

**Mandates of the Special Rapporteur 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; and the Special Rapporteur on trafficking in persons, especially women and children**

REFERENCE:  
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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the human rights of migrants; and Special Rapporteur on trafficking in persons, especially women and children, pursuant to Human Rights Council resolutions 41/12, 43/4, 43/16, 43/6 and 44/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received on the deteriorating environment for civil society organizations in Cyprus in the context of the amendment made in 2020 to the Law on Associations and Foundations and Other Related Issues. We are particularly concerned about the alleged deregistration of *Action for Support, Equality and Antiracism* (KISA) from the Register of Associations and Foundations on 14 December 2020.

KISA is a Non-Governmental Organization that provides support to migrants, asylum seekers, victims and potential victims of human trafficking. It also works to combat racial discrimination and xenophobia in Cyprus. Mr. Doros Polykarpou is KISA's Executive Director and a human rights defender who has been the subject of three previous communications sent by various Special Procedures mandate holders. The communications are dated 20 July 2011 (CYP 1/2011), 5 June 2014 (CYP 3/2014), and 21 October 2019 (CYP 2/2019). We thank your Excellency's Government for the replies to these communications dated 15 September 2011, 5 August 2014 and 12 December 2019. Allegations of reprisals against Mr. Polykarpou were also included in the Secretary General's reprisals report (A/HRC/30/29 para. 19 and A/HRC/33/19 para. 40). We remain concerned in light of the new allegations detailed below.

According to the information received:

In 2017 the Law on Associations and Foundations and Other Related Issues entered into force (hereinafter "Law on Associations"). This law, and its following amendments, established 31 December 2019 as the deadline for registered associations to submit the required administrative data in order to prove that they are active. After said date, the associations were required to submit the information within the first quarter of every year.

In August 2020, the Parliament passed an amendment to the Law on Associations. With the enactment of this amendment, and specifically of article

56, the provisions established a new deadline of two months for the submission of administrative data by registered associations. If a registered 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. Being included on this list starts a dissolution process of said NGOs. However, for many NGOs it seemed unclear if only submitting a new constitution would suffice or if both a new constitution and audited accounts needed to be provided. Furthermore, many NGOs had to hold statutory or general assemblies to be able to amend their constitutions, which proved very difficult for some NGOs to organize within the two months' time frame, especially since this took place during the exceptional circumstances created by the Covid-19 pandemic.

On 27 August 2020, the Ministry of Interior announced the start of the process of dissolution by the Registrar of a list of 2,827 associations. The Ministry informed the associations of the possibility to request a nullification of their inclusion on the list by submitting all relevant information within two months. After this period, the Registrars would publish a second notification, proceeding to delete the association from the Register of Associations, Foundations and Clubs.

On 26 October 2020, KISA sent a letter to the Registrar requesting not to be included in the list of non-active associations. KISA informed the Registrar that it continues to be an active association, that it had prepared audited accounts, and that all pending data would be sent after the general meeting of the association that would be held in December of the same year. KISA also asked for an extension in order to be able to hold its general assembly.

On 25 November 2020, KISA sent a supplementary letter communicating to the Registrar the audited accounts of 2000-2018 and the details of the current members of the Steering Committee. In a letter dated 27 November 2020, the Registrar rejected KISA's request for non-inclusion on the list of associations under dissolution, citing that KISA had not submitted data substantiating the reasons for being removed from the list.

On 14 December 2020, KISA was included on the list of associations to be dissolved published by the Ministry of Interior. On 17 December 2020 KISA submitted an appeal to the General Registrar of Associations. The appeal was rejected on 7 January 2021. The decision stated that, under the law, the Registrar of Associations did not have the discretion to provide an extension for KISA to hold its general assembly and submit the audited accounts of 2019 and that providing such an extension would be contrary to the principle of equal treatment. Additionally, it stated that the decision by the Registrar did not violate the right to freedom of association, as this right is protected for natural person only and not for legal persons. Furthermore, nothing would impede natural persons from forming another association.

On 8 January 2021, KISA registered another appeal (Appeal 25/2021), this time to the Administrative Court together with an interim application for the suspension of the decisions of the Registrar and General Registrar of

Associations. The Administrative court asked the General Registrar of Association to submit its position and views on the matter on 15 January 2021. On 10 January 2021, after holding their general assembly, KISA submitted all formal requirements of the law, namely its audited accounts for 2019, amended statutes, and information on the new Steering Committee.

On 20 January 2021, the first hearing on the deregistration of KISA took place before the Administrative Court. The Court suggested withdrawing the application for an interim order and expediting the examination of the main application against the decision to deregister KISA. The first hearing took place on 3 March 2021. The court expressed its intent to treat the matter urgently. At the time of the sending of this communication, no decision has been taken.

It is important to note that since December 2019, KISA and other NGOs working in the field of human rights, and specifically on the topic of migration and asylum seekers in Cyprus have been victims of comments made by the Ministry of Interior that could be considered defamatory. These organizations have been accused of cooperation with terrorist organizations, corruption and being involved in money laundering as well as in a supposed pursued demographic and cultural identity changes of Cyprus. In this context, it appears that KISA has been targeted for its work providing support to migrants and combating racial discrimination and xenophobia.

Without prejudging the accuracy of these allegations, we express grave concern regarding the passing of the Amendment to the Law on Associations and Foundations in July 2020 and the way it was applied thereafter. We would like to emphasize that the suspension and the involuntarily dissolution of an association are the severest types of restrictions on freedom of association. As a result, it should only be possible when there is a clear and imminent danger resulting in a flagrant violation of national law, in compliance with international human rights law, as emphasised in A/HRC/20/27, para. 75. Giving NGOs such a short time frame to submit a substantive amount of documents and furthermore to hold statutory and electoral assemblies to change their constitutions seem to go against the right to freedom of association, enshrined in Art. 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by your Excellency's Government on 2 April 1969. We fail to see the imminent danger that these NGOs posed and that would justify such severe measures in such a short time frame. Article 56 of the amended Law on Associations seemed vague and lacking in clarity, which has a direct impact on the legal certainty and the rule of law. Furthermore, associations whose submissions or applications have been rejected should have the opportunity to challenge the decision before an independent and impartial court (A/HRC/20/27 para. 61).

We are therefore worried about the decision to reject KISA's request for non-inclusion in the list of associations. We consider the reasoning of the decision by the General Registrar for Associations to be very troubling. Especially the fact that no extensions were granted and that it seemed to argue that NGOs, as groups of individuals exercising collectively their right to freedom of association, would fall out from the protection such right provide them with. The Special Rapporteur on freedom of peaceful assembly and association has stated that an association according to Art. 22 ICCPR is "any groups of individuals or any legal entities brought together in order to

collectively act, express, promote, pursue or defend a field of common interests” (A/HRC/20/27 para. 51). This clearly shows that NGOs and other legal entities enjoy the protection of the right to freedom of association.

We have furthermore received information that certain NGOs were removed from the list of NGOs to be dissolved without submitting audited accounts or submitting only outdated accounts. It seems that certain NGOs were also allowed to remain registered by sending a letter mentioning that their constitutions complied with the new law without submitting the actual constitutions. If this was correct, it would strongly suggest that there would have been a discriminatory application of the amended Law on Association to different NGOs.

If the above allegations are confirmed, KISA appears to have been targeted in relation to the exercise of its rights to freedom of association and freedom of expression in support of migrants and combatting racial discrimination and xenophobia in Cyprus. The deregistration of associations prevents it from carrying out its activities; we are hence gravely concerned that these measures do not meet the criteria of necessity and proportionality of the aim pursued set forth in international human rights law, specifically Articles 19 and 22 ICCPR. We furthermore express concern about discussions regarding further legislative amendments which could have a negative impact on the freedoms of association and expression, which could further restrict the work of organizations or individuals providing assistance to migrants.

We reiterate our concerns at potentially defamatory statements made by the Minister of Interior on different occasions since December 2019.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on the legal basis for the rejection of KISA’s appeal against being de-registered and explain how this is compatible with international human rights law, in particular relevant provisions enshrined in article 22 ICCPR
3. Please provide information to what extent KISA and other deregistered associations were an imminent danger for Cyprus’ national security, and how the actions taken against them are in conformity with the fundamental principles of necessity and proportionality regarding their right to association.
4. Please explain in details how the Amendment made in 2020 of the Law on Associations and Foundations and Other Related Issues, particularly

of article 56, is the least intrusive way to receive information from Civil Society Organizations, and specifically, how the short deadline of two months and the process of dissolution are compatible with the proportionality criteria. Furthermore, please explain if all associations need to provide an amended constitution and audited reports and if not, under which conditions audited reports needed to be submitted.

5. Please provide information on the alleged discrepancy in treatment among organizations; in particular, in relation to allegations received that certain associations seem to not have been deregistered despite the fact that Registrar stated that their constitutions were not in conformity with the law.
6. Were civil society organization consulted in the drawing up of and current implementation of the amendment to the Law on Associations? If they were not consulted, please explain why.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

Clement Nyaletsossi Voule  
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Irene Khan  
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

Felipe González Morales  
Special Rapporteur on the human rights of migrants

Siobhán Mullally  
Special Rapporteur on trafficking in persons, especially women and children

## Annex

### Reference to international human rights law

In connection with above alleged facts and concerns, and while we do not wish to prejudge the accuracy of the above-mentioned allegations, we would like to refer to the rights to freedom of peaceful association as set for in Article 20 of the Universal Declaration of Human Rights and in article 22 of the International Covenant on Civil and Political Rights (ICCPR) ratified by Cyprus on 2 April 1969.

We would like to emphasize that any restriction to the right to freedom of association must be compatible with paragraph 2 of article 22 of the ICCPR, which establishes that restrictions are only acceptable if they are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others, and are consistent with other rights recognized in the ICCPR.

We also wish to refer to Human Rights Council Resolution 22/6, which calls upon States to ensure that procedures governing the registration of civil society organizations are transparent, accessible, non-discriminatory, expeditious and inexpensive, allow for the possibility to appeal and avoid requiring re-registration and are in conformity with international human rights law.

Furthermore, we would like to make reference to Human Rights Council resolution 24/5, and in particular operative paragraph 2 that “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

We would also like to further refer to the report of the Special Rapporteur on the right to freedom of peaceful assembly and of association, which states that where a registration license has been rejected, the organization “should have the opportunity to challenge the decision before an independent and impartial court” (A/HRC/20/27, para. 61).

We wish to respectfully recall that the rights to freedom of association and of expression extend to everyone, including migrants and those supporting them regardless of their status. The rights to freedom of association and of expression for migrants and human rights defenders defending their rights are essential to understand migrants’ needs, protect their right to life and defend their economic, social, cultural and other human rights. We emphasise that the work of migrants rights defenders is crucial for migrants, particularly for those in an irregular situation or with vulnerabilities (A/HRC/44/42). Given the interconnected nature of human rights, we are concerned that restrictions on the rights to freedom of expression and association of migrants and those defending them may further hinder migrants’ enjoyment of human rights. Furthermore, the importance of the right to defend the human rights of migrants was recently reaffirmed in a report from the High Commissioner for Human Rights on

principles and practical guidance on the protection of the human rights of migrants in vulnerable situations (A/HRC/37/34). We notably refer to principle 18, which calls on States to “respect and support the activities of human rights defenders who promote and protect the human rights of migrants”.

In this connection, we would also like to draw the attention of your Excellency's Government to the report of the Special Rapporteur on the human rights of migrants on the right to freedom of association of migrants and migrant's rights defenders (A/HRC/44/42, paras. 76-78), in which the Special Rapporteur expressed concern regarding troubling reports that civil society organizations that work with migrants have been subject to nearly impossible onerous administrative obstacles and criminalization as a way of interfering with the work of their organization and dissuading other migrants from organizing. The Special Rapporteur urged States to ensure that administrative barriers and criminal justice laws are not misused to punish migration-related humanitarian acts or to harass civil society organizations that work with migrants. In this regard, the Special Rapporteur further called States to strengthen civil space and create an enabling environment for civil society organizations, including those working on migration and migrants' rights issues.

Furthermore, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. We would also like to bring to the attention of your Excellency's Government article 5(b) of the UN Declaration on Human Rights Defenders, which provides that everyone has the right, individually and in association with others, at the national and international levels to form, join and participate in non-governmental organizations, associations or groups.

We would like to draw the attention of your Excellency's Government to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol), ratified by your Excellency's Government in 2003, through which your Excellency's Government is obliged to refrain from acts which would defeat or undermine the Protocol's objectives and purposes, which include to prevent and combat trafficking in persons, to ensure assistance to victims, to provide effective remedies and to prosecute those responsible.

We wish to recall that the Committee on the Elimination of Discrimination against Women (CEDAW) in its general recommendations No. 38, recommends to “collaborate with civil society organizations, including through strengthening their human, technical and financial resources (...)”.

We would also like to highlight the report of the Special Rapporteur on trafficking in persons, especially women and children to the Human Rights Council in

2018, (A/HRC/38/45). In this context we would like to recall the Special Rapporteur's recommendation in paragraph 71 calling States to ensure that organizations and individuals who assist people on the move are not criminalized or otherwise punished for doing so.

The Council of Europe Convention on Action against Trafficking in Human Beings, which your Excellency's government ratified in 2007, sets important obligations aimed at improving the protection of victims of trafficking, and in particular we would like to refer to article 35 which imposes an obligation to cooperate with civil society to meet the objectives of the Convention and Article 12(5) which relates to provision of assistance to victims, specifically 'to co-operate with non-governmental organisations, other relevant organisations or other elements of civil society engaged in assistance to victims.' We would also like to highlight Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims.

Finally, we would like to refer to the 8th General Report of the Group of Experts on Action Against Trafficking in Human Beings, in particular the thematic section on provision of assistance to victims of human trafficking which specifically highlights role of civil society.