**RESPONSE TO THE CALL FOR INPUTS**

**Commissioner for Administration and the Protection of Human Rights**

**Cyprus**

# **Legislation and regulations in Cyprus**

In Cyprus, the following legislation is applicable regarding racial discrimination, xenophobia and racism:

Hate crimes in the Criminal Code

**Section 35A –** aggravating circumstance provision that may be considered by the court at sentencing: The Court, in the context of the exercise of its powers when imposing the penalty, may take into account as an aggravating factor the motivation of prejudice against a group of persons or a member of such a group of persons on the basis of race, colour, national or ethnic origin, religion or other belief, descent, sexual orientation or gender identity.

**Section 138** – any person who destroys, damages or defiles any place of worship or any object which is held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, is guilty of a misdemeanour.

Hate speech and other provisions in the Criminal Code

Incitement to hatred and violence in the Criminal Code include the following provisions:

1. **Section 47 (1)(b**) penalizes the commission of acts in public with intent to promote enmity between the communities’ religious groups on account of race, religion, colour or gender.
2. **Section 51Α** criminalizes public statements likely to instigate ill will between communities and acts of violence, mutual discord or a spirit of intolerance.
3. **Sections 141** – any person who with the deliberate intention of wounding the religious feelings of any person utters any word or makes any sound in the hearing of that person, or makes any gesture in the sight of that person, or places any object in the sight of that person, is guilty of a misdemeanour and is liable for imprisonment for one year.

The **ratification law of the International Convention on the Elimination of All Forms of Racial Discrimination and its additional protocols, Law 12/1967** and its amendment, criminalize oral or written or in any other manner, public incitement to acts likely to cause discrimination, hatred or violence against persons or groups on account of their racial or ethnic origin or religion, also covering offensive ideas expressed on the same grounds. The conduct carries imprisonment of up to two years or a fine of up to 1000 pounds (around 1500 euros) or both.

The Code’s amendment in May 2015 by **Law 87(I)2015 integrated Section 99(A)** which punishes public incitement to violence or hatred against a group of persons or a member of such a group on the basis of their sexual orientation or their gender identity. The commission of such act constitutes a criminal offense if done by public dissemination or distribution of tracts, pictures or other material or in any other manner. Hate speech is prohibited when it targets a person or a group of persons on the basis (or the assumption) of their ethnic origin, race, colour, religion, gender identity and sexual orientation.

The Combating of Certain Forms and Expressions of Racism and Xenophobia by means of Criminal Law, Law of 2011 **(Law 134(I)/2011)** is the major legislation relevant to hate crime and it was introduced for reasons of **transposing Council Framework Decision 2008/913/JHA** of 28 November 2008, on combating certain forms and expressions of racism and xenophobia by means of criminal law, which only criminalises the specific conduct provided in the Council Framework Decision. In addition, Law 134(I)/2011 establishes that racist and/ or xenophobic motive must be taken into account as an aggravating factor on the imposition of the penalty, but it does not cover any other protected characteristics (such as homophobia, misogyny, transphobia, ableism, ageism) as an aggravating factor. There is no specific reference to the denial of the holocaust, but certain forms or speech are specifically criminalized in the Law, such as:

a) intentionally publicly condoning, denying or grossly trivializing crimes of genocide, crimes against humanity and war crimes as defined in Articles 6, 7 and 8 of the Statute of the International Criminal Court, directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin when the conduct is carried out in a manner likely to incite to violence or hatred against such a group or a member of such a group;

b) intentionally publicly condoning, denying or grossly trivializing the crimes defined in Article 6 of the Charter of the International Military Tribunal appended to the London Agreement of 8 August 1945, directed against a group of persons or a member of such a group defined by reference to race, colour, religion, descent or national or ethnic origin when the conduct is carried out in a manner likely to incite to violence or hatred against such a group or a member of such a group only when the above mentioned crimes have been established by a final decision of an international court.

# **Data collection**

Since 2005, Cyprus Police operate an internal official system for recording hate crimes, called ***racial or racially motivated incidents/offences***. The system functions primarily, but not exclusively, on the basis of the broader Police national electronic Crime Report Registry. The establishment and operation of the system is regulated by Police Order 3/38, which put into practice a ***perception-based recording of hate crimes***: any ***offence or incident*** shall be defined and registered as racial or racially motivated if it is reported or perceived as such by:

1. the victim, or;
2. a person acting on behalf of the victim, or;
3. a person who was present and witnessed the incident, or;
4. a member of the Police, or;
5. the Ombudsman

The Order defines that for the terms “discrimination”, “racism” and “xenophobia”, include among others, any act or omission in relation to any of the following (***monitoring definition, with grounds broader than in the law***): race, ethnic origin, community, disability, language, age, colour, sexual orientation, religion, gender (identity), political or other beliefs.

The system for recording racial crimes is supported and maintained by the ***Office for Combating Discrimination (POCD), Department C’ - CID, Police Headquarters***.

The recorded data normally account for the following information per case/incident:

1. Victim/complainant and offender/accused (name, age, nationality);
2. Brief (telegraphic) description of the incident/offence which allows for their classification;
3. Whether it was officially recorded as a criminal offence or as a reported incident, and the reference details in each case;
4. Charges raised and whether specific racial charges were investigated;
5. Court verdict / outcome / result.

Further to data recorded in the Crime Report Registry, by Police Stations/CIDs concerning racial offences or offences with racial motives, the Office additionally collects information from additional official and/or non-official channels:

1. Police Station logbooks
2. NGOs or other non-Police Agencies
3. Media reports
4. Direct disclosures by victims or persons involved

# **Interventions by the Office of the Commissioner for Administration and the Protection of Human Rights**

The Office of the Commissioner for Administration and the Protection of Human Rights has made several interventions regarding racial incidents. Some interventions are indicated below.

1. **Racial discrimination**: The Office has received numerous complaints regarding degrading and discriminatory treatment based on race by public and private entities, and upon interventions, these incidents were addressed and relevant recommendations were submitted to the competent authorities.

Indicatively, in March 2020, a Report was submitted upon an ex officio investigation the Office conducted, which related to the racial discrimination against a black football player, who was verbally abused with racial comments during a football match by players from the opposite team and other persons in the stadium. The Report stressed the state’s responsibility to apply preventive and combating measures with respect to racial incidents.

1. **Offences with racial motives**: The Office has made interventions regarding attacks against people on a racial basis, and reiterated the Police to investigate such offences by also taking into account the racist motive of the attackers against persons with specific ethnic characteristics, in light of the relevant legal framework related to hate crime.

Indicatively, in our interventions regarding the attacks against young foreigners working as food distributors, as well as against migrants in certain regions in Cyprus (Chloraka and Limassol), the Office stressed the obligation of the competent authorities to take immediate and drastic actions for the exemplary punishment of the perpetrators and for granting the appropriate support to the victims. It was reiterated that zero tolerance should be shown to persons who commit racist hate crimes, and that such offences should be investigated on the basis of the specialised anti-discrimination legislation, taking into account the racist motive of the perpetrators.

1. **Hate speech**: The Office has made several interventions regarding hate speech, either based on ex officio investigation, or upon the investigation of relevant complaints.

Indicatively, in 2021, the Office issued a Report regarding the phenomenon of speech that promotes or incites racism and xenophobia, and indicated the specific implications such speech has for the enjoyment of one’s human rights. In this Report, several complaints were cited, which concerned online hate speech, including online publications and comments, as well as social media posts, which were found to be derogatory and offensive to specific groups of people, and contributed to the cultivation of negative stereotypes and hostility against them, on the basis of their origin and/or religion. The Office recommended to the Police that they should take measures to facilitate the identification and investigation of public statements, publications or posts that constitute hate speech and, in collaboration with the Law Office of the Republic, the effective prosecution of the perpetrators should be aimed for.