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## **COMMISSION STAFF WORKING DOCUMENT**

### **2023 Rule of Law Report Country Chapter on the rule of law situation in Cyprus**

*Accompanying the document*

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL  
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

### **2023 Rule of Law Report**

#### **The rule of law situation in the European Union**

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## **ABSTRACT**

The Cypriot justice system has undergone significant reforms, including new courts and levels of jurisdiction. The new system of appointments of judges to the Supreme Constitutional Court and the Supreme Court includes a positive step involving the judiciary, in line with European standards. The composition of the Supreme Council of the Judicature was extended to include non-judicial members, thus enhancing its democratic legitimacy, while it does not yet allow for a broader participation of judges chosen by their peers, in line with European standards. The draft law on reform of the Law Office of the Republic tabled in Parliament does not provide a clearer distinction between its advisory and prosecutorial role. The absence of review of decisions of the Attorney General not to prosecute or to discontinue criminal proceedings raise concerns. The justice system continues to face serious challenges as regards its efficiency. A number of ongoing reforms aim to improve the quality and efficiency of the justice system, including the level of digitalisation, but their implementation is slow. The appointment of new judges and the adoption of new procedural rules are positive developments, while the shortage of support staff remains a challenge. Plans to renovate outdated buildings aim to improve current working conditions.

The Independent Anti-Corruption Authority has started its operations, albeit with limited staff. The implementation of the national anti-corruption strategy is on track. Concerns exist on the limited access to information impacting the effectiveness of audits on the finance of public institutions. Shortcomings exist in terms of the effectiveness of investigations and prosecutions, and results on high-level corruption cases are still missing. The legislative framework on lobbying continues to improve, while the asset declaration system remains incomplete as the relevant legislative act is still pending in Parliament. The implementation of provisions on conflicts of interest for members of Parliament continues, and no further steps were taken concerning similar provisions for the public service. Awareness-raising actions were launched on the protection of whistleblowers. The implementation of ethics provisions for the police and the judiciary continued over the past year, with an overall decrease of open cases. The application of the investor citizenship scheme has stopped in practice.

The regulatory framework relating to transparency of media ownership in the audio-visual media sector was strengthened for broadcast media. There have been no developments regarding the regulation of state advertising. Discussions are underway between the Government and the Cyprus Broadcasting Corporation with a view to modernising the law regulating public service media. Some challenges have been encountered in the implementation of the law on public access to information. A bill on press freedom would, if adopted, introduce provisions relating to electronic media, enshrine a code of practice in law and contain provisions aimed at safeguarding the safety of journalists and other media workers.

The creation of the e-consultation platform aims to increase accessibility and transparency in the law-making process, while further action is required to address persistent shortcomings regarding the effective and timely consultation of stakeholders. Plans aiming at digitalising the law-making process are expected to improve the quality of and access to legislation. The reinforcement of the Ombudsperson regulatory framework resulted in its upgrading to an A-status National Human Rights Institution. Administrative and financial burdens raise concerns regarding the environment for civil society.

## **RECOMMENDATIONS**

Overall, concerning the recommendations in the 2022 Rule of Law Report, Cyprus has made:

- Significant progress on ensuring that the reform on the appointment of the Supreme Constitutional Court and Supreme Court judges takes into account European standards on judicial appointments and the opinion of the Venice Commission.
- Some progress on ensuring that the reform on the composition of the Supreme Council of the Judiciary takes into account European standards regarding Councils for the Judiciary and the opinion of the Venice Commission.
- Some progress on continuing to improve the effective investigation and adjudication of high-level corruption cases, including by strengthening the Office of the Attorney General and its budgetary independence.
- No progress on introducing rules on asset disclosure for elected officials to establish regular and comprehensive filing, combined with effective, regular and full verifications.
- Some progress on strengthening the rules and mechanisms to enhance the independent governance of public service media taking into account European standards on public service media.
- Some progress on establishing a framework for the effective and timely consultation of stakeholders in the legislative process.

On this basis, and considering other developments that took place in the period of reference, and in addition to recalling the commitments made under the national Recovery and Resilience Plan relating to certain aspects of the justice system and the anti-corruption framework, it is recommended to Cyprus to:

- Strengthen the independence and the accountability of the Prosecution Service, including by providing for a possibility of review of the decision of the Attorney General not to prosecute or to discontinue proceedings, taking into account European standards on independence and autonomy of the prosecution.
- Introduce rules on asset disclosure for elected officials to establish regular and comprehensive filing, combined with effective, regular and full verifications
- Ensure that the recently established Independent Authority for Anti-Corruption has the financial, human and technical resources to effectively perform its competences.
- Adopt legislation to ensure fair and transparent distribution of advertising expenditure by the state and state-owned companies.
- Advance with the process aimed at strengthening the rules and mechanisms to enhance the independent governance of public service media taking into account European standards on public service media.
- Proceed with the adoption of the framework for the effective and timely consultation of stakeholders in the legislative process and ensure its implementation.

## I. JUSTICE SYSTEM

The organisation of the justice system underwent a significant reform, including the establishment of new courts and levels of jurisdiction<sup>1</sup>. Since 1 July 2023, the court system is composed of six District Courts, six Assize Courts<sup>2</sup>, the Administrative Court<sup>3</sup>, the Administrative Court of International Protection<sup>4</sup>, the Commercial and the Admiral Court<sup>5</sup> at first instance. In addition, there are family courts, rent control courts, industrial disputes courts and a military court<sup>6</sup>. A Court of Appeals has been established to deal with appeals against all judgments issued at first instance<sup>7</sup>. A third instance of jurisdiction was established, comprising the Supreme Constitutional Court and the Supreme Court<sup>8</sup>. First and second instance judges are appointed, transferred and promoted by the Supreme Council of Judicature (SCJ)<sup>9</sup>. Judges at the highest courts are appointed by the President of the Republic. The Prosecution Service is organised under the Attorney General of the Republic, who is appointed by the President of the Republic<sup>10</sup>. The Attorney General heads also the Law Office of the Republic, which is an independent service<sup>11</sup> assisting him, not subjected to any ministry. Cyprus participates in the European Public Prosecutor's Office (EPPO). The independent national bar association has regulatory and disciplinary competence as regards its members.

### Independence

**The level of perceived judicial independence in Cyprus continues to be average among both the general public and companies.** Overall, 54% of the general population and 44% of companies perceive the level of independence of courts and judges to be 'fairly or very good'

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<sup>1</sup> In July 2023, the Seventeenth Amendment to the Constitution Act of 2022 (Law 103(I)/2022) entered into force, together with the amendments of the Law on the Administration of justice of 1964 (Laws 145(I)/2022 and 146(I)/2022) putting into effect a major restructuring of the court system. Contribution by the Supreme Court to the 2023 Rule of Law Report.

<sup>2</sup> The Assize Court has unlimited jurisdiction to hear and determine at first instance any criminal case.

<sup>3</sup> Establishment and Function of the Administrative Court, Law 131 (I)/2015.

<sup>4</sup> Establishment and Function of the Administrative Court for International Protection, Law 73 (I)/2018.

<sup>5</sup> Establishment and Operation of the Commercial Court and the Admiralty Court, Law 62 (I)/2002. The Courts will adjudicate, at first instance, on high profile commercial and admiralty cases respectively.

<sup>6</sup> 2022 Rule of Law Report, Country Chapter on the rule of law situation in Cyprus p.3.

<sup>7</sup> The Court of Appeals is composed of 16 judges and has three divisions: civil, criminal and administrative.

<sup>8</sup> The Supreme Constitutional Court, composed of nine judges, mainly rules on (i) unconstitutionality claims; (ii) conflicts of competence between public authorities; and (iii) administrative cases at third degree. The Supreme Court, composed of seven judges, acts as third degree of jurisdiction in all civil and criminal cases, and cases under the competence of specialized courts.

<sup>9</sup> The Supreme Council of Judicature is composed of all the judges of the Supreme Court, the Advocate General, the President of the Cyprus Bar Association and two experienced lawyers. Constitution of Cyprus, Article 157 para. 2. This constitutional provision is further elaborated in Law on the Administration of Justice of 1964, Section 10, as modified by Laws 163(I)/2022 and 223(I)/2022.

<sup>10</sup> The Attorney General has the power, exercisable at his discretion in the public interest, to institute, conduct, take over and continue or discontinue any proceedings for an offence against any person (legal or natural) in the Republic. The Attorney General is also the legal adviser of the Republic, of the President, of the Council of Ministers and of the Ministers individually. He performs all other functions and duties conferred on him by the Constitution or by statutory law. See Constitution of Cyprus, Article 112.

<sup>11</sup> The Attorney General's representatives (law officers) act on his behalf and only take instructions from him. All law officers are members of the Public Service, subject to the Public Service Law and Regulations including disciplinary procedures as all other public servants.

in 2023<sup>12</sup>. According to data in the 2023 EU Justice Scoreboard, the perceived judicial independence among the general public has consistently increased in the last years. The perceived judicial independence among the general public has increased in comparison with 2022 (50%), but it is lower than in 2016 (56%). The perceived judicial independence among companies has remained stable with a slight decrease compared to 2021 (45%), and 2016 (50%).

**Significant progress has been achieved on the reform of the appointments of the judges of the Supreme Constitutional Court and the Supreme Court.** The 2022 Rule of Law Report recommended to Cyprus to ‘ensure that the reform on the appointment of the Supreme Constitutional Court and Supreme Court judges takes into account European standards on judicial appointments and the opinion of the Venice Commission’<sup>13</sup>. New legislation was adopted in August 2022 and entered into force on 1 July 2023<sup>14</sup>. It maintains the power of the President of the Republic to appoint the judges of the two courts in question<sup>15</sup>, while establishing a new body, the Advisory Judicial Council, to advise the President on the selection, namely by preparing a non-binding list of the most suitable candidates in alphabetical order. The Advisory Judicial Council is composed of the judges of the court for which the candidates apply<sup>16</sup>, the Attorney General, the President of the Bar association and two experienced lawyers. Only the judges-members have the right to vote. The President of the Republic is not bound to appoint a person from the list of the proposed candidates<sup>17</sup>. In so far as the President will follow the proposed list in practice, the revised system appears to be in line with the European standards according to which, where the constitutional or legal provisions prescribe that political organs take decisions concerning the selection and career of judges, an independent and competent authority drawn in substantial part from the judiciary should be authorised to make recommendations or express opinions, which the relevant appointing authority follows in practice<sup>18</sup>. In its opinion on the envisaged reform, the Venice Commission has made some further recommendations and comments in order to further improve the objectivity of the appointment process.<sup>19</sup> As recommended by the Venice Commission, the law

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<sup>12</sup> Figures 49 and 51, 2023 EU Justice Scoreboard. The level of perceived judicial independence is categorised as follows: very low (below 30% of respondents perceive judicial independence as fairly good and very good); low (between 30-39%), average (between 40-59%), high (between 60-75%), very high (above 75%).

<sup>13</sup> 2022 Rule of Law Report, Country Chapter on the rule of law situation in Cyprus, p. 2.

<sup>14</sup> Law on the Administration of Justice of 1964, as modified by Laws 145(I)/2022 and 163(I)/2022, Article 4 para. 4. 2022 Rule of Law Report, Country Chapter on the rule of law situation in Cyprus, pp. 3-4.

<sup>15</sup> Constitution of Cyprus, Articles 133 para 2 and 153 para 2. Under the previous system, Supreme Court judges were appointed by the President of the Republic. According to an established practice, the President previously consulted the Supreme Court, whereby, the President of the Republic, almost without exception, followed the recommendations of the Supreme Court, which proposed the first instance judge longest in service for each vacancy. The same practice applied to the appointment of the President of the Supreme Court. See 2021, 2022 Rule of Law Reports, Country Chapter on the rule of law situation in Cyprus, p. 2 and p. 4.

<sup>16</sup> Depending on whether the vacant post concerns the Supreme Constitutional Court or the Supreme Court.

<sup>17</sup> See also, Figure 57, 2023 EU Justice Scoreboard.

<sup>18</sup> Council of Europe: Committee of Ministers (2010), Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, paras. 46-48.

<sup>19</sup> In particular, the Venice Commission recommended: (i) to replace the Attorney General in the composition of the Advisory Judicial Council; (ii) to provide for a graduated recommendation and reflect on the desirability to require the President to give reasons when he does not follow the recommendation; (iii) to provide that the reasons for the decisions of the Council should be made available to applicants on request; (iv) to provide that an unsuccessful candidate should have the right to challenge the decision of the Advisory Judicial Council, and (v) to provide for pre-existing, clear and transparent criteria for appointment. The Venice Commission suggested as a further improvement that the President would need to give reasons in writing when he takes



requires the evaluation of candidates to be made following pre-defined criteria<sup>20</sup>. The Government considers that it is not possible under the Constitution to take other elements suggested by the Venice Commission<sup>21</sup>. Therefore, there has been significant progress on the implementation of the recommendation made in the 2022 Rule of Law Report.

**Some progress has been made on the composition of the Supreme Council of the Judicature, while a broader participation of the judges selected by their peers is lacking.**

The 2022 Rule of Law Report recommended to Cyprus to ‘ensure that the reform on the composition of the Supreme Council of the Judicature takes into account European standards regarding Councils for the Judiciary and the opinion of the Venice Commission’<sup>22</sup>. The reform was adopted in August 2022 and entered into force on 1 July 2023<sup>23</sup>. It provides for the judicial review of the decisions of the Supreme Council of the Judicature by the Supreme Constitutional Court. Furthermore, it extends the composition of the Supreme Council of the Judicature to include, beside its judicial component consisting of all judges of the Supreme Court, a non-judicial component with the aim to enhance its democratic legitimacy. The Attorney General, the President of the Bar association and two experienced lawyers now participate, without voting rights, in sessions regarding the appointment, promotion and transfer of judges. The Bar association pointed to the positive experience from its President’s first participation to the appointments under the newly established system, a view shared by the Association of judges<sup>24</sup>. Regarding the judicial component, the new law did not move forward with the initial proposal to have this component consisting of senior members from the various court levels, which had raised concerns as to the selection by seniority instead of by election through peers<sup>25</sup>. The

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any decision which does not follow the recommendation of the Advisory Judicial Council. Venice Commission opinion on three bills reforming the judiciary, CDL-AD(2021)043, para. 59.

<sup>20</sup> The candidate must be of a high moral standard and have at least twelve years of professional practice, either as a lawyer or as a judge. In addition, candidate judges shall have a broad knowledge of the specific areas of law or proven professional experience.

<sup>21</sup> The Government stated that a graduated recommendation by the Advisory Judicial Council and the need for the President of the Republic to give reasons when he does not follow the recommendation would constitute a limitation to the President’s absolute power. According to the Government, the establishment of the Advisory Judicial Council is already a limitation to the President’s constitutional right as compared to the previous system. This right cannot be further limited without raising unconstitutionality claims (Input from Cyprus on the implementation of the recommendations made in the 2022 Rule of Law Report, pp. 2-3). As regards the Venice Commission’s comment that an unsuccessful candidate should be entitled to challenge the decision of the Advisory Judicial Council, or at least the procedure under which the appointment decision was made, the Government noted that it is not possible under the national legal system for unsuccessful candidates to challenge the opinion of the Advisory Judicial Council or the decision of President. According to the Government, the legal system does not provide a legal basis to challenge preparatory acts or opinions or acts of government. Article 146 of the Constitution provides judicial review only for enforceable administrative acts. Input from Cyprus for the 2023 Rule of Law Report p. 3.

<sup>22</sup> 2022 Rule of Law Report, Country Chapter on the rule of law situation in Cyprus, p. 2.

<sup>23</sup> Law on the Administration of Justice of 1964, as modified by Laws 145(I)/2022 and 163(I)/2022, Article 10. See also 2022 Rule of Law Report, Country Chapter on the rule of law situation in Cyprus, pp. 4-5.

<sup>24</sup> Information received from the Cyprus Bar association and the Association of judges in the context of the country visit in Cyprus.

<sup>25</sup> 2022 Rule of Law Report, Country Chapter on the rule of law situation in Cyprus p. 5. The initial proposal foresaw that the Supreme Council of Judicature would consist of nine members: the President and the three senior judges of the Supreme Court, the President of the Court of Appeals, the most senior President of the District Court, the President of the Association of Judges, the Attorney General and the President of the Bar Association. In respect to this proposal, the Venice Commission had recommended that: (i) the judicial members should be chosen by their peers instead of selected by seniority; (ii) the Attorney General should only participate without the right to vote (Venice Commission opinion on three bills reforming the judiciary

Government has indicated that the Constitution requires the Supreme Court to be the Supreme Council of the Judicature<sup>26</sup>. Hence, the judges participating in the Supreme Council of the Judicature remain all the judges of the Supreme Court. The Council of Europe Recommendation, aiming to safeguard the pluralism inside the judiciary, calls for judges-members of judicial councils to be chosen by their peers from all levels of the judiciary<sup>27</sup>. As the new composition of the Supreme Council of the Judicature enhances its democratic legitimacy, while not yet allowing for a broader participation of judges chosen by their peers, some progress has been made regarding the implementation of the recommendation made in the 2022 Rule of Law Report.

**The draft law on the reform of the Law Office, which has been tabled in Parliament, does not provide a clearer distinction between its advisory and prosecutorial role.** The Prosecution Service is part of the Law Office of the Republic, headed by the Attorney General. There is no clear separation between staff entrusted with advisory tasks and those carrying out prosecutorial tasks<sup>28</sup>. In 2016, GRECO expressed the view that being an integrated part of the Law Office, the prosecution service may be seen to operate in an environment that is not fully free from potential or real risk of improper influence<sup>29</sup>. Following approval by the Government in February 2023, a draft law was submitted to the relevant parliamentary committee in April 2023 for discussion<sup>30</sup>. The proposed law focuses on two main points: (i) the salary alignment of law officers with the salary scales of judicial officers<sup>31</sup> and (ii) the establishment of a prosecutorial council to decide on recruitment, promotions, dismissals, and disciplinary action against law officers<sup>32</sup>. The draft law also includes the creation of the position of General

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(CDL-AD(2021)043), para. 60). This proposal was assessed and strongly supported by GRECO in relation to its recommendation concerning the composition of the Supreme Council of the Judicature (GRECO (2020) Fourth Evaluation Round - Second Compliance Report Cyprus, paras. 49-52).

<sup>26</sup> The Government stated that the composition of the Supreme Council of the Judicature cannot be extended without breaching the Constitution; Article 157 of the Constitution provides that the Supreme Court is the Supreme Council of the Judicature. Still, according to the Government, it was possible to include in its composition non-judicial members, provided they did not have a right to vote.

<sup>27</sup> Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe, para 27.

<sup>28</sup> The Law Office consists of law officers and public prosecutors.. Both law officers and public prosecutors may in principle act as a prosecutor in a given case as decided by the Attorney General. The prosecutors deal normally with criminal cases which fall within the competence of the district courts, while the law officers deal with prosecutions before the assize courts. GRECO (2016), Fourth Evaluation Round, Evaluation Report on Cyprus on Corruption prevention in respect of members of parliament, judges and prosecutors, p. 38-39; Information received from the Law Office in the context of the country visit in Cyprus.

<sup>29</sup> GRECO (2016), Fourth Evaluation Round, Evaluation Report on Cyprus on Corruption prevention in respect of members of parliament, judges and prosecutors, para. 176. GRECO addressed a corresponding recommendation aiming to strengthen the independence of the Prosecution Service, namely: Recommendation xiii “that reform considerations concerning the Law Office of the Republic include means to strengthen the independence of the prosecutorial functions and the capacity of the individual law officers and prosecutors to conduct their duties in a more autonomous way, guided by the safeguards necessary under the rule of law”. The recommendation has been assessed as not implemented yet, GRECO (2022), Fourth Evaluation Round Addendum to the Second Compliance Report on Cyprus, p. 9.

<sup>30</sup> Written contribution from the Law Office in the context of the country visit in Cyprus.

<sup>31</sup> The alignment of the salaries was already provided in the budget of the Law Office for 2020, as reported by Cyprus to GRECO. In assessing this measure, GRECO considered that: “the only tangible measure taken, which concern the alignment of the remuneration scales between judicial officers and law officers, is not enough in itself to consider this recommendation to be even partly implemented” (GRECO (2020), Fourth Evaluation Round - Second Compliance Report Cyprus, para. 74).

<sup>32</sup> Law officers and prosecutors being civil servants, these matters fall currently under the competence of the Public Service Commission. According to GRECO, the current procedures for recruiting and promoting public

Director of the Law Office, who will act as controlling officer for financial control purposes<sup>33</sup>. According to the Law Office, there are no plans to make a clearer distinction between the prosecution and the advisory role of the Office, as the need for such reform has not been either expressly pointed out nor implied by GRECO<sup>34</sup>. The Bar association expressed the view that the establishment of an independent Director of the Public Prosecution Service is desirable<sup>35</sup>. Stakeholders also referred with scepticism to the dual role of the Law Office and referred to public commitments made by the President of the Republic to reflect on the separation of the advisory role and the prosecutorial function<sup>36</sup>.

**The absence of a possibility of review of the decision of the Attorney General not to prosecute or to discontinue proceedings raises concerns.** According to data in the 2022 EU Justice Scoreboard, Cyprus is the only Member State where no form of review of such decisions, neither judicial nor hierarchical, is provided<sup>37</sup>. The Constitution provides that the Attorney General has the power, exercisable at his or her discretion in the public interest, to institute, conduct, take over and continue or discontinue any criminal proceedings<sup>38</sup>. The Rules on Criminal Procedure further provide that the Attorney General may register a stay of prosecution at any stage prior to the delivery of a judgment, resulting in the termination of the proceedings<sup>39</sup>. According to the Supreme Court, the decisions of the Attorney General cannot be reviewed and do not need to be reasoned<sup>40</sup>. The Government considers that the exclusive power of the Attorney General to initiate, conduct, or discontinue criminal proceedings is balanced by the latter's practice to provide reasons for his decisions, unless he is prevented from doing so for reasons of public interest or the protection of other persons' rights. According to European standards, the absence of remedies against decisions of public prosecutors not to prosecute results in a high risk of non-accountability<sup>41</sup>. Stakeholders also

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officials in Cyprus are built on very solid ground as guided by precise rules provided for in the Public Service Law. GRECO (2016), Fourth Evaluation Round, Evaluation Report on Cyprus on Corruption prevention in respect of members of parliament, judges and prosecutors, para. 186.

<sup>33</sup> Written contribution from the Law Office in the context of the country visit in Cyprus.

<sup>34</sup> Written contribution from the Law Office in the context of the country visit in Cyprus.

<sup>35</sup> Contribution from the Council of Bars and Law Societies of Europe for the 2023 Rule of Law Report, p. 35.

<sup>36</sup> Written contribution from the Audit Office in the context of the country visit in Cyprus, pp. 3-4; Written contribution from Oxygono in the context of the country visit in Cyprus. The pre-election governance program of the new President of the Republic included under the pillar Reform, point 1.3 "Evaluate, in line with GRECO recommendations, the separation of the advisory role and the prosecutor".

<sup>37</sup> Figure 59, 2022 EU Justice Scoreboard (no data for Belgium available). The Government notes that the Constitution grants the Attorney General exclusive jurisdiction over criminal prosecutions, without any constitutional limitation. Written contribution from the Law Office in the context of the country visit in Cyprus.

<sup>38</sup> Constitution of Cyprus, Article 113 para. 2.

<sup>39</sup> Law on the Criminal Procedure, Article 154 para. 1.

<sup>40</sup> The Supreme Court held that the discretion of the Attorney General is absolute and not subject to judicial review and that he does not have a duty to place sufficient grounds for his decisions (Supreme Court, *Charilaos Xenophontos v. The Republic* (1989) 2 RSCC 89; *Police v. Athienitis* (1983) 2 CLR 194; *Yiannakis P. Ellinas v. The Republic* (1989) 1 CLR 17).

<sup>41</sup> Any powers to start, stop and discontinue criminal proceedings, which are not subject to judicial review, do not comply with modern notions of the rule of law. (Venice Commission, CDL-AD(2018)028-e, Opinion on Constitutional arrangements and separation of powers and the independence of the judiciary and law enforcement, para. 67). The biggest problems of accountability (or rather a lack of accountability) arise, when the prosecutors decide not to prosecute. If there is no legal remedy - for instance by individuals as victims of criminal acts - then there is a high risk of non-accountability (Venice Commission, CDL-AD(2010)040, Report on European Standards as regards the independence of the judicial system: Part II- the prosecution service, para. 45). See also, Venice Commission, CDL-AD(2016)017, Rule of Law Checklist, II.E.1.d.xii; Interested



emphasised the need to establish adequate checks and balances against unlimited prosecutorial discretion<sup>42</sup>.

## Quality

**Ongoing projects aim to improve the quality of justice, including the level of digitalisation, while the implementation rate has been slow, and shortcomings remain.** The establishment of an Independent Court Service responsible for the management and administration of the courts is an ambitious reform project that is expected to alleviate the burden on the Supreme Court and serve the functioning of courts, thus contributing to an efficient delivery of justice. A study, including recommendations as to the structure of the Court Service, its procedures and staffing requirements, has been successfully completed<sup>43</sup>. However, its implementation is under discussion between the relevant services and interested parties and is estimated to take up to three years<sup>44</sup>. The level of digitalisation remains low, as reflected in the 2023 EU Justice Scoreboard. Despite some progress in the adoption of procedural rules allowing the use of digital technology in proceedings<sup>45</sup> and the availability of secure electronic communication for prosecution services<sup>46</sup>, challenges remain, in particular regarding digital solutions to initiate and follow proceedings<sup>47</sup> and the availability of digital tools and adequate infrastructure at the disposal of judges, prosecutors and judicial staff<sup>48</sup>. Ongoing projects plan to improve the use of digital technology, but they have so far not been completed. The target for completing the development and installation of the e-justice system by the end of 2022<sup>49</sup> has been further. The introduction of Digital Audio Recording in court proceedings aims to gradually replace the stenography used today. The project is also included in the National Resilience and Recovery Plan and is scheduled to be completed in March 2025<sup>50</sup>.

**Plans to renovate outdated buildings, including through the National Resilience and Recovery Facility, aim to improve current working conditions.** The extension of the Famagusta District Court, a milestone achieved under the National Resilience and Recovery

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parties of recognised or identifiable status, in particular victims, should be able to challenge decisions of public prosecutors not to prosecute; such a challenge may be made, where appropriate after an hierarchical review, either by way of judicial review, or by authorising parties to engage private prosecution (Recommendation CM/Rec(2000)19 of the Committee of Ministers of the Council of Europe on the role of public prosecution in the criminal justice system, para. 34.

<sup>42</sup> Written contribution from the Audit Office in the context of the country visit in Cyprus, pp. 3-4; Written contribution from Oxygono in the context of the country visit in Cyprus.

<sup>43</sup> The project was co-funded by the European Union via the Technical Support Instrument and implemented by the Council of Europe in cooperation with the European Commission.

<sup>44</sup> Written contribution from the Ministry of Justice in the context of the country visit in Cyprus, p. 4-5.

<sup>45</sup> Figure 41, 2023 EU Justice Scoreboard.

<sup>46</sup> Figure 44, 2023 EU Justice Scoreboard.

<sup>47</sup> Figures 45 and 46, 2023 EU Justice Scoreboard.

<sup>48</sup> Figure 42, 2023 EU Justice Scoreboard. Cyprus has the lowest score among all Member States.

<sup>49</sup> The corresponding milestone 183 under the National Resilience and Recovery Plan initially required the installation and full operation of the e-justice system by December 2022, Annex to the Council Implementing Decision on the approval of the assessment of the Recovery and Resilience Plan for Cyprus, p. 103.

<sup>50</sup> Milestone 184 provides for the installation and full operation of digital audio recording in court proceedings, Annex to the Council Implementing Decision on the approval of the assessment of the Recovery and Resilience Plan for Cyprus, p. 103.

Plan, is a positive step in addressing inefficiencies caused by inadequate court premises<sup>51</sup>. The poor condition of the court buildings in Nicosia results in difficult working conditions for the judges and court staff<sup>52</sup>. While there are ongoing plans to renovate the buildings, future works are not expected to be finalised before 2025<sup>53</sup>. The lack of a comprehensive computerised registration system and adequate storage areas have led to documents being lost, contributing to delays in the administration of justice. The need to strengthen the security of the courts to protect its personnel and property has also been underlined<sup>54</sup>.

**The recruitment of new judges is a positive step, while the shortage of support staff remains a challenge.** The establishment of new courts, following the entry into force of the reform of the courts system, and the implementation of measures to reduce the backlog require the creation of new posts for judges<sup>55</sup>. 41 judges have been appointed by February 2023<sup>56</sup>, including, for the first time, experienced lawyers in senior judicial positions, a development welcomed by the Bar Association<sup>57</sup>. The process for appointing 49 additional judges is ongoing and seeks to increase the general capacity of the judicial system. Nevertheless, the lack of support staff, including stenographers, secretaries and clerks, remains a challenge causing significant delays in the adjudication of cases, as underlined by judges, court staff and lawyers<sup>58</sup>.

**Trainings offered by the Judicial Training School and the establishment of the Academy of the Law Office aim to increase the quality of the justice.** The Judicial Training School offers introductory and continuing training to judges, registrars, and legal officers, including training abroad through different networks<sup>59</sup>. It includes courses on different areas of law, judicial ethics, as well as on specific skills, such as judgment drafting, case management and digital skills<sup>60</sup>. The trainers are mostly judges<sup>61</sup>. The training on the new Civil Procedure Rules,

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<sup>51</sup> Annex to the Council Implementing Decision on the approval of the assessment of the Recovery and Resilience Plan for Cyprus, p. 103, Milestone 186. The five new courtrooms were inaugurated in January 2023.

<sup>52</sup> Statements by the President of the Supreme Court before the Finance and Budget Committee of Parliament during the discussions on the budget of the Judicial Service, 18 November 2022. The Bar association referred to the condition of the Nicosia courts buildings as deplorable (Contribution from the Council of Bars and Law Societies of Europe for the 2023 Rule of Law Report, p. 35). See also, written contribution from the Supreme Court in the context of the country visit in Cyprus.

<sup>53</sup> Statements by the President of the Supreme Court before the Finance and Budget Committee of Parliament during the discussions on the budget of the Judicial Service, 18 November 2022.

<sup>54</sup> Supreme Court, Judicial Service, Strategic Plan 2022-2024, pp. 7-8.

<sup>55</sup> 32 positions were created as an implementation measure of the project to reduce the backlog of delayed cases (Input from Cyprus for the Rule of Law Report, p. 19).

<sup>56</sup> Information received from the Director of Reform of the Supreme Court and the Bar association in the context of the country visit in Cyprus.

<sup>57</sup> Cyprus Bar association, Statement on the appointment of judges to the newly established Court of Appeals, 31 January 2023.

<sup>58</sup> Information received from the Association of judges, the Director of Reform of the Supreme Court and the Bar association in the context of the country visit in Cyprus.

<sup>59</sup> The Judicial Training School was established in 2020 (2020 Rule of Law, Country Chapter on the rule of law situation in Cyprus p. 4).

<sup>60</sup> Information received from the Judicial Training School in the context of the country visit in Cyprus.

<sup>61</sup> The Bar association pointed that more trainings by experienced lawyers and academics could enrich the curriculum and called to reflect on the need for training prior to appointment (currently, the introductory training is completed within the first two years after appointment). Contribution from the Council of Bars and Law Societies of Europe for the 2023 Rule of Law Report, p. 36.

is considered a priority<sup>62</sup> and is advancing as planned<sup>63</sup>. In late 2022, the Law Office established the Academy of the Law Office to provide in-house training to its staff members<sup>64</sup>.

**Draft legislation on the granting of legal aid aims to make the procedure more efficient.** Legal aid can be granted in the majority of court proceedings, with the exception of civil proceedings<sup>65</sup> and covers all costs. The person entitled to legal aid chooses a lawyer from the lists of lawyers who offer their services<sup>66</sup>. In September 2022, the Ministry of Justice put forward a proposal to reform the procedure, including the rotating appointment of lawyers based on a list in alphabetical order<sup>67</sup>. In March 2023, the competent Parliamentary Committee discussed the draft legislation. Objections were raised, mainly by the Bar Association<sup>68</sup>, as to the constitutionality of the proposed rotation system. The Ministry of Justice will now further discuss the draft law with the Law Office.

## Efficiency

**Serious challenges remain regarding the efficiency of justice, in particular the excessive length of proceedings.** The disposition time in civil and commercial cases at first instance courts slightly decreased but remains the highest in the EU, as it reached 947 days in 2021<sup>69</sup>. For administrative cases, the disposition time in 2021 remained at the same high level of 844 days (863 days in 2020)<sup>70</sup>. Furthermore, the disposition time at second instance courts has reached the worrying level of 3 132 days in 2021 (2 688 in 2020)<sup>71</sup>. In 2021, the clearance rate for litigious civil and commercial cases decreased to 81.3% (from 88.3%)<sup>72</sup>. The clearance rate in 2021 for administrative cases was exceptionally low, 45.9%, the lowest in the EU<sup>73</sup>. Stakeholders have highlighted the problems caused by the significant delays in the administration of justice and identified the length of proceedings as the most important

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<sup>62</sup> Training of judges is a target included in the National Resilience and Recovery Plan, which provides that by the end of 2025 at least 110 (out of 130) judges should have completed trainings on the new Civil Procedure Rules and other judicial skills.

<sup>63</sup> Information received from the Director of the Judicial Training School in the context of the country visit in Cyprus.

<sup>64</sup> The training programs will cover areas of law, legal skills, computer and other skills, including organization of work and management skills. Input from Cyprus for the 2023 Rule of Law Report, pp. 14-15. The first introductory lecture on EU law took place in February 2023. Written contribution from the Law Office in the context of the country visit in Cyprus, p. 1.

<sup>65</sup> However, legal aid is granted for civil proceedings relating to compensation for specific human rights violations, family law disputes, cross-border disputes and sales of a mortgage property (Law on Legal Aid No 165(I) 2002). Written contribution from the Ministry of Justice in the context of the country visit in Cyprus, pp. 6-7.

<sup>66</sup> There are different lists of lawyers, according to the proceedings for which legal aid is granted.

<sup>67</sup> Other amendments included the introduction of a criminal offence if legal aid lawyers request additional fees from the applicant; increased penalties for applicants who make false declarations to obtain legal aid and the obligation to justify the court decision in case legal aid is not granted. Written contribution from the Ministry of Justice in the context of the country visit in Cyprus, p. 7.

<sup>68</sup> Information received from the Bar Association in the context of the country visit to Cyprus.

<sup>69</sup> Figure 5, 2023 EU Justice Scoreboard.

<sup>70</sup> Figure 8, 2023 EU Justice Scoreboard.

<sup>71</sup> Figure 9, 2023 EU Justice Scoreboard.

<sup>72</sup> Figure 10, 2023 EU Justice Scoreboard.

<sup>73</sup> Figure 12, 2023 EU Justice Scoreboard.

challenge for the judicial system<sup>74</sup>. Concrete targets to reduce the backlog of cases are included in the National Resilience and Recovery Plan and require that specific proportions of backlog cases be cleared within specific timeframes<sup>75</sup>. According to the manager for backlog cases<sup>76</sup>, as a result of the different measures and practices applied, a reduction of the backlog cases is already observed since February 2023<sup>77</sup>.

**Special Procedural Rules on Delayed Cases aim to allow courts to deal more efficiently with backlog cases.** Further to the new Rules on Civil Procedure, which will enter into force in September 2023<sup>78</sup>, the Supreme Court issued the 2022 Special Procedural Rules on Delayed Cases, in November 2022<sup>79</sup>. The Rules apply to pending cases lodged between 2014 and 2018 without a hearing on the merits. They provide judges with greater case management powers, including the possibility to adjudicate solely based on written evidence and limit the right to appeal against interim orders. In December 2022, the Rules were amended following strong reactions from the Bar association. The main issue of disagreement was the limitation on the number of witnesses to be heard, which is henceforth determined by the judges after consulting the lawyers<sup>80</sup>.

**The establishment of new courts is expected to balance the distribution of cases and contribute to improve efficiency.** The Court of Appeal is expected to hear 3 149 cases of which the vast majority (2 158) are civil appeals pending before the Supreme Court since 1 January 2018<sup>81</sup>. The two Courts of special jurisdiction, the Commercial Court<sup>82</sup> and the Admiralty Court<sup>83</sup>, are expected to contribute to decongest the heavily burdened district courts. The Commercial Court will adopt a fast-track procedure to deal with cases in a timeframe

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<sup>74</sup> Contribution from the Council of Bars and Law Societies of Europe for the 2023 Rule of Law Report, p. 37. Contribution from Oxygono for the 2023 Rule of Law Report, p. 17; The Office of the Commissioner for Administration and the Protection of Human Rights, Impact of 2022 ENNHRI rule of law reporting, p.21.

<sup>75</sup> Under C3.4R8 Efficiency of Justice: Target 181: Reduction of the backlog of cases and appeals pending for over two years before the District Courts and the Supreme Court by 20% from the 31 December 2020 level, to be completed by July 2024; and Target 182: Reduction of the backlog of cases and appeals pending for over two years before the District Courts and the Supreme Court by 40% from the 31 December 2020 level, to be completed by July 2026.

<sup>76</sup> A former president of the Supreme Court oversees the Backlog Project, aiming to present to the Supreme Court proposals addressing the backlog cases. Suggestions included the completion of the inventory of all backlog cases, the restructuring of the Assize Court System, the introduction of remote trials for certain types of cases and the introduction of a compulsory alternative dispute resolution (ADR) stage, prior to the filing of certain types of cases; as well as the appointment of 10 additional judges on a two-year temporary basis from the ranks of retired lawyers, as a method of speeding up the trial of certain types of backlog cases. Written contribution from the Supreme Court in the context of the country visit.

<sup>77</sup> A reduction of 60% for the cases pending up to 2013, a reduction of 16% for the cases pending between the years 2014-2018 and a reduction of 12% for the cases between 2019-2022. Written contribution from the Supreme Court in the context of the country visit.

<sup>78</sup> 2022 Rule of Law Report, Country Chapter on the rule of law situation in Cyprus, pp. 6-7.

<sup>79</sup> Input from Cyprus for the 2023 Rule of Law Report, p. 11.

<sup>80</sup> Information received from the Bar Association in the context of the country visit to Cyprus.

<sup>81</sup> Input from Cyprus for the 2023 Rule of Law Report, p. 9. The Court of Appeal became operational on 1 July 2023.

<sup>82</sup> The Commercial Court has jurisdiction on commercial claims over EUR 2 000 000. It also hears all competition, arbitration and intellectual property related matters, irrespective of the amount of the dispute. It is composed of five judges.

<sup>83</sup> The Admiralty Court consists of two judges and has exclusive jurisdiction on admiralty claims relating to a vessel or an aircraft and issues of ownership, possession, mortgage or charge and damage caused by or to a vessel or loss of life.

ranging from 9 months to a year. Both courts may conduct proceedings in English at the request of the parties, with a view to making justice more attractive, taking into account the diverse Cypriot community and the large number of ships registered in Cyprus<sup>84</sup>.

## **II. ANTI-CORRUPTION FRAMEWORK**

The Independent Anti-Corruption Authority (IACA) is responsible for transparency and prevention of corruption in both the public and private sectors, including monitoring the implementation of the national anti-corruption plan. The implementation of the Action Plan against Corruption (2021-2026) expected to be transferred to the IACA from the Office of Transparency and Prevention of Corruption of the Ministry of Justice to the IACA in the second half of 2023. The Attorney General maintains overall competence to prosecute criminal offences, including corruption, and continues to provide legal advice to law enforcement authorities investigating corruption offences. The Audit General office checks the expenses of public institutions, through which it may detect suspicious of corruption. Cyprus is not a signatory party to the OECD Anti-Bribery Convention<sup>85</sup>.

**The perception among experts and business executives is that the level of corruption in the public sector remains relatively high<sup>86</sup>.** In the 2022 Corruption Perceptions Index by Transparency International, Cyprus scores 52/100 and ranks 21<sup>st</sup> in the European Union and 51<sup>st</sup> globally. This perception has significantly deteriorated<sup>87</sup> over the past five years. The 2023 Special Eurobarometer on Corruption shows that 92% of respondents consider corruption widespread in their country (EU average 70%) and 58% of respondents feel personally affected by corruption in their daily lives (EU average 24%)<sup>88</sup>. As regards businesses, 95% of companies consider that corruption is widespread (EU average 65%) and 72% consider that corruption is a problem when doing business (EU average 35%)<sup>89</sup>. Furthermore, 19% of respondents find that there are enough successful prosecutions to deter people from corrupt practices (EU average 32%)<sup>90</sup>, while 12% of companies believe that people and businesses caught for bribing a senior official are appropriately punished (EU average 30%)<sup>91</sup>.

**The Independent Anti-Corruption Authority started its operations, albeit with limited staff resources.** The Independent Anti-Corruption Authority (IACA) was established in

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<sup>84</sup> Input from Cyprus for the 2023 Rule of Law Report, p. 13.

<sup>85</sup> OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, Ratification Status <https://www.oecd.org/daf/anti-bribery/WGBRatificationStatus.pdf>.

<sup>86</sup> Transparency International (2023), Corruption Perceptions Index 2022. The level of perceived corruption is categorised as follows: low (the perception among experts and business executives of public sector corruption scores above 79); relatively low (scores between 79-60), relatively high (scores between 59-50), high (scores below 50)

<sup>87</sup> In 2018 the score was 59, while in 2022 the score is 52. The score significantly increases/decreases when it changes more than five points; improves/deteriorates (changes between 4-5 points); is relatively stable (changes from 1-3 points) in the last five years.

<sup>88</sup> Special Eurobarometer 534 on Corruption (2023). The Eurobarometer data on citizens' corruption perception and experience is updated every year. The previous data set is the Special Eurobarometer 523 (2022).

<sup>89</sup> Flash Eurobarometer 524 on Businesses' attitudes towards corruption in the EU (2023). The Eurobarometer data on business attitudes towards corruption as is updated every year. The previous data set is the Flash Eurobarometer 507 (2022).

<sup>90</sup> Special Eurobarometer 534 on Corruption (2023).

<sup>91</sup> Flash Eurobarometer 524 on Businesses' attitudes towards corruption in the EU (2023).



February 2022 and started its activity in December 2022<sup>92</sup>. It is responsible for transparency and prevention of corruption in both the public and private sectors, including monitoring the implementation of the national anti-corruption plan<sup>93</sup>. The IACA has no investigative or sanctioning powers<sup>94</sup>. In addition to the Chief Commissioner and four members of the board, currently IACA has just one temporary legal officer (seconded until 2024), plus five clerical staff (including two junior servants with a four-month contract), with an annual budget of EUR 1 million<sup>95</sup>. The hiring of permanent staff is delayed because the specific regulation on personnel has not been adopted yet<sup>96</sup>. The IACA is concerned about the fact that the selection of staff must be done centrally (by the public sector commission), and not directly by the IACA<sup>97</sup>. The inadequate size, specialisation and permanence of the personnel currently available are concerning given the scope of its tasks<sup>98</sup>. Since it was established in 2022, the IACA has received more than 50 complaints, (including some related to high-level officials, such as Ministers, or representatives of local authorities<sup>99</sup>). However, no cases have been forwarded to the Attorney General's office so far<sup>100</sup>.

**The implementation of the national anti-corruption strategy is on track.** In accordance with the law establishing the IACA<sup>101</sup>, the monitoring on the implementation of the National Anti-Corruption Strategy will pass from the Ministry of Justice Office on Transparency to the IACA in the second half of 2023<sup>102</sup>. In 2022, the Ministry of Justice organised several activities to implement the national anti-corruption strategy: a) four workshops on the prevention of corruption in the public sector took place, with participation of civil servants and teachers; b)

<sup>92</sup> The IACA became operational after the adoption of implementing regulations by the Parliament. Input from Cyprus for the 2023 Rule of Law Report, p. 24.

<sup>93</sup> Law 19(I) of 2022 'On the Establishment and Operation of the Independent Authority against Corruption'.

<sup>94</sup> The IACA has inspection powers, while investigations are performed by the Attorney General's Office. Written contribution from the IACA in the context of the country visit to Cyprus.

<sup>95</sup> The implementing regulation on the selection procedure of IACA staff was adopted in December 2022. Written contribution from the IACA in the context of the country visit to Cyprus.

<sup>96</sup> Input from Cyprus for the 2023 Rule of Law Report, p. 25.

<sup>97</sup> Information received from the IACA in the context of the country visit to Cyprus. According to international standards, anti-corruption agencies 'shall have the power to recruit and dismiss their own staff according to internal clear and transparent procedures'. UNODC Jakarta Statement on Principles for Anti-Corruption Agencies (2002), and Colombo commentary (2020).

<sup>98</sup> 'Cyprus Mail (November 2022), *New anti-corruption authority unable to work*. The UN Convention against corruption (UNCAC) at Art 6(2) indicates that 'The necessary material resources and specialised staff, as well as the training that such staff may require to carry out their functions, should be provided.' According to relevant international standards, anti-corruption agencies 'shall be entitled to timely, planned, reliable and adequate resources for the gradual capacity development and improvement of the agency's operations and fulfilment of its mandate'. UNODC Jakarta Statement on Principles for Anti-Corruption Agencies (2002), and its Colombo commentary (2020).

<sup>99</sup> Written contribution from the IACA in the context of the country visit to Cyprus, p. 3. Complaints include allegations against a Director of prison, Financial Mirror (September 2022), *Claims of conspiracy in Prisonsgate*. Media report that the Chief Commissioner of IACA announced the establishment of a special team to examine the allegations of corruption addressed against the former President of the Republic. Cyprus Mail (January 2023), Droushiotis' corruption claims will be investigated by foreign experts. However, there is no information available whether the case is actually being examined by the IACA, which is a concern raised by NGOs. Information received from the NGOs in the context of the country visit to Cyprus.

<sup>100</sup> By law, the Attorney General office may order to IACA to stop investigation on single cases, in case the AG office is investigating or wants to investigate that case. Written contribution from the IACA in the context of the country visit to Cyprus.

<sup>101</sup> 'Setting up the Anticorruption Authority', Law 19(1)2022 of 17 February 2022.

<sup>102</sup> The Ministry of Justice will assist with this transition. Information received from the Ministry of Justice in the context of the country visit to Cyprus.

a seminar for public officials involved in the implementation of the National Anti-Corruption Strategy<sup>103</sup>, as well as c) a mock competition for students on the fight against corruption<sup>104</sup>. In 2022, a rotation programme of public servants, aimed at preventing corruptive activities, took place<sup>105</sup>. At the end of July 2022, the Council of Ministers adopted guidelines to avoid conflicts of interests in projects funded through the National RRP<sup>106</sup>.

**Concerns exist related to limited access to information that impacts the effectiveness of the audits performed by the Audit Office on the finance of public institutions.** By law, the Audit Office<sup>107</sup> is empowered to have unrestricted access to information deemed relevant to the audits of public entities<sup>108</sup>. However, the Auditor General reported that, after seeking the legal advice of the Attorney General, public institutions under audit do not disclose information requested by the Audit Office<sup>109</sup>. The Auditor General office raised concerns on the fact that limited access to information impairs the effectiveness of the audits and the fight against corruption<sup>110</sup>. In its controls, the Audit Office encountered some deficiencies that may lead to corruption, especially related to awarding large public contracts without a public tender<sup>111</sup>. The Flash Eurobarometer on Businesses' attitudes towards corruption in the EU shows that 65% of companies in Cyprus (EU average 26%) think that corruption has prevented them from winning a public tender or a public procurement contract in practice in the last three years<sup>112</sup>. Since July

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<sup>103</sup> Input from Cyprus for the 2023 Rule of Law Report, p. 44.

<sup>104</sup> Written contribution from the Ministry of Justice in the context of the country visit to Cyprus, p. 2.

<sup>105</sup> Written contribution from the Ministry of Finance in the context of the country visit to Cyprus, p. 2.

<sup>106</sup> Decision No. 93.428, dated 28 July 2022. The guidelines are applicable to all implementing bodies undertaking investments and reforms under the recovery and resilience plan. Input from Cyprus for the 2023 Rule of Law Report, p. 41.

<sup>107</sup> The Audit Office of the Republic is an independent body competent to conduct audits in the public sector, for purposes of public reporting, optimal management of public resources and the fight against corruption and interference. The Auditor-General heads the Audit Office and is appointed by the President of the Republic, as per articles 115, 116 and 117 of the Constitution of Cyprus.

<sup>108</sup> As per the law on Submission of Data and Information to the Auditor General of the Republic (law 113(I) of 2002). On this matter, the International Organization of Supreme Audit Institutions (INTOSAI) issued a 'Statement by the INTOSAI development initiative following the potential independence challenges faced by the audit office of the republic of Cyprus' (February 2021), in addition to the EU Contact Committee statement (CC 1/2021) in support of the constitutional role, mandate and independence of the Audit Office of the Republic of Cyprus (May 2021).

<sup>109</sup> Audit Office (2022), Annual Report 2021, pp. 1-2; Audit Office, Statement on the Cyprus Investor Citizenship Scheme, 19 October 2022; Audit Office, Statement on the Refusal of the Ministry of Defence to provide information, 29 April 2023.

<sup>110</sup> Including on single large cases, such as the so called 'Golden Passports Scheme'. Written contribution from the Audit Office in the context of the country visit, p. 4. 2022 Rule of Law Report, Country Chapter on the rule of law situation in Cyprus, p. 12.

<sup>111</sup> Apparently, there are allegations on large construction and IT public contracts awarded directly, without public tendering. Also, the licensing of State-owned lands, regardless of its value, is excluded by the public procurement law. Written contribution from the Auditor General Office in the context of the country visit to Cyprus, p. 8.

<sup>112</sup> Flash Eurobarometer 524 on Businesses' attitudes towards corruption in the EU (2023). This is 39 percentage points above the EU average.

2022, the Audit office sent seven cases of possible corruption to the IACA<sup>113</sup>. In 2022, the Audit Office issued guidance to facilitate audits<sup>114</sup>.

**Shortcomings have been identified in terms of the effectiveness of investigations and prosecutions, and results on high-level corruption cases are still missing.** The 2022 Rule of Law Report recommended to Cyprus to “continue to improve the effective investigation and adjudication of high-level corruption cases, including by strengthening the Office of the Attorney General and its budgetary independence”<sup>115</sup>. In 2022, 14 lawyers were hired, while 10 prosecutors and 24 lawyers are expected to join in the second half of 2023<sup>116</sup>. Currently, the Attorney General office has put in place a management system mechanism for tracking the operations related to prosecutions, including on corruption<sup>117</sup>. The Anti-Corruption Taskforce, which was created at the beginning of 2022 under the competence of the Attorney General office, convenes at regular intervals, as well as on ad hoc basis if needed<sup>118</sup>. The Financial Crime Investigation Office of the Police continues to rely on 23 specialised officers<sup>119</sup>, and there is a need for reinforcement<sup>120</sup>. In 2022, 19 investigations for corruption were initiated: 6 cases were brought to trial (this included one conviction, while 5 cases remained pending trial); 1 case was closed, and 12 cases remain pending for further investigation<sup>121</sup>. Despite these efforts, the limited human, financial and technical resources available continue to affect the investigations, and the results on the adjudication of high-level cases of corruption are still missing. So far, there has been some progress on the implementation of the recommendation made in the 2022 Rule of Law Report.

**The asset declaration system remains incomplete as the approval of a relevant act remains pending since 2021.** The 2022 Rule of Law Report recommended to Cyprus to “introduce rules on asset disclosure for elected officials to establish regular and comprehensive filing, combined

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<sup>113</sup> The information on other types of crimes is addressed to the police or the Attorney General office. If the corruption involves European Union funding, the case is forwarded to OLAF or to the European Public Prosecutor’s Office, depending on the case. Written contribution from the Auditor General Office in the context of the country visit to Cyprus, p. 8.

<sup>114</sup> Such as: Manual for the audit of the Financial Statements of the Republic; Audit Sampling Manual; Report Writing Style Guide and templates of reports; Internal Auditing Guidelines. Written contribution from the Auditor General Office in the context of the country visit to Cyprus, p. 7.

<sup>115</sup> 2022 Rule of Law Report, Country Chapter on the rule of law situation in Cyprus, p. 2.

<sup>116</sup> Written contribution from the Attorney General’s Office in the context of the country visit to Cyprus, p. 1.

<sup>117</sup> The criminal law department of the Attorney General office is developing a matrix to facilitate the management of cases. Information received from the Office of the Attorney General in the context of the country visit to Cyprus.

<sup>118</sup> With specialised officers from relevant institutions (such as the National Law Office, the Anti-money Laundering Unit, and the Police, in addition to ad-hoc experts from other entities), the Anti-Corruption Task Force has an overview control of corruption cases, and it provides directions as on the investigation and handling before the court. 2022 Rule of Law Report, Country Chapter on the rule of law situation in Cyprus, p. 9. Information received from the Office of the Attorney General in the context of the country visit to Cyprus.

<sup>119</sup> There are 16 investigators in the Financial Crime Branch, plus five accountants and two investigators in the Financial Investigations Branch. The Financial Crime Investigation Office of the Police investigates serious and complex cases of economic crimes including corruption, fraud, theft, money laundering and terrorism financing. The officers have academic or professional background in the fields of Economics, Accounting and Law. Written contribution from the Police in the context of the country visit to Cyprus, p. 1.

<sup>120</sup> Information received from the Police in the context of the country visit to Cyprus.

<sup>121</sup> In 2022, also 16 persons (including 3 mayors and 5 councillors of villages and local communities) were convicted by the courts in 4 cases that were filed before the criminal courts in 2015, 2017, 2018 and 2019. Written contribution from the Attorney General’s Office in the context of the country visit to Cyprus, p. 7.

with effective, regular and full verifications”<sup>122</sup>. With regard to asset declaration, some high-ranking officials<sup>123</sup> and a few elected officials, (such as members of Parliament and the President of the Republic)<sup>124</sup>, are bound to declare part of their assets<sup>125</sup>. However, data on the implementation of the asset disclosure mechanism, including possible sanctions, is still lacking. The draft bill on asset declarations for all elected and other civil servants that was tabled with the Parliamentary Committee in 2021 remains pending<sup>126</sup>, and the concerns set out in the previous Rule of Law reports remain unaddressed<sup>127</sup>. Therefore, there has been no progress on the implementation of the recommendation made in the 2022 Rule of Law Report.

**The legislative framework on lobbying continues to improve, the conflicts of interest for members of Parliament are monitored by a parliamentary committee, while no further steps were taken towards a comprehensive legislation on conflicts of interest for the public service.** In January 2023, the remaining sections 6 and 7 (on the sanctions and penalties, respectively) of the Law on the transparency of lobbying<sup>128</sup>, entered into force. The implementing regulation on lobbying, which clarifies the procedure for declaring, recording, and publishing lobbying activities, was adopted in April 2023<sup>129</sup>. The IACA has prepared a declaration form and a code of ethics for lobbyists<sup>130</sup>. A Parliamentary Committee continues to monitor the compliance of members of Parliament with their Code of Conduct<sup>131</sup>. In 2022, there were three cases on conflicts of interest (compared to 21 in 2021), with one oral reprimand issued<sup>132</sup>. Some rules on conflicts of interest in the public service exist in different laws, however no further steps were taken towards a comprehensive regulation on conflict of interest for all State officials<sup>133</sup>.

**An awareness-raising action plan on the protection of whistleblowers was launched.** In 2022, an awareness raising action plan was launched, including training for public officers and the online publication of guidelines on the whistleblowing procedure<sup>134</sup>. A list of authorities competent to support potential whistleblowers was drafted by the Ministry of Justice, and it is expected to be published online<sup>135</sup>. Since the entry into force of the law on the protection of

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<sup>122</sup> 2022 Rule of Law Report, Country Chapter on the rule of law situation in Cyprus, p. 2.

<sup>123</sup> As per Law 50(I) of 2004, high-ranking officials include (including Director Generals of the Parliament and the Ministries, the Accountant General and the Deputy Accountant General and the Secretary of the Council of Ministers. Written contribution from the Ministry of Finance in the context of the country visit to Cyprus, p. 1.

<sup>124</sup> As per Law (49 (I) of 2004.

<sup>125</sup> The existing asset declaration requirement for members of the Parliament does not cover all forms of assets above a certain threshold, including immovable property.

<sup>126</sup> Written contribution from the Ministry of Justice in the context of the country visit to Cyprus, p. 4.

<sup>127</sup> 2020, 2021 and 2022 Rule of Law Report, Country Chapter on the rule of law situation in Cyprus, pp. 8, 9 and 10 respectively.

<sup>128</sup> Law n. 20(I) of February 2022 ‘On transparency in public decision-making and related matters’.

<sup>129</sup> Written contribution from the Ministry of Justice in the context of the country visit, p. 6.

<sup>130</sup> Information received from the IACA in the context of the country visit to Cyprus.

<sup>131</sup> Information received from the Parliament in the context of the country visit to Cyprus.

<sup>132</sup> Written contribution from the Parliament in the context of the country visit to Cyprus, p. 1.

<sup>133</sup> 2022 Rule of Law Report, Country Chapter on the rule of law situation in Cyprus, p. 11.

<sup>134</sup> Information received from the Ministry of Justice in the context of the country visit. Input from Cyprus for the 2023 Rule of Law Report, p. 35.

<sup>135</sup> Written contribution from the Ministry of Justice in the context of the country visit to Cyprus, p. 8.

whistleblowers in February 2022, there have been no whistleblowing reports received by the police and the IACA<sup>136</sup>.

**The implementation of ethics provisions for the police and the judiciary continued over the past year, with an overall decrease of cases opened against police officers.** In 2022, the Police Internal Affairs Service (PIAS) was contacted 95 times with information (compared to 101 times in 2021) about possible involvement of police officers in acts of corruption. Nineteen cases were investigated: two cases were transferred to the prosecution authorities (and brought to trial), while 10 cases were closed (for lack of evidence) and seven cases remain pending for further investigation<sup>137</sup>. In the same year, the Investigation of Allegations and Complaints against the Police (IAIACAP) opened 71 disciplinary procedures (compared to 83 in 2021), which resulted in 11 decisions (compared to 46 in 2021) with sanctions (either a reprimand or a fine) issued by the Chief of Police, while 53 remain pending for decision, 4 disciplinary proceedings were suspended and in 3 cases no disciplinary action was taken<sup>138</sup>. Newly recruited judges must attend a training on judicial ethics delivered by the judicial training school<sup>139</sup>.

**Cyprus has stopped applying its investor citizenship scheme in practice.** The European Commission has frequently raised its serious concerns about the incompatibility with EU law of investor citizenship schemes in light of EU citizenship and the principle of sincere cooperation. Such schemes also present inherent risks of corruption<sup>140</sup>. The infringement procedure launched in October 2020 concerning Cyprus' scheme is ongoing<sup>141</sup>. A total of 26 Cypriot law firms were audited by the Cyprus Bar Association in connection with the investor citizenship scheme, with five found guilty and fined for EUR 200 000<sup>142</sup>. Cyprus has stopped applying its investor citizenship scheme in practice, although the scheme's legal framework remains in force.

### **III. MEDIA PLURALISM AND MEDIA FREEDOM**

In Cyprus, freedom of expression and the right of access to information find legal and formal protection in the Constitution. Legislation expressly ensures protection of journalistic sources, fosters media pluralism in the radio and television sector, enshrines the formal independence of the media regulator and details the right of access to public sector information. The Law on

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<sup>136</sup> Written contribution from the IACA in the context of the country visit to Cyprus, p. 3.

<sup>137</sup> Written contribution from the Police Internal Affairs Service (PIAS) in the context of the country visit to Cyprus, p. 1.

<sup>138</sup> Ibidem.

<sup>139</sup> Information received from national judicial training school in the context of the country visit to Cyprus.

<sup>140</sup> As mentioned in the EU Commission's report of January 2019 (COM(2019) 12 final), those risks relate in particular to security, money laundering, tax evasion and corruption and the Commission has been monitoring wider issues of compliance with EU law raised by investor citizenship schemes. Following the Commission Recommendation on immediate steps in the context of the Russian invasion of Ukraine in relation to investor citizenship schemes<sup>140</sup>, in 2022 Cyprus withdrew its citizenship from 9 investors and 27 family members, in addition to citizenship withdrawal from 222 investors and family members in the context of national investigations.

<sup>141</sup> Information on the infringement procedure is available in the Commission's database of infringement cases. Cyprus phased out its investor citizenship scheme as of November 2020, with all pending applications having been handled by 30 July 2021.

<sup>142</sup> The Bar association is looking into instances of money laundering allegedly occurred in delivering passports through investment schemes. '26 law firms audited in golden passport probe', Financial Mirror (March 2023).



the Cyprus Broadcasting Corporation (CyBC) lays down rules on the governance and financing of public service television and radio<sup>143</sup>.

**Cyprus's media regulator, which is an independent Authority, is governed primarily, by the Radio and Television Organisations Law as well as the Cyprus Broadcasting Corporation Law.** The legislation was amended in 2021 and expressly stipulates that the Cyprus Radio Television Authority (CRTA), the regulator for audio-visual media services, shall be functionally and effectively independent<sup>144</sup>. The Media Pluralism Monitor (MPM) maintains its overall low risk score for the independence of the media regulator although it points out, once more, that selection criteria for appointment of members by the Government remain very generic. On the other hand, the MPM points out that the authority will henceforth submit annual activity reports to the President of the Parliament based on an obligation set out in the above-mentioned law, thereby enhancing transparency overall<sup>145</sup>.

**The regulatory framework relating to transparency of media ownership in the audio-visual media sector was strengthened for broadcast media.** As referred in the 2022 Rule of Law Report, the 2021 amendments to the Radio and Television Organisations Law addressed previously identified gaps by obliging all media service providers under Cypriot jurisdiction to make accessible to the CRTA information concerning their ownership structure, including the beneficial owners<sup>146</sup>. At present, the MPM once more classifies this as an area of high risk due to the total absence of regulation for digital media, the inexistence of ownership transparency obligations for print media and inefficiency in ensuring respect of ownership information transparency under the Radio and Television Organisations Law<sup>147</sup>. In Cyprus, the media regulatory authority has no power of review of media mergers and acquisitions. The competent Minister may, prior to the decision of the Competition authority, declare that a notified concentration shall be deemed to be of major public interest as regards the effect it may have on the public security, the pluralism of the media or the principles of sound administration<sup>148</sup>.

**The lack of legislation and transparency in the field of state advertising remain issues of concern.** While a set of guidelines regulating advertising campaigns performed by the Government's press and information office were previously adopted by the Ministry of Interior<sup>149</sup>, the MPM reports that, it has been unable to obtain data and information on the allocation of state resources to the media for the reporting period from the competent authorities<sup>150</sup>. Stakeholders consider that the area lacks any real transparency which, when coupled with other factors such as serious economic difficulties besetting the media sector<sup>151</sup>,

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<sup>143</sup> Cyprus ranks 55th in the 2023 Reporters without Borders World Press Freedom Index compared to 65th the previous year.

<sup>144</sup> 2022 Rule of Law Report, Country Chapter on the rule of law situation in Cyprus, p. 12.

<sup>145</sup> 2023 Media Pluralism Monitor, country report for Cyprus p. 13.

<sup>146</sup> 2022 Rule of Law Report, Country Chapter on the rule of law situation in Cyprus, p. 13.

<sup>147</sup> 2023 Media Pluralism Monitor, country report for Cyprus pp. 14-15.

<sup>148</sup> Article 5 and Articles 36-39 of the Control of Concentration between Undertakings Law 83 (I) of 2014. In such cases, the case is referred to the Council of Ministers which may officially approve or not approve the concentration in question.

<sup>149</sup> 2022 Rule of Law Report, Country Chapter on the rule of law situation in Cyprus, p. 13.

<sup>150</sup> 2023 Media Pluralism Monitor, country report for Cyprus p. 19.

<sup>151</sup> Information received from the Union of Cypriot Journalists, the Committee on Media Ethics, the Institute for Mass Media and the Association of European Journalists (Cyprus) in the context of the country visit to Cyprus.

could have negative impact on editorial freedom and independence in Cyprus<sup>152</sup>. For these reasons, the Monitor has considerably raised its risk level for this area from low risk to just one percentage point below high risk<sup>153</sup>.

**Some progress has been made with regard to the independent governance of public service media.** The 2022 Rule of Law report recommended to Cyprus to “strengthen the rules and mechanisms to enhance the independent governance of public service media taking into account European standards on public service media”<sup>154</sup>. Discussions are underway between the Government and the CyBC aimed at a modernisation of the Law on the Cyprus Broadcasting Corporation, by modifying the system of appointment and dismissal of members of CyBC’s Board and establishing stricter eligibility conditions<sup>155</sup>. Appointments would only be possible following an open call for applications and any dismissal of a board member would need to be duly justified. While awaiting progress in this area, the Media Pluralism Monitor highlights that the current situation permits state and political party influence on CyBC’s operations, thereby maintaining its high-risk score for this area<sup>156</sup>. While the concerns raised in the 2022 rule of law report<sup>157</sup> and by MPM persist, the above-mentioned discussions represent some progress with regard to the 2022 Recommendation on enhancement of the independent governance of public service media<sup>158</sup>.

**Challenges persist with regard to requests for access to information**<sup>159</sup>. According to the Commissioner for Information, these difficulties are primarily due to the competent services facing difficulties when processing requests for access within the statutory 30-day deadline<sup>160</sup>. The authorities also face difficulties in interpreting and applying the legal exceptions to access, given that the Law establishing the right of access was adopted in 2017 but only came into force in December 2020<sup>161</sup>. Irrespective of this, the Commissioner assesses the administration’s general level of compliance with her opinions and recommendations as satisfactory<sup>162</sup>. While positive developments were expected following the coming into force of the Law on Access to Public Sector Information, MPM concludes that the resulting “publication schemes” - adopted by the various authorities indicating how they intend to implement the law in effect - leave considerable room for arbitrariness. As a result, MPM has significantly increased its risk level for this area which it now considers high-risk<sup>163</sup>.

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<sup>152</sup> Written contribution received from the Organised Crime and Corruption Reporting Project in the context of the country visit to Cyprus.

<sup>153</sup> 2023 Media Pluralism Monitor, country report for Cyprus p. 19.

<sup>154</sup> 2022 Rule of Law Report, Country Chapter on the rule of law situation in Cyprus, p. 2.

<sup>155</sup> Information received from the Cypriot authorities in the context of the country visit to Cyprus.

<sup>156</sup> 2023 Media Pluralism Monitor, country report for Cyprus p. 19.

<sup>157</sup> 2022 Rule of Law Report, Country Chapter on the rule of law situation in Cyprus, pp. 13-14.

<sup>158</sup> According to the European Parliament’s Flash Eurobarometer: News & Media Survey 2022, 45% of respondents in Cyprus stated that they trust public TV and radio stations, below the EU average of 49%.

<sup>159</sup> Law 184 (I)/2017 on the Right of Access to Public Sector Information which entered into force in 2020.

<sup>160</sup> Written contribution from the Commissioner of Information in the context of the country visit in Cyprus.

<sup>161</sup> Ibidem.

<sup>162</sup> The Information Commissioner is competent to assess compliance of authorities with Law 184 (I)/2017 on the Right of Access to Public Sector Information, make recommendations to public authorities, decide on complaints and impose administrative penalties. Information received from the Commissioner of Information in the context of the country visit in Cyprus.

<sup>163</sup> 2023 Media Pluralism Monitor, country report for Cyprus p.12.

**A bill aimed at providing a legal framework for press freedom remains under discussion**<sup>164</sup>. The draft Law on the Safeguarding of Freedom of the Press and the Operation of the Media, if adopted, would introduce provisions relating to electronic media, enshrine a code of practice in law and contain provisions to safeguard the safety of journalists and other media workers. The Council of Europe’s Platform to promote the protection of journalism and safety of journalists has published no new alerts since the publication of the 2022 Rule of Law Report, relating to the Republic of Cyprus<sup>165</sup>. The MPM points out that journalists continue to face numerous challenges due to economic pressures impacting the sector with many layoffs registered in 2022<sup>166</sup>.

#### **IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES**

The Republic of Cyprus is a presidential representative republic. The President of Cyprus is both Head of State and Head of Government. The House of Representatives is the Parliament, which is vested with legislative power. Both representatives and ministers have the right of legislative initiative. The Supreme Constitutional Court is competent to assess the constitutionality of laws in the context of specific cases brought before it<sup>167</sup>. There are a number of national independent authorities, organisations and institutions that aim to protect and safeguard human rights.

**Some progress has been achieved regarding the 2022 recommendation on public consultations following the creation of the e-consultation platform, while further action is required to finalise the reform and address persistent shortcomings.** The 2022 Rule of Law Report recommended to Cyprus to ‘establish a framework for the effective and timely consultation of stakeholders in the legislative process’<sup>168</sup>. The e-consultation platform, an electronic platform for public consultations, is expected to become operational in September 2023. The platform shall replace the previous practice where public consultations were dispersed across the websites of different ministries, however the relevant decision has not been adopted yet<sup>169</sup>. The platform, which is announced to progressively include strategies and other initiatives in addition to draft legislation<sup>170</sup>, will be a positive step towards increasing accessibility and transparency of the legislative process. An amended Consultation Guide, addressed to public servants involved in the process of law-making is in the final stage of being adopted. The amended draft Guide maintains all the guidelines from the previous Guide, adopted in 2016, and adds new guidance on the use of the platform, which becomes the main tool for publication and communication<sup>171</sup>. While the guidance is comprehensive, it has so far

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<sup>164</sup> 2022 Rule of Law Report, Country Chapter on the rule of law situation in Cyprus, p. 14.

<sup>165</sup> Council of Europe, Platform to promote the protection of journalism and safety of journalists.

<sup>166</sup> 2023 Media Pluralism Monitor, country report for Cyprus p. 12-13.

<sup>167</sup> See Section I of the Report. The Supreme Constitutional Court can hear cases, notably from the civil and criminal courts, via a system of leave to appeal by referral from an ordinary court of “questions of constitutionality which are essential to the determination of the case pending before it” (Article 9 (a) Administration of Justice (Miscellaneous Provisions) Law. Before the re-establishment of the Supreme Constitutional Court, the Supreme Court heard unconstitutionality claims. See also 2021, 2022 Rule of Law Reports, Country Chapter on the rule of law situation in Cyprus, p. 11, 14 and 11.

<sup>168</sup> 2022 Rule of Law Report, Chapter on the rule of law situation in Cyprus, p. 2.

<sup>169</sup> Written contribution from Ministry of Finance in the context of the country visit in Cyprus, p. 1.

<sup>170</sup> Ibid.

<sup>171</sup> Ministry of Finance (2016), Consultation Guide.

not proven to be sufficient to allow for a systematic and timely consultation of stakeholders<sup>172</sup>. Public consultations are still not compulsory<sup>173</sup> and the competent service maintains its discretion to decide whether to proceed with a public consultation or to opt for a targeted consultation, thus only engaging with specific groups, as the draft Guide does not include criteria in this respect. The planned reform of the legislative process and the implementation of the e-legislation project is expected to address this concern in the near future, as public consultation should become a required step<sup>174</sup>. Stakeholders have also highlighted the need to be involved at an earlier stage before a draft law is discussed in Parliament<sup>175</sup>. The planned development of the electronic platform of the NGO Registry to include targeted alerts on forthcoming consultations may be of help, but its implementation requires time<sup>176</sup>. In addition, challenges remain regarding the absence of any obligation for the competent services to provide feedback to participants on how their input has helped shape regulatory proposals<sup>177</sup>. Against this background, some progress was achieved on the implementation of the recommendation made in the 2022 Rule of Law Report.

**Plans aiming at digitalising the law-making process are expected to improve the quality of and access to legislation.** OECD indicators on regulatory governance and policy are well below the EU average, including in relation to conducting regulatory impact assessments<sup>178</sup>. The quality of law-making and frequent changes in legislation remain a reason for concern about the effectiveness of investment protection among companies in Cyprus (36%, same percentage as in 2022)<sup>179</sup>. Under the National Recovery and Resilience Plan, Cyprus is undertaking a major reform of its legislative process<sup>180</sup>. This includes digitalisation and the creation of a legislation preparation platform (e-legislation platform), enabling easier drafting, consolidation, management and storing of laws and regulations accessible to citizens and

<sup>172</sup> Shortcomings in the consultation process have been systematically identified in the Rule of Law Reports (2020, 2021, 2022 Rule of Law Reports, Country Chapter on the rule of law situation in Cyprus, pp. 10, 11, 15) and by the OECD (Indicators of Regulatory Policy and Governance – Cyprus, 2019, 2022).

<sup>173</sup> The Guide only provides categories of draft legislation which are excluded from consultation, including draft laws on the annual budget and the State's finances; the Criminal Code; adoption of emergency measures, 2023 Consultation Guide, pp. 6-7.

<sup>174</sup> Input from Cyprus for the 2023 Rule of Law Report p. 22. See below for more details on e-legislation.

<sup>175</sup> Information received from Cyprus Integrity Forum, Oxygono, OPEK, Step up Stop Slavery, KISA, NGO Support Centre and Civil Society Advocates in the context of the country visit in Cyprus; (OECD, Indicators of Regulatory Policy and Governance – Cyprus, 2019, 2022); The Ombudsperson also pointed to the need for consultations of CSOs to start from the initial stages of decision-making process, be continuous and not limited to when the draft is already prepared and discussed in Parliament (The Office of the Commissioner for Administration and the Protection of Human Rights, Impact of 2022 ENNHRI rule of law reporting, p. 16).

<sup>176</sup> Input from Cyprus for the 2023 Rule of Law Report p. 29.

<sup>177</sup> OECD has constantly highlighted the importance of responding to participants' comments (OECD, Indicators of Regulatory Policy and Governance – Cyprus, 2019, 2022). CSOs also pointed to the importance of receiving feedback from their participation (Information received from Cyprus Integrity Forum, Oxygono, OPEK, Step up Stop Slavery, KISA, NGO Support Centre and Civil Society Advocates in the context of the country visit in Cyprus). See also EU Agency for Fundamental Rights (2023), Country research – An update on developments regarding civic space in the EU and an overview of the possibilities for human rights defenders to enter EU territory– Cyprus, p. 5.

<sup>178</sup> The other two indicators concern stakeholder engagement in developing regulations and ex post evaluation of regulation (OECD (2019) (2022), Indicators of Regulatory Policy and Governance – Cyprus); See also, 2020 Rule of Law Report, Country Chapter on the rule of law situation in Cyprus, p. 10.

<sup>179</sup> Figure 54, 2023 EU Justice Scoreboard.

<sup>180</sup> Investment C3.412 concerns the digitalisation of the law-making process and is expected to be completed by 31 December 2025, Annex to the Council Implementing Decision on the approval of the assessment of the Recovery and Resilience Plan for Cyprus, p. 99.



businesses. The public procurement and the award of the contract for the development of the platform are scheduled to be completed by the end of 2023<sup>181</sup>.

**The reinforcement of the regulatory framework has strengthened the Ombudsperson as a National Human Rights Institution and resulted in its upgrading to an A-status National Human Rights Institution.** The implementation of a number of recommendations addressed by the Sub-Committee on Accreditation (SCA) aiming to strengthen the office of the Ombudsperson, resulted in an upgrading to A-status, in October 2022<sup>182</sup>. In particular, the Ombudsperson established a Human Rights Advisory Committee, comprising various human rights stakeholders, including representatives of civil society<sup>183</sup>. The procedure for the appointment of the Ombudsperson was formalised<sup>184</sup>, while re-appointment has been limited to one additional term<sup>185</sup>. The Ombudsperson manages its allocated budget, but still considers that its Office needs additional funding to allow recruitment of staff at senior level, given its broad mandate<sup>186</sup>. According to the Ombudsperson, compliance with its recommendations has increased in recent years<sup>187</sup>. However, while public authorities fully comply with its decisions issued under its mandate as Equality Body, they appear to be less responsive when systemic problems are involved<sup>188</sup>.

**On 1 January 2023, Cyprus had 9 leading judgments of the European Court of Human Rights pending implementation, a decrease of one compared to the previous year<sup>189</sup>.** At that time, Cyprus' rate of leading judgments from the past 10 years that remained pending was at 59% (compared to 71% in 2022) and the average time that the judgments had been pending

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<sup>181</sup> Information received from the Ministry of Finance in the context of the country visit in Cyprus.

<sup>182</sup> Global Alliance of Human Rights Institutions, Sub-Committee on Accreditation (SCA), Report, October 2022, pp. 14-15.

<sup>183</sup> Ibid. The SCA further recommended the Ombudsperson to continue to enhance and formalize its working relationships and cooperation with a wide range of civil society organizations and human rights defenders, including those working on the rights of vulnerable groups.

<sup>184</sup> Following a public call for expression of interest, the Government recommends the most suitable candidate to the President. Before being appointed by the President, the candidate needs to be approved by Parliament. Council of Ministers (2022), Decision No 93.298. The Office of the Commissioner for Administration and the Protection of Human Rights, Impact of 2022 ENNHRI rule of law reporting, p. 13.

<sup>185</sup> The Ombudsperson can serve a maximum of two six-year terms. Law 127(I)/2022 amending the Laws on the Commissioner of Administration.

<sup>186</sup> Including being the Equality Body, in charge of combating discrimination and promoting equality, the National Preventive Mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), the National Monitoring Mechanism under the Convention on the Rights of Persons with Disabilities (CRPD) and the Mechanism for the Monitoring of the Procedures of Forced Returns of third-country Nationals. The Office of the Commissioner for Administration and the Protection of Human Rights, Impact of 2022 ENNHRI rule of law reporting, p. 12.

<sup>187</sup> The compliance rate for cases where the Ombudsperson intervened without submitting a Report is 86% for 2022 (87% for 2021 and 51% for 2020), while it is 53% for cases where a report was submitted and ex officio interventions (81% in 2021 and 42 in 2020). Input from Cyprus for the 2023 Rule of Law Report, p. 60; Ombudsperson, Annual Report 2020, pp. 37-38; Information received from the Ombudsperson in the context of the country visit to Cyprus.

<sup>188</sup> Compliance is more difficult when recommendations may impact upon the budget or relate to politically sensitive issues. Information received from the Ombudsperson in the context of the country visit to Cyprus.

<sup>189</sup> The adoption of necessary execution measures for a judgment by the European Court of Human Rights is supervised by the Committee of Ministers of the Council of Europe. It is the Committee's practice to group cases against a State requiring similar execution measures, particularly general measures, and examine them jointly. The first case in the group is designated as the leading case as regards the supervision of the general measures and repetitive cases within the group can be closed when it is assessed that all possible individual measures needed to provide redress to the applicant have been taken.



implementation was 3 year and 3 months (compared to 2 years and 7 months in 2022)<sup>190</sup>. The oldest leading judgment, pending implementation for 9 years, concerns the lack of a remedy with automatic suspensive effect in deportation proceedings and the absence of timely review of the lawfulness of detention<sup>191</sup>. On 15 June 2023, the number of leading judgments pending implementation remains nine<sup>192</sup>.

**Administrative and financial burdens raise concerns regarding the environment for civil society.** The civic space has been downgraded from open to narrowed<sup>193</sup> due to difficulties which civil society organisations (CSOs) are facing to secure funding<sup>194</sup> and the ongoing legal proceedings instituted by a CSO which was removed from the registry of associations in 2020 and since then is operating under significant restrictions<sup>195</sup>. The implementation of the Law on Associations and Foundations continues to raise concerns, in particular as regards the registration of CSOs<sup>196</sup>. CSOs criticise the lack of clear guidance<sup>197</sup>, the frequent changes in the practices followed, the different standards applied in the different districts<sup>198</sup>, the long delays and the lack of sufficient human resources dealing with the processing of registration files<sup>199</sup>. As a result, the non-registered CSOs were not eligible to respond to calls for participation in advisory and coordination groups set by the Ministry of Interior<sup>200</sup>. Furthermore, following up on deficiencies identified by the Council of Europe during Cyprus' evaluation on anti-money laundering and counter-terrorist financing measures, the Ministry of Interior carried out a risk assessment of non-profit organisations with the view to identify those at high-risk<sup>201</sup>. The administrative requirements of this monitoring exercise, which lasted from May 2022 to February 2023, did not always find a right balance between targeted protection from money laundering abuse and proportionality of the measures and had unintended

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<sup>190</sup> All figures are calculated by the European Implementation Network and based on the number of cases considered pending at the annual cut-off date of 1 January 2023. See the Contribution from the European Implementation Network for the 2023 Rule of Law Report, p. 2.

<sup>191</sup> Judgment of the European Court of Human Rights of 23 July 2013, *M.A. v. Cyprus*, 41872/10, pending implementation since 2013. Cypriot authorities notified the Committee of Ministers of the Council of Europe on measures taken by Cyprus for the execution of the judgment as of September 2021. The decision of the Committee of Ministers of the Council of Europe is still pending.

<sup>192</sup> Data according to the online database of the Council of Europe (HUDOC-EXEC).

<sup>193</sup> Rating by CIVICUS; ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed (Civics (2023), Monitor tracking civic space-Cyprus).

<sup>194</sup> European Civic Forum (2023), Annual Civic Space Report – 2022 Cyprus, p. 7.

<sup>195</sup> Action for Support, Equality and Antiracism (KISA), 2022 Rule of Law Report, Country Chapter on the rule of law situation in Cyprus, p. 16; European Civic Forum (2023), Annual Civic Space Report p. 6.

<sup>196</sup> Law on Association and Foundations and other Related Matters of 2017 (104(I)/2017); 2020, 2021 Rule of Law Reports, Country Chapter on the rule of law situation in Cyprus, pp. 11-12 and pp. 12-13, respectively; European Civic Forum (2023), Annual Civic Space Report pp. 5-6.

<sup>197</sup> CSOs often register as not for profit companies under the Business Register, a legal form which does not correspond to the needs and profile of civil society organisations (Information received from NGO Support Centre and Civil Society Advocates in the context of the country visit to Cyprus).

<sup>198</sup> Registration and other related requests are submitted to the administration of the district where the legal entity has its registered office.

<sup>199</sup> Information received from NGO Support Centre and Civil Society Advocates in the context of the country visit to Cyprus.

<sup>200</sup> Including the ones registered as not-for profit companies in the Business Registry (EU Agency for Fundamental Rights (2023), Country research – An update on developments regarding civic space in the EU and an overview of the possibilities for human rights defenders to enter EU territory– Cyprus, pp. 4-5).

<sup>201</sup> Following up on the deficiencies identified by the Council of Europe, Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism.

consequences<sup>202</sup>. In particular, banks tend to consider all non-profit entities as high risk, with the result for CSOs to face additional administrative and financial burdens, including the freezing of their assets<sup>203</sup>. According to the Government, the conclusion of the risk assessment exercise has raised banks' confidence in CSOs provided with certificates by the authorities, as they have been assessed and are continuously monitored<sup>204</sup>. The creation of the NGO platform aims to reduce the administrative burden, improve communication and the quality of services provided to CSOs. In addition to its function as an electronic registry, the NGO platform will also allow virtual interaction between the CSOs and the authorities, including electronic submission of documents and applications, interaction between the CSOs and access to public consultations<sup>205</sup>. While initially scheduled to become fully operational in August 2022<sup>206</sup>, its implementation has been further delayed<sup>207</sup>. In January 2023, the Citizens Commissioner presented a strategy aiming to promote active civic participation and create a favourable and enabling environment for CSOs. This strategy includes plans to adopt legislation on the Citizens' Initiative, which aims to allow citizens to submit requests to the Government to take action in specific areas of competence, thus empowering their effective participation in the decision-making process<sup>208</sup>. A similar legislative proposal is, however, already pending before Parliament since 2017<sup>209</sup>.

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<sup>202</sup> Council of Europe, Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism, 2<sup>nd</sup> Enhanced Follow-up Report, November 2022, paras 22-26.

<sup>203</sup> EU Agency for Fundamental Rights (2023), Country research – An update on developments regarding civic space in the EU and an overview of the possibilities for human rights defenders to enter EU territory– Cyprus, pp. 3-4; European Civic Forum (2023), Annual Civic Space Report pp. 7-8.

<sup>204</sup> Written contribution received from the Ministry of Interior in the context of the country visit in Cyprus.

<sup>205</sup> Written contribution from Ministry of Interior in the context of the country visit in Cyprus.

<sup>206</sup> 2022 Rule of Law p. 16.

<sup>207</sup> During the first stage of implementation, CSOs could start using the platform as a tool for electronic submission of documents. The other features will follow. The Ministry of Interior has prepared guidelines and training material, including videos, but CSOs have not yet been asked to use the platform (Written contribution from Ministry of Interior in the context of the country visit in Cyprus).

<sup>208</sup> Input from Cyprus for the 2023 Rule of Law Report, pp. 63-64. European Civic Forum (2023), Annual Civic Space Report pp. 8-9.

<sup>209</sup> The Law on the Citizens Initiative of 2017 was presented to the competent Parliamentary Committee in March 2017.

## **Annex I: List of sources in alphabetical order\***

\* *The list of contributions received in the context of the consultation for the 2023 Rule of Law report can be found at [https://commission.europa.eu/publications/2023-rule-law-report-targeted-stakeholder-consultation\\_en](https://commission.europa.eu/publications/2023-rule-law-report-targeted-stakeholder-consultation_en).*

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## **Annex II: Country visit to Cyprus**

The Commission services held virtual meetings in April 2023 with:

- Association of European Journalists
- Association of Judges
- Audit Office
- Centre for the Rule of Law and European Values (CroLev)
- Civil Society Advocates
- Commissioner for Administration and the Protection of Human Rights
- Commissioner for Information
- Committee of Media Ethics Cyprus
- Cyprus Bar Association
- Cyprus Broadcasting Corporation
- Cyprus Judicial Training School
- Cyprus Integrity Forum
- Department of Judicial Reform, Supreme Court
- House of Representatives
- Independent Anti-Corruption Authority
- Institute for Mass Media (IMME)
- KISA
- Ministry of Finance
- Ministry of Interior
- Ministry of Justice and Public Order
- NGO Support Centre
- Organized Crime and Corruption Reporting Project (OCCRP)
- Office of the Attorney General
- OPEK
- Oxygono
- Police - Internal Affairs Service
- Police - Office of Investigation of Financial Crimes
- Radio-Television Authority
- Step up Stop Slavery
- Supreme Court
- Union of Cyprus Journalists (ESK)

\* The Commission also met the following organisations in a number of horizontal meetings:

- ALDA (European Association for Local Democracy)
- Amnesty International
- Civil Liberties Union for Europe
- Civil Society Europe
- Culture Action Europe
- European Centre for Press and Media Freedom
- European Civic Forum

- European Federation of Journalists
- European Partnership for Democracy
- European Youth Forum
- Free Press Unlimited
- Front Line Defenders
- ILGA Europe
- International Commission of Jurists
- International Federation for Human Rights (FIDH)
- International Planned Parenthood Federation European Network
- International Press Institute
- JEF Europe
- Osservatorio Balcani e Caucaso Transeuropa
- Philea
- Reporters Without Borders
- SOLIDAR
- Transparency International EU