



Legal Migration Fitness Check

Evidence base for practical
implementation

Member State summary

Cyprus

Annex 2 CY

Written by ICF Consulting Services
Limited

June 2018



LEGAL NOTICE

Appendix to Annex 2 of "Legal Migration Fitness Check Final evaluation report - Supporting study", ICF Consulting Services Limited (2018).

This document has been prepared for the European Commission however it reflects the views only of the authors and the Commission cannot be held responsible for any use which may be made of the information contained therein. The research was mainly carried out before July 2017, and may not necessarily reflect the recent developments. Its contents have not been verified by the Member States authorities.

More information on the European Union is available on the Internet (<http://www.europa.eu>).

Luxembourg: Publications Office of the European Union, **2019**

ISBN 978-92-76-01340-2

doi: 10.2837/844869

Catalogue number : DR-02-19-192-EN-N

© European Union, **2019**

Reproduction is authorised provided the source is acknowledged.

Table of Contents

Introduction	1
1 Pre-application phase	2
1.1 Legal transposition of the EU legal migration acquis	3
1.2 Practical application of the EU legal migration acquis	3
1.3 Differences between national statuses and the EU legal migration acquis	5
2 Preparation phase	5
2.1 Legal transposition of the EU legal migration acquis	5
2.2 Practical application of the EU legal migration acquis	5
2.3 Differences between national statuses and the EU legal migration acquis	7
3 Application phase	8
3.1 Legal transposition of the EU legal migration acquis	8
3.2 Practical application of the EU legal migration acquis	8
3.3 Differences between national statuses and the EU legal migration acquis	11
4 Entry and travel phase	11
4.1 Legal transposition of the EU legal migration acquis	11
4.2 Practical application of the EU legal migration acquis	12
4.3 Differences between national statuses and the EU legal migration acquis	12
5 Post-application phase	12
5.1 Legal transposition of the EU legal migration acquis	12
5.2 Practical application of the EU legal migration acquis	12
5.3 Differences between national statuses and the EU legal migration acquis	13
6 Residency phase	14
6.1 Legal transposition of the EU legal migration acquis	14
6.2 Practical application of the EU legal migration acquis	14
6.3 Differences between national statuses and the EU legal migration acquis	17
7 Intra-EU mobility phase	17
7.1 Legal transposition of the EU legal migration acquis	17
7.2 Practical application of the EU legal migration acquis	17
7.3 Differences between national statuses and the EU legal migration acquis	17
8 End of legal stay / leaving the EU phase	17
8.1 Legal transposition of the EU legal migration acquis	17
8.2 Practical application of the EU legal migration acquis	17
8.3 Differences between national statuses and the EU legal migration acquis	18
9 Main findings and conclusions – state of practical implementation of EU legal migration legislation in the Member State	18
Annex 1	20

Introduction

This document provides an overview of the legal and practical implementation of EU legal migration acquis in **Cyprus**. The legal and practical implementation study is structured according to the eight steps – ‘phases’ of the migration process from the perspective of the migrant¹ for the following Directives and their respective national equivalent schemes, presented in the table below.

Directive	FRD (Family Reunification Directive 2003/86/EC)	LTR (Long Term Residency Directive 2003/109/EC)	SD (Students Directive 2004/114/EC)	RD (Researchers Directive 2005/71/EC)	BCD (Blue Card Directive 2009/50/EC)	SPD (Single Permit Directive 2011/98/EU)
National parallel scheme						a. Domestic workers b. General employment c. Employees at international companies d. Start-up permits (a. Οικιακοί εργαζόμενοι b. Γενική απασχόληση c. Εργαζόμενοι σε εταιρείες ξένων συμφερόντων d. Απασχόληση σε νεοφυείς καινοτόμες επιχειρήσεις

¹ . See ref document (EU summary) Under each phase, the following aspects are examined : :

Legal transposition of the EU legal migration acquis: including whether the MS has overall complied with the transposition of the relevant EU acquis in the respective phase and whether these non-compliance issues affect the practical application of the Directive; **Practical application of the EU legal migration acquis:** overview of the main application issues/problems arising in the MS per each of the migration phases; **Differences between national statuses and the EU legal migration acquis:** substantial differences at the level of legislation and practical implementation between the EU legal migration Directives and their national equivalents (where these exist).

)
	The general provisions of the Aliens and Immigration Law (Cap. 105) apply
Options implemented?	Pupil Trainee Volunteer

Main differences between EU statuses and the respective national parallel schemes

There are no parallel schemes providing for the kind of visas foreseen under the legal migration directives. Prior to the transposition of these directives, there were no national schemes providing for any of these residence permits, with the exception of the permits now covered under the Single Permit Directive.

1 Pre-application phase

At the pre-application phase, the main issue identified is the lack of proper and user-friendly information channels and support in filling out the relevant forms and gathering the supporting documents required. The only authority mandated with the supply of information is the immigration department which has no office abroad or in any city other than the capital, Nicosia. No authority or body is mandated with providing support with completing the application forms or gathering the supporting documents. At the immigration department there are no information desks as such, just officers serving the public in general with often a long queue. Information and application forms may be accessed also from the website of the immigration department after a number of clicks and provided one knows where to look for it. Information regarding the application procedure may also be obtained upon request via email; the time of response depends on the complexity of the request.² There are no information desks in third countries. Due to lack of information and assistance available, the pre-application phase can be rather costly, including the need for private legal support to fill in applications and meet the requirements. This, in turn, may disadvantage applicants who do not have the financial means to cover legal fees. NGOs offering support to migrants are few and under-resourced, compared to the volume of the work they are dealing with; none of the NGOs in this field is equipped to provide technical support on the legal migration directives

Long term residence permit

Although there are economic migrants living in Cyprus for significantly longer than five years, to a large extent domestic workers, the vast majority do not qualify for the LTR permit. When the Directive was initially transposed, it was framed so as to exclude migrants on contracts of limited duration, as enshrined in the case of *Motilla*,³ where the applicant was a female migrant lawfully working as a domestic worker for a period in excess of five years. Her application for the LTR permit was rejected on the ground

² http://www.moi.gov.cy/moi/crmd/crmd.nsf/contact_en/contact_en?OpenDocument&ExpandSection=4%2C1#_Section4

³ *Cresencia Cabotaje Motilla v. Republic of Cyprus through the Interior Minister and the Chief Immigration Officer*, Supreme Court Case No. 673/2006 (21 January 2008)

that her successive residence permits were limited as to their duration. *The Supreme Court upheld the authorities' policy on the ground that contracts of fixed term duration did indeed fall within the exception of LTR Directive article 3(2)(e)*. The law was subsequently amended as a result of the CJEU case law,⁴ to the effect that the duration of the applicants' visas are no longer an obstacle to obtaining the LTR. However, migrant domestic workers and other low-paid migrants are still *not afforded the LTR status because they do not meet the 'sufficient resources' criterion of the LTR Directive*.

Students and researchers

When it comes to students, the pre-application phase presents fewer problems because the private tertiary education institutions play an active role in facilitating the application process, as part of their recruitment strategies. This is also true in the case of researchers who are far fewer in number than the students and therefore of little consequence for policy makers.

Blue Card visas

Although the relevant Directive was transposed, no Blue Card permits have been issued so far because the Council of Ministers has set the admission quota at zero and therefore de facto, the BCD is not in operation in Cyprus. No information was provided as to when BCD permits will commence to be issued in Cyprus.

However, the authorities provide an equivalent national system for highly skilled employees, whose scope is stipulated to cover the highly paid rather than the highly skilled, although in many situations this is synonymous. These permits, however carry lesser rights than those foreseen by the BCD and tie employees to specific foreign companies.

1.1 Legal transposition of the EU legal migration acquis

All the legal migration directives have been incorporated, in many instances verbatim, into the Aliens and Immigration Law, a very old piece of legislation of huge volume, which covers the entire range of immigration related issues. No legal transposition issues have been identified in the pre-application phase, as the law copies verbatim the relevant provisions of the directives.

1.2 Practical application of the EU legal migration acquis

The supply of information to prospective applicants is designated solely to the Immigration Department; there are no other agencies with competency or expertise to inform prospective applicants who are often left with no choice other than to try to address the technical requirements themselves or to hire lawyers to assist them. The Immigration Department runs an information desk only in its premises in the capital, Nicosia, which is staffed with half a dozen employees having to serve long queues of persons. In addition to completing application forms, a number of supporting documents must be collected by the applicants from other entities and in different locations.

Although information is available on the website of the immigration department, several clicks are necessary and one would need to know where to look for it in order

⁴ *State Secretary van Justitie V Mangat Singh*, Court of Justice of the European Union case C-502/10, dated 18 October 2012.

to find it; it is not readily available to the lay person and there is no obvious link visible at the home page of the Ministry of the Interior.

It is possible for applicants to submit enquiries via email and by phone, however there is no single contact email where prospective applicants can send their enquiries; instead the contact emails offered are those of the administrative officers without explaining the designated competence of each.

Provisions in the Directives leaving room for policies hampering the migration process/experience

The national law has copied verbatim the vague provisions of the Directives as regards the supply of information, without detailing the process of information or support. The Directive does not cast a duty on member states to set up effective independent mechanisms for the supply of information and support, setting the threshold needed to satisfy the Directives at very low levels.

Directive	FRD (Family Reunification Directive 2003/86/EC)	LTR (Long Term Residency Directive 2003/109/EC)	SD (Students Directive 2004/114/EC)	RD (Research Directive 2005/71/EC)	BCD (Blue Card Directive 2009/50/EC)	SPD (Single Permit Directive 2011/98/EU)
Language	National language English					
The information is easy to find*	1	1	1	1	1	1

* 1: Strongly agree; 2: Agree; 3: Neither agree/nor disagree; 4. Disagree; 5. Strongly disagree

Information can be found on the following aspects of the application procedure:

Application procedure	Conditions for admission	Entry requirements (e.g. visa etc.)	Cost of application	Applicable deadlines	Rights upon admission	Any differences between the Directives
Yes	Yes	Yes	Yes	Yes	No	No information for BCD can be found for any aspects of the application procedure. No information for SD and RD can be found for conditions of admission.

Information upon request

There are no information desks in third countries. In Cyprus, the Immigration Department operates a service for the public, providing information regarding submission of applications. Information regarding the application procedure may also be supplied upon request via email, however there is no fixed timeline for the authority's response. The time of response depends on the complexity of the request and on the availability of staff. The Immigration Department provides information regarding the application procedure upon request by sending an email. However no information desks are provided in third countries.

1.3 Differences between national statuses and the EU legal migration acquis

Not Relevant. There are no national equivalents to the Directives.

2 Preparation phase

2.1 Legal transposition of the EU legal migration acquis

The documents required in support of the application are in some cases excessive and disproportionate and, in the case of specific permits the application fee can be excessive.

2.2 Practical application of the EU legal migration acquis

For all permits except the LTR, applications for entry permits must first be submitted before entering Cyprus. Once this is granted, the applicant must enter Cyprus and submit an application for a residence permit, submitting additional documents. In the case of FR, the authorities may, at their discretion, decide to accept applications from family members who are already in Cyprus under specific circumstances.

The application forms differ from permit to permit. All forms and checklist of supporting documents are available online from the website of the immigration department, however they cannot be completed and submitted online. They must be printed, completed in English or in Greek, signed and submitted together with the supporting documents required for each form.

The documents that must be submitted in support of an application are in some cases excessive and raise disproportionate barriers; in some cases the application fee is excessive too. In the case of the FRD permit, the application must be supported by the sponsor's tax statements, the certificate of contributions to the Social Insurance Funds and the V.A.T. whilst the sponsor's employment contract must be valid for at least 18 months or be of unlimited duration, a precondition which may prove difficult to meet under the prevailing labour market conditions. The application fee is set at 200 EUR.

A number of problems have been identified in the case of the LTR permit. No specific amount is foreseen in legislation, to be used as reference or guidance for assessing whether the applicant's resources are sufficient. This practice leads to a situation where low paid migrants, such as domestic workers, are not granted the LTR because their salaries, ranging between 309-400 EUR per month, do not meet the undefined threshold of 'sufficient resources'. A further issue is the requirement for submitting a list of documents in excess of the directive's requirements: tax statements, the certificate of contributions to the Social Insurance Funds and the V.A.T. statements. The requirement for applicants to submit a contract of employment of either 18 months or of indefinite duration was removed from the law, however it still appears in

the checklist posted on the website of the immigration department.⁵ Under the prevailing labour market conditions, annual fixed term contracts is the norm, especially for third country nationals.

The application is done in one single application for each permit, however prior to the submission of the application the prospective applicant must first apply for and receive an entry permit before the application for the requested permit must be filed. Under exceptional circumstances, applications for FR may be filed from persons who are already in Cyprus. The application is filed in person by the applicant or his or her employer or representative, as the case may be, through the submission at the desk of the Immigration Department of a completed application form and all supporting documentation.

Ease of the application procedure:

Step	FRD	LTR	SD	RD	BCD	SPD
The information that applicants need to complete is not extensive	2	4	2	2	NA	3
The application form is user-friendly	2	2	2	2	NA	3

Key information/ documents required:

Type of information	FRD	LTR	SD	RD	BCD (NA)
Family ties	Yes, T, C, R				
Continuous legal residence		Yes, C, R			
Sufficient resources	Yes, T, C, R	Yes, T, C, R		No	
Accommodation/Address in territory	Yes, T, C, R				
Sickness insurance	Yes, T, C, R	Yes, T, C, R	Yes, C, R	No	
Work contract (for RD host agreement)				Yes, T, C, R	
Minimum salary threshold	N/A	N/A	N/A		For postgraduate assistants/PhD candidates: €2000 per month; if they have

⁵ See the checklist of documents for the LTR permit at <http://www.moi.gov.cy/moi/crmd/crmd.nsf/All/D0B62F3A3B68AFA8C2257D2C0037B99D?OpenDocument>

				dependents: €2500. For postdoctoral researchers: €2500; if they have dependents: €3000. The salary must be reflected in the agreement.
Professional qualifications				Yes, C, R
(Pre-) Integration measures	No	Yes, C, R		
Pre-departure conditions			Proof of registration in tertiary education institution describing the program and its duration (students, trainees) Partially ⁶ , T,C (volunteers)	
Proof no threat to public	Yes, T, C, R	Yes, C, R	Yes, C, R	Yes, T, C, R
Medical examination certificate	Yes, T, C, R			Yes, T, C, R
Valid travel document			Yes, C, R	Yes, C, R
Entry visa				
Other	Yes, T, C, R	Yes, C, R		Yes, C, R

Note: T = Translation; C = Certified, R = Requirement, i.e. without this proof the application cannot be lodged.

2.3 Differences between national statuses and the EU legal migration acquis

N/A

⁶ No proof of language knowledge is needed for students. Only proof of registration in a tertiary education institution.

3 Application phase

3.1 Legal transposition of the EU legal migration acquis

Legal transposition has, in most cases, been literal with no conformity issues. Some of the options offered by the directives, like the option to accept applications for researchers' permits from within the country were not transposed without however raising conformity problems.

3.2 Practical application of the EU legal migration acquis

Information about the application phase is available on line from the website of the immigration department. For some of the permits, namely the LTR and some of the permits under the single permit scheme, there are also leaflets available. However, the information as well as the application process remains highly technical and difficult for a lay person to follow to a successful conclusion, without the assistance of lawyers or agents. This is less of a problem for the students and the researchers, whose applications are, as a rule, handled by the institutions which have recruited them.

Application forms, which can be downloaded from the website of the immigration department, must be completed and submitted in original hard copies, alongside with the supporting documents and the application fee. If there are discrepancies in the package submitted, the immigration authorities will contact the applicant, the employer or the agent, as the case may be, giving them a deadline to submit the correct documents. The period of the deadline is discretionary and varies from case to case. Application fees also vary from permit to permit, starting from 30 EUR in the case of the LTR permit and reaching to 200 EUR in the case of the FR permit. The application fee for some of the permits under the single permit scheme varies depending on the status and income level of the employer.

The application forms may be downloaded from the website of the Immigration Department it must be submitted either in person or by post or delivery. They cannot be submitted via email as certain documents from the check list have to be originals and the application fee must be paid on the spot.

Besides the Immigration Department other governmental departments are involved in the process, albeit mostly for formalities and for issuing some of the supporting documents that must accompany the application form: the Labour Office stamps employment contracts, the Finance Ministry gives tax clearance certificates that must accompany the application forms, the Ministry of Education approves training courses, etc.

Through a single administrative act, the applicant is informed in writing of the outcome of his or her application, via a letter sent to the address specified in the application form. The residence permit, issued in the form of a plastic card containing biometric data, must be collected by the applicant in person. In case of a rejection the reasons are provided in English, with reference to the relevant provisions of the immigration law.

Rejected applicants can file applications for the judicial review of an administrative act to the Administrative Court within 75 days of being notified of the rejection. They do not need to be physically in Cyprus to file this application; a lawyer can file it on their behalf. Negative decisions which draw on administrative discretion, such as the decision whether or not to examine FR applications for family members who entered Cyprus on a tourist visa, can be challenged through an administrative appeal.

The concept of administrative silence doesn't exist in Cyprus; all applications must be answered for all permits. In the case of LTR applications, if there is no response within the deadline foreseen (six months and additionally six more months in highly complex

cases) the applicant has the right to remain in Cyprus and enjoy all the rights attached to the LTR permit until the application is finally decided.⁷

Directive	General	FRD	LTR	SD	RD	BCD	SPD
Application from third country (Q3a)	Yes / No	Add if different					
Permit received in third country	Yes						
Number of authorities involved in the application	1						
Number of authorities involved in the issuance of the residence permit	1 or more						
Application modalities	Post In person						
Existence of a standard application form for all statuses	No	Add if different					
Language of the application form	National language English						
Fees charged (Q3d.(i))		270€	30€	119€	100€	NA	For families with children: For 1 year:€170 For 2 years:€250 For 3 years: €330 For 4 years: €410 For employers who are public assistance receivers: €70 for any number of

⁷ Article 18I(6) of the Aliens and immigration Law Cap. 105, available at http://cylaw.org/nomoi/enop/ind/0_105/section-sca6598c41-e02f-1a8b-e05c-09fa509f91e6.html

							years. For employers who are elderly/sick/disabled: For 1 year:€150
Other fees charged?	Yes					NA	
Fees charged for permit issuance	No						
Fees charged for renewal / replacement of the permit		200€	30€	34,17€	100€	NA	Renewal of permit to work at an international company where the majority of shareholders are third country nationals: €130 Renewal of permit to work at an international company where the majority of shareholders are not third country nationals: €110,00 Renewal of general occupation permit for one year: €100 Renewal of domestic helper for family with children aged under 12 to work in Cyprus for 1-4 years: €80,00 Renewal of domestic helper for family with children aged under 12 to work in Cyprus for 4-6 years: €100 Renewal of domestic helper for family with

	children aged under 12 to work in Cyprus for over 6 years: €150
	Renewal of domestic helper for high income employers (1-4 years): €90
	Renewal of domestic helper for high income employers (4+ years): €150
	Renewal of domestic helper for elderly, sick or disabled employer: €30
	No application fee for the renewal of a permit to work as carer of a vulnerable person (public benefit receiver).

The processing times are as follows:

Directive	FRD	LTR	SD	RD	BCD	SPD
Processing time /deadlines (according to law)	152,5 days	183 days	NI	NI	90 days	122 days
Processing time (in practice) (SQ3e(i))	NI	NI	NI	NI	NI	NI

3.3 Differences between national statuses and the EU legal migration acquis

There are no national statuses which are equivalent to the permits foreseen by the EU legal migration acquis.

4 Entry and travel phase

4.1 Legal transposition of the EU legal migration acquis

The directives were transposed, in many cases literally, with no serious transposition issues. No time frame is foreseen for the issue of either the entry permit or the residence permit. Cyprus is not part of Schengen so no special procedures apply for travel to and from Schengen countries.

4.2 Practical application of the EU legal migration acquis

Although in general no serious legal transposition issues arise as regards the entry and travel phase, a number of practical implementation issues arise as regards the policy of the immigration authorities to attach permits falling under the single permit scheme to specific employers, denying the permit holders the liberty to seek employment in the open market. With regard to the FR permit, the eligibility criterion that the marriage must have taken place one year before submission of the application is of questionable legality.

During this phase, the third-country national is not yet in possession of a residence permit and therefore the authorities issue an entry visa without any specific timeframe for issuing the residence permit.

In those permit schemes where the main applicant is the employer (e.g. the single permit) then the application is submitted by the employer. Third country nationals in possession of a valid permit and valid travel documents may enter and re-enter Cyprus only on the basis of that permit. No specific entry requirements are in place for the third-country nationals of a visa free country.

Upon arrival, third-country nationals are required to register with the immigration department and with social security institutions.

4.3 Differences between national statuses and the EU legal migration acquis

There are no equivalent national permits to the permits foreseen under the legal migration directives.

5 Post-application phase

5.1 Legal transposition of the EU legal migration acquis

The directives were transposed almost verbatim as regards the post-application phase, without any legal transposition issues.

5.2 Practical application of the EU legal migration acquis

A time frame of 30 days for delivering the permit is set at an administrative level, although this is not foreseen in the law. Permits are collected from the immigration department. Besides the immigration department, which has the main responsibility for the issuance of permits, a number of other governmental departments are involved by way of issuing the supporting documents. For students and researchers, the Ministry of Education is also involved in the assessment of applications, whilst in the case of trainees the Labour Department of the Ministry of Labour must approve the training scheme. For employment-related permits (Single Permit, Blue Card) a quota clearance procedure is followed, involving the Labour Office.

With regard to the LTR permits, the law was amended in order to comply with the LTR Directive, reducing renewal fees from 200 to 30 (same as for first issue) and providing that the LTR permit is renewed ipso facto. However, the police certificate still features among the checklist of required documents for renewal on the website of the immigration authorities⁸ which in essence implies that renewals are not automatic, as required by the Directive.

⁸ See

http://www.moi.gov.cy/moi/CRMD/crmd.nsf/0/1d77bbdd2010327ec2257d2c00360968?OpenDocument&ExpandSection=5#_Section5b

Directive	FRD	LTR	SD	RD	BCD	SPD
Minimum validity of the first permit (Q5d(1))	0	NA	NA	0	0	0
Maximum validity of first permit (Q5d(1))	3 months	NA	0,5 month	3 months	3 months	3 months
Minimum validity of permit renewal (Q6b(ii))				Remaining duration of the project		
Maximum validity of permit renewal (Q6b(ii))	12 months	For indefinite duration	For the period of study. In the case of unremunerated trainees, the permit can be renewed only exceptionally and only once to enable the permit holder to complete vocational certification recognized by the Republic of Cyprus	12 months	12 months	No particular duration is foreseen

The Member State has a set timeframe to deliver the permit following the notification of the decision, of 30 days. In practice, it takes less than 30 days.

The employer is the main applicant but is not involved in the delivery of the permit.

The Member State has a set timeframe to deliver the permit following the notification of the decision, of 30 days. In practice, it takes less than 30 days.

The employer is the main applicant but is not involved in the delivery of the permit.

5.3 Differences between national statuses and the EU legal migration acquis

There are no national statuses equivalent to those foreseen under the EU legal migration acquis.

6 Residency phase

6.1 Legal transposition of the EU legal migration acquis

Two potential issues of legal transposition emerge: the prohibition for single permit holders to buy real estate for their residence and the requirement for LTR permit holders to pay a fee of 30 EUR in order to renew their LTR permit. Besides these two, no other problems of legal transposition are located. Cyprus did not opt to allow foreign students to carry out self-employment, without however affecting conformity with the Students Directive.

6.2 Practical application of the EU legal migration acquis

All permits issued contain biometric data (photo and fingerprints). The chip stores the personal data of the permit holder including place of birth, the type of occupation for which the permit is issued, the name of the employer, the place and date of issue and date of expiration of the permit. In the case of all work related permits, permission from the immigration department is needed in order to change employer. The change of employer is not automatically granted in all cases and a complicated procedure is foreseen, involving fresh applications and supporting documents.

The residence permit carries a rebuttable assumption that the residence is valid and grants right to move freely in the territory controlled by the Republic of Cyprus. The permit is not a precondition for access to compulsory education (which is provided for free to all, irrespective of status) or to free health care (which is not available to most permit holders, except for emergency care). As regards private sector services, such as banking or telephone subscriptions, the requirements are regulated by the service provider although a general prohibition of discrimination in access to services is included in the law transposing the Racial Equality Directive (2000/43).

Renewal fees vary from permit to permit, as do the fees for the initial application. The lowest fee is payable for the LTR permit, which is currently at 30 EUR reduced recently from 200EUR and the highest is 200 EUR for the FR permit. The fee for renewing single permits varies, often depending on the status and income of the employer. The conditions for renewal are the same as for the initial issue, which does not raise any conformity issues except in the case of the LTR permit, where a criminal record certificate is required for renewal whereas renewal ought to have been automatic. A change of status from one permit to another is discretionary and in most cases not permitted, except where permit holders meet the criteria for the LTR permit.

Despite having transposed the Equality acquis (43/2000 and 78/2000) the conditions of work of many single permit holders, particularly agricultural workers and domestic workers, are significantly worse than those of most Cypriots. Although the law provides for equal pay for foreign and local workers, migrant workers are frequently paid wages much lower than those provided for in the collective agreements. As highlighted by a number of monitoring body reports, their conditions of work often meet the definition of labour trafficking. There are no special measures or mechanisms in place for monitoring the labour conditions of third country workers or for identifying and prosecuting employers for labor exploitation. No inspections are carried out in homes employing domestic workers, who account for approximately half of Cyprus' migrant workforce.

Certain aspects of the practical implementation of the Long Term Residence Directive may be seen as potentially infringing the Directive. In addition to the renewal fee of €30, a further prerequisite for renewal is the submission of a criminal record certificate which, although no longer mentioned in the legislation, appears as a precondition in the checklist of required documents on the website of the immigration department.

LTR permit holders are entitled only to 'basic benefits of social assistance' which are not defined. Although this is not a conformity issue, it creates a sense of uncertainty to applicants and permit holders.

Regarding the Researchers Directive, the national law replaced the Directive's 'publication of the decision' (found in Directive article 8(6)) with 'notification of the decision to the affected organisation', sidestepping the option of making the decision public. This alternative may create obstacles to the practical application of the legal migration acquis.

Use of the permit:

The residence permit is issued using the format as set out in Regulation (EC) No 1030/2002 for residence permits. The permit has a constitutive value. It gives third-country nationals to right to move freely on the Member State's territory.

The permit is required as a legal document for the following other administrative procedures:

Access to education	Access to healthcare	Registration with PES	Fixed telephone subscription	Utility subscription	Open a bank account	Social security registration
		X	X	X	X	

b. Renewals of the permit:

National or EU law imposes a direct or indirect requirement to renew a valid residence document.

The renewal process follows a single procedure, involving more than one authority. The same authorities are involved as in the first application procedure.

c. Change of status and naturalisation

Status changes are discretionary, except where permit holders apply for LTR. Researchers may be permitted to change status but students will not. As a rule, status change except in the case of the LTR permit and in some cases the FR permit, the latter at the authorities' discretion. Different single permit holders are treated differently, e.g. domestic workers are unlikely to be allowed to convert to any other permit but employees of international companies who complete five years of lawful residence are entitled to the LTR permit (not discretionary) and exceptionally to the FR permit (discretionary) without having to leave Cyprus.

The procedure for requesting a status change is the same as the first application procedure.

In order to apply citizenship, third-country nationals may apply under one of the following schemes:

Naturalisation based on years of residence: This is discretionary and can be applied for after seven years of legal residence in the Republic prior to the date of application. Third country nationals who are either parents or children of Cypriot citizens the time required can submit an application after five years rather than seven. In either case, the applicant must have resided legally and continuously in Cyprus during the twelve months preceding the date of the application.

Naturalisation of investors who have invested at least €2M either in real estate or in Cypriot companies or in alternative investment funds set up in Cyprus.

Acquisition of Cypriot citizenship as a spouse of a Cypriot: Granted to foreign spouses of Cypriot nationals, who have completed three years of marriage and two years of residence in the Republic prior to the date of application.

d. Employment rights on the basis of the permit

In general, a work-related permit is linked to a certain employer. When changing employer, the third-country national does not need to request a change to the permit, however special permission is required.

e. Equal treatment

Working conditions, including pay and dismissal as well as health and safety at the workplace: Cyprus has transposed the Racial Equality Directive (2000/43) and the Employment Equality Directive (2000/78) but a number of inequalities persist on the ground.

Freedom of association and affiliation and membership of an organisation representing workers: In theory there are no restrictions, although very few third country nationals do join workers' unions. There is no union for the rights of domestic workers, the vast majority of third country nationals in Cyprus.

Social security benefits: Despite monthly contributions to the Social Insurance Fund, third country nationals are not entitled to most public benefits, the only exception being sick pay, however there is little or any information available about this right and about how a third country national may claim this.

Education and vocational training: no restrictions.

Recognition of diplomas, certificated and other professional qualifications: no restrictions.

Tax benefits: no restrictions.

Access to goods and services and the supply of goods and services made available to the public: No restrictions (covered by Racial Equality Directive 2000/43)

Advice services afforded by employment offices: No restrictions, however most permit holders do not have the right to freely seek work in the open market and therefore have little use for such services.

Cyprus does have not an effective system in place to monitor the exploitation of third-country nationals. The inspectorate system of the Department of Labour carries only random checks and usually not in the industries where migrant workers are employed in large numbers, such as private homes employing domestic workers. A police unit specialising in both labour and sex trafficking operates an identification system for victims of trafficking, pursuant to a law adopted in 2014 purporting to transpose two trafficking Directives (2004/81 and 2011/36) and a number of UN and CoE instruments. However the implementation of this law has attracted criticism from several international monitoring bodies who expressed concern over the downgrading of the efforts in combating trafficking. There are allegations about employment agencies being involved in the trafficking and exploitation chain.

f. Integration:

Specific integration procedures and conditions do apply to third-country nationals once established on the territory of the Member State. There are no consequences if the third-country national does not participate in these.

6.3 Differences between national statuses and the EU legal migration acquis

There are no equivalent national statuses.

7 Intra-EU mobility phase

7.1 Legal transposition of the EU legal migration acquis

The following problems emerged as regards the legal transposition of the Directives for the intra-EU mobility phase:

Article 18(4)(b) of the Blue Card Directive which provides for the readmission of the permit holder and his family members was transposed only as regards the permit holder, without including family members in the duty of readmission.

With regard to the documentary evidence to be submitted in support of an application for the LTR permit, Cyprus requires a criminal record certificate which does not relate to articles 4 and 5 of the Directive, but rather to article 6.

The optional provision in article 14(5) of the LTR Directive regarding seasonal workers was not transposed.

7.2 Practical application of the EU legal migration acquis

No special rules apply for third country national who are holders of a permit from another member state: the pre-conditions, procedures and required documents for such 'mobile' third-country nationals are the same as for third country nationals applying for the first time. Holders of Cypriot permits however may travel for 90 days without authorisation, however failure to return to Cyprus within 90 days will cause their permit to be invalidated.

As far as the immigration authorities are concerned, the only permit carrying mobility rights is the Blue Card permit which is not being issued yet, therefore there no policies and no structures for intra-EU mobility.

Differences between national statuses and the EU legal migration acquis

There are no equivalent national statuses.

For short-term mobility, the Member:

- Does not require the third-country national to notify
- Does not require the third-country national to ask for authorisation.

7.3 Differences between national statuses and the EU legal migration acquis

N/a

8 End of legal stay / leaving the EU phase

8.1 Legal transposition of the EU legal migration acquis

There are no specific procedures in place for third-country nationals who choose to leave and no conformity issues.

8.2 Practical application of the EU legal migration acquis

There are no specific procedures in place for third-country nationals who choose to leave Cyprus. There is no requirement and therefore no procedure for deregistration or return of a permit or leaving details about the next destination.

Cyprus does not allow third-country nationals to export any social security benefits and consequently there is no information on the portability of social security.

A third-country national residing in Cyprus is allowed to be absent from the territory for a maximum of 90 days (365 for LTR) before s/he loses the residence permit. Absences are monitored through a computerized system of departures and arrivals which is operated by the police at all ports and airports. Permit holders who overstay in another member state will lose their permit to reside in Cyprus.

Cyprus does not have measures or a scheme in place to allow circular migration.

8.3 Differences between national statuses and the EU legal migration acquis

There are no equivalent national statuses.

9 Main findings and conclusions – state of practical implementation of EU legal migration legislation in the Member State

The only body that can provide information regarding the application procedure is the Immigration Department in Nicosia. No personalized support is available for prospective applicants to complete the forms and collect the supporting documents. There are no information desks in third countries or in Cyprus. The service desk operated by the Immigration Department is understaffed and faced with high volumes of requests and questions, leading to long queues. Most of the information can be found on the Immigration Department website, which is available in Greek and English, however there is no link at the home page of the Ministry's website and one would have to know where to look in order to find it. Finding, accessing and being able to effectively utilise the information is not practically accessible to lay applicants, particularly if they are not well-educated, specialists or professionals. This requires (a) access to internet, (b) excellent computer and internet search skills; (c) good knowledge of English or Greek, many are in technical language; (d) for single permits there must be first applied for by the employer, which is specific a post and contract under a specific employer. (f) It is almost impossible to go through the whole procedure without some legal support or the assistance of an agent.

- For all the statuses, beyond the fees required, there are other obligatory costs involved in obtaining some of the documents required in support of the application form, which may include bank charges for obtaining bank guarantees, insurance policies, stamp duty on employment contracts, certifications from community authorities et al. The costs vary from provider to provider. Some of the providers are private sector (e.g. bank, insurance company, agents) and the government does not regulate their charges. The most significant cost is perhaps the fee of the agent who may have to be hired in order to process the paperwork, which is time consuming and highly bureaucratic. For many of the permits, the documents that need to be submitted in support of the applications are excessive, often raising conformity problems.
- The system as regards monitoring, detection, prosecution and prevention of extreme labour exploitation appears to be generally flawed. There is no effective mechanism for inspection, identification and prosecution of such cases, which are as a rule treated by the police as labour disputes and therefore outside their jurisdiction.⁹ There are also national rules which are perpetuating

⁹ U.S. State Department, 2016 Human Rights Reports: Cyprus, available at www.state.gov/j/drl/rls/hrrpt/2016/eur/265408.htm, section 7(b); U.N. Committee on the Elimination of

and reinforcing phenomena of extreme labour exploitation, like the attachment of SP holders to their employers, the fact that they are vulnerable to deportation if they file complaints against their employers and the refusal of the authorities to take measures against employers who withhold wages.¹⁰

The legal instrument used to transpose various EU immigration directives is anachronistic, confusing and extremely difficult to use. The numbering is absurd: all the legal migration directives were incorporated into a single article of the law (article 18) which was then disaggregated into various subdivision which are difficult to follow even for legally trained persons.

Racial Discrimination, Concluding observations on the twenty-third and twenty- fourth periodic reports of Cyprus, available at http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/CYP/INT_CERD_COC_CYP_27472_E.pdf;

¹⁰ Ombudsman in its capacity as National Human Rights Institute, Position regarding the status of domestic workers in Cyprus (*Τοποθέτηση Επιτρόπου Διοικήσεως ως Εθνική Ανεξάρτητη Αρχή Ανθρωπίνων Δικαιωμάτων αναφορικά με το καθεστώς των οικιακών εργαζομένων στην Κύπρο*), File No. A/D3/2013, 2 July 2013. Available at [www.ombudsman.gov.cy/Ombudsman/ombudsman.nsf/All/EF5814885D4539CDC2257E7D0036FC97/\\$file/%CE%91%CE%943_2013_02072013.doc?OpenElement](http://www.ombudsman.gov.cy/Ombudsman/ombudsman.nsf/All/EF5814885D4539CDC2257E7D0036FC97/$file/%CE%91%CE%943_2013_02072013.doc?OpenElement)

Annex 1

Interviews with Immigration Department officials in July 2017.

Conformity assessment studies

IA on au pairs and possible amendments to Directive 2004/114 – Draft Final Report – Annex 2

ICMPD, Table of Concordance and Conformity Analysis, Council Directive 2005/71/EC, Cyprus.

TIPIK, Conformity Assessment of Directive 2003/109/EC: Assessing the legal transposition of the LTR Directive into national law by Cyprus.

TIPIK Conformity Assessment of Directive 2009/50/EC, Cyprus, *Final Report*, Version 2.0, 29 March 2013.

TIPIK, Conformity Assessment of Directive 2011/98/EU, Version 2.0, 2 September 2016.

TIPIK, Final Overall report on the transposition of Directive 2003/86/EC, Version 3.0, 1 September 2016.

Legislation

Cyprus, Aliens and Immigration Law Cap 105, available at www.cylaw.org/nomoi/enop/non-ind/0_105/full.html

Law on private employment agencies N. 126(I)/2012 available at http://cylaw.org/nomoi/enop/non-ind/2012_1_126/full.html

Cyprus, Law revising the legal framework regulating the prevention, combating of trafficking and exploitation of persons and protection of victims N.60(I)/2014, 15 April 2014. Available at http://cylaw.org/nomoi/arith/2014_1_060.pdf

VI. Monitoring Body Reports

U.S. Department of State, Office to Monitor and Combat Trafficking in Persons (2017), *Trafficking in persons Report, CYPRUS: Tier 2*, available at <https://www.state.gov/j/tip/rls/tiprpt/countries/2017/271175.htm>

U.S. State Department, 2016 Human Rights Reports: Cyprus, available at www.state.gov/j/drl/rls/hrrpt/2016/eur/265408.htm

U.N. Committee on the Elimination of Racial Discrimination, Concluding observations on the twenty-third and twenty-fourth periodic reports of Cyprus, available at http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/CYP/INT_CERD_CO_C_CYP_27472_E.pdf,

Ombudsman in its capacity as National Human Rights Independent Authority (2013), Position regarding the status of domestic workers in Cyprus (*Τοποθέτηση Επιτρόπου Διοικήσεως ως Εθνική Ανεξάρτητη Αρχή Ανθρωπίνων Δικαιωμάτων αναφορικά με το καθεστώς των οικιακών εργαζομένων στην Κύπρο*), File No. A/D3/2013, 2 July 2013. Available at

[www.ombudsman.gov.cy/Ombudsman/ombudsman.nsf/All/EF5814885D4539CDC2257E7D0036FC97/\\$file/%CE%91%CE%943_2013_02072013.doc?OpenElement](http://www.ombudsman.gov.cy/Ombudsman/ombudsman.nsf/All/EF5814885D4539CDC2257E7D0036FC97/$file/%CE%91%CE%943_2013_02072013.doc?OpenElement)

Expert reports

Christophorou C. & Vesuvios C. (2010), 'Immigration law and policy', Chapter in book edited by Neocleous A. *Introduction to Cyprus Law*, Cyprus: A Neocleous & Co., pp. 119-136.

Ioannidou M (2014), *Severe forms of Labour Exploitation: Supporting victims of severe forms of*

labour exploitation in having access to justice in EU Member States, Cyprus, Report for the European Union Agency for Fundamental Rights, available at fra.europa.eu/sites/default/files/fra_uploads/severe-labour-exploitation-country_cy.pdf

Trimikliniotis N. and Demetriou C. (2015) *Migrants and their descendants: social inclusion and participation in society, Cyprus*, Report for the European Union Agency for Fundamental Rights

HOW TO OBTAIN EU PUBLICATIONS

Free publications:

- one copy:

via EU Bookshop (<http://bookshop.europa.eu>);

- more than one copy or posters/maps:
 - from the European Union's representations (http://ec.europa.eu/represent_en.htm);
 - from the delegations in non-EU countries (http://eeas.europa.eu/delegations/index_en.htm);
 - by contacting the Europe Direct service (http://europa.eu/europedirect/index_en.htm) or calling 00 800 6 7 8 9 10 11 (freephone number from anywhere in the EU) (*).

(* The information given is free, as are most calls (though some operators, phone boxes or hotels may charge you).

Priced publications:

- via EU Bookshop (<http://bookshop.europa.eu>).

Priced subscriptions:

- via one of the sales agents of the Publications Office of the European Union (http://publications.europa.eu/others/agents/index_en.htm).

