



CYPRUS

ISSUES RELATED TO IMMIGRATION DETENTION

Submission to the Committee on the Rights of the Child

Cyprus

85th session, 7-25 September 2020

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THE GLOBAL DETENTION PROJECT MISSION

The Global Detention Project (GDP) is a non-profit organisation based in Geneva that promotes the human rights of people who have been detained for reasons related to their non-citizen

- To promote the human rights of detained migrants, refugees, and asylum seekers;
- To ensure transparency in the treatment of immigration detainees;
- To reinforce advocacy aimed at reforming detention systems;
- To nurture policy-relevant scholarship on the causes and consequences of migration control policies.

Global Detention Project

3 rue de Varembe

1202 Geneva

Switzerland

Email: admin@globaldetentionproject.org

Website: www.globaldetentionproject.org

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The Global Detention Project (GDP) welcomes the opportunity to provide information for consideration of the combined fourth to sixth periodic reports of Tunisia (CRC/C/TUN/4-6) to the Committee on the Rights of the Child (CRC).

The GDP is an independent research centre based in Geneva that investigates immigration-related detention. As per the GDP's mandate, this submission focuses on the State party's laws and practices on issues related to detention for migration-related reasons.

This submission is made under Article 45(a) of the Convention on the Rights of the Child and mainly addresses implementation of CRC Article 37 (b)(c)(d) on deprivation of liberty. The submission takes into account the joint CRC/CMW General Comment No. 23 on "State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return," which states that "child and family immigration detention should be prohibited by law and its abolishment ensured in policy and practice."

Issues concerning immigration detention

Cyprus has legally established migration-related detention measures, which encompass children. However, the detention of children, including in family groups as well as separated and/or unaccompanied children, appears to be generally avoided.

According to Article 9F of the Refugee Law (*Ο περί Προσφύγων Νόμος του 2000 (6(I)/2000*), child asylum seekers cannot be detained. However, the Aliens and Immigration Law (CHAPTER 105) (AIL) (*Ο περί Αλλοδαπών και Μεταναστεύσεως Νόμος (ΚΕΦ. 105)*) does not expressly forbid the detention of children. According to Article 18PH, which mirrors the language in the European Union Returns Directive, families with children and unaccompanied minors must only be detained as a measure of last resort and for the shortest possible period of time. In addition, Article 18PH states that the best interests of the child shall be a primary consideration when detaining minors pending removal.

While migration-related detention of children does not appear to be a serious area of concern currently in Cyprus, the GDP has noted on many occasions that when legal frameworks fail to expressly forbid the detention of specific groups, circumstances inevitably arise that lead to their detention, even vulnerable groups like children. It is critical to note in this respect that the Committee on the Rights of the Child has clearly expressed its interpretation of the Convention on the Rights of

the Child with respect to this issue that migration-related detention is never in the best interests and must be prohibited.¹

The GDP urges the committee to ask the government of Cyprus if it has any plans to update its Aliens and Asylum Law in line with its Refugee Law to expressly prohibit migration-related detention of children. If no such plans have been tabled, the committee may wish to ask how the government intends to ensure respect of the committee’s recommendation that children are never placed in detention for migration related reasons.

Unaccompanied children

In its state report to the CRC in 2019, Cyprus highlighted that according to “a circular letter, dated 30 March 2016, was sent to all members of the Police, ... the detention of unaccompanied minors on the ground of illegal entry to the Republic of Cyprus is forbidden.”² The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) observed during its visit to Cyprus in February 2017 that “mothers with children and unaccompanied minors were not being detained for immigration detention purposes at Menoyia or at the police stations visited during the time of the visit.”³ The CPT report also mentioned that according to the revised Refugee Law and the circular letter addressed to the police, as soon as unaccompanied minors enter Cyprus, they should be placed under the care of the Director of Social Welfare Services, who acts as a guardian and a representative of the minors in order to safeguard access to their rights based on their best interests.

Statistics released from the Ministry of the Interior indicated that between 2013 and 2016, no child (accompanied or unaccompanied) was detained in the country.⁴ The UN Study on Children Deprived of Liberty also confirmed that in 2016, no children were detained in the country.⁵ The Cypriot Refugee Council also stated that asylum-seeking children are not detained in practice.

The GDP recommends that the committee ask the government of Cyprus to provide the following information about unaccompanied children:

¹ Committee on the Protection of the Rights of All Migrant Workers and Members of their Families and the Committee on the Rights of the Child, “Joint General Comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families and No. 23 (2017) of the Committee on the Rights of the Child on State Obligations Regarding the Human Rights of Children in the Context of International Migration in Countries of Origin, Transit, Destination and Return, CMW/C/GC/4 – CRC/C/GC/23,” 16 November 2017, <https://bit.ly/30BQfOU>

² Committee on the Rights of the Child, “Combined Fifth and Sixth Reports Submitted by Cyprus Under Article 44 of the Convention, due in 2018, CRC/C/CYP/5-6,” 7 May 2019.

³ Council of Europe, “Report to the Government of Cyprus on the Visit to Cyprus Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 2 to 9 February 2017, CPT/Inf (2018) 16,” 26 April 2018, <https://rm.coe.int/16807bf7b4>.

⁴ European Commission, “The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards: Draft Common Template of EMN Focused Study 2017,” 25 May 2017, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/05a_cyprus_effectiveness_of_return_final_en.pdf

⁵ M. Nowak, “Secondary Dataset of the United Nations Global Study on Children Deprived of Liberty: Total Detained Best Sources,” OHCHR, November 2019.

- **Statistics regarding the amount of unaccompanied children detained in Cyprus from 2017-2020.**

Families with children

In 2017, the CPT found that “mothers with children ... were not being detained for immigration detention purposes.” The circular addressed to police also “provides special provisions for alternatives to the detention of mothers with minor children.” According to the explanation provided by the Republic of Cyprus in Annex II of the Consolidated fifth and sixth periodic report of Cyprus to the CRC, in case of an arrest and detention of an irregular migrant father for unlawful entry or stay, the mother who has a minor child, is not arrested and Social Welfare Services are notified as well as the Aliens and Immigration Service. A report is then forwarded by the latter service to the Civil Registry and Migration Department who suspends the detention and deportation orders and subsequently determines conditions regarding their travel documents and the time that they must appear at the District Branches of the Aliens and Immigration Service.⁶

The GDP suggests that the committee ask the government of Cyprus to provide the following information about accompanied children:

- **Statistics regarding the number of accompanied children detained;**
- **Statistics regarding the number of alternatives to detention measures applied to families with children.**

Kofinou Reception Centre

Unaccompanied and accompanied children are usually placed in the Kofinou reception centre, which has a capacity of approximately 400.⁷ Daily management of the facility is provided by a private company. Contractors also provide some services such as catering and security.⁸ Despite the state’s response⁹ to the list of issues¹⁰ requesting further information on measures taken to improve the reception conditions of asylum-seeking children, providing information regarding infrastructure and services offered at the centre, the Cypriot Refugee Council reported that, although there have been improvements in living conditions, certain

⁶ Committee on the Rights of the Child, “The Consolidated Fifth and Sixth Periodic Report of Cyprus to the UN Committee on the Rights of the Child: Republic of Cyprus, Annex II – Additional Information to the Report, CRC/C/CYP/5-6 [Annex II].”

⁷ Asylum Service, “Kofinou Reception and Accommodation Centre for Applications for International Protection,” 10 June 2020, http://www.moi.gov.cy/moi/asylum/asylumservice.nsf/asylumservice05_en/asylumservice05_en?OpenDocument

⁸ Cyprus Refugee Council, “Country Report: Cyprus, 2019 Update,” Asylum Information Database (AIDA), April 2020, <https://www.asylumineurope.org/reports/country/cyprus>

⁹ Committee on the Rights of the Child, “List of Issues in Relation to the Combined Fifth and Sixth Periodic Reports of Cyprus, CRC/C/CYP/Q/5-6,” 24 October 2019.

¹⁰ Committee on the Rights of the Child, “Replies of Cyprus to the List of Issues in Relation to its Combined Fifth and Sixth Periodic Reports, CRC/C/CYP/RQ/5-6,” 11 March 2020.

issues remained. For instance, the Reception Centre is located near two units that process animal waste as well as a unit of incineration of animal waste, resulting in the presence of an unpleasant smell and potentially harmful substances. A study conducted by the Technological University Cyprus determined the presence of various dangerous chemical substances, directly associated with the products of the processing units. Although several ministries including the Ministry of Health and the Ministry of Labour are aware of the issue, the problem persists.¹¹

According to the Cypriot Refugee Council, no comprehensive action plan or Covid-19-related measures have been implemented in the centre, which could lead to the spread of Covid-19. A curfew has been established and as a consequence, volunteers that provide material supplies have been unable to visit the centre.

The GDP urges the committee to ask the government of Cyprus whether:

- **The problems associated with the animal waste processing facilities have been resolved;**
- **It can provide clarification regarding the management of the Kofinou reception centre by a private entity, including precision on the extent to which the Asylum Service maintains oversight of the operation of the centre;**
- **Any measures aiming to prevent the spread of Covid-19 been implemented in the Kofinou reception centre.**

¹¹ Cyprus Refugee Council, "Country Report: Cyprus, 2019 Update," Asylum Information Database (AIDA), April 2020, <https://www.asylumineurope.org/reports/country/cyprus>