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2(III) of 2009

THE CONVENTION AGAINST TORTURE AND OTHER CRUEL,
INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT
(OPTIONAL PROTOCOL) (RATIFICATION) LAW, 2009 .

(English translation)

Office of the Law Commissioner
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NOTE FOR THE READER

The publication at hand by the Office of the Law Commissioner is an English translation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Optional Protocol) (Ratification) Law, 2009. [L.2(III) of 2009].

However useful the English translation of the Law is in practice, it does not replace the original text of the Law since only the Greek text of the Law published in the Official Gazette of the Republic of Cyprus is authentic.

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Number 2 (III) of 2009

**A LAW TO RATIFY THE OPTIONAL PROTOCOL
TO THE CONVENTION AGAINST
TORTURE AND OTHER CRUEL,
INHUMAN OR DEGRADING
TREATMENT OR PUNISHMENT**

The House of Representatives enacts as follows:

Short title. 1. This Law may be cited as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Optional Protocol) (Ratification) Law, 2009.

Interpretation. 2. In this Law –

9(I) of 2006
100(I) of 2007.

“Authority for the Investigation of Allegations and Complaints” means the authority which shall operate under the Police (Independent Authority for the Investigation of Allegations and Complaints) Laws,

3 of 1991
98(I) of 1994
101(I) of 1995
36(I) of 2004.

“Commissioner” means the Commissioner appointed for the time being pursuant to the Commissioner for Administration Law,

“competent authority for place of detention” means the Ministry in whose competence and administration fall, in relation to the place of detention and under the existing situation, in general, or by virtue of legislation, all matters, affairs, execution of laws and submission of legislation to the Council of Ministers, concerning the said place,

"Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" means the Convention, which was ratified by the ratification Law to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

235 of 1990
35(III) of 1993
36(III) of 2002

"detainee" means the person deprived of his liberty within the meaning of paragraph 2 of Article 4 of the Optional Protocol, in a place of detention,

"member of the Police" has the meaning assigned to it by the Police (Independent Authority for the Investigation of Allegations and Complaints) Law,

"Optional Protocol" means the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was ratified by this Law,

"place of detention" means the place where persons are deprived of or may be deprived of their liberty, as defined in Article 4 of the Optional Protocol, and

"punishable act which constitutes a violation of human rights" means an act, omission, action, activity, treatment and behaviour which violates human rights provided in the Constitution or in any law or regulations or in any international convention ratified by the Republic or in any ratification Law to the convention and constitutes criminal offence under any law or regulation in force for the time being,

"Subcommittee of the Committee against Torture" means the

Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, established under paragraph 1 of Article 2 of the Optional Protocol to carry out the functions laid down in that Protocol.

Ratification
of the Protocol.

Table,
Part I,
Part II.

3. The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the text of which, in the English original is set out in Part I of the Table and in its Greek translation in Part II of the Table, is ratified by this Law.

Table,
Part I
Part II.
Provided that, in case of conflict between the text in Part I of the Table and the text in Part II, the text set out in Part I shall prevail.

Appointment of
Commissioner
as the National
Body of visits.

4. -(1) By this Law the Commissioner shall be designated as the national body of visits as provided in Article 3 of the Optional Protocol, in order to act as prescribed by and in accordance with the provisions of this Law for the prevention of torture and other cruel, inhuman or degrading treatment or punishment for detainees and persons who may be deprived of their liberty in places of detention and to exercise for this purpose the powers conferred upon him by this Law.

(2) For the purposes of subsection (1) and the Optional Protocol, the Commissioner may have contacts and meetings with the Subcommittee of the Committee against Torture and may forward information thereto.

5. - (1) For the purposes of subsection (1) of section 4, the Commissioner may freely conduct visits regularly to places of detention.

Conducting
visits by the
Commissioner
to places of
detention.

(2) A visit according to subsection (1) of this section shall be conducted after a written notification of the Commissioner to all the competent for places of detention authorities stating therein that he intends to conduct a visit to places of detention and intends to do so during the period specified in the notification.

(3) The Commissioner may, after such notification referred to in subsection (2) of this section, visit freely at any time within the period specified in the notification, any place or places of detention of his choice.

(4) During the conduct of a visit to a place or places of detention pursuant to this section, the Commissioner shall have the right to -

(a) access freely to all places, premises and facilities of each place of detention visited and move freely in these places, premises and facilities and

(b) examine the treatment of detainees in place or places of detention visited and with a view to strengthening their protection from torture and from other cruel, inhuman or degrading treatment or punishment, visit freely in such place or places of detention any detainee and other person who believes may supply relevant information and have confidential in private interviews with the said detainees as well as with any other person in a separate area outside the visual and hearing range of any member of the Police or staff in such place or places and, where necessary, with the presence of an interpreter.

Providing information to the Commissioner.

6. - (1) Every competent for place of detention authority to which the Commissioner applies in writing, as referred to in paragraphs (a) and (b) of Article 20 of the Optional Protocol in respect of any matter or detainee, is bound to provide promptly and in writing to him all the relevant information accompanied with all relevant data, documents and material.

(2) The person in charge of the place of detention where the Commissioner conducts a visit under section 5 of this Law shall, if requested by the Commissioner, be bound to -

(a) Provide directly to the Commissioner all information, data, documents and material that may have in his possession in relation to any detainee in the said place of detention and in relation to any matter referred to in subsection (1) related to the particular place of detention, and

(b) make available to the Commissioner for inspection any Record, Register, Calendar or any other document kept in the said place of detention.

Commissioner's recommendations and reports.

7. - (1) The Commissioner may, after a visit to a place or places of detention under section 5 of this Law, make recommendations to the competent authority for that place or places of detention with the view to strengthening the protection and improving the treatment and the conditions of the detainees or of a particular detainee or persons who may be deprived of their liberty in the said place or places of detention, and to prevent torture and other cruel, inhuman or degrading treatment or punishment of such persons.

(2) For the recommendations made under subsection (1), the Commissioner shall take into account the relevant norms of the United Nations.

(3) The recommendations made under this section, are included in a report made by the Commissioner at the end of the visit which was conducted under section 5, the report shall contain all places of detention he visited during the said visit and shall be submitted to all competent authorities of places of detention visited.

(4) Every competent for place of detention authority to which the Commissioner shall submit its report pursuant to this section, shall consider the report in order to have guidance on a probable adoption of measures to strengthen the protection and improvement of the treatment and conditions of the detainees or persons who may be deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment of such persons and for any other actions that may be necessary in the light of the report.

(5) In case where in a report submitted to a competent authority for a place of detention pursuant to this section recommendations are made to that authority, as prescribed by subsections (1) and (3), the competent authority shall consider the recommendations and shall conduct a dialogue and consultations with the Commissioner and any other authority of the Republic which may be involved in the implementation of the recommendations in order to adopt measures for implementation.

Observations and recommendations of the Commissioner in relation to existing legislation and bills.

8. - (1) The Commissioner may, from time to time, or in a report submitted at the end of a visit, pursuant to section 7, submit to the competent for places of detention authorities, observations and suggestions as prescribed by subsection (2), with respect to existing legislation or bills laid before the House of Representatives.

(2) Observations and suggestions made by the Commissioner under subsection (1) with respect to existing legislation or bills, with the view, in a practical manner, to strengthening protection and improving the treatment and the conditions of the detainees and persons who may be deprived of their liberty in places of detention and, in a practical manner, to strengthening prevention in the said places from torture and other cruel, inhuman or degrading treatment or punishment.

(3) The competent for place of detention authority which receives, pursuant to subsections (1) and (2), comments or suggestions by the Commissioner regarding the existing legislation or bills shall forward these comments or suggestions to the Attorney-General of the Republic in order to determine whether an issue arises that requires legal advice, and in that case to advise the competent authority or any other authority of the Republic accordingly.

9.-(1) Subject to the provisions of section 10, the Commissioner shall immediately bring to the attention of the Attorney-General of the Republic and the Authority for the Investigation of Allegations and Complaints about alleged violations of human rights.

Informing the Attorney-General and the Authority for the Investigation of Allegations and Complaints about alleged violations of human rights.

take into consideration the issue in the exercise of their functions.

(2) The provisions of subsection (1) shall also apply in respect to allegations for punishable acts which constitute a violation of human rights against persons who are not members of the Police, or which, in any case, are acts which constitute a violation of human rights without being punishable. Provided that in such cases the Commissioner acts as referred to in subsection (1) only as regards the Attorney-General of the Republic.

(3) The provisions of this section shall not affect the powers of investigation, according to the procedures provided in the Commissioner for Administration Law, of any complaints about violation of human rights falling within the powers of the Commissioner to investigate in his capacity as Commissioner for Administration under the said Law.

10.-(1) Information, data, documents, material and allegations forwarded by a detainee or any other person to the Commissioner or any member of the staff of his Office, in a confidential interview conducted pursuant to paragraph (b) of subsection (4) of section 5, shall be deemed to be privileged and shall not be revealed or transmitted except in cases of explicit authorization by the detainee or the other person, as the case may be.

(2) There shall not be disclosed, published or revealed by the Commissioner or any member of his staff to anyone, the identity or personal data of any detainee or other person who forwards to the Commissioner in a confidential interview conducted as referred to in subsection (1), any information,

data, documents, material or allegations and there shall not be disclosed, published or revealed any information or data that might reasonably lead to ascertain the identity of the said detainee or person, except in cases of explicit authorization by the detainee or the other person, as the case may be.

Criminal offences in relation to detainees and other persons providing information or complaining to the Commissioner.

11. Any person who, because of the fact that a detainee or other person or group of detainees or other persons, provided or intends to provide to the Commissioner with any information, document or item for the purposes of this Law or of the Optional Protocol, or made or intends to make a complaint-

(a) imposes or threatens to impose on the detainee or the other person, or the group or member of the group, or any member of their family, any punishment or penalty or monetary or financial, or other kind of punishment or penalty or exclusion or restriction, or

(b) influences, intimidates or compels the detainee or the other person or the group or member of the group or any member of their family or threatens that will influence, intimidate or compel that other person, or

(c) refuses to employ or dismisses or threatens to dismiss from his employment the detainee or the other person, the group or member of the group or any member of their family, or

(d) refuses to supply to the detainee or the other person, or the group or member of the group, or any member of the family thereof, goods or services, or urges others not to

supply him any goods or services, is guilty of an offence.

(2) Any person who is guilty of any criminal offence in contravention of any paragraph of subsection (1) is liable to imprisonment not exceeding six months or to a fine not exceeding seven hundred sixty eight euros* or to both such punishments.

Submission of Annual Report

12.-(1) The Commissioner shall submit to the President of the Republic an Annual Report on the exercise of his powers under this Law together with comments and suggestions.

(2) The Commissioner shall communicate the above Report to the Council of Ministers, the House of Representatives, and the Attorney-General of the Republic and, then, he shall make the report public.

Commissioner's Staff and Office.

13.-(1) The Commissioner shall, for the purposes of the exercise of the task assigned to him under this Law, have the staff and Office referred to in subsection (1) of section 4 of the Commissioner for Administration Laws, and/or any additional staff of officers whose qualifications and conditions of service are set out in regulations issued by the Commissioner with the approval of the Council of Ministers and laid before the House of Representatives.

(2) If within sixty days of the laying of the regulations issued pursuant to subsection (1), the House of Representatives does not by resolution thereof, amend or annul, in whole or in part, the Regulations so laid, they shall then, on the expiration of the aforesaid period, be published in the Official

Gazette of the Republic and shall come into force at a time of entry into force designated in the Regulations or in case of no-designated time of entry into force, from the date of their publication in the Official Gazette of the Republic. In the event of their amendment, in whole or in part, by the House of Representatives they shall be published in the Official Gazette of the Republic, as so amended thereby, and shall come into force at a time of entry into force designated in the Regulations or in case of no-designated time of entry into force, from the date of their publication in the Official Gazette of the Republic.

Authorization by the Commissioner to officers of his Office to exercise powers on his behalf.

14. For the purposes of this Law, the Commissioner shall have power, save for the principle of seniority at his Office, to authorize in writing any officer of the Office, referred to in subsection (1) of section 13 and holding a responsible position, to exercise on his behalf each of his powers by virtue of this Law under such exceptions and reservations as the Commissioner may prescribe in his authorization:

Provided that the Commissioner shall not have power to assign the right to submit any report provided under this Law.

Protection of the Commissioner.

15. - (1) No action shall lie against the Commissioner for any act done or any opinion expressed or report made by him in the *bona fide* exercise of his functions and powers under this Law and within the limits thereof.

(2) The Commissioner or any member of the staff of his Office who acts under this Law shall not be summoned to give evidence before a Court or during any judicial proceedings, in relation to any matter which comes to his

* P1 312Z2007 issued pursuant to section 9(1) of the Adoption of the Euro Law, 2007 (L.33(I)/2007, as amended).

knowledge in the exercise of his powers pursuant to this Law.