



Annual Civic Space Report - 2022

Cyprus

By NGO Support Centre

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Summary

Key developments

- 🌀 2020 amendment to law on association remains a threat to CSOs
- 🌀 Funding remains a challenge, with national banks treating NGOs accounts as high risk
- 🌀 Some positive developments for civic dialogue and participation

While civic space remains “open” in Cyprus¹, several concerns relating to the environment for civil society exist. As noted by the European Commission in its 2022 Rule of Law report on Cyprus,² the de-registration of civil society organisations has continued. In particular, one of the leading anti-racism CSOs in Cyprus, KISA, is facing significant restrictions as a result of the 2020 amendment to the Law on Associations. Additionally, funding for civil society is a challenge, with national banks treating NGO bank accounts as high risk which has resulted in CSOs facing additional administrative and financial burdens. Some positive moves were noted in the area of participation, including a citizen’s dialogue on strengthening democracy and the passing of a law on transparency on public decision-making.

¹ <https://monitor.civicus.org/country/cyprus/>

² https://commission.europa.eu/system/files/2022-07/31_1_194047_coun_chap_cyprus_en.pdf

Institutional landscape, political and socio-economic

According to the World Justice Report, Cyprus was ranked 18th out of 140 countries for adherence to the rule of law in 2022³. This position shows an improvement compared to the year before when the country ranked 20th.

Pushbacks of refugees have continued. In April 2022, Cyprus authorities denied entry into the country to more than fifty Lebanese refugees travelling by boat and made them return to their port of departure. This violation of refugees' rights was criticised by the UN refugee agency in Cyprus as well as EU human rights commissioner Dunja Mijatovic.⁴ Furthermore, in July 2022, two Syrian refugees took the Cyprus government to the European Court of Human Rights to re-examine their situation after they were sent back to Lebanon in September 2020⁵.

Another case heading to the ECtHR is that of a young British woman who was prosecuted and convicted on first instance for allegedly reporting a false gang-rape. On appeal, the Supreme Court acquitted the young woman. Despite the woman's acquittal, the Attorney General did not order a re-investigation of the woman's rape claim. Since the Attorney General's decisions of non - investigation and non - prosecution are not subject to appeal, the woman's legal team have turned to the European Court of Human Rights, claiming that there is no available effective remedy offered by Cyprus.⁶

Major anti-racism organisation KISA has remained subject to dissolution procedures due to a 2020 legislative amendment. The organisation was removed from the registry of associations in December 2020 as a result of a small compliance error. It has filed an appeal with the nation's Supreme Court and, currently, operating with significant restrictions.

In December 2022, the Parliament passed regulations for the operation of the Independent Authority against Corruption⁷. This Authority aims to work independently from the Government, as its members are appointed by the President of the Republic of Cyprus, upon recommendation from the President of the Cyprus Bar Association, the President of the Cyprus Academy of Sciences, Literature and Art, the President of the Chartered Accountants of Cyprus, one retired Supreme Court Judge, and the President of the Council of the Heads of Universities. However, since the President of the Republic has been the subject of criticisms for allegations of corruption, this method of appointment is likely to be problematic.

³ <https://cyprus-mail.com/2022/10/27/cyprus-ranked-18th-out-of-140-countries-for-adherence-to-rule-of-law/>

⁴ <https://knews.kathimerini.com.cy/en/news/cyprus-turns-refugee-boat-back-to-lebanon>

⁵ <https://www.newarab.com/analysis/two-syrian-refugees-fight-make-pushbacks-illegal-eu>

⁶ <https://cyprus-mail.com/2022/06/14/british-womans-rape-case-to-be-taken-to-echr/>

⁷ <https://www-brief-com-cy.translate.googleusercontent.com/translate/kypros/psifistikan-oi-kanonismoi-gia-anexartiti-arhi-kata-diafthoras>



The regulatory environment for and implementation of civic freedoms

2020 amendment to law on association remains a threat to CSOs

The right to freedom of association is guaranteed in the Constitution of the Republic of Cyprus ('RoC'), by Article 21. In a similar manner as Article 11 of the European Convention on Human Rights ('ECHR') and Article 22 of the International Covenant on Civil and Political Rights ('ICCPR'), this constitutional right protects the right to form and to join trade unions for the protection of one's interests.

Moreover, this right can only be restricted for the reasons provided in paragraph 3 of Article 21: the restriction must be prescribed by law and absolutely necessary in the interest of security of the RoC, or of the constitutional order, or for public safety or for public order or for public health or for public morals or for the protection of the rights and freedoms guaranteed by the Constitution. It is also prohibited to form an association with the purpose of or acting against the constitutional order.

Similarly, to the ECHR's Article 11 and ICCPR's Article 22, Article 21 (5) of the Constitution does allow the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

Furthermore, the establishment and formation of associations, organisations and foundations are governed by the Law of Associations and Foundations and other Relevant Matters of 2017 (104 (I)/ 2017) ('the Law')⁸. However, in 2020 parliament passed an amendment to the law, specifically Article 56, with provisions which established a new deadline of two months for the submission of administrative data by registered associations. The provision stated that if an NGO fails to meet this deadline to submit an amended constitution that is in conformity with the new regulations or audited accounts, the NGO will be included on the list of the General Registrar of Associations, which would result in the starts of dissolution process of said NGOs. Not only did the provisions seem unclear to NGOs, but the allocated time frame of two months was also deemed inadequate.

The minimum number of proposed members is 20 and an organisation will not be registered for the same reasons provided by the Constitution or if it purports to be a criminal organisation. Moreover, registration may be denied if the founding members or suggested members of the board have been convicted of a crime, whose constitutional elements contained dishonest or moral obscenity. Lastly, the Law provides for the registration of foreign associations in the RoC.

The Companies Law Chap. 113⁹ allows for the establishment of not - for profit companies, so long as the Company is established for the purpose of promoting trade, art, science, religion, charity or any other purpose for the common good.

⁸ http://www.cylaw.org/nomoi/enop/non-ind/2017_1_104/full.html

⁹ https://www.companies.gov.cy/assets/modules/wgp/articles/201801/49/docs/cap_113_translation_made_july_2014.pdf



In practice, the 2020 amendment to the Law on Associations has led to the dissolution of several associations. Local Cypriot civil society organisation, KISA, one of the leading organisations which fights for equality and against discrimination and racism, was removed from the Register of Associations by the Cypriot Minister of Interior. The case was brought before the Administrative Court but rejected on the grounds that the organisation should have provided an amended constitution in order to be compliant with the Government's attempts to bring transparency to how NGOs are funded and operated. As per the Court, this purpose was consistent with the requirement of public and constitutional order. The case was appealed.

The Commissioner for Human Rights of the Council of Europe¹⁰ and several UN Special Rapporteurs¹¹ condemned the RoC's decision and considered the de-registration of an association for lack of compliance with formal requirements as disproportionate¹².

In more practical challenges for CSOs, information and guidelines about the establishment associations, foundations or federations based on the most recent legal framework, including access to all relevant paperwork, in the relevant Ministry of Interior site¹³ is only available in Greek. As a result, non-Greek speaking individuals that wish to be informed about the process rely on information provided by organisations like the NGO Support Centre.

Proposed amendments pose threat to press freedom in the areas not controlled by the Government of the Republic of Cyprus

On 20th May 2022 the executive branch and council of ministers of the areas not controlled by the Government of the Republic of Cyprus published several legislative amendments to the penal code, the law on "noxious publications" and the law on protecting privacy¹⁴. The amendments criminalise anyone who writes an article with "malicious" intent for "mass media", punishable by up to five years in prison. Malicious is defined as not only "insulting" or inciting "discontent or dissent" towards the president or the state of the areas not controlled by the Government of the Republic of Cyprus but also "ridiculing" them or questioning the alleged sovereignty of the areas not controlled by the Government of the Republic of Cyprus. Other definitions in the amendment are loosely worded and thus open to interpretation and could lead to arbitrary restrictions on free speech. Press freedom groups have raised concerns that the proposal "threatens journalists with arbitrary prosecution under the pretext of tackling online information turmoil". Turkey is the only country which recognises the legitimacy of the areas not controlled by the Government of the Republic of Cyprus as an independent state.¹⁵

¹⁰ <https://rm.coe.int/letter-to-mr-nicos-nouris-minister-of-interior-of-cyprus-by-ms-dunja-m/1680a1c09b>

¹¹ <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=26312>

¹² <https://www.omct.org/en/resources/urgent-interventions/cyprus-37-organisations-denounce-the-ongoing-harassment-against-kisa-and-call-on-the-cypriot-authorities-to-reinstate-their-official-registration-as-a-non-governmental-organisation>

¹³ http://www.moi.gov.cy/moi/moi.nsf/pagede1_gr/pagede1_gr?OpenDocument

¹⁴ <https://basimevi.gov.ct.tr/Portals/6/2022/100.pdf?ver=2022-05-18-194119-853>

¹⁵ <https://rsf.org/en/media-bill-poses-major-threat-press-freedom-northern-cyprus>

The framework for civic organisations' financial viability and sustainability

Funding a main challenge for CSOs

In February 2022, the NGO Support Centre launched a survey for mapping the needs and challenges of CSOs in Cyprus, aimed at collecting representative data which would highlight the best ways to support organisations and to maximise their social impact. The survey was directed at CSOs established and active in Cyprus. Results were published in March 2022¹⁶. When asked to indicate the most important challenges that will significantly affect their sector in the next six months, 72.7 per cent of the respondents identified the acquisition of funding to achieve their organisation's objectives as one of the main challenges. 97 per cent of respondents replied positively to the question "Do you believe that small CSOs face increased difficulties in ensuring funding for the development of their actions?". 80.3 per cent of respondents replied negatively to the question "Do you consider that the existing funding programmes available to CSOs are sufficient for developing their activities and achieving the desired results?".

Banks tend to treat CSO accounts as high risk

NGOs in Cyprus are facing issues with regards to the management of their accounts by national banks, which has affected the financial management of the organisations and their overall viability. Authorities in Cyprus have developed a risk-based monitoring methodology (Risk Based Approach for the monitoring of Money Laundering and Terrorism Financing Risks in the NPO sector) and a monitoring strategy but a complete clear assessment on the sector has yet to be concluded and communicated to the NGOs.¹⁷ The administrative requirements of such monitoring place excessive administrative burden to CSOs that are lower risk and/or have limited capacity, due to size and scope of activities, to adhere to the obligations.¹⁸

In 2022 there have been several incidents where banks have shown a tendency to treat NGOs as high-risk entities with a series of actions: bank accounts were kept frozen while performing administrative updates without any prior notice to either the legal representative(s) or staff of the organisations; demonstration of inconsistencies in communicating, in writing, deadlines and procedures that NGOs would need to follow to submit required documents for account updates; refusal to open bank accounts for legally established entities. In 2022, some national banks have also announced the introduction of a fee to be charged for the regular, compulsory administrative update of bank accounts for NGOs imposed by banks¹⁹.

¹⁶ <https://ngo-sc.org/wp-content/uploads/2022/04/Mapping-the-Needs-and-Challenges-of-CSOs-in-Cyprus-2022.pdf>

¹⁷ <https://www.fatf-gafi.org/publications/mutualevaluations/documents/fur-cyprus-2022.html>
<https://rm.coe.int/moneyval-2022-17-fur-cy/1680a92582>

¹⁸ <https://rm.coe.int/moneyval-2022-17-fur-cy/1680a92582>

¹⁹ Bank of Cyprus refers to this as "File update/ review"

https://www.bankofcyprus.com/globalassets/cyprus/org_methods/commissions--charges-current/eng/72251-boc-catalogue-legal-entities-december-22-eng.pdf | Hellenic Bank refers to this as "Enhanced due diligence" <https://www.hellenicbank.com/portalserver/content/api/contentstream->

In March 2022, a coalition of CSOs, led by Civil Society Advocates and NGO SC sent a private communication to the Association of Cyprus Banks inviting them to a meeting to discuss topics related to the implementation of actions by national banks, based on recommendations by the Central Bank and on the basis of the Financial Action Task Force (FATF) recommendations concerning non-governmental entities. At the meeting with representatives of national banks, organisations expressed concern over the lack of clear communication towards NGOs about the increasingly complex and continuous changes in administrative and financial requirements put in place by banks, which pose an administrative and financial burden on NGOs. No commitment has been made by the Association of Cyprus Banks towards furthering the dialogue on these issues.

Moreover, according to Civil Society Advocates, commercial banks updated their policies on the paperwork needed from NGOs to open and maintain accounts with them. The new rules forbade paying Turkish Cypriots money if they couldn't provide the bank with an energy bill from the Republic of Cyprus. Before the policy was introduced, payments to Turkish Cypriots with Republic of Cyprus IDs could be made by issuing a check that the recipient could deposit in any Turkish Cypriot bank. This practice was discontinued in 2018, and banks now require residency in the Republic of Cyprus in addition to a Cypriot ID. The financial management of bi-communal programs is becoming more difficult as Turkish Cypriots are no longer able to receive public funding for the work they have done.²⁰

NGOs in Cyprus are obliged to pay VAT but are unable to claim it back. This issue along with many other barriers, including absence of funding, lack of timely payments, lack of transparency about the criteria, were addressed at the parliamentary level, however it has not yet been resolved.²¹

The right to participation and dialogue between the sector and governing bodies

Positive developments for participation

In September 2022, the Office of the Commissioner for the Citizen in Cyprus organised an event²² that launched the vision, priorities and next steps at EU and national level in promoting the participation of citizens and strengthening of participatory, deliberative democracy. Following the event, a series of consultations took place at national level that supported the development of a “National Strategy on Active Citizenship and Participatory Governance”, in line with decision 92.576, dated 9/2/2022, by the Ministerial Council. The strategy envisions the strengthening of participatory, deliberative democracy in Cyprus, ensuring the active involvement of citizens in

[id/ba122ca0-b615-4054-878e-cf272e6e3254/ce2d2be1-c64d-45fc-b6f5-1092ec1f30d4/Charges/2023/TABLE%20OF%20COMMISSIONS%20AND%20CHARGES%20_ENG-from--02012023.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/franet_cyprus_civic_space_2021.pdf)

²⁰ FRA Report on Legal environment and space of civil society organisations in supporting fundamental rights - Cyprus 2021 https://fra.europa.eu/sites/default/files/fra_uploads/franet_cyprus_civic_space_2021.pdf

²¹ Ibid

²² <https://www.pio.gov.cy/en/event.html?id=6471>

decision-making and policy-making processes at local and national level. One of the main principles of the strategy is the development of a culture of recognition and respect towards the value and role of civil society in Cyprus and its contribution to defending human rights. The Strategy is expected to be publicly presented by the Commissioner's office in January 2023.

In July 2022 Cyprus adopted the Law of 2022 No. 20(I)/2022 "On Transparency of Public Decision-Making and Relevant Procedures"²³ which is designed to ensure transparency of the participation of lobbyists in public decision-making concerning: a) the definition of the areas of public policy, development of relevant policy and its amendment; drafting and adoption of legal acts and b) the provision of public grants, state guarantees, subsidies, and state financial support in other forms. The Law covers: natural and legal persons of private law, who intend to participate in public decision-making on behalf of the persons whose interests they represent, in particular, managers and employees, elected or empowered to represent interests (hereinafter, lobbyists, representatives of interests); persons holding public positions, assistants of these persons, public and municipal servants and employees of the public sector, who can initiate the discussion of a public decision, participate in formulating or adopting its content due to their position (hereinafter, officials). Under the Law, the representatives of interests are obliged to be registered in a Register of Lobbyists, which is being established, to participate in public decision-making.

Recommendations

To the Government of the Republic of Cyprus

The regulatory environment for and implementation of civic freedoms

- ⑩ Re-insert KISA in the Register of Associations;
- ⑩ Put an end to the ongoing judicial harassment against KISA and its members.
- ⑩ Repeal the Amendment 118 (I)/2020 of the 2017 Law on Associations and Foundations and Other Related Issues, which grants the Ministry of Interior of Cyprus executive powers to remove NGOs from the Register of Associations and prohibits un-registered NGOs from continuing their actions

²³ http://www.cylaw.org/nomoi/enop/non-ind/2022_1_20/full.html



To the Association of Cyprus Banks

The framework for civic organisations' financial viability and sustainability

- ⑩ Development of communication tools between the Association of Banks, national banks and CSO representatives (e.g. a Working group) to ensure dialogue that takes into account the particularities of the non-for-profit sector;
- ⑩ Abstain from “freezing” CSO accounts when reviewing, particularly without any prior notice;
- ⑩ Develop clear guidelines for risk assessment procedures and administrative requirements towards CSOs and communicate them in written to CSOs, to ensure transparency and consistency;
- ⑩ Revise the bank fees posed for obligatory account reviews / due diligence, particularly for smaller CSOs.

**About the contributor:*

The NGO Support Centre is an independent, non-governmental, non-profit organisation dedicated to the development and strengthening of civil society in Cyprus. Since 1999 the centre has developed a substantive experience and expertise in the fields of active citizenship, peace and reconciliation, development education, human rights education, intercultural dialogue, and participation.