

# **Legal environment and space of civil society organisations in supporting fundamental rights**

**Greece**

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# 1 Most significant civic space developments in 2020

## 1.1 Freedom of peaceful assembly

Law 4703/2020<sup>1</sup> "Public, outdoors gatherings and other provisions" was adopted in July 2020. The law introduced certain restrictions to the exercise of the right of peaceful assembly, as enshrined, among others, in article 11 of the Greek Constitution. The introduction of restrictions to public gatherings was part of the current government's election programme and is unrelated to the Covid-19 pandemic. The most significant changes enacted in relation to the previous framework are:

- the organisers of the gathering or protest are now obliged to notify the local Hellenic Police or Coastguard authority of their intent to invite the general public or certain categories of persons or a certain number of persons to participate in a public gathering, as well as the specific time, place, and route to be followed by protestors, in "due time" prior to the protest. Organisers must also notify to the authorities their ID and contact details, and cooperate with them to maintain peace and order.
- "Spontaneous" public gatherings are exceptionally permitted, provided that they are not deemed to pose a threat to public safety or to present a risk of seriously disrupting social and economic activities. If a spontaneous gathering is allowed to carry on, an organiser must be appointed on the spot. The authorities may decide to impose *ad hoc* restrictions (not further specified in the law).
- The Police or Coastguard authorities have the competence to disperse protesters if the above conditions of notification are not met, if the protesters are not complying with the restrictions imposed or if the protest turns violent.

It is worth noting that the draft version of the law provided for deprivation of liberty sentences for participants in banned protests, as well as for those who would not comply with police measures. These provisions were removed from the final text of the law.

The new law was met with apprehension. The Hellenic Federation of Human Rights (HLHR) has issued a press release<sup>2</sup>, stating that the law was adopted without the

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<sup>1</sup> Greece, Law 4703/10.7.2020 "Public, outdoors gatherings and other provisions" (Δημόσιες υπαίθριες συναθροίσεις και άλλες διατάξεις), (O.G.G. Issue A' 131/10.7.2020).

<sup>2</sup> Greece, Hellenic League for Human Rights (Ελληνική Ένωση για τα Δικαιώματα του Ανθρώπου), "The existence of limits by law is necessary in every direction" (Η ύπαρξη ορίων από το νόμο είναι αναγκαία προς κάθε κατεύθυνση), Press release, available in Greek at <https://www.hlhr.gr/%ce%b7->

necessary dialogue with social partners, unions or civil society. HLHR mentioned that the law doesn't specify the conditions under which it is possible to ban a protest. Furthermore, the provisions on spontaneous gatherings reverse the presumption of legality for peaceful protests, while the provisions on organisers establish a quasi-objective liability for any damages incurred during the protest, ultimately discouraging persons from assuming this role and creating a chilling effect on the organisation of peaceful gatherings. Finally, HLHR criticised the absence of any conditions in the law for quashing protests, including the means which may be used to achieve that, such as the use of tear gas<sup>3</sup>.

## 1.2 Freedom of association

In 2020, a series of legislative measures were adopted, severely impinging on freedom of association for persons and CSOs active in the areas of asylum and migration. The measures build on previously enacted restrictions in place since 2018, regarding registration requirements for all NGOs, purportedly to promote their accountability. In 2019, additional registration requirements were adopted specifically for NGOs working in the areas of asylum, migration and social inclusion. In 2020, laws 4662/2020<sup>4</sup> and 4686/2020<sup>5</sup>, as well as Ministerial Decree 3063/2020, now replaced by Joint Ministerial Decree 10616/2020<sup>6</sup>, introduced

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[http://www.minocp.gov.gr/index.php?option=ozo\\_content&perform=view&id=7293&Itemid=717&lang=GR](http://www.minocp.gov.gr/index.php?option=ozo_content&perform=view&id=7293&Itemid=717&lang=GR)

<sup>3</sup> In response to these criticisms, the Minister for Citizen Protection, Mr M. Chrysochoidis, has presented on 21/1/2021 the National Plan for the Management of Public Outdoors Gatherings, which includes a list of measures to be employed by riot police for a scaled response in cases of violent protests (specifically citing the use of water cannons, teargas and stun grenades as lawful responses, albeit last resort). The Plan also categorises protests based on their size, i.e. the number of people to attend them, and envisages different types of restrictions applicable in each case. The Plan is available in Greek at

[http://www.minocp.gov.gr/index.php?option=ozo\\_content&perform=view&id=7293&Itemid=717&lang=GR](http://www.minocp.gov.gr/index.php?option=ozo_content&perform=view&id=7293&Itemid=717&lang=GR)

<sup>4</sup> Greece, Law 4662/2020 "National Crisis and Hazard Management Mechanism, restructuring of the General Secretariat for Civil Protection, upgrading of a voluntary civil protection system, reorganization of the Fire Brigade and other provisions" (*Εθνικός Μηχανισμός Διαχείρισης Κρίσεων και Αντιμετώπισης Κινδύνων, αναδιάρθρωση της Γενικής Γραμματείας Πολιτικής Προστασίας, αναβάθμιση συστήματος εθελοντισμού πολιτικής προστασίας, αναδιοργάνωση του Πυροσβεστικού και άλλες διατάξεις*), (O.G.G. Issue A' 27/7.2.2020).

<sup>5</sup> Greece, Law 4686/2020, "Improvement of immigration legislation, amendment of provisions of laws 4636/2019 (AD 169), 4375/2016 (AD 51), 4251/2014 (AD 80) and other provisions" (*Βελτίωση της μεταναστευτικής νομοθεσίας, τροποποίηση διατάξεων των νόμων 4636/2019 (Α' 169), 4375/2016 (Α' 51), 4251/2014 (Α' 80) και άλλες διατάξεις*), (O.G.G. Issue A' 96/12.5.2020).

<sup>6</sup> Greece, Joint Ministerial Decision 10616/2020 (*Κοινή Υπουργική Απόφαση*), "Defining the operation of the "Register of Greek and Foreign Non-Governmental Organizations (NGOs)" and the "Register of Members of Non-Governmental Organizations (NGOs)",

progressively stringent requirements for NGOs and individuals working in the field, essentially producing what has been characterised as a “chilling effect” on civil society<sup>7</sup>.

The new framework provides, among others, the following:

- Registration is mandatory in order for NGOs to undertake activities in Greece and to cooperate with public authorities; lack of registration explicitly bars them from certain activities, such as the provision of legal, psychosocial and medical services and the provision of information and advice.
- NGOs already registered under previous schemes may be required to re-register with the Ministry of Immigration and Asylum for certain activities; they are also required to produce an excessive amount of documentation and share their associates’ personal data.
- The Ministry of Immigration and Asylum may deny registration on grounds that have been characterised as “vague, arbitrary and with the potential to be abused”<sup>8</sup>.
- Following registration, NGOs who wish to work in state sponsored facilities, receive funding for reception projects or national funding for broader activities must additionally follow a separate process of certification; moreover, they must register their employees in a special, separate registry and notify authorities of any change in their personal data and status (especially as regards their stay in Greece) within 24 hours of the change taking place.
- NGOs who wish to be certified must demonstrate the “effectiveness” of their activities, demonstrate prior experience in government facilities, provide proof of their organisational capacity, and provide proof of accountability; the NGOs’ certified status is re-examined every three years based on annual reports submitted to the Greek authorities.

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which are active in fields of international protection, immigration and social inclusion” (Καθορισμός λειτουργίας του «Μητρώου Ελληνικών και Ξένων Μη Κυβερνητικών Οργανώσεων (ΜΚΟ)» και του «Μητρώου Μελών Μη Κυβερνητικών Οργανώσεων (ΜΚΟ)», που δραστηριοποιούνται σε θέματα διεθνούς προστασίας, μετανάστευσης και κοινωνικής ένταξης) (O.G.G. Issue B` 3820/9.9.2020)

<sup>7</sup> See HIAS <https://www.hias.org/blog/strict-new-regulations-limit-ngos-helping-refugees-greece>; Amnesty International <https://www.amnesty.org/en/documents/eur25/2821/2020/en/>; CoE Expert Council on NGO law Opinion on the compatibility with European standards of recent and planned amendments to the Greek legislation on NGO registration, available at <https://rm.coe.int/expert-council-conf-exp-2020-4-opinion-ngo-registration-greece/16809ee91d>.

<sup>8</sup> CoE Expert Council on NGO law Opinion on the compatibility with European standards of recent and planned amendments to the Greek legislation on NGO registration, available at <https://rm.coe.int/expert-council-conf-exp-2020-4-opinion-ngo-registration-greece/16809ee91d>.

- There are no clear remedies against registration and certification decisions.

The CoE Expert Council on NGO law has concluded that the above measures raise both procedural and substantive difficulties with respect to freedom of association and the protection of civil society space. According to its opinion, the measures are vague, disproportionate and do not satisfy the requirements of the principle of legality.

The Council highlighted the following<sup>9</sup>:

- The absence of adequate, timely and meaningful consultation with civil society for the introduction of the measures;
- The onerous, complex, time-consuming and costly requirements for registration giving rise to potential breaches of articles 8 and 11 ECHR;
- The lack of legal certainty inherent in the certification process and the lack of independence of decision-makers<sup>10</sup>;
- The de facto exclusion of entire classes of NGOs from fieldwork;
- The reduction of civil society space in an area where humanitarian action is crucial.

### **1.3 Emergency measures (including those related to COVID) / Travel restrictions / Freedom of movement / Visa bans**

The Covid-19 pandemic in Greece, as in most EU Member States, has led to the adoption of several measures to combat the ongoing public health emergency. Different measures were imposed at different times throughout 2020, depending on the pandemic metrics and other considerations, such as the opening of the economy. These measures ranged from general lockdowns, prohibiting all movement except for strictly specified reasons, to travel bans – blanket or to and from specific countries, to social distancing, to the prohibition of social gatherings, etc. All measures enacted since the beginning of the pandemic may be found at the specialised Covid-19 website [covid19.gov.gr](https://covid19.gov.gr).

Although deemed as generally justifiable to protect public health, the enforcement of the emergency measures has raised concerns. Several reports indicate the use of excessive force by the police, and highlight issues related to the treatment of particularly vulnerable groups, such as homeless persons, Roma, refugees and asylum seekers. This has given rise to criticism that the pandemic is being used

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<sup>9</sup> CoE Expert Council on NGO law Opinion (ibid. 8), Conclusion, p. 23.

<sup>10</sup> See also Refugee Support Aegean, 'Risk of Repression: New Rules on Civil Society Supporting Refugees and Migrants in Greece', May 2020; HIAS, 'Some thoughts on the new Joint Ministerial Decision, regulating the registration of migration-related NGOs in Greece,' 8 May 2020.

as a smoke screen for the increasing suppression of fundamental liberties without accountability<sup>11</sup>.

The banning of all public gatherings for four days in total, prior to and after the day of the commemoration of “Polytechnio” (17 November), traditionally marked by pro-democracy demonstrations, received widespread criticism<sup>12</sup> for its disproportionately wide temporal and geographical scope. Police brutality on the day, aiming at dispersing those who disregarded the measures was also widely condemned.<sup>13</sup>

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<sup>11</sup> See also Refugee Support Aegean, ‘Risk of Repression: New Rules on Civil Society Supporting Refugees and Migrants in Greece’, May 2020; HIAS, ‘Some thoughts on the new Joint Ministerial Decision, regulating the registration of migration-related NGOs in Greece,’ 8 May 2020

<sup>12</sup> HLHR lodged a petition for annulment and a request for interim measures against the relevant government acts <https://www.hlhr.gr/%ce%b7-%ce%b5%ce%bb%ce%b5%ce%b4%ce%b1-%ce%ba%ce%b1%cf%84%ce%ad%ce%b8%ce%b5%cf%83%ce%b5-%ce%b1%ce%af%cf%84%ce%b7%cf%83%ce%b7-%ce%b1%ce%ba%cf%8d%cf%81%cf%89%cf%83%ce%b7%cf%82-%ce%ba%ce%b1%ce%b9-%ce%b1/>;

<sup>13</sup> Greece, Efsyn.gr, “Out of control the Greek Police in a crescent of repression for the Polytechnio” (ΕΛ.ΑΣ. εκτός ελέγχου σε κρεσέντο καταστολής για το Πολυτεχνείο), 17 November 2020, [https://www.efsyn.gr/ellada/koinonia/268944\\_elas-ektos-eleghoy-se-kresento-katastolis-gia-polytehneio](https://www.efsyn.gr/ellada/koinonia/268944_elas-ektos-eleghoy-se-kresento-katastolis-gia-polytehneio)