

The impact of the Racial Equality Directive:  
a survey of trade unions and employers  
in the Member States of the European Union

Cyprus

Anthoula Papadopoulou

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## 1. Demographic background

Cyprus<sup>1</sup> is a small island state with an estimated population in the government-controlled areas of 778,700 at the end of 2006 (Demographic Report 2006), 18% of whom are officially described as non-Cypriot nationals<sup>2</sup>. The economy is dominated by the services sector, whose share of GDP is over 77% and 72% of employment, while light manufacturing and construction amount to nearly 20% of the GDP and over 23% of employment; agriculture amounts to just over 3% of GDP and 4% of employment. The labour market has, until the present global economic crisis, been characterised by conditions of almost full employment. In 2007, the number of employed persons was 377,948 and the employment rate for men and women was 78.5% and 62.5%, respectively (Labour Force Survey 2007). Cypriots comprised 85.8% of those in employment, while the remaining 14.2% was made up of European citizens and third-country nationals, representing 48.9% and 50.5%, respectively. Even though official statistics estimate the total number of migrants to be around 54,000, other sources<sup>3</sup> estimate the real figure to be closer to 100,000–120,000 or 20-25%, of whom nearly 57% are women (70% of third-country migrants, 43% of European citizens). This includes undocumented migrants, who are estimated at around 20,000–30,000, as well as asylum seekers who, after the first six months of their asylum applications, are allowed to work in unskilled, manual jobs in agriculture and animal farming, recycling, cleaning, etc. The main countries of origin of third-country migrants are the Philippines, Sri Lanka, Vietnam, India, Egypt, Syria, Pakistan, Bangladesh, Moldova, Georgia and the Ukraine. European migrants come mainly from Greece (including Pontians<sup>4</sup>), Romania, Bulgaria and Poland.

Until the late 1970s, Cyprus was a country of emigration. This changed following the sustained economic development from the second half of the 1970s which resulted in acute labour shortages that were met by the ‘import of foreign labour’<sup>5</sup>. The migration model adopted prescribes a strict framework of entry and short temporary stay (of up to 4 years), linked to a specific sector and employer, mostly in

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<sup>1</sup> The report refers to the areas under the effective control of the Government of the Republic of Cyprus.

<sup>2</sup> Data of the Registry and Migration Department of the Ministry of Interior, April 2009.

<sup>3</sup> Academic papers, NGO reports and other references, including by politicians, e.g. several papers by the Economic Research Centre of the University of Cyprus, *ENAR Shadow Report-Racism in Cyprus*, Address of the Minister of Interior at a public debate on “The migration policy of the European Union and Cyprus”, organised by the European Parliament Offices in Greece and Cyprus, 13 June 2008.

<sup>4</sup> Pontians are of Greek decent from the *Pontos* (southern coast of the Black Sea) and came to Cyprus in large numbers at the beginning of the 1990s.

<sup>5</sup> This terminology is still widely in use by the media, society at large and government services (e.g. statistical data of the Social Insurance Department of the Ministry of Labour and the Statistical Service refer to “aliens” and “migrants”, the former referring to third-country migrants and the latter to migrants from member states of the European Union), indicating the position of Cyprus as a country of ‘temporary’ migration. This has far-reaching consequences, including the absence of any integration policies. The refusal of the government to implement the Long-term Directive 2003/109/EC, transposed into Cyprus law with the amendment of the Aliens and Immigration Law No. 8(I)/2007, is one example of this policy and subject of a prolonged dispute between the government and NGOs such as KISA (Action for Equality, Support, Antiracism), which had to resort to reporting it to the European Commission. (More details on KISA’s website: <http://www.kisa.org.cy>)

unskilled or low-skilled, low-paid jobs, often involving adverse working conditions. Migrants are mainly employed in agriculture, construction, hotel and catering, and trade. In addition, a large number of migrant women, who form the largest single group of migrants (28.5%), are employed as domestic workers and care-providers/companions of children, disabled and older people. Domestic workers are almost in their entirety (over 97%) from third countries (the Philippines, Sri Lanka, Vietnam and Thailand). Additionally, a smaller number (about 3,000 in any single six-month period) of migrant women from Eastern European countries and in the last few years from Latin America as well, have until very recently been employed as “artistes” in the sex industry and many are victims of trafficking for sexual exploitation.<sup>6</sup>

Since 2004, when Cyprus joined the European Union, there has been a large and steady flow of migrants from member states of the E.U., who are mainly employed in construction and hotel and catering. In addition, the partial lifting of restrictions of movement between the two parts of Cyprus in April 2003 resulted in a sharp increase in the employment of Turkish Cypriots in the government-controlled areas of Cyprus, from about 700 Turkish Cypriots registered with the Social Insurance Department (SID) before 2003 to almost 3,500 in 2006. It is estimated however that the true number of Turkish Cypriots working in the government-controlled areas is nearer to 4,500–5,000, as many are not registered with the SID. Even though the Turkish Cypriot community is one of the constituent parts of the Republic of Cyprus, Turkish Cypriots working in the government-controlled areas are mentioned because they are often discriminated against on the basis of their ethnic origin.

## **2. Industrial relations background**

The main trade union organisations in the private and semi-government sectors are: The Pancyprian Federation of Labour (PEO), which is the oldest and largest trade union organisation in Cyprus. In 2006, PEO with its nine trade unions organised broadly on sectoral lines had almost 81,500 members (Trade Union Registrar 2006), of whom 34% were women and 28% migrants. The Cyprus Workers Confederation (SEK), which comprises seven federations, is the second largest union organisation in Cyprus. At the end of 2008, SEK had 65,000 members, some 6,500 less than in 2006. SEK was the only organisation in Cyprus that declined to be interviewed for the project (as their anti-discriminatory policy and action focuses on gender only). The third umbrella union organisation is the Democratic Labour Federation of Cyprus (DEOK). With some 9,300 members in its five trade unions, of whom 24.7% are women, DEOK is substantially smaller than the first two. Another important union is the Union of Cyprus Banking Employees (ETYK) which is the sole trade union in the banking sector. In the public sector, there are four trade unions: the Pancyprian Public Employees Trade Union (PASDYD), the Pancyprian Organisation of Greek Teachers (POED) (elementary school teachers), the

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<sup>6</sup> In 2008, within the framework of the new government's policy of combating this phenomenon, the Minister of Interior abolished the “artiste” visa. The new policy was put into effect in September 2009. It remains to be seen whether this change will have an impact on trafficking.

Organisation of Greek Secondary Education Teachers (OELMEK) and the Organisation of Greek Technical Education Teachers (OLTEK).

The largest employer organisations in Cyprus are (a) the Employers and Industrialists Federation (OEB), which has in its ranks 51 sectoral associations and some 4,500 individual enterprises from the full spectrum of all economic sectors and which employ about 57% of the total labour force, and (b) the Cyprus Chamber of Commerce and Industry (CCCI), whose membership list includes more than 120 professional business associations and some 8,000 individual enterprises.<sup>7</sup> There are also other sectoral organisations, the largest of which are the Federation of the Building Contractors Associations of Cyprus (OSEOK), comprising five federations, whose 1,000 members are the largest construction companies in the country. The Cyprus Hotel Association (PASYXE) and the Cyprus Bankers Employers Association (KEST) are the only employer organisations in their respective sectors. The Pancyprian Professional Small Shopkeepers Federation (POBEK) has a 'mixed' representation of business interests.

Although trade union density in Cyprus is at relatively high levels compared to European averages, by 2006 it had declined from 76.16% in 1990 to 58.06%, although the absolute number of union members increased by 35% during the same period. This decline in density is partly due to the large number of migrant workers who do not or cannot for 'objective reasons' join trade unions.<sup>8</sup>

According to Soumeli (2003), since independence in 1960 the industrial relations system in Cyprus has developed on the basis of two fundamental principles, voluntarism and tripartite cooperation, and is based on the Industrial Relations Code of 1977, regulating among others the role of the Mediation Service of the Ministry of Labour and Social Insurance. The strong system of tripartite social dialogue functions mainly through the Labour Advisory Body as well as in technical and other committees. Despite collective agreements not being legally binding, collective bargaining has traditionally played a leading role in regulating minimum standards, whereas legislation has constituted a secondary tool for their regulation. However, in recent years, the content of a small number of collective agreements has been extended to include issues of equality and non-discrimination. In general, collective bargaining is decentralised and collective agreements are concluded at either sectoral or enterprise level. According to the Labour Relations Department, in 2007 there were 14-17 sectoral collective agreements and some 400-450 enterprise-level agreements. Following the downward trend of recent years, 6 strikes were staged in 2007 compared to 10 in 2006 and 25 in 2005.

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<sup>7</sup> OEB claims, correctly according to industrial relations analysts, to be the most representative employer organisation both as a negotiating body in collective bargaining and official 'social interlocutor'. This is contested by the CCCI, in view of its having preceded OEB in this role by over 30 years.

<sup>8</sup> For example, the employment contract of migrant domestic workers expressly prohibited, until very recently, any trade union activity. However, a new clause prohibits "direct or indirect involvement or participation in any action or activity". Interestingly, the English version of the contract limits this to "political action or activity".

### 3. Trade union and Employer awareness

#### 3.1 Trade Unions

The four union respondents interviewed were quite aware of the national laws<sup>9</sup> through which the Racial Equality Directive was transposed, and which were enacted on the eve of Cyprus' accession to the European Union on May 1 2004.

All four trade unions interviewed were involved in and satisfied with consultations on the transposition of the Directive. Even though the two sectoral unions of PEO (CBWMGWU and SYXKA) were indirectly involved, both respondents seemed quite content with their representation because they were actively involved in shaping their Federation's positions regarding the new legislation. In the opinion of the majority of trade union respondents, their organisation's participation in social dialogue on the issue at other, more open and public fora, such as for example the House of Representatives, was also very important.

All union interviewees agreed that the legislation was an important instrument in combating discrimination on the basis of racial and ethnic origin, each stressing different parts or aspects of the law. For example, PEO's respondent analysed the three major changes brought about as a result of the transposition of the Directive, namely the introduction of the concept of indirect discrimination, the setting up of structures such as the Equality Body under the Ombudsman's Office and the right of NGOs to represent victims of racial discrimination. The DEOK respondent emphasised the importance of informing those vulnerable to racial or ethnic discrimination about their rights as well as of raising awareness among the Cypriot society at large because, *'racists are found even in the ranks of trade unions'*. The SYXKA respondent was of the view that, while as a result of the legislation, *'it is expected that all working persons, wherever they are, enjoy the same rights as local workers, in Cyprus this is not implemented in practice or implemented minimally.'*

Despite the fact that the union respondents considered the anti-racial legislation as useful in their organisation's fight against racism, they also noted that their anti-racial policies and action had started long before the transposition of the Directive.

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<sup>9</sup> The Racial Equality Directive was transposed into Cypriot law with the following three laws: The Combating of Racial and Some Other Forms of Discrimination (Ombudsman) Law, No. 42(1)/2004, the Equal Treatment in Employment and Occupation Law, Law No. 58(1)/2004 and the Equal Treatment (Racial or Ethnic Origin) Law, No. 59(I)/2004.

## 3.2 Employers

Most respondents from the employers' organisations were to a varying degree aware of the legislation, with the OEB respondent being better aware than all four, while the OSEOK respondent was familiar with the Directive but not with the national laws enacted for its transposition.

Similarly, most of the employers' association respondents knew of their organisation's direct or indirect involvement and/or representation at the consultations on the transposition of the Directive and they were satisfied with it. However, the Federation of Building Contractors' Associations respondent, despite a third of its members' workers being migrants, was very critical and resented the fact that his organisation had not at any stage been invited to take part in the consultations.

All respondents nominally agreed that the new legislation was a useful instrument *'against unequal treatment of people with different racial and ethnic background'*; the OEB respondent adding that *'this was so in theory - for there is an enormous gap between what is on paper and what is actually happening in practice'*. The OSEOK respondent went even further, stating that *'Europe reminds us and is pressing us for our responsibilities to humanity'*. However, most respondents more or less denied that racial and ethnic discrimination was widespread or attempted to minimise its extent. So, the OEB respondent remarked: *'The majority of migrants who complain of ethnic or racial discrimination lie as a way of either changing their employer or extending their stay and employment in Cyprus.'*

He also appeared concerned that *'the problem with the unions and the mass media is that they have created an industry of "complaint production" in this area.'*

The Hotel Association respondent argued that *'to us and our members, a working person is just a hotel employee, irrespective of whether he is Cypriot, European citizen, third-country migrant, man or woman'*.

## 4. Comments on the Equality Body

The mandate of the Equality Body, which operates under the Ombudsman's Office, was extended to include more grounds of discrimination than racial or ethnic origins as provided for in the Racial Equality Directive. However, it must be noted that this mandate does not include various important functions, such as the provision of independent assistance to the victims of discrimination in pursuing their claims, as provided for in Article 13 of the Directive, and the mechanisms to effectively enforce its decisions, opinions or recommendations. In addition, these functions are curbed by several factors, such as the very small fines it imposes in cases of discrimination, compared to the *'effective, proportionate and dissuasive sanctions'* referred to in the Directive's Article 26, and its inability to automatically suspend the implementation of legislation, agreements and practices found to be discriminatory.

Also, as observed in evaluation reports,<sup>10</sup> while the Equality Body has been quite forthright in relation to cases of discrimination against migrants, it is *'reluctant to deal adequately with cases [by Turkish Cypriots] that are considered to touch upon the so-called "doctrine of necessity" or the "Cyprus problem".'*<sup>11</sup>

However, despite these weaknesses and difficulties, all trade union respondents acknowledged the significant role of the Equality Body. Significantly, however, trade unions do not as a rule refer or submit complaints for racial/ethnic discrimination. The SYXKA respondent, for example, was very disappointed with it because it had failed to respond to two complaints the union submitted several years earlier, while the Building, Wood, Mine and General Workers' Union respondent considered: *'It would be an easy solution to pass on to [the Equality Body] such cases of racial and ethnic discrimination, instead of dealing with them through our own action on the ground.'*

On the other hand, PEO does submit complaints to the Equality Body but has also *'excellent'* relations and cooperates with it in training and awareness-raising.

The employers' organisations do not seem to have any contacts or relations with the Equality Body in view of the fact that they do not receive any complaints by victims of racial discrimination. In the words of the OEB respondent: *'It's not our job to receive complaints about such discrimination directed against our members.'*

## **5. Trade union and employer policies and measures**

### **5.1 Trade Union policies and measures**

All four trade unions interviewed have clear anti-discrimination policy statements contained in their statutes, policy papers, resolutions, etc, and expressed in the speeches and statements of their leaders. For example, a recent congress of the Democratic Labour Federation of Cyprus declared that the organisation was *'unreservedly against all forms of discrimination based on ethnicity, race, age, religion, sexual orientation and disability'*. Its respondent stated there was an *'obligation for the unions to protect foreign workers and ensure that they enjoy equal rights with Cypriots. If unions don't do it, who will?'* Similarly, the PEO's statutes apply to all, *'irrespective of the ethnicity, gender, political and religious beliefs of their [the trade unions'] members'*, while its General Secretary stated: *'We are obliged to open a front against every form of discrimination on the grounds of ethnicity, religion, race or gender.'* The two trade unions affiliated to PEO and

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<sup>10</sup> See for example Trimikliniotis, N. and Demetriou, C., *Evaluating the anti-discrimination law in the Republic of Cyprus: A critical reflection*, for an extensive presentation of the legislation and a mainly legal assessment.

<sup>11</sup> The *'doctrine of necessity'*, involving the administration of the Republic by the Greek Cypriots, was the result of a Supreme Court ruling that the function of the government should continue despite the withdrawal of Turkish Cypriots from the government after the inter-communal conflict in 1963.

interviewed have similar policy positions. In the words of the SYXKA respondent: *'It is our obligation to protect these people, whom we consider as part of the working class of Cyprus and who have equal rights with Cypriots.'*

The trade unions have also set up structures and mechanisms for dealing with racial discrimination. DEOK has set up an Equality and Equal Opportunities Department and PEO both a Migrants' Bureau and a Turkish Cypriot Department. PEO also positively chooses to employ members of migrant and other vulnerable communities at central and local level and encourages their election to committees and other union bodies.

Other measures and actions against racial and ethnic discrimination reported by the trade union respondents included awareness-raising activities for their members and the public at large, seminars and meetings targeted at specific linguistic groups of their migrant members and at other members at risk of racial and ethnic discrimination, in order to inform them about their rights as protected by the law and in collective agreements. An important activity developed and carried out, to a varying degree, by all four trade unions interviewed, are training courses about the provisions of the legislation for their staff and officials. They have also published a number of leaflets and other documents, such as collective agreements, a Members' Handbook, etc, about the major terms/conditions of employment, health and safety at work<sup>12</sup>, in various languages. In addition, sections of PEO's weekly newspaper 'Ergatiko Vima' ('Workers' Platform') are regularly published in Turkish and Russian, and other languages more infrequently.

Despite all the above policies and measures, in the opinion of all trade union respondents collective bargaining is the best procedure for dealing with discrimination in the workplace. An example of this was given by the CBWMGWU respondent about the removal of discriminatory clauses in the collective agreement in the building and allied industries sector. In this vein, they also held the conviction that the situation concerning racial and ethnic discrimination in unionised workplaces is improving, while it is rampant at non-unionised workplaces.

However, despite these positive policies, one interviewee described how in 2004 several unions covering agriculture and animal farming signed a three-year collective agreement that allowed migrant workers to be discriminated against in terms of wages, holidays and other benefits. With the Equality Body's intervention, the agreement is no longer in force.

Even though all trade union respondents knew about NGOs working in the field of anti-racism and anti-discrimination, contact and relations with NGOs were rather limited. The exception to this is PEO, which maintains very good relations and at times cooperates with such NGOs, including KISA (Action for Equality, Support, Antiracism), which is the oldest NGO in the field.

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<sup>12</sup> The Department of Labour Inspection, of the Ministry of Labour and Social Insurance, does not include racial/ ethnic/country origin in its *Safety at Work* statistics. However, both trade unions and employer organisations are of the opinion that the majority of victims of fatal accidents at work are migrants.



In relation to women at risk of racial and ethnic discrimination, the trade union respondents' view was that their *'rights are covered only on paper'* but in practice they are not adequately protected, as for example their maternity rights. They are also often victims of sexual harassment, which many are reluctant to report to their unions or, when they do, they do not want to have them taken further in fear of the repercussions that the complaints may have for their jobs. This is also due to the ineffective control mechanisms available which, in the opinion of the SYXKA respondent, must be strengthened so as to ensure that every working woman of whatever racial or ethnic background feels safe and that her rights are respected. A case of multiple discrimination handled by DEOK's respondent concerned a pregnant migrant domestic worker, who was forced by her employer to have an abortion or face dismissal and therefore deportation. The migrant woman 'chose' to have an abortion.

## **5.2 Employer policies and measures**

The employer organisations do not have specific policies on racial and ethnic discrimination but a rather general policy on equality, focused mostly on gender. All respondents seemed to agree with the claim by one employer respondent that: *'Employers are not interested in the racial or ethnic background, religion or colour of their employees, men and women, but how good they are in their job.'*

As a result, employers' organisations have not developed or instituted any specialised procedures or structures for dealing with discrimination based on race and ethnicity.

Nevertheless, they have undertaken measures which focus on providing information and guidance to their members. In addition, OEB published a booklet, *Employers' Guide for Promoting Equality and Diversity in the Workplace*, in Greek and English, in the framework of a European Union funded project. The OEB representative considered that there was a very small minority of 'bad' employers who violated the anti-racial legislation. In a similar line, the representative of the Building Contractors, OSEOK, maintained that the rights of migrants were violated and the collective agreement was not fully implemented mostly by *'pirate'* or *'non-professional'* companies that did not abide by the rules of competition and *'the social responsibility ethos'* it considered to be the key to a 'healthy' working environment, which could promote, among other issues, equal treatment for all employees. Also, his organisation has scheduled the publication of a pamphlet on health and safety at work in various languages and the organisation of training programmes specifically for migrants and other non-Greek speaking construction workers. The CCCI respondent reported that his organisation participated in a project coordinated by the European Association of Craft, Small and Medium - Sized Enterprises, of which the CCCI is a member, UEAPME, which produced a report on the Business Case for Diversity in 2008.

All four employers' organisation respondents agreed that collective bargaining was

the best procedure for solving problems that may arise as a result of discrimination. All respondents view cases of complaints of racial discrimination as 'normal' disputes which are dealt with according to the Industrial Code and are either the subject matter of social dialogue between employers and trade unions or submitted to the Labour Disputes Department of the Ministry of Labour and Social Insurance. In line with their more reserved position and policies, two employer respondents did not know of any NGOs engaged in combating racism and discrimination.

## **6. Views on how better to tackle discrimination**

The trade union respondents proposed several ways in which racism could be combated more effectively. These proposals included: amendment of the legislation to provide stricter penalties and sanctions, employment contracts that should be issued in migrant workers' own languages, reinforcement of the policing of the law and support for its implementation, continuous efforts rather than one day mobilizations, more research on racism and discrimination, more and wider public awareness-raising through the use of television, easier access to information (including through the internet) about the legislation and their rights at work for people in general but especially for people vulnerable to racism and discrimination.

In contrast, the employers' organisation respondents did not think there was a need to review or amend the legislation. Rather, they felt that there should be more work done on raising awareness about the law and its provisions through more information, awareness-raising and education in order to change attitudes and eliminate stereotypes.

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