

C.O.N.T.A.C.T.

Desktop research results

Cyprus

Annex 1: Legal provisions, definitions and interpretations

1. Relevant International Legal Provisions in Cyprus context

Note: Cyprus has ratified most United Nations and European Instruments relating to discrimination and racism. Here are some examples as ratified by the Republic of Cyprus

Country	Law	Ratified	Ratification Laws and Legal Provisions to harmonize with International Law.
Cyprus	Protocol No. 12 of the Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols	Ratified	Ratification Law 39/62 The European Convention for the Protection of Human Rights (Ratification) Law of 1962, <i>N.39/62</i>
	The International Convention on the Elimination of All Forms of Racial Discrimination	Ratified	The convention was ratified by the Law 12/67, as amended by Laws 11/92, 6(III)/95 and 28(III)/99 and The Combatting Certain Forms and Expressions of Racism and Xenophobia by means of Criminal Law of 2011, Law No. 134 (I) / 2011 as amended by 87(I)/2015.
	The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or		The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Ratification Law 235/90

	Punishment		
	The European Convention on the Prevention of Torture and Inhuman or Degrading Treatment and Punishment	Ratified	By The Ratification Law 24/89
Cyprus	The Convention of the Council of Europe Against Cybercrime and its Additional Protocol on criminalisation of acts of a racist and xenophobic nature committed through computer systems.	Ratified	By L. 22 (III)/2004 and L. 26 (III)/2004. The Protocol provides that the State Parties are required to criminalise distribution or otherwise make available racist and xenophobic material to the public through a computer system. 26 Article 4 of Law 26(III)/2004, ratifying this Protocol, stipulates: 'that if a person deliberately without a right distributes or with any other way through computer systems makes available xenophobic or racist material which incites or promotes prejudice based on racial differences either hatred either violence, could be convicted with 5 years imprisonment or a fine up to 35,000 Euros or both.'
Cyprus	The Racial Equality Directive 2000/43/EC it concerns European labour law and implements the principle of equal treatment between persons irrespective of racial or ethnic origin.	Ratified	To harmonize Cyprus Law with EC Directive 2000/43/EC the Republic of Cyprus enacted the Equal Treatment (Racial and Ethnic Origin) Law, 2004 (L.59 (I) 2004]. It prohibits discrimination on grounds of racial or ethnic origin, in the public and private sector. Violation of the provisions of this Law is a criminal offence and the person who is a victim of discrimination is entitled to institute civil proceedings.
Cyprus	The International Covenant on Civil and Political Rights	Ratified	By the Ratification Law 14/69
Cyprus	The First and Second Optional Protocols to the International Covenant on Civil and Political Rights.	Ratified	By the Ratification Laws 17(III)/92, 12(III)/99 and 10(III)/03

2. Relevant Legal Provisions in the Cypriot Law

2.1. The Law

Country	The Law	Relevant Legal Provisions and harmonisation with International Law and
Cyprus	The Combatting Certain Forms and Expressions of Racism and Xenophobia by means of Criminal Law of 2011, Law No. 134 (I) / 2011)	<p>In order to transpose the Council Framework Decision 2008/913 / JHA of 28 November 2008 on Combating Certain Forms and Expressions of Racism and Xenophobia by means of Criminal Law of 2011, this was enacted.</p> <p>Under Article 1 any person who deliberately transmits in public and publicly incites, in any way, violence or hatred against a group of people or a member of a group, which is determined on the basis of race, colour, religion, genealogical origin, national or ethnic origin, in such a way to cause public disorder, or that has a threatening, abusive, or offensive character, is liable of up to five (5) years of imprisonment, or a fine up to ten thousand euros (10,000), or both in case of conviction.</p>
Cyprus	LAW AMENDING THE CRIMINAL LAW 87(I)/2015 http://www.cylaw.org/nomoi/arith/2015_1_87.pdf	<p>The law has been amended under the Law amending the criminal code with the addition of the new article 99 A which reads as follows:</p> <p>Under article 99A any person who intentionally, publicly and in a manner which is threatening or abusive or insulting incites or instigates orally or through the press or via any document or picture or by any other means, violence or hatred directed against a group of persons or a member group of persons who are determined on the basis of their sexual orientation or gender identity, shall be guilty of an offense and, on conviction, shall be liable to imprisonment not exceeding three (3) years or to a fine not exceeding five thousand euros (5,000) or to both such penalties.</p>

<p>Cyprus</p>	<p>Law No. 42(I) of 2004 implementing Directive 2000/43/EC of 2000-06-29 to combat racial and other kinds of discrimination (Commissioner for Administration).</p>	<p>The Law prohibits discrimination on the basis of race, sex, origin, ethnicity, language, colour, religion, age, sexual orientation and political or other opinion in both the public and private sectors.</p> <p>It establishes enforcement procedures which provide direct recourse to redress for both natural and legal persons and provides for penalties in the event of violation. The outright application and enforcement of the law rests with the Commissioner of Administration/Ombudsman).</p> <p>It appoints the Commissioner of Administration or Ombudsman, an independent officer appointed by the President of the Republic, as the specialized body to</p> <ul style="list-style-type: none"> (i) combat racist and indirectly racist discrimination as well as discrimination forbidden by law and generally discrimination on the above mentioned grounds (ii) promote equality of the enjoyment of rights and freedoms safeguarded by the Cyprus Constitution (Part II) or by one or more of the Conventions ratified by Cyprus and referred to explicitly in the Law irrespective of 'race', community, language, colour, religion, political or other beliefs, national or ethnic origin⁵³ and (iii) promote equality of opportunity in the areas of employment, access to vocational training, working conditions including pay, membership to trade unions or other associations, social insurance and medical care, education and access to goods and services including housing. <p>It is to be noted that the Law vests the Ombudsman with powers beyond those prescribed by the two EU Directives as the designated Equality Body of Cyprus:</p> <ul style="list-style-type: none"> -the power to receive and investigate complaints of discriminatory treatment, behaviour, regulation, condition, criterion or practice prohibited by law; the power to issue Reports of findings; -the power to issue orders (through publication in the Official Gazette)
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		<p>for the elimination within a specified time limit of the situation which directly produced discrimination, although such right is somewhat limited by a number of exceptions.</p> <p>The Ombudsman’s decisions can be used for the purposes of obtaining damages in a district court or at an employment tribunal. (see Trimikliniotis 2009)</p>
Cyprus	Radio Television Law 7(I)/98 COMBATING OF RACISM & DISCRIMINATIONS	30. Stations have an obligation to ensure that their broadcasts shall not include any incitement to hatred due to differences in race, gender, religion or citizenship.

2.2. Other Regulatory acts

Country	The Regulatory act	Content
Cyprus	The Radio and Television Stations Regulations of 2000, (Regulatory Act 10/2000)	Regulation 26 Contents of entertainment programmes “In entertainment broadcasts there shall be forbidden –... (m) the broadcast of programs insulting to the dignity of the two genders, racial, national, religious, groups or individuals with special needs.”

2.3 Relevant Legal Provisions in the Cypriot Criminal Code (CAP.154):

Country	Section/ Paragraph	
Cyprus	Section 47	Section 47 of the Criminal Code provides that any person who publishes any words or documents or makes any visible representation whatsoever with a seditious intention is guilty of a felony and is liable to imprisonment for five years.
Cyprus	Section 48(f)	- Under the provisions of Section 48(f) intention to promote feelings of ill will and hostility between different communities or classes of the population of the Republic, is deemed to be seditious intention for purposes of the above offence under S.47.
Cyprus	Section 51	Sections 51 and 51A of the Criminal Code also provide as follows: 51(1) Any person who prints, publishes, or to any assembly makes any statement calculated or likely to – (a) encourage recourse to violence on the part of any of the inhabitants of the Republic of Cyprus; or (b) promote feelings of ill will between different classes of communities or persons in the Republic of Cyprus, is guilty of misdemeanour and is liable to imprisonment for twelve months.
Cyprus	Section 51A(1)	Any person who publicly in any manner and in any way procures the inhabitants to acts of violence against each other or to mutual discord or foments the creation of a spirit of intolerance, is guilty of a misdemeanour and is liable to imprisonment for twelve months or to a fine of one thousand pounds or to both such penalties, and if a body corporate to a fine of three thousand pounds.

	Section 138	The destruction, damaging or defiling of any place of worship or any object which is held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion.
	Section 142	The publication of a book or pamphlet or any article or letter in a newspaper or magazine which is perceived by a group of people as a public insult to their religion, with intent to ridicule such religion or to shock or insult its followers. Prosecution based on this provision can be instigated only by the Attorney-General or with his consent.
	Section 149	The uttering of any word or the making of any sounds with the deliberate intention of wounding the religious feelings of any person in the hearing of that person, or any gesture in the sight of that person, or the placing of an object in the sight of that person.

3. Relevant Case law

Country	Name and number of case / judgment	Provided by whom	What did they say
Cyprus	CASE OF SIGMA RADIO TELEVISION LTD. v. CYPRUS (Applications nos. 32181/04 and 35122/05)	European Court of Human Rights (Fifth Section)	European Court of Human Rights decision rejected as ‘inadmissible’ and ‘manifestly ill-founded’ Sigma TV’s complaint (Sigma TV) that its freedom of expression had been violated by the Cyprus Radio and Television Authority (CRTA). The various violations included racist and discriminatory remarks in an entertainment series. One episode of an entertainment series had characters saying that Paphos was “a whores’ town” with thousands of prostitutes. “All of the Greek (called kalamaroudes), that we imported then, like we import Russian women

			<p>nowadays,” as one of the characters said. Another character said that “in the old times, in Limassol it was all Arabs, Phoenicians, houllou, ya habbib, all of them. Most of them were darker than chocolate...” Sigma was given a fine amounting to the equivalent of €3,450 for that episode.</p> <p>“The Court takes note of the CRTA’s concerns about the racist and discriminatory tone of the remarks made. It further emphasises that it is particularly conscious of the vital importance of combating racial and gender discrimination in all its forms and manifestations (see <i>Nachova and Others v. Bulgaria</i> [GC], nos. 43577/98 and 43579/98, § 145, ECHR 2005-VII). Even though it appears that the remarks in question were made in the context of a fictional entertainment series, the Court considers, in view of their content, and in the absence of sufficiently detailed information about the programme and specific observations on the part of the applicant, that the CRTA could not be said in the circumstances to have overstepped its margin of appreciation in view of the profound analysis at the national level. In this connection, the Court also attaches importance to the fact that the applicant did not make any submissions at all in the proceedings before the CRTA in the case (see point 26 of the Annex) and that it did not submit observations before the Court disputing the necessity of the interference with its right to freedom of expression in so far as this programme was specifically concerned.”</p>
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4. Definitions and interpretations of hate crime (including hate speech)

a) In law and the Police

Country	Definitions	Provided by whom	What do they say
Cyprus	The actual term hate crime or hate speech is not present in the Constitution of the Republic of Cyprus	ELSA report 2013 http://files.elsa.org/AA/Final_Report_OHS_Final.pdf	<p>The Constitution of the Republic does not make an explicit reference to hate speech. However as far as online hate speech is concerned the researchers pointed out :</p> <p>“Nevertheless, combined readings of Article 19 on freedom of speech and expression and Article 28 on equality before the law of the Constitution, in conjunction with legislation set out above, give an indication of the legal parameters that could potentially regulate the use of online hate speech.</p> <p>Article 19 of the Cypriot Constitution, which is akin to Article 10 of the European Convention on Human Rights, provides as follows:</p> <ol style="list-style-type: none"> ‘1. Every person has the right to freedom of speech and expression in any form. 2. This right includes freedom to hold opinions and receive and impart information and ideas without interference by any public authority and regardless of frontiers. 3. The exercise of the rights provided in paragraphs 1 and 2 of this Article may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary only in the interests of the security

			<p>of the Republic or the constitutional order or the public safety or the public order or the public health or the public morals or for the protection of the reputation or rights of others or for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary.’</p> <p>As is evident from Article 19(3), freedom of expression in Cyprus is a qualified, not an absolute, right. Accordingly, Article 3(1) of Law 134(I)/2011 restricts the right of freedom of speech and expression. The restriction therein, is not unconstitutional; it is justified, as it is prescribed by law and necessary in a democratic society in order to protect other members of the society from being discriminated against, as well as protecting the right to privacy and the right of peaceful assembly.”</p>
Cyprus	<p>Only the term ‘Hate’ is defined as follows: “ hate that is based on race, colour, religion, genealogical original or ethnic origin”</p>	<p>The Law No. 134(I) of 2011 ((Recital 9)</p>	
Cyprus	<p>It relates the terms discrimination, racism and xenophobia with the following characteristics :</p> <ol style="list-style-type: none"> 1. Race 2. Community, 3. Language 	<p>Minister of Justice and Public Order Police Standing Order 3/38, www.osce.org/odihr/33989?download=true See also Report issued by the Ministry of Justice and Public Order in 2009 http://www.mjpo.gov.cy/mjpo/mjpo.nsf/B48720EF992B7010C22579B30024567D/\$file/010C22579B30024567D/\$file/CombatingRacismIntoleranceXenophobia-</p>	<p>Any offence shall be defined and registered as racially motivated if it is reported or perceived as such by:</p> <ol style="list-style-type: none"> 1. the victim, or 2. a person acting on behalf of the victim, or 3. a person who was present and witnessed the incident, or

	<p>4. Colour, 5. Religion, 6. Political or other beliefs 7. Ethnic origin 8. Special needs 9. Age 10. Sexual orientation 11. Gender</p>	<p>ComprehensiveReport%20b%E2%80%A6.pdf</p>	<p>4. a member of the Police, or 5. the Ombudsman</p>
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b) Definitions of hate crime and hate speech (including racism and homophobia) found in speeches by the Ombudsperson and other official documents or raising awareness leaflets published by Cypriot authorities.

Country	Definitions	Provided by whom/ in the occasion of	What do they say / comments
Cyprus	<p>Hate crimes: ... are crimes which are committed against persons, not because of their individual attitudes or behaviour, but on the ground of hostility and prejudice which is directed against racial, ethnic, religious etc. identity.</p>	<p>Ombudsperson in a press release on hate incidents against members of the Turkish Cypriot community committed by Greek Cypriot pupils on 16 November 2015</p>	<p>Such crimes are blind and spontaneous strokes, often organized and interconnected with activities of extreme groups that generally target diversity.</p> <p>[...] Their aim [of extreme groups] is not only to attack the victim and his dignity, and the dissemination of fear throughout the group to which the victim belongs. Therefore, underestimating such incidents and not taking effective reaction on the part of the state, triggers to both real and potential victims a sense of abandonment and isolation [...]</p>
Cyprus	<p>Homophobia is fear, disgust or discrimination against</p>	<p>By Ombudsperson in a speech on</p>	<p>Homophobia includes even hatred, hostility, or disapproval of homosexual men, homosexual behaviour, which leads to the manifestation of intolerance. It often</p>

	homosexuality or against homosexuals.	homophobia Grammar School November 2012	manifests itself in a very dangerous manner, such as through verbal violence and homophobic hate crimes such as assaults, beatings and even murders.
Cyprus	homophobic bullying is considered as victimization of persons on the ground of their sexual orientation or implied sexual orientation	By Ombudsperson in a speech on homophobic incidents and speech at schools. (2015)	
Cyprus	Racist incident: is any incident perceived as racist by the victim or another person.	Ministry of Education http://www.moec.gov.cy/agogi_ygeias/pdf/kodikas_symperiforas/kodikas_symperiforas_ratsismou.pdf	It is a broader concept of the offense or offenses, since racist incident can include behaviors which if not linked to a particular characteristic of the victim, would possibly not be considered as delinquent. Usually the objective or outcome of racist incidents is the marginalization, exclusion or discrimination against persons
Cyprus	Racism "A complex of perceptions, attitudes, behaviors or statutory measures which force some people to slave living, because they belong to a distinct category of people. The diversity of the group which often but not always tagged with an alleged	Ministry of Education http://www.moec.gov.cy/stochoi/stochoi_2015_2016/2os_stochos_2015_2016.pdf	On the negative effects of racism <ul style="list-style-type: none"> • It brings oppression, injustice, social exclusion ; • It goes against the basic principles of democratic societies and threatens the peaceful future; • It undermines the functioning of the Human School; • "... The marginalization of students characterized by diversity has an impact not only on the victims of racism, but in the entire school population and society at large, even on the bullies

	inferiority and / or risk is used to justify discriminations. "		
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c) Other examples of interpretations of hate crime (including hate incident and speech) by experts

Country	Definition	Provided by whom/ when	What did they say / or comments
Cyprus	Hate crime is when person is subject to physical or verbal attack which is motivated by prejudice against that person on the ground of a particular characteristic, as defined by the European Union Agency for Fundamental Rights	By Promitheas Research Institute in their project http://www.nohatespeechmovement.org/	
Cyprus	Racist discourse as being manifested either in the official speech of the state, or at political / educational / academic / scientific or media level or at an interpersonal everyday level shall be judged by its outcomes : 1. it expresses and reproduces racist ideologies which legitimize racist practices: therefore it happens what the law in particular prohibits – to promote racial hatred. 2. it creates a racist climate that is intimidating, hostile, humiliating or degrading for specific population groups on grounds of race or ethnic	Given By Dr N. Trimikliniotis Director of National Focal Point on <i>RAXEN</i> Network (within the framework of a complaint about racist discourse in the Cypriot media sent to the Committee of Media Deontology in Cyprus http://www.cmcc.org.cy/Decisions/index_2008_files/17_2008.ht	

	origin.		
Cyprus	Hate speech consists in all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including intolerance expressed by intolerance, nationalism and, discriminations and hostility against minorities, migrants and people of immigrant origin."	Cited in the project by Promitheas Research Institute http://www.nohatespeechmovement.org/	The definition replicates the definition given by the Council of Europe on hate speech (RECOMMENDATION No. R (97) 20) which is as follows: "Hate speech, should be understood as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin."