

Cyprus

REPORT
on the Free Movement of Workers
in Cyprus in 2005

Rapporteur: Prof. Andreas Kapardis

September 2006

Introduction: an overview

The number of EU citizens coming to work in Cyprus increased significantly in 2005, reaching 13,168 applications for residence and work permit, mainly from nationals of Greece, the United Kingdom, Poland and Slovakia. In the same year, some of the weaknesses in the existing legislation were corrected by the coming into force of Law 121 (I)/2004 that amended the main law on freedom of EU workers in Cyprus, namely Law 92(I) of 2003. However, by the end of 2005 there was still a need for the complete adoption of Directive 38/2004 of the European Parliament and Council of 29.4.2004 in order to remedy some remaining weaknesses in the existing legislation. To illustrate, the said Directive provides that “family members” should include the “declared partner if the legislation in the member State receiving the EU citizen, recognizes the relationship of a declared cohabitation as enjoying the same rights and privileges as marriage” (para.5). As far as it has been possible to ascertain, in Cyprus, a relationship of declared cohabitation is not equivalent to marriage as far as fatherhood is concerned but it is as far as property is concerned. In other words, if a cohabiting couple have a child of their own it is considered to have been born out of wedlock. Consequently, an EU worker who applies for residence permit for his third-country cohabitee would not be granted one even if they have a child together. This position may very well be changed soon by a Bill pending in Parliament.

At the end of 2005, two relevant Bills were pending in Parliament. The first, ‘Law 2006 Concerning the Right of EU Citizens and their Family Members to Move and Reside Freely in the Territory of the Republic of Cyprus’ which in effect adopts Directive 2004/38/EC. The second Bill pending, namely ‘Aliens and Immigration (Amending) Law of 2006’ is intended to bring Cyprus legislation into line with existing EU legislation and practice in general and third-country nationals in particular. More specifically, according to an ‘Explanatory Memorandum’ of the Ministry of Interior, the said Bill will incorporate the following Directives:

- 2003/109/EU of the Council on 25.1.2003 regarding the status of third-country nationals who are long-term residents;
- 303/86/EC of the Council on 22.9.2003 regarding the right to family reunion.
- 2003/110/EC of the Council on 25.11.2003 regarding the contribution for transit cases when someone is being deported by air.
- 2002/90/EC of the Council on 28.9.2002 regarding the definition of assisting one’s illegal entry, passage and stay.
- Framework Decision of the Council on 28.9.2002 to strengthen the legal framework for the prevention of assisting illegal entry, passage and stay.

It is hoped that both the above-mentioned Bills will be passed by Parliament in the Autumn of 2006.

As mentioned above, during 2005 the number of officially registered workers from EU member States increased significantly (see Chapter on ‘Statistics’). In order to facilitate EU worker movement to Cyprus, EURESS was set up in March 2005 by the Department of Labour within the Ministry of Labour and Social Insurance and, since August 2005, employment vacancies have been inserted electronically to the EU central EURESS database. In addition, the procedure for obtaining a residence permit was simplified in 2005; more specifically, it became possible for the Employer’s Confirmation Statement (ECS), necessary for the issue of a residence permit, to be approved and stamped locally in District Employment Offices rather than only centrally in the Department of Labour in Nicosia, the capital. The ECS is to be abolished by legislation pending in Parliament in August 2006.

Regarding the treatment of long-term resident third-country nationals, Directive 2003/109/EC that was published in the EU Gazette on 23.1.2004, the position in Cyprus in 2005 remained the same as in 2004, namely that the Directive concerned was not incorporated by means of legislation because the member States had two years to do so. It should be noted in this context that at the beginning of August 2006, six months after the deadline had expired, the above-mentioned Directive had not been incorporated.

In 2005, a significant decision was made by a single judge of the Supreme Court in the case *Nebojsa Micovic vs. The Republic of Cyprus* that concerned an appeal against a decision to extradite Mr. Micovic. The facts of the case are as follows: he came to Cyprus from Yugoslavia on 14.7.1998 due to the conflict in his country. He subsequently obtained a residence and work visa that expired on

10.4.2005. He lives in Limassol with his wife and two daughters aged 9 and 13, in a house he owns having purchased it with permission from the Limassol District Officer. His two children speak Greek fluently and attend a primary school. Upon the expiry of his residence and work visa and rejection of his application to have it extended, the Director of the Immigration and Population registry issued an order for his arrest and expulsion. On the same day he was arrested and remained in police custody until the decision by Justice Nicolaides. His lawyer argued that the Immigration and Population Registry Director had abused the process by not complying with Directive 2003/109. The Republic of Cyprus argued that (a) it has the right to decide the duration of aliens' stay in Cyprus by virtue of its sovereignty, (b) the appellant had already stayed the maximum of four years allowed for aliens by the relevant decision of the Council of Ministers, and (c) the above-mentioned Directive had not yet been adopted. Citing a number of decisions by the Court of the European Communities,¹ the judge decided that:

- despite the fact that Directive 203/109/EC had not been integrated into the legislature, EU Directives do have some effectiveness features, even before the expiry date for their adoption into legislation;
- the Republic of Cyprus had not adequately documented its decision to expel him, it had failed to take into account his circumstances, as provided in Directive 2003/109/EC as they should have done on the basis of existing case law in Cyprus. Consequently, even though the said Directive had not yet been adopted, the Aliens and Immigration registry Director should have taken it into account, the appeal was allowed and the Republic of Cyprus had to pay legal costs. The legal ramifications of the *Micovic* decision by the Supreme Court of Cyprus in November 2005 will become evident in 2006 onwards as long-term residents who are third country nationals appeal against their expulsion.

Together with the other nine new members, Cyprus became a full member of the European Union on 1st May 2004. The legislation pertaining to foreign workers is the following:

- Law 92(1)/2003 on the Free Movement and Residence of EU Nationals and their Families, passed on 18 July 2003 when it was published in the Government Gazette, as provided by Art. 52 of the Constitution of the Republic of Cyprus, and, as provided in Art. 73 of the Law, it came into force on 1st May 2004.
- Administrative Directive 460/2004 pertaining to the free movement and stay of citizens of EU member States and their family members. It came into force on 30.4.2004 and introduced the forms to be completed by residence applicants.
- Law 126 (1)/ 2004 for the Free Movement and Residence of Workers of Citizens of Member States and their Family Members (Amendments) amended some provisions of Law 92 (1)/2003. Art. 2 of the 2004 Law amended Art. 2 of the 2003 Law to include "or another party to the Convention for European Economic Zone".
- Aliens and Immigration Laws 1972-2002 and the Regulations passed by Parliament to implement those laws.
- Directive 2004/38/EC of 29th April 2004.

Unlike some other countries which joined the EU in 2004, Cyprus did not opt to apply a two-years' transitional period for access to the Cypriot labour market to citizens of EU member states and, consequently, since 1/5/2004 nationals from all the EU member states have a right to free movement, residence and paid employment in Cyprus as do their spouses and children under the age of 21 years as well as their dependents as long as they provide the documentation required (see below).

Laws 92(1)/2003 and 126 (1)/2004 brought relevant legislation in Cyprus into line with the following 9 EEC Directives and 4 EEC Regulations (but not Directive 2004/38- see below for details).

1 Case 14/83, Von Colson and Camann v. Land Nordrhein-Westfalen [1984] ECR 1891 [1986] 2 CMLR 430; Decision 80/86, Criminal proceedings against Kolpinghuis Nijmegen BV [1987] ECR 3969, [1989] 2 CMLR 18; Case C-106/89, Marleasing SA v. La Comercial Internationale de Alimentacion SA [1990] ECR I-4135, [1992] 1 CMLR 305; Case C-129/96, Inter-Environnement Wallonie ASBL v. Region Wallone, decided 18.12.1997.

Cyprus

Directives:

- i. Directive 64/221/EEC of the Council of 5 February 1968 on the co-ordination of special measures for the movement and residence of aliens which are justified for public order, public security or public health (EE L 56 of 04.04.1964, p.85);
- ii. Directive 68/360/EEC of the Council on 15 October 1968 for the abolition of restrictions on the movement and residence of workers from the member states and their families within the Community (EE L 257 of 19.10.1968, p.13);
- iii. Directive 72/194/EEC of the Council on 18th of May 1972 which extends the Directive 64/221/EEC (above) so as to apply to workers who exercise the right of residence in the territory of a member state after they have been in a particular paid employment (EE L 121 of 26.5.1972, p.32);
- iv. Directive 73/148/EEC of the Council on 21st May 1973 concerning the abolition of restrictions on mobility and residence of nationals from member states within the territory of the Community regarding settlement and the offering of services (EE L 172 of 28.6.1973, p.14);
- v. Directive 75/34/EEC of the Council on 17th December 1974 on the right of nationals from a member state to remain in the territory of another member state after they have been in an unpaid activity in that state (EE L 14 of 20.1.1975, p.10);
- vi. Directive 75/35/EEC of the Council on 17th December 1974 extending Directive 64/221/EEC (above) so as to apply to nationals from a member state exercising their right to remain in the territory of another member state after they have been in an unpaid activity in that state (EE L 14 of 20.1.1975, p.14);
- vii. Directive 90/364/EEC of the Council on 28th June 1990 regarding the residence right (EE L 180 of 13.7.1990, p.26);
- viii. Directive 90/365/EEC of the Council on 28th June 1990 regarding the residence right of nationals from member states in paid or unpaid employment who have ceased their professional activity ((EE L 180 of 13.7.1990, p.28), and
- ix. Directive 93/96/EEC of the Council on 29th October 1993 concerning students' right of residence (EE L 317 of 18.12.1993, p.59), and

Regulations:

- i. EEC Regulation No. 1612/68 of the Council on 15th October 1968 on the free movement of workers within the Community (EE L 257 of 19.10.1968, p.2);
- ii. EEC Regulation No. 1251/70 of the Commission on 29th June 1970 on the right of workers to remain on the territory of a member state after they have been in particular employment there (EE L 142 of 30.6.1970, p.24);
- iii. EEC Regulation No. 312/76 of the Council on 9th February 1976 on the amendment of the provision concerning trade union rights of workers which are contained in the EEC Regulation No. 1612/68 and pertaining to the free movement of workers within the Community, and
- iv. EEC regulation No.2434/92 of the Council on 27th July 1992 on the amendment of the second part of EEC Regulation No. 1612/68 for the free movement of workers within the Community (EE L 245 of 26.8.1992, p.1).

Drawing on an explanatory memorandum (87/2003) issued by the Department of Labour, Ministry of Labour and Social Insurance, Republic of Cyprus, Law 92(1)/2003 brought into line Cypriot legislation not only with the Directives and Regulations mentioned above which concern the free movement and residence of workers within the European Union but, also, workers from the countries which signed the Agreement for a European Economic Region, namely Norway, Island, Lichtenstein and Switzerland. Law 92(1) 2003 as amended by Law 121 (1)/2004 is divided into nine Parts in which there are provisions for the following topics:

- Part i Introductory provisions (Articles 1-3).
- Part ii The right to free movement and residence in order to be gainfully employed of those in paid employment (Articles 4-14).
- Part iii The right to free movement and residence in order to offer unpaid activity. The right to settlement and freedom to offer services (Articles 15-24).
- Part iv The right to residence after having been in unpaid activity (Articles, 25-33).

- Part v The right to residence of paid and unpaid workers, after their professional activity has ended (Articles, 34-43).
- Part vi Right to residence by students (Articles 44-53).
- Part vii General right of residence of nationals of European law countries who do not possess such a right on the basis of other provisions of European Law (Articles 54-63).
- Part viii Deviations on grounds of public order, security and health (Articles 64-71). These deviations are elaborated on below in section 4.0 'Texts in Force'.
- Part ix Final provisions, the issuing of regulations (Articles, 72-73).

Law 92(1)/2003 also includes two appendices. The first contains the type of permit issued for paid activity under Art. 7(1) of the 2003 Law and the second lists illnesses/diseases that jeopardize public health, public order and public security (Art. 67 (1) of the 2003 law as amended by Art. 18 of Law 126 (1)/2004),

Regarding ministerial discretion in enforcing Law 92 (1)/2003, this is provided in part VIII of the Law. In all the categories of workers dealt with below, the Minister of Interior has discretion to deviate from the provisions of the Law as they concern the granting or renewal of a residence permit and /or to expel (Art. 64 (1)) a worker or their dependents. However, such discretion is not to be exercised for economic reasons (Art. 64 (2)). A time limit of six months is specified in Art. 65 for approving or rejecting an application for residence permit made for the first time and during this time the applicant is allowed to reside temporarily in the Republic (65 (1). Article 65 (2) (a) provides that the appropriate authority can, if it is deemed necessary, request information concerning the applicant's criminal record from his country of origin or, possibly, from other member states. However, the obtaining of such information cannot be done on a systematic basis. Finally, the relevant authorities of the Republic must respond to such requests by other member states within two months (Art. 65 (2) (b)).

A precondition for the Minister deviating from applying Law 92 (1)/2003 is that any measures taken must be based only on the behaviour of the person concerned (Art.66 (1)). If deemed necessary, the competent authority can request from the government of the country from which the person concerned comes to provide details of his/her criminal record (Art. 66 (2) (a) but such information cannot be requested on a systematic basis (Art. 66 (2) (b). Article 66 (2) states that the personal behaviour of the individual concerned cannot constitute a current and enduring serious threat against the fundamental good of the society. One cannot claim either the existence of reasons that are not connected with a particular individual case or advance reasons of general prevention in order to deviate from the provisions of the legislation (See 'Departure' below for details). It is interesting to note in this context that Art. 66 (3) states clearly that that previous convictions do not, of themselves, justify the Minister deviating in enforcing Law 92 (1)/2003 in the case of a worker. Similarly, the fact that the valid passport or identity card with which an interested party entered the Republic of Cyprus has expired cannot be the reason for expelling them (Art. 66 (4)).

The Minister cannot deviate from the provisions of Law 92 (1)/2003 on grounds of public health if the illnesses or handicaps concerned appear after workers or their dependents are granted a residence permit for the first time and such circumstances cannot justify either refusing them renewal of their permit or their expulsion (Art. 67 (2)). Art. 67 (3) authorizes the Minister, if there are sufficient indication justifying it, to ask of a person that they undergo free medical tests by the medical services and the public health medical services of the Ministry of Health in order that it be certified that the person concerned is not suffering from a disease or handicap of the type mentioned in Art. 67 (1)

Part IX of Law 92 (1)/2003 provides that the Council of Ministers can issue regulations that are published in the Government Gazette in relation to the Law. The regulations issued under the Law are tabled in Parliament. The Parliament can approve or reject them within sixty days. If the Regulations are approved or the sixty-day period has elapsed without Parliament deciding either way, they are published in the Government Gazette and come into force on the date of their publication therein (Art. 72 (2)).

A situation that is unique to Cyprus as one of the 10 new members of the EU is the anomalous political situation that has existed since 1974 and as a result of which the northern part of the island remains occupied by the Turkish army. Early in April 2004, the administration in the occupied part of Cyprus lifted many of the restrictions pertaining to the movement of persons across the 'Green Line'. However, despite the fact that the Republic of Cyprus and the entirety of its territory joined the EU,

Cyprus

the government cannot exercise its jurisdiction in the occupied areas. Consequently, Greek-Cypriots nationals and EU nationals, wishing to travel to the northern part can only do so by showing their passports and obtaining a 'visa' at any of the few designated crossing points along the 'Green Line' (see below) while those entering the area controlled by the republic of Cyprus from the occupied areas are, *inter alia*, subject to border controls to establish their identity (see Chapter-VII below for details).

Chapter I

Entry, residence and departure

Entry

Texts in Force

Article 4(1) of the 2004 (Amendment) Law states that, in implementing articles 39-42 of the Agreement for the Establishment of the European Community, every national of a member State has a right to move freely and to settle in the Republic of Cyprus. Art. 4(4) provides that the authorities ought to facilitate **entry** into Cyprus of every other family member of a national from a member state or of their spouse, including persons maintained by them or living with them under the same roof in their country of origin.

To be allowed entry to Cyprus, a national of a member state need only show his/her passport or identity card (Art.5 (1)). Upon entering Cyprus, the national is not required to obtain a visa or anything equivalent.

Those who exercise their right to provide or to receive unpaid services and their dependents enter the Republic of Cyprus by producing their valid passport or identity card (Art.16).

Article 36 provides that upon entering the Republic, the family members and dependents of workers who have exercised their right to be involved in paid or unpaid activity but have ceased their professional activity are subject to the provisions of Articles 5 and 6.

Persons whose identity card or passport has been issued by the Republic are allowed to **re-enter** the Republic, irrespective of whether the documents concerned have expired or those persons' citizenship is being questioned (Art. 66 (5)).

Art. 64(1) provides that the Minister of Interior can refuse entry to a citizen of an EU member State if there exist reasonable grounds for public security, public safety, and public health.

Once in Cyprus, if a worker from an EU member State intends to stay and take up employment he/she has to first of all apply for an *Alien Registration Certificate* (ARC) at the local immigration Branch of the Police and at the same time apply for a Residence Permit (see below). An ARC is issued automatically for monitoring purposes (Department of Labour, Ministry of Labour and Social Insurance, EURES, 2005, p.2).

Draft legislation

“Right of EU Citizens and their Family Members to Move and Reside Freely in the Territory of the Republic of Cyprus” Bill; “Aliens and Immigration (Amending)” Bill.

Literature

Department of Labour (2004). Memorandum: *Law No. 92 (1)/2003 on the Free Movement and Residence of Citizens of EU Member States and their Family Members* [In Greek], TE 87/2003. Ministry of Labour and Social Insurance, Republic of Cyprus, Nicosia, Cyprus.

Laiki Bank, Financial Research and Planning Service. (2006). *Κυπροβαρόμετρο/ Cyprusbarometer* (ISBN: 9963-658-07-5). Report to Laiki Bank by Rai Consultants Public Ltd, Nicosia, Cyprus (97 pages, in Greek)). Available at: www.laiki.com

Memorandum Concerning the Treatment of EU Citizens by Katerina Papachristodoulou, Administrative Officer A', Civil Registry and Migration Department, Ministry of Interior, Republic of Cyprus, Nicosia, Cyprus.

Ministry of Labour and Social Insurance, Department of Labour. (2005). *Living and working in Cyprus. A Guide to European Citizens Who Want to Work in Cyprus*. Nicosia: EURES

Residence

Texts in force

The issuing of a residence permit and relevant provisions are to be found in Article 7. A written residence permit (A sample of which is provided in Attachment 1 of Law 92 (1)/2003) is issued to each national of a member state who has a right to reside in Cyprus (Art.7(1)). A residence permit is granted for a period of at least five years from the date it is issued, is valid for use in all the territory of the Republic of Cyprus and is automatically renewed upon the national applying for renewal (Art.7(2)). The period stated in a residence permit is not affected by interruptions in the residence of no more than six months or as a result of the national being absent in order to fulfill military obligations (Art.7(3)).

A national of a member state cannot be deprived of a residence permit simply because he/she is no longer being employed, or because he/she is temporarily unable to be in employment as a result of illness or accident or because he/she is involuntarily unemployed on the basis of testimony to that effect by the department of Labour (Art.7(4)). *It is noted here it is not clear how the phrase “involuntarily unemployed, on the basis of testimony to that effect by the Department of Labour” should be interpreted and the correct interpretation needs to be spelt out by the Department of Labour.*

When a an application is made to have a residence permit renewed for the first time, the period of validity of the renewed residence permit may be restricted to twelve months, if the holder of the permit has been involuntarily unemployed in the republic of Cyprus for twelve or more continuous months whereupon, when the twelve-month period expires, the residence permit is not renewed if the permit holder continues to be unemployed (Art.7(5)).

Regarding the requirements for the issuing of a residence permit or a residence document, these are stated in Article 8. This is in accordance with Art.14 of Directive 38/2004, thus avoiding the possibility of different interpretations or practices by government officials that could unjustifiably hinder EU citizens and their family members from exercising their right to reside and work freely in Cyprus. A residence permit or a residence document is issued within six months of the application (Art.8(2)) after an interested party makes an application to the appropriate authority within three months from the date he/she entered Cyprus (Art.8(1)).

According to Art.8 (3), in order to be issued with a residence permit, the following documents are required from a national from a member state of the EU applying for permission to be employed (Form MEU 1):

- i) The valid passport or identity card with which he/she entered the Republic of Cyprus.
- ii) A statement by the employer, certified by the local Department of Labour, that he/she intends to employ the applicant, providing details of the duration and type of paid work the applicant is to be engaged in.

It should be noted in this context, that the provision of the documents and the procedure for examining an application for residence permit is not to be an obstacle in the immediate implementation of the employment agreement reached by the applicants (Art.8 (4)). It should also be noted that the Employer’s Confirmation Statement Certified by the Department of Labour is not a requirement in conformity with either former Regulation 1612/68 or Directive 2004/38/EC. It is a simple procedure, copied from relevant legislation in the United Kingdom, the aim of which is to safeguard the rights of EU workers in Cyprus by ensuring that the person names as ‘employer’ is indeed an employer.

A temporary residence permit is issued in cases where (a) the period of employment is for more than three but less than twelve months (Art.9 (1)), the duration of employment being specified in the employer’s statement of intention to employ the national of an EU member state, (b) for seasonal employment of more than three months but the duration of which is limited to the period of employment (Art.9 (2)), and (c) for nationals employed by persons who provide services to the Republic of Cyprus (Art.9 (1)). *The meaning of “services” is not clear and needs to be clarified.*

Article 10 provides that a national of an EU member state can exercise his/her right to residence without the need to obtain a permit in the case of,

- a) A worker who is in paid employment that is not intended to be of more than three months’ duration. Such a worker, however, needs to provide the documents mentioned in art.8 (3) (a) with the

exception of the employer's statement of intention to employ him/her if his/her case falls within the provisions of "Directive 1999/42/EC by the European Council and the Council on 7th June 1999 for the establishment of a system of recognition of qualifications pertaining to professional activities covered by the directives for the freeing of restrictions, as well as measures during the transitional period, and for the establishment of a complete system for the recognition of diplomas" (Art. 10 (a)).

- b) A worker who, whilst domiciled in the territory of a member state, returns there, initially daily or at least once a week, is in paid employment in the Republic of Cyprus (Art. 10 (b)).
- c) A seasonal worker who comes to be gainfully employed in the Republic of Cyprus and is in possession of an employer statement specifying the intended period and the type of paid activity to be provided, such a statement being officially certified by the Department of Labour (Art. 10 (c)).

A worker who falls within any of the categories provided in Art.10 (a)-(c) ought within eight days of entering the Republic of Cyprus to inform the appropriate authority of his/her presence (Art. 10 (2)).

In compliance with the EEC Regulation No. 1251/1971 of the Commission on 29th June 1970, when the period of employment expires, those entitled to a residence permit are issued with such a permit in which it is stated that the permit is issued in compliance with the aforementioned Regulation (Art. 11). *Unlike the situation in 2004 that discriminated against EU workers, starting in 2005 a residence permit or document is granted or renewed on payment of the same amount (CY£5.0) as for the issuing of an identity card to a Cypriot national.*

An employer providing employment to a national of an EU member state who does not have the required residence permit is committing an offence punishable with a financial penalty not exceeding 500 pounds (Art.13 (1)). Similarly, a national of an EU member state who is gainfully employed but has not obtained a residence permit or does not possess an employer statement of intention to employ him that has been officially certified by the Department of Labour is guilty of an offence punishable with a maximum fine of 500 pounds (Art.13 (2)). It should be noted in this context that the authorities in Cyprus are reluctant to prosecute EU citizens or their dependents found to be working without a permit and, instead, advise them to obtain the permit required as soon as possible. For comparison purposes, the Population Archives Law of 2002 provides that Cypriot nationals who fail to register with the population archive or to apply for an identity card, commit an offence punishable with a fine of up to 1,500 Cyprus pounds or imprisonment of three years or both. Incidentally, EU citizens need to register with the Population Archives and to obtain a residence permit. Thus, the sanction imposed on Cypriots who violate the Population Archives Law is stricter than in the case of EU citizens who work in Cyprus without a resident permit or an officially-approved Employer's Confirmation Certificate.

Article 14 provides the Minister of the Interior² with the discretion to deviate from the provisions of Part II of Law 92 (1)/2003 mentioned above if, in his/her reasonable judgment, such a deviation is warranted by reasons of public security, public safety or public health.

Article 15 (Part III of Law 92 (1)/2003) provides for the right of free movement and residence in order to provide or receive unpaid services to nationals of an EU member state (para.1), along the same lines as for other categories of workers. A right to settle in the Republic of Cyprus is provided in Art.15 (2) (a-b) to the same categories of persons, irrespective of their citizenship, as for those related to or maintained by or who had been living with in the country of previous residence of workers mentioned above. Furthermore, again, an effort should be made to facilitate the entry of such persons to Cyprus (Art. 15 (3)). Finally, as in the case of workers and their dependents, those who exercise their right to provide or to receive unpaid services and their dependents enter and exit the Republic of Cyprus by producing their valid passport or identity card (Art.16). Persons who settle in Cyprus in order to provide or to receive unpaid services and their dependents, are entitled to permanent residence (Art.17), such permanent residence is granted in writing (Art.18 (2)), is for at least five years and is

2 "Minister" means the Minister of the Interior in his capacity a First Immigration Officer under the Aliens and Immigration Laws of 1972 until 2002 and the regulations issued under the same laws, and includes whoever else has been so authorised to act for the same purpose (Law 92 (1)/2003, Part I, Introductory Provisions, art.2).

valid in all the territory of the Republic of Cyprus and is renewed automatically with the interested worker applying (Art.18 (2)).

Nationals of EU member states who provide or receive paid services have a right to a residence permit for the duration of the services concerned (Art. 19) and so do their dependents (Art.19). No residence permit is issued if the duration of the services concerned is up to three months, the EU national involved remains on the basis of his valid passport or identity card with which he/she entered Cyprus but has to report his/her presence in the country to the competent authority of the Republic within eight days of his/her arrival (Art. 20 (2)).

The same residence conditions apply for the issuing and renewal of a residence permit to take up unpaid activity (Provided in articles 21 and 22) as for the issuing and renewal of a residence permit to a worker from an EU member state to undertake paid employment as provided in Part II of the law (see above). If a person whose residence in Cyprus is under the provisions of Part II of the 92(1)/2003 Law, remains on the territory of the Republic for more than three months since he/she entered the country without having submitted the necessary documents in order to be issued with a residence permit or after the residence permit issued him/her under articles 20 and 21 of the Law has expired, is guilty of an offence punishable with a fine of up to 3,000 pounds. Finally, the Minister of Interior has discretion under Art.24 to deviate from the provisions in Part II if, in his reasonable judgement, such deviation is warranted by reasons of public order, public security or public health.

At the end of 2005, eighteen months after Cyprus joined the EU, there was no case law in Cyprus in the wake of the jurisprudence of the European Court of Justice in *Boucherau* and later judgements implementing serious restrictions on the public order exception. As far as it has been possible to ascertain, an EU citizen will be deported from Cyprus if, under the Schengen Convention he/she is a health to public safety, public security or public health. Finally, Law 126 (1) of 2004 that amended the 2003 Law on the Free Movement and Residence of Workers and their Dependents, *inter alia*, reduced the fine provided for being employed without a residence permit from 3,000 to 500 Cyprus pounds.

Part IV of Law 92(1)/2003 provides for the right to permanent residence after being involved in unpaid service in the Republic of Cyprus. More specifically, according to Art. 25 (1), citizens of a member state who have been involved in unpaid activity have a right to permanent residence if:

- a)
 - (i) At the time they cease to exercise their activity they have reached the age specified in the legislation of the Republic of Cyprus for retirement due to age, and
 - (ii) They exercised their activity in Cyprus for at least the last twelve months, and
 - (iii) Have resided continuously in Cyprus for at least three years.
- b) Having resided continuously in the Republic for a period of more than two years they stop exercising their activity in the republic as a result of a permanent incapacity to work.

It is understood that the precondition of residence for the specified time period does not apply if the incapacity to work was the result of an accident or illness in the context of work, events that confer a right to a pension payable in total or in part by the Department of Social Security

- c) After continuously exercising their activity and being resident in the Republic, they exercise their activity in the territory of another member state whilst maintaining their residence in the Republic to the territory of which they return, as a rule, daily or at least once a week. For the purpose of satisfying the requirements stated in (a) and (b) of the present paragraph of Art. 25, such periods of activity in the manner stated outside the Republic are considered to have taken place in the Republic.

Efforts should be made to assist in the return of workers who left the Republic and resided overseas for long and exercised unpaid work and who wish to return as long as they have reached the age at which they are entitled to receive a pension (As stated in Art.25 (1(a)) are permanently incapable for work (Art.27).

A written residence permit is issued to those entitled after they have applied for one, is valid for at least five years in all the territory of the Republic, it can be interrupted for up to six continuous months or for longer if one is discharging one's obligation for military service (Art. 30 (1)-(3)) and can be renewed upon payment of the fees stated in Art.12 (Art. 31). The category of persons mentioned in Part IV are committing an offence punishable with a maximum fine of 500 pounds if they remain in the territory of the Republic after two years have lapsed since being granted the right to per-

manent residence or if the permit issued them under Art. 30 has expired (Art. 32). Part III of Law 92 (1)/2003 gives the Minister of Interior discretion to deviate from the provisions of Part IV.

Part V of Law 92 (1)/2003 concerns the right to residence both of paid and unpaid workers who have ceased their professional activity (Form MEU 4). As in Parts II-IV, the issuing of a written residence to this category of workers, their family members and dependents, its duration, documentation required, renewal, fees to be paid, are detailed in Articles 37-40 .

Article 41 makes it clear that the provisions of Part V of the Law do not affect the existing legal provisions pertaining to the purchasing of a second house, Art. 42. states the circumstances under which the person concerned is in breach of the law, is committing an offence and the 500 pounds financial penalty provided for the offence concerned while Art. 43 refers to the discretion of the Minister of the Interior to deviate from the provisions of Part V.

Part VII (Art. 54) of Law 92 (1)/2003 provides for a right to residence by citizens of EU member states who do not have a right to residence under other provisions of Community Law as well as their spouses and their own or their spouse's dependents.

Art. 56 provides that EU nationals persons who have exercised their right to residence are subject to the same requirements [Provided in Art. 5 and 6 of the Law) when entering or exiting the Republic as the previous categories of workers already discussed, can apply for residence on the basis of Art.37 and can take up paid or unpaid activity (Art. 55). In order to obtain a residence permit (Form MEU 6), such persons require not only the valid passport or identity card with which they entered Cyprus and a health certificate but, also, documentary evidence proving that (a) the applicant him/herself and his/her family members have medical insurance that covers them for all the risks in Cyprus and (b) they adequate financial means so as not become a burden on the social welfare system of the republic during the period of their residence (Art. 58 (2) (b)). The same conditions apply for the renewal of a residence permit (Art. 12) and breach of the provisions of Part VII, including a maximum fine of 500 pounds and, finally, the discretion of the Minister of the Interior to deviate from the provisions of Part VII as for other categories of workers (Art. 60, 62 and 63). The provisions of Part VII of the Law do not affect the legal provisions pertaining to the purchase of a second house in Cyprus (Art. 61).

Text(s) in Force

Law 92(1)/2003 Concerning the Free Movement and Residence of Citizens of EU Member Staes and their Family Members; Law 121(1)/2004 Amending Law 92(1)/2003 Concerning the Free Movement and Residence of Citizens of EU Member Staes and their Family Members

Draft legislation

- (a) Bill pending in Parliament entitled 'Law 2006 on the 'Right of EU Citizens and their Family Members to Move and Reside Freely in the Territory of the Republic of Cyprus';
- (b) Bill pending in Parliament entitled 'Aliens and immigration (Amending Law), 2006.

Departure

Texts in force

To be allowed departure from Cyprus, a national of a member state need only show his/her passport or identity card (Art.6(1)). Upon leaving Cyprus, the national is not required to obtain a visa or anything equivalent. Those who exercise their right to provide or to receive unpaid services and their dependents exit the Republic of Cyprus by producing their valid passport or identity card (Art.16).

Article 36 provides that upon exiting the Republic, the family members and dependents of workers who have exercised their right to be involved in paid or unpaid activity but have ceased their professional activity are subject to the provisions of Articles 5 and 6.

Cyprus

Art. 56 provides that EU nationals who do not have a right to residence under the provisions of Community Law and the spouses and their own and their spouse's dependents are subject to the same requirements [Provided in Art. 5 and 6 of the Law) when exiting the Republic as other categories of workers who can apply for residence on the basis of Art.37 and can take up paid or unpaid activity (Art. 55).

Two years after a worker who has been granted the right to permanent residence, he/she can leave the territory of the Republic without such action affecting the said right and without having to provide any documents to prove residence (Art. 29 (1) and (2)).

Regarding remedies, the existing legislation provides that an interested party is notified of both the decision to expel him/her and is informed, also, of the time period within which to leave the Republic (Art. 68 (1)). In emergency cases, this time limit cannot be less than 15 days if the person concerned has not yet been issued with a residence permit and it cannot be less than one month other cases (Art. 68 (2)). The public order, public security or public health reasons for a negative decision must be communicated to the person concerned, unless this cannot be done for the security of the republic (Art. 69). Of course, a decision to refuse entry or the issuing or renewal of a residence permit or a decision to expel a person, is subject to appeal in the courts (Art. 70).

With the exception of emergency cases, the decision to refuse to renew a residence permit and the decision to expel someone is made by the competent authority with the consent of the Minister of Interior (Art. 71 (1). The interested party can appear him/herself or with a representative in front of the Minister and to be heard as to the reasons for the renewal of his/her residence permit or for not expelling him/her (Art. 71 (1)). In such a case, if the Minister authorizes a person to give his opinion according to the provisions of Part VIII, that person cannot be the same as that who had the authority to decide the renewal of the residence permit or the expulsion of the person concerned from the republic (Art. 71 (1). The refusal of a first application for residence permit as well as the decision to expel a person from the Republic before the issuing of a residence permit are examined by the Minister of Interior, following an application by the person concerned. The interested party can be present him/herself or with a representative and to be heard, unless this is allowed for reasons of national security (Art.71 (2)).

Regarding the duration for which a person can be expelled from the Republic of Cyprus, Art. 71A (1) provides that a person who has been expelled for reasons of public order, public security, or public health can make a new application to be allowed to entry into the republic two years after the decision to expel him (Art. 71A (2)) and within a reasonable time period under the circumstances, providing evidence proving that the circumstances that led to his expulsion have been substantially changed. The relevant authority must decide such an application within three months of it being made (Art. 71A (3)) and, in compliance with Art. 69, the decision of the relevant authority is communicated to the interested party as soon as possible (71A (4)). Finally, the interested party has no right of entry into the republic while his application is being examined (71A (5)).

Texts in Force

Law 92(1)/2003 Concerning the Free Movement and Residence of Citizens of EU Member States and their Family Members; Law 121(1)/2004 Amending the Law on the Free Movement and Residence of Citizens of EU Member States and their Family Members.

Draft legislation

“Right of EU Citizens and their Family Members to Move and Reside Freely in the Territory of the Republic of Cyprus” Bill; “Aliens and Immigration (Amending)” Bill.

Judicial practice

In July 2005 a Cypriot shop proprietor appeared in court charged by the police with illegally employing a Greek national, Elina Zosimidou. The Greek national was charged with: (a) not having a permit from the Director of the Immigration Department, in violation of Art. 14B of the Aliens and Immigra-

Cyprus

tion Law, Cap. 105 as amended by Laws 100(1)/96, 66(1)2003 and 242/72 and (b) with having breached the conditions of her entry and residence permit in violation of Art. 19(1) (k) of the Aliens and Immigration Law Cap.105 as subsequently amended. The shop-owner was fined 200 Cyprus pounds and the EU citizen was given a 200 Cyprus pounds recognisance to be of good behaviour for one year.

Chapter II

Access to employment

Recognition of Professional Qualifications

A precondition for the free movement of workers within the EU is the ability of EU citizens to obtain jobs on the basis of the professional qualifications in countries other than the one in which they reside. For the harmonization with the Directive on the General System for the Recognition of Professional Qualifications (Directives 89/48/EEC, 92/51/EEC and 99/42/EC), the Parliament of the Republic of Cyprus has introduced relevant legislation in order to apply the General System on the principle of reciprocity³. The legislation covers both the *Sectoral Directives*, which cover one profession each, such as doctors, nurses, dentists, veterinarians, midwives, architects, lawyers and pharmacists, and the three Directives of the *General System* that cover all the other professions. Thus, by addressing both the Sectoral as well as the general System, the Republic of Cyprus has facilitated labour mobility. In the case of *Captains or First Officers of ships* having access to such posts in Cyprus, the only requirement for all applicants, irrespective of their nationality, is that they hold Certificates of Competency for the respective post that is recognized by the Republic of Cyprus

Regarding the competent bodies, these are:

- the *National Coordinator* who is designated by the Council of Ministers and coordinates the administrative authorities in order to promote the better application of the legislation. In addition, the National Coordinator inter alia, communicates to the Commission every two years, a report on the application of the provisions of the Laws, which contains a table of the decisions taken and a description of the main problems arising from the application of the Laws.
- The *National Focal Point* for the application of the relevant laws has been designated to be the Labour Department of the Ministry of Labour and Social Insurance. It provides information regarding the regulated professions and the “competent body” to nationals of member states who wish to pursue a regulated profession in the Republic of Cyprus.

A Booklet issued by the department of Labour, Ministry of Labour and Social Insurance in 2005 (at p.8) advises EU citizens wishing to pursue a profession or an occupation which is regulated to find out, before coming to Cyprus, which are these regulated occupations/professions. The Labour Department acts as a National Focal Point for providing information on legislation and procedures with regard to pursuing regulated professions in Cyprus, as well as information on the “competent body” responsible for examining applications submitted for the exercise of a regulated profession.

Regarding the procedure, every applicant who wishes to pursue a regulated profession in the Republic submits an application to the competent body together with all the necessary certificates and other evidence; the competent body examines the application and decides in accordance with the Laws and the legislation regulating the profession in consideration and it informs the applicant of its decision, duly reasoned, within four months from the date of presentation of the application together with all the necessary documents. In case of doubt concerning the academic recognition of qualifications, the competent body may refer to the Cyprus Council for the recognition of Higher Education Qualifications for its opinion. Finally, the applicant has the right to appeal against an act or omission of the competent body, including its failure to consider the application within the specified time limits. The appeal should be made to the Supreme Court in accordance with Article 146 of the Constitution.

A likely problem as far the procedure for pursuing a regulated profession in Cyprus is concerned is that, as far as it has been possible to ascertain, the Cyprus Council for the Recognition of Higher Education Qualifications normally takes 3-6 months to reach a decision on the academic recognition of qualifications. Consequently, the four-month limit within which the competent body has to inform the applicant of its decision may well be violated and applicants appeal to the Supreme Court.

3 Guide for the General System for the General Recognition of Professional Qualifications, Ministry of Labour and Social Insurance, Department of Labour, Republic of Cyprus, Nicosia, Cyprus.

Chapter III Equality of treatment

Texts in force

The financial cost incurred by a worker who is a national of an EU member state for obtaining a residence permit and for obtaining and/or having documents officially certified by the Department of Labour in order to be issued with or to have renewed a residence permit or residence document, in 2005 became the same as the financial cost incurred by a Cypriot national in obtaining an identity card (Art.12).

A health certificate issued by a government hospital in Cyprus is required for employment in the food industry. Requiring a health certificate by such applicants is not incompatible with EC law and it has been reiterated in a number of decisions by the European Court of Justice. The issue of 'equality of treatment' of EU nationals is discussed under the heading "Students' below. Suffice it here to note that EU citizens are entitled to medical care, the child allowance and unemployment benefit (If, as in the case of Cypriot nationals, they have previously worked in Cyprus for at least six months). At the time of writing, the Cyprus Medical Association has been campaigning for the right to medical treatment for EU citizens to be extended to the private and not only to the public medical sector (*Fileleftheros* newspaper, 11.9.2005, p.12). Finally, legislation pending in Parliament will provide for educational grants for citizens of EU member states (see below).

Draft legislation

- (a) "Right of EU Citizens and their Family Members to Move and Reside Freely in the Territory of the Republic of Cyprus" Bill;
- (b) "Aliens and Immigration (Amending)" Bill.

Literature

Memorandum Concerning the Treatment of European Citizens, by Katerina Papachristodoulou, Administrative Officer A', Civil Registry and Immigration Department, Ministry of Interior, Republic of Cyprus, Nicosia, Cyprus.

Wages

Workers from an EU member State are entitled to the same wages which are either agreed with the employer or are based on collective agreements applying in various sectors of economic activity. In order to protect vulnerable groups of employees due, for example, to their weak bargaining power, an Order is issued annually by the Ministry of Labour providing for a minimum wage for certain occupations (e.g., shop assistants, clerks, child-care workers, and personal care workers).

On the basis of relevant legislation, the employer is obliged, within a period of one month from the date of commencement of the job, to communicate to the newly recruited employee in writing, the terms of his/her employment. In cases of non-compliance, complaints can be submitted to the Director of the Department of Labour Relations.

Taxation

An EU citizen has to contact the department of Inland Revenue to get a Taxpayer's Identification Code. He must present his passport and also complete Form I.R. 163A. Tax liability is based on the principle of residence. According to the Income Tax Law, a person is considered to be resident in Cyprus for tax purposes if he/she resides for a period or more which, in aggregate, exceeds 183 days. Tax residents in Cyprus are taxed in respect of their worldwide income, while non-tax residents are taxed

Cyprus

in respect of Cyprus source income only. Non-tax residents having a permanent establishment in Cyprus may elect, if it is to their benefit, to be taxed in accordance with the provisions applicable to tax residents.

Social Insurance

In Cyprus there is a general earnings-related Social Insurance Scheme which covers compulsorily, every person gainfully occupied in Cyprus either as employed or self-employed person. Voluntary insurance is allowed to persons who wish to continue their insurance after a prescribed period of compulsory insurance. The scheme is financed by earnings-related contributions payable by the insured person, the employer and the State. As of 1st May 2004, Cyprus applies the EC regulation 1408/71 which coordinates the social security systems of the member states of the EU, the European Economic Area and Switzerland. The scheme provides for various benefits, including marriage benefit, maternity grant, maternity allowance, unemployment and sickness benefit. Unemployment benefit is paid for involuntary unemployment and is payable for a period that cannot exceed 156 days for each period of interruption of employment.

Where the legislation of the Republic of Cyprus does not provide for a right to a pension on the basis of age for some categories of unpaid workers, the pre-condition of age is considered to be satisfied as long as the EU nationals entitled to the right of permanent residence have completed their 65th year of age.

The precondition of more than two years' continuous residence for an EU national who has been involved in unpaid providing unpaid service in the Republic of Cyprus to be granted permanence residence does not apply if he /she has suffered incapacity to work as a result of an accident or illness in the context of work, events that confer a right to a pension payable in total or in part by the Department of Social Security.

Chapter IV

Employment in the public sector

Regulations for the free Movement of Workers of Citizens of EU Member States and their Families, approved by the Council of Ministers in August 2005 (*Phileleftheros* newspaper, 29.8.2005, p.16), provide that EU citizens can be employed in the public or semi-public sector if the post concerned is not deemed to be important for the public interest of the State (e.g., the army.). Furthermore, an advertisement for a particular post in the public or semi-public sector (e.g., vacancies for teachers in the Ministry of Education) will specify whether it is one that is important for the public interest of the State and it could, also, require of applicants to have sufficient knowledge of Greek. At present, a citizen of an EU member State cannot apply to join the Police, for example, if he/she is not a Cypriot citizen but could be employed on a fixed-term contract.

Regarding the *language requirement* issue, if the job description for a job vacancy in the public sector requires ‘excellent’, or ‘very good’ or ‘good knowledge’ of the Greek language, both the meaning of each of the aforementioned terms as well as what constitutes evidence to that effect has been defined by the Public Service Board. Consequently, if a citizen of an EU member State wishes to apply for a job in the Public Service for which knowledge of Greek is required, he/she has to provide the necessary documentary evidence that they possess the knowledge required, in the same way as a Cypriot national applying for a position in the public sector has to do by law. Of course, the situation is often different in the private sector where many companies in Cyprus conduct their business in English.

Pending legislation

- (a) “Right of EU Citizens and their Family Members to Move and Reside Freely in the Territory of the Republic of Cyprus” Bill;
- (b) “Aliens and Immigration (Amending)” Bill.

Literature

Ministry of Labour and Social Insurance, Department of Labour (2004). *Guide for the General System for the Mutual Recognition of Professional Qualifications*. Republic of Cyprus, Press and Information Office, Nicosia, Cyprus.

Chapter V

Members of the family

Texts in force

The family members of an EU member worker have a right of free movement and residence to provide unpaid services. A 'family member' is defined in Part II (Art.4(1) of Law 92(1)/2003 as amended by law 121(1)/2004, to refer to the spouse and children under the age of twenty-one of an EU citizen as well as their dependent children, parents and grandparents and those of their spouse. Upon entering Cyprus, the national is not required to obtain a visa or anything equivalent, except in the case of **family members** who are not EU citizens. Thus, the German spouse of a French worker would not require a residence permit. As far as it has been possible to ascertain from the immigration branch of the Cyprus Police, third country nationals who are family members of a worker who is a citizen of an member State are treated in the in the same way as if they were EU citizens and their file is designated as "European citizen or dependent". Thus, while family members who are not EU citizens are required to obtain a visa or something equivalent (Art. 5 (2)), every effort is be made to facilitate the obtaining of a visa free of charge by such persons and no fee is required.

According to Art.8 (3), in order to be issued with a residence permit, the following documents are required by *family members* of nationals of EU member states (form MEU 7):

- i. Their valid passport or identity card with which they entered the Republic of Cyprus.
- ii. A document issued by the appropriate authority in their own country of origin or from which they have come which proves that they are members of the EU national applying for a residence permit.
- iii. Where applicable, as provided in Art. 4 (2) and (4), document issued by the appropriate authority in their own country of origin or from which they have come which certifies that the persons concerned are maintained by the worker or that they lived with him/her under the same roof in the country concerned.

It should be noted in this context, that the provision of the documents and the procedure for examining an application for residence permit is not to be an obstacle in the immediate implementation of the employment agreement reached by the applicants (Art.8 (4)).

A right to permanent residence in the Republic of Cyprus is provided in Art.15 (2) (a-b) to those related to or maintained by or who had been living with in the country of previous residence of workers who exercise their right permanent residence in order to provide paid or unpaid services. Furthermore, again, an effort should be made to facilitate the entry of such persons to Cyprus (Art. 15 (3)). The dependents of persons who settle in Cyprus in order to provide or to receive unpaid services, are entitled to permanent residence (Art.17), such permanent residence is granted in writing (Art.18 (2)), is for at least five years and is valid in all the territory of the Republic of Cyprus and is renewed automatically with the interested worker applying (Art.18 (2)).

The dependents of nationals of EU member states who provide or receive paid services have a right to a residence permit for the duration of the services concerned (Art. 19). No residence permit is issued if the duration of the services concerned is up to three months.

Family members of persons who have settled in Cyprus in order to provide or to receive unpaid services have a right in the existing legislation to take up paid or other activity (Art. 17). Family members who are not citizens of an EU member state are issued with a residence document that has the same validity as the residence issued to the EU citizen whose dependents they are (Art. 17 (5)).

In order for (a) the spouses, (b) the dependents of a citizen of an EU member state who does not have a right to residence under other provisions of Community Law and (c) the dependents of the spouse of such a citizen to obtain a residence permit, the citizen concerned is required not only to produce the valid passport or identity card with which they entered Cyprus and a health certificate but, also, documentary evidence proving that (a) the applicant him/herself and his/her family members have medical insurance that covers them for all the risks in Cyprus and (b) they adequate financial means so as not become a burden on the social welfare system of the republic during the period of their residence (Art. 58 (2) (b)). The same conditions apply for the renewal of a residence permit (Art.

Cyprus

12) and breach of the provisions of Part VII, including a maximum fine of 500 pounds is provided in Part VII (Art. 54) of Law 92 (1)/2003 as amended. In order to obtain a residence permit (Form MEU 6), those citizens' or their spouse's dependents of such persons and, finally, the discretion of the Minister of the Interior to deviate from the provisions of Part VII as for other categories of workers (Art. 60, 62 and 63).

The provisions of Part VII of the Law do not affect the legal provisions pertaining to the purchase of a second house in Cyprus (Art. 61).

The family members of a national (as defined in Art; 15 (2) and (3)- see above) of an EU member state who is entitled to permanent residence on the basis of having exercised unpaid activity under Art. 25 are also entitled to permanent residence if they have been living in Cyprus (Art. 26 (1)). The requirements concerning residence, continuous residence (Defined in Art. 28), and activity stated in 28 (a) and (b(1)) do not apply if the spouse of the applicant exercising the unpaid activity is a Cypriot national (Art. 25(2)).

Art. 34 of Part V of Law 92 (1)/2003 concerns the right to residence of family members and dependents both of paid and unpaid workers who have ceased their professional activity (Form MEU 4). Furthermore, the spouses and dependents of such a worker take up paid or unpaid activity in the Republic (Art. 35).

If the EU national exercising unpaid activity dies while offering such activity and before obtaining permanent residence, his/her family members are entitled to permanent residence (Art. 26 (1)) if one of three criteria stated in Art. 21 (2)) is satisfied.

In order to obtain a residence permit (Form MEU 6), citizens of EU member states who do not have a right to residence under other provisions of Community Law but have a right to residence (Art.54) and can take up paid or unpaid activity (Art. 55) require, inter alia, documentary evidence proving that their family members have medical insurance that covers them for all the risks in Cyprus and that they themselves have adequate financial means so as not become a burden on the social welfare system of the Republic during the period of their residence (Art. 58 (2) (b)). The same conditions apply for the renewal of a residence permit (Art. 12)

The spouse and dependent children of students can take up paid or unpaid activity (Art. 45) and are subject to the same provisions when entering and exiting the Republic (Stated in Art. 5 and 6- see above) as the categories of workers dealt with in Parts II-V. Family members of students who are not citizens of an EU member state are issued with a residence document for the same duration as the residence permit issued to the student whose dependents they are ((Art. 47 (3)).

Family members of the student must provide: the valid passport or identity card with which they entered the Republic; a document issued by the appropriate authority in the country from which they have come that they are related to the student; a health certificate , issued or verified by the Medical Services or the Services of Public Health of the Ministry of Health of the republic that the applicant does not suffer from any of the disease/illnesses listed in Attachment 2 of Law 92 (1)/2003 (Art. 48 (2) (e).

Draft legislation

- (a) "Right of EU Citizens and their Family Members to Move and Reside Freely in the Territory of the Republic of Cyprus" Bill;
- (b) "Aliens and Immigration (Amending)" Bill.

Chapter VI

Relevance/influence/follow-up of recent Court of Justice judgments

Trojani

According to the judgement in the *Trojani* case, an EU citizen legally residing in another member State but not being employed is entitled to social assistance. Current legislation and practice in Cyprus complies with the aforementioned decision with one limitation- social assistance is not provided during the first three months of residence of an EU national when no residence permit is required and such a person is deemed to be a visitor.

Collins (C-138/02)

As far as the entitlement of job-seekers to social advantages is concerned on the basis of the decisions in the *Collins* and *Ioannidis* cases, such assistance is not foreseen for Cypriot nationals and, consequently, it is not available to EU citizens. It should be noted here that, as in the case of Cypriot nationals, citizens of an EU member state is entitled to unemployment benefit for up to six months if they have previously been gainfully employed in Cyprus.

Ioannidis (C-258/04)

There is no case law on the issue decided in *Ioannidis*. However, as far as the entitlement of job-seekers to a tide-over allowance concerned on the basis of the decision in the case of *Ioannidis* is concerned, such assistance is not available to Cypriot nationals and, consequently, is not available to EU citizens.

Hans van Lent (C-232/01)

The issue raised and decided in *van lent* has not yet arisen in Cyprus. As far it has been possible to ascertain, the official position of the Ministry of Transport is that the *van Lent* decision will be applied if such a case arises. However, since Cyprus is an island and the nearest neighbouring EU Member State is Greece and is more than the 200 km away, the distance mentioned in the court's decision, such a case is most unlikely to arise in Cyprus

Commission of the European Union v. Kingdom of Denmark (C-464/02)

By virtue of the fact that Cyprus is an island and some fair distance from the nearest EU member State, the issue dealt in the relevant decision of the Court of Justice has not arisen in Cyprus.

Application of free movement legislation in the sport sector:

The Aliens and Immigration Law imposes no restrictions on professional sport people who are citizens of EU member States. Furthermore, the Cyprus Sport Organization applies the ruling of the Court of Justice on 12 April 2004 in the *Igor Simutenkov* case (C-265-03).

Chapter-VII

Policies of a general nature with probable repercussions on the free movement of EU citizens

The large number of fixed-term contact workers, illegal immigrants, and asylum seekers (see chapter on ‘Statistics’ below) is generally believed to have impacted adversely on job opportunities for EU citizens in Cyprus. However, the situation has been largely remedied by the prioritisation of access to employment opportunities for EU citizens and the issuing in April 2004 of a circular to that effect by the Civil Registry and Migration.

Regarding the implementation of the Association Agreement EEC-Turkey and decision 1/80 of the Association Council EEC-Turkey in the report, these community law rules have not been implemented in Cyprus, as in other EU member states, because the agreement has not been ratified yet by the national parliament of Turkey. In addition, at the time of writing the issue of Turkey’s recognition of the Republic of Cyprus in the context of its accession talks for membership of the EU remains unresolved as Turkey signed the protocol recognizing the ten new EU members but immediately issued a declaration stating it does not recognise the Republic of Cyprus.

Concerning the free movement and residence of workers from EU member States and the anomalous political situation in Cyprus, as mentioned at the start of this report, Cyprus has been divided since July 1974 when Turkey invaded and occupied the northern part of the island. The Republic of Cyprus joined the European Union on 1st May 2004 with all its territory. However, due to the existence of the Green Line dividing the free areas of the Republic from the northern occupied by Turkey, the European Commission on 29th April issued Regulation 866/2004 which provides for the movement of goods, services and people.

According to the Direction issued by the Attorney General of the Republic on 26 May 2004,⁴ citizens of EU member states:

- can cross the Green Line to and from the areas not under the control of the Republic, irrespective of the point of entry into the territory of the Republic (1a);
- upon their entry from the areas not under the control of the Republic on foot or by a vehicle registered in an EU member state, in the areas not under the control of the Republic or in the Republic (1d), they are subject to a check to determine their identity (identity card, passport or other traveling document) and for the purpose of preventing any threat to public security and order (1b and 1c);
- if they are crossing the dividing line into the free areas of the Republic by a vehicle, the vehicle and items in the possession of the persons crossing are subject to occasional checks (1e).
- the children of Turkish-Cypriot citizens from a marriage to any foreign national can cross the dividing line to and from the areas under the control of the Republic, irrespective of which point of entry into Cyprus has been used by the foreign parent or where the foreign parent is domiciled. The same provision applies for spouses of Turkish-Cypriots.
- the children of Turkish-Cypriot citizens from a marriage to any foreign national and the foreign spouses of Turkish-Cypriots are subject to checks when crossing the dividing line into the areas controlled by the Republic in order to determine their identity (passport, identity card or other traveling document). In cases where foreign spouses of Turkish-Cypriots are required to have acquired visas to enter the republic, they are not required to be in possession of an entry visa when crossing the dividing line.
- nationals of third countries are free to cross from and into the areas controlled by the Republic if they there is no information that they constitute a threat to public security and order are : persons who have entered the territory of the Republic from a legal port or airport and/or reside in Cyprus (2(a.i); if they require no visa and have entered from a port or airport in the areas not under the control of the Republic (2 (a.ii); if they are resident permanently in the areas not under the control of the republic having been permitted to do so by the Immigration Officer (2 (a.iii); have obtained the required visa but have entered the territory of the republic from an illegal port or

4 Attorney General’s Office, Republic of Cyprus, “A Code for the Implementation of Regulation 866/2004EU of the Council Concerning the status on the Basis of Article 2 of Protocol 10 of the Accession Act (Green Line- Movement of Persons), Nicosia, Cyprus, 26.5.2004 (File No: 4.2.4624).

Cyprus

airport (2(aiv)); persons who hold long-stay visas or residence permits from another EU member country and are allowed to travel freely within the EU.

- third country nationals crossing the green line into the areas under the control of the Republic by vehicle are subject to occasional checks of their vehicle and items in their possession (2(c)).

Third country nationals crossing the green line into the areas under the control of the Republic and who have entered the territory of the Republic from an illegal port or airport who are required to possess a visa but do not possess such a visa are not allowed to cross the dividing line and, unless they apply for asylum, they are treated on the basis of the Aliens and Immigration Law concerning illegal entry into the Republic.

Literature

Attorney General's Office, Republic of Cyprus, *A Code for the Implementation of Regulation 866/2004EU of the Council Concerning the Status on the basis of Article 2 of Protocol 10 of the Accession Act (Green Line- Movement of Persons)*, Nicosia, Cyprus, 26.5.2004, (File No: 4.2.46.24).

Chapter VIII

EU enlargement

Unlike most of the members, Cyprus did not opt to apply a two-years' transitional period for access to the Cypriot labour market to citizens of EU member states. Consequently, in accordance with the provisions of articles 39-42 of the Treaty of Establishment of the European Community, since 1/5/2004 nationals from all the EU member states have a right to free movement, residence and paid employment in Cyprus and so do both their spouses and children under the age of 21 years as well as their dependents as long as they provide the documentation required (see below).

Law 92(1)/2003 on the Free Movement and Residence of EU Nationals and their Families that was passed by Parliament on 18 July 2003 and Law 126 (1)/2004 that amended parts of the aforementioned law came into force on 1st May 2004 when the Republic of Cyprus became a member of the EU.

To facilitate labour mobility within the context of the free movement of workers from EU member states in Cyprus, the Department of Labour of the Ministry of Labour and Social Insurance is partner of EURES. To deal with problems arising in the internal market, the Competition and Consumer Protection Service of the Ministry of Commerce, Industry and Tourism has a SOLVIT center in Nicosia.

As already mentioned, Cyprus did not apply for a transitional period when joining the EU and, consequently, the Community law regime of full free movement of EU workers has applied since 1st May 2004. Thus, the issue of the Republic of Cyprus changing its position with regard to the second phase of transitional arrangements does not arise.

In researching the material for this report, the present author was informed by members of the poorly-funded local NGO 'Action for Equality, Support and Anti-Racism' that the three-month period within which an EU worker has to apply for a residence permit has in practice led to some such workers, especially seasonal ones, being exploited by their employer, including not being paid and being dismissed. In such a case a worker should report the employer in writing (in English or in Greek) to the Department of Labour Relations of the Ministry of Labour and Social Insurance which will then investigate the complaint. However, as far as it has been possible to ascertain, EU workers are not informed by the authorities where they should address complaints concerning their employer. One practical way of remedying this problem is for such information to be provided in various European languages to EU workers when they put in their application for residence and work permit at the Aliens and Immigration Department of the Police. According to the Labour Relations Department of the Ministry of Labour and Social insurance, during the period January-October 2005 inclusive, 150 EU workers reported their employer as having violated their agreement. By the end of March 2006 a total of 126 (78%) had been examined by the Labour Relations Department. And the rest were still being investigated. It should be noted in this context that in cases where the aforementioned Department an EU worker to get his wages paid, for example, it will advise the worker to seek recourse in the Labour Dispute Tribunal, a move that would require employing a lawyer. In such cases, the Action for Equality, Support and Anti-discrimination sometimes is in a position to help financially and otherwise, albeit to a limited degree.

Chapter IX Statistics

Introduction: Foreign workers in Cyprus

According to a February 2006 research report by the Economics Research Unit of the University of Cyprus (See *Economic Research Bulletin*, Issue No. 7, Economic Research Unit, University of Cyprus, 2006), officially registered foreign workers in the Republic of Cyprus on fixed-term visas from Asia, especially from Sri Lanka, the Philippines and Pakistan, numbered 15,000 in 1995. The same report estimated the number of illegal workers in 2004 to be in the region of 20-30 thousands. Together, legal and illegal workers in 2005 were thus estimated to comprise slightly over 20% of the labour force. The same report goes on to state categorically that the increase in foreign workers during the ten-year period was largely responsible for the average yearly increase of 3.4% in the Gross Domestic Product (It was 5.616 billion Cyprus pounds in 2005). Put differently, foreign workers have the driving force behind Cyprus' economic prosperity since the mid 1990's (See also article entitled "A foreign domestic aid in every household", 'Fileleftheros' newspaper, 3.3.2006, p.3).

At the same time, however, according to an article by Antonia Lambrakis in the newspaper 'Fileleftheros' (5.2.2006, p.A6), the government's immigration policy for immigrants from third countries is currently being re-examined (see also 'long-term residents' below) in order to rationalize it in the light of Cyprus' membership of the European Union. The prevailing view seems to be that the government's immigration policy has failed and the ever-increasing number of foreign workers is getting out of control and threatening the local workforce (ibid.). Thus, it may not be unrelated that legislation pending in Parliament, *inter alia*, provides for tests of language competence and knowledge of Cypriot history and culture for third-country migrants applying for permanent residence under the 'long-term (i.e. five-year) residence criterion. Until the proposed legislation becomes law, third-country migrants who have completed five years' residence will have their residence permits temporarily extended ('Fileleftheros' newspaper, 27.3.2006, p.20)..

Workers who were foreign nationals of non-EU Countries

According to the Statistics Department, Social Insurance Services, Ministry of Labour, in 2005 there was a total of 45,886 people working in the Republic of Cyprus from non-EU countries. In the same year, the Immigration Department of the Cyprus Police had a busy time as evidenced by their statistics for aliens that came to their attention. A total of 1,280 were illegal immigrants, 2,382 had over-stayed their visa, 988 were illegally employed, 2,849 were expelled, 2,018 were refused entry into Cyprus and, finally, 7651 applied for asylum (see below).

Asylum Applicants

A phenomenon of great concern in Cyprus with a population of approximately 730,000 is the increasingly very high number of asylum seekers in recent years. As noted in the 2004 report, the number of persons applying for asylum has been drastically increasing since 2002. More specifically, it was 952 (2002), 4,407 (2003), 9,870 (2004) and 7,745 (2005). In 2005, a total of 5,796 decision were made out of which 3,126 (54%) were rejections, and 2,508 files were closed (i.e. the applicant was no longer at the address stated on the application and could not be found, or the applicant did not attend for the interview, or had left the country illegally). At the same time, according to a report⁵ by the NGO *Apanemi* regarding the conditions in Detention Centres for asylum seekers in Cyprus, an explosive situation has developed which has caused hunger strikes, uprisings, escapes, family separation and prolonged detention .

5 Apanemi Quarterly Report, Nicosia, March 2006.

Illegal immigrants

Of great concern in Cyprus is also the issue of illegal immigrants. Due to the difficulty of policing the Green Line (That separates the area controlled by the Republic of Cyprus from the northern part of the island that has been occupied by the Turkish army since July 1974), their numbers have been increasing in recent years. According to information provided by the Immigration Unit of the Cyprus Police, the estimated number of illegal immigrants in Cyprus at the end of December 2005 was 30,000. According to the Ministry of Justice and Public Order, 99% of the illegal immigrants enter the free areas having come through Turkey and the knowledge of the administration in the occupied areas (*Fileleftheros* newspaper, 21.1.2006, p. 4).

According to newspaper reports (see article by Vasos Vasiliou in "*Fileleftheros*" newspaper 15.9.2005, p.16), a cause for concern is the appalling living conditions of many migrant, asylum applicants and illegal workers in Cyprus. Many have to survive on very little money, are being exploited by employers, live in crowded conditions in old derelict houses/ flats they rent near the "Green Line" in Nicosia, for example, a small area that has been described as a "multi-ethnic ghetto" and are often victims of racism (see article by Nicolas Theophanous in "*Fileleftheros* newspaper, 16.9.2005, p. 13).

Regarding priority of access to employment for foreign workers in Cyprus, according to a circular from the Officer of the Civil Registry and Migration Mrs. Katerina Christodoulou to the Chief of Police, first priority is given to Cypriot nationals and EU member state workers and their dependents together with Greek nationals who possess a special identity card. They are followed by nationals from the accession countries (Rumania and Bulgaria), then third country nationals who are already in Cyprus (including asylum seekers) and, finally, new arrivals from third countries.

Workers from EU Member States

In 2005, the second year of Cyprus' membership of the European Union, there was a very significant increase in the number of EU workers. More precisely, a total of 13,168 came to Cyprus and applied to the Immigration Department for Residence and Work. According to the Statistics Department, Social Insurance Services, Ministry of Labour, the number of registered workers from EU member countries was 5,301 on 15 January 2005, 7512 on 15 March, 10,430 on 15 July, and 10,428 on 15 October, giving a yearly average of 8,412. In other words, during 2005 the number of such workers almost doubled. A significant number of them worked in hotels (24.4%), in construction (13.7%), restaurants (12.2%) and for trading companies (11.7%). Regarding the nationalities of the 10,430 EU workers, they were as follows: Luxembourg (2), Malta (5), Norway (12), Portugal (12), Spain (15), Switzerland (21), Slovenia (24), Denmark (29), Belgium (30), Austria (39), Ireland (52), Finland (57), Estonia (62), Italy (64), Low Countries (80), France (108), Czech Republic (117 (1.1%)), Lithuania (125(1.1%)), Sweden (130(1.2%)), Hungary (226(2.1%)), Germany (241(2.5%)), Latvia (262(2.5%)), Slovakia (1480(14.1%)), United Kingdom (1793(17.1%)), Poland (2,191(21%)), Greece (2,445(23.4%)) and 'Unstated Country' (808(7.7%)). It can be seen that workers from the nine new member States who joined the EU in 2004 numbered 4,492, 43% of the total, with the Poles and the Slovaks having the lion's share.

Two issues that are becoming causes for concern in Cyprus are: (a) the apparent unwillingness of EU citizens seeking employment in Cyprus to work in sectors of the economy (e.g., in piggeries) where demand for foreign workers is highest because locals avoid such menial jobs as in piggeries⁶ and, (b) the presence on the streets in small cities like Paphos on the west coast of wondering groups of male EU citizens without work under the influence of alcohol who commit assault offences⁷ while others, also without employment, commit spates of burglary offences⁸, thus stigmatizing their compatriots and encouraging xenophobia among the local population.

In 2005, a total of 2,849 persons from a total of 61 different countries were expelled from Cyprus. Of those, 86 (3%) were citizens of EU member States. The 86 were made up by nationals of the following countries: Czech Republic (1), The Netherlands (1), Germany (1), Slovakia (2), Lithuania

6 *Phileleftheros* newspaper, 17.1.2006, p.12.

7 *Phileleftheros* newspaper, 23.8.2006, p.18.

8 *Phileleftheros* newspaper, 9.8.2006, p.20.

Cyprus

(2), Latvia (3), Ireland (9%), United Kingdom (15%), Greece (25) and Poland (26). Unfortunately, it has not been possible to obtain details regarding the grounds on which the EU citizens were expelled.

Literature

Memorandum Concerning the Treatment of EU Citizens by Katerina Papachristodoulou, Administrative Officer A', Civil registry and Migration department, Ministry of Interior, Republic of Cyprus, Nicosia, Cyprus.

Chapter X

Social security

Social insurance

In Cyprus there is a general earnings-related Social Insurance Scheme which covers compulsorily, every person gainfully occupied in Cyprus either as employed or self-employed person. Voluntary insurance is allowed to persons who wish to continue their insurance after a prescribed period of compulsory insurance. The scheme is financed by earnings-related contributions payable by the insured person, the employer and the State. As of 1st May 2004, Cyprus applies the EC regulation 1408/71 which coordinates the social security systems of the member states of the EU, the European Economic Area and Switzerland. The scheme provides for various benefits, including marriage benefit, maternity grant, maternity allowance, unemployment and sickness benefit. Unemployment benefit is paid for involuntary unemployment and is payable for a period that cannot exceed 156 days for each period of interruption of employment.

Where the legislation of the Republic of Cyprus does not provide for a right to a pension on the basis of age for some categories of unpaid workers, the pre-condition of age is considered to be satisfied as long as the EU nationals entitled to the right of permanent residence have completed their 65th year of age.

The precondition of more than two years' continuous residence for an EU national who has been involved in unpaid providing unpaid service in the Republic of Cyprus to be granted permanence residence does not apply if he /she has suffered incapacity to work as a result of an accident or illness in the context of work, events that confer a right to a pension payable in total or in part by the Department of Social Security.

Chapter XI

Establishment, provision of services, students

Texts in force

The right to residence in the Republic of every student (Form MEU 5) who is a citizen of a member state, their spouse and dependent children (Irrespective of their citizenship) is provided in Part VI (Art. 44 (1) and (2)). Students, are issued with a written residence permit for the same duration as the period of their professional training (Art.47 (1) and (2)).

Art. 48 (1) states that the procedure for the issuing of a residence permit or residence document is the same as that detailed in Art. 38 (1) and (2). The documentation required for a residence permit or residence document in the case of students is:

- a. The valid passport or identity card with which they entered the Republic.
- b. A letter from a recognized educational institution that the person concerned is enrolled in that institution in order to attend a course of professional training.
- c. A statement by the applicant or another type of document that proves the spouse or dependent child has sufficient financial means so that the student and the spouse and dependent children during their stay in the Republic will not burden its social security system, that he/she has health insurance that provides cover for all the risks in the Republic.

The right to residence exists for so long as the student is enrolled for a course of professional training at a recognized educational institution (Art. 49), the residence permit and residence document issued can be renewed at the payment of the same fee provided for other categories of workers (Art. 49 and 50).

Article 51 states that the provisions of Part VI do not form the basis of a right by a student who has a right of residence to receive from the republic any maintenance allowance for their studies. However, legislation pending before Parliament will provide for educational grants for EU citizens as is currently the case with Cypriot nationals. *Thus, since Cyprus joined the EU on 1st may 2004, EU citizens wishing to pursue tertiary studies in Cyprus have not been treated the same as Cypriot nationals who are entitled to educational grants.* This inconsistency, however, is to be abolished by the Bill pending in Parliament at the end of 2005 and which adopts Directive 38/2004 in its totality. Finally, it should be noted that if a person dealt with in Part VI does not apply for residence within three months of entering the Republic is committing an offence punishable with a maximum fine of 500 pounds (Art.52). Finally, Art. 53 affords the Minister of Interior discretion to deviate from the provisions of Part VI of the Law.

Draft legislation

“Right of EU Citizens and their Family Members to Move and Reside Freely in the Territory of the Republic of Cyprus” Bill; “Aliens and Immigration (Amending)” Bill.

Literature

Ministry of Labour and Social Insurance, Department of Labour (2004). *Living and Working in Cyprus*. Republic of Cyprus, Press and Information Office, Nicosia, Cyprus.

Chapter XII
Miscellaneous

Nothing to report.

Conclusions

Unlike other countries which joined the EU in 2004, Cyprus did not opt to apply a two-years' transitional period for access to the Cypriot labour market to citizens of EU member states. Consequently, since 1/5/2004 nationals from all the EU member states have a right to free movement, residence and paid employment in Cyprus as do their spouses and children under the age of 21 years as well as their dependents as long as they provide the documentation required.

Careful examination of the main legislation introduced by the Republic of Cyprus for the free movement of EU workers in Cyprus has shown that it is adequate. There appear to be no obstacles to entry, residence, and departure of citizens of EU member States and their family members. However, the prevailing view seems to be that the government's immigration policy has failed and the low-paid foreign non-EU workers, the thousands of illegal immigrants and the ever-increasing number of asylum-seekers are getting out of control and threatening both the local workforce as well as impacting adversely on opportunities and the treatment of EU workers.

To some extent the government of Cyprus was unprepared to implement the relevant EU legislation upon Cyprus' becoming a full member of the EU in 2004 and the difficulties in processing applications for employment continued in 2005. They were due to the fact that three different ministries are involved and their officials cannot communicate by computer, as their computer systems are not compatible.

Some of the weaknesses that existed in relevant legislation in 2004 were corrected in 2005. However, by the end of 2005 there was still a need for the complete adoption of Directive 38/2004 of the European Parliament and Council of 29.4.2004 in order to remedy some remaining weaknesses in the existing legislation. There are a number of ambiguities in existing legislation that need to be corrected. These concern "involuntarily unemployed" in Article 7 (4), and "services to the Republic of Cyprus" in Article 9 (1). Also, the sanction imposed on Cypriots who violate the Population Archives Law is a great deal harsher than in the case of EU citizens who work in Cyprus without a resident permit or do not possess an officially-approved Employer's Confirmation Certificate. At the end of the year in question, two Bills were pending in parliament which, when passed, will bring Cypriot legislation into line with EU legislation and practice.

The number of EU citizens coming to work in Cyprus increased significantly in 2005. It should be noted in this context that workers from an EU member State are entitled to the same wages which are either agreed with the employer or are based on collective agreements applying in various sectors of economic activity. EU citizens can be employed in the public or semi-public sector if the post concerned is not deemed to be important for the public interest of the State (e.g., the army). If a citizen of an EU member State wishes to apply for a job in the Public Service for which knowledge of Greek is required, he/she has to provide the necessary documentary evidence that they possess the knowledge required. The same requirement applies for Cypriot nationals. In Cyprus there are no legislative restrictions on professional sport people who are citizens of EU member States and the Cyprus Sport Organization applies the ruling in the *Igor Simutenkov* case.

In order to facilitate EU worker movement to Cyprus, EURESS was set up in March 2005 by the Department of Labour within the Ministry of Labour and Social Insurance and, since August 2005, employment vacancies have been inserted electronically to the EU central EURESS database. In addition, the procedure for obtaining a residence permit was simplified in 2005. As for the Employer's Confirmation Statement, it will be abolished by legislation pending in Parliament. Unlike the situation in 2004 that discriminated against EU workers, starting in 2005 a residence permit or document is granted or renewed on payment of the same amount (CY£5.0) as for the issuing of an identity card to a Cypriot national. Another noteworthy development in 2005 for EU workers in Cyprus is that the Cyprus Medical Association campaigned for the right to medical treatment for EU citizens to be extended to the private and not only to the public medical sector. In addition, legislation pending in Parliament will provide for educational grants for citizens of EU member States.

Regarding the treatment of long-term resident third-country nationals, as provided in Directive 2003/109/EC, the position in Cyprus in 2005 remained the same as in 2004 because the Directive concerned was not incorporated by means of legislation since the member States that joined in May 2004 had two years to do so. It should be noted in this context that at the beginning of August 2006, six

Cyprus

months after the deadline had expired, the above-mentioned Directive had not yet been incorporated. The legal ramifications of the *Micovic* decision by the Supreme Court of Cyprus in November 2005 will become evident in 2006 onwards as long-term residents who are third country nationals appeal against their expulsion.

Regarding the impact of some important decisions by the European Court of Justice on courts in Cyprus, in 2005 there was no case law in Cyprus in the wake of the jurisprudence of the European Court of Justice in *Boucherau* and later judgements implementing serious restrictions on the public order exception. In addition, current legislation and practice in Cyprus complies with the decision in *Trojani* with one limitation- social assistance is not provided during the first three months of residence of an EU national when no residence permit is required and such a person is deemed to be a visitor.

As far as the entitlement of job-seekers to social advantages on the basis of the decisions in the *Collins* and *Ioannidis* cases is concerned, such assistance is not foreseen for Cypriot nationals and, consequently, it is not available to EU citizens. The issues raised and decided in *Hans van Lent* and *Commission of the European Union v. Kingdom of Denmark* have not yet arisen in Cyprus. However, since Cyprus is an island and more than 200km away from the nearest neighbouring EU Member State (Greece), the issues raised in the two aforementioned cases are most unlikely to arise in Cyprus.

It should be a cause for concern that the three-month period within which an EU worker has to apply for a residence permit has in practice led to some such workers, especially seasonal ones, being exploited by their employer, including not being paid and being dismissed. A suggestion is provided above as to how this problem can be remedied in a practical way.

Finally, due to the anomalous political situation in Cyprus due to the occupation of the northern part of the Republic of Cyprus by the Turkish army since 1974, on the one hand, Greek-Cypriots have to show a passport to be allowed by the illegal administration in the occupied areas to cross to and from the northern part of the island at the checkpoints along the 'Green Line' while, on the other, EU nationals crossing into the area controlled by the Republic of Cyprus from the northern part occupied by Turkey can be subject to identity checks and searches.

Publications to assist in the free movement of EU workers in Cyprus

Ministry of Commerce, Industry and Tourism, Competition and Consumer Protection Service (2004).

SOLVIT. A Network for Problem Solving in the Internal Market. Republic of Cyprus, Press and Information Office, Nicosia, Cyprus.

Ministry of Labour and Social Insurance, Department of Labour (2004). *Living and Working in Cyprus.* Republic of Cyprus, Press and Information Office, Nicosia, Cyprus.

Ministry of Labour and Social Insurance, Department of Labour (2004). *EURESS: A Guide for Employers.* Republic of Cyprus, Press and Information Office, Nicosia, Cyprus.

Ministry of Labour and Social Insurance, Department of Labour (2004). *Guide for the General System for the Mutual Recognition of Professional Qualifications.* Republic of Cyprus, Press and Information Office, Nicosia, Cyprus.

Useful Websites in the Republic of Cyprus

Ministry of Interior: www.moi.gov.cy

Ministry of Labour and Social Insurance: www.misi.gov.cy/sid

Director of the Department of Labour Relations, Ministry of Labour and Social Insurance: info@dir.misi.gov.cy

Qualifications: qualifications@dl.misi.gov.cy

Ministry of Finance: <http://www.mof.gov.cy>

Ministry of Finance, Taxation Department: <http://taxinet.mof.gov.cy>