

# COUNTRY REPORT

## IMMIGRATION DETENTION IN

### CYPRUS: RECEPTION CHALLENGES IN

#### EUROPE'S NEW GATEWAY

AUGUST 2019

 GLOBALDETENTIONPROJECT





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### **IMMIGRATION DETENTION IN CYPRUS: RECEPTION CHALLENGES IN EUROPE'S NEW GATEWAY**

*AUGUST 2019*

## THE GLOBAL DETENTION PROJECT MISSION

The Global Detention Project (GDP) is a non-profit organisation based in Geneva that promotes the human rights of people who have been detained for reasons related to their non-citizen status. Our mission is:

- To promote the human rights of detained migrants, refugees, and asylum seekers;
- To ensure transparency in the treatment of immigration detainees;
- To reinforce advocacy aimed at reforming detention systems;
- To nurture policy-relevant scholarship on the causes and consequences of migration control policies.

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**Front cover image:** Larnaca Police Station, which continues to be used to confine immigration detainees © Global Detention Project

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## GLOSSARY

<b>AIL</b>	Aliens and Immigration Law
<b>CPT</b>	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)
<b>FWC</b>	Future World Centre
<b>HRC</b>	UN Human Rights Committee
<b>OPCAT</b>	UN Convention against Torture and its Optional Protocol
<b>SPT</b>	UN Subcommittee on the Prevention of Torture





## KEY FINDINGS

- There is no maximum time limit for the detention of asylum seekers.
- When a detainee applies for asylum, a new detention order is issued under the automatic presumption that the application was filed for the sole purpose of obstructing the enforcement of a return decision.
- “Re-detention” is common.
- There is no automatic judicial review of prolonged detention.
- Cyprus employs the concept of “prohibited immigrant,” which is also used in the laws of other commonwealth countries like Malta.
- Despite the transposition of the Returns Directive in 2011, some provisions that date back to British colonial laws have not been amended, hence migration law contains a double set of provisions.
- The country’s sole dedicated detention centre has been criticised for having a carceral environment and prison-like atmosphere.
- The country continues using police stations for immigration detention, albeit for a short term.



## 1. INTRODUCTION

Although the Republic of Cyprus is one of only a small number of EU member states that have yet to join the Schengen visa-free zone, the country is quickly becoming an important gateway for migrants and refugees as other routes into the EU have been blocked. With a small population of less than a million inhabitants, the country now has the highest number of asylum applications per capita in the region.<sup>1</sup> As the number of new asylum applications has dropped to pre-2015 levels in most of the EU,<sup>2</sup> Cyprus has witnessed significant increases, from 2,940 applications in 2016 to 7,765 in 2018.<sup>3</sup>

UNHCR has expressed concern that the rising numbers of arrivals may lead to a reception crisis in Cyprus. There are increasing numbers of people living rough on the streets, without access to shelter and food. With the country's only reception centre—located in Kofinou (of capacity of 350)—stretched beyond capacity, the government announced plans in mid-2019 to set up two additional centres. The country also said that it would establish a “transit zone” at its border with Turkey (like at international airports) where asylum applications would be swiftly processed and access denied to those who do not qualify for asylum.<sup>4</sup>

These growing challenges spurred Cyprus to ask the EU to relocate 5,000 asylum seekers in August 2019, in addition to its efforts to establish ad-hoc voluntary relocation schemes with other countries, which have met with little success. In its request for relocation, the Cypriot Interior Ministry stressed that the country is making efforts “to protect its EU border and curtail migration” and reduce “migratory influx.”<sup>5</sup> The number of people denied entry to Cyprus increased fourfold between 2016 and 2018, from 565 in 2016, to 1,425 in 2017, and 2,025 in 2018.<sup>6</sup>

The situation has also led to growing tensions between Cyprus and Turkey. Nearly half of arriving asylum seekers cross the “green line” separating the Republic of Cyprus from

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<sup>1</sup> B. Bathke, “Cyprus is Becoming New Entry Point for Migrants Trying to Reach the EU,” *InfoMigrants*, 3 May 2019, <https://www.infomigrants.net/en/post/16644/cyprus-is-becoming-new-entry-point-for-migrants-trying-to-reach-the-eu>

<sup>2</sup> Eurostat, “Asylum Statistics,” 2019, <https://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>

<sup>3</sup> Eurostat, “Asylum and Managed Migration,” 2019, <https://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>

<sup>4</sup> P. Tamma, “Cyprus’ Refugee Crisis Risks Boiling Over,” *Politico*, 10 July 2019, <https://www.politico.eu/article/cyprus-buffeted-by-influx-of-asylum-seekers-kofinou-camp-migration/>

<sup>5</sup> J. Barigazzi, “Cyprus Asks Brussels to Relocate 5,000 Asylum Seekers,” *Politico*, 6 August 2019, <https://www.politico.eu/article/cyprus-migrant-crisis-asks-brussels-to-relocate-5000-asylum-seekers/>

<sup>6</sup> Eurostat, “Database,” 2019, <https://ec.europa.eu/eurostat/data/database>

Turkish-administered Northern Cyprus, which is patrolled by the UN Peacekeeping Force in Cyprus (UNFICYP). Ankara does not enforce the so-called EU-Turkey deal, which addresses refugees and migrants arriving to Greek Aegean Islands, with respect to Cyprus.<sup>7</sup> Cyprus has accused Turkey of not only tolerating people crossing the border but also of having a policy of “institutionalized” smuggling.<sup>8</sup>

As a matter of policy, Cyprus grants Syrians—who account for nearly a quarter of asylum applicants<sup>9</sup>—subsidiary protection rather than refugee status. This does not entitle them to family reunification and leaves many family members resorting to smugglers and attempting to reach the island by boat.<sup>10</sup> According to UNHCR, 2018 saw a significant increase in such arrivals—while there were nine cases of boats arriving in 2017, more than 30 arrived in 2018.<sup>11</sup> Cyprus has also resorted to using detention in many asylum cases. Aside from Syrians,<sup>12</sup> people intending to apply for asylum can be detained for irregular entry or stay.<sup>13</sup>

Like in Malta, Cyprus has not removed all vestiges of British colonial law from its immigration legislation and still provides for a category of “prohibited immigrant.” While the country transposed the Returns Directive in 2011, with its maximum length of detention and procedural safeguards, some antiquated colonial-era legal provisions have not been amended. Consequently, depending on the article under which detention is ordered, migrants and asylum seekers in Cyprus can still be subjected to indefinite detention, weak procedural safeguards, and lack of access to legal aid.

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<sup>7</sup> B. Bathke, “Cyprus is Becoming New Entry Point for Migrants Trying to Reach the EU,” *InfoMigrants*, 3 May 2019, <https://www.infomigrants.net/en/post/16644/cyprus-is-becoming-new-entry-point-for-migrants-trying-to-reach-the-eu>; J. Barigazzi, “Cyprus Asks Brussels to Relocate 5,000 Asylum Seekers,” *Politico*, 6 August 2019, <https://www.politico.eu/article/cyprus-migrant-crisis-asks-brussels-to-relocate-5000-asylum-seekers/>

<sup>8</sup> Eurostat, “Asylum and Managed Migration,” 2019, <https://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>

<sup>9</sup> Cyprus Refugee Council, “Cyprus: Country Report,” *Asylum Information Database (AIDA) and the European Council on Refugees and Exiles (ECRE)*, 20 March 2019, <http://www.asylumineurope.org/reports/country/cyprus>; J. Barigazzi, “Cyprus Asks Brussels to Relocate 5,000 Asylum Seekers,” *Politico*, 6 August 2019, <https://www.politico.eu/article/cyprus-migrant-crisis-asks-brussels-to-relocate-5000-asylum-seekers/>

<sup>10</sup> Cyprus Refugee Council, “Cyprus: Country Report,” *Asylum Information Database (AIDA) and the European Council on Refugees and Exiles (ECRE)*, 20 March 2019, <http://www.asylumineurope.org/reports/country/cyprus>

<sup>11</sup> B. Bathke, “Cyprus is Becoming New Entry Point for Migrants Trying to Reach the EU,” *InfoMigrants*, 3 May 2019, <https://www.infomigrants.net/en/post/16644/cyprus-is-becoming-new-entry-point-for-migrants-trying-to-reach-the-eu>

<sup>12</sup> Since 2014, Syrians have been protected against detention, see: Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles*, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

<sup>13</sup> Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles*, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>





## 2. LAWS, POLICIES, PRACTICES

**2.1 Key norms.** The main piece of legislation regulating migration in Cyprus is the Aliens and Immigration Law (CAP 105) (AIL) (*Ο περί Αλλοδαπών και Μεταναστεύσεως Νόμος (ΚΕΦ. 105)*), which was first approved in the 1950s when Cyprus was still under British rule. The AIL derives heavily from the United Kingdom's colonial legal system. When Cyprus transposed the EU Returns Directive in 2011, the Directive was essentially copied into the AIL and a series of new provisions were inserted in this long-standing legislation. No effort, however, has been made to amend the original colonial sections of the law to align them with the new legislation. For instance, like other former British colonies—including Malta, Australia, Malaysia, Tanzania, Singapore, and Nigeria<sup>14</sup>—the AIL contains a category of “prohibited immigrant” (see below “Grounds for detention.”)<sup>15</sup> The regime applicable to “prohibited immigrants” applies to people who are considered as outside of the scope of the Returns Directive.<sup>16</sup> Hence, like in Malta, Cypriot legislation sets out a double set of provisions.

A second key piece of legislation is the Refugee Law (*Ο περί Προσφύγων Νόμος του 2000 (6(I)/2000)*). The Refugee Law regulates the asylum procedures as well as the conditions for the detention of asylum seekers.

**2.2 Grounds for detention.** According to Article 14 of the AIL, “prohibited immigrants” may be detained pending removal. Article 6(1) outlines 13 instances in which a person is to be considered a prohibited immigrant: (a) any destitute person; (b) an insane or feeble-minded person or any person who is unable to take proper care of themselves; (c) a person who has been certified by a medical specialist to be suffering from a contagious or infectious disease which, in the opinion of the medical specialist, is a danger to public health; (d) any person who has been convicted of murder or a criminal offence (and hasn't been pardoned) and for which they have been sentenced for any length of time in prison; (e) any prostitute or anyone living from prostitution; (f) any person considered undesirable by the government; (g) any person that Cyprus considers may danger peace, public safety, legal order, or public

<sup>14</sup> See: M. Allen, “Innocents Abroad’ and ‘Prohibited Immigrants’: Australians in India and Indians in Australia, 1890 – 1910,” in A. Curthoys and M. Lake, *Connected Worlds: History in Transnational Perspective*, 2005, <https://www.jstor.org/stable/pdf/j.ctt2jbkp3.11.pdf>; A. Bashford, “Immigration Restriction: Rethinking Period and Place from Settler Colonies to Postcolonial Nations,” *Journal of Global History*, 9(1), 12 February 2014, <https://bit.ly/2K83dNp>

<sup>15</sup> F. Bertin., E. Fotanari, and L. Gennar, “At the Limen: The Implementation of the Return Directive in Italy, Cyprus and Spain,” *EACEA-Education, Audiovisual and Culture Executive Agency*, December 2013.

<sup>16</sup> C. Demetriou and N. Trimikliniotis, “National Synthesis Report: Cyprus,” *Odysseus Network, Redial Project*, 2017.

ethos, or could ignite hate in Cyprus or conspire against Cypriot authority; (h) any member of an unlawful association as defined by Article 63 of the Criminal Code; (i) any person that has been removed from Cyprus under any law in force at the date of their deportation; (j) any person whose access to Cyprus is prohibited based on any active law; (k) any person who has entered or resided in Cyprus in violation of any prohibition, condition, provision, or restriction included in the AIL or any other permit that has been provided under this law or these regulations; (l) any person who, if they wish to enter Cyprus as an immigrant, does not have an immigrant permit as well as a passport containing a consular visa; (m) any person who is considered a prohibited immigrant under the AIL.

Article 18ΠΣΤ of the AIL, introduced in 2011, transposed the Returns Directive and provided two grounds for pre-removal detention: (a) when there is a risk of absconding; and (b) if the third-country national avoids or hampers the preparation of the return or removal procedure.

Article 13 of the AIL also provides for the possibility of detaining a non-citizen upon refusal of entry into Cyprus pending their removal.

A coalition of Cypriot NGOs has argued that there is a lack of consistency on the legal grounds used to justify detention, which are based on a range of provisions in immigration laws (Articles 6 and 14 of the AIL), the Returns Directive (Article 18ΠΣΤ of the AIL), and the Refugee Law (Article 9ΣΤ).<sup>17</sup> According to observers, non-citizens in irregular situation are systematically detained. There is no individual examination of the circumstances of the case and the risk of absconding is automatically relied on.<sup>18</sup>

**2.3 Criminalisation.** According to Article 19 (2) of Chapter 105 of the AIL, a prohibited immigrant who is apprehended in Cyprus is guilty of a criminal offence and can be subject to up to three years' imprisonment and/or a maximum fine of 5,000 CYP (approximately 8,540 EUR). As Cypriot experts observed, this provision opens up possibility to criminalise the mere fact of being in an irregular situation under the extensive list of criteria under Article 6.<sup>19</sup>

**2.4 Asylum seekers.** Asylum seekers may be detained under both the Refugee Law and under the AIL.

In 2016, the Refugee Law was amended to transpose the EU Reception Conditions Directive. Article 9ΣΤ(2) of the Refugee Law lays down grounds for detention of asylum seekers, which reflect the grounds under the Directive, notably (a) to establish their identity or nationality; (b) to identify information upon which an application is based, which could not be obtained otherwise, in particular if there is a risk of absconding; (c) to decide, through a procedure, the right of an applicant to enter the territory; (d) when the person has already been placed in pre-removal detention under Articles 18ΟΓ to 18ΠΘ of the AIL and there are reasons to believe that the person is applying for international protection to delay or prevent

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<sup>17</sup> Cyprus Refugee Council, The Mediterranean Institute of Gender Studies, Caritas Cyprus, and ACCEPT LGBT Cyprus, "Joint Submission by the Cyprus Refugee Council, The Mediterranean Institute of Gender Studies, Caritas Cyprus, ACCEPT LGBT Cyprus for the Universal Periodic Review: 3rd Cycle, 32nd Session. Nicosia, Cyprus." June 2018, <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=5973&file=EnglishTranslation>

<sup>18</sup> C. Demetriou and N. Trimikliniotis, "National Synthesis Report: Cyprus," *Odysseus Network, Redial Project*, 2017.

<sup>19</sup> C. Demetriou and N. Trimikliniotis, "National Synthesis Report: Cyprus," *Odysseus Network, Redial Project*, 2017.

the enforcement of a return decision; (e) when required to protect national security or public order; (f) in accordance with Article 28 of the Dublin Regulation.

In 2018, the Refugee Law was amended to introduce Article 9ΣΤδiς which includes provisions for the detention of asylum applicants under the Dublin procedure and enumerates circumstances which may reveal a risk of absconding (which constitutes a ground for detention). These are; (a) non-compliance with a previous return decision under the AIL; (b) non-compliance or interference with a Dublin transfer; (c) justified reasons to believe that the person intends not to comply or interfere with a Dublin transfer; (d) provision of false or misleading information; (e) a conviction recorded in a register of Cyprus or of another state which is such as to suggest that the person concerned may escape; (f) prior expulsion, return, or removal; (g) provision of a false statement concerning the address of habitual residence; (h) previous absconding; (i) departure from a reception centre; (j) impossibility of locating a declared address or telephone number, or failure to communicate a change of address within the prescribed time limit; (k) provision of false information during the Dublin interview; (l) deliberate destruction of identity or travel documents, or failure to cooperate with Cypriot authorities in establishing identity or nationality.<sup>20</sup>

According to the Cypriot Refugee Council, the first detention orders under the amended Refugee Law were given in late 2017. In 2018, the number of non-citizens detained under it increased, however the practice was still not uniform as some asylum seekers were still detained under the AIL.<sup>21</sup> For asylum seekers detained under Article 14 of the AIL, the most commonly applied instances used to justify declaration of being a “prohibited immigrant” are<sup>22</sup> (i) any person that has been removed from Cyprus under this law or any other law in force at the date of his deportation; (k) any person who has entered or resided in Cyprus in violation of any prohibition, condition, provision or restriction included in this law or any other permit that has been provided under this law or these regulations; and (m) any person who is considered a prohibited immigrant under the AIL.<sup>23</sup>

Since 2019 however, the Cypriot Refugee Council reports that all detainees, regardless of the initial grounds for detention, are issued a detention order under the Refugee Law when they apply for asylum from detention, under the presumption that that the application was filed for the sole purpose of obstructing the enforcement of a returns decision.<sup>24</sup>

While there are no official figures on the number of detained asylum seekers, the Cypriot Refugee Council observed during their 2017 monitoring visits that approximately 40 were

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<sup>20</sup> Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles*, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

<sup>21</sup> Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles*, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

<sup>22</sup> Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles*, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

<sup>23</sup> Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles*, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

<sup>24</sup> Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles*, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

detained at any one time. This increased to an average of 60 in 2018 and peaked in June that year when 91 asylum seekers were detained.<sup>25</sup>

**2.5 Children.** Although Article 9ΣΤ of the Refugee Law states child asylum seekers cannot be detained, the AIL does not forbid the detention of children. Article 18ΠΗ, mirrors the Returns Directive as it provides that families with children and unaccompanied minors must only be detained as a last resort and for the shortest possible period of time. Further, it provides that the best interest of the child should be taken into primary consideration when detaining minors pending removal.

According to official sources, in practice, Cyprus does not detain children, single parents of minors, or parents who are the sole supporters of a family. During its visit to Cyprus in February 2017, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) confirmed that mothers with children and unaccompanied children were not being detained.<sup>26</sup> According to the data provided by the Interior Ministry, no child (accompanied or unaccompanied) was detained in Cyprus between 2013 and 2016.<sup>27</sup> Similarly, the Cyprus Refugee Council stated that asylum seeking children are not detained in practice.<sup>28</sup> Until 2016, unaccompanied children were reportedly detained as adult “prohibited immigrants” when using false documents, which showed that they were above the age of 18, in attempts to leave the country. However, it has been reported that since 2016 children are released when they state that they are in fact younger than 18.<sup>29</sup>

However, in 2015, the UN Human Rights Committee (HRC) expressed concern over the detention of women who were being separated from their young children.<sup>30</sup>

**2.6 Other vulnerable groups.** Cypriot law does not forbid the detention of other vulnerable persons, such as pregnant women, elderly persons, and victims of torture or trafficking. Paragraph 14 of Article 9ΣΤ of the Refugee Law provides that the health and mental health of detained vulnerable applicants shall be monitored regularly, and adequate support shall be provided. However, NGOs have pointed out that there is a lack of effective identification mechanisms for vulnerable persons who are therefore often only identified once they are placed in detention.<sup>31</sup>

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<sup>25</sup> Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles*, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

<sup>26</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report to the Government of Cyprus on the Visit to Hungary Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 2 to 9 February 2017, CPT/Inf (2018)16, 26” April 2018, <https://rm.coe.int/16807bf7b4>

<sup>27</sup> EMN NCP (Ministry of the Interior) “The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards,” *European Commission*, 25 May 2017, [https://ec.europa.eu/home-affairs/emn-document-country/cyprus\\_en](https://ec.europa.eu/home-affairs/emn-document-country/cyprus_en)

<sup>28</sup> Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles*, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

<sup>29</sup> Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles*, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

<sup>30</sup> UN Human Rights Committee (HRC), “Concluding Observations on the Fourth Periodic Report of Cyprus, CCPR/C/CYP/CO/4,” 30 April 2015, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/CYP/CO/4&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/CYP/CO/4&Lang=En)

<sup>31</sup> Cyprus Refugee Council, The Mediterranean Institute of Gender Studies, Caritas Cyprus, and ACCEPT LGBT Cyprus, “Joint Submission by the Cyprus Refugee Council, The Mediterranean Institute of Gender Studies,

In practice, authorities state that “persons who suffer from serious health or mental health issues are not detained but are placed in medical facilities.”<sup>32</sup> Similarly pregnant women or elderly persons whose medical needs cannot be accommodated in the detention facility, are not detained in practice.<sup>33</sup>

**2.7 Length of detention.** Article 18 ΠΣΤ of the AIL states that non-citizens pending removal under the returns procedure can be detained for a maximum of six months. If the removal cannot be carried out because the non-citizen refuses to cooperate or because there is a delay in obtaining the necessary documents from third countries, then detention can be extended for a further twelve months. The maximum length of detention for non-citizens detained under the returns procedure is therefore 18 months.

Article 13 of the AIL also provides that non-citizens to whom entry was refused can be detained for up to eight days. However, this may be extended for as long as appropriate, if a court deems it necessary. As such, there is no established maximum duration of detention. Similarly, Article 14 of the AIL, which provides for detention of those declared “prohibited immigrants,” does not establish a maximum period of detention.

The Refugee Law similarly does not provide a maximum length of detention for asylum seekers. Article 9ΣΤ simply states that the detention of an applicant for international protection shall be as short as possible and should only last as long as the grounds for detention subsist. It is further stated that delays in administrative procedures that cannot be attributed to an applicant do not justify continued detention.

Between 2014 and late 2017, a *de facto* time limit for the detention of asylum seekers existed because applications filed from detention were examined in a fast-track procedure. This procedure required the Asylum Service to review each application within 30 days, and if an appeal was submitted, the Refugee Reviewing Authority had to make a final decision within 15 days. If the time limit of 30 days for the Asylum Service and 15 days for the Refugee Reviewing Authority was not respected, the asylum seeker would be released.<sup>34</sup>

This however is no longer the case as, since the 2018 amendment to the Refugee Law, once a detainee applies for asylum a new detention order is issued under the presumption that the application has been filed for the sole purpose of obstructing the enforcement of a return decision. As a consequence, applications are no longer fast-tracked and asylum seekers are detained for longer periods of time.<sup>35</sup>

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Caritas Cyprus, ACCEPT LGBT Cyprus for the Universal Periodic Review: 3rd Cycle, 32nd Session. Nicosia, Cyprus.” June 2018, <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=5973&file=EnglishTranslation>

<sup>32</sup> EMN NCP (Ministry of the Interior), “The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards,” European Commission, 25 May 2017, [https://ec.europa.eu/home-affairs/emn-document-country/cyprus\\_en](https://ec.europa.eu/home-affairs/emn-document-country/cyprus_en)

<sup>33</sup> EMN NCP (Ministry of the Interior), “The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards,” European Commission, 25 May 2017, [https://ec.europa.eu/home-affairs/emn-document-country/cyprus\\_en](https://ec.europa.eu/home-affairs/emn-document-country/cyprus_en)

<sup>34</sup> Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

<sup>35</sup> Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>



According to data submitted by a coalition of NGOs to the UN, following the termination of the fast-track examination of asylum applications, the average time for which asylum seekers are detained increased from 1.5 months to over three months.<sup>36</sup> According to the CPT at the time of their visit in February 2017, detainees were detained for an average of four months in the [Menoyia Detention Centre](#), with one person having been detained there for one year and four months.<sup>37</sup>

In 2015 the HRC expressed concern that a large number of migrants and asylum seekers continued to be detained for lengthy periods of time while awaiting deportation.<sup>38</sup>

According to civil society,<sup>39</sup> scholars,<sup>40</sup> CAT, and the Council of Europe Commissioner for Human Rights,<sup>41</sup> in practice, non-citizens are often re-detained shortly after being released by a court order. The Commissioner and the CAT urged the Cypriot authorities to end the practice of detention when there are no reasonable prospects of deportation.<sup>42</sup>

**2.8 Procedural standards.** Pre-removal detention is ordered by the Interior Ministry, which in practice is Chief Immigration Officer.<sup>43</sup> Detention under Articles 13 and 14 of the AIL is accompanied by weak procedural safeguards. The AIL simply states that a person who has been ordered to leave and who receives a detention or restriction order is entitled to (a) be informed in writing and in a language they understand about the reasons that justify such decision, unless national security reasons make this undesirable; and to (b) be represented before a Cypriot authority and to request the provision of translation services.

Article 18ΠΣΤ (2) of the AIL states that detention under the returns procedure is to be ordered in writing and shall be accompanied by motivations reasoned in fact and law.

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<sup>36</sup> Cyprus Refugee Council, The Mediterranean Institute of Gender Studies, Caritas Cyprus, and ACCEPT LGBT Cyprus, "Joint Submission by the Cyprus Refugee Council, The Mediterranean Institute of Gender Studies, Caritas Cyprus, ACCEPT LGBT Cyprus for the Universal Periodic Review: 3rd Cycle, 32nd Session. Nicosia, Cyprus." June 2018, <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=5973&file=EnglishTranslation>

<sup>37</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Report to the Government of Cyprus on the visit to Hungary carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 2 to 9 February 2017, CPT/Inf (2018)16, 26 April 2018, <https://rm.coe.int/16807bf7b4>

<sup>38</sup> UN Human Rights Committee (HRC), "Concluding Observations on the Fourth Periodic Report of Cyprus, CCPR/C/CYP/CO/4," 30 April 2015, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/CYP/CO/4&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/CYP/CO/4&Lang=En)

<sup>39</sup> F. Bertin., E. Fotanari, and L. Gennar, "At the Limen: The Implementation of the Return Directive in Italy, Cyprus and Spain," *EACEA-Education, Audiovisual and Culture Executive Agency*, December 2013.

<sup>40</sup> C. Demetriou and N. Trimikliniotis, "National Synthesis Report: Cyprus," *Odysseus Network, Redial Project*, 2017.

<sup>41</sup> Office of the UN High Commissioner for Human Rights (OHCHR), "Summary of Stakeholders' Submission on Cyprus, Human Rights Council, Working Group on the Universal Periodic Review, Thirty-Second Session 21 January – 1 February 2019," <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/333/60/PDF/G1833360.pdf?OpenElement>

<sup>42</sup> Office of the UN High Commissioner for Human Rights (OHCHR), "Summary of Stakeholders' Submission on Cyprus, Human Rights Council, Working Group on the Universal Periodic Review, Thirty-Second Session 21 January – 1 February 2019," <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/333/60/PDF/G1833360.pdf?OpenElement>

<sup>43</sup> C. Demetriou and N. Trimikliniotis, "National Synthesis Report: Cyprus," *Odysseus Network, Redial Project*, 2017.

Similarly, Article 9ΣT(5) of the Refugee Law states that a copy of the factual and legal grounds justifying the detention order are to be issued to the applicant concerned. Yet, as reported by a coalition of local NGOs, the detention orders that they were able to review contained only the legal grounds upon which detention was ordered, but contained no factual justification of the individual circumstances and did not include information on the legal remedies available.<sup>44</sup>

There are three review procedures. First, the Interior Minister (the Director of the Civil Registry and Migration Department)<sup>45</sup> carries out ex officio reviews of detention every two months or at “reasonable intervals” upon application by detainee (AIL, Article 18PST(4)). According to immigration lawyers and civil society, this procedure does not appear to have ever led to a detainee’s release. In fact, it is quite akin to a routine confirmation of decisions of immigration department rather than substantive examination of the merits of the decision.<sup>46</sup> This is the only automatic review of detention procedure. According to Cypriot authorities, in cases of prolonged detention (over one month) detention will be reviewed by a judge.<sup>47</sup> However, according to the civil society<sup>48</sup> and academia,<sup>49</sup> this is not the case. Hence, in Cyprus, there is no automatic judicial review of detention. A person detained for being a “prohibited immigrant” is not granted an automatic review of their detention, and can instead only challenge it before a court.<sup>50</sup>

As regards review by a court, Cypriot law foresees two forms of such proceedings. First, detainees may apply for judicial review of the lawfulness of their detention under Article 146 of the Constitution to be carried out by a special Administrative Court (AIL, Article 18 PST(3); Refugee Law, Article 9ΣT (6)). Although the AIL does not specify as such, one can derive from Article 146 of the Constitution that this legal remedy is also available to non-citizens declared “prohibited immigrants” and detained under Article 14 of the AIL. This recourse can be made within seventy-five days from the date detention was ordered (Article 146(3) of the Constitution). In cases where detention is ordered under the Refugee Law, the court must issue a decision within four weeks of an appeal being filed (Refugee Law, Article 9ΣT (6)(b)). No such time limit exists for detention ordered under the AIL. The Cyprus Refugee Council has noted that while the four week time limit is respected in cases of detention under the

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<sup>44</sup> Cyprus Refugee Council, The Mediterranean Institute of Gender Studies, Caritas Cyprus, and ACCEPT LGBT Cyprus, “Joint Submission by the Cyprus Refugee Council, The Mediterranean Institute of Gender Studies, Caritas Cyprus, ACCEPT LGBT Cyprus for the Universal Periodic Review: 3rd Cycle, 32nd Session. Nicosia, Cyprus.” June 2018, <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=5973&file=EnglishTranslation>

<sup>45</sup> EMN NCP (Ministry of the Interior), “The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards,” *European Commission*, 25 May 2017, [https://ec.europa.eu/home-affairs/emn-document-country/cyprus\\_en](https://ec.europa.eu/home-affairs/emn-document-country/cyprus_en)

<sup>46</sup> C. Demetriou and N. Trimikliniotis, “National Synthesis Report: Cyprus,” *Odysseus Network, Redial Project*, 2017.

<sup>47</sup> EMN NCP (Ministry of the Interior), “The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards,” *European Commission*, 25 May 2017, [https://ec.europa.eu/home-affairs/emn-document-country/cyprus\\_en](https://ec.europa.eu/home-affairs/emn-document-country/cyprus_en)

<sup>48</sup> Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles*, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

<sup>49</sup> C. Demetriou and N. Trimikliniotis, “National Synthesis Report: Cyprus,” *Odysseus Network, Redial Project*, 2017.

<sup>50</sup> Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles*, March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

Refugee Law, the review of detention cases under the AIL is very lengthy and lasts an average of eight months.<sup>51</sup>

Secondly, detainees may apply for a habeas corpus review by the Supreme Court under Article 155(4) of the Constitution to challenge the length of detention (AIL, Article 18(PST(5)(a); Refugee Law, Article 9ΣΤ (7)). As with the judicial review, only those detained under the Refugee Law must have their application examined within a set time limit—Article 9ΣΤ (7)(b) states that the judgment shall be issued within three weeks of the application being filed. The Cyprus Refugee Council reports that the number of Habeas Corpus applications submitted is extremely low.<sup>52</sup>

Article 9ΣΤ(8) of the Refugee Law states that all detained asylum seekers should be informed about the possibility of applying for free legal aid. For persons detained under the transposed Returns Directive (AIL, Article 18), legal aid is only available for challenging return, removal, or entry ban and not for challenging detention orders.<sup>53</sup> Asylum seekers who wish to apply for free legal assistance in order to request a review of their detention (under Article 146 of the Constitution) or for submitting a Habeas Corpus application (Article 155 of the Constitution) need to demonstrate that they do not have the sufficient means to pay for a lawyer, and their application is examined by a welfare officer. However, due to long delays in receiving payment, lawyers are often unwilling to take up cases of free legal aid.<sup>54</sup> Local organisations have also highlighted that the majority of non-citizens, including asylum seekers, are detained under legal provisions that do not require or enable the provision of legal aid to the detainee.<sup>55</sup> According to research carried out by the Cylaw database, there were only two applications for legal aid by persons wishing to challenge detention in 2017, but neither was accepted.<sup>56</sup>

**2.9 Non-custodial measures (“alternatives to detention”).** Article 18ΠΣΤ of the AIL states that the interior ministry may order the detention of a non-citizen unless other effective but less coercive measures can be enforced. Critically however, the law does not detail what these less coercive measures might be. This provision was copied from the Returns Directive but it did not have any impact because there was no system of “alternatives to

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<sup>51</sup> Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles*, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

<sup>52</sup> Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles*, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

<sup>53</sup> Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles*, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

<sup>54</sup> Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles*, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

<sup>55</sup> Cyprus Refugee Council, The Mediterranean Institute of Gender Studies, Caritas Cyprus, and ACCEPT LGBT Cyprus, “Joint Submission by the Cyprus Refugee Council, The Mediterranean Institute of Gender Studies, Caritas Cyprus, ACCEPT LGBT Cyprus for the Universal Periodic Review: 3rd Cycle, 32nd Session. Nicosia, Cyprus.” June 2018, <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=5973&file=EnglishTranslation>

<sup>56</sup> Cyprus Refugee Council, The Mediterranean Institute of Gender Studies, Caritas Cyprus, and ACCEPT LGBT Cyprus, “Joint Submission by the Cyprus Refugee Council, The Mediterranean Institute of Gender Studies, Caritas Cyprus, ACCEPT LGBT Cyprus for the Universal Periodic Review: 3rd Cycle, 32nd Session. Nicosia, Cyprus.” June 2018, <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=5973&file=EnglishTranslation>

detention” in place.<sup>57</sup> In 2015 the HRC recommended that Cyprus ensure that migrants and asylum seekers be offered such measures whenever possible.<sup>58</sup>

According to official sources, non-custodial measures that are used in returns procedures include: reporting obligations, the obligation to surrender a passport or travel document (although this is rarely used), and/or an obligation to reside at a specific address.<sup>59</sup>

Upon the transposition of the Reception Conditions Directive, the provisions on non-custodial measures were inserted in the Refugee Law. Accordingly, the Interior Minister may impose such measures in order to avoid the risk of absconding. The measures that are mentioned are: (a) regular appearance before the authorities; (b) deposit of a financial guarantee; (c) obligation to reside at a specific address; and (d) supervision by a supervisor.

Civil society organisations and scholars have highlighted that in practice, the Civil Registry and Migration Department (CRMD) automatically issues deportation orders alongside detention orders, without carrying out individual assessments to determine whether “alternatives to detention” may be sufficient.<sup>60</sup>

Various Cypriot NGOs have participated in pilot projects aimed at promoting and expanding the use of “alternatives to detention.” At the end of 2015, the [European Programme on Integration and Migration](#) (EPIM) funded a Future World Centre’s (FWC) research project titled “Promoting and Establishing Alternatives to Immigration Detention in Cyprus,” which sought to outline the existing framework and practice relating to immigration detention in Cyprus and identify avenues for improvement. The final report recommended the implementation of the [Community Assessment and Placement \(CAP\) Model](#).<sup>61</sup>

In March 2016, EPIM funded a pilot project aimed at promoting the adoption of the CAP Model. The ongoing project was first implemented by the FWC and, since 2018, by the Cyprus Refugee Council.<sup>62</sup> The aim of the project is to provide individualised and holistic case management and resolution in the attempt of reducing detention.<sup>63</sup>

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<sup>57</sup> C. Demetriou and N. Trimikliniotis, “National Synthesis Report: Cyprus,” *Odysseus Network, Redial Project*, 2017.

<sup>58</sup> UN Human Rights Committee (HRC), “Concluding Observations on the Fourth Periodic Report of Cyprus, CCPR/C/CYP/CO/4, 30 April 2015, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/CYP/CO/4&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/CYP/CO/4&Lang=En)

<sup>59</sup> EMN NCP (Ministry of the Interior), “The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards,” *European Commission*, 25 May 2017, [https://ec.europa.eu/home-affairs/emn-document-country/cyprus\\_en](https://ec.europa.eu/home-affairs/emn-document-country/cyprus_en)

<sup>60</sup> Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles*, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

<sup>61</sup> Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles*, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

<sup>62</sup> Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles*, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

<sup>63</sup> European Programme on Integration and Migration (EPIM), “Safeguarding Alternatives to Detention: Implementing Case Management in Cyprus,” *Projects*, July 2019, <https://www.epim.info/projects/safeguarding-alternatives-to-detention-implementing-case-management-in-cyprus/>

**2.10 Detaining authorities and institutions.** Detention is ordered by the Interior Minister and/or the Director of the Civil Registry and Migration Department.<sup>64</sup> This task is delegated to the Chief Immigration Officer.<sup>65</sup> The Menoyia Detention Centre is operated by the Cypriot police.

**2.11 Regulation of detention conditions and regimes.** At the beginning of 2011, the Law on the Places of Detention for Prohibited Immigrants (Law No 83(I)/2011) and the Places of Detention for Prohibited Immigrants Regulations of 2011 (I.P. 161/2011) were enacted. This legislation ordered the use of special detention centres for “prohibited immigrants.” At the same time, Menoyia Detention Centre was built and became the country’s designated facility for detaining migrants and asylum seekers.<sup>66</sup>

Article 18ΠΖ(1) (transposing the Returns Directive) of the AIL states that detention normally takes place in special detention facilities, however when this is not possible and non-citizens are taken into normal detention facilities they are to be kept separate from ordinary prisoners. Article 9ΣΤ(9) of the Refugee Law also states that detention normally takes place in special detention facilities, however, when this is not possible and non-citizens are taken into normal detention facilities they shall be kept separate from ordinary prisoners. The same article also provides that the provisions relating to detention conditions outlined in Article 9ΣΤ of the Refugee Law shall apply.

The Law on the Places of Detention for Prohibited Immigrants Regulations was revised so that Article 6(1) states that all immigration detainees must be transferred to Menoyia Detention Centre within 48 hours unless they are about to be deported.

Detainees may contact legal representatives, consular authorities, and relevant NGOs, and NGOs are also permitted to visit facilities in which non-citizens are detained subject to authorisation (AIL, Article 18ΠΖ(2)). Families detained pending removal are to be provided with separate accommodation ensuring adequate privacy, while minors in detention are allowed to engage in leisure and recreational activities and, depending on the length of their detention, they may access education (AIL, Article 18ΠΗ)—however, in exceptional situations emergency measures can be taken which derogate these provisions (AIL, Article 18ΠΘ).

The Refugee Law meanwhile established that detained asylum seekers are to have access to open spaces (9ΣΤ(10)), and families are to be provided with separate accommodation which ensures adequate respect for privacy (9ΣΤ(15)). Similarly female detainees are to be accommodated separately from male detainees unless they are part of the same family (9ΣΤ(16)). These two provisions may be derogated if detention occurs in a transit zone (9ΣΤ(17)).

Pursuant to Article 9ΣΤ(11) and (12) of the Refugee Law, persons representing UNHCR or other relevant NGOs, legal counselors or attorneys, and family members are entitled to

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<sup>64</sup> EMN NCP (Ministry of the Interior), “The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards,” *European Commission*, 25 May 2017, [https://ec.europa.eu/home-affairs/emn-document-country/cyprus\\_en](https://ec.europa.eu/home-affairs/emn-document-country/cyprus_en)

<sup>65</sup> C. Demetriou and N. Trimikliniotis, “National Synthesis Report: Cyprus,” *Odysseus Network, Redial Project*, 2017.

<sup>66</sup> KISA “Detention Conditions and Juridical Overview on Detention and Deportation Mechanisms in Cyprus,” June 2014. <https://kisa.org.cy/24-03-2014-detention-conditions-and-juridical-overview-on-detention-deportation-mechanisms-in-cyprus/>



communicate with and visit detained asylum seekers in detention conditions that respect their right to privacy, so long as authorities are in agreement.

**2.12 Domestic monitoring.** In April 2009, Cyprus ratified the [UN Convention against Torture and its Optional Protocol \(OPCAT\)](#) and designated the Commissioner for Administration and Human Rights (ombudsman institution) as National Preventive Mechanism (NPM). A separate unit, the Independent Authority for the Prevention of Torture, was established to perform the NPM mandate.<sup>67</sup> Reportedly, the Menoyia Detention Centre was visited within this framework however the authors were unable to retrieve the relevant report.

The Cyprus Refugee Council also performs monitoring visits to the Menoyia Detention Centre.<sup>68</sup>

**2.13 International monitoring.** Having ratified the OPCAT, Cyprus receives visits from the UN Subcommittee on the Prevention of Torture (SPT). In January 2016, it visited Cyprus and held discussions with the NPM. During these discussions, the SPT expressed concern regarding the NPM's lack of financial resources and its lack of legal power, which prevents the monitoring body from working as the Optional Protocol requires.<sup>69</sup> That same visit, the SPT accompanied the NPM during a monitoring visit to the Menoyia Detention Centre. Following the visit the SPT chair stated that; "We were very pleased to have visited Cyprus and take note of improvements. But the situation of those in immigration detention centres requires careful attention. It is so important to ensure that such detention is only resorted to when it is strictly necessary. The conditions of detention should reflect the fact that such places are not prisons and those detained are not prisoners."<sup>70</sup>

Cyprus is also a member state of the Council of Europe and has ratified [the European Convention on the Prevention of Torture](#). As such, Cyprus also receives monitoring visits from the CPT—the last of which took place in February 2017 when the delegation visited the Menoyia Detention Centre.<sup>71</sup>

**2.15 Trends and statistics.** According to the Interior Minister, 890 non-citizens were placed in detention (684 men and 206 women) in 2013. In the years that followed, the number of detainees decreased: 758 non-citizens were detained in 2014 (521 men and 237 women);

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<sup>67</sup> Association for the Prevention of Torture (APT), "OPCAT Database: Cyprus," 2019, [https://apt.ch/en/opcat\\_pages/opcat-situation-18/](https://apt.ch/en/opcat_pages/opcat-situation-18/)

<sup>68</sup> Cyprus Refugee Council, "Country Report: Cyprus," *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

<sup>69</sup> Office of the UN High Commissioner for Human Rights (OHCHR), "UN Experts Urge Cyprus to Address Migrant Detention Conditions, Improve Overall Monitoring," February 2016, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17003&LangID=E>

<sup>70</sup> Office of the UN High Commissioner for Human Rights (OHCHR), "UN Experts Urge Cyprus to Address Migrant Detention Conditions, Improve Overall Monitoring," February 2016, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17003&LangID=E>

<sup>71</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report to the Government of Cyprus on the Visit to Cyprus Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 2 to 9 February 2017, CPT/Inf (2018)16," 26 April 2018, <https://www.coe.int/en/web/cpt/cyprus>

731 were detained in 2015 (483 men and 248 women); and 585 were detained in 2016 (343 men and 242 women).<sup>72</sup>

At the same time, Cyprus has witnessed a drastic increase in the number of non-citizens refused entry at its external borders; from 415 persons in 2015 to 565 in 2016; 1,425 in 2017; and 2,025 in 2018.<sup>73</sup>

The number of non-citizens found to be illegally present has also increased recently, 4,215 were apprehended in 2015; 3,450 in 2016; 4,090 in 2017; and 6,040 in 2018.<sup>74</sup>

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<sup>72</sup> EMN NCP (Ministry of the Interior), “The Effectiveness of Return in EU Member States: Challenges and Good Practices Linked to EU Rules and Standards,” 2017, [https://ec.europa.eu/home-affairs/emn-document-country/cyprus\\_en](https://ec.europa.eu/home-affairs/emn-document-country/cyprus_en)

<sup>73</sup> Eurostat, “Third Country Nationals Refused Entry at the External Borders,” 2019, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_eirfs&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_eirfs&lang=en)

<sup>74</sup> Eurostat “Third Country Nationals Found to be Illegally Present,” 2019, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_eipre&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_eipre&lang=en)



### 3. DETENTION INFRASTRUCTURE

**3.1 Summary.** Cyprus operates one dedicated long-term immigration detention facility—the **Menoyia Detention Centre**—which is located in the Larnaca district and can confine up to 128 persons. Short-term detention also occurs in holding facilities at **Larnaca** and **Paphos** airports. Newly arrived asylum seekers are confined for up to 72 hours for identification and medical screening at the **Kokkinotrimithia Rescue Camp**, which appears to operate as reception centre with mixed secure and non-secure regimes.<sup>75</sup>

It is Cyprus' longstanding practice to use police station for immigration detention purposes. According to the CPT, as of 2017, there were eight police stations that could be used to detain non-citizens.<sup>76</sup> Yet, in its 2018 report, the Cyprus Refugee Council reported that non-citizens can be detained in police stations around the country. Detention at police stations can last for 2-3 days before people are transferred to the Menoyia centre, unless removal is impending. However, the Ombudsman noted cases in 2018 where detention in police stations reached 8 days.<sup>77</sup>

Cyprus' frequent use of police premises for immigration detention has drawn criticism from monitoring bodies for decades. In 2014, authorities declared that a non-citizen could only be detained in police detention centres in exceptional cases, and only with permission from the Assistant Chief of Police.<sup>78</sup> Additionally, all immigration detainees are required to be transported to Menoyia within 48 hours, unless they face deportation. The European Committee for the Prevention of Torture (CPT) observed that by 2017, "in practice, few immigration detainees were being deprived of their liberty in places other than Menoyia."<sup>79</sup> More recently however, it has been reported that persons are once again being detained in police holding cells around the country for immigration detention purposes—a fact that has

<sup>75</sup> Cyprus Refugee Council, "Country Report: Cyprus," *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

<sup>76</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report on a Visit to Cyprus Carried Out the 2 to 9 February 2017, CPT/Inf (2018) 16," <https://rm.coe.int/16807bf7b4>

<sup>77</sup> Cyprus Refugee Council, "Country Report: Cyprus," *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

<sup>78</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report on a Visit to Cyprus Carried Out the 2 to 9 February 2017, CPT/Inf (2018) 16," <https://rm.coe.int/16807bf7b4>

<sup>79</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report on a Visit to Cyprus Carried Out the 2 to 9 February 2017, CPT/Inf (2018) 16," <https://rm.coe.int/16807bf7b4>

been linked to the termination of the fast-track procedure for assessing detainees' asylum applications, which has seen the number of detained asylum seekers increase.<sup>80</sup>

Prior to the opening of Menoyia centre, the country exclusively used police stations or other criminal justice facilities for long-term immigration detention, a practice that by 2019 had been largely eliminated in the EU aside from a few holdouts like Ireland. This practice triggered a series of recommendations to Cyprus from the CPT (in 1996, 2000, and 2004) to set up specialised facilities. Like Austria (which used to use police facilities known as PAZ), Cyprus initially disagreed with the CPT but later changed its position. Observers have argued that the establishment of Menoyia may be attributed at least in part to the repeated recommendations of the CPT.<sup>81</sup>

**3.2 List of detention facilities.** Menoyia Detention Centre; Larnaca and Paphos Airports holding facilities; Kokkinotrimithia Rescue Camp; police station holding cells, including in Oroklini (Larnaca) as of 2017,<sup>82</sup> Aradippou, Nisou, Limassol, and Paphos as of 2013.<sup>83</sup>

### 3.3 Conditions and regimes in detention centres.

**3.3a Overview.** Periodic visits by national and international NGOs and human rights monitoring bodies have provided some details about how Cyprus operates immigration detention centres. In 2011, for instance, Amnesty International reported on the “squalid” conditions in prisons then used for immigration purposes and the numerous complaints from detainees concerning “lack of legal aid, poor conditions, and insufficient medical care.”<sup>84</sup> In 2017, the CPT recommended that detention times in police cells be kept to an “absolute minimum” as conditions were inadequate for a stay of more than 24 hours.<sup>85</sup> Police holding cells have also been reported to lack sufficient open-air spaces and appropriate levels of cleanliness.<sup>86</sup> More recent monitoring reports have focused on conditions inside the Menoyia detention centre.<sup>87</sup>

**3.3b Menoyia Detention Centre.** While no reports of overcrowding have been made since the Menoyia facility was opened, space in detainee cells has been described as

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<sup>80</sup> Cyprus Refugee Council, The Mediterranean Institute of Gender Studies, Caritas Cyprus, and ACCEPT LGBT Cyprus, “Joint Submission by the Cyprus Refugee Council, The Mediterranean Institute of Gender Studies, Caritas Cyprus, ACCEPT LGBT Cyprus for the Universal Periodic Review: 3rd Cycle, 32nd Session. Nicosia, Cyprus.” June 2018, <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=5973&file=EnglishTranslation>

<sup>81</sup> M. Flynn, “Concealing and Revealing: On The Schizophrenic Evolution of Immigration Detention,” Phd Thesis, IHEID, Geneva, 2011.

<sup>82</sup> Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

<sup>83</sup> F. Bertin., E. Fotanari, and L. Gennar, “At the Limen: The Implementation of the Return Directive in Italy, Cyprus and Spain,” *EACEA-Education, Audiovisual and Culture Executive Agency*, December 2013.

<sup>84</sup> G. Kosmopoulos, “Inside Cyprus’ Migrant Detention Centers,” *Amnesty International*, 19 December 2011, <https://www.amnesty.org/en/latest/campaigns/2011/12/inside-cyprus-migrant-detention-centres/>

<sup>85</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report on a Visit to Cyprus Carried Out the 2 to 9 February 2017, CPT/Inf (2018) 16,” <https://rm.coe.int/16807bf7b4>

<sup>86</sup> Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

<sup>87</sup> Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

“cramped.”<sup>88</sup> However, since 2014, conditions have reportedly improved as the capacity of Menoyia has been reduced by half. Where there used to be eight detainees in each 18 square metre cell, there are now four.<sup>89</sup> Cells have been found to provide sufficient living space, ventilation, and natural light.<sup>90</sup>

However, in 2018 a coalition of NGOs reported that since Cyprus ended the practice of examining detainees’ asylum applications within the fast-track procedure at the end of 2017, the number of detainees in Menoyia Detention centre has increased to the point that a wing had to be re-opened.<sup>91</sup>

Improvements to the facility’s regime were reported in 2017. These included refurbished exercise areas (with basketball and volleyball courts), an increased provision of activities (music, gym, and dance lessons, as well as a doubling of physical education hours), and improved provision of personal hygiene products. Additionally, detainees can move freely around parts of the facility and have access to common rooms as cell doors remain open throughout the day.<sup>92</sup> In 2018, Cypriot authorities also reversed their policy of locking cell doors at night.<sup>93</sup>

In 2014, rights advocates argued that 2.5 hours a day outside was insufficient.<sup>94</sup> More recently, the time detainees were allowed outside each day rose to four hours, but this was restricted to two hours in practice due to the separation of female and male outdoor time.<sup>95</sup>

In 2016, the SPT visited the Menoyia Detention Centre, and reported that it had a carceral nature: “The center felt like a high-level security facility and the internal regime was of a

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<sup>88</sup> Amnesty International, “Cyprus: Abusive Detention of Migrants and Asylum seekers flouts EU law,” 18 March 2014, <https://www.amnesty.org/en/latest/news/2014/03/cyprus-abusive-detention-migrants-and-asylum-seekers-flouts-eu-law/>

<sup>89</sup> Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

<sup>90</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report on a Visit to Cyprus Carried Out the 2 to 9 February 2017, CPT/Inf (2018) 16,” <https://rm.coe.int/16807bf7b4>

<sup>91</sup> Cyprus Refugee Council, The Mediterranean Institute of Gender Studies, Caritas Cyprus, and ACCEPT LGBT Cyprus, “Joint Submission by the Cyprus Refugee Council, The Mediterranean Institute of Gender Studies, Caritas Cyprus, ACCEPT LGBT Cyprus for the Universal Periodic Review: 3rd Cycle, 32nd Session. Nicosia, Cyprus.” June 2018, <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=5973&file=EnglishTranslation>

<sup>92</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report on a Visit to Cyprus Carried Out the 2 to 9 February 2017, CPT/Inf (2018) 16,” <https://rm.coe.int/16807bf7b4>

<sup>93</sup> Government of Cyprus, “Response of the Government of Cyprus to the CPT Report on its Visit to Cyprus from 2 to 9 February 2017, CPT/Inf (2018) 17,” <https://rm.coe.int/16807bf99a>

<sup>94</sup> Amnesty International, “Cyprus: Abusive Detention of Migrants and Asylum seekers flouts EU law,” 18 March 2014, <https://www.amnesty.org/en/latest/news/2014/03/cyprus-abusive-detention-migrants-and-asylum-seekers-flouts-eu-law/>

<sup>95</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report on a Visit to Cyprus Carried Out the 2 to 9 February 2017, CPT/Inf (2018) 16,” <https://rm.coe.int/16807bf7b4>



penal nature... migrants detained in the centre were treated like criminals.”<sup>96</sup> A year later, the CPT expressed similar concerns, pointing to the “sterile and carceral environment” created by high security fence, heavy metal slats on all windows, heavy cell doors metal tables and stools in association rooms fixed to the floor and lack of any decoration. The committee also noted “prison-like atmosphere,” due to strict rules, distant staff-detainee relations and limited regime. The CPT concluded that the environment remained unnecessarily restrictive in light of the nature and purpose of administrative detention for migration purposes.<sup>97</sup> In response to this report, the Cypriot authorities wrote that the facilities had been repainted and paintings were hung on the walls, asserting that they “are constantly trying to improve the conditions of detention.”<sup>98</sup>

Another ongoing concern at the facility is that authorities reportedly fail to communicate effectively with detainees concerning why they are detained and for how long.<sup>99</sup> Detainees have complained of a lack of accurate and timely updates concerning legal proceedings and the status of their cases, and the SPT noted that lack of legal aid was a “serious concern.”<sup>100</sup> In 2018, the Cyprus Refugee Council reiterated that detainees were made to feel like criminals, and they “do not understand the purpose of their continuous detention,” explaining that this sentiment amongst detainees had led to a number of hunger strikes.<sup>101</sup>

The Menoyia detention facility is operated by the Cypriot police and custodial staff are regular police officers. Detainees have lodged numerous complaints about verbal abuse from staff members in recent years, as well as allegations of physical abuse, including of a xenophobic or racist nature.<sup>102</sup> In 2017, the CPT recommended that only specially-trained custodial staff be employed to meet the specific needs of immigration detainees, and that instances of abuse should be treated as unacceptable and punished accordingly.<sup>103</sup> The Cypriot authorities responded by bolstering their complaints system for detainees, increasing

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<sup>96</sup> Subcommittee on the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), “Report on a Visit to Cyprus 25 to 29 January 2016, CAT/OP/CYP/1,” <https://www.coe.int/en/web/cpt/cyprus>

<sup>97</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report on a Visit to Cyprus Carried out the 2 to 9 February 2017, CPT/Inf (2018) 16,” <https://rm.coe.int/16807bf7b4>

<sup>98</sup> Government of Cyprus, “Response of the Government of Cyprus to the CPT Report on its Visit to Cyprus from 2 to 9 February 2017, CPT/Inf (2018) 17,” <https://rm.coe.int/16807bf99a>

<sup>99</sup> G. Kosmopoulos, “Inside Cyprus’ Migrant Detention Centers,” *Amnesty International*, 19 December 2011, <https://www.amnesty.org/en/latest/campaigns/2011/12/inside-cyprus-migrant-detention-centres/>

<sup>100</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report on a Visit to Cyprus Carried Out the 2 to 9 February 2017, CPT/Inf (2018) 16,” <https://rm.coe.int/16807bf7b4>

<sup>101</sup> Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA), European Council on Refugees and Exiles*, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

<sup>102</sup> Subcommittee on the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), “Report on a Visit to Cyprus 25 to 29 January 2016, CAT/OP/CYP/1,” <https://www.coe.int/en/web/cpt/cyprus>

<sup>103</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report on a Visit to Cyprus Carried Out the 2 to 9 February 2017, CPT/Inf (2018) 16,” <https://rm.coe.int/16807bf7b4>

monitoring bodies' access to the centre, and revising their training programmes for police officers working in the facility.<sup>104</sup>

In 2016, it was reported that communication with the outside world was difficult for detainees, and that it was negatively affecting their mental health.<sup>105</sup> In 2018, an internet service was installed, with 16 computers placed in each wing of the centre. This development, as well as a policy change authorising the use of mobile phones, improved detainees' capacity to contact friends and family.<sup>106</sup> However, mobile phone credit is paid for by detainees' own funds, creating a "communication barrier" for detainees who were not carrying money when they were detained, or have used it up. While visits from lawyers can occur anytime, Menoyia is geographically isolated and lawyers are often contacted by phone or fax. Communication barriers, therefore, can complicate detainees' access to legal aid.<sup>107</sup>

In 2017, the CPT observed that the average length of detention in Menoyia had decreased since 2013, to approximately four months.<sup>108</sup> In 2018, the Cyprus Refugee Council reported that, on average, asylum seekers are detained for five to six months.<sup>109</sup>

**3.3c. Paphos and Larnaca airport holding facilities.** These facilities hold non-citizens who are either awaiting deportation on a flight or who have been refused entry to Cyprus upon arrival. People are detained there typically for one or two days but reportedly detainees have at times remained at these facilities for three days or more. The Larnaca facility consists of three holding rooms (one bedroom for men, one for women, and one for families). Paphos also consists of three rooms, one for men two for families. Both are designed for short-term stays, and none of the spaces have natural light or access to fresh air. Moreover, detainees do not benefit from any forms of entertainment (such as reading materials or a television). The CPT has stated that such conditions are only suitable for a stay of a few hours and has recommended that foreign nationals be transferred after a maximum of 24 hours.<sup>110</sup>

**3.3d. Kokkinotrimithia Rescue Camp.** The Kokkinotrimithia Rescue Camp temporarily accommodates large groups of recently-arrived migrants and asylum seekers. According to the Cyprus Refugee Council, the facility operates as a non-secure reception centre for emergency accommodation, although it restricts people's freedom of movement. The camp has a secure section where people are confined for up to 72 hours after arrival to undergo

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<sup>104</sup> Government of Cyprus, "Response of the Government of Cyprus to the CPT Report on its Visit to Cyprus from 2 to 9 February 2017, CPT/Inf (2018) 17," <https://rm.coe.int/16807bf99a>

<sup>105</sup> Subcommittee on the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT), "Report on a Visit to Cyprus 25 to 29 January 2016, CAT/OP/CYP/1," <https://www.coe.int/en/web/cpt/cyprus>

<sup>106</sup> Government of Cyprus, "Response of the Government of Cyprus to the CPT Report on its Visit to Cyprus from 2 to 9 February 2017, CPT/Inf (2018) 17," <https://rm.coe.int/16807bf99a>

<sup>107</sup> Cyprus Refugee Council, "Country Report: Cyprus," *Asylum Information Database (AIDA), European Council on Refugees and Exiles*, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

<sup>108</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report on a Visit to Cyprus Carried Out the 2 to 9 February 2017, CPT/Inf (2018) 16," <https://rm.coe.int/16807bf7b4>

<sup>109</sup> Cyprus Refugee Council, "Country Report: Cyprus," *Asylum Information Database (AIDA), European Council on Refugees and Exiles*, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

<sup>110</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "Report on a Visit to Cyprus Carried Out the 2 to 9 February 2017, CPT/Inf (2018) 16," <https://rm.coe.int/16807bf7b4>

identification and medical screening (tuberculosis) procedures.<sup>111</sup> It is unclear if people are deprived of their liberty in these secure areas for longer periods of time.

The Cyprus Refugee Council reported that in 2019 the facility was slated for expansion and conversion into a “First Reception Centre” using tents and containers, with a capacity of up to 800 people.<sup>112</sup> In 2019, a 2.4 million euros contract was signed to improve reception conditions and expand the centre’s capacity. The project is co-financed by the EU.<sup>113</sup> In 2017, the CPT reported that persons at the camp received medical assessments and were generally transferred out of the facility within three days. If anyone tested positive for tuberculosis, they could remain at Kokkinotrimithia for up to two weeks. The camp was a “village” of 20 tents, each accommodating 12 people, and was surrounded by wire fencing and a padlocked metal gate. Conditions were reportedly adequate for short stays. While migrants could supposedly come and go during the day, the facility was locked at night and a roll-call took place. The CPT defined such conditions as deprivation of liberty of foreign nationals.<sup>114</sup>

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<sup>111</sup> Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>; Government of Cyprus, “Response of the Government of Cyprus to the CPT Report on its Visit to Cyprus from 2 to 9 February 2017, CPT/Inf (2018) 17,” <https://rm.coe.int/16807bf99a>

<sup>112</sup> Cyprus Refugee Council, “Country Report: Cyprus,” *Asylum Information Database (AIDA)*, European Council on Refugees and Exiles, 20 March 2019, <https://www.asylumineurope.org/reports/country/cyprus>

<sup>113</sup> In Cyprus, “€2.38m Contract to Improve Facilities at Kokkinotrimithia Reception Centre,” *In Cyprus*, 11 July 2019, <https://in-cyprus.com/e2-38m-contract-to-improve-facilities-at-kokkinotrimithia-reception-centre/>

<sup>114</sup> European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Report on a Visit to Cyprus Carried Out the 2 to 9 February 2017, CPT/Inf (2018) 16,” <https://rm.coe.int/16807bf7b4>



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