



**CHOOSE
LOVE**

UNDER PRESSURE - HOW GREECE IS CLOSING

IN ON CIVIL SOCIETY ORGANISATIONS WORKING

WITH REFUGEES



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This report is published by Choosing Love and Justice Limited, which exists to create positive changes that promote the rights, justice and dignity of refugees and displaced people. Choosing Love and Justice Limited works with Choose Love, a civil society organisation that supports NGOs and grassroots organisations worldwide, including 70 partner organisations in Greece. Since 2015, Choose Love has funded almost €20,000,000 to humanitarian organisations in Greece. Choosing Love and Justice Limited is a company registered in England and Wales under company number 13070494. Choose Love is a restricted fund under the auspices of Prism the Gift Fund, UK Charity No 1099682.

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EXECUTIVE SUMMARY

This report demonstrates how current legislation on NGO registration in Greece will hinder civil society organisations' ability to provide services and monitor the treatment of refugees and displaced people. These organisations provide critical humanitarian support and have been instrumental in responding to, and exposing, the conditions faced by refugees and displaced people. Drawing on survey results from 70 of these civil society organisations, this report calls for legislation to be brought in line with European and international standards.

Criticised by leading bodies including the Expert Council on NGO Law of the Council of Europe, this legislation falls short of international, regional and EU freedom of association standards. How a State legislates the freedom of association - the fundamental human right to independently and without undue restriction form and operate an organisation - reveals the true state of its democracy.

In just over a year, legislation and requirements for registration have dramatically expanded in scope four times. The one common factor has been that registration is now obligatory in Greece for all organisations involved with migration. Survey responses indicate that these constant changes in legislation and registration procedures have led to widespread confusion, misunderstanding and legal uncertainty.

Legislation and changes in the format of reception in Greece will severely reduce the access of civil society to places where refugees and displaced people are located. This reduced access will have a negative impact on the services available as civil society provides everything from food to legal support to healthcare.

Of the 70 organisations surveyed, 20 noted that due to registration legislation they had already lost access to reception facilities or were faced with increasing difficulties with access. A further 40 anticipated problems with their ability to provide essential services, and 75 percent of the organisations foresaw problems with the ability of civil society to bear witness to the conditions facing refugees and displaced people.

Whilst it is reasonable for a State to maintain a register of organisations, the vast majority of the organisations believe that the registration process is just too complicated, with 45 percent believing that it is unlikely that their respective organisations could comply with all requirements. In general, the organisations are extremely concerned about the financial impact of the registration process; the need to prove efficiency and financial stability; restrictions placed on organisation's internal management; and the requirement to provide sensitive data for all members of the organisation.

For quite some time, experts have voiced concerns about the shrinking space for civil society worldwide. This registration adds to a rise in restrictions placed on civil society within Council of Europe member states, including mounting criminalisation, intimidation and restrictive laws.

The current Joint Ministerial Decision 10616/2020 which regulates the registration procedure must be revoked and other related legislation needs to be brought in line with European and international standards on the freedom of association. On a European and international level, there should be a push for comprehensive monitoring and analysis of legislation related to registration in Greece. This report confirms there are widespread concerns among organisations in Greece that the walls are closing in on civil society, but there is hope that it is not too late to turn back the clock.



INTRODUCTION

Civil society organisations are essential for developing and realising democracy, human rights, and the rule of law. These organisations ensure transparency and accountability of authorities, they voice the concerns of citizens and provide certain services that official bodies cannot replicate.¹ The UN Human Rights Council emphasised that a robust civil society is necessary to ensure national security, enabling dissent and frustration to be channeled in a legitimate way.² How a State legislates the freedom of association, the fundamental human right to independently and without undue restrictions to form and operate an organisation, reveals the state of its democracy.³ For quite some time, experts have voiced concerns about the shrinking space for civil society worldwide, including Council of Europe member States Russia, Turkey, Hungary, Poland and Greece.⁴ Space for civil society is shrinking particularly fast for organisations that work with refugees, asylum seekers and migrants (hereafter refugees and displaced people) and they are often subject to criminalisation, intimidation and restrictions.⁵

A recently published study requested by the Civil Liberties, Justice and Home Affairs Committee of the European Parliament concluded that Greece is among several EU Member States that have passed laws that fall short of international, regional and EU freedom of association standards. According to this study, Greece is targeting NGOs working with refugees and displaced people, infringing on their freedom of association.⁶ The Expert Council on NGO Law from the Council of Europe concluded that

¹ Case C-78/18 *Commission v Hungary* [2020] para 112; Expert Council on NGO Law (Council of Europe) 'Opinion on the Compatibility With European Standards of Recent and Planned Amendments to Greek Legislation on NGO Registration' (2 July 2020) CONF/EXP(2020)4 para 8; EU Parliament 'Protecting Civil Society Space: Strengthening Freedom of Association, Assembly and Expression and the Right to Defend Rights in the EU' (October 2020); EU Commission, 'European Governance - A White Paper' COM (2001) 428 final

² Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association (29 June 2017) UN DOC A/HRC/35/28 para 26

³ *Gorzelik & Ors v Poland* App no 44158/98 (ECtHR, 17 February 2004) para 88; *Sidiropoulos and others v. Greece* App no 57/1997/841/1047 (ECtHR, 10 July 1998) para 40; EU Commission, 'Further Strengthening the Rule of Law Within the Union' COM (2019) 163 final page 8-9

⁴ Expert Council on NGO Law (Council of Europe) 'Non-Governmental Organisations: Review of Developments in Standards, Mechanism and Case Law' (February 2020) CONF/EXP(2020)1 para 13, 17, 205; Expert Council on NGO Law (Council of Europe) 'International Standards Relating to Reporting and Disclosure Requirements for Non-Governmental Organisations' (27 November 2018) CONF/EXP(2018)3 para 9-17; Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association (29 June 2017) UN DOC A/HRC/35/28 para 14; PACE Resolution 2096 (2016) para 4; EU Parliament 'Protecting Civil Society Space: Strengthening Freedom of Association, Assembly and Expression and the Right to Defend Rights in the EU' (October 2020)

⁵ Special Rapporteur on the Human Rights of Migrants 'Right to Freedom of Association of Migrants and their Defenders' (13 May 2020) UN DOC A/HRC/44/42 paras 74, 81; Expert Council on NGO Law (Council of Europe) 'Guidelines on Protecting NGO Work in Support of Refugees and Other Migrants (May 2020) CONF/EXP(2020)3 para 2

⁶ EU Parliament 'Protecting Civil Society Space: Strengthening Freedom of Association, Assembly and Expression and the Right to Defend Rights in the EU' (October 2020) page 46, 54-61

recent legislative changes in Greece, only applicable to those organisations working with refugees and displaced people, give rise to several problems of compliance with the fundamental right to freedom of association and privacy.⁷ Greek Law 4686/2020 and Joint Ministerial Decision 10616/2020 will have the possibility to exclude many organisations from operating in Greece because registration has been made an obligatory condition for work within the Greek territory.⁸

This report examines how legislation is impacting civil society organisations in Greece that work with refugees and displaced people. In Greece, civil society organisations have played an indispensable role in the refugee humanitarian response. Civil society actors have provided shelter, food, medical care, search and rescue, legal advice and other forms of support. With an ability to move quickly, these organisations have consistently met the needs of displaced people, either in the absence of or alongside support from the Greek government and international NGOs.

⁷ Expert Council on NGO Law NGO Law (Council of Europe) 'Opinion on the Compatibility With European Standards of Recent and Planned Amendments to Greek Legislation on NGO Registration' (2 July 2020) CONF/EXP(2020)4 paras 103-106

⁸ Hellenic Republic Law No. 4686/2020 (12 May 2020) Article 58 and Hellenic Republic Joint Ministerial decision No. 10616/2020 (10 September 2020) Article 1(1) and 6



Methodology

The report includes quantitative and qualitative data from a survey in November 2020 of 70 civil society organisations working in Greece, and input from six interviews in December 2020 with smaller and less formalized organisations who faced severe difficulties with the registration process.⁹ Both the survey and interviews were conducted

"Several organisations feared negative consequences for participating."

with guaranteed anonymity as several organisations feared negative consequences for participating. In addition to the input from civil society organisations, this report outlines the framework of international and European regulation and standards related to the freedom of association, highlighting the friction between Greek legislation and this framework. The report will make reference to authoritative standards set by the the European Court of Human Rights, the Organization for Security and Co-operation in Europe and its Office for Democratic Institutions and Human Rights (hereafter OSCE/ODIHR), the European Commission for Democracy through Law (hereafter Venice Commission), the Council of Europe and the United Nations Special Rapporteur on freedom of association and assembly. These standards, referred to in this report, set out a minimum baseline and threshold for the protection of the human right to freedom of association which must be upheld by national authorities.¹⁰ This report also includes references to monitoring of media and statements by government officials such as the Greek Prime Minister, and the Minister and Deputy Minister of Migration and Asylum between November 2019 and January 2021.

This report will provide an insight into the concerns voiced by many civil society organisations about the shrinking space for their work in Greece, and how current legislation will limit the ability of organisations to provide services, bear witness to the treatment of refugees and displaced people, and exercise their right to freedom of association. The report will focus on four key areas of concern, firstly, the goal of the legislation regarding NGO registration and the political discourse presented around legitimate NGO work. Secondly, the issues stemming from a lack of legal certainty in the operational environment of NGOs in Greece. Thirdly, the foreseen decrease in the ability of civil society to bear witness because of restriction of access to places where refugees and displaced people are located. Fourthly, the requirements and conditions for registration that could prevent many organisations

⁹ This survey categorised each respondent based on the size of their operation in line with the EU size classification used for small and medium-sized businesses. More than three quarters of the respondents have been categorised as micro or smaller organisations. A little less than a quarter of respondents are classified as medium or large organisations

¹⁰ OSCE/ODIHR, Venice Commission and Council of Europe 'Guidelines on the Freedom of Association' (2015) page 5

from registering and consequently working in Greece. The conclusion will provide recommendations for the Greek authorities and policy makers on EU and international level.

THE GOAL OF LEGISLATION AND REGISTRATION REQUIREMENTS

Standards on NGO law make clear that authorities can require certain formalities from organisations in order to officially register, however imposing such formalities are considered an interference with the freedom of association.¹¹ Such interferences can only be justified based on a pressing need in a democratic society that has been translated into law and is in the interests of national security, public safety, the prevention of disorder or crime, and the protection of health, morals and freedoms of others.¹² There is a clear obligation to demonstrate that there is a pressing social need to restrict the freedom of association, for which the burden of proof lies with the State.¹³ The European Court of Human Rights has established that only convincing and compelling reasons could justify the restriction of the freedom of association.¹⁴

¹¹ Expert Council on NGO Law (Council of Europe) 'International Standards Relating to Reporting and Disclosure Requirements for Non-Governmental Organisations' (27 November 2018) CONF/EXP(2018)3 para 133; *The united Macedonian organisation Ilinden and other v Bulgaria* App no 34960/04 (ECtHR, 18 October 2011) para 40

¹² European Convention on human rights Article 11; Charter of Fundamental Rights of the European Union Article 12 and 52(3); International Covenant on Civil and Political Rights Article 22

¹³ Case C-78/18 *Commission v Hungary* [2020] para 91; Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai (21 May 2012) UN DOC A/HRC/20/27 para 1; EU Parliament 'Protecting Civil Society Space: Strengthening Freedom of Association, Assembly and Expression and the Right to Defend Rights in the EU' (October 2020) page 37

¹⁴ *Gozelik & Ors v Poland* App no 44158/98 (ECtHR, 17 February 2004) para 88



A great number of survey respondents agree that some form of oversight, coordination and regulation by authorities could be necessary and would even be welcomed. That said, 85 percent of the 70 organisations surveyed fear that legislation in its current form would frustrate their exercise of the freedom of association. Organisations mentioned that registration requirements are discriminatory and onerous, whilst there seemed to be a general mistrust in the authorities' intentions. One organisation summarised these concerns by stating that the "registration process requests unfair and discriminating requirements which will most likely restrict the voice of civil society and of democratic accountability". Other organisations voiced the concern that registration requirements "would be used to limit civil society and to get rid of unwanted organisations in Greece" and constitute an "attempt to prevent or hinder NGOs from operating".

Transparency and accountability

Greek legislation states that the necessity for registration requirements stem from a public interest, the need for transparency in organisations' modes of operation, and to guarantee the human rights of those seeking international protection.¹⁵ The Minister of Immigration and Asylum has stated that Greece seeks maximum (financial) transparency in NGOs' operations (and those who work or cooperate with them), and has stressed the need to isolate those who do not meet the rules of transparency and good management.¹⁶ International and EU

"84% of the organisations surveyed believe that increasing transparency does not legitimise Greece's current registration requirements."

standards clarify that transparency and accountability are important to establish public trust, but are not considered legitimate goals by themselves to justify any interference with the freedom of association. Transparency and accountability are means to attain the accepted grounds for interference such as public safety and order mentioned above.¹⁷

¹⁵ Hellenic Republic Ministerial decision No. 10616/2020 (10 September 2020) Article 1(3)

¹⁶ Notis Mitarakis 'Ξεκινά η λειτουργία του Μητρώου ΜΚΟ και μελών ΜΚΟ στο Υπουργείο Μετανάστευσης και Ασύλου' (*official website*, 14 April 2020) <link> accessed on 20 November 2020; Costis P. Papadiochos 'Επιχείρηση – τάξη στις ΜΚΟ με κατάθεση νομοσχεδίου' (*Kathimerini*, 7 June 2020) <link> accessed 26 November 2020

¹⁷ Expert Council on NGO Law (Council of Europe) 'Opinion on the Compatibility With European Standards of Recent and Planned Amendments to Greek Legislation on NGO Registration' (2 July 2020) CONF/EXP(2020)4 para 50; Expert Council on NGO Law (Council of Europe) 'International Standards Relating to Reporting and Disclosure Requirements for Non-Governmental Organisations' (27 November 2018) CONF/EXP(2018)3 para 45, 138; OSCE/ODIHR, Venice Commission and Council of Europe 'Joint Opinion on the Romanian Draft Law 140/2017' (16 March 2018) para 64; OSCE/ODIHR, Venice Commission and Council of Europe 'Guidelines on the Freedom of Association' (2015) para 224

Guidelines on the freedom of association add that authorities should “not require but shall encourage and facilitate associations to be accountable and transparent”.¹⁸ 84 percent of the organisations surveyed believe that increasing transparency does not legitimise Greece’s current registration requirements, especially because of onerous requirements for registration, and ironically, lack of transparency about the procedure and legislation.

Motivations for imposing registration requirements

The Expert Council on NGO law emphasised that providing evidence regarding the necessity and proportionality of restrictions on civil society work has a particularly high threshold “if statements and actions of public officials reveal bias or other political goals”.¹⁹ States should not use legitimate aims for the restriction of NGOs’ work as a pretext to control NGOs or restrict their ability to carry out their legitimate work.²⁰ Several respondents and interviewed organisations indicated that the registration process is politically motivated and political discourse suggests that there might be an ulterior motive for registration requirements. Migration was a key issue in the election campaign for the now governing New Democracy party. They stated that there should be strict delimitation of NGOs’ roles in respect to the management of migration and that only organisations who have registered with the Greek authorities should be able to operate - and only when Greek authorities deem them useful.²¹ The Prime Minister stated that NGO work needed to be controlled by the State so as to bring order to their activities.²² The Minister of Migration and Asylum emphasised that the legislation will bring order instead of chaos as it would provide strict control and scrutiny of organisations and their members.²³ The Deputy Minister added that legislation was intended to control NGOs’ action and that organi-

¹⁸ OSCE/ODIHR, Venice Commission and Council of Europe ‘Guidelines on the Freedom of Association’ (2015) para 224

¹⁹ Expert Council on NGO Law (Council of Europe) ‘International Standards Relating to Reporting and Disclosure Requirements for Non-Governmental Organisations’ (27 November 2018) CONF/EXP(2018)3 para 80

²⁰ Expert Council on NGO Law (Council of Europe) ‘Using Criminal Law to Restrict the Work of NGOs Supporting Refugees and Other Migrants in Council of Europe Member States’ (December 2019) CONF/EXP(2019)1 para 53; OSCE/ODIHR-Venice Commission ‘Joint Opinion on the Provisions of the So-called “Stop Soros” Draft Legislative Package which Directly Affect NGOs’ (24 June 2018) para 80; EU Parliament ‘Protecting Civil Society Space: Strengthening Freedom of Association, Assembly and Expression and the Right to Defend Rights in the EU’ (October 2020) page 17

²¹ Nea Dimokratia ‘Ετοιμοί να αλλάξουμε την Ελλάδα, οι βασικοί άξονες του σχεδίου μας’ (2019) page 59-60

²² PM Mitsotakis says Greece will not tolerate “shady” NGOs on the refugee matter (*Thema News*, 6 February 2020) <link> accessed 13 November 2020 and Τα νησιά θα αποσυμφορηθούν, τα σύνορα φυλάσσονται - Θα μπει επιτέλους τάξη στις ΜΚΟ (*Emprosnet*, 6 February 2020) <link> accessed 13 November 2020; Prime Minister Mitsotakis ‘Χαιρετισμός Κ. Μητσοτάκη για τη συμπλήρωση 100 ετών από την ίδρυση του Λιμενικού Σώματος’ (*Youtube*, 5 February 2020) <link> accessed 26 November 2020.

²³ Notis Mitarakis Ξεκινά η λειτουργία του Μητρώου ΜΚΟ και μελών ΜΚΟ στο Υπουργείο Μετανάστευσης και Ασύλου’ (*official website*, 14 April 2020) <link> accessed on 20 November 2020; Kostis P. Papadiochos ‘Επιχείρηση – τάξη στις ΜΚΟ με κατάθεση νομοσχεδίου’ (*Kathimerini*, 7 June 2020) <link> accessed 26 November 2020; Notis Mitarakis Ξεκινά η λειτουργία του Μητρώου ΜΚΟ και μελών ΜΚΟ στο Υπουργείο Μετανάστευσης και Ασύλου’ (*official website*, 14 April 2020) <link> accessed on 20 November 2020

sations that could not meet the conditions set out by the government would be excluded from the management of migration.²⁴

Political discourse to justify increased control of civil society

Referring to restrictive NGO laws in Hungary, the European Court of Justice made clear that States should refrain from creating a negative image of civil society or impede their independence.²⁵ The UN Special Rapporteur has warned of the negative consequences of authorities stigmatising and attacking the work of NGOs.²⁶ Currently, the reality is that authorities frame certain aspects of civil society as a potential threat to national security. This suspicion alone has the effect of harming the reputation of organisations and civil society.²⁷ Hostile rhetoric and criminalisation have discouraged solidarity, led to an increasing distrust in civil society's work, and even physical attacks on NGOs.²⁸ Several organisations surveyed and interviewed for this research believe that authorities portray a negative image of civil society, particularly those operations of smaller (foreign) organisations and grassroots movements. These organisations indicated a general fear that political discourse would turn public perception against their work and refugees and displaced people.

The justification for State control on the work of civil society has been based on a narrative (between end of 2019 and January 2021) that in the past a selection of organisations have worked responsibly, providing help to cover serious government gaps, but that now there are serious issues with the operation of other NGOs.²⁹ The Prime Minister has referred to the work of some NGOs as dubious and not to be tolerated.³⁰ The Minister of Migration and Asylum stated that the government is not on a witch hunt, but any organisation that has worked in the 'dark' needs to be treated with a different

²⁴ Georgios Koumoutsakos 'Σημεία συνέντευξης Αναπληρωτή Υπουργού Μετανάστευσης και Ασύλου, κ. Γιώργου Κουμουτσάκου, στα «Παραπολιτικά» και τον Κ. Παπαχλιμίντζο' (*Official website*, 9 May 2020) <[link](#)> accessed 13 November 2020

²⁵ Case C-78/18 *Commission v Hungary* [2020] para 113-114

²⁶ Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association (26 July 2018) UN DOC A/HRC/38/34

²⁷ Expert Council on NGO Law (Council of Europe) 'Using Criminal Law to Restrict the Work of NGOs Supporting Refugees and Other Migrants in Council of Europe Member States' (December 2019) CONF/EXP(2019)1 para 13 and 20

²⁸ Expert Council on NGO Law (Council of Europe) 'Using Criminal Law to Restrict the Work of NGOs Supporting Refugees and Other Migrants in Council of Europe Member States' (December 2019) CONF/EXP(2019)1 97, para 119

²⁹ Nea Dimokratia 'Ετοιμοί να αλλάξουμε την Ελλάδα, οι βασικοί άξονες του σχεδίου μας' (2019); Ενημέρωση Πολιτικών Συντακτών από τον Υπουργό Μετανάστευσης και Ασύλου κ. Νότη Μηταράκη (*Ministry of Migration and Asylum*, 12 October 2020) <[link](#)> accessed 27 November 2020

³⁰ PM Mitsotakis says Greece will not tolerate "shady" NGOs on the refugee matter (*Thema News*, 6 February 2020) <[link](#)> accessed 13 November 2020 and Τα νησιά θα αποσυμφορηθούν, τα σύνορα φυλάσσονται - Θα μπει επιτέλους τάξη στις ΜΚΟ (*Emprosnet*, 6 February 2020) <[link](#)> accessed 13 November 2020; Prime Minister Mitsotakis 'Χαιρετισμός Κ. Μητσοτάκη για τη συμπλήρωση 100 ετών από την ίδρυση του Λιμενικού Σώματος' (*Youtube*, 5 February 2020) <[link](#)> accessed 26 November 2020.

mentality, as “the wheat needs to be separated from the chaff”.³¹ The Deputy Minister referred to the work of NGOs as problematic and controversial, stating there had been deep and dark networks of organisations behaving like bloodsuckers or ticks.³² A government spokesman stated that some NGOs have been working in a parasitic way.³³

This discourse has linked NGO work to spreading misinformation, mismanagement (of funding), incitement of riots, and lack of cooperation between refugees and displaced people and authorities.³⁴ In March 2020, the Racist Violence Reporting Network directly linked negative discourse from authorities to attacks on civil society organisations on the Greek islands.³⁵ During November 2020, raids were conducted on several NGOs’ offices by officials from the National Transparency Authority; the agency announced it would audit at least 320 NGOs and prosecute members of organisations.³⁶

The Greek Minister of Migration has directly accused NGOs of involvement with human trafficking and

³¹ Costis P. Papadiochos ‘Επιχείρηση – τάξη στις ΜΚΟ με κατάθεση νομοσχεδίου’ (kathimerini, 7 June 2020) <link> accessed 26 November 2020; Μηταράκης: Θα οριστεί εθνικός συντονιστής για τον έλεγχο των ΜΚΟ (CNN Greece, 30 January 2020) <link> accessed 13 November 2020; Νότης Μηταράκης: Κατατίθεται τροπολογία για την καταγραφή εργαζομένων στις ΜΚΟ Πηγή (Lefimerida, 31 January 2020) <link> accessed 26 November 2020

³² Καταγγελίες Κουμουτσάκου: Δικηγόροι, γιατροί και ΜΚΟ σε κυκλώματα εκμετάλλευσης μεταναστών (Kos News 24, 5 February 2020) <link> accessed 27 November; Greece orders registration for NGOs on migrant-crowded islands (DPA International, 7 February 2020) <link> accessed 13 November 2020; Κουμουτσάκος στον ΘΕΜΑ 104,6: Στήθηκαν ΜΚΟ-«βδέλλες» εν μια νυκτί για να βγάλουν χρήματα (Protothema, 5 February 2020) <link> accessed 26 November 20; Georgios Koumoutsakos ‘Σημεία συνέντευξης Αναπληρωτή Υπουργού Μετανάστευσης και Ασύλου, κ. Γιώργου Κουμουτσάκου, στα «Παραπολιτικά» και τον Κ. Παπαχλιμίντζο’ (Official website, 9 May 2020) <link> accessed 13 November 2020; Καταγγελίες Κουμουτσάκου: Δικηγόροι, γιατροί και ΜΚΟ σε κυκλώματα εκμετάλλευσης μεταναστών (Kos News 24, 5 February 2020) <link> accessed 27 November 2020

³³ Ο κυβερνητικός εκπρόσωπος Στ. Πέτσας στην ΕΡΤ (EPT, 12 February 2020) <link> accessed 13 November 20; NGO registry to include staff and partners, says gov’t spokesman (Ekathimerini, 4 February 2020) <link> accessed 17 November; Στ. Πέτσας για μεταναστευτικό: Είναι η ώρα των αποφάσεων (ERT, 12 February 2020) <link> accessed 26 November 2020

³⁴ Nea Dimokratia “Ετοιμοί να αλλάξουμε την Ελλάδα, οι βασικοί άξονες του σχεδίου μας” (2019); Notis Mitarakis ‘Προχωράμε στο κλείσιμο εντός του 2020 του προγράμματος Ξενοδοχείων’ (Official website, 23 November 2020) <link> accessed 25 November 2020; Greece orders registration for NGOs on migrant-crowded islands (DPA International, 7 February 2020) <link> accessed 13 November 2020; Κουμουτσάκος στον ΘΕΜΑ 104,6: Στήθηκαν ΜΚΟ-«βδέλλες» εν μια νυκτί για να βγάλουν χρήματα (Protothema, 5 February 2020) <link> accessed 26 November 20; Greece orders registration for NGOs on migrant-crowded islands (DPA International, 7 February 2020) <link> accessed 13 November 2020; Γ. Κουμουτσάκος: Δίκτυο συμφερόντων σε ΜΚΟ που λειτουργούσαν ως «βδέλλες» (kathimerini, 5 February 2020) <link> accessed 26 November 20; Κουμουτσάκος στον ΘΕΜΑ 104,6: Στήθηκαν ΜΚΟ-«βδέλλες» εν μια νυκτί για να βγάλουν χρήματα (Protothema, 5 February 2020) <link> accessed 26 November 20; Τετραπλασιάστηκαν οι εκδόσεις αιτήσεων ασύλου τον Απρίλιο - 11.000 οι αρνητικές αποφάσεις του τελευταίου διμήνου (Official website, 13 May 2020) <link> accessed 13 November 2020

³⁵ Δίκτυο Καταγραφής Περιστατικών Ρατσιστικής Βίας: Σοβαρή ανησυχία για τις επιθέσεις κατά προσφύγων και εργαζομένων σε ανθρωπιστικές οργανώσεις (UNHCR, 5 March 2020) <link> accessed 26 November 2020

³⁶ Transparency watchdog investigates three NGOs (Ekathimerini, 12 May 2020) <link> accessed 13 November 2020; Έφοδος της οικονομικής αστυνομίας σε τρεις ΜΚΟ (Skai, 12 May) <link> accessed 13 November 2020; Εθνική Αρχή Διαφάνειας για ΜΚΟ: Στο μικροσκόπιο 320 οργανώσεις (Protothema, 22 May 2020) <link> accessed 17 November 2020; Tania Georgiopolou ‘Camps to be built, NGOs under scrutiny’ (Ekathimerini, 10 February 2020) <link> accessed 20 November 2020; Vassilis Lambropoulos ‘Διώξεις σε 12 μέλη τριών ΜΚΟ στη Μυτιλήνη - Νέες αποκαλύψεις για τη δράση ΜΚΟ’ (Lesvos News, 22 September 2020) <link> accessed 22 November 2020

used these accusations to justify stricter control of organisations through legislation.³⁷ In September, while a preliminary investigation was still ongoing and no charges were pressed, it was announced that 33 members of NGOs, most of them involved with monitoring the sea, would be prosecuted for allegedly assisting smugglers, membership of a criminal organisation and espionage.³⁸

LACK OF LEGAL CERTAINTY FOR CIVIL SOCIETY ORGANISATIONS IN GREECE

Over the years, the excessive length of registration procedures, the continuous changes in legislation, and requirements for registration have created legal uncertainty surrounding the operation of civil society organisations working with refugees and displaced people in Greece. Survey responses indicate that these constant changes have led to widespread confusion, misunderstanding and frustration among civil society regarding the requirements and conditions of registration. One organisation described the process of registration as “spending an enormous amount of time and money to meet constantly changing requirements”. In addition, legislation provides a wide array of discretionary power for the Ministry of Migration and Asylum to decide which organisations will be registered (and remain registered). One organisation summed up the general feeling among respondents about the discretionary power of authorities, stating that “the uncertainty whether applications will be approved makes it very hard to plan, even for the near future”.

Constantly changing legislation and requirements for registration

For several years there have been attempts by authorities to get NGOs registered in Greece.³⁹ Between 2016 and 2018 there were requirements for NGOs working with migrants to register either on a national or local level.⁴⁰ 56 organisations surveyed said that in the past they have registered, or attempted registration in different registries for NGOs in Greece. Organisations that have been

³⁷ Notis Mitarakis ‘Συνέντευξη στον Ελεύθερο Τύπο - Η Ελλάδα δεν είναι ξέφραγο αμπέλι’ (*Official website*, 11 October 2020) <link> accessed 22 November 2020

³⁸ Greek police accuse aid workers of supporting migrant smugglers (*Al Jazeera*, 28 September 2020) <link> accessed 20 November 2020; Greece files against 33 NGO members for assisting human traffickers (*Keep Talking Greece*, 8 September 2020) <link> accessed 20 November 2020; Τέλος στη δράση ευρωπαϊκών ΜΚΟ που διευκόλυναν την διακίνηση μεταναστών από την Τουρκία στη Λέσβο (*Vima Press*, 8 September 2020) <link> accessed 20 November 2020 and Ο «κοριός» της ΕΥΠ, το τετράδιο του σκάφους και το αλισβερίσι ανθρώπων με την Τουρκία (*Stonisi*, 29 September 2020) <link> accessed 20 November 2020 and Αποκάλυψη: Αυτά είναι τα έγγραφα της ΕΛ.ΑΣ. για τις 4 «αμαρτωλές» ΜΚΟ (*In.gr*, 22 September 2020) <link> accessed 20 November 2020; Stamatis Zacharos ‘Κύκλωμα διακινητών από ΜΚΟ και στη Χίο- Έρευνες της ΕΛΑΣ στη Λέσβο αποκαλύπτουν οργανώσεις με πρακτικές μαφίας στο Βόρειο Αιγαίο’ (*Parapolitika*, 9 October) <link> accessed 22 November 2020

³⁹ Expert Council on NGO Law (Council of Europe) ‘Opinion on the Compatibility With European Standards of Recent and Planned Amendments to Greek Legislation on NGO Registration’ (2 July 2020) CONF/EXP(2020)4 para 11

⁴⁰ EU Parliament ‘Protecting Civil Society Space: Strengthening Freedom of Association, Assembly and Expression and the Right to Defend Rights in the EU’ (October 2020) page 55

operational in Greece for several years indicated to have applied for registration multiple times, often unsuccessful and for protracted periods of time. The legal landscape for NGOs started to change drastically in November 2019, four months after the Nea Dimokratia government assumed office.⁴¹ In just over a year, legislation and requirements for registration have changed and been expanded four times. The one common denominator is that registration is now obligatory for all organisations involved with migration in order to work in Greece. These changes have been accompanied by strict deadlines to provide documentation or to resubmit registration applications [see timeline]. There are now indications that yet another change in legislation is forthcoming.⁴²

"In just over a year, legislation and requirements for registration have changed and been expanded four times."

Around half of the organisations that participated in the survey reached out to the Ministry of Migration and Asylum to seek clarification about registration requirements and conditions. Of these organisations, 44,5 percent did not receive a response to their inquiry. Among the organisations that did receive a response, either by phone or email, only 11 percent found the response useful - for the most part, the information provided no clarification or directly contradicted the different acts of legislation. Several answers to questions by email only provided references to Articles in law and no further clarification. One question highlighted by the vast majority of organisations remains unanswered; if organisations are allowed to continue work while not being registered, as articles in legislation seem to suggest otherwise.⁴³ One respondent stated that "the fact that many parts of the regulations are kept vague and that relevant authorities not always answer requests for clarification only support the impression that there is a deliberate attempt to create uncertainty and eventually force organisations to seize their operations".

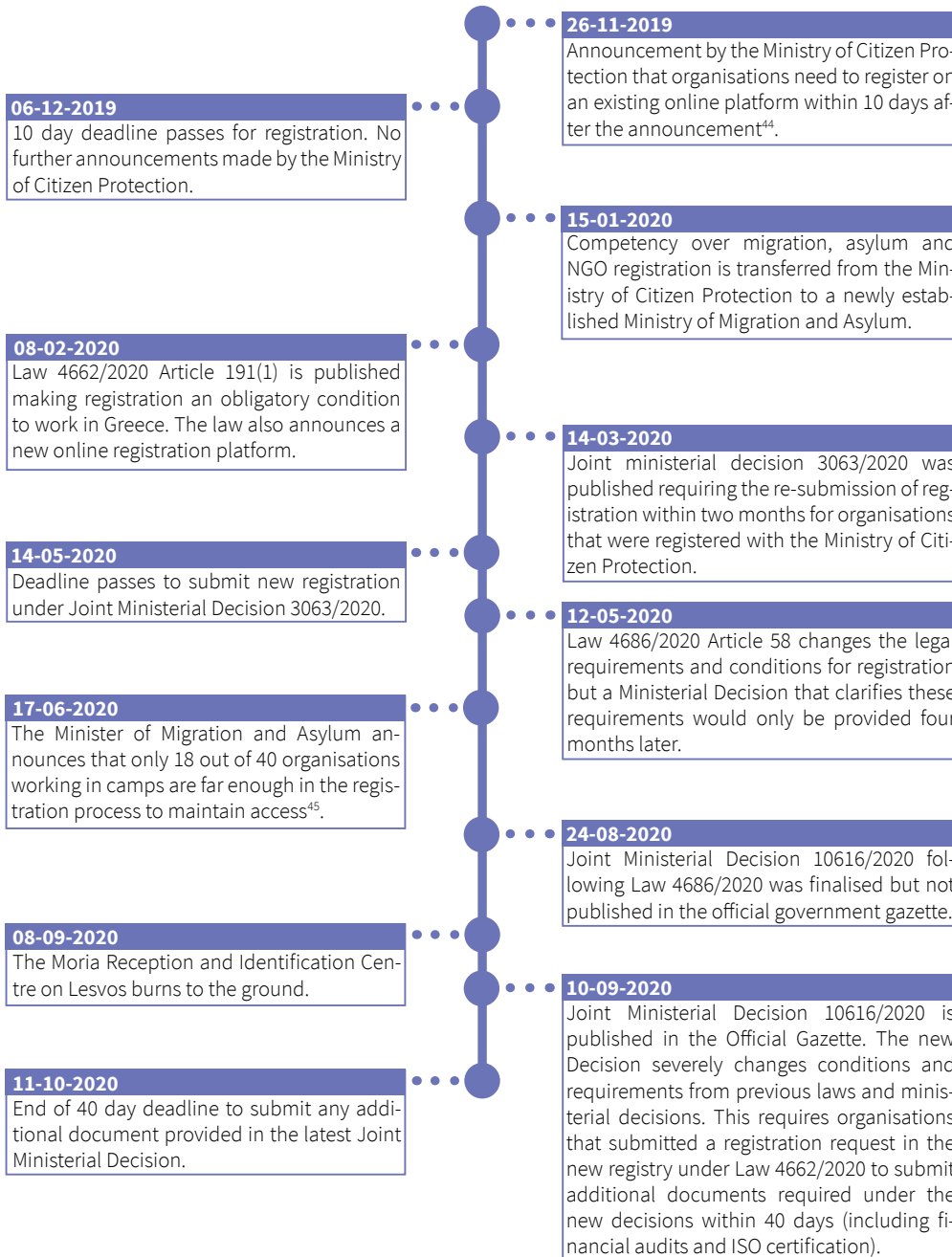
"The information provided no clarification or directly contradicted the different acts of legislation."

⁴¹ Ανακοίνωση σχετικά με προθεσμία για την ολοκλήρωση της διαδικασίας ένταξης Μη Κυβερνητικών Οργανώσεων, με πεδίο δράσης το μεταναστευτικό/προσφυγικό στο σχετικό μητρώο (*Hellenic Ministry of Citizen Protection*, 26 November 2019) <link> accessed 13 November 2020

⁴² EU Parliament 'Protecting Civil Society Space: Strengthening Freedom of Association, Assembly and Expression and the Right to Defend Rights in the EU' (October 2020) page 57

⁴³ Hellenic Republic Law No. 4686/2020 (12 May 2020) Article 58 and Hellenic Republic Joint Ministerial decision No. 10616/2020 (10 September 2020) Article 1(1) and 6

Timeline of changes in NGO legislation



⁴⁴ Ανακοίνωση σχετικά με προθεσμία για την ολοκλήρωση της διαδικασίας ένταξης Μη Κυβερνητικών Οργανώσεων, με πεδίο δράσης το μεταναστευτικό/προσφυγικό στο σχετικό μητρώο (*Hellenic Ministry of Citizen Protection*, 26 November 2019) <link> accessed 13 November 2020

⁴⁵ Notis Mitarakis, Minister of Migration and Asylum '18 Μη Κυβερνητικές Οργανώσεις διατηρούν το δικαίωμα εισόδου σε ΚΥΤ και δομές φιλοξενίας' (*Official website*, 17 June 2020) <link> accessed 22 November 2020 and Only 18 NGOs granted right to enter migrant centers (*Ekathimerini*, 17 June 2020) <link> accessed 22 November 2020 and Μεταναστευτικό: «Έξωση» σε 22 ΜΚΟ από τα ΚΥΤ και τις δομές φιλοξενίας (*Ethnos*, 17 June 2020) <link> accessed 22 November 2020

Discretionary powers of authorities to decide on registration

The European Court on Human Rights made it clear that legislation must be clear on the scope of authorities' discretionary power on deciding if organisations will be registered and how this power is exercised.⁴⁶ In spite of this, the Greek legislation does not provide a clear scope on the discretionary power of deciding authorities, reserving “the right to verify the submitted data with all the competent state authorities, as well as the right, taking into account all the above in combination with data concerning the action of the bodies under registration and at discretion, to reject or accept the application for the registration of the body with a reasoned decision”. Combined with the uncertainty about certain criteria for registration and the lack of clarification from authorities, a warning by the Expert Council on NGO law about the likelihood of arbitrary rejections of requests for registration “on account of vague, highly discretionary and open-ended criteria decided upon by decision-makers who lack independence from the government” might become reality.⁴⁷

The standards on freedom of association state that discretionary power should be limited to reviewing the name, and in some cases, the objectives of the organisation, and that the authorities should not subject the documentation submitted to review.⁴⁸ Greek legislation states that the organisation submitting an application for registration is thoroughly evaluated by the Ministry on their effective-

⁴⁶ *Hasan and Chaush v Bulgaria* App no 30985/96 (ECtHR, 26 October 2020) para 84

⁴⁷ Expert Council on NGO Law (Council of Europe) ‘Opinion on the Compatibility With European Standards of Recent and Planned Amendments to Greek Legislation on NGO Registration’ (2 July 2020) CONF/EXP(2020)4 paras 72, 85 and 106

⁴⁸ OSCE/ODIHR, Venice Commission and Council of Europe ‘Guidelines on the Freedom of Association’ (2015) para 158



ness, efficiency and suitability for which there are no clear criteria established in legislation.⁴⁹ Many survey respondents are concerned about the discretionary power afforded to authorities in legislation and their ability to decide if the organisation is ‘beneficial’. One organisation summarized this concern by stating that the registration requirements could “provide the ability to the government to censor our work. If used arbitrarily we may not be able to criticise policies and issues asylum seekers and refugees face”. In January 2021, at least six civil society organisations had their application for registration rejected and there are indications that authorities have already exerted their discretionary power to decide on the effectiveness, efficiency and suitability and work of these organisations.

DECREASE IN SERVICES AND ABILITY OF CIVIL SOCIETY TO BEAR WITNESS

In 2017, the Secretary General of the Council of Europe voiced concerns that restrictive measures on NGOs worldwide could impede their ability to “carry out their legitimate watchdog work”.⁵⁰ The UN Special Rapporteur on the human rights of migrants warned that limiting the monitoring ability of civil society would lead to “violations against migrants going unreported or unaddressed”, which in turn could lead to an environment where mistreating refugees and displaced people is met with impunity. The Rapporteur added that in States that interfere with the freedom of association, refugees and displaced people face increasing difficulties to access services.⁵¹ In 2020, the Expert Council on NGO made clear that in order not to encroach on the legitimate activities of NGOs, legislation should refrain from prohibiting or preventing organisations from monitoring the treatment of refugees and displaced people and service provision, especially at border crossings and reception centres.⁵² The year before, the Expert Council on NGO law reported that in Greece the inability for independent human rights NGOs to monitor the situation in migration centres would create a gap in monitoring and protection.⁵³

⁴⁹ Hellenic Republic Joint Ministerial decision No. 10616/2020 (10 September 2020) Article 5 and 6

⁵⁰ Thorbjørn Jagland (Secretary General Council of Europe) ‘State of Democracy, Human Rights and the Rule of Law’ (19 May 2017) page 69

⁵¹ Special Rapporteur on the Human Rights of Migrants ‘Right to Freedom of Association of Migrants and their Defenders’ (13 May 2020) UN DOC A/HRC/44/42 para 84-85

⁵² Expert Council on NGO Law (Council of Europe) ‘Guidelines on Protecting NGO Work in Support of Refugees and Other Migrants’ (May 2020) CONF/EXP(2020)3 para 2

Restructuring reception facilities

Greek NGO legislation should be viewed in a wider context of legislative reforms in Greece, “which appear to be part of a move to restrict irregular migration and access to asylum and increase the resort to migrant detention”.⁵⁴ One of these reforms is the restructuring of reception facilities.⁵⁵ At new closed and controlled centres on the islands (and the land border), the freedom of movement of asylum seekers will be restricted and legislation provides many options to place people in detention.⁵⁶ There are plans to construct double fencing around every camp on the islands and mainland, combined with a gate where special ID cards are necessary for staff and NGO workers to enter and exit.⁵⁷ According to the Minister of Migration, in order to control who will have access to these camps, these IDs are only available for NGOs that have registered.⁵⁸ The Minister added that organisations that do not comply with the new requirements for registration will no longer have the right to enter reception facilities or cooperate with the Ministry of Immigration and Asylum.⁵⁹

Restricting access and services provided

Recent developments confirm that registration requirements will be used to control who will have access to places where refugees and displaced people are located. In June 2020, authorities officially announced that only 18 of a total of 40 organisations that were providing services in reception facilities had submitted the necessary documents for registration in order to continue their activities within the structures.⁶⁰ At least five organisations surveyed and interviewed confirmed that soon after

⁵³ Expert Council on NGO (Council of Europe) ‘Using Criminal Law to Restrict the Work of NGOs Supporting Refugees and Other Migrants in Council of Europe Member States’ (December 2019) CONF/EXP(2019)1 para 25

⁵⁴ Expert Council on NGO (Council of Europe) ‘Opinion on the Compatibility With European Standards of Recent and Planned Amendments to Greek Legislation on NGO Registration’ (2 July 2020) CONF/EXP(2020)4 para 7

⁵⁵ Nea Dimokratia ‘Έτοιμοι να αλλάξουμε την Ελλάδα, οι βασικοί άξονες του σχεδίου μας’ (2019) page 59-60

⁵⁶ Hellenic Republic law No. 4636/2019 (1 November 2020) Article 46-47.

⁵⁷ Notis Mitarakis ‘Η Μαλακάσα θα είναι η πρώτη ελεγχόμενη δομή στην ηπειρωτική Ελλάδα’ (Youtube, 1 June 2020) <link> accessed 31 January 2021; Notis Mitarakis ‘Άρθρο του Υπουργού Μετανάστευσης και Ασύλου, κ. Νότη Μηταράκη, στον “Ελεύθερο Τύπο της Κυριακής” για την συμπλήρωση ενός έτους διακυβέρνησης (Official website, 5 July 2020) <link> accessed 31 January 2021; Notis Mitarakis ‘Σημεία Συνέντευξης του Υπουργού Μετανάστευσης και Ασύλου, κ. Νότη Μηταράκη, στην εφημερίδα «Τα Νέα» (Official website, 26 September 2020) <link> accessed 31 January 2021

⁵⁸ Notis Mitarakis ‘Στον έλεγχο του ελληνικού δημοσίου περνούν οι δομές μεταναστών στην ηπειρωτική Ελλάδα και τις επόμενες ημέρες τοποθετούνται οι 32 νέοι διοικητές’ (Official website, 11 May 2020) <link> accessed 13 November 2020; Notis Mitarakis (Facebook, 31 July 2020) <link> accessed 17 November 2020

⁵⁹ Επιχείρηση – τάξη στις ΜΚΟ με κατάθεση νομοσχεδίου (Kathimerini, 7 June 2020) <link> accessed 17 November 2020; Notis Mitarakis (Facebook, 31 July 2020) <link> accessed 17 November 2020; Notis Mitarakis ‘Ξεκινά η λειτουργία του Μητρώου ΜΚΟ και μελών ΜΚΟ στο Υπουργείο Μετανάστευσης και Ασύλου’ (Official website, 14 April 2020) <link> accessed on 20 November 2020; Ενημέρωση Πολιτικών Συντακτών από τον Υπουργό Μετανάστευσης και Ασύλου κ. Νότη Μηταράκη (Ministry of Migration and Asylum, 12 October 2020) <link> accessed 27 November 2020

this announcement they were denied access from sites that they had previously worked in. On 29 December 2020, all civil society organisations were denied access, based on their registration status, to the temporary Reception and Identification Centre on Lesbos. The following day, the Ministry of Migration used its discretionary power in legislation to grant seven organisations, still in the process of registration, temporary access to the Lesbos RIC for a duration of two months.⁶¹

25 out of 70 organisations surveyed stated they had formal access to reception facilities and 17 organisations indicated to have some form of informal access to these locations at the time the survey was conducted. Survey responses confirm the concerns voiced by the Expert Council that legislation could exclude small or less formalized organisations; organisations that carry out “crucial activities that could never be replicated by large, services provider humanitarian organisations”.⁶² 20 organisations, predominantly micro or small organisations or organisations without a legal entity within Greece, noted they have lost access to reception facilities or were faced with increasing difficulties with access. These organisations took a pragmatic approach and relocated their services outside of reception facilities or changed the services they provided. This pragmatic approach has been made difficult by Covid-19 restriction on movement and would be untenable in the long-run as movement from camps will be restricted and organisations that are unable to register, according to legislation, cannot work within the Greek territory.⁶³

A majority of organisations warned that registration legislation could result in a decrease in essential services and the ability of civil society to bear witness to the treatment of refugees and displaced people. This is highly problematic as civil organisations are often an independent first point of contact for people staying in migration facilities and provide support when asylum seekers have difficulties in finding or accessing support from formal actors. In the past, civil society organisations have been crucial in highlighting gaps in protection and the dire circumstances in certain camps. One organi-

⁶⁰ Notis Mitarakis ‘18 Μη Κυβερνητικές Οργανώσεις διατηρούν το δικαίωμα εισόδου σε ΚΥΤ και δομές φιλοξενίας’ (*Official website*, 17 June 2020) <[link](#)> accessed 22 November 2020; Only 18 NGOs granted right to enter migrant centers (*Ekathimerini*, 17 June 2020) <[link](#)> accessed 22 November 2020 and Μεταναστευτικό: «Εξώση» σε 22 ΜΚΟ από τα ΚΥΤ και τις δομές φιλοξενίας (*Ethnos*, 17 June 2020) <[link](#)> accessed 22 November 2020

⁶¹ Ministry of Digital Governance (*Diavgeia*) <[link](#)> accessed on 27 January 2021

⁶² Expert Council on NGO (Council of Europe) ‘Opinion on the Compatibility With European Standards of Recent and Planned Amendments to Greek Legislation on NGO Registration’ (2 July 2020) CONF/EXP(2020)4 para 83

⁶³ Hellenic Republic Law No. 4686/2020 (12 May 2020) Article 58 and Hellenic Republic Joint Ministerial decision No. 10616/2020 (10 September 2020) Article 1(1) and 6

sation summarized these concerns, stating that registration requirements would “serve as means to exclude organisations from reaching out to those in need, instead of setting clear boundaries and responsibilities for civil society organisations”. 40 civil society organisations surveyed foresee problems with their ability to provide services in camps in the near future, of which 80 percent are categorised as micro to smaller organisations. These services include the provision of food, safe shelter, medical treatment, (informal) education and legal advice. An additional 75 percent of the surveyed organisations, including those organisations not working in camps, foresee problems with the bearing witness function of civil society organisations in Greece.

ONEROUS REQUIREMENTS AND CONDITIONS FOR REGISTRATION

Any restriction on the freedom of association should be reasonable and proportionate, legislation should make the process of registration (and maintaining registration) as simple as possible, and requirements for registration should be clearly defined, minimal and exhaustive.⁶⁴ Standards on the Freedom of Association warn that “excessively burdensome or costly reporting obligations could create an environment of excessive state monitoring which would hardly be conducive to the effective enjoyment of freedom of association”.⁶⁵ The Expert Council on NGO Law stated that because of Greek

⁶⁴ Expert Council on NGO (Council of Europe) ‘Opinion on the Compatibility With European Standards of Recent and Planned Amendments to Greek Legislation on NGO Registration’ (2 July 2020) CONF/EXP(2020)4 para 54; OSCE/ODIHR, Venice Commission and Council of Europe ‘Guidelines on the Freedom of Association’ (2015) para 155, 157; Special Rapporteur on the Human Rights of Migrants ‘Right to Freedom of Association of Migrants and their Defenders’ (13 May 2020) UN DOC A/HRC/44/42 para 89



legislation, many organisations will not be able to comply with registration requirements and that legislation encourages civil society actors to forfeit their applications based on cost, complexity and unpredictability.⁶⁵ Survey data confirms that this concern might become reality. Out of 70 organisations 88,5 percent believed that the registration process is too complicated, and 45 percent believed that it is unlikely that their

"Out of 70 organisations 88,5% believed that the registration process is too complicated."

respective organisations could comply with all requirements in the legislation. 46 organisations were already in the process of registration when the survey was conducted. The problems with several requirements and conditions that NGOs face are outlined below.

Requirement to obtain legal status for registration

Standards on the freedom of association state that obtaining legal status should be considered a right and not a mandatory condition. The exercise of the right to freedom of association is not contingent on registration of a legal entity.⁶⁷ Greek legislation does make obtaining legal status within Greece a mandatory aspect of registration and working within the Greek territory.⁶⁸ It is not a given that all organisations operating in Greece possess legal status within Greece. Out of the 70 organisations surveyed, 22 indicated not to have such a status but were registered in another country. Legislation also requires a two-year audit of the finances of the (Greek) legal entity, which is problematic for several organisations. 18 out of 43 organisations that indicated to have legal status within Greece have not had that legal status for longer than two years. This leads to a paradoxical situation where organisations cannot comply with the obligation to register because the organisation does not hold legal status for the minimum of two years, but also cannot work for at least two years within the territory of Greece because the organisation is not registered. Several organisations asked the Ministry of Migration for clarification about this paradox, but responses just restated the article in law that requires a two year audit. The Expert Council on NGO Law stated that making registration inaccessible for organ-

⁶⁵ OSCE/ODIHR-Venice Commission 'Joint Opinion on the Ukraine Draft law 6674 and 6675 (16 March 2018) para 40

⁶⁶ Expert Council on NGO Law (Council of Europe) 'Opinion on the Compatibility With European Standards of Recent and Planned Amendments to Greek Legislation on NGO Registration' (2 July 2020) CONF/EXP(2020)4 para 85 and 107

⁶⁷ OSCE/ODIHR, Venice Commission and Council of Europe 'Guidelines on the Freedom of Association' (2015) para 151-152; *Zhechev v Bulgaria* App no 57045/00 (ECtHR, 21 June 2007) para 56; OSCE/ODIHR 'Guidelines on the Protection of Human Rights Defenders' (2014) para 65

⁶⁸ Hellenic Republic Law No. 4686/2020 (12 May 2020) Article 58(2)(b) and Hellenic Republic Joint Ministerial decision No. 10616/2020 (10 September 2020) Article 1(1)

isations operating for less than two years would “constitute a de facto bar on legitimate NGO activity” and warned of its chilling effects for the support of migrants”.⁶⁹

Requirement to provide a two year financial audit

To encourage a diverse and independent civil society, the UN High Commissioner for Human Rights emphasised the importance of making registration available to all at little or no cost.⁷⁰ While it is accepted that authorities could require NGOs to provide financial statements comparable to those required from a small/medium-sized business, financial audits are considered to be more intrusive. Greek legislation obliges organisations to provide a two-year financial audit by a chartered accountant for registration; several rejections of registration clarified that this is a compulsory requirement for registration.⁷¹ Financial audits are more intrusive as they require financial statements to be verified by an independent professional (chartered accountant). Guidelines on the freedom of association seem to suggest that such audits should only be required in exceptional circumstances and should not result in the undue incapacitation of the work of the organisations.⁷² While many organisations do not object to some form of financial scrutiny of their organisation, 63 percent of survey respondents see the requirement to provide a two-year financial audit as problematic. This is primarily because of the prohibitively high costs, the administrative burden and the short deadlines to provide proof of these audits. Depending on the size of the organisation, the average quoted or invoiced for these audits was close to 6,500 euro.⁷³

"The importance of making registration available to all at little or no cost."

The Expert Council on NGO Law expressed a concern that the registration procedure would severely affect organisations with smaller financial resources.⁷⁴ The survey data confirms this concern, with many smaller or less formalised organisations stating that they were unable to afford an audit. Five

⁶⁹ Expert Council on NGO Law (Council of Europe) ‘Opinion on the Compatibility With European Standards of Recent and Planned Amendments to Greek Legislation on NGO Registration’ (2 July 2020) CONF/EXP(2020)4 para 58, 85

⁷⁰ UN High Commissioner for Human Rights ‘Practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned’ (11 April 2016) UN DOC A/HRC/32/20 para 16

⁷¹ Hellenic Republic Law No. 4686/2020 (12 May 2020) Article 58(2)(f) and Hellenic Republic Joint Ministerial decision No. 10616/2020 (10 September 2020) Article 2(i)(kk) and 2(2)(j)

⁷² Expert Council on NGO Law (Council of Europe) ‘International Standards Relating to Reporting and Disclosure Requirements for Non-Governmental Organisations’ (27 November 2018) CONF/EXP(2018)3 para 39, 232-333

⁷³ The average is based on the input of 11 survey respondents

⁷⁴ Expert Council on NGO Law (Council of Europe) ‘Opinion on the Compatibility With European Standards of Recent and Planned Amendments to Greek Legislation on NGO Registration’ (2 July 2020) CONF/EXP(2020)4 para 85

organisations interviewed noted that essential funds had to be taken away from their limited operational budgets towards registration requirements. At least three organisations already experienced issues with applications for funding from (private) donors because of their uncertain registration status. One organisation stated that “this requirement exceeds our financial capacity to pay a chartered accountant” and that audits by a chartered accountant are a disproportionate burden on an organisation that only receives small donations and works with volunteers. Bigger and more established organisations seem to have less practical problems with providing audits as they already are subjected to financial scrutiny.

Assessment of efficiency and quality of the organisation

International standards state “that a general requirement for NGOs to submit their annual activity reports, in addition to financial statements, would give rise to the issue of both legitimacy and proportionality”.⁷⁵

Greek legislation goes far beyond requiring annual financial statements and annual activity reports for registration; it requires proof of efficiency, financial stability and quality. Legislation affords the Ministry of Migration and Asylum a considerable discretionary power to assess and verify

if the organisations possess the required characteristics, experience and quality to be registered.⁷⁶ This was a concern to many organisations surveyed as political discourse seems to suggest that authorities want to control civil society’s work. This power could also create a divide in Greek civil society between organisations that authorities approve of and those it does not, with the latter not being able to work in Greece.

"The obligation to get ISO certified, has been especially problematic for 74 percent of the surveyed organisations."

One particular requirement to prove efficiency and quality, the obligation to get ISO certified, has been especially problematic for 74 percent of the surveyed organisations because of its practical and financial implications. ISO certification consists of a third party attesting that the organisation complies with standards from the International Organization for Standardization (ISO) regarding quality management. Communication between NGOs and the Ministry of Migration, as well as several rejections of registration requests, have confirmed ISO certification is a mandatory and compulsory

⁷⁵ Expert Council on NGO Law (Council of Europe) ‘International Standards Relating to Reporting and Disclosure Requirements for Non-Governmental Organisations’ (27 November 2018) CONF/EXP(2018)3 para 86

⁷⁶ Hellenic Republic Joint Ministerial decision No. 10616/2020 (10 September 2020) Article 5-6

element of registration. Again, ISO certification poses a significant financial burden on organisations. The average price for ISO certification with a third party is close to 4,000 euro with additional annual costs to maintain certification. One organisation stated that they “asked for a technical proposal by a specific company but cannot afford to pay the amount of money requested”. A general conclusion from the survey data is that ISO certification is considered costly, time-consuming and unnecessary, especially for organisations with just a few people working for them.

Restrictions placed on the internal management structure of the organisation

The European Court of Human Rights has emphasised that “the organisational autonomy of associations constitutes an important aspect of their freedom of association”.⁷⁷ Guidelines are clear that public authorities “should not interfere with an association’s choice of its management or representatives”.⁷⁸ Greek legislation indirectly restricts the possibility of organisations to freely decide on their management structure, as registration places considerable limitations on the possibility of employing founding members or people in the organisations who have statutory power.⁷⁹ 60 percent of survey respondents view the restrictions on employment as problematic. Again, what could be observed from the survey responses is a strong disagreement to this condition, whilst taking a pragmatic approach by amending their internal management structure, changing the organisations’ founding documents, and founders resigning from their posts. These restrictions disproportionately affect the operations of smaller NGOs and grassroots movements that rely heavily on volunteers. These types of

⁷⁷ *Lovric v Croatia* App no 38458/15 (ECtHR, 4 April 2017) para 71

⁷⁸ OSCE/ODIHR, Venice Commission and Council of Europe ‘Guidelines on the Freedom of Association’ (2015) 169-175

⁷⁹ Hellenic Republic Joint Ministerial decision No. 10616/2020 (10 September 2020) Article 2(1)(d) and 2(2)(a).



civil society organisations often compensate founding members or people from their board working on the ground to guarantee continuity and stability of projects. Organisations stated that “this a very unreasonable requirement and targets grassroots groups, many of which still have founders of the organisation deeply involved” and that this requirement “will mean that key figures in our organisation cannot continue working and our provision of services might not be possible anymore”.

Requirement to register all members of the organisation

Any obligation imposed on organisations to disclose private data would need to meet legitimacy and proportionality requirements.⁸⁰ Standards on the freedom of association categorise general requirements for the listing of members as unnecessary and state that NGOs should not be under the general obligation to disclose the names and addresses of their members.⁸¹ Greek legislation obliges organisations to register all members of the organisations, including volunteers with the Ministry of Migration and Asylum. Information required for registration includes a copy of the identification document, phone number, email address and permanent address, a copy of a criminal record, CV and employment contract.⁸² An additional obligation on the organisation is to keep the registry of members of the organisation up-to-date. Failure to notify the Ministry of Migration and Asylum of changes in circumstances, such as the departure of a member from Greece or termination of cooperation, within 24 hours after its occurrence could result in the organisation’s de-registration.⁸³ The Expert Council on NGO warned that these requirements could infringe on the human right to freedom of association and right to privacy.⁸⁴

"More than half of the surveyed organisations perceive the requirement to register members as problematic."

⁸⁰ Expert Council on NGO Law (Council of Europe) ‘International Standards Relating to Reporting and Disclosure Requirements for Non-Governmental Organisations’ (27 November 2018) CONF/EXP(2018)3 para 141

⁸¹ OSCE/ODIHR, Venice Commission and Council of Europe ‘Guidelines on the Freedom of Association’ (2015) para 157 and 167; Expert Council on NGO Law (Council of Europe) ‘Non-governmental organisations: review of developments in standards, mechanisms and case law 2015-2017’ (2017) CONF/EXP(2017)4 para 169-171; Expert Council on NGO Law (Council of Europe) ‘International Standards Relating to Reporting and Disclosure Requirements for Non-Governmental Organisations’ (27 November 2018) CONF/EXP(2018)3 para 141

⁸² Hellenic Republic Joint Ministerial decision No. 10616/2020 (10 September 2020) Article 10-13

⁸³ Hellenic Republic Joint Ministerial decision No. 10616/2020 (10 September 2020) Article 11(4); Notis Mitarakis ‘Ξεκινά η λειτουργία του Μητρώου ΜΚΟ και μελών ΜΚΟ στο Υπουργείο Μετανάστευσης και Ασύλου’ (*Official website*, 14 April 2020) <[link](#)> accessed on 20 November 2020

⁸⁴ Expert Council on NGO Law (Council of Europe) ‘International Standards Relating to Reporting and Disclosure Requirements for Non-Governmental Organisations’ (27 November 2018) CONF/EXP(2018)3 para 100, 108-113

More than half of the surveyed organisations perceive the requirement to register members as problematic for their organisation, and a quarter is undecided about the possible consequences. 59 percent of organisations express concern about the privacy of their members. Several smaller organisations reliant on a high turnover of volunteers voiced concern about the 60-day time-limit legislation affording authorities to decide if a member of an organisation will be included in the registry. One organisation noted that registering all their members is difficult as they rely on “volunteers who are often here for a relatively short length of time”. Several organisations foresee difficulties with registering volunteers from the migrant community, decreasing the inclusivity of their work. Again, a pragmatic approach could be observed with several organisations stating that in spite of their concerns, they would comply in order to continue their work. Survey responses also reveal a strong sense of distrust on how authorities will handle and use the provided personal data. This distrust could be linked to the political discourse and narrative posed by authorities.



CONCLUSION

Restrictions on civil society will not only affect the rights and dignity of refugees and displaced people and their access to essential services and assistance, but they are also indicative of something bigger. They provide an indicator of the state of democracy in a country, with restrictions often going hand in hand with curtailments of other civil liberties such as the freedom of expression, the freedom of speech, and the freedom of assembly. This report confirms that at the moment there is a general concern among organisations that the walls on civil society in Greece are closing in, but there is hope that it is not too late to turn back the clock.

Legislation has made registration a mandatory condition for NGOs that work with refugees and displaced people to operate in Greece. This legislation aims to increase transparency and accountability of civil society through (onerous) registration requirements, which are not in line with international and EU standards on the freedom of association. In addition, there seems to be an ulterior motive presented through political discourse, to gain control over civil society's work. Constant changes in legislation and requirements for registration, combined with a wide array of discretionary power afforded to authorities to decide which organisations will be registered, have created considerable lack of legal certainty surrounding the operation of civil society organisations in Greece. Several requirements and conditions for registration are likely to contradict standards on the freedom of association, and are considered problematic and prohibitively expensive by the vast majority of organisations surveyed and interviewed. Seventy-four percent of survey respondents foresee problems with the requirement to provide ISO certification; 63 percent with the requirement to provide a financial audit; 60 percent with the restrictions on their management structures; and 55 percent are concerned about the privacy of their members.

Whilst 27 organisations have successfully registered, this report shows that registration will be problematic for many organisations, having a chilling effect on organisations' ability to provide services and bear witness to the treatment of refugees and displaced people. 40 civil organisations surveyed foresee problems with their ability to provide services in camps in the near future and several less formalised organisations have been denied access to camps already. In addition, 75 percent of surveyed organisations foresee a decrease in the ability to bear witness to the treatment of refugees

and displaced people. For these reasons, legislation could severely impede the free and independent exercise of the right to freedom of association of organisations, especially for those smaller and less formalised organisations that find it difficult to comply with registration requirements.

Civil society organisations have been critical in meeting the needs of refugees and displaced people in Greece, consistently filling gaps in service provision, including providing shelter, food, legal support and medical care across Greece. These organisations often provide services that cannot be replicated by bigger organisations or more formalised institutions and have been instrumental in responding to and exposing the dire conditions faced by refugees and displaced people.

RECOMMENDATIONS

Greek authorities should:

- Revoke Joint Ministerial Decision 10616/2020 and revise other legislation regarding NGO registration to bring the framework for NGOs working in Greece in line with European and international standards on the freedom of association.
- Follow the recommendations of the Expert Council on NGO Law of the Council of Europe when revising legislation, as these recommendations reflect the standards that set the minimum threshold that must be met by national authorities in a democratic society.
- Take into account the broad spectrum of civil organisations working in Greece and how legislation would affect formalised and less formalised organisations differently. Registration should be made as simple as possible, and without costly requirements, so all organisations are able to register.
- Engage in meaningful and constructive dialogue about laws that affect the work of civil society organisations, required by EU and international standards.⁸⁵
- Should provide a statement that confirms that organisations would not face any (legal) consequences for not being registered as Articles in legislation have created legal uncertainty among organisations, until revisions are implemented by authorities.

⁸⁵ Expert Council on NGO Law (Council of Europe) 'Opinion on the Compatibility With European Standards of Recent and Planned Amendments to Greek Legislation on NGO Registration' (2 July 2020) CONF/EXP(2020)4 para 43; OSCE/ODIHR, Venice Commission and Council of Europe 'Guidelines on the Freedom of Association' (2015) para 106; Expert Council on NGO Law (Council of Europe) 'International Standards Relating to Reporting and Disclosure Requirements for Non-Governmental Organisations' (27 November 2018) CONF/EXP(2018)3 para 134

- Ensure that within a revised registration framework all organisations are able to register, including those (foreign) NGOs that do not have a legal entity within Greece, which is not the case with current legislation.
- Refrain from accusations against, and stigmatising the work of NGOs. Evidence suggests that such rhetoric has the potential to discourage solidarity, increasing distrust in civil society's work, and could result in physical attacks on NGOs.

On a European and international level:

- There should be a push on different levels for comprehensive monitoring and analysis of legislation related to registration in Greece as soon as possible. Analysis should be provided by the Venice Commission and the EU Commission should proceed without delay with assessing the Greek legislation's compatibility with EU law, including the EU Charter of Fundamental Rights.⁸⁶
- The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association should provide comments on the compatibility of Greek legislation and normative development with international standards for the right to freedom of peaceful assembly and association.

⁸⁶ EU Commission, P-005656/2020 - Answer given by Mr Reynders (15 January 2021)