

## Country sheet - Cyprus

### Background Information

Located in the Eastern Mediterranean, the island of Cyprus is de facto split into two by a demarcation line (the green line) since 1974 with, on one side, the Turkish Republic of Northern Cyprus (TRNC)<sup>1</sup> and on the other, the Republic of Cyprus. Cyprus entered the European Union as a whole on May 1<sup>st</sup> 2004. Due to the fact that the northern part is not under the control of the Republic of Cyprus' government, the community law in the not controlled area is suspended for the time being. The northern part in fact is under the control of Turkey (e.g. border police is directly under the command of the Turkish army or entry and visa permits for Turkey are valid for the northern part as well).

Both sides have been separated since then, with almost no communication between them until April 2003, when bilateral relations slowly improved, thereby leading to the opening of several crossing points on the demarcation line. The southern side of the island still did not enter the Schengen area yet, as the other EU Member States consider that the authorities do not provide sufficient guarantees as regards the control of its external borders. Indeed, the Cypriot government is reluctant to set up important surveillance mechanisms on the demarcation which would be synonymous of an implicit recognition of the "green line" as an external border and as an indirect recognition of the TRNC as a sovereign state. As a consequence, third country nationals who can reach the northern part of Cyprus, i.e. non EU-citizens, transit through the northern side of the island can relative easy cross to the southern side, although it does not represent the biggest proportion of people coming irregularly to Cyprus.

### Legal framework regarding foreigners

In 1968, Cyprus ratified the United Nations Convention of July 28, 1951 and its additional protocol of January 31, 1967, on the status of refugees. It also ratified the ILO Convention No.97<sup>2</sup> and No.143<sup>3</sup> but, like all the European Union states, it is not signatory of the 1990 United Nations convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Yet, a lot of migrants in Cyprus are in a vulnerable situation, for instance migrant workers and their families, migrants exploited in the sex industry, non-EU students who cannot finance their studies any more after some years spent on the island, asylum seekers (including families) in the absence of genuine reception as well as asylum examination and appeals mechanisms, and refugees who are fighting the lack of effective integration programmes.

Criminalisation of migrants is a major issue in Cyprus. The Aliens and Immigration law dates back from the British colonial past. Although it was amended many times, mainly in order to accommodate the transposition of EU directives, it remains outdated in many respects and heavily sanctions, any form of irregularity on the territory. Thus, migrants found guilty of either a minor or a serious offence, are consider automatically as undesirable migrants and are faced with detention and deportation. . Those arrested for irregular stay or irregular work may all have to serve a prison sentence (up to 3 months for irregular stay).

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<sup>1</sup> The TRNC is recognized only by Turkey.

<sup>2</sup> [1949' Convention on migrant workers, implemented in 1952.](#)

<sup>3</sup> 1975 Convention on migrant workers, implemented in 1978.

Even after having served their prison sentence, they continue to be detained on the basis of administrative detention pending their removal from Cyprus.

Restrictions imposed on third country nationals often lead them to work informally or to leave in the country without a formal authorisation to reside in Cyprus, pending the renewal of their residence permit.

Cyprus is the only country in the European Union where no regularisation policy of undocumented migrants has ever been adopted. Despite the fact that the strict migration model followed since 1990's and the inefficient and poor asylum procedures in place - the recognition rate barely exceed a 1% - push migrants and asylum seekers into an undocumented situation, regularisation was never proposed as an option to address undocumented migrants. On the contrary, the detention and the deportation of irregular migrants has always been, maybe now more than ever, the only policy aggressively pursued by the government in relation to undocumented migrants.

Occasionally, regularisation used to occur at times on an individual basis, due to compelling humanitarian reasons such as families who had been living for a very long time in the country, children at school and /or for health reasons<sup>4</sup>.

Due to economic crisis, the whole issue around migration and asylum has taken an unprecedented negative turn across the Cypriot society. This stance has also been taken by mainstream political parties, who are blaming all the problems of the Cypriot society, such as unemployment, criminality and others, on the so-called "illegal migrants" amongst which asylum seekers, refugees or persons under international protection status<sup>5</sup>.

## **Asylum**

The Refugee Law came in force on January 31, 2000. The related regulations were adopted in February 2001 with some provisions of the law being modified in February 2002 to meet European standards regarding the reception of asylum seekers and refugees.

1635 asylum claims have been registered in 2012<sup>6</sup>. The number of asylum applications continued to decline since there were 3200 in 2009, 2860 in 2010 and 1765 in 2011.

As in other countries of the European Union, asylum seekers in Cyprus are predominantly male (about 72%).<sup>7</sup> In 2012, they mainly originated from Syria (34%), Vietnam (12%), Bangladesh (12%), Egypt (10%) and Pakistan (7%).<sup>8</sup>

In 2012, 1335 asylum claims were being examined and only 105 had been accepted on the first instance decision: 80 persons were granted refugee status, 10 were granted subsidiary protection (one year residence permit, renewable or not by the authorities), and 15 persons got a residence permit on humanitarian grounds.

The asylum procedures in Cyprus have two instances in the administrative level: the first is the examination of an asylum application by the Asylum Service, and the second is the examination of an appeal by the Refugee Reviewing Authority against the decision of the Asylum Service. The appeal has to

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<sup>4</sup> Such regularization is only for a short term period - normally maximum one year – after which they face too many practical obstacles to renew their residence permits or to find a job and therefore fall into an undocumented situation again.

<sup>5</sup> KISA: "Asylum procedures and reception conditions in Cyprus", May 2011.

<sup>6</sup> Eurostat, [asylum applicants and first instance decisions on asylum applications: 2012](#), May 2013.

<sup>7</sup> Eurostat, [asylum applicants and first instance decisions on asylum applications: 2012](#), May 2013.

<sup>8</sup> Eurostat, [asylum applicants and first instance decisions on asylum applications: 2012](#), May 2013.

be made within 20 days from the date the applicant has been informed of the decision. During these procedures, an asylum seeker is considered as having a residence permit in Cyprus. If the Reviewing Authority rejects the application, the asylum seekers can lodge an appeal to the Supreme Court<sup>9</sup> within 75 days from the date he/she has been informed of the decision. However, the Court can only examine whether the decision of the administration has been taken following a fair procedure, i.e. the court does not base its decision on the substance, merits of the asylum claim unless the asylum seeker brings new important elements to support his/her claim. However, the risks for these people to be arrested even before the Supreme Court gives its verdict are important given that this final appeal is not suspensive: during the examination of their appeal by the Supreme Court, asylum seekers do not have resident permits and as a consequence they are subject to arrest and detention. In case they are arrested and detained for the purpose of deportation, they have the right to file an appeal against the arrest and deportation orders. In practice, if they do so, only the deportation order is revoked, while the detention order persists which means that the person is detained until the appeal is examined by the Supreme Court (which usually takes 12 – 18 months).

Early 2013, the Ministry of Interior decided to freeze Syrian asylum claims. Because of the strong Syrian mobilisation (sit-in outside the Ministry and hunger strike for several weeks), the minister decided to meet them in mid-May. As a result many cases of rejected asylum seekers from Syria were reopened and are currently pending before the relevant authorities.

On 18 July 2013 the Council of Ministers decided to lay down the public benefits for asylum seekers and persons with temporary status for humanitarian protection and voted for the creation of a system providing and exchanging vouchers to cover the material reception conditions of asylum seekers.<sup>10</sup>

The Refugee Law restricts asylum seekers' access to employment, allowing them to access employment only six months after the submission of their asylum application and in specific fields limited to unskilled or low skilled sectors of the job market in praxis only in the farming and agriculture industry.

In addition, even once having been granted international protection, people have to face a lack of integration programmes, which considerably hinders their active participation in the Cypriot society and often leads to their social exclusion.<sup>11</sup>

There is only one reception centre for asylum seekers, in Kofinou, is located in a remote area in the centre of the island, with a capacity of 70 places. It is mainly used for families and women.

Until mid-2013, two other reception centers for asylum seekers existed, in the place of two hotels where some asylum-seekers were hosted in Larnaca (300 persons) and Paphos (70 persons). These centers were managed by G4S, a multinational security company that runs prisons and detention centres for migrants in other countries and operates more widely in the field of security. Due to a lack of financial resources, these reception solutions are no longer effective.

### **Detention, deprivation of liberty**

The law regulating immigration detention is the Aliens and Immigration Law (CAP 105) as this was subsequently amended, eventually to be harmonised also with all the immigration directives of the European Union. This law is a colonial law of the 1950's when Cyprus was still a colony of the United

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<sup>9</sup> Asylum seekers, who want to file an appeal at the Supreme Court have the right to apply for legal aid for the purposes of their appeal.

<sup>10</sup> See KISA's press release: The public benefits of poverty and misery for asylum seekers and persons with humanitarian protection status in Cyprus, 22 July 2013.

<sup>11</sup> See the report commissioned by the UNHCR in Cyprus and conducted by INDEX: the needs of refugees and the integration process in Cyprus, May 2013.

Kingdom and therefore it predates the Constitution of Cyprus as well as all the international human rights treaties and conventions ratified by Cyprus after its independence.<sup>12</sup> As such, it is not aligned with the international obligations of Cyprus and it is premised on the principle of almost absolute state sovereignty over foreigners, the only limitation being that the authorities should act in good faith according to settled case law of the Supreme Court<sup>13</sup>. According to the original Aliens and Immigration Law, the Minister of Interior may issue deportation orders against any foreigner who is declared to be prohibited immigrant<sup>14</sup> and in the meantime to be held in detention so as to execute deportation. Section 14 of the law, does not provide for minimum period of detention nor does it provide for the place of detention or any other details of detention for the purpose of deportation.

Directive 2008/115/EC was transposed into national law by amending the Aliens and Immigration Law.<sup>15</sup> The Directive was basically copied almost in verbatim in the law without amending any other sections of the law, such as Section 14 of deportation and detention so as to align those provisions with the new harmonized legislation. As a result, immigration authorities continue to use their old colonial powers to deport and detain migrants irrespective of the new provisions of the law. In many of its aspects, the Directive remains largely unimplemented.

In addition, detainees know at the last minute if and when they will be released or deported to their country. Detention can last for months until they are readmitted (Dublin II), deported, or released. Most of them do not know neither that the length of their detention has to be reviewed every two months by the Minister of Interior in order to keep them in detention or to release them.

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<sup>12</sup> Although the Constitution included transitional provisions and provided for the need to review all colonial legislation so as to comply with the Constitution and the European Convention of Human Rights, the Aliens and Immigration Law was never reviewed to that effect until today.

<sup>13</sup> *Moyo Sydney Alfred and Another v The Republic of Cyprus through the Minister of Interior and Others* (1988) 3 CLR 1203.

<sup>14</sup> A prohibited immigrant is (a) any destitute person; (b) any idiot or insane or feeble-minded person or any person who for any other cause is unable to take proper care of himself; (c) any person certified by a medical officer to be suffering from a contagious or infectious disease which, in the opinion of the medical officer, is a danger to public health (d) any person who, not having received a free pardon, has been convicted of murder or an offence for which a sentence of imprisonment has been passed for any term and who, by reason of the circumstances connected therewith, is deemed by the immigration officer to be an undesirable immigrant; (e) any prostitute or any person living on the proceeds of prostitution; (f) any person who, from official Government records or from information officially received by the Governor from a Secretary of State or from the Governor of any British Colony, Protectorate of Mandated Territory or from the Government of any foreign State or from any other trusted source is considered by the Governor to be an undesirable person; (g) any person who is shown by evidence which the Governor may deem sufficient, to be likely to conduct himself so as to be dangerous to peace, good order, good government or public morals or to excite enmity between the people of the Colony and Her Majesty or to intrigue against Her Majesty's power and authority in the Colony; (h) any member of an unlawful association as defined in section 63 of the Criminal Code or any Law amending or substituted for the same; (i) any person who has been deported from the Colony either under this Law or under any enactment in force at the date of his deportation; (u) any person whose entry into the Colony is prohibited under any enactment for the time being in force; (k) any person who enters or resides in the Colony contrary to any prohibition, condition, restriction or limitation contained in this Law or any Regulations made under this Law or in any permit granted or issued under this Law or such Regulations; (l) any alien who, if he desires to enter the Colony as an immigrant, has not in his possession, in addition to a passport bearing a British Consular visa for the Colony, an immigration permit granted by the Chief Immigration Officer in accordance with any Regulations made under this Law; (m) any person who is deemed to be a prohibited immigrant under the provisions of this Law.

<sup>15</sup> The Aliens and Immigration (Amendment) Law No 153(I)/2011.

Law 165 of 2002 on legal aid was amended in 2012 and should allow free legal aid to undocumented migrants wishing to challenge detention and deportation orders. However legal aid may be only granted to challenge the legality of detention with a recourse and not the legality of the duration of detention through a Habeas Corpus application. In addition, legal aid may be only provided if the applicants prove possibility of success and they do not have sufficient resources. Up to now, **only a handful of legal aid applications have been accepted by the Supreme Court** in cases where either the applicants were supported by NGOs, or when judges were willing to establish possibility of success by themselves. It is important to highlight that the **application to legal aid is often hindered by the authorities of the detention centres**. Many detainees ask to apply for legal aid in order to make an appeal at the Supreme Court against detention and deportation orders. However, most of them are refused access to the relevant procedures. According to the police of the detention centres, it is not their responsibility to take detainees to the Court. Therefore, detainees who cannot afford the services of a lawyer to represent them can hardly access, in practice, the legal aid procedure or even lodge an appeal to the Supreme Court against detention and deportation orders issued against them.

The only detention place which is designated by the Minister of Justice and Public Order as a closed detention centre, as required by the Law<sup>16</sup>, aimed to detain third country nationals with no residence permit for the purpose of deportation is the **administrative detention centre in Menogeia**. Additionally, several other detention places are used for the detention of people for the purpose of deportation such as the high security centre in Lakatamia. Undocumented migrants are also detained in police stations in Aradippou, Agia Napa, Limassol, Nisou, Paphos, Polis Chrysochous and in any police station where cells are available. In police stations, migrants are systematically mixed with persons arrested for criminal offences. If grown-ups are the majority of the detainees, very often unaccompanied minors are detained not as a measure of last resort but routinely as an automatic measure when they are found to have illegally entered or to be residing irregularly in the country.

The living and sanitary conditions in detention places are not adequate. In some centres, access to the outer court is for instance severely limited: there are no common facilities, no yard, and no window inside the high security centre in Lakatamia; in the police station in Limassol there is one yard but which is located inside thus making it impossible for detainees to have access to natural light. In addition, most of the time, detainees have to wash the sanitary facilities themselves without being given any cleaning product for it. The staff justified it by saying that Cyprus is currently facing an economic crisis.

Moreover, medical support, legal assistance and contacts with the outside world are severely limited in detention places.

Access to medical care is for example decided only by police officers who perform an arbitrary estimate of the detainees' needs. Detainees in Menogeia are handcuffed when brought to the hospital. They even sometimes stay handcuffed during the consultation which takes place with the attendance of the Police.

Access to legal support is very scarce, when any, because there is no lawyer on-duty in the centre and no list of lawyers available to detainees. Detainees have to hire their own lawyer in order to be legally assisted. Access to NGOs like KISA is subjected to the authorisation of the Chief of the Police which does not enable them to act easily and quickly. Consequently, detainees face real difficulties to enjoy their rights.

Contacts with the outside world are also strongly limited. In police stations, the phones are kept in lockers and detainees can use them for maximum one hour a day. In the administrative detention centre in Menogeia, they have their phones with them but as the mobile's network is cut several times a day, the contact with the outside world remains difficult. In addition, there is no phone box in detention facilities

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<sup>16</sup> The law provides for that to be considered as an official detention place, a detention place should have been first declared by the Ministry of Justice and Public Order as such.

which severely limits the possibility to make a call for people who do not have any mobile phone. Moreover, detainees are allowed to have one visit a day. In practice, the duration of the visit depends on the will of the police officers. Visitors need to have a legal residence permit in order to proceed to the visits. In Menogeia, detainees are systematically handcuffed when taken to the visitors' room and in the high security centre in Lakatamia detainees are sitting behind the glassed wall speaking through phone to their visitors.

### **Externalisation and border surveillance**

Because of the geopolitical situation of the island, the Republic of Cyprus cannot guarantee a total and effective control of all its borders. The green line is a demarcation line, not a border and therefore the Government of Cyprus does not exert any sovereign control beyond that line. However, important funds have been allocated to the Cypriot government (Republic of Cyprus) to invest in more modern surveillance devices in ports and airports in the south. Thus, Limassol and Larnaca ports are now part of the 33 ports in the world which meet the ISPS standards (International Ship and Port Security code adopted following 9/11). Cyprus Ports Authority is very clear on the causality link between the modernisation of control devices and the enlargement of the EU borders: "With the accession of Cyprus to the European Union matters relating to the unimpeded movement of passengers as per EU requirements have attained more significance for the Cypriot ports which represent the 'gateway' to the European Union at its south eastern boundary, in an especially sensitive area". Nevertheless, irregular arrivals through the southern coasts are still reported, a fact corroborated by the European Commission.

Since 2005, the EU as well as the Cypriot authorities have asked many times to the Turkish Cypriot administration on the northern side to strengthen controls on migration flows, especially from Turkey and Syria. In July 2010, a Joint Communication Room was established by the Technical Committee on Crimes and Criminal Matters under the aegis of the United Nations. This bi-communal initiative, supported by the UNPD and financed by the US Embassy in Cyprus, aims to reinforce cooperation between Greek Cypriot and Turkish Cypriot authorities in crime related matters, thereby triggering a bi-communal dynamic to tackle criminality on both sides of the green line.

In 2011, the European Council suggested the establishment of a European Border Surveillance System (EUROSUR) in order to "reinforce the control of the Schengen external borders. EUROSUR will establish a mechanism for Member States' authorities carrying out border surveillance activities to share operational information and to cooperate with each other and with the Agency in order to reduce the loss of lives at sea and the number of irregular immigrants entering the EU undetected, and to increase internal security by preventing cross-border crimes, such as trafficking in human beings and the smuggling of drugs<sup>17</sup>".

Eurosur is expected to become operational in December 2013. Even though the number of migrants arriving by sea is low in Cyprus, the establishment of EUROSUR will directly affect, Cyprus as the island is located at the EU's external maritime border. The country will share real-time information on the global situation at its external borders (which does not include the Green Line and the northern side of the island). This information will then feed in Frontex's European situational picture, an updated information on the situation at the EU's external borders that brings together information sent by each EU country.

### **Readmission agreements**

The only bilateral agreement in force was signed between the Republic of Cyprus and Italy on May 22, 2003, reinforced through a police cooperation agreement signed on January 4, 2006. Two other

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<sup>17</sup> [European Commission, proposal for a regulation of the European Parliament and of the council establishing the European Border Surveillance System \(EUROSUR\)](#), 12.12.2011.

agreements, non effective as of today, have been successfully signed with Sweden (January 26, 2005) and Lebanon (July 19, 2002)<sup>18</sup>. Talks are ongoing with the Benelux, Armenia<sup>19</sup> and Croatia in this respect.

Additionally, the signature of a readmission agreement has been in discussion for about three years between the Republic of Cyprus and the Arab Republic of Syria. The complete absence of transparency concerning the readmission clauses of the agreement makes it difficult for civil society to act before the signature of a text, which nature is unknown (readmission agreements, cooperation agreement comprising readmission clauses ?).

## Mobilisations and protests

Since 2007, many serious incidents such as hunger strikes and rebellions are as many reminders of the long detention lengths and of the difficulties faced by migrants<sup>20</sup>; these protest movements, e.g. those initiated by KISA, are sometimes violently repressed. Some of the most illustrative events are listed below.

For example,

- in November 2010, following the organisation of the Rainbow Festival that was attacked by far-right nationalists and fascists organizations, the Executive Director of KISA, Doros Polykarpou, was charged with “rioting and participating in an illegal assembly.”<sup>21</sup> On 18th June 2012, the Larnaca District Court dropped charges against [KISA](#)’s Executive Director. The court pointed out that the prosecution had failed to prove that any criminal offence had been committed by D. Polykarpou in relation to the violent events which occurred at the Rainbow Festival in Larnaca<sup>22</sup>.
- in June 2010, about 200 Syrian Kurds did a sit-in in front of the House of Europe in Nicosia, three weeks long. They were asking the government to grant them refugee status. Talks with the government led to a dead-end and eventually to the arrest of those being “irregular”, with the collective expulsion of 23 of them to Syria organised the same day, without access to any legal remedy. An emergency appeal to the European Court of Human Rights enabled to suspend the collective removal of the other arrested persons. On 23 July 2013 Cyprus was condemned by the ECtHR in the landmark ruling of ***M.A. v. Cyprus*** (application no. 41872/10) for having violated several articles of the convention: Article 13 taken together with Articles 2 (right to life) and 3 (prohibition of torture, inhuman and degrading treatment) due to the lack of an effective remedy available to the applicant to challenge his deportation, and Article 5 §§ 1 and 4 (right to liberty and security) due to the unlawfulness of the entire period of detention pending deportation without an effective remedy at his disposal to challenge the legality of his detention.
- On April 29, 2013, Kurds from Syria initiated a demonstration outside the Ministry of Interior calling on the Minister to find a solution to their administrative situation. The movement of the “West Kurdistan” in Cyprus mentioned in its letter to the Ministry that

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<sup>18</sup> The agreement was amended by a Memorandum on 15 May, 2008.

<sup>19</sup> [CARIM East, readmission, return and reintegration in Armenia, March 2013.](#)

<sup>20</sup> <http://www.migreurop.org/article1265.html>

<sup>21</sup> <http://www.frontlinedefenders.org/node/15225>

<sup>22</sup> <http://cypruscommunitymediacentre.wordpress.com/2012/06/06/case-closed-charges-dropped-against-doros-polykarpou-and-kisa/>

their situation was “tragic” and “desperate.”<sup>23</sup> Some of them were dismissed and were at that time “illegal” in Cyprus, some were waiting for months for an answer to their claim, and others had work or residence permits before which were not renewed. Following the strong mobilisation of Kurds from Syria (sit-in outside the Ministry and hunger strike for several weeks), the Minister met up with them in May and reopened their cases which are currently pending in the relevant services.

- The Interim Coordinating Committee of Refugees and KISA organised two mobilisations on 13 and 22 June 2013 outside of the House of Parliament, the Ministry of Labour and the House of the European Union in Nicosia. They denounced the impossibility to access the labour market, as well as the poverty, racist discriminations and social exclusion they are facing in their daily life and called for equal treatment.
  
- Examples of protests in Menogeia detention centre:
  - At the end of March 2013 a lot of detainees began to protest against the poor quality of food and against the lack of access to mobile phones. They refused to come back to their cells as usually the case to oppose these conditions. The Police threatened them to massacre them. As the detainees did not move the Police began to beat some with truncheons and to spray them with pepper and gas.<sup>24</sup>
  
  - On 19<sup>th</sup> July 2013, KISA received a complaint letter signed by about 100 detainees (i.e. around 80% of the detainees). They were complaining about the poor living conditions in the centre. One of the men who was at the origin of the letter spent 7 days in isolation in retaliation to his role in the event.
  
  - On the 31<sup>th</sup> July 2013 the Police of Menogeia detention centre sent a Pakistani man to the mental hospital because he was on hunger strike for 29 days in order to protest against his detention. The Police was trying by force to break his hunger strike and threatened him to bring him to the mental hospital if he did not eat. As he refused to end his protest, he ended up in the Department of Inpatient Care of the Mental Health Services in the hospital of Athalassa in Nicosia.

October 2013

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KISA (<http://kisa.org.cy/>) is an NGO created in 1998, which takes action against racism, xenophobia and discrimination against foreigners in Cyprus. Their action played a significant role in the improvement of the legal framework on the entry and sojourn of foreigners in the Republic of Cyprus. The organisation provides services and organises events, supporting and interacting with migrants, refugees, asylum seekers, foreign students as well as the Cypriot society as a whole.

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<sup>23</sup> [KISA, enough is enough: protest of Kurd refugees from Syria in Cyprus, 2 mai 2013](#); see the press release of KISA: Kurds refugees from Syria: enough is enough!

<sup>24</sup> See the testimonies of Patrick and Ali Asgari, former detainees in Menogeia detention centre [http://www.youtube.com/watch?v=033tV3BU\\_gY](http://www.youtube.com/watch?v=033tV3BU_gY); <http://www.youtube.com/watch?v=EpgVwdGllkk>



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