



*Permanent Mission of the Republic of Cyprus  
Geneva*

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The Permanent Mission of the Republic of Cyprus to the United Nations Office at Geneva and other International Organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and, following the Joint Communication from Special Procedures with reference AL CYP 1/2021, dated 31 March 2021, has the honour to transmit herewith an information Note comprising the response of the Government of the Republic of Cyprus.

The Permanent Mission of the Republic of Cyprus to the United Nations Office at Geneva and other International Organizations in Switzerland avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 5 May 2021



Encl.: As stated

To the  
Office of the High Commissioner for Human Rights  
Geneva  
Email: [registry@ohchr.org](mailto:registry@ohchr.org)

**INFORMATION NOTE IN RESPONSE TO THE JOINT COMMUNICATION DATED 31 MARCH 2021 BY THE SPECIAL RAPPORTEURS ON:**

- **THE RIGHTS TO FREEDOM OF PEACEFUL ASSEMBLY AND OF ASSOCIATION;**
- **THE SPECIAL RAPPORTEUR ON THE PROMOTION AND PROTECTION OF THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION;**
- **THE SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS DEFENDERS;**
- **THE SPECIAL RAPPORTEUR ON THE HUMAN RIGHTS OF MIGRANTS;**
- **THE SPECIAL RAPPORTEUR ON TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN**

1. The Societies and Institutions and other related Matters Law of 2017, that has been enacted in 2017, deals with the allocation of legal personality to groups of at least 20 persons for the attainment of a certain non-profitable object. Individuals who make up a group but do not choose to establish a legal person to cover their action could still exercise all their human rights for peaceful assembly or freedom of expression. The decision of a group of people to become a society (NPO), i.e a legal person, is a right and not an obligation. On the contrary, the Societies and Institutions and other related matters law, provides for the granting of additional rights to groups, so that they can, in addition to freedom of expression and peaceful assembly, have access to the banking system, or trade and negotiate as an entity, something that would be difficult to happen in groups of individuals who are not under the cloak of a legal entity. This additional right given to groups wishing to register is accompanied by obligations aimed at ensuring conditions of internal legitimacy and transparency. It is worth mentioning at this point the provisions of article 3 of the law:

**Right to establish and participate in a society or institution or federation and/or association**

*Subject to the provision of this Law, and in particular to the provisions of article 4 thereof, everyone shall have the right to establish a society or institution or federation and/or association and participate therein.*

2. In 2017, the House of Representatives unanimously enacted the new legislation regulating the operation of Non-Profit, non-Governmental Organisations in Cyprus (i.e. societies, institutions and other entities), hereinafter referred to as the NPOs (NGOs). The new Legislation is titled the Societies and Institutions and other Related Matters Law of 2017 and has replaced a previous and anachronistic legislation titled the Societies and Institutions Law of 1972. The basic changes introduced by the new Legislation was the obligation imposed to NPOs for transparent and democratic operation and financial accountancy. It is interesting to mention that the Law of 1972 requested no further actions following registration of an NPO in the Republic. The situation created due to the gaps in the 1972 legislation was particularly problematic, since NPOs had an unhindered access to the banking system in Cyprus and to sponsorships granted by government departments, Ministries and through European funds, as well as the possibility to carry out fundraising campaigns and obtain other economic resources without monitoring the



internal legitimization of the administration members of societies and institutions. Today, there are many cases investigated for misappropriation of funds by the Boards of NPOs registered under the Law of 1972. Moreover, this and the toughening of internal regulations governing the operation of banking institutions after the economic crisis of 2013, gradually led to the discrediting of NPOs on behalf of the banks, which ceased to be considered as a credible client and this has been recorded in the Moneyval report for Cyprus issued in December 2019 (reference is made below).

3. It is of worth to mention that NPOS and UNDP participated in the consultations during the drafting of the said basic law, taking the point that one year would be enough for NPOs to make necessary amendments to comply with the new obligations, since restoring and securing their credibility was of paramount importance, in their perspective. The new obligations were namely to introduce bare minimum provisions in their statute provisions for (a) transparency (to convene their general assembly once a year) and (b) accountability ("to submit audited accounts annually").
4. The law entered into force in June 2017, was giving to NPOs a year to comply, i.e. by June 2018. Then, the House of Representatives extended twice this deadline, i.e. up to June 2019 and December 2019. NPOs to be considered that they comply to the new law, were obliged to submit to the Registrar their revised statutory documents. The statutory documents should be the result of a legal decision taken in Statutory General Meeting of NPOs.

Therefore, the first paragraph of the second page of your letter stating that after the 31st of December 2019 deadline the NPOs were only required to submit the information within the first quarter of every year is not quite correct.

Provision 55(3) of the law states that:

*«In cases that, in compliance with the provision of this Law, the existing societies, institutions or clubs, shall be required to amend their articles of association or take any other action, they have until the 31thn of December to do so».*

And provision 56(1) states:

*«Any societies, institutions and clubs established and registered under the law repealed by this Law, **shall be deemed to have been approved** under the provisions of this Law, provided that they make the necessary adjustments and amendments to their articles of association, within the limit set in subsection (3) of Article 55?».*

5. In order to understand the size of the problem, please take into consideration that under the Law of 1972, approximately 6,000 NPOs were registered and the majority of them was practically unknown to the Ministry of Interior, since the records of the Ministry contained only the initial application and the initial Board. Despite this, for those NPOs that the Ministry had some contact details (KISA was one of them), the Registrar right after the enactment of the Law sent a letter informing the NPOs of



the amendment of the legislation and inviting them to comply. The letter to KISA was sent on 15/12/2017 guiding the society through the actions to be taken.

6. Despite the time allotted to NPOs since 2017, by the end of 2019 when Cyprus was evaluated by Moneyval, approximately 2,860 out of the 6,000 societies/institutions failed to take any measures to comply by the final date, i.e. by 31/12/2019. According to the Moneyval evaluation for Cyprus which was completed at the end of 2019 and recorded in the report titled "Anti-money laundering and counter-terrorist financing measures- Cyprus- Fifth Round Mutual Evaluation Report", Cyprus was rated Partially Compliant for the NPO sector which is a very low score. The score was something expected since with the continuous extensions allotted to NPOs by the House of Representatives, the Ministry of Interior was unable to proceed to the next step required by the FATF guidelines, i.e. identify high-risk NPOs and methodically proceed to further evaluation based on a risk based approach. On the contrary, at the end of 2019 even the so-called first evaluation of NPOs that replied to this call had just been partially completed, i.e. the evaluation of compliance of statutory documents with the new Legislation, which was considered as an important but insufficient first step.
7. Please take into consideration that the legislation in force –before the latest amendment- provided that, after the expiration of the deadline, i.e. 31 December 2019, non-complying NPOs would be deleted from the register and therefore, would be deprived of their legal capacity upon the conclusion of the dissolution process (see paragraph 4 above). Therefore, in December 2019, KISA would have lost the possibility to operate as a legal person, despite the repeated at the time announcements of both the Ministry of Interior and the Commissioner for Volunteerism and Non-governmental Organizations inviting NPOs to comply.
8. However, a new amendment of the basic law passed in 2020 providing for an additional grace period for the NPOs that failed to comply by 31/12/2019. Furthermore, when the final deadline was expired in October 2020 non-complying NPOs were subject to dissolution -which will take place before a Court of law-, and upon that will be deleted from the Registry and deprived of their legal capacity - when dissolution is completed. Therefore, in December 2020 KISA was included in the Notification which listed the NPOS to be **subject to dissolution**, because of their failure to comply with the minimum requirements prescribed in law. The inclusion in the Notification is, consequently, limiting their ability to proceed in a number of legal acts. The Notification included other 2,200 –approximately- NPOs which despite the repeated announcements failed to comply. Please note that between this last grace period 600 approx complied. Currently, out of these 2200 NPOs, KISAs administrative recourse is the only one pending before Cyprus Courts challenging the aforementioned Notification.
9. Please also note that among those NPOs that complied before 31<sup>st</sup> of December 2020 or between 27/08/2020 and 26/10/2020 and therefore remained in the register are NPOs with exact the same activities as KISA (supporting of migrants and combatting racial discrimination and xenophobia). On the other hand, there was not a single NPO that did not submit amended articles of association as a result



of a legal decision taken in Statutory General Meeting of NPOs and was not removed from the register. Therefore, the paragraphs 2 and 3 of the fourth page of your letter do not reflect the decisions of the Ministry. KISA during examination of its case before Administrative Court exercised its right to confirm the above allegations by inspecting physically the files of NPOs that their lawyer had chosen to inspect and no cases of unfair treatment were identified.

10. Specifically, for KISA the following is noted:

- i. During this period, i.e. from June 2017 to 26/10/2020, KISA failed to submit its updated statutes adopted in a legal statutory general meeting of its members;
- ii. Instead of that, on 26/08/2020, the Nicosia Registrar received a letter by fax sent by a citizen who claimed to be the President of the KISA Board, stating that a statutory general meeting had been scheduled for 10/12/2020, i.e. after the final date of 26/10/2020. The association has invoked the pandemic, even though the Law expressly gives the right to pass a decision in a statutory general meeting by obtaining the signed consent of the members and also despite all that time allotted to comply since 2017 .
- iii. Moreover, the term of office of the KISA Board expired on 18/06/2019, without having in the meantime another electoral meeting and the Board failed to perform its duties since 2017. That is to say that as of June 2019, KISA was not operating even under its very own internal legitimation rules, according to its statutes, although it was continuing its action and obtaining from time to time, as it appears to be, European funds.
- iv. Namely, since 2017 KISA had an accumulated pathogen behaviour such as: (a) failure to convene a general meeting since 2017 when the Law entered into force, as requested by article 10 of the Law of 2017, (b) failure to submit to the Registrar a proof of the legal appointment of its administration – and therefore of the association's action, (c) failure to submit audited accounts to the Registrar proving that the association operated on terms of transparency and protection of public interest and (d) it was not operating under revised statutory documents that could ensure transparency, accountancy, democracy and internal legitimation of its bodies which is also the most important.