investigate her death. Russia, the state of origin, was found by the Court to have failed to adequately investigate the way in which Ms Rantseva had been trafficked from its borders. The Court ordered the Cypriot Government to pay Oxana Rantseva's father the sum of Euro 40,000 in damages and the Russian Government to pay a sum of Euro 2,000.

b. Regional specificities

We have no official data on regional aspects of migration. However the regional dimensions and locality factors can be crucial in development of effective integration policies. There is ethnic/nationality concentration within specific areas and there are good indications of specific locations of high third country migrant concentration in specific urban and rural setting. The social scene of Cyprus,⁷⁸ has seen a dramatic change over the years. Not only tourism has grown immensely, but also inner city areas, such as Faneromeni⁷⁹ and certain neighbourhoods in Paphos, which had once been hang-outs for Cypriots have now become areas of high concentration of migrants. They have become city centres resembling many other inner European cities, on a smaller scale and with their own specificities. Some aspects regarding the localities and regional specificities and transformations were discussed in WP1.

3. Employment policies affecting TCNs' access to the labour market

3.1 Overview and critical evaluation of employment and residence requirements

Overall, TCN had a major impact on the economy and are thought to have contributed up to 50% of the growth since they first arrived in Cyprus (see WP1). As shown there, research carried out shows that the employment of TCNs overall had beneficial effects on the employment by TCNs on the economy, on unemployment, on part-time work and the employment of Cypriot women.

A number of institutional devices, designed with those goals in mind, have resulted in an institutional framework which carries the following characteristics: (a) Work permits are granted to employers on the condition that the migrant worker applied for is attached to a specific employer (the applicant) without the freedom to change jobs unless the original employer consents to such change or there is a labour dispute; (b) Work permits are granted on an annual basis and with a maximum ceiling of five years in order to exclude the possibility of having to grant citizenship to migrants, structurally producing and reproducing a framework of precariousness and exclusion. There are major gaps in the employment policies

⁷⁸ Such transformations of cities include Nicosia, Limassol and Paphos has been illustrated by various studies. The transformation of Nicosia and Paphos was brilliantly described by Argyrou (1993), who conducted his fieldwork 1991-92, just after the policy change that allowed the introduction of 'foreign' labour into Cyprus

⁷⁹ The rightwing newspaper *Simerini* (21.3.03) carried the headline "Old Nicosia is a ghetto", quoting a Police chief who expresses 'concern' about the concentration of migrants in the area but expresses his assurances that the Police is 'prepared to take drastic measures'.

as a result of which we can observe patterns of inequality in the labour market can be located if one examines the kind of jobs migrant from third countries and some other numerically smaller ethnic groups are concentrated in. Third country migrants are by policy design concentrated in the lower echelons of the labour hierarchy, as it is a condition for granting them employment and entry permit that they take up jobs that Cypriots do not wish to do: typically these are low skill, pay and status. However, what is particularly problematic is that migrant workers have little, if any opportunity for training and betterment, and no opportunity whatsoever to progress or advance in the employment ladder in terms of promotion or career move, as their stay is dependent on the particular job and employer.⁸⁰

3.2 Access to the labour market: policies regulating employment in sectors with high participation of TCNs

3.3 Policy assessment of informal economy and undeclared work

The current policy on the informal economy and undeclared work is to crack it down essentially by repressive measures. There are no amnesty or regularisation policies in place as we have noted above. Irregular or undocumented or clandestine migrant workers form a significant portion of what is known as the 'informal' or 'black economy' and can be seen as part of the phenomenon of 'undeclared work'. Nevertheless, undocumented migration has additional and specific characteristics that derive from their third country national status which make their position in 'undeclared' work particularly vulnerable as they face, if discovered, both the 'normal' sanctions (detention, fines and imprisonment) as well as deportation.

In Cyprus, irregular or undocumented migrants are primarily workers who have entered the country legally but remain after their visa conditions have expired; they are primarily 'over-stayers'. However, the issue of undocumented immigrants is difficult and controversial and there is very little research on the subject. The employment of undocumented workers is quite beneficial to employers since they do not have to adhere to any officially agreed terms of employment and they do not have to pay social security contributions or indeed even the salary, in some occasions. They are employed in sectors of the economy with extremely harsh working conditions such as construction, agriculture, manufacturing and the entertainment business. Media reports bring out the plight of such workers, who are said to be paid minimal wages, far below the official minimum wage acceptable to Cypriots (statutory or terms agreed in the collective agreements), they endure long working hours, unhealthy and unsafe working conditions, and it is not uncommon that they are harassed, not to mention the common practice of employers to simply withhold their wages, particularly in the case of seasonal workers. Migrant workers without papers are often criminalised and the authorities, particularly the police often embark on various policies of repression to 'combat illegal migration'.

Undeclared work is employment which is lawful in nature but is not declared to the public authorities. Due to its nature, it is an area where little data is available as to its extent. The available data are fragmentary and based on estimates and rough guess. Cyprus' 'black market economy' is worth more than an estimated 486 million pounds (972 million dollars)

⁸⁰ See Trimikliniotis, N. and Pantelides P, (2003) "Mapping Discriminatory Landscapes in the labour market", in: *The Cyprus Review*, Vol. 15, Spring 2003, N. 1. and Harakis C. (ed.) (2005) *Antikoinoniki Symperifora ton Neon tis Kyprou-Ratsistikos taseis*, Athens: Sakoula.

annually, representing 9.17 per cent of its gross domestic product (GDP).⁸¹ According to some estimates the phenomenon of undeclared work is more widespread in specific sectors of the industry, particularly in construction and the hotels industry, as well as some other parts of the services sector.⁸² Undeclared work is generally believed to affect mostly specific categories of workers, the more vulnerable ones, particularly migrant workers and Turkish Cypriots, and to a lesser extent women and new labour market entrants. Some indications of this are given by the latest available data on the construction industry, published in December 2003, which concern 789 inspections carried out by the Cyprus Ministry of Labour and Social Insurance in November 2003. It was found that 11.3 per cent of employers and 29.9 per cent of workers inspected were not registered with the social insurance scheme. These figures resulted from inspections, which formed part of a general inspection campaign on the social insurance situation of Turkish Cypriots and Greek Cypriots and thus did not examine other categories of employees such as undocumented migrant workers. This inspection campaign was carried out in response to pressure from the employers' organisations and the trade unions in the sector. In Cyprus, according to estimates by the parties involved, apart from people whose employment consists solely of undeclared work – i.e. cases where undeclared work is the only source of income for the employee - another frequent phenomenon is partially undeclared work, which can take one of two forms: either part of the working time is not declared; or there is a second undeclared job with shorter working hours. Data from a labour force survey conducted for 2003 show that 6.9 per cent of all employees had a second job; in 2002 the figure was 4.9 per cent.⁸³ For 2004 the figure is likely to be much higher as the estimates of Turkish-Cypriot workers working in the south of Cyprus exceeds 12000, of whom only 4,000 are registered and are socially insured.

The European Commissioner for Human Rights Mr Alvaro Robles⁸⁴ criticised the practice of the authorities in Cyprus to criminally prosecute persons who enter the country unlawfully or who reside in Cyprus unlawfully and suggests the handling of such cases at the administrative level, which would also contribute to the alleviation of the problem of the overcrowding of jails, where the illegal immigrants are held. Also the Third ECRI Report on Cyprus records that the working conditions in the sectors of the farming and agriculture industry, which is almost entirely made up by migrant workers and are sectors open to the employment to asylum seekers, are 'extremely poor': wages are well below the minimum fixed by collective sectors of the economy'. The Report refers to non-governmental organisation reports that asylum seekers are pushed towards the irregular labour market' (para.55) and recommends that the Cypriot authorities ensure that asylum-seekers are not discriminated against in exercising the right to employment granted to them by law' (para. 60).

The issue of unemployment and TCNs was discussed extensively in WP1.

3.3.1 Combating Irregular Migrants: Policing, Repression and Immigration

⁸¹ See Anorthotiko Komma Ergazomenou Laou- AKEL (2004): "I paraikonomia stin Kypro", Nicosia, for a study on the so-called 'informal sector'. According to this study the biggest sector in the island's illegal economy is drug trafficking, worth 136 million Cyprus pounds each year and prostitution, worth 40 million Cyprus pounds.

⁸² See Soumeli, E. "Thematic Feature – Industrial Relations and Undeclared Work", European Industrial Relations Observatory (EIRO) in Cyprus, available at <http://www.eiro.eurofound.eu.int/2004/06/tfeature/cy0406104t.html>

⁸³ Soumeli, E. "Thematic Feature – Industrial Relations and Undeclared Work", European Industrial Relations Observatory (EIRO) in Cyprus, available at <http://www.eiro.eurofound.eu.int/2004/06/tfeature/cy0406104t.html>

⁸⁴ Report of the European Commissioner for Human Rights Alvaro Robles on Cyprus, submitted to the European Council on 12.02.2004.

Various police operations of stopping and arresting foreign-looking persons, who did not have their documents on them are reported from time to time: they are then taken to open space until their documents are searched, a practice that was applauded by the right-wing trade union Cyprus Workers' Confederation-SEK⁸⁵, but attracted heavy criticisms of racist discrimination by NGOs and human rights activists. A recent police operation to hunt down irregular migrants in the inner part of Nicosia (25.09.2009) has received a great deal of media attention. The operation, which was code-named by the police as operation 'swoop' involved the setting up roadblocks in the city centre, invading the houses of migrants, mass transfer to police stations, use of handcuffs, and coverage of all these images by the media which had been invited to the spot by the police. In total 257 police members were involved in the operation, encircling the old town and carrying out raids in migrant houses in the early hours of the morning, leading to 150 migrants being forcibly apprehended and taken to police stations for identification, resulting in 36 arrests for illegal residence and 12 in connection with altercations at a Nicosia Mosque a few weeks earlier. The Head of the Equality Body expressed her "revulsion and deep concern" over the operation stating that it did nothing towards clamping down irregular migration but only served to feed xenophobic attitudes and racist stereotypes, adding that her office has received and will investigate complaints against the raids. NGOs held protests against the police action and some political parties joined in the chorus of criticism against the operation, though some more hesitantly than others. The Interior Minister and the Mayor of Nicosia also expressed their opposition to the operation, adding that the police carried it out without informing them. The Interior Minister was adamant that immigration was within his exclusive jurisdiction and vowed that such operations will not be repeated. In response, the Chief of Police told the press that he needed no-one's permission in order to 'enforce the law' and warned that similar operations will continue to be carried out. The minutes of the 03.09.2009 deliberations at the House of Representatives (i.e. before the raids) quote the Justice Minister saying that the police is instructed to instantly remove "undesirables" (referring to irregular migrants) even when they have no papers and deport them to Iran. At the same deliberations, the Chief of Police asked the Parliamentarians to empower the police to summarily deport all irregular migrants as soon as apprehended, so that they do not stay in Cyprus long enough to acquire rights. The Head of the Equality Body called for an effective response to the problem by drawing up "a modern, coherent migration policy" dealing with the reception, living conditions and integration of migrants into Cypriot society, aiming at a comprehensive policy of "social cohesion and solidarity, and the safeguarding of individual rights of the entire population, without discrimination on the basis of their legal status."⁸⁶

3.3.2. No effective mechanism for irregular migrations to lodge complaint.

A serious problem is the fact that there is no effective mechanism for irregular migrants to lodge complaint. Evidence of non-compliance by employers with labour laws is abundant, whilst few initiatives have taken place to unionise or otherwise organise migrant workers. Yet, the current measures of legislative and administrative practice do not ensure that there are effective mechanisms through which third-country nationals in illegal employment may

⁸⁵ See Yannakos, C. (2004) "Skoupa gia Allodapous", in: *Fileleftheros* (31.7.04), about the process of arrest of 729 persons in one hour. From occasional newspaper reports, it appears that the same practices seem to continue to date, though not on such a massive scale.

⁸⁶ T. Agathocleous (2009) 'Υπουργός Δικαιοσύνης προς Αστυνομία: Να διώχνετε αμέσως όλους τους ανεπιθύμητους', in *Alithia* (02.10.2009) p. 11; C. Nanos (2009) 'Ποτέ ξανά "σκούπα' in *Politis* (28.09.2009), .4; S. Evripidou (2009) 'Police sweep 'disgusting'', in *Cyprus Mail* (28.09.2009).

lodge complaints against their employers, directly or through third parties. It is widely thought in legal and NGO sectors that irregular migrants are reluctant to file complaints for fear that they will be returned to their home country when caught; in fact there have been instances reported in the media as well as in reports of the Ombudsman where migrant workers in *legal* employment were forcibly expelled from the country when they filed complaints against their employers. Employees' organisations or other organisations with legal standing or a legitimate interest can, with the consent of their members, represent victims of discrimination in proceedings before the Court or before the equality body.⁸⁷ Similarly other relevant laws⁸⁸ provide that organisations or other legal personalities, which have as their constitutional aim the combating of discrimination on the ground of racial or ethnic origin and with legal standing or a legitimate interest can, with the consent of their members, act on their behalf.

The aforesaid provisions, however, cannot act as security that an irregular migrant filing a complaint through an organisation will not be deported when caught. Complaints may be filed through NGOs or trade unions, however at some point the complainant will have to appear in person before the officer of the Labour Office or before the Court or before the police, depending on the route of complaint chosen, and upon such appearance s/he will most certainly be apprehended for illegal stay and be deported. Complaints by irregular migrants may be submitted to the Equality Body which may investigate the complaint without necessarily request the presence of the complainant in person. Investigation of complaints by the equality body are however slow and hardly ever lead to sanctions or binding decisions, as the body prefers to use mediation. At the point where the irregular migrant is in possession of a decision or recommendation which s/he may try to enforce, it is alleged that the immigration police will be called on the scene and will instantly arrest him/her and detain him/her until deportation. The current law on Aliens and Immigration does not provide for any effective mechanism to ensure that recovered amounts of outstanding remuneration are able to be received by the third-country nationals to whom they are due.

Under Cypriot law, assistance to third-country nationals to lodge complaints is not considered as facilitation of unauthorised residence under domestic rules implementing the relevant Council Directive⁸⁹ defining the facilitation of unauthorised entry, transit and residence, or under other national regulations. The Aliens and Immigration Law⁹⁰ criminalises assistance to unlawfully enter, transit or stay into any member state, however this provision cannot be interpreted as including assistance to file complaints. However, on 18.06.2009 the Cypriot government submitted a draft law to Parliament criminalising the renting of accommodation to undocumented migrants. The bill provides that anyone caught renting or offering accommodation an undocumented migrant will face a fine of up to €4,000 and/or 18-months imprisonment.

⁸⁷ Under Article 14 of Law on Equal Treatment in Employment and Occupation N.58(I)/2004 (transposing the employment component of the anti-discrimination directives) and Article 9D of Law N.127(I)/2000 as amended (transposing the disability component of Directive 2000/78/EC).

⁸⁸ Such as the Law on Equal Treatment (Race or Ethnic Origin) N.59(I)/2004, Article 12.

⁸⁹ Directive 2002/90/EC of 28 November 2002.

⁹⁰ Article 19(A).

3.4 Discussion of gender specificities

There are a number of studies and other data regarding the employment situation of TCNs. The Third ECRI Report on Cyprus;⁹¹ official Governmental data is concerned, a number of important reports and material are available by the Labour Department of the Ministry of Labour and Social Insurance such as the Annual Report of the Labour Office for 2005,⁹² Procedure for employment of European Citizens,⁹³ Information on the labour market in Cyprus⁹⁴ and the terms of employment of foreign workers in Cyprus;⁹⁵ the National Report on Strategies for Social Protection and Social Inclusion 2006-2008.⁹⁶ Also there are EU-related reports that monitor implementation⁹⁷ and transposition of relevant EU directives such as non-discrimination;⁹⁸ free movement of workers⁹⁹ etc.

Even though there is no official and non-official statistical data or other information available dealing with incidents of racism, discrimination, and the situation of TCNs in employment, there are sound studies showing evidence of discrimination, marginalisation and exploitation. From the data on TCNs in employment and the types of jobs they perform, it is possible to draw some conclusions as to their position in the labour market and in society at large, based also on research and other reports. In general, it is possible to infer that the position of migration employment remains vulnerable and trends illustrate that there are problems of discrimination and non-integration in employment.¹⁰⁰ For the distribution of migrant workers in various sectors of the economy, see WP1.

Regarding the link between unemployment and TCNs, we cannot establish any connection given that it is a precondition for a third country migrant to have a job offer in order to obtain work permit; in other words the permit to hire TCNs must be granted to the employer in advance, in order for the migrant worker concerned to be able to secure entry into Cyprus. There are no statistics on ethnic background and unemployment, nor do we have any other hard evidence or information on the subject to indicate that this is the case.¹⁰¹ We have no data on the actual discrimination trends in employment as the figures from various studies made are from disparate sources and are not comparable. As for the trends in the migration

91 ECRI (2005) *Third Report on Cyprus, European Commission against Racism and Intolerance*, Council of Europe, Strasbourg, 16 May 2006.

92 See http://www.mlsi.gov.cy/mlsi/dl/dl.nsf/dmlannual_gr/dmlannual_gr?OpenDocument

93 This is found on website of the Labour Department of the Ministry of Labour and Social Insurance and is dated 25.09.2005. it can be found the following link:

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

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

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

96 Ministry of Labour and Social Insurance, Lefkosia, September 2006.

97 See The Annual Report on the implementation of Council Regulation (EC) 866/2004 of 29 April 2004 and the situation resulting from its application, COMMUNICATION FROM THE COMMISSION, COM(2006) 551 final, Brussels, 25.9.2006, http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&numdoc=506DC0551&lg=en

98 Reports for EU Commission on behalf of Human European Consultancy and the Migration Policy Group, at http://europa.eu.int/comm/employment_social/fundamental_rights/policy/aneval/legnet_en.htm#coun

99 See Trimikliniotis 2010.

100 See available at http://www.prio.no/upload/4_TRIMIKL_DEMETRIOU.pdf; Trimikliniotis, N. and Demetriou, C. (2006) *Combating ethnic and racial discrimination and promoting equality: Trends and developments 2000 – 2005*, Cyprus NFP Special Study Report for RAXEN. This is confirmed by ECRI (2005) *Third Report on Cyprus, European Commission against Racism and Intolerance*, Council of Europe, Strasbourg, 16 May 2006.

101 It has been suggested during an interview with one leader of a Pontiac group that there may be a problem with young Pontiacs who find it is difficult to find work (see Trimikliniotis, N. Trimikliniotis, N. (2001) *The Educational Problems of the Pontiacs in Cyprus: Preliminary Research and Report on Primary Education*, Report on behalf of the Cyprus Association of Sociologists submitted to the Ministry of Education 2001). Pontiacs are of Greek origin that migrated from the Caucasus region and Georgia to Cyprus after 1989.

and employment figures, we can safely state that a high concentration of migrant workers in lower echelons of the labour hierarchy can be observed and that migrant workers are continuing to perform low pay, low status and manual jobs.¹⁰²

As far as racial/ethnic discrimination in employment, the Third ECRI Report on Cyprus, confirms the findings of the Second ECRI Report that third country nationals continue to form the most vulnerable group despite institutional developments brought about by Cyprus' EU accession in 2004. Amongst migrant workers, evidence shows that domestic workers are in a most vulnerable position, along with asylum seekers whose right to access the labour market is restricted to farming and agriculture, the most low-status and low-paid jobs in the market. Evidence of non-compliance by the employers with contract terms is abundant. Various Annual Reports of the Labour Office¹⁰³ of the Ministry of Labour and Social Insurance state that the policy is to ensure equal treatment between Cypriots and non-Cypriot workers. However, from the Preliminary Report of the research conducted by the Research Centre of the Cyprus College on barriers to mobility from and to Cyprus "it is generally admitted by all interested parties that there is exploitation of foreign labour force in Cyprus and especially on subjects such as pay, labour/industrial relations and working conditions".¹⁰⁴ This is attributed to inadequate information, the general feeling of social exclusion and marginalisation due to the inability and unwillingness of Cypriots to accept cultural diversity. Most EU workers come from Greece (including Pontiac Greeks), Poland, the UK and Slovakia. The study has located barriers such as the difficulties in communication due to language, educational and family reasons, non recognition of academic qualifications and the great distance between Cyprus and continental Europe.¹⁰⁵ The National Report on Strategies for Social Protection and Social Inclusion 2006-2008,¹⁰⁶ under the subheading "2.3.2 Employment policy for foreign workers" reiterates the general statements that "the strategy for the employment of third country nationals will be revised with a view to serving the development needs of Cyprus without undermining the objective of increasing the domestic supply of labour. This strategy will enhance efforts to promote access to the labour market for persons facing special problems (e.g. women, young persons and older workers), since these persons are affected by the influx of foreign labour force in Cyprus." The measures envisaged under the new strategy are "the strengthening of the infrastructure of the Department of Labour for the effective monitoring of the labour market" and "enhancing the monitoring infrastructure of the new strategy." No details are provided as to how these are to be implemented.

In fact, all major studies on the third country migrant workers point to the same conclusion: that they remain in 'a vulnerable position', as the Second ECRI Report on Cyprus¹⁰⁷ notes. They continue to be in a vulnerable position in spite of the improvements to the institutional

¹⁰² See Trimikliniotis, N. (1999) "New Migration and Racism in Cyprus: The Racialisation of Migrant Workers" Anthias, F. and Lazarides, G (eds.), *Into the Margins: Exclusion and Migration in Southern Europe*, Ashgate Press, Avebury; *Contribution to EUMC Annual Report 2003 – Cyprus*, Cyprus NFP Report; Trimikliniotis, N. and Pantelides, P. (2003) "Mapping Discriminatory Landscapes in the labour market", *The Cyprus Review*, Vol. 15, Spring 2003, N. 1. Also see Trimikliniotis, N. and Demetriou, C. (2006) *Combating ethnic and racial discrimination and promoting equality: Trends and developments 2000 – 2005*, Cyprus NFP Special Study Report for RAXEN.

¹⁰³ See http://www.mlsi.gov.cy/mlsi/dl/dl.nsf/dmlannual_gr/dmlannual_gr?OpenDocument

¹⁰⁴ Presentation of Preliminary Results of a Research, 2006: European Mobility Year in an Enlarged Europe, on behalf of the Labour Department of the Ministry of Labour, 2.10.2006, Lefkosia. The research is based on interviews of stratified samples from all echelons of working life of 850 Cypriots, 200 workers from different European countries and used methods of questionnaires, semi-structured interviews and focus groups.

¹⁰⁵ See Press Release and power point presentation provided of the study, *Barriers to mobility from and to Cyprus*.

¹⁰⁶ Ministry of Labour and Social Insurance, Lefkosia, September 2006.

¹⁰⁷ ECRI (2001) Second Report on Cyprus, European Commission against Racism and Intolerance, Council of Europe, Strasbourg, 3 July 2001.

and legal framework, as pointed out in the Third ECRI Report on Cyprus (published on 16 May 2006).

Discrimination and inequality in the labour market is a pattern that can be located by examining the kind of jobs migrants from third countries, many EU citizens from poorer countries and some other numerically smaller ethnic groups are concentrated in. Third country migrants are by policy design concentrated in the lower echelons of the labour hierarchy: it is a condition for granting them work permit and entry permit that they take up jobs that Cypriots do not wish to do which are typically low skill, low pay and low status. However, what is particularly problematic is that migrant workers have little, if any opportunity for training and betterment, and no opportunity whatsoever to progress or advance in the employment ladder in terms of promotion or career move, as their stay is dependent on the particular job and the particular employer.¹⁰⁸

The Cyprus Equality Body has ruled that the treatment of foreign domestic workers is discriminatory on the ground of race or ethnic origin and located indirect discrimination in the low salaries paid to migrant domestic workers¹⁰⁹ compared to Cypriot workers, pointing out that the number of migrant female domestic workers now in Cyprus has increased. In fact since then it has almost doubled. The fact that there is evidence of discrimination and violation of the employment working condition of domestic workers was already recorded by the Second ECRI Report, as well as other studies.¹¹⁰ Moreover as regards the newly adopted regulations restricting access to the labour market for asylum seekers, who are now forced to work only in the farming and agriculture, the Third ECRI Report criticises the authorities for this restriction which is deemed to be a means intended to deter people from applying for asylum in Cyprus (para.57). The Third ECRI Report¹¹¹ also points to the possibility of indirect discrimination against non-EU workers “when collective agreements stipulate unreasonably disadvantageous conditions for sectors mainly operated by these workers” (para.71). The Third ECRI Report refers to the fact that the Second ECRI Report on Cyprus noted the particular vulnerable situation, “exploitation and abuse by their employers” of domestic and other foreign workers, noting that there have been some changes in the procedures; however, “the close link still existing between employment with a specific employer and the residence permit” continues to be critical and as a result “domestic and other foreign workers are still reported to endure serious situations of exploitation and abuse in order to avoid deportation”. Moreover, the Third ECRI Report¹¹² refers to the problem of “artistes” in cabarets, night clubs and pubs, who are often victims of trafficking (para.111).

In WP1 we have discussed the issue of inequality and exclusion of Third country nationals in the labour market and have suggested some ‘Indexing indicators’ linking issues relating to

108 See Trimikliniotis, N. and Pantelides P, (2003) “Mapping Discriminatory Landscapes in the labour market”, in: *The Cyprus Review*, Vol. 15, Spring 2003; N. 1. and Harakis C. (ed.) (2005) *Antikoinoniki Symperifora ton Neon tis Kyprou-Ratsistikes taseis*, Athens: Sakoula.

109 Calculated at CYP0.82 per hour, contrasted with CYP4-Cyp5 per hour for Cypriots carrying out the same work: Cyprus Ombudswoman Report File No. A.K.I 2/2005, dated 4.11.2005, page 4.

110 See Trimikliniotis, N. (1999) ‘New Migration and Racism in Cyprus: The Racialisation of Migrant Workers’, Anthias, F. and Lazarides, (ed.), *Into the Margins: Exclusion and Migration in Southern Europe*, Avebury; See also Trimikliniotis, N. and Pantelides P, (2003) “Mapping Discriminatory Landscapes in the labour market”, in: *The Cyprus Review*, Vol. 15, Spring 2003, N. 1; also see Kadir, N. (2001) *A Preliminary Report: Labour Conditions of Asian Domestic Workers*, Fulbright, (unpublished).

111 ECRI (2005)

112 ECRI (2005)

health, safety, danger and accidents which show the marginality and vulnerability of third country migrant workers at the bottom of the labour hierarchy.

- a. In terms of **labour accidents** which is a structural issue that particularly affects ethnic and migrant groups is the question of health and safety at work: although it is a general problem that affect all workers, migrant workers and Turkish-Cypriots working in the area under the control of the Republic are particularly hit in comparison to Greek-Cypriots as their employment is concentrated in manual, low skill jobs and are generally employed in sectors which are much more prone to labour accidents.
- b. **Exposure to extreme weather** (temperature and sun), particularly during the hot months of the summer, where temperatures can easily climb to 40 degrees Celsius, employers persistently fail to comply with the guideline given by Labour Inspection Department of the Ministry of Labour. There is a problem with the 1500 non-unionised building contractors and the health and safety issue affects those workers employed in domestic labour, as the law does not apply to private households where persons were employed as domestic servants.¹¹³

On that basis we have already analysed, WP1, the various categories of Workers facing increasing risks of exclusion, marginalisation and discrimination.

Certain categories of migrant workers who are particularly vulnerable are increasingly at the centre of research and studies, many of which are European Community funded. A research project on integration of **female migrants**¹¹⁴ has produced a number of working papers that illustrate the specificities of *gendered* migrant labour in Cyprus, whereby there is an intersection between class, race/ethnicity, gender and migration status which produce particular *gendered and racialised positionalities* and problems that require close scrutinising and contextual way of locating the discrimination is produced as well as the means to overcome it.¹¹⁵ According to this study, racial discrimination against migrant women needs to take into account the particular employment and social locations of various categories such as those employed in the different sectors of the economy but also examine the operation of differentials in pay, working conditions and status as well as any gender/sexual division of labour in practice. Moreover, in many cases discrimination can thus be said to be ‘structural’, ‘institutional’¹¹⁶ and ‘indirect’,¹¹⁷ not because it is necessarily intentionally designed to be

113 According to the US Human Rights Report on Cyprus, 2006, “Health and safety laws apply to places of work in all economic sectors and were enforced by Ministry of Labour inspectors. Factory inspectors processed complaints and inspected businesses to ensure that occupational safety laws were observed. Their inspections were supported by close government cooperation with employer/employee organizations. However, the law does not apply to private households where persons were employed as domestic servants. Workers have the right to remove themselves from work situations that endanger health or safety without jeopardy to their continued employment, and authorities effectively enforced this right.”

114 *Integration of female immigrants in labour market and society. Policy assessment and policy recommendations, A Comparative Study Research Project Femipol*, EU sixth Framework Program.

115 See Trimikliniotis, N., Demetriou, C and Fulas-Souroulla, S. (2007) “A Cypriot Recipe for ‘Mediterranean Paradise’: From the three ‘S’ to the three ‘Ps’ - Profits, Reproduction, Pleasure’ [(Ab)Using Female Migrant Labour]”, WP4 National report on the structure of the labour markets for female migrants: Integration of female immigrants in labour market and society. Policy assessment and policy recommendations, A Comparative study including 8 European countries including Cyprus, Intercollege, Research Project Femipol, EU sixth Framework Program.

116 For a discussion of ‘structural’ and ‘institutional’ discrimination see : *The European Dilemma: Institutional Patterns and Politics of ‘Racial’ Discrimination*, A Comparative study including 8 European countries including Cyprus, Intercollege, *The European Dilemma: Institutional Patterns and the Politics of ‘Racial’ Discrimination*, Research Project Xenophob, EU Fifth Framework Program 2002-2005; for a specific analysis on Cyprus see Trimikliniotis 1999; Trimikliniotis and Pantelides, 2003; Trimikliniotis (2004).

117 As defined by EU Directives 2000/43 and 2000/78.

such, but because it results from the specific position. Also, it finds that the legal and migratory status of female migrants is extremely important in understanding their employment and social position. The two categories that are particularly vulnerable and prone to more aggravated forms of discrimination are domestic workers and sex workers in cabarets. For the former, their legal migratory status coupled together with their 'low' position in society and within the household as the 'intimate others'¹¹⁸ seem to be determining factors in structuring their particular kind of 'vulnerability'.

For instance the study of the Mediterranean Institute of Gender Studies (MIGS) on the 'integration of female domestic workers: strategies for employment and civic participation'¹¹⁹ illustrates that the discrimination against domestic migrant workers employed in Cyprus¹²⁰ is specifically structured by a number of factors routed in the policy regulating their stay, working conditions and employment position. The study referred to institutional discrimination that denies domestic workers the opportunity to be integrated as they are excluded from access to Greek lessons offered by the Ministry of Education, who allow attendance of such classes only by Turkish-Cypriots and Pontiacs. Moreover a precondition for participation in these classes is the consent from the employers, which in the case of domestic workers is, as a rule, denied. The study also shows that the authorities have no system of monitoring the conditions of employment and considers the absence of state policy of integration as racist. Moreover, it criticises the fact that the Cypriot state appropriates the social security deductions from the pay of domestic workers who come from countries with no bilateral agreement with Cyprus and leaves these workers with no pension rights or other benefits. The study also shows that there is a violation of the contractual and labour rights of domestic workers as they are forced to work more than the seven hours per day (excluding Sundays) that their contract provides and that they are essentially always on call by their employer. The research offers a number of recommendations to improve their position such as the following:

- More opportunity for flexible forms of employment so that domestic workers can work and get paid for more than one home and get full social security benefits
- Increase in the national minimum pay for domestic workers
- Institutional framework for civic participation in public life
- Full recognition of domestic workers as 'workers' not as 'member of the family' or 'dependent person'.

Other recommendations that we have made are the following:

Redress the weak bargaining position and denial of rights of domestic workers: unlike other categories of migrant workers whose standard contract is provided by the Labour Department

118 See Helma Lutz (2007) 'Intimate Others- Migrant Domestic Workers in Europe ' Berggren, E., Likic-Brboric, B., Toksoz and Trimikliniotis, N. (eds.) *Irregular Migration, Informal Labour and Community: A Challenge for Europe*, Maastricht: Shaker, 2007, pp. 226-241.

119 The Mediterranean Institute of Gender Studies (MIGS- www.medinstgenderstudies.org), in collaboration with Intercollege is coordinating a transnational project entitled "Integration of Female Migrant Domestic Workers: Strategies for Employment and Civic Participation", funded under the INTI Preparatory Actions 2005, Integration for third- country nationals of the European Commission. They have published a leaflet which contains the results of the project with regards to the situation of female migrant domestic workers in each of the five partner countries, as well as policy recommendations on an EU level. It is available in English and Greek (see <http://www.medinstgenderstudies.org/wp/wp-content/uploads/inti-results-leaflet-english.pdf>)

120 This is the figure given by the MIGS study.

of the ministry of Labour and Social Insurance, the contract of domestic workers is provided for by the Ministry of Civil Registry and Migration Affairs. Also, their status and rights is ambiguous as there is a difference in the Greek and English versions of the standard contract provided for by the Ministry. Fourth, the fact that the vast majority reside in the home of the employer and there is no state mechanism to monitor working and living conditions is a serious problem. The Ministry of Labour experienced a substantial increase in the number of complaints of labour exploitation. Foreign workers, primarily from Eastern Europe and East and South Asia, reportedly were forced to work up to 13 hours a day, seven days a week, for very low wages. NGOs and the ombudsman also confirmed that employers often retained a portion of foreign workers' salaries as payment for accommodations. There were reports of mistreatment of maids and other foreign domestic workers. Such reports usually involved allegations that maids, primarily from East or South Asia, were mistreated by their employers or fired without cause in violation of their contracts. Although the law protects domestic workers who file a complaint with the Ministry of Labour from being deported until their cases have been adjudicated, NGOs reported that many of them did not complain to authorities out of fear of deportation.”

3.4.1 Dancers, Prostitutes and Victims of Trafficking

A category of female migrants who is in a particularly vulnerable employment position, at times analogous to bonded labour, are women who work in cabarets and the sex industry in general. A number of international reports were published over the last years: the Trafficking in Persons Report, where Cyprus is listed within ‘TIER 2 WATCH LIST’ is the most notable international report is the US Report on trafficking which notes: “Cyprus is a destination country for a large number of women trafficked from countries in Eastern and Central Europe, including Ukraine, Moldova, Romania, and Russia, for the purpose of commercial sexual exploitation. Women are also trafficked from the Philippines, the People's Republic of China, and Morocco. Traffickers continued to recruit victims under fraudulent terms for work as dancers in nightclubs with three-month "artiste" category employment permits and more limited numbers of foreign women for work in pubs under the "barmaid" employment category. According too many international human rights reports, many of the women who work in nightclubs in Cyprus are victims trafficked for sexual exploitation. There were also reports of some Chinese women, on student visas, who have been forced into prostitution. Reports continued of female domestic workers from India, Sri Lanka, and the Philippines forced to work excessively long hours and denied proper compensation and possibly subjected to conditions of involuntary servitude.”¹²¹ A number of reports and studies produced showed the extent of the dangers (see WP1).

3.4 Integration, migration and Gender specificities

The position of women in the labour market, the legislative framework for gender equality, and collective bargaining were examined in an EIRO paper (see Soumeli and Trimikliniotis 2004). This identified that women have a lower employment rate than men and a higher unemployment rate, and are more likely to work part-time or on a temporary basis, while their average pay is lower than that of men. Even though specific legislation on workplace gender

121 Released by the Office to Monitor and Combat Trafficking in Persons June 12, 2007, see <http://www.state.gov/g/tip/rls/tiprpt/2007/82805.htm>

equality has been introduced only recently, bargaining does not appear to deal with equality matters. Women's share of overall employment is significantly lower than that of men. The gap between the numbers of employed men and women in Cyprus is greater than in most of the current EU member states. Overall, in recent years the composition of employment has displayed a small but steady shift in women's favour. Despite the greater numbers of women in the labour market and, to some extent, a change in the 'patriarchal' structure of employment, the overall situation of women's employment remains "particularly disadvantageous vis-à-vis that of men" given that "women's employment rate lags significantly behind that of men, women's unemployment rate is almost double, and women prefer or are preferred in positions of flexible employment, particularly part-time and temporary employment". Moreover, "women continue to be over-represented in low-skilled jobs, and there are indications that they fill a significant number of jobs in the clandestine economy". This last category includes the large number of female migrant workers employed in the so-called 'sex industry', as well as many migrants employed as domestic workers. In addition, women as a whole constitute the majority of unpaid workers in family enterprises. It should be noted that the largest increase in employment in 2001 was related to private households that employ domestic staff, and was due to the continued increase of migrants employed as domestic workers (see Soumeli and Trimikliniotis 2004). The conclusion of the article is that the position of women in the Cypriot labour market is clearly worse than that of men, both in respect to their participation in employment and unemployment and in relation to the quality of their employment. The same is true with regard to the wage gap between men and women. It is thus necessary to conduct studies relating to occupational segregation, and the factors that determine the wage gap which acts so disadvantageously towards women.

With regard to improving women's terms and conditions of employment, the legislative framework has an important role to play. The delay exhibited in previous years in adopting specialised legislation can undoubtedly be counted among the negative developments, while it will be of definitive importance to see whether the recently enacted legislative framework will be put to effective use or not. However, the laws by themselves, no matter how comprehensive, are not enough to wipe out inequality in the workplace and society in general. The social partners are therefore called upon to play a major role both to tackle the gaps, shortcomings and negative provisions of the relevant laws, and to improve the legislation, mainly through establishing a link between the collective bargaining process and equal opportunities (see Soumeli and Trimikliniotis 2004).

4. Critical evaluation of other policies affecting TCNs

4.1 Social policies pertaining to TCNs

This section deals with various aspects of social policy such as education, health, language, family and anti-discrimination. It starts with the aspects of the National Action Plan for Employment 2004-2006 as well as the National Action Plan for Social Inclusion.

The Cyprus National Action Plan for Employment 2004-2006 (NAPE) set out certain goals which have not been met. It was compiled by the Cyprus Ministry of Labour and Social Insurance and within the framework of the Employment Guidelines adopted by the European Council and the Broad Economic Policy Guidelines (BEPGs).¹²² Guideline 7 of the Cyprus

National Action Plan for Employment 2004-2006 titled “Promote the integration of and combat the discrimination against people at a disadvantage in the labour market” is the only section dealing with the issue of discrimination and is silent on measures to combat discrimination on the grounds of racial or ethnic origin. On the contrary, it appears to be praising the current system, which attaches migrant workers’ entry visas to specific employers, as a measure, which has minimised unemployment amongst third country nationals. Referring to the Pontiac migrants in Cyprus, the Guideline states that they do not face unemployment problems due to the conditions of full employment and thanks to the “special education measures for these people aiming at their social integration (e.g. supportive teaching, language learning and special activities)”.¹²³ Despite the abundance of evidence and research, the NAPE did not recognise the existence of any social exclusion problems among migrants.¹²⁴ The promotion measures it set forward for the elimination of social exclusion¹²⁵ are general and not focused on any group in particular, although special provision is made to encourage persons with disabilities to enter the labour market. However, the Social Exclusion Action Plan recognises that migrants are *a group at risk* of being excluded. Among the Council’s recommendations for Cyprus, the section dealing with measures to attract more people to the labour market included foreign workers. In response to this provision, the Cyprus National Action Plan for Employment 2004-2006 sets out, the following measures: “Reassessment of the foreign workers policy”. The “reassessment” of Government policy on this matter may take any form, but an indication is given in the first paragraph of the “Challenges”：“Acceleration of economic growth in recent years in conditions of full employment would have entailed serious labour market bottlenecks without the employment of foreign workers. However, it is a fact that this tight labour market during the last 10 years did not provide enough impetus to mobilise domestic labour reserves and therefore remains an important issue and challenge to address in the coming years”.

When social partners who were asked to comment on the Plan, the Pancyprian Federation of Labour (PEO) and to a lesser extent the Democratic Labour Federation of Cyprus-DEOK raised an issue with the way in which discrimination against migrants was dealt with in the Cyprus National Action Plan on Employment 2004-2006. PEO points out to the need for institutional transformation to improve the vulnerable position of migrant workers especially against deportation due to interruption of their employment relationship, and stresses the need for adequate medical insurance and the need to safeguard their social insurance rights.

The *National Action Plan for Social Integration* (NAP/Incl.) for the period 2004-2006 published by the Cyprus Ministry of Labour and Social Insurance in July 2004 lists migrant workers as one of the vulnerable groups as ‘groups at risk’. The Cyprus National Action Plan for Social Inclusion, covering the period 2004-2006, was submitted to the European Commission in August 2004, in accordance with the Open Method of Coordination. This report provides an update of Cyprus’ NAP/Incl (2004–2006). It focuses on the implementation of the policies outlined in the NAP/Incl and on the quantification of targets and priorities set in relation to the four common objectives, adopted at the Nice summit. Without providing any detail the NAP/Incl pledges that “the key priority for the social protection system of Cyprus is to maintain its successful performance in countering social exclusion and to respond with a sustainable approach to the socio-economic challenges of the future”. However, this does not tell us a great deal about the current situation.

The *National Report on the Strategies on Social Protection and Social Integration 2008-2010* (p.10) prioritises TCNs integration as a measure for the promotion of active inclusion of vulnerable groups. This includes references to full integration in Cypriot society, access to social services, vocational training for refugees, protection of unaccompanied minors and provision of language course. In setting the main challenges, priorities and goals, the Report refers to the need for immediate measures to combat poverty and social exclusion (p.16-17): amongst the groups at risk are “economic migrants and refugees, especially third country nationals”(p. 17). Amongst the various measures proposed it also includes “cultural support and social integration of adults and children of TCNs.” The Report does not contain any definition of integration and the measures are general and vague. The subheading “Development of actions for inclusion of TCNs” (p. 25) pronounces that during the period 2008-2010 a number of programs will be developed aiming at the intervention and action for “the smooth integration of aliens in Cypriot society” and their support/promotion in the labour market via measures that would achieve the following goals:

- (a) The implementation of the Common Basic Principles for Integration;¹²⁶
- (b) The development mechanisms for an improved target-setting, monitoring and evaluating and making of policy;
- (c) The exchange of experience, good practices and information between EU member states

These actions will be funded by the European Integration of Third Country Nationals, whose budget for 2007-2013 is 6,7 million euro.

4.1.1 Laws Transposing the EU Anti-discrimination Acquis

Until the eve of its EU accession, Cyprus lacked a comprehensive primary anti-discrimination legal framework: the pre-accession anti-discrimination framework did not provide an effective enforcement mechanism, even though there was one case that provided that human rights created rights against the state and individuals.¹²⁷ This ineffective regime was noted by the *Second ECRI Report on Cyprus* (2001), as well as the European Commission Report of 2002, under the heading *On the issue of human rights and the protection of minorities*, states that significant work still needs to be done in the area of anti-discrimination.¹²⁸

On 01 May 2004 three laws came into force purporting to transpose Directives 43/2000/EC and 78/2000/EC: (a) The Combating of Racial and Some Other Forms of Discrimination

¹²⁶ Adopted in November 2004 by the Justice and Home Affairs Council, establish the frame of EU policy in the field of integration. The EU policy document attach great significance to programmes existing in Member States as they "will allow immigrants to quickly find a place in the key domains of work, housing, education, and health, and help start the longer-term process of normative adaptation to the new society".

¹²⁷ The Supreme Court judgement of 2001 (*Yiallourou vs. Evgenios Nicolaou*) establishes a precedent whereby any person suffering discrimination in the enjoyment of his/her Constitutional rights on the grounds, inter alia, of, race, community, colour, religion, language or national origin, can sue the state or private persons and claim damages or other civil law remedies. The Attorney General's office also considers this remedy to be "... additional, and of wider ambit ...” than the procedure offered by the law transposing the Race Directive: Information on developments since the Second Report on Cyprus (adopted on 15 December 2000) pp. 2-3.

¹²⁸ The relevant section reads: “Cyprus has ratified all major human rights conventions and signed Protocol 12 to the European Convention on Human Rights on 4 November 2000 prohibiting discrimination on any grounds. Whereas Art. 28 (2) of the Constitution prohibits any direct or indirect discrimination against any person on the grounds of his community, race, religion, language, sex, political or other convictions, national or social descent, birth, colour, wealth, social class, or any ground whatsoever, there is no specific implementation legislation for the EC non-discrimination directives adopted in 2000.”

(Commissioner) Law¹²⁹ purporting to discharge the Republic's obligation to appoint a national Equality Body under Article 13 of the Race Directive (hereinafter Law No. 42(1)); (b) The Equal Treatment (Racial or Ethnic Origin) Law¹³⁰ purporting to transpose the Race Directive; and (c) The Equal Treatment in Employment and Occupation Law¹³¹ purporting to transpose the Framework Directive. Cyprus did not take the option to defer implementation of the provisions of Directive 78/2000/EC relating to age and disability to 2 December 2006. The relevant laws came into force on or before 1 May 2004, the date of Cyprus' accession into the EU.

Law No. 42(1) appoints the Commissioner of Administration or *Ombudsman*, an independent officer appointed by the President of the Republic, as the specialised body to (i) combat racist and indirectly racist discrimination as well as discrimination forbidden by law and generally discrimination on the grounds of race, community, language, colour, religion, political or other beliefs and national or ethnic origin; (ii) promote equality of the enjoyment of rights and freedoms safeguarded by the Cyprus Constitution (Part II) or by one or more of the Conventions ratified by Cyprus and referred to explicitly in the Law¹³² irrespective of 'race', community, language, colour, religion, political or other beliefs, national or ethnic origin and (iii) promote equality of opportunity in the areas of employment, access to vocational training, working conditions including pay, membership to trade unions or other associations, social insurance and medical care, education and access to goods and services including housing.

The Law vests the Ombudsman with powers beyond those prescribed by the two EU Directives as the designated Equality Body of Cyprus: the power to receive and investigate complaints of discriminatory treatment, behaviour, regulation, condition, criterion or practice prohibited by law; the power to issue Reports of findings; the power to issue orders (through publication in the Official Gazette) for the elimination within a specified time limit¹³³ of the situation which directly produced discrimination, although such right is somewhat limited by a number of exceptions. The Ombudsman's decisions can be used for the purposes of obtaining damages in a district court or at an employment tribunal. The Ombudsman is further empowered to impose small fines,¹³⁴ to issue recommendations to the person against whom a complaint has been lodged, and to supervise compliance with orders issued against persons found guilty of discrimination. However, all orders, fines and recommendations issued or imposed by the Ombudsman under this Law are subject to annulment by the Supreme Court of Cyprus upon an appeal lodged by a person with a 'vested interest.' The Ombudsman may

¹²⁹ The Combating of Racial and Some Other Forms of Discrimination (Commissioner) Law No. 42(1)/ 2004 (19 March 2004).

¹³⁰ The Equal Treatment (Racial or Ethnic Origin) Law No. 59(I) /2004 (31 March 2004).

¹³¹ The Equal Treatment in Employment and Occupation of 2004 No. 58 (1)/2004 (31 March 2004).

¹³² These Conventions are: Protocol 12 of the European Convention for Human Rights and Fundamental Freedoms; the International Convention for the Elimination of All Forms of Racial Discrimination; the Framework Convention for the Protection of National Minorities; the Covenant for Civil and Political Rights and the Convention Against Torture and Inhuman and Degrading Treatment or Punishment.

¹³³ Which time limit shall not exceed 90 days from publication in the Official gazette Law No. 42(1)/2004 (19 March 2004), Section 28].

¹³⁴ The fine to be imposed cannot exceed CYP350 for discriminatory behaviour, treatment or practice [The Combating of Racial and Some Other Forms of Discrimination (Commissioner) Law No. 42(1)/2004 (19 March 2004), Section 18(a)], CYP250 for racial discrimination in the enjoyment of a right or freedom [The Combating of Racial and Some Other Forms of Discrimination (Commissioner) Law No. 42(1)/2004 (19 March 2004), Section 18(b)], CYP350 for non-compliance with the Commissioner's recommendation within the specified time limit [The Combating of Racial and Some Other Forms of Discrimination (Commissioner) Law No. 42(1)/2004 (19 March 2004), Section 26(1) (a)] and CYP50 daily for continuing non-compliance after the deadline set by the Commissioner [The Combating of Racial and Some Other Forms of Discrimination (Commissioner) Law No. 42(1)/2004 (19 March 2004), Section 26(1) (b)]. Generally speaking, the fines are considered to be very low.

also investigate issues on his/her own right where the Ombudsman deems that any particular case that came to his/hr attention may constitute a violation of the law. Also, the Ombudsman may investigate cases following applications by NGOs, chambers, organizations, committees, associations, clubs, foundations, trade unions, funds and councils acting for the benefit of professions or other types of labour, employers, employees or any other organised group, local authorities, public law persons, the Council of Ministers, the House of Parliament etc. In such cases, the Ombudsman is empowered to issue recommendations to the person or group found guilty of discriminatory behaviour as to alternative treatment or conduct, abolition or substitution of the provision, term, criterion or practice. The findings and Reports of the Ombudsman must be communicated to the Attorney General of the Cyprus Republic who will, in turn advise the Cyprus Republic on the adoption or not of appropriate legislative or administrative measures, taking into account the Republic's international law obligations and who will at the same time prepare legislation for the abolition or substitution of the relevant legislative provision.

All definitions of 'discrimination' contained in the Directives are virtually replicated in the national laws. Thus, discrimination is defined as 'less favourable treatment afforded to a person due to [any recognised ground] than the treatment afforded to another person in a similar situation'. In the case of disability, direct discrimination is 'unfavourable treatment' when compared to 'a person without disability in the same or similar situation', or on the basis of 'characteristics which generally belong to persons with such disability', or 'alleged characteristics', or 'in contravention of a code of practice'. Discrimination by association is not explicitly covered in the law. Also, the grounds for discrimination are not defined anywhere in the national law.

Indirect discrimination also copies verbatim the wording of Directives, as an apparently neutral provision, criterion or practice which would put persons having a particular racial or ethnic origin, religion or belief, disability, age, or sexual orientation at a disadvantage compared with other persons unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

Harassment is defined as 'unwanted conduct related to any of the [recognised] ... grounds ... with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment'. Instructions to discriminate and victimisation, also prohibited on all five grounds, again follow verbatim the definition of the Directives.

The laws transposing Directive 2000/78 allow for differential treatment based on the grounds of racial or ethnic origin, religion or belief, age, disability and sexual orientation when the nature of the particular occupational activities or the context within which these are carried out is such that a specific characteristic constitutes a substantial and determining employment precondition, provided that the aim is legitimate and the requirement proportionate. With regard to age, these provisions do not apply to the armed forces, to the extent that the fixing of an age limit is justified by the nature and the duties of the occupation. In the case of occupational activities of churches or other public or private organisations the ethos of which is based on religion or belief, a difference of treatment based on a person's religion or belief shall not constitute discrimination when, due to the nature of the context of these activities, religion or belief is a genuine, legitimate and justified occupational requirement, having regard to the organisation's ethos.

The scope of the anti-discrimination laws cover both the private and the public sector and include all fields provided in the Directives. Thus, discrimination on all five grounds is forbidden in employment, access to vocational training, working conditions including pay, membership of trade unions or other associations. In addition, discrimination on the ground of racial/ethnic origin is forbidden in the field of social protection, medical care, social provision, education and access to goods and services available to the public including housing. Subject to conditions, the disability law provides for the right to equal treatment in the provision of goods, facilities and services. The mandate of the Equality Body, however, goes well beyond the two Directives and includes the right to promote equality of opportunity in all the fields provided in the two Directives.

Victims may address complaints either to NGOs or trade unions, who may then submit them to the Equality Body on their behalf, or directly to the Equality Body, where the procedure is cost-free, simple and flexible. The national laws transpose verbatim the Directives' provisions regarding the right of organisations to engage in procedures on behalf of their members. There are a number of NGOs available to initiate and support victims' complaints in the field of disability, including the confederation itself for all disability NGOs. There are fewer NGOs (2-3) supporting the complaints of migrants and asylum seekers but none to support the complaints of Turkish Cypriots or Roma. Regarding the other grounds, there are few or no NGOs to take up cases on behalf of their members. In the case of sexual orientation, victims are unwilling to submit complaints so as not to make their sexual orientation known to the public. In general, more complaints are submitted by individuals rather than by organisations acting on their behalf. Whether the party initiating the complaint is the victim him/herself or an organisation representing him/her, the outcome of the case is not affected by it.

The Equality Body does not have the power to award compensation to victims of discrimination, but its decisions may be relied upon to seek damages for unlawful discrimination in a district Court or a labour tribunal.

4.1.2 Education

The *Third ECRI Report on Cyprus*¹³⁵ notes that in spite of the general institutional improvement provided by the robust anti-discrimination laws that derived from the harmonisation of Directives EC/2000/43 and EC/2000/78, many of areas of concern noted in the Second ECRI Report are still prevalent and there are some new areas of concern.¹³⁶ The Third ECRI Report notes however, that in spite of increased attention to educating children in human rights with a particular emphasis on non-discrimination and the need to respect difference', it is reported that these aims contain only general guidelines and that they are only marginally translated into concrete long-term initiatives'. Moreover, the same report notes that in spite of some training opportunities at the Pedagogical Institute, "the effectiveness of human rights initiatives is undermined by the lack of understanding of and a genuine sensitivity to human rights by many teachers" (para. 37). As already noted in the Second ECRI Report on Cyprus, the authorities do not collect data broken down by categories of ethnic origin, religion, and nationality in different areas of policy, including education, something that "would be beneficial in order to monitor the situation of different minority

135 Development Partnership: "Equality and Solidarity for Asylum Seekers - Guarantee For Employment and Freedom"

136 For a more detailed analysis of the educational and labour aspects of the ECRI report see Special Study conducted by Nicos Trimikliniotis and Corina Demetriou, "Combating ethnic and racial discrimination and promoting equality: Trends and developments 2000 – 2005", RAXEN Network.

groups and highlight possible problems of direct and indirect discrimination” (Third ECRI Report on Cyprus, para. 96). The ECRI report is of the view that the Ministry of Education does not comply with the EUMC recommendations on data collection. In spite of contrary policy by the Ministry, the Third ECRI Report on Cyprus refers to ‘reports of de facto school segregation of Pontiac Greek children’ (para. 85), whilst some studies on racism and education record stereotypes and discrimination against migrant children, Turkish-Cypriots and Roma amongst the pupil population. Overall, the studies confirm the findings and elaborate the themes that were established in previous research findings.¹³⁷ There are studies which show foreign pupils are often led to ghettoisation and exclusion.¹³⁸

Moreover there is a near consensus that migrant workers are to blame for rising unemployment and the views on whether foreigners contribute to the economy vary.¹³⁹

Most official and non-official data, reports, surveys, research projects and reports seem to confirm the findings of the Third ECRI Report on Cyprus,¹⁴⁰ which notes that in spite of the general institutional improvement provided by the robust anti-discrimination laws that derived from the harmonisation of Directives EC/2000/43 and EC/2000/78, many of areas of concern noted in the Second ECRI Report are still prevalent and there are some new areas of concern.¹⁴¹ In particular, the UN Report of the Office of the High Commissioner for Human Rights on the question of human rights in Cyprus¹⁴² notes: “The persisting division of Cyprus has consequences in relation to a number of human rights issues on the whole island, including freedom of movement, [...], discrimination, [...] human rights pertaining to the question of missing persons, the right to education and freedom of religion.”

Academic research papers have explored various aspects relating to education, migration and discrimination. Panayiotopoulos and Nicolaidou paper¹⁴³ examine the question of multicultural education in Cyprus; Makriyianni and Psaltis¹⁴⁴ examine the ways in which the question history teaching at schools is related to tolerance and reconciliation and illustrate the inadequacies and contradictions of the educational policy; and Johnson¹⁴⁵ discusses the major components necessary to pursue systemic peace education in schools as well as the contentions associated with taking such actions in a divided society. Also studies show that there is widespread problem of racism and racist incidents at schools which are not properly

137 See Trimikliniotis (2001; 2003b; 2004; 2002-2005); Charakis et. al (2005), presented in the appendix of Cyprus National Annual Report of 2005.

138 For instance the Ministry was involved called ‘Youth Against Racism’, and concerned a study conducted in a school (Lyceum Pallouriotissa), nine out of the ten students believed the foreign workers who works for their family ought to receive less money than a Cypriot, contradicting what they had said earlier that they should all receive equal pay. The findings of this ongoing project involving 650 pupils and thirteen schools presented at the Cyprus Conference Centre on 13.4.2006.

139 This was held on the 11.4.2006 at the Municipality Building of Limassol, and hosted by the Mayor of Limassol and opened by the Minister of Internal Affairs and the Ombudswoman.

140 Development Partnership: “Equality and Solidarity for Asylum Seekers - Guarantee For Employment and Freedom”.

141 The ECRI report was presented in the Special Study conducted by the NFP, “Combating ethnic and racial discrimination and promoting equality: Trends and developments 2000 – 2005”.

142 Report of the Office of the High Commissioner for Human Rights, on the question of human rights in Cyprus, General Assembly Distr. GENERAL, A/HRC/4/59, 9 March 2007 HUMAN RIGHTS COUNCIL, Fourth session, Item 2 of the provisional agenda in implementation of General assembly Resolution 60/251 of 15 March 2006 entitled “Human Rights Council”.

143 Panayiotopoulos and M. Nicolaidou (2007) “At a crossroads of civilizations: multicultural educational provision in Cyprus through the lens of a case study”, in: European Journal of Intercultural studies, Volume 18 , Issue 1, March 2007, pp. 65 – 79.

144 Makriyianni and Psaltis (2007) “The Teaching of History and Reconciliation”, in: Special edition of the journal Cyprus Review on Reconciliation in Cyprus, Volume 19:1 Spring 2007, pp. 43-69.

145 L. Johnson “Reconciliation and Peace Education in Cyprus: What Will It Take?” in: Special edition of the journal Cyprus Review on Reconciliation in Cyprus, Volume 19:1 Spring 2007, pp. 17-41.

addressed dealt with (see Panayiotopoulos and Nicolaidou 2007). There is also a problem with teachers' attitudes despite the comprehensive program for educational reform. The comprehensive educational reform undertaken over the last year hit on the reality of a deep structure of racism. Research conducted in 2008-2009 based on empirical evidence, illustrated that racialisation is deeply embedded in schooling ethos, culture and practice in a way that is routinised and normalized by children, teachers and policies.¹⁴⁶

Another study, which is based on qualitative interviews of school principals¹⁴⁷ illustrates that despite the efforts to initiate change at the top, the perceptions of the principals over the nature of multiculturalism, which is the declared state policy, can have an enormous impact on *whether* and *how* reform will be implemented. This will have crucial effects on those at the receiving end i.e. students, both *majoritised* but particularly *minoritised students*:¹⁴⁸

“

There are no official policies explicitly restricting access education. However, there a number of issues relating to access to be a cause of concern, as the Third ECRI report on Cyprus noted in 2006:¹⁴⁹ The access to education of children of undocumented migrants remains uncertain as the Council of Ministers rejected the relevant decision of the Equality body in 2006 that ruled discriminatory the Ministry of Education circular to refuse registration for migrant children whose parents do not provide evidence of a valid permit.¹⁵⁰ However, the Ministry of Education insists that the policy the follow is to enrol all pupils and they do not require that parents present a valid permit.¹⁵¹

There is little data or findings from official and non-official data, reports, surveys, research or other information describing the situation of immigrants and minorities in education focusing on participation and achievement in education, segregation, availability of mother tongue education and relevant support measures.¹⁵² The official position of the Ministry of Education is that the Greek-Cypriot education system has adopted sufficient measures to adapt and integrate migrant and ethnic group pupils: apart from the extra hours provided, textbooks about Greek as a second language were brought from Greece and the Cyprus Pedagogical Institute; there was a special budget for the educational centres, particularly in Nicosia and Paphos, for adult education of Pontiacs and other non-native speakers; afternoon classes for Pontiac pupils and groups for conserving the cultural heritage such as dance and songs. Moreover, the report refers to a circular on intercultural education sent to all primary schools and a relevant data bank. However, there is little evidence to show that the various measures adopted are adequate (see Panayiotopoulos and Nicolaidou 2007: 72) was found that

¹⁴⁶ The research was conducted by a well-respected expert on multicultural education in Cyprus from the Open University. It is based on participant observation in an inner town school, M. Zembylas (in press), 'Racialization/ethnicization of school emotional spaces: The politics of resentment', in: *Race Ethnicity & Education*.

¹⁴⁷ The research was conducted by the same expert on multicultural education in Cyprus from the Open University. See Zembylas, M., & Iasonos, S. (in press). Leadership styles and multicultural education approaches: An exploration of their relationship', in: *International Journal of Leadership in Education*.

¹⁴⁸ To adopt the term the researcher uses in another paper, see Zembylas, M., & Iasonos, S. (in press).

'Racialization/ethnicization of school emotional spaces: The politics of resentment', in: *Race Ethnicity & Education*.

¹⁴⁹ See Cyprus RAXEN National Annual Data Collection Reports of 2006.

¹⁵⁰ No. A/P 727/20060, 8.05.2006 (see Cyprus RAXEN National Annual Data Collection Report 2006, p. 10).

¹⁵¹ See Cyprus RAXEN National Annual Data Collection Reports of 2006

¹⁵² No such data is kept the Ministry of Education.

Other scholars go as far as claiming that “the educational system is not ready to integrate immigrant children who do not speak Greek. Nevertheless, it tries to do that and in the majority of cases it fails.”¹⁵³ There are no available official statistical data regarding participation and achievement in education;¹⁵⁴ however a study conducted in a school with a high concentration of migrant and ethnic group students is indicative of the issues and sheds some light on some earlier research (Panayiotopoulos and Nicolaides 2007:71)¹⁵⁵

Recent research papers shed some light on the claim of the Ministry of Education claim that there is a policy to deal with segregation.¹⁵⁶ According to one study, the headmaster and social worker reported that Greek-Cypriot parents move their children when they see that in one particular school there is a high number of migrant or non-Greek-Cypriot pupils.¹⁵⁷

In the primary schools there are currently 3,759 non-native speakers out of a total of 55,868 pupils which represents about 6.7 percent. According to the Ministry of Education Annual Report for 2006 for the school year 2005-2006 the following measures have been adopted:¹⁵⁸ a total of 1,356 additional teaching hours were provided for Greek lessons to primary schools were offered to non-native speakers, which is equivalent to 47 extra teachers; texts on Greek as a second language were brought from Greece and the Cyprus Pedagogical Institute; there was a special budget for the educational centres, particularly in Nicosia and Paphos, for adult education of Pontiacs and other non-native speakers; afternoon classes for Pontiac pupils and groups for conserving the cultural heritage such as dance and songs. Moreover, the report refers to a circular on intercultural education sent to all primary schools and a relevant data bank.

The Report of the Committee for Educational Reform, which examined the Greek Cypriot educational system, that described it as “Hellenoethnocentric and religious in character” and was critical of “the ideologico-political framework of contemporary Cypriot [sic] education remains Greek-Cypriot centred, narrowly ethnocentric and culturally monolithic”.¹⁵⁹ Little progress can be reported in the direction the Report recommends since then as far the content of the education, curricula and teaching to consider that the above assessment no longer

¹⁵³ Spyrou, S (2007) “The Integration of Migrant Children in Greek Cypriot Schools: Problems and Challenges”, paper by the Director of the Centre for the Study of Childhood and Adolescence, European University Cyprus, presented at the ERLAIM Project, European Regional and Local Authorities, for the Integration of Migrants, 2nd Project Workshop on the Integration of Children and Minors of Third- Country Nationals, organised by the Municipality of Nicosia, Nicosia, Holiday Inn, 19.10. 2007.

¹⁵⁴ No such data is kept the Ministry of Education.

¹⁵⁵ C. Panayiotopoulos and M. Nicolaidou (2007) “At a crossroads of civilizations: multicultural educational provision in Cyprus through the lens of a case study”, European Journal of Intercultural studies, Volume 18 , Issue 1, March 2007, pages p. 71.

¹⁵⁶ See Cyprus RAXEN Annual Data collection Report, 2005 and 2006 and Cyprus RAXEN Trends and Developments Report, 2006.

¹⁵⁷ Their research is based on an empirical study of one primary school in Limassol with a high concentration of non-indigenous pupils. To quote the research: “the head teacher reported that the observed school used to be: a high profile school and everyone in the area considered it to have high standards where children could acquire the necessary academic skills. More recently, due to the increasing number of registrations from non-indigenous pupils, many Greek Cypriot parents have stopped sending their children to this school.” See C. Panayiotopoulos and M. Nicolaidou (2007) “At a crossroads of civilizations: multicultural educational provision in Cyprus through the lens of a case study”, European Journal of Intercultural studies, Volume 18 , Issue 1, March 2007, pages p. 69.

¹⁵⁸ See Education Ministry Annual Report for 2006; also see the official responses of the Ministry on the subject in Cyprus RAXEN National Data Collection Reports of 2005 and 2006 as well as the Cyprus RAXEN Trends and Development Report 2006.

¹⁵⁹ Δημοκρατική και Ανθρωποκεντρική Παιδεία στην Ευρωκυπριακή Πολιτεία (Democratic and Humanistic Education in the Eurocyprriot Polity) (Nicosia, 2004) pp. 36, 63 and pp. 94-96, for a summary see <http://www.moec.gov.cy/metarithmisi/manifesto.pdf> and for the full report see http://www.moec.gov.cy/metarithmisi/ethesi_epitropis.pdf . For more details on the subject see Cyprus RAXEN Annual Data collection Report, 2005 and 2006 and the Trends and Developments Report, 2006.

applies. In fact, a number of international reports and research studies indicate that there is concern whether the education reform is going at all in this direction as to the implementation of a multicultural education in Cyprus.

Another important initiative and a good practice is the operation of the Educational Priority Zones (EPZs). The Plan of EPZs is an important measure that is implemented by the Ministry of Education and Culture with the aim of offering equality of opportunity in education and of combating school failure and illiteracy.¹⁶⁰ This was also referred to in the Labour Ministry's *National Report on Strategies for Social Protection and Social Inclusion 2006-2008*.¹⁶¹ The institution of EPZ derives from the principle of positive action and aims at reducing inequalities for pupils attending schools in disadvantaged areas with an increased proportion of immigrants. There are currently three EPZ are in operation covering 17 school units. This is an important policy initiative as it provides the basis for the implementation of the educational reform measures and for combating discrimination and racism in education and has been praised by the Third ECRI Report.¹⁶²

4.1.3 Housing

Very little work has been done on the question of housing and TCNs. Here I will only take up briefly some aspects of this, focusing on Nicosia and Limassol. The ethnic demographic of Cyprus is subject to a changing population dynamic precipitated by net in-migration, both from EU and Third countries (Trimikliniotis 2009). It would therefore be unsurprising to find patterns of ethnic residential settlement within the major urban conurbations. However, this has yet to be systematically examined. Complimentary work has been done in relation to TCNs and schooling,¹⁶³ such that it is possible to map the location, at least of ethnic minority schoolchildren. There is evidence of ethnic segregation in the use of public squares, e.g. Limassol pear (Molos) (see Kyriakides 2008) and municipality parks of Nicosia and Limassol (Trimikliniotis, 2009), and that the dynamic is related to forms of ethnic exclusion, however, this has not yet been examined systematically.¹⁶⁴

Cyprus does not have any mega-slams but has inner city and suburban property zones, mostly inhabited by migrants (Trimikliniotis 2008). There is little research on migrants and housing in Cyprus.¹⁶⁵ Nevertheless, one recent survey shows institutional discrimination against migrants: A research carried out by the Research Centre in Behavioural and Social Issues of the University of Nicosia.¹⁶⁶ This research involved interviews with 300 non-locals as part of a qualitative survey produced the following findings regarding the difficulties faced in securing housing: (1) 87% of the participants stated that it was either difficult or impossible to find accommodation for the reasons stated below; (2) 54% stated that the main reason for their difficulty in accessing housing is the high cost of accommodation; (3) 22% stated that they lacked any family or friends who could help them find accommodation in Cyprus. (4) 19% of cases of being unable to find accommodation is race-related i.e. 'they think we are dirty' or 'they wouldn't show me the flat because of the colour of my skin'. Furthermore,

¹⁶⁰ See Ministry of Education Annual Report, 2006 p. 229.

¹⁶¹ Ministry of Labour and Social Insurance, Nicosia, September 2006.

¹⁶² ECRI (2005)

¹⁶³ See Trimikliniotis, 2001; 2004; Charakis et. al. 2005; Trimikliniotis & Demetriou 2006.

¹⁶⁴ The lack of systematic studies on patterns of residency is therefore a major limitation to understanding the dynamic formation of an inclusive/exclusive Cypriot urban public. Another limitation derives from the use of urban space as to publicly available leisure zones, e.g. parks, beaches, town squares etc. Such a study is planned in the future (Trimikliniotis and Kyriakides forthcoming).

¹⁶⁵ Housing is one of the areas in RAXEN Reports. See the relevant RAXEN reports for Cyprus 2004-

¹⁶⁶ The study was presented on 19.12.2007 at Intercollege.

77% of the participants reported living in a shared house/apartment, with three to six people sharing one bedroom. 83% per cent stated they were not satisfied with their accommodation and only 16 % stated they were not satisfied with the cost of their accommodation.

4.1.5 Health and social care

There is very little, if any monitoring at all by any organisation, public or private regarding health and social care affecting TCNs; nor is there any evidence of developments regarding the collection of related data identifying ethnic/national origin and religion or belief. The little ‘public debate’ that exists in political and media discourses and relevant articles on the subject is as a rule to point that “migrants are not contributing enough for the health care they are receiving”, for Pontiac migrants getting “too much” out of the health services and social care and that Turkish-Cypriots are “free riders in the south without paying taxes to the Republic of Cyprus, whilst they are usurping Greek-Cypriot properties in the Turkish-controlled north”.¹⁶⁷ In fact, if there is a media complaint about discrimination in the health service is that it discriminates against Greek-Cypriots: from the above discourses it is apparent that there is little sensitivity about racial discrimination and xenophobic attitudes, with the exception of some NGOs working against racism and for migrants. What is often forgotten or simply ignored in most relevant discourses is that “Cyprus offers free health care to the poor; it offers free health care to civil servants (who can most afford private care) [...] Anyone else is forced to go private or to pay for the privilege of state treatment in often dilapidated hospitals.”¹⁶⁸ The treatment of EU nationals residing in Cyprus has received little public or media attention.¹⁶⁹ Public hospitals apparently do not have any of the necessary forms and documentation available in Turkish (one of the two official languages of the Republic of Cyprus) or English so that migrants can understand the procedures. The question of whether there are differences in the treatment and access to healthcare between men and women of the groups above is an issue that requires primary research, although it is denied by the authorities. It is estimated that about 70% of those who benefit from the publicly available health service are government or public employees.¹⁷⁰

When we refer to the Health sector in Cyprus it is noteworthy that the health care delivery system in Cyprus has basically remained unchanged in its basic principles, since the 1950s. The government of the Republic of Cyprus inherited a system, which provided free of charge health services to all those who were classified as poor on certification by local authority officials. Public health services are also provided free of charge, to all civil servants and employees of Semi Public Corporations, as part of their employment contract, members of the government and other specified groups by the relevant regulations (General Regulations of Government Medical Institutions and Services of 225/2000 and 660/2002). Everybody else

¹⁶⁷This is a view very often repeated by politicians of nationalist inclinations. A latest instance of this is Greek-Cypriot MEP Marios Matsakis, who according to the newspaper Cyprus Mail stated that “Turkish Cypriots exploit the current situation by benefiting from pensions, health care, etc, from the Greek Cypriots without having to paying taxes”, P. Nicolaides (2007) “Is the emperor of the Cyprus Problem beginning to lose his clothes?”, *Sunday Mail*, (02.09.2007). The reference of the National Audit Report for 2006 of the Auditor General of the Republic published in 2007 that

¹⁶⁸As aptly pointed out by an article in the Cyprus Mail. See unsigned (2006) “A real election issue if ever there was one”, *Sunday Mail*, (19.05.2006).

¹⁶⁹There was one article published which referred to the treatment of EU citizens by Greek-Cypriot hospitals, with an interview with the head of the Medical association over the rights of EU citizens to medical care after EU accession. See A. Saoulli (2004) “Medical Association wants EU citizens to be able to receive state care from private doctors”, *Cyprus Mail*, (09.12.2004).

¹⁷⁰ Press and Information Office (2004) *Έκθεση της Κυπριακής Δημοκρατίας κατά τον Διακρίσεων σε τομείς του κοινοτικού κεκτημένου*, Nicosia, September 2004, p. 45
www.moi.gov.cy/moi/pio/pio.nsf/0/1a9f5d48be116665c2256eb5002ddb8d?

has to resort to private sector services or pay for services at publicly organised health units. The health care system has the following characteristics:

- a) The overall responsibility for providing health services, accessible to all and dealing with public health issues rests with the Ministry of Health. Public health responsibility is shared by municipalities. The Ministry of Labour is responsible for the quality of air, and the Ministry of Agriculture, Natural Resources and Environment is responsible for veterinary matters, plant production, water supply and the environment.
- b) As far the providers of health care the responsibility for providing health care is divided between the public and private sectors including non profit organisations.
- c) The public sector provides health services through a number of means such as primary health care delivery services in urban and rural health centres and sub-centres all over the island including mental health services; three small rural hospitals, located in isolated areas; four district general hospitals with that of Nicosia, serving as the overall referral hospital of the Country; two specialized hospitals the Mental Health Hospital and the Hospital for Children and Women. All are supported by all types of diagnostic and other services.
- d) The Private sector provides health services, on the basis of profit making, through solo-practicing physicians and dentists, offering outpatient services; private clinics (more than 100) offering both in and outpatient services. They are concentrated in urban areas and are small in size (average 15 beds per clinic). Some offer highly specialized facilities (such as kidney transplantation, cancer centre, open-heart surgery etc.) also utilized by the Government to serve eligible patients. All types of private diagnostic and treatment services such as laboratories, pharmacies, x-ray, etc. Also a number of non-profit organisations exist: there are only a few such institutions, providing palliative support and rehabilitation for chronic patients suffering from diabetes, cancer, cardiovascular ailments etc.

As far as the coverage of patients there is as yet no comprehensive national health scheme. Hence, health care from the point of view of coverage is divided into the following five systems. Persons with low income are offered free access to the public sector provides services free of charge to low-income groups based on income criteria and certification. Civil servants and employees of Semi Government Organisations are provided free medical services through the public sector services as part of their employment contract. Also, some employees and trade union members are provided with medical coverage through Trade Union and employer operated medical schemes (except for the schemes under the 2nd group there are schemes run by banks and smaller schemes run by trade unions and other employers using mainly private sector services). Under this classification there is legislation making it obligatory for employer to provide health insurance for all alien employees under relevant legislation on Aliens and Migration of the Ministry of the Interior. People who are not covered by the above schemes may choose to purchase health coverage from private insurance Companies. Others meet medical expenses out of pocket, by using private or public sector services. There is a scheme for sponsored patients abroad because some highly specialised tertiary medical services are not available locally; patients seek medical treatment outside the country. For this the government provides funding through its sponsored patients scheme, which covers costs fully or partially for the whole population, provided certain criteria are met. Cyprus provides health coverage to all European citizens who are holders of the European Sickness Insurance Card on the basis of regulation 1408/71 for the implementation of social insurance systems for the benefit of insured workers and their dependents within the EU. Costs have risen fast during the 80s and 90s (Table 1), in line with

world-wide experience. The percentage of Gross Domestic Product devoted to health was 2.9% in 1980. It grew to 4.5% in 1990 and reached 6.4% in 2005. Most of this expenditure is realized in the private sector.

On 11.04.2008 the Technological University of Cyprus (TEPAK) released the findings of the study entitled 'Migrant Female Domestic Workers in Cyprus: An assessment of their sexual and reproductive health'. The research, aimed at locating and evaluating the needs of this group of migrants, found that whilst 52.5 per cent of the sample was sexually active, 85 per cent did not use protection, some have had unwanted pregnancies ending in abortions, some have been sexually abused by their employers, 45 per cent do not know if they have a health insurance and what it comprises of, and describe difficulties in accessing public services where they have experienced discrimination and humiliation. The report includes a list of recommendations for training this group on contraception and sexually transmitted diseases and for rendering the provision of services to them more accessible and culturally sensitive.

There is no available original data and statistics regarding racial/ethnic discrimination and racist or xenophobic incidents in the area of health and social care. However, there are some reported cases. In a report dated 09.09.2005, the Ombudsman referred to three complaints received by her office in recent months from asylum seekers who had been refused medical care for their pregnant women. The first case concerned a Palestinian who had been granted subsidiary protection but whose wife was refused medical care even though she was at the very last stage of her pregnancy because she did not have in her possession the temporary residence permit from the Migration Department. The Ministry of Health had refused to issue a health card to her for the same reason, despite the fact that the complainant had submitted to the Ministry the document confirming that he had been granted subsidiary protection.¹⁷¹ Another complaint came from an Indian asylum seeker whose wife was also in the last month of her pregnancy. The Ministry of Health declined her request for the issue of a health card, even though she submitted the confirmation letter showing she was an asylum seeker, because she did not have in her possession the temporary residence permit, the issue of which was being delayed by the Migration Department.¹⁷² The third case involved a Kurdish couple from Syria with two underage children who applied for asylum. The wife was also in her last stage of pregnancy but was refused access to medical care because she did not have a health card. She applied for a health card but was informed that this could not be issued because she did not have a temporary residence permit from the Migration Department.¹⁷³ In all three cases, health cards were issued following the intervention of a migrant support NGO or the Ombudsman herself. The argument advanced by the Ministry of Health was that, since Section 9 of the Refugee Law N.6(I)/2000 provided that the right to free medical care applied for the duration of the temporary residence permit, the Ministry was not allowed to issue a health card in the absence of a residence permit. The Ombudsman pointed out that the delays in the issue of residence permits are well known and that sometimes such permits are not issued at all until the asylum application is examined, resulting in a series of violations of the rights of asylum seekers. UNHCR had also expressed concerns over this practice and after a series of meetings with the competent governmental departments it was agreed that asylum seekers should be guaranteed access to services irrespective of whether their temporary residence permit has been issued or not. In addition to nationality, ethnic origin may also pose a problem in securing access to medical care. In June 2005 the Ombudsman examined a

¹⁷¹ Cyprus Ombudsman File No A/P 1339/05.

¹⁷² Cyprus Ombudsman File No A/P 1363/05.

¹⁷³ Cyprus Ombudsman File No A/P 1487/05.

complaint submitted by a Greek national of Pontiac origin whose request for benefit in order to undergo fertility treatment was declined because she did not have Cypriot nationality. In her report, the Ombudsman decided that this amounts to discrimination prohibited by law¹⁷⁴ and recommended that the complainant's request for benefit in order to undergo fertility treatment be satisfied.¹⁷⁵

In 2006, an incident whereby a migrant student was treated for injury at the Nicosia Central Hospital and was subsequently prevented from leaving the hospital until he paid the hospital fees was brought to the attention of the research team which in turn enquired with the Ministry of Health as to the policy followed in the cases of migrants who receive medical treatment and cannot pay the hospital fees. The Health Ministry promised to investigate this point and revert but has not done so since 2006. A complaint was also submitted to the Equality Body against the hospital authorities for wrongfully detaining the discharged patient; however the Equality Body did not issue a decision on it, restricting itself to stating that since the particular case was resolved, as the migrant came up with the sum requested, there was no further cause for intervention. The non-governmental organisation Apanemi has informed the NFP that it not rare that the hospital authorities may "detain" migrant patients under an unclear legal regime, until they are able to produce money to pay the hospital fees. It ought to be noted that there is no known case of a Cypriot ever being held at the hospital until s/he is able to produce payment for the hospital fees.

The biggest obstacle in access to health and social care services for migrants is the requirement for a private medical insurance by employer in order to secure a work permit; very often the employer would fail to renew or even cancel the policy and receive a refunds from the insurance company, as there is no monitoring of this practice by the authorities. This results in migrants not being allowed access to the health services. Refugees and asylum seekers are entitled to means-tested free health provisions. Turkish-Cypriots are also allowed free access to publicly provided hospitals; their main obstacles are the language barriers and often negative attitudes by some employees.

It was reported by one NGO that there are many cases of asylum seekers and migrant workers who do not report the problems they are facing in accessing health care, particularly if they have dependents and other relatives in Cyprus, for fear of deportation if they raise an issue with authorities.¹⁷⁶ A similar finding was also recorded in the study of the Cyprus representation of UNHCR,¹⁷⁷ according to which asylum seekers and refugees complained of discrimination in, inter alia, hospitals but would refrain from raising a complaint for fear of deportation. Apanemi also reported that migrants who applied to the Ministry of Health to receive a "health card", a document entitling them to free medical care on the basis of their low income, were refused contrary to previous practices of accepting applications with only the presentation of an "Aliens Book"; the health authorities now demand, in addition to the "Aliens book", the pink slip which is proof that the holder is entitled to work in Cyprus. Apanemi also reported that three families of migrants who are in the latest stage of their naturalization process, are in a limbo situation and every aspect of their life is suspended pending determination of their naturalisation application: they are not allowed to work or receive any benefits including medical attention.

¹⁷⁴ Cyprus/ The Equal Treatment (Racial or Ethnic Origin) Law No. 59(I) /2004 (31.3.2004).

¹⁷⁵ Cyprus Ombudsman File No A.K.P 54/2005.

¹⁷⁶ Apanemi, which is a nongovernmental organization.

¹⁷⁷ The UNHCR study is described in Section C.1.2.1, paragraph 74 above.

Some NGOs have complained about the problems of pregnant women and the risk they faced at the Kofinou Reception Centre for Asylum Seekers, where they faced constants risks of infectious diseases and are without proper medical care.¹⁷⁸ Another case reported in the media concerns a Bangladeshi student, who had an accident whilst working part time at a factory, which resulted in having his right arm amputated. Since then he has been struggling to secure adequate compensation from the employer and receive appropriate medical care, because it is not clear whether he was legally entitled to work while being a student.¹⁷⁹ Another case involves a Kurdish national who complained that he was tortured on instruction of a foreign government and sought from the Cypriot authorities, the Unit for the caring of Victims of Torture, to provide him with financial assistance and proper medical care. He complains that he did not receive the appropriate care and that the staff of the Unit were not sensitised to his case; either the social worker or the medical staff, and did not refer him to specialist psychologist/psychiatrist to look into the circumstances surrounding his case and his personal night mares that he was complaining of. He had to eventually resort to private sector psychologist/psychiatrist.¹⁸⁰

The Cypriot Equality Body commissioned a survey on the attitudes of various social groups regarding issues of racism and discrimination. The survey covered the Greek Pontiac community of Cyprus and their opinion about Greek Cypriot attitudes and was carried out in the two months of June and July of 2007. The survey covered a representative sample of 400 posing questions on many possible areas of friction and discrimination. On the question whether they encountered discrimination when seeking medical treatment, their response has been that for the great majority of 81.7% did not encounter discriminatory practices when visiting medical services. More analytically the results of the survey are presented in the following table:

Table: State discrimination towards Pontiac Greeks

Type of discrimination	(%)				Total
	Very much	Much	Little	None	
Educational opportunities	1.8	2.0	11.7	84.5	100
Medical treatment	1.0	4.0	13.3	81.7	100
Public assistance	1.3	5.0	17.5	76.2	100
Social insurance	1.3	1.0	4.0	93.7	100
Professional training	2.0	8.5	10.3	79.2	100
Business establishment	0.8	2.7	14.0	82.5	100
Police	2.8	9.2	18.0	70.0	100
Courts	1.0	2.3	5.2	91.5	100
Voting	1.5	6.8	25.2	66.5	100

¹⁷⁸ Doros Polykarpou, then Chair of Immigrant Rights Group KISA appeared before the Human Rights Parliamentary Committee and commented on this amongst other issues. See J. Christou (2007) "Asylum seekers living on £50 a month to wait until autumn for respite" in: *The Cyprus Mail*, (04.07.2007).

¹⁷⁹ K. Yasin (2007) "Bengali student struggling after losing arm work accident" in: *The Cyprus Mail* (04.08.2007).

¹⁸⁰ The case was raised by Apanemi with the Asylum Services of the Ministry of the interior with a letter in early September 2007 (information provided by J. Kalimeri).

5. Political and Public Discourses

5.1 Public and Media Discourses

There is a regular pattern, largely media generated, highlighting the ‘negative’ social consequences from the presence of migrants in Cyprus, the dangers from ‘excessive numbers, the ‘floods’, ‘chords’ or ‘waves’ of migrants who are allegedly just waiting for the opportunity to ‘move in’ and exploit the opportunities that are available to them (work, social welfare, education etc). Studies show that such patterns have repeatedly emerged since 1990 and continue to this day.¹⁸¹

Over the years, the ghettoization and general poor accommodation of migrants has attracted a lot of public comments. Some have been critical to the authorities and others have had racist connotations. For instance, whilst in 2004 the Mayor of Limassol highlighted the problem of the impoverished ghettos of migrants and called on the state to recognize the contribution of migrants to Cypriot society and economy, in 2005 the Mayor of Nicosia told the press that the accommodation conditions of migrants ‘downgrade’ the city. This statement attracted criticisms from the national Equality Body and the Commission on Journalistic Ethics who issued reports on the matter.

A number of regular anti-immigrant, xenophobic and racist frames have been located in various research papers. These can be summarised as following:

- *The connection with unemployment: ‘welfare-chauvinism’ and the ‘job-stealing frame’*: Discourse connected with this frame appeared after 1990 with the change of migration policy. At the time, a xenophobic attitude was adopted mainly by trade unions and individual politicians (see Trimikliniotis, 2005b) connecting the inflow of migrant workers to the ‘rise’ in unemployment among Cypriots.
- *‘Social problems’*: Social problems resulting from the presence of foreign workers” such as marriages of convenience in order to secure the right to stay in Cyprus, the “suffering of underage children as a result” as well as “affairs mainly between Cypriot men and female workers” many of which lead to “the breakup of marriages.”¹⁸²
- *Metaphorical connections*: Connection is made in some press articles between migrants and disease, crisis, and dirt. Headlines have appeared with phrases such as “Foreign workers are a real cancer” or quoting the then Interior Minister’s remarks “Foreign workers are an unsalvageable cancer” or referring to undocumented workers as “a gangrene”, a “plague” or a “headache”.
- *The connection with the country’s size*: ‘Cyprus is too small to absorb the current number of foreign workers’ is a phrase often heard in public discourse. The social paradigm on which this statement rests is derived from the ‘host-immigrant’ model theory according to which migrant workers are considered a ‘threat’ to the fabric of society.
- *The connection with the Cyprus problem*: The argument often invoked to justify the restrictive immigration policies is that Cyprus is semi-occupied by the Turkish army,

¹⁸¹ See Trimikliniotis 1999, 2001; 2005b; Charakis, et al., 2005; Trimikliniotis and Demetriou 2007; 2008.

¹⁸² In reply to questions by journalists, the government’s Social Welfare Department ‘expressed concern’ about such cases (*Ergatiko Vima* 08.09.1993).

its 'national survival' is under threat and the settlement of foreigners must be restricted so that its demographic character is not altered. This is intended to be juxtaposed to Turkey's policy of encouraging the settlement of Turkish nationals in the occupied north of Cyprus, the number of which by now far exceeds that of the local population, thereby rendering the resolution of the 40-year old conflict even more complicated than what it was at first.

- *National Culture and Heritage versus 'Alien Cultures and Religions'*: The concern with migrants as 'carriers of different attitudes, principles and values' who have the potential to 'influence social institutions' is a widespread notion. This is marked by a failure to contextualise the issue within the current social reality of globalisation and multi-culturalism.
- *Connection with criminality - the conflict-criminality frame*: The 'connection' between immigration and criminality is one of the media's favourite themes, also used by populist, right-wing or ethno-nationalist politicians, as well as by the police. This practice has been repeatedly criticised by the national Equality Body. The Media often record such statements made by politicians or the police without criticising their underlying message and usually accompany the text with photos of dark-skinned persons in handcuffs, thereby reinforcing the connection.
- *'Illegal' immigrants and asylum seekers*: Undocumented workers are frequently the subject of media reports which, although in some cases sympathetic, generally tend to portray them as a menace. This is in line with the view often expressed by the trade unions and the authorities. A conclusion that may safely be deduced is that the media tend to be sympathetic when covering heart-breaking stories of individual migrants and less sympathetic or even at times xenophobic when they refer to migrants as a group or a section.

It may generally be deduced that left-wing and liberal journalists and politicians take a more sympathetic look on migrants and migration, although it is impossible to generalise. The discourse of the right-wing trade union SEK has generally been more xenophobic than that of the left-wing trade union PEO whose reservations were more focused on negative employment and welfare impact. Nonetheless, prior to 1995 PEO also used phrases like 'the danger of alien cultures' and blamed immigration for the rise in unemployment among locals. Over the years and particularly following Cyprus' accession to the EU, discourses have become a little milder and less xenophobic, as social partners began to accept that immigration is an inevitable and, in some respects, necessary reality. Left wing trade union PEO, the employers' union OEV and in some contexts right wing trade union SEK and now acknowledge that there is no connection between immigration and unemployment amongst Cypriots. The view publicly expressed by the Ministry of Labour and the other social partners continues to connect immigration with unemployment, often invoking studies which are not made publicly available. However, references to 'alien cultures' have been toned down.

5.2 The emergence of anti-immigrant and ultra nationalist far right groups

The recent emergence of anti-immigrant and ultra nationalist far right groups has not been addressed by the government. There are no convictions against perpetrators in cases of racist attacks.

6. Bottom up activities

6.1 General

The current institutional framework hardly provides the space for the civic participation of immigrants. It is, therefore, hard to differentiate between restrictive and encouraging legal conditions. There are obviously 'restrictive conditions' that prohibit political participation in elections (restrictions in voting, in standing for office), unless full citizenship is granted, but there are no formal prohibitions of membership in parties and organisations, rights for self-organisation, public rallies, etc, although there have been cases where the contract of employment of migrants in certain sectors prohibited involvement in political activity. Overall, the situation in Cyprus can be described as rather disappointing on the issue of the civic participation of TCNs, however, there are some encouraging signs. The rights guaranteed under the Constitution and the ECHR are generally respected, with some exceptions. Nevertheless, migrants face a tough regime because, on the whole, issues relating to their stay are considered as falling outside of these. The recently enacted anti-discrimination legislation transposing Directives 43/2000 and 78/2000 has had some impact on the situation of migrants in Cyprus. Nevertheless, the areas impacted by these new laws are mostly employment-related and only indirectly affect migrants' level of civic participation.

The main focus of the migrant support and solidarity NGOs in Cyprus is to protect the basic rights of migrants in terms of regularisation and labour disputes. Lack of funding and understaffing, however, restricts the activities of many NGOs. It is worth noting that the promotion of encouraging conditions for civic participation such as foreigners/ immigrant committees, quotas and subsidies to ethnic organisations have not been on top of their agendas. Over the last years, some migrant support initiatives have developed. However, the sector remains small and the media does not always give it the space and attention it requires.

A number of public awareness campaigns and discussions have taken place, aimed at disseminating information about the harmonisation process and the changes brought to the field of non-discrimination. These, however, have not gone beyond the anti-racism discourse and into the sphere of promoting civic participation (see Trimikliniotis and Demetriou 2005).

6.2 Trade unions and TCNs

Another key issue here is the role of trade unions in protecting migrant rights. There have not been any trade unions as such set up by immigrants, although a small number of organisations or associations of immigrants are gradually beginning to emerge. One of these organisations was set up by and consists of migrant workers from Bulgaria, whose intention is to focus on labour issues, including conditions of employment. Another organisation is in the process to be set up, made up of recognised refugees; they also intend to focus, inter alia but not exclusively, on labour issues. Immigrants are allowed and encouraged to join the mainstream trade unions. It is argued that trade unions have not been very successful in taking action to support or demonstrate their solidarity to migrant workers (Trimikliniotis, 1999). In spite of the ideological differences and the varying degrees of emphasis between the trade unions in Cyprus,¹⁸³ there is a consensus¹⁸⁴ in their reluctance to accept the presence of migrant workers

¹⁸³ One must distinguish between the Left-wing and the Right-wing trade unions, as there are differences in emphasis and ideological leanings. PEO has to be seen in conjunction with the left wing party AKEL and the broad Left. SEK (Confederation of Labour of Cyprus) is ideologically and organically tied to the Right-wing party DESY (Democratic Rally).

¹⁸⁴ In December 1996, there was even common action by trade unions taken against migrant workers in the hotel industry in Paphos: See reports in *Haravgi*, 12.12.1996 and *Phileleftheros*, 13.12.1996. Today, SEK and the third largest trade union

in Cyprus, who are regularly blamed for rising unemployment.¹⁸⁵ During the 1990s, trade unions adopted a defensive approach towards migrant workers, and made regular xenophobic remarks. It was common for trade unionists, particularly those on the right of the political spectrum, to claim that “*they* [‘migrant workers’] *are stealing our bread*”.¹⁸⁶ Interestingly, even the super-exploitation and human rights violations of migrant workers have been invoked as justification for their deportation.¹⁸⁷ The trade unions of the Left are more cautious and adopt a more sympathetic approach towards migrants but they have not done very much to organise migrant workers in their ranks. Over the last ten years, the Left-wing trade union PEO has shifted towards a generally more sympathetic approach towards migrant workers and a number of initiatives were taken to support them, including the setting up of the Migrant Workers’ Bureau in 2003 to address exclusively the problems of migrant workers, the employment of a number of migrant workers as trade unionists/liaisons with the migrant communities and a large conference in 2004 for the rights of migrant workers which was widely attended by migrant workers themselves. PEO has advocated for the need to take measures to combat the widespread discrimination against migrant workers, especially in sectors where collective agreements are not in existence.

There are sectors of the labour market that have traditionally been trade union strongholds, such as the construction industry, where approximately 50% of the workforce is made up of migrant workers; in such sectors trade unions have eventually started to recruit migrant workers as members and they advocate for their rights. However in sectors which have not been unionised, such as the agricultural and farming sector which is predominantly made up by migrant workers, trade unions have failed to unionise them, partly due to employers’ hostility and partly to the difficulty of unionising seasonal labour, but also due to an absence of a sense of priority by the unions. The second ECRI report notes:

“While there are sectors, notably in unionised and construction industry, where foreign workers appear to enjoy in practice the same conditions as their Cypriot counterparts, in others the practical application of the principle of equality of treatment of migrant workers in respect of their terms and conditions of employment has been less successful.”

In any case, it is apparent that there are structural barriers to the proper representation, organising and articulating the case for migrant workers by the trade unions. The migrant workers more actively involved in the trade unions are the Greek nationals of Pontiac origin and the Bulgarian nationals; this may be attributed partly to the fact that their countries of origin have a history of unionisation, when compared to other migrants in Cyprus, but primarily to the fact that their residence status in Cyprus is more secure than that of other migrants and are less likely to face deportations if they lose their jobs.

DEOK regularly express their misgivings about the presence of migrant workers in Cyprus and even call for more restrictions (see Lambraki, A. (2005) “Thymata Ekmatallefsis peftoun stin Kypro Polonoj Ergates” in *Phileleftheros* (28.06.2005).

¹⁸⁵ In addition to SEK and DEOK, the argument that unemployment is linked with immigration is still maintained today by the Cyprus Ministry of Labour, but disputed by the employers’ union OEB who argue that more permits for the employment of migrant workers must be issued if the targeted rate of growth is to be achieved (see reports: “OEB: Oi allodapoi den epireazoun tin anergia” in *Phileleftheros* (28.09.05); “I apaxolisi allodapon den epirazei tin anergia” in *Phileleftheros* (09.10.2005)). In a recent press conference, the Minister of Labour referred to a study made by his Ministry which attributes the recent rise in unemployment primarily to immigration (Christophorou, C. (2005) “Xenoi afxisan tin anergia” in *Phileleftheros* (10.08.2005), however when we asked the Ministry for a copy of this study we did not receive any response.

¹⁸⁶ SEK spokesman in *Phileleftheros*, (02.12.1997).

¹⁸⁷ Interview with Assistant General Secretary of SEK, Demetris Kittenis, *Ergatiki Foni*, (30.10.1996).

6.3 Some initiatives by civil society

Here I will merely mention as indicative noteworthy initiatives, which area by no means the only ones but are relatively recent.

Various seminars are worth mentioning under various EU funded projects such as the following:

- Migrant support activities which take activist form, advocacy and facilitation.
- Voluntary school support for migrant children in collaboration with local authorities;
- Project is supported by the European Union, PROGRESS¹⁸⁸ (The Community Programme for Employment and Social Solidarity);¹⁸⁹
- Diversity management training seminar was co-organised by NGO and the employers association¹⁹⁰ and was attended by approximately representatives of trade unions, employers and public authorities.
- Anti-discrimination seminars targeting NGO activists and trade unionists;¹⁹¹
- Conference on integration of female migrant domestic workers examining strategies for employment and civic participation;¹⁹²

Training courses for refugees funded by the ERF.¹⁹³

To conclude on bottom activities, one has to bear in mind that integration and civic participation of migrants requires a serious change in the whole way in which migrants are perceived and are structurally located in Cypriot society. In particular, it requires a radical reform of the current system: the immigration model for migrants ought to shift from the short-term temporary model to a policy of granting long-term status to migrants who have a vested interest in adapting and producing in Cypriot society. At policy level, the whole approach to immigration policy must break away from the ideology of 'control' and, in particular, border control and move towards a more proactive and positive approach towards immigrants and immigration. The basis of the model of reception of migrant workers ought to be based on a multi-cultural model that promotes dialogue, equality, belonging, and respect for difference.

¹⁸⁸ In the framework of the restricted call for proposals "National Awareness-raising Activities against discrimination VP/2007/006", INEK-PEO has submitted a project proposal, which was finally among the two proposals from Cyprus selected for co-funding by the European Commission. The Cyprus Labour Institute (INEK-PEO) organised a series of seminars under the general title 'Awareness Raising Activities in Cyprus against Discrimination on Ground of Race, Ethnicity, Religion and Age'.

¹⁸⁹ For some information on the subject, although by no means complete see http://www.inek.org.cy/english/index.php?article_id=62&subject=standalone&parent_id=0

¹⁹⁰ On 04.04.2008 a Symfiliosi and the national employers' association OEV (Industrialists and Employers' Federation), as part of a project managed by the Migration Policy Group and Human European Consultancy, in the framework of the European Year of Equal Opportunities for All.

¹⁹¹ For instance on 5-6.04.2008 Symfiliosi organised a two-day anti-discrimination follow-up seminar who had attended one of the previous anti-discrimination seminars held in 2005 and 2007, as part of a project managed by the Migration Policy Group and Human European Consultancies.

¹⁹² On 28.02.2008 the Mediterranean Institute of Gender Studies in collaboration with the University of Nicosia organised an international conference within the framework of the transnational project entitled "Integration of Female Migrant Domestic Workers: Strategies for Employment and Civic Participation" funded under the [INTI Preparatory Actions 2005](#) The conference included presentations by academics, both Cypriot and European, as well as by activists and female migrant workers on issues of civic participation, employment, representation and other integration related issues. <http://www.medinstgenderstudies.org/?p=331> (27.09.2008).

¹⁹³ From September 2008 Intercollege, Cyprus' largest tertiary education establishment, was running a free vocational training program for recognized refugees or persons with subsidiary protection aged 18 and above throughout Cyprus, in the framework of the European Refugee Fund. The training courses include classes on business administration and computers and selection will be based on maintaining a balance between male and female participants, as well as, country of origin, and status of protection, with the aim of increasing employability of this vulnerable group.

7. Discussions/ suggestions for policy improvements

This work package proposes a comprehensive policy reform to break away from the ineffective logic of ‘control’ and the antinomies of current policies of the temporary migrant labour model, which reproduce the problem. It proposes a framework for a more open and effective system of regulation so that the rights of migrant workers as well as defend general workers rights can be properly defended.

7.1 There ought to be a serious rethinking the models of ‘reception’ of migrant workers.

Policy-makers ought to begin to consider the alternative “reception” models that exist in the world and become involved in the debate over the future of society, promote openness, multiculturalism, and tolerance.

7.2 Policy-makers must find ways of implementing international labour standards and ensure full implementation and regular review of collective agreements and laws.

The adoption of international labour standards such as the adoption and ratification of *Convention no. 177* and Recommendation 184 is a good starting point. The ILO Conference 2002 made some interesting proposals, some of which must be taken up for further elaboration and adoption ; such standards ought to be upgraded and constantly be improved. Policies and practices ought to be developed for the regulation of contractors from other countries (i.e. establish *floor* international labour standards/ reception country standard) beyond the ineffective posting regulations, directives etc.

7.2 Repression of irregular migrants does not work: The need to debate regularisation as the first step to integration for irregular workers

There is a paradox when it comes to immigration regulation: there is a process of production and reproduction of ‘illegality’ or ‘irregularity’ as there is a reproduction of labour. Hence the policy of repression followed in Cyprus is ineffective and merely reproduces the problem. As argued elsewhere (Trimikliniotis 2009), the current regimes of regulation of the most vulnerable groups, the ‘weakest link’ of labour and the backbone of undeclared labour and clandestine migrant labour is in fact produced and reproduced by the way migrant regulation is organised, somewhere in between *immigration regulation and labour regulation*. It is the process of legislating and what one scholar called ‘institutional precariousness’ (Watts 1999: 129-148) *caught inside the contradiction between severe and repressive immigration control on the one hand, and tax and ineffective labour market regulation on the other.*

The discourse and practices of repression must be replaced for a longer-term class vision: repressive policies drives a wedge between and divides the workers between ‘natives’ versus ‘migrants’, and ‘legal’ versus ‘illegal’ migrants. The reproduction of racist ideologies by ‘scapegoating’ undocumented workers and the so-called ‘law and order’ politics is the guise behind which extreme Right and racist ideas are being bread. A longer term vision ought to be adopted learning from the experiences of southern Europe: only via the regularisation of undocumented workers can we progress towards this vision. It is apparent that the effectiveness of ‘repressive’ mechanisms and practices is not only highly questionable but contains three essential drawbacks: (i) they divide workers; (ii) they have proved ineffective is

actually reducing “illegal” employment, on the contrary they reproduce the problem; and (iii) they are used by racists and xenophobes, to scapegoat all migrants and minorities in society.

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