

**QUESTIONNAIRE FOR THE NATIONAL REPORT ON THE IMPLEMENTATION
OF THE DIRECTIVE :**

TEMPORARY PROTECTION OF 20 JULY 2001

IN

CYPRUS

By

PAFITIS PETER

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30/5/07

The person in the team of thematic coordination in charge of this directive that you can contact if you have a question or need help when completing this questionnaire is:

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FIRST PART

1. NORMS OF TRANSPOSITION AND JURISPRUDENCE

Q.1.A. Identify the central norm(s) of transposition and indicate its legal nature

- This question includes even norms adopted before the adoption of the directive but ensuring its transposition (what is called a pre-existing norm in the table of correspondence).
- Quote the norm of transposition and not only the norm modified by it (the same is true in case of existence of a code of aliens law)
- About legal nature in the table below: *legislative* refers to a norm adopted in principle by the Parliament; *regulation* refers to a norm complementing the law and adopted in principle by the executive power; *circular or instructions* refer to practical rules about implementation of laws and regulations and adopted in principle by the administrative authorities

When answering this question, please use one or more of the tables below. If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

This table is about: <input checked="" type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted
TITLE: Refugee Law 2000 N 6 (I)/2002 AS AMMENDED IN 2003 AND 2004
DATE: 21.10.2004
NUMBER: N 9 (I)/2004 AND N 53 (I)/2003
DATE OF ENTRY INTO FORCE:
PROVISIONS CONCERNED : The Refugge Law also provided for the status of asylum seekers (and procedural matters) and also it provides for the status of Refugee. (for example if the norm also pursues other objectives than the transposition of the directive)
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL:
LEGAL NATURE (please tick the correct box): <input checked="" type="checkbox"/> LEGISLATIVE <input type="checkbox"/> REGULATION <input type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Q.1.B.

Please list the others norms of transposition according to their hierarchical position in your legal system_(first laws, to be followed by regulations; and circulars or instructions):

- This question includes even norms adopted before the adoption of the directive but ensuring its transposition (what is termed a pre-existing norm in the table of correspondence).
- Quote the norm of transposition and not only the norm modified by it (the same is true in case of existence of a code of aliens law)

When answering this question, please use one or more of the tables below (one norm per table). If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

TITLE: NO OTHER NORMS OF TRANSPOSITION
DATE:
NUMBER:
DATE OF ENTRY INTO FORCE:
PROVISIONS CONCERNED : (for example if the norm also pursues other objectives than the transposition of the directive)
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL:
LEGAL NATURE (indicate by ticking the correct box): <input type="checkbox"/> LEGISLATIVE <input type="checkbox"/> REGULATION <input type="checkbox"/> CIRCULAR OR INSTRUCTIONS

Q.2. This question needs to be answered only for **FEDERAL OR SIMILAR MEMBER STATES LIKE AUSTRIA, BELGIUM, GERMANY, ITALY, SPAIN**

Q.2.A. Explain which level of government is competent to adopt the norms of transposition.

Please include your answer in the tables below

LEGISLATIVE RULES
COMPETENCES OF THE FEDERAL/CENTRAL LEVEL:
COMPETENCES OF THE COMPONENTS:
EXPLANATIONS IF NECESSARY:

REGULATIONS
COMPETENCES OF THE FEDERAL/CENTRAL LEVEL:
COMPETENCES OF THE COMPONENTS:
EXPLANATIONS IF NECESSARY:

CIRCULAR OR INSTRUCTIONS
COMPETENCES OF THE FEDERAL/CENTRAL LEVEL:
COMPETENCES OF THE COMPONENTS:
EXPLANATIONS IF NECESSARY:

Q.2.B. Where appropriate, please explain if the federal structure and the distribution of competences between the different levels creates any problem or difficulty regarding the transposition and/or the implementation of the directive.

Q.3. Explain which authorities are competent for the practical implementation of the norm of transposition by taking the decisions in individual cases.

When answering this question, please use one or more of the tables below (one table per competence concerned). If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

COMPETENCE CONCERNED:	
CENTRAL MINISTRY OF:	MINISTRY OF INTERIOR
DIRECTION OR SERVICE WITHIN THE ABOVE MINISTRY:	ASYLUM UNIT

OTHER LEVEL OF ADMINISTRATION:	
IF NECESSARY, COMMENT ABOUT THE NATURE OF THE AUTHORITY (for instance if it is independent of the competent minister)	THE ASYLUM UNIT IS AN INTEGRAL PART OF MINISTRY OF INTERIOR

Q.4.A. Has the central regulation foreseen by the central norm of transposition already been adopted?

YES

NO

Q.4.B. If the central norm(s) of transposition foresee(s) the adoption of one or several regulations, indicate if they have all been adopted:

YES

NO

If NO, please indicate the missing text(s) in the table below. Where necessary, please add further explanations (specify in particular if the missing texts are at least under preparation or foreseen in the very near future):

When answering this question, please use one or more of the tables below (one table per missing text). If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

MISSING TEXTS
<i>INDICATE HERE THE MISSING TEXTS</i>

SECOND PART

Duration and implementation of temporary protection

Q.5. According to article 5(1) in the Directive the existence of a mass influx of displaced persons shall be established by a Council Decision adopted by a qualified majority on a proposal from the Commission, which shall also examine any request by a Member State that it submit a proposal to the Council. According to article 5(3) the Council Decision shall have the effect of introducing temporary protection for the displaced persons to which it refers, in all the Member States, in accordance with the provisions in the Directive.

Do the national norms of transposition in your Member State mandate the Council to decide about the existence of a mass influx of displaced person, with the effect of introducing temporary protection for the displaced persons to which it refers in your Member State?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation (if the answer is “no”, how is a Council decision transposed ad hoc into national law?)

Provided for in Clause 20A(1) of the Refugee Law 2006.

Q.6. According to article 6 in the Directive, temporary protection shall come to an end when the maximum duration has been reached or at any time by Council Decision on a proposal from the Commission. *See article 6 (1-2).*

Do the national norms of transposition mandate the Council to decide when temporary protection in your Member State shall come to an end?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (if the answer is ‘no’, how is a Council decision transposed ad hoc into national law?)

Provided for in Clause 20A(1) of the Refugee Law 2000 as amended.

Q.7. According to article 7, a Member States may extend temporary protection, as provided for in the Directive, to additional categories of displaced persons over and above those to whom a Council decision applies, where they are displaced for the same reasons and from the same country or region of origin. *See optional provision in article 7 (1-2).*

Do the national norms of transposition allow your Member State to extend temporary protection to additional categories of displaced persons?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (If the answer is "yes", if any, what are the criteria for extending protection to additional categories of displaced persons)?

Provided for in S20B of the Refugee Law 2000 as amended, subject to being displaced for the same reasons and from the same country or region of origin.

Obligations of the Member States towards persons enjoying temporary protection

Q.8. Questions regarding obligations of the Member States towards persons enjoying temporary protection. *See article 8(1-3):*

Q.8.A. Does your Member State provide persons enjoying temporary protection with a residence permit? *See mandatory provision in article 8(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (if the answer is 'no', what are the practical Consequences for the individual?)

Provided in S20ΣT(1) of the Refugee Law 2000 as amended, which allows for such permit under the Aliens and Immigration Law Chapter 105 as amended.

Q.8.B. Answer this question if the answer on Q.8.A is 'yes': **Is the residence permit valid for the entire period of temporary protection?** *See mandatory provision in article 8(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (if the answer is 'no', what are the practical Consequences for the individual?)

Provided for in S20ΣT(1) of the Refugee Law 2000 as amended, which allows for renewal thereof for such period of time as may be determined by the decisions of the Council (EU) or the Council of Ministers in Cyprus.

Q.8.C. Will documents or other equivalent evidence for the residence permit be issued? See mandatory provision in article 8(1).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

It is expressly provided by S20ΣΤ(1) of the Refugee Law 2000 as amended, that a document for the residence permit shall be issued in conformity with the Aliens and Immigration Law Chapter 105 as amended.

Q.8.D. Will your Member State provide persons enjoying temporary protection with a document, in a language likely to be understood by them, in which the provisions relating to temporary protection, and which are relevant to them, is clearly set out? See mandatory provision in article 9.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Provided for in S20ΣΤ(4) of the Refugee Law 2000 as amended.

Q.8.E. Will the personal data of the persons enjoying temporary protection (name, nationality, date and place of birth, marital status, and family relationship) be registered? See mandatory provision in article 10.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Provided for in S20Ζ(1) of the Refugee Law 2000 as amended, which refers to personal particulars/data as reflected in Section 1(a) of the Appendix thereof, namely name, nationality, date and place of birth, marital status and family relationship.

Q.8.F. Will your Member State provide facilities for obtaining the necessary visas, including transit visas, to persons which will be admitted to the territory for the purposes of temporary protection? See mandatory provision in article 8(3).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Provided for in S20ΣΤ(3) of the Refugee Law 2000 as amended.

Q.8.G. According to the national law of your Member State: Will the visas referred to in Q.8.F, be free of charge? *See mandatory provision in article 8(3).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

X Yes No

Explanation: (if the answer is “no”, please indicate the amount charged and indicate amounts charged for other types of visas)

Provided for in Section 20ΣΤ(3) of the Refugee Law 2000 as amended.

Q.9. According to national law of transposition, is your Member State responsible to take back a person enjoying temporary protection on its territory if that person seeks to enter onto or remains on the territory of another Member State without authorisation during the period of temporary protection? *See mandatory provision in article 11.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

This is provided for in Section 20Z(2) of the Refugee Law 2000 as amended, unless there is a bilateral agreement to the contrary, with another Member state.

Q.10. Has your Member State concluded bilateral agreements with other Member States regulating the responsibility for persons enjoying temporary protection under the Directive? *See optional provision in article 11, final sentence.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation: (If the answer is “yes”, please specify with which country)

Q.11. Questions regarding work and other activities during temporary protection: *See mandatory provision in article 12.*

Q.11.A. Are the persons enjoying temporary protection allowed to engage in:

Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

- | | | |
|--|--|------------------------------------|
| Employed activities? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Self-employed activities? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Educational opportunities for adults? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Vocational training? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Practical workplace experience? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

Explanation:

Persons enjoying temporary protection are allowed to engage in employed and self-employed activities as provided in 20H(1)(a) of the Refugee Law 2000 as amended. Educational opportunities, vocational training and practical workplace experience are available under the provisions of S20H(1)(β) of the Refugee Law 2000 as amended.

Q.11.B. According to optional provision in article 12, Member States may, for reasons of labour market policies, give priority to EU citizens and citizens of States bound by the Agreement on the European Economic Area and also to legally resident third-country nationals who receive unemployment benefit.

Do the national norms of transposition in your Member State give priority, or allow giving priority, to:

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

- | | | |
|---|--|---|
| EU citizens? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Citizens of the European Economic Area? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Legally resident third-country nationals who receives unemployment benefits? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

Explanation:

Provided for in S20H(1)(a) (2nd indent) of the Refugee Law 2000 as amended.

Question to be answered only if persons enjoying temporary protection are allowed to work:

Q.11.C. According to article 12, final sentence, the general law in force in the Member States applicable to remuneration, access to social security systems relating to employed or self-employed activities and other conditions of employment shall apply if persons enjoying temporary protection are allowed to work.

If persons enjoying temporary protection are allowed to work: Will your country's general laws be applicable regarding:

Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Remuneration? **Yes** **No**

Access to social security systems relating to employed or self-employed activities and other conditions of employment? **Yes** **No**

Explanation:

Provided for in S20H(1)(a) of the Refugee Law 2000 as amended.

Q.12. Questions regarding the Member States obligation towards the temporary protected regarding accommodation, subsidies, medical care etc. *See article 13(1-4).*

Q.12.A. Is your Member State obliged under national law to provide the persons enjoying temporary protection with suitable accommodation or means in order to obtain housing? *See mandatory provision in article 13(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation :

Provided for in S20H(i)(γ) of the Refugee Law 2000 as amended, which states that any state financial assistance for securing accommodation shall be within the parameters of applicable national laws.

Q.12.B. Will your Member State, according to national law, be obliged to provide the persons enjoying temporary protection with economic assistance such as social welfare and means of subsistence? *See mandatory provision in article 13(2).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Provided for in S20H(1)(δ) of the Refugee Law 2000 as amended, which entitles protected persons to means of subsistence/economic assistance if they do not have sufficient resources, as well as to a social welfare allowance within the parameters of applicable national laws.

Q.12.C. Do the persons enjoying temporary protection have access to emergency medical care and essential treatment of illness? *See mandatory provision in article 13 (2).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation: (If the answer is “yes”, please provide details whether persons enjoying temporary protection have access to *general medical care* or if it is restricted to *emergency care and essential treatment of illness*?)

Provided for in S20(H)(1)(ε) of the Refugee Law 2000 as amended, which states that medical care assistance shall include at least emergency care and essential treatment of illness (without prejudice to S20H(i)(στ) referred to below in Q12D).

Q.12.D. Will your Member State, according to national law, be obligated to provide for necessary medical or other assistance to persons enjoying temporary protection who have special needs such as unaccompanied minors, persons who have undergone torture, rape or other serious forms of psychological, physical or sexual violence? See mandatory provision in article 13(4).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation: (If the answer is “yes”, please provide details about the assistance given to different groups of persons with special needs, for example psychological help for persons who have undergone torture).

Provided for in S20(H)(1)(στ) of the Refugee Law 2000 as amended.

Q.13. Questions regarding access to education. *See article 14 (1-2):*

Q.13.A. Do persons who are under 18 years of age and enjoying temporary protection have access to the education system under the same conditions as nationals of your Member State? See mandatory provision in article 14(1).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

Provided for in S20H(2) of the Refugee Law 2000 as amended.

Q.13.B. If the answer on Q.13.A is ‘yes’: Is access to education confined to the state education system or does it cover all kinds of educational institutions?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

S20H(2) of the Refugee Law 2000 as amended, confines access to the state education system.

Q.13.C. Do adults enjoying temporary protection have access to the general education system? See optional provision in article 14(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Provided for in S20H(3) of the Refugee Law 2000 as amended, which states that such access shall be available to the general educational system applicable to adults in the Republic of Cyprus.

Q.14. Questions regarding right to family reunification. See article 15:

Q.14.A. Do the national norms of transposition in your Member State allow separated family members, which enjoy temporary protection in different Member States, to reunite? See mandatory provision in article 15(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Provided for in S20Θ(2) of the Refugee Law 2000 as amended, subject to being satisfied that these family members fall under the description of S20(Θ)(1)(a) and S20(Θ)(1)(β) as indicated in Q14C below.

Q.14.B. Do the national norms of transposition in your Member State allow family members who are not yet in a Member State to reunite with a person enjoying temporary protection in your Member State? See mandatory provision in article 15(3).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

Provided for in S20Θ(3) of the Refugee Law 2000 as amended, subject to being satisfied that these family members fall under the description of S20Θ(1)(a) and S20Θ(1)(β) as indicated in Q14C below.

Q.14.C. For the application of the rules regarding family reunification: Whom does your Member State consider a “family member”? See article 15(1)(a)(b).

(Please indicate by ticking the correct box/boxes and **EXPLAIN YOUR ANSWER**)

- The spouse of the person enjoying temporary protection.**
- The unmarried partner in a stable relationship to the person enjoying temporary protection.**
- The minor unmarried children of the person enjoying temporary protection or of his/her spouse, without distinction as to whether they were born in or out of wedlock or adopted.**
- Other close relatives who lived as part of the family unit with the person enjoying temporary protection at the time of the events leading to the mass influx, and who were wholly or mainly dependent on him/her at the time.**

Explanation:

The categories of family members per the first two boxes ticked are expressly covered by S20(Θ)(1)(a) of the Refugee Law 2000 as amended, and the category per the 3rd box ticked is specifically mentioned in S20(Θ)(1)(β) of the Refugee Law 2000 as amended. Category per the second box (not ticked) is not incorporated in the definition of "family member". With regard to this latter category concerning an unmarried partner in a stable relationship, neither the relevant Family Reunification Law nor any other law or practice relating to aliens, would appear to treat unmarried couples in a way comparable to married couples.

Q.14.D. What means of proof is needed in your Member State to verify family membership, is for example documentary evidence needed?

In accordance with S18ΛA(2)(γ)(δ)(ε) of the Migration Law 1972 as amended by law 2007/8 para. I the following documentation is required :

Birth Certificate (for verification of child/parent relationship).
 Court decision/document (for verification of adopted child).
 Marriage Certificate (for verification of husband and wife relationship).

Q.14.E. Explain which measures have been taken in your Member State to ensure that ‘the best interest of the child’ is accounted for when applying the provisions on family reunification in the national norms of transposition? See mandatory provision in article 15(4).

This aspect is expressly provided for in S20Θ(4) of the Refugee Law 2000 as amended.

Q.14.F. According to article 15(5), Member States shall decide in which Member State the reunification shall take place. Please indicate which authority possesses the competency to take such decisions?

Name and function of the Authority: The Migration Department of the Ministry of Interior.

Q.14.G. If there is a formal procedure foreseen for such decisions, please describe it briefly:

Section 200 of the Refugee Law 2000 as amended, provide that after having considered all factors and criteria the relevant Supervisor of the Migration Department shall advise the Director to ensure that procedures are initiated as facilitated for the re-unification process (including issuance of residence permits under S20ΣΤ of the Refugee Law 2000 as amended). S2000(8) of the Refugee Law 2000 as amended provides for administrative appeal in the event that a request for family reunification is declined.

Q.14.H. Are reunited family members in your Member State granted residence permits under temporary protection?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

This is expressly provided for in S200(6)(a) of the Refugee Law 2000 as amended, which in turn refers to S20ΣΤ(1) under which a resident permit shall be granted and issued in accordance with the Aliens and Immigration Law Chapter 105 (as amended) and thereafter renewed for such period as may be determined by the decisions of the European Council or the Ministerial Council, in Cyprus, as circumstances may dictate.

Q.14.I. Are documents or other equivalent evidence issued for persons who comes to your Member State and receives temporary protection under the provisions regarding family reunification?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

The resident permit referred to in Q14H above is in documentary form.

Q.14.J. Does the national norms of transposition in your Member State comply with the provision in article 15(8) stating that a Member State shall at the request of another Member State, provide information on a person receiving temporary protection which is needed to process a matter of family reunification? See mandatory provision in article 15(8).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

This is provided for in S200(7) of the Refugee Law 2000 as amended, which expressly states that the information to be furnished thereunder shall be in accordance with the particulars given in Schedule I thereof (and corresponding to Annex II of the Directive).

Q.15. Questions regarding unaccompanied minors: *See article 16:*

Q.15.A. Explain how the representation of unaccompanied minors enjoying temporary protection in your Member State is arranged according to national law. See mandatory provision in article 16(1).

In accordance with S10 of the Refugee Law 2000 as amended, the Director of the Social Welfare authority of the Ministry of Interior shall undertake the role of the unaccompanied minors' guardian.

Q.15.B. Does your Member State provide for unaccompanied minors to be placed with: See mandatory provision in article 16(2).

(Please indicate by ticking the correct box/boxes and **EXPLAIN YOUR ANSWER**)

- Adult relatives ?**
- A foster-family ?**
- In reception centres with special provisions for minors, or in other accomodation suitable for minors ?**
- With the person who looked after the child when fleeing ?**

Explanation:

This is provided for in S20I of the Refugee Law 2000 as amended, which empowers the Director of the Social Welfare Services to undertake the placement of minors with any of the above, as indicated.

Q.15.C. Do the national norms of transposition in your Member State meet the requirement that the views of the child shall be taken into account when arranging placement for the minor? See mandatory provision in article 16(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

- Yes** **No**

Explanation:

This is provided for in S20I of the Refugee Law 2000 as amended, having due regard to the age of the child. The "maturity" aspect (stated in the Directive) is not however mentioned in the Law.

Access to the asylum procedure in the context of temporary protection

Q.16. Questions regarding access to the asylum procedure. *See article 3 and 17-19:*

According to mandatory provision in article 3(1) temporary protection shall not prejudice recognition of refugee status under the Geneva Convention.

Q.16.A. Does temporary protection in any way prejudice recognition of refugee status under the Geneva Convention in your Member State?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

This is provided for in S20(3)(ε) of the Refugee Law 2000 as amended.

Q.16.B. Does your Member State allow persons enjoying temporary protection to apply for asylum at any time during the period of temporary protection? See mandatory provision in article 17(1).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

This is provided for in S20(3)(a) of the Refugee Law 2000 as amended. It should be noted that within the context of being allowed to apply for asylum at any given time during the period of temporary protection, the status determination procedure for the person concerned is not suspended during the period of temporary protection. This is evident and implied from the provisions of section 20(3)(β) of the Refugee Law 2000 as amended, which states that subject to any exclusion decision under section 20(5)(a) and (β), a person shall, in the event of being declined refugee status, nevertheless continue to enjoy temporary protection for the balance of the period for which such protection is initially granted. This is also implied from section 20(3)(γ) of the Refugee Law 2000 which states that after filing an application for asylum status prior to the end of the temporary protection period, the person shall continue to enjoy temporary protection status until the expiration of the period for which such protection was initially granted.

Q.16.C. Does your Member State allow persons enjoying temporary protection to stay in the Member State during the examination of their asylum claim, even though the period of temporary protection has ended? See mandatory provision in article 17(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

This is provided for in S20(3)(δ) of the Refugee Law 2000 as amended.

Q.16.D. What criteria are provided by the norms of transposition in your Member State to determine the responsibility amongst Member States for examining an asylum application submitted by a person enjoying temporary protection in another Member State? See mandatory provision in article 18.

This is provided for in S20(3)(a) of the Refugee Law 2000 as amended, which states that for the determination of the Member State which will be responsible for examining an asylum application in this context, the Dublin provisions will be applicable.

Q.16.E. Has your Member State decided that temporary protection may not be enjoyed concurrently with the status of asylum seeker while applications are under consideration? See optional provision in article 19.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation: If the answer is “yes”, please provide details concerning differences between the reception conditions for asylum seekers and persons enjoying temporary protection in your Member State which might lead to withdrawal or reduction of rights for a temporary protected who lodges an application for asylum.

As reflected in S20(3)(a)(β)(γ)(δ) of the Refugee Law 2000 as amended.

Q.16.F. If refugee status or, where applicable, other kind of protection is not granted to a person who is eligible for or already enjoys temporary protection is that person allowed to enjoy or continue to enjoy temporary protection in your Member State? See mandatory provision in article 19(2).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

Provided for in S20(3)(β) of the Refugee Law 2000 as amended.

Return and measures after temporary protection has ended

Q.17. Questions regarding the voluntary return of persons enjoying temporary protection:

Q.17.A. According to mandatory provision in article 21(1) the Member States shall ensure that the provisions governing voluntary return of persons enjoying temporary protection facilitate their return with respect for human dignity. How is that reflected in the national norms of transposition in your Member State?

S20Δ(1) of the Refugee Law 2000 as amended, simply states that the Asylum Service of the Ministry of Interior shall adopt all necessary measures (as may be determined by Regulations) to ensure the repatriation of such persons within the parameters of respect for human dignity.

Q.17.B. Please explain how your Member State ensures that a decision of persons enjoying temporary protection, or whose temporary protection has ended, to return voluntarily is taken in full knowledge of the facts. See mandatory provision in article 21(1).

This is provided for in S20Δ(2) of the Refugee Law 2000 as amended.

Q.17.C. Is it possible for the temporary protected in your Member State to make exploratory visits to the home country? See optional provision in article 21(1).

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

S20Δ(2) of the Refugee Law 2000 as amended.

Q.17.D. Please explain if and how your Member State has transposed article 21(2) stating that Member States shall, for such time as the temporary protection has not ended and on the basis of the circumstances prevailing in the country of origin, give favourable consideration to requests for return to the host Member State from persons who have enjoyed temporary protection and exercised their right to a voluntary return?

In accordance with S20Δ(3) of the Refugee Law 2000 as amended, the Director, taking into consideration the opinion of the Asylum Unit shall favourably examine requests from persons to return to the Republic of Cyprus after they had previously enjoyed temporary protection and had exercised their right to voluntary return to their country of origin. In this regard, the Director would afford due consideration to the conditions prevailing in their country of origin.

Q.17.E. Is it possible, under the national norms of transposition in your Member State, for persons enjoying temporary protection to continue receive their benefits as temporary protected after the period of temporary protection has ended, if they benefit from a voluntary return programme? See optional provision in article 21.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation: (If the answer is “yes”, for how long is that possible).

In accordance with S20Δ(4) of the Refugee Law 2000 as amended, persons enjoying temporary protection shall continue to receive their benefits in this context until such time as the operative date of return to their country of origin under a voluntary return programme.

Q.18. Questions concerning enforced return of persons who have enjoyed temporary protection. *See articles 22:*

Q.18.A. Explain if and how the laws of your Member State comply with the mandatory provision in article 22(1), obliging Member States to ensure that the enforced return of persons whose temporary protection has ended and who are not eligible for admission shall be conducted with due respect for human dignity.

This is provided for in S20E(1) of the Refugee Law 2000 as amended, which simply refers to the fact that enforced return must be effected with due regard to respect for human dignity.

Q.18.B. Explain if and how the laws of your Member State comply with the mandatory provision in article 22(2) obliging Member States to consider any compelling humanitarian reasons which may make return impossible or unreasonable in specific cases.

S20E(2) of the Refugee Law 2000 as amended, complies with the mandatory provision, and states that the Director having due regard to the opinion of the Asylum Unit, shall in the event of enforced return, examine compelling humanitarian reasons which may make return impossible or unreasonable in specific cases and, in particular, there will be no order made for the enforced return of the following persons:

- persons who due to their state of health cannot travel or shall suffer from serious negative consequences in the event that their treatment is interrupted (may remain for the duration and continuation of such circumstances)(20E(2)(a)).
- families with minor children who are attending any school in Cyprus (may remain until completion of the current school period)(S20E(2)(β)).

Q.18.C. In the national law of your Member State, are there any other grounds (except for the one referred to in Q.18.B) for allowing persons who have enjoyed temporary protection to stay in your Member State?

.No.

Q.19. Questions concerning forcible return of persons who have enjoyed temporary protection. *See article 23:*

Q.19.A. Does the national law and practice of your Member State comply with the mandatory provision in article 23, providing that persons who have enjoyed temporary protection and who cannot, in view of their state of health reasonably be expected to travel, are not expelled as long as that situation continues? The provision exemplifies with persons who would suffer serious negative effects if their treatment was interrupted.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

This is provided for in S20E(2)(a) of the Refugee Law 2000 as amended, and overlaps with the explanation given in relation to Q18B above, as particular emphasis of compelling humanitarian reasons which may make enforced return impossible or unreasonable

Q.19.B. Does your Member State allow families whose children attend school in a Member State, to benefit from residence conditions allowing the children concerned to complete the current school period before return? *See optional provision in article 23.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation:

This is provided for in S20E(2)(b) of the Refugee Law 2000 as amended, and overlaps with the explanation given in relation to Q18B above, as particular emphasis of compelling humanitarian reasons which may make enforced return impossible or unreasonable.

Solidarity

Q.20. Please describe how your Member State ensures that persons eligible for temporary protection defined in a Council Decision under article 5 and who have not arrived in the Community have expressed their will to be received on their territory? *See mandatory provision in article 25(2).*

Per S20IA(2) of Refugee Law 2000 as amended, the Asylum Unit, in collaboration with competent international organisations, shall ensure that such persons have expressed their will to be received in Cyprus.

Q.21. Questions concerning the transferral between Member States of persons enjoying temporary protection. *See article 26:*

Q.21.A. According to mandatory provision in article 26(1) the Member States shall cooperate with each other with regard to transferral of the residence of persons enjoying temporary protection from one Member State to another, subject to the *consent* of the persons concerned to such transferral.

Does the national law of your Member State comply with article 26(1) regarding the *consent* of the person who are about to be transferred?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation:

By virtue of the provisions of S20IA(3) of the Refugee Law 2000 as amended, Cyprus national law complies with article 26(1) by making a transferral of a person from a member state conditional upon that person's prior written consent.

Q.21.B. Do the national norms of transposition in your Member State comply with article 26(2) stating that a Member State shall communicate requests for transfers to the other Member States and notify the Commission and UNHCR?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

Explanation:

This is provided for in S20OI(ζ) of the Refugee Law 2000 as amended, which adopts article 26(2) in its entirety and places responsibility and authority for the communication of such requests to the Asylum Unit of the Ministry of Interior.

Q.21.C. According to the national norms of transposition, is your Member State obliged to, at the request of another Member State, provide information as set out in Annex II of the Directive, on a person enjoying temporary protection, which is needed to process a matter of transferral? *(See mandatory provision in article 26(3)).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

This is provided for in S200(7) of the Refugee Law 2000 as amended, which refers to providing information as set out in Annexure I of the Appendix thereof (which corresponds to the particulars listed in Annex II of the Directive).

Q.21.D. According to the national law in your Member State, will the residence permit of a person who is transferred, from your Member State to another Member State, expire? *See mandatory provision in article 26(4)*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

This is provided for in S201A(6) of the Refugee Law 2000 as amended.

Q.21.E. When a person, who has been enjoying temporary protection in your Member State is transferred to another Member State, will the obligations relating to temporary protection in your Member State come to an end upon the transferral? *See mandatory provision in article 26(4)*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

This is provided for in S201A(6) of the Refugee Law 2000 as amended.

Q.21.F. If a person, who previously has enjoyed temporary protection in another Member State, is transferred to your Member State, will your Member State grant temporary protection to that person? *See mandatory provision in article 26(4), last sentence.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

This is provided for by S20IA(3) of the Refugee Law 2000 as amended.

Q.21.G. Will the ‘model pass’ set out in annex I of the Directive be used in a foreseen transferral procedure?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

This is provided for in S20IA(7) of the Refugee Law 2000 as amended, under which the Asylum Unit is obliged to utilise the model pass in Annexure II of the Appendix thereof (which corresponds to that given in Annex I of the Directive).

Q.22. What authority in your Member State is appointed as national contact point according to the mandatory provision in article 27?

The name and function of the authority is: The Asylum Unit of the Ministry of Interior is appointed as national contact point under the provisions of S201B of the Refugee Law 2000 as amended. This will be regarded as the competent authority for the necessary administrative co-operation with the competent local authority and the competent authorities of other member states and international organisations in relation to the implementation of the Refugee Law 2000 as amended (insofar as it relates to Temporary Protection) and the Directive 2001/55/EC.

Q.23. Questions regarding exclusion from temporary protection:

Q.23.A. Are there any criteria for exclusion from temporary protection in your Member State? See optional provision in article 28.

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation: (If yes, specify the criteria).

The applicable criteria for excluding a person from temporary protection are set forth in S20(5) of the Refugee Law 2000 as amended, which specifically adopts the criteria as laid down in Article 291(a) and (b) of the Directive.

Q.23.B. If the answer to A. is “yes”, please indicate whether they in any way exceed the exhaustive list of criteria in article 28(1)(a) and (b).

Yes **No**

Explanation:

As is evident from the explanation given in Q23A above.

Q.23.C. Do the national norms of transposition in your Member State meet the terms in article 28(2) stating that the grounds for exclusion shall be based solely on the personal conduct of the person concerned?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

This is provided for in S20(6) of the Refugee Law 2000 as amended.

Q.23.D. Do the national norms of transposition in your Member State meet the terms of article 28(2) stating that exclusion decisions or measures shall be based on the principle of proportionality?

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes **No**

Explanation:

As provided for in S20(6) of the Refugee Law 2000 as amended.

Q.24. Questions concerning the right to legal challenge:

Q.24.A. Do the laws of your Member State allow a person to mount a legal challenge if he/she has been: *See mandatory provision in article 29.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**excluded from the benefit
of temporary protection** **Yes** **No**

denied family reunification **Yes** **No**

Explanation:

Although S20(7) of the Refugee Law 2000 as amended, specifically provides for administrative recourse to the Reviewing Authority in the event of a person being excluded from temporary protection and S20(8) allows for such recourse if denied family reunification, the right to a legal challenge would in both cases above be permissible by virtue of the fact that such rights are enshrined in the Constitution of Cyprus under Article 146 thereof. Being a general inalienable constitutional right, a legal challenge thereunder could necessarily be initiated against any exclusion decision and would not simply be limited to exclusion decisions on one of the grounds referred to in article 28 of the relevant Directive.

Q.24.B. If the answer on any of the questions in Q.24.A is “yes”, please describe the applicable legal procedures for challenging the decision, in your Member State.

Article 146 of the Constitution creates jurisdiction in the Supreme Court of Cyprus in administrative law matters where "a decision, act or omission of any organ, authority, or person exercising any executive or administrative authority is contrary to any of the provisions of the Constitution or of any law or is made in excess or in abuse of powers vested in such organ or authority or person.

Paragraph 2 of Article 146 lays down the prerequisites for such recourse and provides that it may be made by a person whose existing legitimate interest is adversely and directly affected by such decision or act or omission.

Paragraph 3 of Article 146 provides that recourse will be made within 75 days of the date when the decision or act was published or if not published as in the case of an omission, when it came to the knowledge of the person making the recourse.

If the application has not been filed within the 75 day limit, the recourse will fail by virtue of it being filed out of time. The time limit commences from the time the act took place. A suspension of the time period would be permissible in the event of an act of God or force majeure. Knowledge by the person resorting to recourse is presumed by virtue of proper publication in the official Gazette.

In the case of a continuing failure by the administration, the filing of the recourse after the 75 day time limit is not to be deemed out of time. (Nedjati, Cyprus Administrative Law (1970), at pp 177-179).

Q.25. Questions regarding penalties applicable to infringements of the national provisions.

Q.25.A. Are there penalties applicable to infringements of the national provisions in your Member State? *See mandatory provision in article 30.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes No

Explanation: (If yes, specify the penalties).

Q.25.B. Explain if the penalties, according to your opinion, comply with the Directive concerning them being effective, proportionate and dissuasive? *See mandatory provision in article 30.*

Not applicable.

Final questions

Q.26. Can you refer us to any study, report or research by any source on the practice of granting temporary protection in the event of a mass influx in your Member State?

No.

Q.27. Has there been a political or public debate on the implementation of the Directive? If so, please summarize the main issues of the debate

There was no public debate as such although the various ministries sent in written representations to Parliament.

Q.28. Are there any problems of legislation or practice in your Member State which relate to temporary protection and have not been covered in preceding questions?

It is perhaps somewhat premature to comment, at this stage, on the existence of problems or otherwise, having regard to the fact that circumstances to date have not called for the implementation of either practical or legal aspects in the domain of temporary protection.

THIRD PART

IMPACT OF THE DIRECTIVE ON NATIONAL LAW

Q.29 Question regarding the evolution of national law: **Did the transposition of the Directive make the rules related to the protection of third country nationals in cases of a mass influx become, from the point of view of the third-country national concerned, more favourable or less favourable. Please make also a comparison with the standard of the directive in the last column of the table below**

OBJECTIVE <i>To enhance the protection of displaced persons in cases of a mass influx</i>		EVALUATION REGARDING THE EVOLUTION OF NATIONAL LAW	EVALUATION IN COMPARISON WITH THE STANDARD OF THE DIRECTIVE
<p>Explain the situation <u>before</u> transposition</p> <p style="text-align: center;">Not applicable</p>	<p>Explain the situation <u>after</u> transposition</p> <p>(To evaluate the impact of the directive, please consider also national norms which were adopted before the deadline for transposition or even before the adoption of the directive, in cases of Member States having amended their national legislation in advance in accordance with the directive. Please indicate the precise date of adoption of the change)</p>	<p><input type="checkbox"/> <i>Less favourable than previous national rules</i></p> <p><input type="checkbox"/> <i>Status quo</i></p> <p><input checked="" type="checkbox"/> <i>More favourable than previous national rules</i></p>	<p><input type="checkbox"/> <i>Less favourable than the Directive</i></p> <p><input checked="" type="checkbox"/> <i>In line with the directive</i></p> <p><input type="checkbox"/> <i>More favourable than the directive</i></p>

Q. 30. **From your point of view, did the transposition of the directive imply other interesting changes for the third country national concerned regarding other elements than the ones mentioned in the previous question? Please make also a comparison with the standard of the directive in the last column of the table below**

When answering this question, please use one or more of the tables below. If the 3 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

OBJECTIVE (to be indicated by the national rapporteur)		EVALUATION REGARDING THE EVOLUTION OF NATIONAL LAW	EVALUATION IN COMPARISON WITH THE STANDARD OF THE DIRECTIVE
Explain the situation before transposition	<p>Explain the situation after transposition</p> <p>(To evaluate the impact of the directive, please consider also national norms which were adopted before the deadline for transposition or even before the adoption of the directive, in cases of Member States having amended their national legislation in advance in accordance with the directive. Please indicate the precise date of adoption of the change)</p>	<p><input type="checkbox"/> <i>Less favourable than previous national rules</i></p> <p><input type="checkbox"/> <i>Status quo</i></p> <p><input type="checkbox"/> <i>More favourable than previous national rules</i></p>	<p><input type="checkbox"/> <i>Less favourable than the Directive</i></p> <p><input type="checkbox"/> <i>In line with the directive</i></p> <p><input type="checkbox"/> <i>More favourable than the directive</i></p>

Q.31.A. Question regarding the method of transposition: **Did your Member State copy the provisions of the directive into national legislation without any redrafting or adaptation to national circumstances.**

YES NO

Q.31.B. **If yes**, did this method of transposition create any problems (for example difficulties of implementation, risk that a provision remain unapplied).

YES NO

Q.31.C. **If yes**, give some of examples:

Not Applicable.

Q.31.D. **If only some provisions of the directive have been copied and if this may create any problem**, please quote them and explain the problem.

Not Applicable.

Q.32. Quote interesting decisions of jurisprudence related to the directive, its transposition or implementation (this question concerns in principle decisions after the national norms of transposition entered into force, but decisions prior to that may be quoted if relevant). Quote in particular decisions of supreme Courts; limit yourself to the appeal Courts and ignore the first resort if there are too many decisions at this level, unless there is a certain jurisprudence made of a group of decisions.

Not applicable.

When answering this question, please use one or more of the tables below. If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

DECISION OF SUPREME COURTS	<u>DATE:</u>	<u>REFERENCE OF PUBLICATIONS:</u>	<u>SUMMARY OF CONTENT:</u>
DECISION OF APPEAL COURTS	<u>DATE:</u>	<u>REFERENCE OF PUBLICATIONS:</u>	<u>SUMMARY OF CONTENT:</u>
DECISION(S) IN FIRST RESORT	<u>DATE:</u>	<u>REFERENCE OF PUBLICATIONS:</u>	<u>SUMMARY OF CONTENT:</u>

ANY SUPPLEMENTARY COMMENT ABOUT THE TREND OF THE JURISPRUDENCE:

Q.33. Are there any problems with the translation of the text of the directive in the official language of your Member State and give in case a list of the worst examples of provisions which have been badly translated.

There are no problems with the translation of the directive.

There are some problems with the translation of the directive.

Explanation: (If there are such problems, please specify the most problematic provisions in the Directive when it comes to translation).

Explain the difficulties that this could create:

ANY OTHER INTERESTING ELEMENT

Q.34. **Following your personal point of view, mention from the point of view of third country nationals and/or from the Member State any interesting or innovative practice in your Member State**

Please refer to comment under Q28.

When answering this question, please use one or more of the tables below. If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).

Table 1

OBJECTIVE OF THE PRACTICE	EXPLANATION

Q.35. **Please add here any other interesting element in your Member State which you did not have the opportunity to mention in your previous answers.**

Please refer to comment under Q28.