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

2020 Rule of Law Report The rule of law situation in the European Union

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ABSTRACT

The Cypriot justice system has been undergoing a number of structural changes and reforms since 2019 with the aim to overcome important challenges as regards its efficiency and quality, in particular as regards digitalisation. Civil, commercial and administrative judicial proceedings remain very lengthy. These reforms include the establishment of new specialised courts, the restructuring of the courts, the creation of a training school for judges, the revision of the rules of civil procedure and measures to address the backlog of cases. There is also a pending reform on the establishment of a Supreme Constitutional Court and of a High Court. Many of these reforms are still under discussion or are experiencing delay. A review of the Law Office is ongoing with a view to enhance the capacity of the office, including separation of functions and recruitment procedures.

Cyprus has made some progress in tackling and investigating corruption, including high-profile cases. Key legislation for the prevention of corruption is still pending. Lobbying and whistle-blower protection remain unregulated by law and an independent anti-corruption authority remains to be established. Asset disclosure rules are in place but the existing regime could be further strengthened by improving the effectiveness of the monitoring of the asset declarations. While Codes of Conduct exist for members of the Government, public officials and prosecutors, there are no similar provisions for the members of the House of Representatives.

In Cyprus, freedom of expression and the right of access to information find legal and formal protection in the Constitution of the Republic of Cyprus. Secondary legislation expressly protects the right of journalists to protect their sources and fosters media pluralism in the radio and television sector. However, questions have been raised regarding the independence of the Authority on Media (e.g. regarding appointment procedures). Another issue of concern is that there is no framework guaranteeing ownership transparency in the written press and digital media sectors, which makes it difficult to identify and verify ultimate owners or cross-ownership in these sectors.

The system of checks and balances in Cyprus includes a consultation process as part of a Better Regulation Project as well as ex-post constitutionality review. This review is currently carried out by the Supreme Court and a draft legislation aims at transferring this task to a newly created Supreme Constitutional Court. Another draft legislation aims at improving the implementation of court decisions by the public administration. The Commissioner for Administration, which functions as the National Human Rights Institution, faced certain challenges, but has recently seen its capacities increased. While a structure has been set up to encourage civil participation in public life, it seems that the civil society organisations face certain concerns regarding the registration framework, which requires at least 20 founding members to be registered.

I. JUSTICE SYSTEM

The court system¹ is composed of six District Courts, six Assize Courts currently in operation², the Administrative Court³, the Administrative Court of International Protection⁴ and the Supreme Court⁵. In addition, there are family courts, rent control courts, industrial disputes courts and a military court. Supreme Court Judges are appointed by the President of the Republic from within the ranks of the judiciary and upon recommendation of the Supreme Court. First instance judges are appointed, transferred and promoted by the Supreme Council of Judicature (SCJ), which is composed of all the members of the Supreme Court (the President and 12 Justices)⁶. There are 88 judges serving in all courts of first instance and 13 judges serving in the Supreme Court. The Prosecution Service is independent and organised under the Attorney General of the Republic. 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 also heads the Law Office of the Republic, an independent office not subjected to any ministry⁷. 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 law⁸.

Independence

Structural changes with regard to the organisation of Courts and the appointment of judges are under discussion. The Ministry of Justice and Public Order, on 30 May 2019, submitted to the House of Representatives⁹ a draft bill on the splitting of the current Supreme Court into two distinct courts: a new separate Supreme Constitutional Court and the High Court. The same draft legislation, pending before the House¹⁰, foresees the creation of a Court of Appeal of 16 Judges. Another bill under discussion in the House of Representatives¹¹ details the appointment of the judges of the new Supreme Constitutional Court and the High Court. The bill builds upon the current system in which the appointment of judges to the Supreme Court is made by the President of the Republic, upon proposal by the judges of the two highest jurisdictions. The bill also provides that the judges of the new Court of Appeal will be appointed by the Supreme Council of Judicature (SCJ), which will also include the Attorney-General, the President of the Bar Council and a lawyer of long standing.

¹ For a description of the judicial structure, see the Annual study for the European Commission carried out by CEPEJ.

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

³ Law 131 (I)/2015 on the Establishment and Function of the Administrative Court.

⁴ Law 73 (I)/2018 on the Establishment and Function of the Administrative Court for International Protection.

⁵ The Supreme Court acts as an appellate body. It also acts as a Constitutional Court.

⁶ Art. 157.2 of the Constitution of Cyprus provides that the appointment, promotion, transfer, termination of appointment, dismissal and disciplinary matters of judicial officers are exclusively within the competence of the Supreme Council of Judicature. The abovementioned constitutional provision is further elaborated in Section 10 of Law No. 33/64 of the Administration of Justice.

⁷ The two functions are separated and the two services operate with two different staff.

⁸ Constitution of Cyprus, Art. 112.

⁹ The House of Representatives is the Parliament of the Republic of Cyprus.

¹⁰ Bill on the 11th review of the Constitution of the Republic of Cyprus.

¹¹ Bill on the review of legislation related to the administration of justice, p. 1215.

The level of perceived judicial independence is average. Among the general public, 55% consider judicial independence to be ‘fairly and very good’, a share that slightly decreased in 2020. The corresponding figure among companies is 48% and has been decreasing in the last years¹².

The appointment of the judges is subject to new detailed criteria. In July 2019¹³, the Supreme Court introduced new detailed criteria for the selection, appointment, evaluation and promotion of judges. The aim is to harmonise these procedures with the existing best practices in the EU. These new criteria are being used for the recruitment of new judges, as well as for promotions¹⁴. Selection and appointment are based on a call for candidatures published widely, including in the Official Gazette. The Supreme Council of Judicature decides on the successful candidates after a procedure aiming at ensuring that the candidates fulfil the objective criteria, display the relevant knowledge and personality requirements.

A reform of the Law Office of the Republic is ongoing. The Prosecution Service is organised under the Attorney General of the Republic. Legal provisions forbid any person to give instructions or interfere with the duties of the Attorney General¹⁵. All prosecutors handle criminal cases under the instructions and on behalf of the Attorney General¹⁶. In addition, the Attorney General is also the head of the Law Office¹⁷ and the legal advisor of the Republic. This multiple role could raise concerns as regards the capacity of the individual law officers and prosecutors to conduct their duties in an autonomous way¹⁸. A functional review of the Law Office by independent experts was conducted in 2019. Based on this report, an action plan has been finalised and approved by the Council of Ministers on 15 October 2019. The Action Plan foresees a comprehensive reform of the Law Office of the Republic. Amongst others, the reform includes the restructuring and creation of separate, self-contained directorates within the Law Office, the creation of new posts, the rationalisation of procedures, separation of functions and recruitment procedures. A draft law is under discussion between the Attorney General and the Ministry of Finance concerning the budgetary independence of the Law Office¹⁹.

¹² Figures 44 and 46, 2020 EU Justice Scoreboard. The level of perceived judicial independence is categorized 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%). Furthermore, according to a recent survey covering 19 EU Member States, the perception of independence of judges by lawyers in Cyprus is very low (5.5 points out of 10). ENCJ/CCBE Survey among lawyers on the independence of Judges, 2018-2019 - Independence and Accountability of the Judiciary (Figure 7).

¹³ European Commission (2019), Cyprus: Creation of Objective Criteria for the recruitment and promotion of Judges.

¹⁴ The Supreme Court published a call for candidatures on 1 November 2019, based on the new criteria.

¹⁵ Art. 45 of the Constitution of Cyprus provides that an additional element as regards the independence of the Attorney General is that the President of the Republic may be prosecuted for an offence involving dishonesty or moral turpitude upon a charge preferred by the Attorney-General.

¹⁶ Art.112 of the Constitution. 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.

¹⁷ The Law Office of the Republic is responsible for providing legal opinions and advice to Ministries on legal issues that may arise. It is also responsible for the legal vetting of government Bills, before they are introduced to the House of Representatives for debate and enactment. The Law Office also represents the Republic before the Courts in all administrative and civil law litigation where the Republic is a party.

¹⁸ GRECO Fourth Evaluation Round – Evaluation report, p. 39 and 2018 Compliance Report, p. 11. (GrecoRC4(2018)9).

¹⁹ Input from Cyprus for the 2020 Rule of Law Report.

Quality

The justice system suffers from a nearly complete lack of digitalisation. Very limited information about the judicial system is available for the general public²⁰. Furthermore, there is no electronic information on case progress and no electronic case management system²¹. This issue has also been addressed in the context of the 2020 European Semester, by a recommendation to improve the digitalisation of the judicial system²². The introduction of an electronic court administration system is one of the main objectives of the ongoing reforms. However, its implementation and the relevant public procurement procedures have been delayed since 2017. In the meantime, an electronic mini-registry has been prepared and installed in all civil registries and the Supreme Court to allow for a more efficient processing of applications, pending the full implementation of the e-justice system²³. In this context, it should be noted that the Supreme Court announced the suspension of court proceedings, with the exception of urgent cases, as part of the emergency measures to face the COVID-19 pandemic. Court proceedings have been gradually resuming since 4 May 2020.

A law establishing a (lifelong) training school for judges has been adopted. The law establishing a training school for judges was adopted on 14 August 2020²⁴. The School of judges will be based within the Supreme Court and will be responsible for judicial training and education of judges²⁵ and for the development of scientific research related to judicial matters.

Efficiency

The justice system is experiencing serious efficiency challenges. The time needed to resolve civil, commercial and administrative cases in first instance courts (737 days in 2018, compared to 1118 in 2017) still remains among the highest in the EU. In administrative justice, efficiency gains at first instance, reflected in a reduced length of proceedings (487 days in 2018 compared to 2162 days in 2017) and higher clearance rates (around 219% in 2018 compared to around 74% in 2017). However, very lengthy proceedings in the final instance (2156 days in 2018) remain²⁶. The need to improve the efficiency of the judicial system has also been raised in the above-mentioned recommendation addressed in the context of the 2020 European Semester²⁷.

An action plan to address these efficiency challenges has been adopted and its implementation is ongoing, albeit with some delay. An important step in the reform agenda has been the functional review study of the Cyprus Courts²⁸ concluded in March 2018, which made a number of recommendations concerning the operation of the Supreme Court and the Courts of First Instance as well as the management of the courts. On the basis of these

²⁰ It is also noted that the current statistical data on the justice system does not allow reporting on data concerning the disposition time in litigious civil and commercial cases in the EU Justice Scoreboard.

²¹ Figure 27, 2019 and 2020 EU Justice Scoreboard.

²² Council Recommendation on the 2020 National Reform Programme of Cyprus and delivering a Council opinion on the 2020 Stability Programme of Cyprus.

²³ Input from Cyprus for the 2020 Rule of Law Report.

²⁴ Law on the creation and functioning of a School of Judges: N. 101(I)/2020.

²⁵ Law modifying the laws on the Courts: N. 102(I)/2020).

²⁶ Figures 5, 9, 10 and 12, 2020 EU Justice Scoreboard.

²⁷ Council Recommendation on the 2020 National Reform Programme of Cyprus and delivering a Council opinion on the 2020 Stability Programme of Cyprus.

²⁸ European Commission (2018), Functional review of the courts system of Cyprus.

recommendations, the Government has prepared a detailed action plan for judicial reform²⁹. A Courts' Reform Committee, where relevant stakeholders participate³⁰, has been established to facilitate and support the implementation of the action plan. While the authorities have expressed their commitment to address the shortcomings of the justice system, the implementation of most planned actions is delayed, being still pending before the House of Representatives.

The reforms provide for the establishment of new courts. New legislation has been proposed for the establishment of a Commercial Court³¹. It includes provisions for the cases that will fall under the jurisdiction of the Court and the qualifications of the judges. The intention is to provide an appropriate forum for the adjudication of high profile commercial cases. In anticipation of the adoption of this law, five judicial posts have already been approved and are included in the state budget. Additionally, another new draft law provides for the creation of a new jurisdiction within the District Courts and is also pending before the House of Representatives. According to the draft legislation, any District Court Judge will have the jurisdiction to hear and determine any application concerning disputes arising out of or in connection with credit facilities, regardless of the amount of the dispute and of the value of the property. In June 2019, a new Administrative Court of International Protection has started operating³². According to the law establishing this court, cases relating to international protection will be transferred to this court from the Administrative Court, so as to expedite the proceedings of this category of cases, and at the same time allow the Administrative Court more time to deal with all other cases. The capacity of the court has been enhanced on 1 September through the recruitment of two new additional judges (the relevant amendment was enacted in January 2020) and ten administrative officers to provide support to the judges (five of them are already posted)³³.

The clearance of backlogs of delayed cases, which have accumulated in the courts, is a pressing task in the reform process. A President of a District Court has been appointed by the Supreme Court to act as 'case manager' in order to monitor and oversee the timely handling of the backlog of cases. The creation of a taskforce of judges has commenced with the recruitment of a number of additional judges, the procedure being under way, and the recruitment of supporting staff. Following a decision of the Supreme Court in February 2019 to assign the handling of financial disputes relating to non-performing loans (NPLs) to six already serving District Court judges, specialised training was organised in December 2019³⁴.

The review of the Civil Procedure Rule, which was expected to be completed by June 2020, is delayed until October this year. This is an important reform, which should contribute to improve the efficiency of the justice system. The amendment to the Civil Procedure Law will aim at making it easier to carry out court decisions to seize movable property.

²⁹ Input from Cyprus for the 2020 Rule of Law Report.

³⁰ The President of the Supreme Court (as President) and two Judges of the Supreme Court, the President of the Judges' Association, the Director of Reform and Training, the Chief Registrar, representatives of the Ministry of Finance and of the Ministry of Justice and Public Order, and the President of the Cyprus Bar Association.

³¹ See previous note.

³² Law No. 73 (I)/2018 on the Establishment and Function of the Administrative Court for International Protection.

³³ Input from Cyprus for the 2020 Rule of Law Report.

³⁴ See previous note.

Furthermore, the revised rules of civil procedure are expected to improve the enforcement of judgments.

II. ANTI-CORRUPTION FRAMEWORK

Cyprus amended its anti-corruption legal framework and a National Horizontal Action Plan, implementing key elements of the National Anti-corruption Strategy, which was approved by the Council of Ministers in May 2019. The Attorney-General has an overall competence to prosecute criminal offences, including corruption. The Prosecution Office provides legal advice to law enforcement authorities investigating corruption offences. Several legal measures are pending adoption, for example, the bill to establish an independent anti-corruption authority, a bill on lobbying and a bill on the reporting of corruption offences, which includes provisions on the protection of whistle-blowers.

Cyprus scores 58/100 in the 2019 Transparency International Corruption Perception Index and was ranked 12th in the EU and 41st globally³⁵. 95% of respondents to a 2020 Eurobarometer survey consider corruption to be a widespread problem (EU average: 71%) and 60% of people feel personally affected by corruption in their daily lives (EU average: 26%)³⁶. As regards business, 88% of companies consider that corruption is widespread (EU average: 63%) and 48% consider that corruption is a problem when doing business (EU average: 37%). 24% of people find that there are enough successful prosecutions to deter people from corrupt practices (EU average: 36%) while 11% of companies consider that people and businesses caught for bribing a senior official are appropriately punished (EU average: 31%)³⁷.

The criminal anti-corruption legislation is broadly in place. The criminal and procedural law aspects with relevant definitions of offences and a statute of limitations are in place and broadly in line with international standards³⁸. Sanctions for legal persons convicted for corruption also comprise their exclusion from public tender procedures. A bill provides for increased fines and the temporary closing of business for corruption offences committed by legal persons. The Law on the fight against Manipulation of Sports Competitions aiming to combat corruptive behaviour in sports was enacted on 15 December 2017 and defines new corruption offences in this area. The extra-territorial jurisdiction of the Courts of the Republic of Cyprus has been established for all offences relating to corruption.

The implementation of the National Action plan against Corruption is ongoing. A National Horizontal Action Plan against Corruption, which implements the key elements of the National Anti-Corruption Strategy³⁹, was approved by the Council of Ministers in May 2019. Some key measures in the Action Plan are still pending adoption, notably the draft law establishing an independent anti-corruption authority. Furthermore, the bill on “the Reporting of Acts of Corruption Law” including provisions on whistle-blowers and the bill on the Transparency in Public Decision Procedures and Related Issues Law, including provisions on lobbying activities, are pending for adoption in the House of Representatives, respectively since May 2017 and May 2019. While waiting for the independent authority to be

³⁵ Transparency International (2019), Corruption Perceptions Index.

³⁶ Special Eurobarometer 502 (2020).

³⁷ Flash Eurobarometer 482 (2019).

³⁸ GRECO, Third Evaluation Round.

³⁹ The National Anti-Corruption Strategy has been approved by the Council of Ministers in November 2017.

established⁴⁰, as a temporary arrangement the responsibility for monitoring the implementation of the National Horizontal Action Plan has been entrusted to the Office for Transparency and Prevention of Corruption. Focal points have been designated in the public bodies, but the office is understaffed⁴¹.

The competences to prevent, investigate and prosecute corruption are shared among several authorities. The Ministry of Justice and Public Order is responsible for the policy coordination as regards the fight against corruption. The Attorney-General has an overall responsibility for criminal prosecutions, including the right to discontinue a prosecution. The Prosecution Office (the Prosecution Service of the Republic Attorney General's Office) provides direct legal advice to police investigators. It advises them on issues concerning corruption, criminal law, criminal procedure and evidence. It is the contact point between the Police and the Prosecution Service of the Republic (Attorney General's Office). Authorities reported that a total number of 120 corruption cases had been investigated or were under investigation between 2013 and 2018, out of which 98 have been completed and 22 cases are still under investigation. 47 cases are pending for trial or under trial. 37 persons were convicted for corruption in 26 cases, out of which there were 12 high-level corruption convictions, including the deputy Attorney General, members of the House of Representatives and ex-ministers. The Police has a special team for financial investigations. This team consists of five financial analysts-certified accountants or auditors and two experienced police investigators. Its purpose is to provide support and expertise to the police investigators who are investigating serious criminal cases related to financial crime including corruption cases. An Internal Affairs Service in charge of investigating corruption allegations within the police also exists. This Service investigates all allegations and complaints, including those filed anonymously, regarding corrupt practices or omissions by members of the police. The internal service is operational and has investigated 12 corruption cases, of which one resulted in a conviction⁴².

Whistle-blower protection is not yet provided for by law. It falls within the employer's discretion to protect whistle-blowers through internal policies. A draft law on 'Reporting of Acts of Corruption' is pending before the House of Representatives. The draft aims to provide supplementary provisions on the protection of whistle-blowers⁴³.

Lobbying is not regulated. A draft law to regulate lobbying activities is pending for adoption in Parliament since May 2019⁴⁴. The draft law requires all lobbying groups to be registered and to record their meetings. The adoption of this law is envisaged to accompany the establishment of the Independent Authority against Corruption, which will be responsible for keeping the registry of lobbyists. Currently there is no self-regulation of lobbyists' activities and Cyprus has no professional association of lobbyists.

Conflicts of interests need attention. As regards conflicts of interest, there are provisions foreseen in the draft-lobbying bill that regulate matters of conflict of interests of senior civil

⁴⁰ The draft law was submitted for adoption in Parliament in March 2019.

⁴¹ The Ministry of Justice and Public Order manages an annual national budget of approximately EUR 200,000 for the implementation of the National Horizontal Anti-Corruption plan in addition to the Project funded by the European Commission worth EUR 300,000.

⁴² Input from Cyprus for the 2020 Rule of Law Report; Information received in the context of the country visit.

⁴³ Directorate General European Programmes, Coordination and Development - Europe 2020 Cyprus National Reform Programme.

⁴⁴ See previous note.

servants. A cooling off period is also introduced, where senior civil servants cannot register in the Registry, unless two years have elapsed since the day on which his services ceased. While Codes of Conduct exist for Members of the Government, public officials and prosecutors, there are no similar provisions for the members of the House of Representatives. A procedure to draft and adopt a Code of Conduct for Members of Parliament began in late 2019. The Code would aim at offering guidance on how to prevent and manage conflicts of interest concerning Members of Parliament.

Asset disclosure rules are in place and sanctions for non-compliance are envisaged. The President, the Ministers, the members of the House of Representatives, certain Officers of the Republic, high ranking public officials and other publicly exposed persons have to submit detailed declarations of their property and assets, together with those of their spouses and under-age children. Such declarations have to be made/submitted within three months from assuming office, every three years as long as they hold office and within three months after leaving office. Asset declarations of the President of the Republic, Ministers and members of the House of Representatives were submitted to a special parliamentary committee and published in 2019. The body entrusted with the verification of the other officers and Politically Exposed Persons' declarations is a special Council, consisting of three members appointed by the Council of Ministers in 2017. The two bodies entrusted with the verification of the declarations (i.e. the Special Parliamentary Committee and the Council) may assign investigations to certified accountants⁴⁵. While rules are found to be in place in the 2020 European semester report, issues were raised as regards the verification of assets. The Council entrusted with verification has filed several fines for non-submission of declarations. In addition, concerns exist as regards the accuracy of declaration⁴⁶.

III. MEDIA PLURALISM

In Cyprus, freedom of expression and the right of access to information find legal and formal protection in Article 19 of the Constitution of the Republic of Cyprus. Secondary legislation expressly protects the right of journalists to protect their sources⁴⁷ and fosters media pluralism in the radio and television sector⁴⁸. A revision of the Press Law is envisaged in view of transposing the revised Audio-Visual Media Service Directive. The announced changes would lead to the electronic information media being expressly regulated for the first time and the introduction of additional provisions dedicated to the rights of journalists. The Right to Access to Public Sector Information Law (2017) is expected to come into force in December 2020. Cyprus decriminalised defamation in 2003⁴⁹.

The independence of the regulator for audio-visual media services, the Cyprus Radio-Television Authority, is legally guaranteed. Its competences and responsibilities are set out in Article 3 of the Radio and Television Broadcasters Law 7(I)/1998 (as amended). These include, *inter alia*, controlling the actual ownership status of media service providers with a view to ensuring their independence as well as the elimination of concentration, oligopoly or monopoly; ensuring the journalistic and creative independence of the employees of media

⁴⁵ In case officers under Law 50(I)/2004, as amended, fail to submit their asset declaration, the Council imposes a fine not exceeding EUR 5.000 and up to EUR 100 for every day of non-compliance.

⁴⁶ European Commission, Country report Cyprus 2020, SWD(2020) 512 final.

⁴⁷ Art. 8 of Press Law.

⁴⁸ Radio and Television Broadcasters Law.

⁴⁹ Between 2019 and 2020, Cyprus gained one position in the Reporters without Borders World Press Freedom Index, now registering at 27th position worldwide: <https://rsf.org/en/ranking>.

service providers and drawing up a report every three years on the development of pluralism and the concentration of shares in media service providers.

This regulatory system establishes a legally independent authority with clearly defined powers and the authority is endowed with adequate financial resources. The MPM points out that the Authority's decisions are published on a regular basis, are subject to judicial review and cannot be overturned by the Government. Consequently, the MPM assesses the overall risk to independence in terms of the functional independence, enforcement powers and adequacy of resources of the Authority as low. The effective independence of the Authority is however assessed to be at medium risk. This is due to concerns about the selection criteria used for the appointment of the members of the authority by the Government, independence in practice as well as issues of transparency and accountability⁵⁰.

Cyprus has an independent press council, the Media Complaints Commission⁵¹. It consists of 13 members and is responsible for the self-regulation of the news media, both written and electronic and is entirely free from government interference and judicial supervision. It is financed solely by its founders and implements a Code of Practice⁵² which defines the duties and rights of journalists. The Complaints Commission accepts complaints from the public on a host of issues including accuracy of information, the right of rebuttal, the right to privacy, copyright, the presumption of innocence, discrimination, professional privilege and the public interest. The Media Pluralism Monitor recommends that to address the recent challenges faced by the media in Cyprus, unionised and non-unionised journalists and all media stakeholders should reaffirm their role and reclaim their status to regain the public's trust⁵³.

The regulatory framework in Cyprus allows for a certain degree of transparency of media ownership in the audio-visual media sector. Transparency is guaranteed by the Radio-Television Authority and conducted mainly via the detailed licensing and registration procedures established by the above-mentioned Act⁵⁴. Regarding systematic scrutiny by the Authority, the 2020 MPM raises concerns with regard to the efficiency of its implementation in practice. Furthermore, there is no framework guaranteeing ownership transparency in the written press and digital media sectors which makes it difficult to identify and verify ultimate owners or cross-ownership in these sectors. Consequently, the MPM assesses that transparency of media ownership is at high risk (81%). This factor, coupled with others - such as considerable news media concentration and an unregulated online media market - has resulted in the MPM risk rating for the market plurality area going from low medium risk (34%) in 2017 to high risk in 2020 (74%). Nonetheless, MPM points out that the television sector manifests considerable plurality given that four of the seven commercial TV channels and the public service media broadcaster attract almost equal audience shares.

Mechanisms are in place to safeguard political independence and to prevent conflicts of interest. In terms of political independence, ownership thresholds and constraints on ownership laid down in the Law on incompatibilities for persons occupying public office⁵⁵

⁵⁰ 2020 Media Pluralism Monitor - Report on Cyprus, p. 10.

⁵¹ Cyprus Media Complaints Commission website: http://www.cmcc.org.cy/about_us.html.

⁵² Journalists' Code of practice: www.cmcc.org.cy/code_practice.html.

⁵³ 2020 Media Pluralism Monitor - Report on Cyprus, p. 17.

⁵⁴ Articles 16, 18, 19, 20 and 23 thereof.

⁵⁵ Law No. 12(I) of 2014 amending the Law No. 7(I) of 2008 on the Professional Incompatibility of certain Officers for certain professional and other activities.

are efficiently enforced by the relevant regulators, thereby promoting pluralism. However, the MPM points out that the corporate pressure appears to foster a climate of self-censorship among editorial staff. Currently, there exists no framework regulating the distribution of state advertising, although the MPM points out that the system appears to operate fairly in practice. The authorities informed the Commission that a new mechanism for the equitable allocation of political campaign advertising is expected to be in place by the end of 2020.

Threats to the safety of journalists are very rare. In 2019, the Council of Europe’s Platform to promote the protection of journalism and safety of journalists published no alerts concerning Cyprus. One alert was published in 2020 relating to a homemade pipe bomb, which exploded at the entrance of the offices of news agency MC Digital Media (which hosts local online news outlet Cyprustimes.com and other online sport, finance and show business titles) on 4 March 2020 causing extensive damage to the building. The Government swiftly condemned the attack and declared that the State will take all the necessary measures to identify the perpetrators⁵⁶.

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 and is vested with legislative power. Both Representatives and Ministers have the right of legislative initiative. The Supreme Court is competent regarding the constitutionality of laws⁵⁷. A number of national independent Authorities, organizations and institutions that aim to protect and safeguard human rights exist.

Efforts are ongoing to improve the consultation of stakeholders when preparing legislation. In the context of the Better Regulation Project⁵⁸ and relevant circulars of the Ministry of Finance and the Legal Service, there is an obligation to conduct a public consultation with all stakeholders before proceeding with a governmental bill. A fully completed, questionnaire accompanies every bill submitted to the Council of Ministers for approval and subsequently presented before the House of Representatives for enactment, explaining all aspects of the proposed legislation and the consultation that has taken place⁵⁹. A number of challenges exist regarding the regulatory impact assessment framework concerning both primary laws and subordinate regulations, introduced by Cyprus in 2017. These challenges could be improved by considering a broader range of costs and benefits, and establishing an oversight body for impact assessment quality control⁶⁰.

The Government has been empowered to adopt measures to face the COVID-19 pandemic. The state of emergency enshrined in the constitution has not been declared⁶¹ but

⁵⁶ Republic of Cyprus (2020), reply of the authorities of the Republic of Cyprus regarding the alert with title “pipe bomb attack on Cyprus MC Digital News Media Agency Offices”. <https://rm.coe.int/cyprus-reply-en-pipe-bomb-attack-on-mc-digital-media-agency-offices-12/16809ce95e>.

⁵⁷ The creation of a Constitutional Court that will take over the constitutionality review of laws from the Supreme Court is planned (see Section I). Input from Cyprus for the 2020 Rule of Law Report.

⁵⁸ OECD (2019), Indicators of Regulatory Policy and Governance – Cyprus.

⁵⁹ Input from Cyprus for the 2020 Rule of Law Report.

⁶⁰ OECD (2019), Indicators of Regulatory Policy and Governance – Cyprus.

⁶¹ Statement by the President of the Republic following the extraordinary meeting of the Council of Ministers, 15 March 2020. The “emergency state” provided for by Article 183 of the Constitution was not declared. The “emergency state” provided for by the Constitution would need to be declared by the Council of Ministers (chaired by the President) and submitted to the Parliament, which could accept or decline it.

the Government has relied on the Law on the Control of Epidemics (Quarantine Law) which empowers the Council of Ministers, the Minister of Health and other Ministers to issue decrees to deal with the emergency situation⁶².

Draft legislation foresees the creation of a Constitutional Court that would take over the constitutionality review of laws from the Supreme Court. The Supreme Court has jurisdiction to adjudicate on the compatibility of a law with the Constitution or any conflict of competence between any organs or authorities of the Republic. In addition, it can hear a recourse by the President of the Republic as to whether a law passed by the House of Representatives is inconsistent with the Constitution. According to the Constitution, any party to judicial proceedings can raise the question of the constitutionality of any law or decision material for the determination of any matter at issue in the proceedings. In that case, the Court before which such question is raised shall stay further proceedings until determined decision has been made by the Supreme Court.

A reform aims at improving the implementation of court decisions by the public administration. According to the Constitution, the Administrative Court and the Supreme Court are empowered to assess whether effect has been given to their decisions and if not, impose sanctions accordingly, as the law prescribes. However, the necessary legal basis has not been enacted yet. A draft law providing for sanctions in case an organ, authority or person violates the obligation to comply with court decisions is pending before the House of Representatives.

The Commissioner for Administration, which contributes to safeguarding fundamental rights, has faced certain challenges. The Commissioner for Administration and Human Rights (Ombudsman) is the National Human Rights Institution, accredited with B-Status by GANHRI⁶³ in 2015. In its accreditation report, the GANHRI Sub-Committee on Accreditation made recommendations on the appointment of the Ombudsman, the allocation of resources and the management of the budget⁶⁴. The capacities of the Ombudsman have recently been reinforced and further staff has been requested for 2020⁶⁵. However, it has faced challenges in view of an attempt by the Auditor General to investigate the way it exercises its powers, which the Commissioner considered an interference with its independence. This position was supported by the International Ombudsman Institute (IOI)⁶⁶ and subsequently, the Attorney General stopped the procedure. The Commissioner's suggestions or recommendations are not binding. He has the capacity to consult with the authority concerned, in an attempt to find a way for the authority to adopt the Commissioner's positions and comply with them at a practical level⁶⁷.

The civil society space in Cyprus is considered to be open⁶⁸. The Office of the Commissioner for Volunteering and NGOs was established in 2013. Its aim is to encourage

⁶² These decrees remain in force until they are revoked. Restrictions started to be lifted on 21 May.

⁶³ The Global Alliance of National Human Rights Institutions.

⁶⁴ United Nations UPR (2019) – Cyprus accepted seven recommendations received on ensuring a Paris Principles compliant NHRI.

⁶⁵ Contribution from the European Network of National Human Rights Institutions for the 2020 Rule of Law Report, p. 58.

⁶⁶ The IOI considered that the Auditor Generals' stance was incompatible with the Venice Commission Principles on the Protection and Promotion of the Ombudsman Institution.

⁶⁷ Input from Cyprus for the 2020 Rule of Law Report, p. 42.

⁶⁸ Rating by CIVICUS; ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed.

the active civic participation at local level and to promote the role of organised civil society at all levels for the purposes of drawing up governmental policies. In addition, the Council of Ministers of the Republic of Cyprus approved three political papers prepared by the Commissioner, ‘The Charter of Active Citizens’, ‘The Organized Civil Society of Cyprus’ and the ‘Charter of the Rights and Responsibilities of Volunteers’. A House of Volunteers provides free offices to NGOs. However, the registration of civil society organisations appears to raise certain concerns. While a new law adopted in 2017⁶⁹ has clarified the rules of the registration process and has overall been welcomed by stakeholders⁷⁰, the requirement that organisations must have at least 20 founding members continues to be considered as particularly burdensome⁷¹.

⁶⁹ Law on Associations and Foundations and other Related Matters. Input from Cyprus for the 2020 Rule of Law Report, p. 47.

⁷⁰ European Centre for Non-Profit Law, A more progressive NGO Law adopted in Cyprus.

⁷¹ Fundamental Rights Agency, Standing and operational space of non-governmental organisations (NGOs) in contributing to respecting and promoting fundamental rights in EU Member States, Cyprus 2017, p. 4.

Annex I: List of sources in alphabetical order*

* *The list of contributions received in the context of the consultation for the 2020 Rule of Law report can be found at (COM website).*

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Reporters without Borders (2020), World Press Freedom Index.

Republic of Cyprus (2020), Reply of the authorities of the Republic of Cyprus regarding the alert with title “pipe bomb attack on Cyprus MC Digital News Media Agency Offices”.

Transparency International (2019), Corruption Perceptions Index.

Virtual country visit to Cyprus in the context of the 2020 Rule of Law Report.

Annex II: Country visit to Cyprus

The Commission services held virtual meetings in June 2020 with:

- Attorney General's Office
- Ministry of Interior
- Ministry of Justice
- National Police
- Press and Information Office
- Radio-Television Authority
- Supreme Court

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

- Amnesty International
- Civil Liberties Union for Europe
- Civil Society Europe
- Conference of European Churches
- EuroCommerce
- European Center for Not-for-Profit Law
- European Centre for Press and Media Freedom
- European Civic Forum
- Free Press Unlimited
- Front Line Defenders
- ILGA-Europe
- International Commission of Jurists
- International Federation for Human Rights
- International Press Institute
- Lifelong learning Platform
- Open Society Justice Initiative/Open Society European Policy Institute
- Reporters without Borders
- Transparency International EU