

29 January 2025

CONFIDENTIAL

Mrs Christina Karakosta
Policy Officer
Directorate-General for Justice and Consumers
JUST C.1
Rule of Law
B-1049 Brussels

Dear Mrs Karakosta,

RULE OF LAW REPORT 2025 - CYPRUS

Thank you for your invitation to attend the video-conference on the 2025 Rule of Law Report, scheduled for Wednesday, 5 February 2025 at 18:00 (Nicosia time). As you know, the topic which we have been systematically monitoring in Cyprus is that of “Pothen Esches” (The Wealth Statements of the Politically Exposed Persons). As a consequence, the comments reflected in this note are exclusively confined to this issue.

In the course of 2024, two new laws governing the compilation and filing of Wealth Statements of the Politically Exposed Persons (PEPs) were enacted in Cyprus and the related laws, which were initially enacted in 2004 and repeatedly amended in the intervening period, were repealed. The first law [L112(I)2024] seeks to regulate the compilation and filing of the Wealth Statements of the President of the Republic, the Members of his Cabinet and the Members of Parliament, including the Cypriot MEPs. This law was enacted on 1 August 2024. *[A copy in Greek is attached]*. The second law [L137/II/2024] seeks to regulate the compilation and filing of the Wealth Statements of the senior civil servants of the Republic of Cyprus. This law was enacted on 29 November 2024. *[A copy in Greek is attached]*. The delay was caused by the fact that the law was referred by the President of the Republic to the Supreme Administrative Court of Cyprus as being unconstitutional, a claim that was rejected by the court. These two pieces of legislation are very similar, except for the fact that the Wealth Statements of the first group are filed with and assessed and generally managed by a 3-member “Special Committee”, comprising the President and two Members of the Cyprus House of Representatives, while those of the second group are filed with and assessed and generally managed by a 3-member Board, appointed by the Government. It is worth noting that the Members of the Judiciary of Cyprus strongly objected to their inclusion in either of the two groups, but declared their intention to introduce a system of self-regulation.

These new laws, which were enacted in 2024, were purportedly aiming at removing the obstacles that were rendering the tool of “pothen esches” ineffective, ever since it was first introduced in 2004, at the time of Cyprus’ entry into the European Union. Admittedly, some progress was, in fact, made in 2024, by requiring (for the first time) the inclusion (in the Wealth Statements filed) of the wealth of spouses and of underage children and by clarifying that the reported amounts should be stated at cost. However, the positive impact of these changes was effectively neutralised by demanding that three separate wealth statements should be filed (one for the PEP, one for his/her spouse and one for their underage children) and by providing that the one relating to the PEP should be made publicly available (for a limited period of time), but the other two should not be publicly disclosed. The law is silent as to how the living expenses of the family should be allocated amongst these three groups (for the purposes of attaining the required bridging of consecutive wealth statements). This is an important issue given that, under Cyprus law, wealth may be instantly and freely transferred from one person to another (without the need to document the transaction and/or to pay any taxes or levies). Likewise, the clarification included in the 2024 legislation that the assets and the liabilities reflected in the Wealth Statements should be reported at cost, was a positive step. However, the

required reporting of investment instruments (such as shares) at cost appears to suggest that wealth may be freely diverted to and accumulated in an investment vehicle and, as long as such wealth is not distributed to the beneficial owners of the investee, such wealth need not be reported by the PEP and his family. The new legislation is also silent on how the assets and the liabilities that are denominated in currencies other than the €, should be converted and reported into € and how the exchange differences arising from such conversions (that can be very material) should be treated in the Wealth Statements filed.

Another serious problem identified in the new legislation is the total reliance on “self-regulation” for identifying cases of corruption and collusion. The relatively recent experience in Cyprus suggests that reliance on “self-regulation” for combating corruption and collusion, combined with the lack of transparency (partial publication of wealth statements for a limited period of time), is an inappropriate approach for resolving the problem.

This note is not intended to be an exhaustive list of the matters that are regulated (or left open) in the new pothen esches legislation in Cyprus. We are simply highlighting certain important issues that have attracted our attention as likely to lead to the continuing ineffectiveness of the system. In our opinion, to be effective the management of the pothen esches in Cyprus must be entrusted to a truly independent, appropriately qualified and experienced Board, able to initiate legal proceedings against those PEPs for whom there is sufficient evidence that they are involved in corrupt practices.

Under these circumstances we feel that it would not serve any purpose to participate in the scheduled video-conference call. Nevertheless, we appreciate the fact that you have invited us to do so. Please treat the contents of this note as exclusively intended for the use of the European Commission. We would appreciate your confirmation of the receipt of this note.

Yours very truly,

Christos P. Panayiotides

Christos Panayiotides, CPA

PS: It may be worth mentioning the fact that, as at the date of this letter, the official internet site of the Cyprus House of Representatives was still reporting the 2004 law as being the legislation currently applicable in Cyprus, with no mention of the new legislation that was enacted in the summer of 2024 and has replaced the 2004 (as amended) legislation in its entirety.