

CONFERENCE DES OING CONF/PLE(2020)SYN5

MEETING OF THE GENERAL ASSEMBLY 2nd PART OF AUTUMN SESSION Wednesday 16th December 2020 2.30 p.m – 5 p.m. Remote meeting (Kudo) Draft Report

1. Opening of the meeting by Anna Rurka, President of the Conference of INGOs

The President welcomes everyone participating in this session and presents the agenda.

2. **Announcement of the results of the North-South Centre of the Council of Europe #SolidAction prizes by Jorge Silva Lopes, Executive Director of the North-South Centre of the Council of Europe followed by an exchange with the three winners.**

The European Centre for Global Interdependence and Solidarity – the North-South Centre (NSC) – continues its mission to raise awareness on global interdependence and solidarity in Europe, working closely with and for civil society. During his introductory remarks, the Ambassador Jorge Silva Lopes expressed his gratitude for all the work the Conference of INGOs and the North-South Centre have achieved together. In particular, the ongoing support and remarkable work of Christoph Spreng, Vice President of the Conference of INGOs and representative of the Conference on the Executive Committee of the North-South Centre.

The Covid-19 pandemic has highlighted the fact that international cooperation is not as efficient as it should be, and that transnational solidarity is insufficient to fight inequalities still deeply rooted in our global system. To address this important issue from different angles, the North-South Centre launched the “One World, Our World” #SolidAction campaign. Since April this year, within the framework of this campaign, the North-South Centre and its partners, have systematically shared concrete examples of the tremendous wave of solidarity that has emerged between people. 17 diverse initiatives were presented during the campaign, 17 concrete examples of local action that prove what is possible to accomplish when we rise up, protect each other and act collectively. With the hashtag « « Make Solidarity Viral » », the campaign reached more than 200 000 people.

For the campaign’s 2020 edition, the jury selected 3 winners to be awarded the #SolidAction prize from among concrete local initiatives.

- **In the category “education and citizens’ consciousness”** : National Association of Social workers from Democratic Republic of Congo. This Association’s aim is to counter the pandemic, the adverse effects of containment and economic stress, the shortage of sanitary equipment.
- **In the category “addressing vulnerabilities through intersectionality”** : Watchman Relief Association Global from Cameroon. WRAG is a non-profit organisation in the humanitarian and peace building field. Watchman Relief Association Global connects people, encourages mutual support, access to formal education and valorises entrepreneurship for more creativity, innovation and autonomy.
- **In the category “intergenerational dialogue and environment “** : Opcionns de Consum Responsable SCCL from Spain that supports two strategic sectors for the future : on one hand, the agro-ecological farming of the country, and on the other, the promotion of responsible consumption and social solidarity economy.

Their experiences and voices they represent deserve to be heard. The rewarded NGOs are given the floor.

The North-South Centre and the Conference of INGOs congratulate the winners and wish them great success in their future actions.

3. Solidarity with the migrant population – NGO access to migrants, refugees and asylum seekers. Introduction by Daniel Guery, Coordinator of the Conference of INGOs Migration Task Force

Taking into account that the Council of Europe is the European institution of reference on human rights, we consider it important to open a debate concerning the European rules on access to migrant populations, in order to ensure better hospitality practices in the coming years. This does not solely preoccupy the Migration task force at the heart of the Conference of INGOs.

- The Expert Council on NGO Law of the Conference of INGOs, who published an addendum following a Greek ministerial decision of the 9th September 2020; concerning legislation in relation to registration and certification of Greek and foreign NGOs engaged in activities in the field of asylum, migration and social inclusion.
- The Council of Europe Gender Equality Commission is working on a Recommendation draft concerning migrant women, with the Conference of INGOs’ contribution.
- The Conference is also closely monitoring the work of the Committee on Migration and Displaced Persons of the Parliamentary Assembly of the Council of Europe as well as the work of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) of the migrant population deprived of their liberty.
- Lastly, we are in liaison with the Special Representative of the Secretary General on Migration and Refugees’ office (SRSG) who honoured us by participating in the webinar on migration last June. He shall soon present the Council of Europe’s Action Plan on migration. This will no doubt open up new paths to explore !

Today, we have decided to address the NGOs’ increasing difficulties in making contact with migrants, refugees and asylum seekers, in camps or elsewhere.

To examine this issue more fully, we asked :

- INGOs in the field concerned by this problem. A questionnaire was sent to gather their experiences. The first results already show, for example, that INGO legal assistance is restrictive in certain countries and that NGO pressure is almost always necessary in order to obtain information. And of course the pandemic only increases the number of obstacles.
- Many other informants who will inform and provide us with a solid basis for further reflection in order to develop a common advocacy for the various bodies involved.

Daniel Guery warmly thanks the participants and gives them the floor.

a. Preliminary findings of the consultation conducted within civil society groups in Greece by Nick van der Steenhoven, Advocacy Officer, Help Refugees/Choose Love ('10)

He expresses gratitude for the opportunity to present the conclusions of a survey of more than 70 civil society NGOs working with migrants in Greece. This INGO supports 126 NGOs and grassroots organisations in 12 different countries, 65 of which are in Greece.

The space for civil society is constantly shrinking. Research has shown that since a year and a half nothing has changed concerning NGO registration conditions in Greece in order to access camps and offer assistance to migrants. For NGOs who do have access to camps :

- more than 84% of NGOs fear that the current legislation limits the exercise of the right to freedom of association of their NGO.
- 88% find that obligations for NGO registration are too complex.
- 44% have already stated that they cannot pursue their work as they cannot fulfil the conditions for registration. This especially concerns small NGOs of less than 50 people.

NGOs are extremely worried due to legal uncertainty, and financial and bureaucratic obstacles.

Many NGOs cannot register and are consequently unable to carry out their humanitarian work due to administrative difficulties : issues regarding translation, status or simply because they cannot pay the registration fees that cost on average 6900 € ; the amount is more or less based on the size of the NGO. In some cases it can go up to 11 000 € just to start the registration process. A recurring cost, as financial audits must be carried out every year to remain on the registration list. All this merely multiplies the organisations' problems. Without registration organisations cannot operate and this undermines their ability to exist.

In June 2020, 18 NGOs out of 44 had access to camps, but only if they had the right document to pursue their work. They were awaiting the final decision concerning their subscription. At the same, a list of NGOs no longer allowed access to the camps circulated. There are many who have lost this right.

- 25 NGOs out of 70 have formal access to camps : authorisation to enter and leave the camps.
- 17 NGOs have only informal access to camps. They lost the possibility overnight because of the new legislation, having to change their way of working, have activities outside the camp or develop other services than those they had established.

The problem of access to camps has been exacerbated by Covid-19 as many residents do not have the authorisation to leave, therefore they cannot contact NGOs who supply the necessary products or who offer legal assistance.

- 22 NGOs have declared facing difficulties in providing services and in monitoring the situation.
- 44 NGOs foresee problems linked to access and monitoring in the near future.

Furthermore, most of these closed centres are far from urban zones ; one has to go a long way to find the services one needs. Also a priority of necessary services has to be established, making it even more difficult for migrants and refugees to access volunteer initiatives, by the refugee community itself. It reinforces bureaucracy related issues and also impacts the initiatives of the migrants themselves. Certain NGOs have pointed out issues concerning local volunteer participation. Authorities can easily and arbitrarily cancel the access of NGOs that are already registered. In fact, according to the texts, if the administration has not received within 24 hours the necessary information concerning a volunteer, the organisation concerned can have its accreditation withdrawn.

NGOs who have been consulted state that the monitoring is in itself needed, but the framework of the current legislation is too complex and requires simplification.

b. Marc Van den Reeck, Head of International Cooperation, Smile of the Child Organisation.

“Smile of the Child” NGO takes care of all children in need on Greek territory, without distinction, including migrant and refugee children. Amongst other things, this includes :

- shelter where migrant children can be taken care of along with other children in need from non-migrant backgrounds, partially funded by AMIF ;
- holistic support programs in Athens and Thessaloniki, with psychosocial support and medical care, as regards intervention and prevention in camps and apartments ;
- enabling families to access our support centres throughout Greece, with social services and material support.

As Greece has been submerged by an influx of migrants from Turkey via land and marine borders, we have witnessed a rather chaotic situation over the past years, not only because of the inadequate procedures of asylum and related issues, but also concerning the conditions of the NGOs’ presence and actions. For example, in Lesbos alone, there was a time when around 200 NGOs, big and small, serious and far less serious, were active in and around the Moria Camp. There was clearly the need to bring some order into the situation.

An additional challenge in this regard, which is often neglected, and that I wish to highlight is the fact that in the past, international support for NGOs were mainly offered to large global NGOs and only marginal support was offered to local and national NGOs. These NGOs are well-established, have the advantage of being in the field, have an established network of workers, bodies and services, and are capable of taking action with less general expenses than organisations arriving by plane on a temporary basis and who have to start from scratch.

When the EU’s DG ECHO ended its assistance in Greece in March 2019, developments clearly showed that an impressive number of these global NGOs left the country, because

institutional money was no longer coming in, leaving the work to national NGOs who remained on site and who remained committed.

The Greek Government has gone out of its way these last few years to suppress the large number of NGOs involved in migration and refugee issues in the country. The NGO Register was established under a 2017 legislation and only a few months ago, in September 2020, an additional and stricter law was implemented.

Under the current legislation, an NGO wishing to have access to the camps must not only register its entity, but also its individual members of staff and volunteers who would have physical access. In this context, bringing order to the host of NGOs is a good thing, on the condition that the criteria is factual, clear and non-manipulative. However, we believe that for people applying for registration in the name of a registered NGO, a certain number of negative consequences exist. The lack of flexibility to mobilise suppliers' aid for specific circumstances and a surplus of unnecessary administrative fees are the most obvious consequences. The stricter the system, the more attempts there will be to reduce costs and allow exceptions, and a risk of running counter to transparency.

COVID-19 has of course complicated matters concerning access to the data of migrants and refugee children and their families. Our preventive medical service and programmes in the camps of Attica and the region of Thessaloniki can currently no longer be implemented and access to camps is subject to evaluation by the COVID-19 health and safety manager. In cases of non-access we find means to deal with the issue, either by being given help, or by the provision of a service at the entrance (for example, ambulance support), or by supplying medical assistance in our medical centres. Furthermore, we continue to help migrant and refugee families in our family support centres, where they can benefit from psychosocial counselling and material support. We have also continued to help refugee and migrant families with children housed in apartments in Athens and Thessaloniki, including healthcare if necessary.

C. La législation grecque sur l'enregistrement et la certification des ONG grecques et étrangères engagées dans des activités liées à l'asile, à la migration et à l'inclusion sociale, par Carla Ferstman, Experte au sein du Conseil d'experts sur le droit en matière d'ONG de la Conférence des OING

In the field of migration, the Expert Council on NGO Law of the Conference of INGOs's work is based on criminalisation cases against NGOs providing assistance to migrants in a certain number of Member States. In 2019 a study was conducted addressing the issue of NGOs assisting refugees and migrants arriving by sea and by land. It concerned NGO aid, support and service provision for migrants in member states' territories of the Council of Europe. This study led to the publication of "[Guidelines on Protecting NGO Work in Support of Refugees and Other Migrants](#)" (May 2020) The Expert Council on NGO Law issued two reports on Greece in a very short space of time.

- [Opinion on the compatibility with European standards of recent and planned amendments to the Greek Legislation on NGO registration](#) (2020)
- [Addendum to the Opinion on the Compatibility with European Standards of Recent and Planned Amendments to the Greek Legislation on NGO Registration](#) (2020).

It has been established, as in most countries, that NGOs have seen their intervention space shrinking. Smaller NGOs have found it impossible to work as they always have done. Concerning rules, the main problem is registration and the provisions on deregistration, the withdrawal of certain NGOs' certification. It must also be noted that civil society groups were hardly consulted on the reform, which is regrettable because the government had every

opportunity at its disposal to communicate and consult with them while the legislation was being drafted.

In the first series of ministerial decisions, concerning the need for reform, the Greek government intended to amend the administrative framework, but once the legislation framework had been modified, we realised that we had taken the wrong direction. It is important to note that the more recent rules concerning the NGOs' ability to speak freely about situations they face during their work with migrants in the field hinders whistle-blowers activity.

d. The work of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) of the migrant population deprived of their liberty – by Régis BRILLAT, Executive Secretary of the CPT

The CPT is a prevention body whose aim is not to investigate cases of torture or inhuman and degrading treatment, but to co-operate with the States in order to prevent all inhuman and degrading treatment. In this context, the CPT carries out visits in all Member countries of the Council of Europe and during these visits, has freedom of movement without restriction inside the country, unlimited access to places of detention and can interview persons deprived of liberty, in private without the presence of the authority concerned. Following these visits, the committee prepares a report which is sent only to the national authorities. The authorities are free to publish the report if they wish. They are strongly encouraged to do so but it is not compulsory. Luckily, most Member States choose to do so. These reports include recommendations addressed to the States so that measures can be taken to facilitate the prevention of ill-treatment.

During this year, the CPT has been particularly active and notably, in March, adopted a declaration of principles relating to the treatment of persons deprived of their liberty in the context of the pandemic. An important part of this declaration concerns the migrants. The CPT asks the States to refrain, to the maximum extent possible, from detaining migrants. Incidentally, many States took CPT's advice into account, at least provisionally for a certain stage of the pandemic.

The CPT visits law enforcement establishments, notably police detention facilities, penitentiary institutions, psychiatric hospitals, social care homes and immigration detention centres. There may be other detention facilities if States took even firmer action regarding the pandemic by imposing certain persons to quarantine and if this resulted in their deprivation of liberty.

Concerning NGO access to the migrant population in the context of deprivation of liberty, the CPT has not taken a position on the issue. It has not made any recommendations, nor said that NGOs should be able to access the places where migrants are detained. However, the CPT has made 2 important recommendations on the subject.

- The first concerns the detained migrants' access to their rights. That is to say, the possibility to exercise the legal procedures that national legislation has provided them to contest measures taken against them, also to move forward their refugee status application if this is the case, and of course that persons detained in these places of detention are able to exercise these rights. The presence of NGOs in these centres is extremely important. It is the solution many countries have chosen. The CPT considers this good practice and that it allows migrants to exercise their rights.
- The second recommendation highlights that the atmosphere and situation of migrants in detention centres should not be of a penitentiary nature, meaning that detention is linked to a situation in relation to a law on entry or position on the State's territory, but it is not linked to a criminal sanction. NGOs clearly have a role and a very important one, if the States wish so, in the organisation of these activities, the organisation of community life in the centres.

The CPT is in contact with NGOs, often before visits because they are an extremely important source of information that helps CPT set up its schedule of visits according to the country and the information it receives. It is also in contact with NGOs during visits, where it can exchange with those who are active in the area of deprivation of liberty, and especially in migration. This contact should continue after visits. The CPT greatly depends on NGO support in order to encourage and help States put into action the recommendations made in the Committee reports.

e. Presentation of the Recommendation 2192 (2020) and Resolution 2356 (2020) « Rights and obligations of NGOs assisting refugees and migrants in Europe » adopted by the PACE Standing Committee and the Committee on Migration, Refugees and Displaced Persons, by Mr. Domagoj Hajduković, Chair of the European Affairs Committee of the Croatian Parliament, Member of APCE

Mr Domagoj Hajduković thanked the President of the Conference of INGOs who addressed the Assembly Committee at the beginning of the preparatory work and also Mr Jeremy MacBride who was auditioned by the PACE Committee as expert on NGO rights.

[Recommendation 2192](#) and [Resolution 2356](#) addresses the situation of NGOs, notably those who provide assistance in the migrant camps, educational services, legal assistance, translation services for administration and before courts, assistance in reuniting families, help migrants who are victims of trafficking, of crime, or assistance in raising awareness on the situation of migrants and human rights violations. The Resolution condemns these attacks on NGOs and their donors, attacks that have taken the form of physical violence, smear campaigns, political accusations or racist attacks. The PACE of the Council of Europe was shocked by the racist attacks against Choros and the physical attacks against NGO members in certain countries.

The resolution and the recommendation states that member States must not discriminate foreign NGOs and must not restrict the work of domestic NGOs. Humanitarian donations must not be taxed by national fiscal authorities. The work and funding of the NGOs must not be stopped by the authorities.

We can deduce, through these two documents, that humanitarian action must be facilitated. Article 8 states that NGOs must conform to national law and transparency. They must be registered, but it must be ensured that their objectives, staff, funding, use of financial resources and activities be clearly established. Lack of transparency, political unrest, religious or philosophical proselytism or commercial lobbying would undermine the trust the population has in them.

The resolution also makes reference to the Palermo Protocol on human trafficking and reminds member States that they must not criminalise the transportation of migrants across borders for humanitarian reasons. Humanitarian exceptions exist in the Palermo Protocol and must be respected.

Recommendation 2171 concerning measures against human trafficking recommends that the Committee on Crime Problems of the Council of Europe writes a new convention regarding this issue, in line with the Palermo Protocol clearly stating that transportation for humanitarian reasons is not a crime.

The PACE has highlighted that NGOs must be authorised to engage in rescue and research operations with passage to the safe ports, in accordance with international maritime law. Codes of conduct may be set up to cover relations with the NGOs.

It is recommended that the Committee of Ministers of the CoE develop international standards to facilitate the work of NGOs assisting migrants and refugees, facilitate the creation of local field offices, issue permits to NGO staff members and facilitate transport of humanitarian goods, also facilitate the provision of services by NGOs, recognition of professional qualifications of NGO staff members, in particular medical qualifications, and international bank transfers for international funding. Mr Hajudovic remercie la Présidente de la Conférence des ONG qui a pris la parole devant la Commission de l'Assemblée au début des travaux préparatoires et à Monsieur Jeremy MacBride qui a été auditionné par la Commission de l'APCE en tant qu'expert du droit des ONG.

f. Q / A session with participants

The floor is given to NGO representatives

We visited Camp Moria on the island of Lesbos in Greece... in addition to the problem of access to camps, there are many NGOs not working in camps but in other places that burned due to the high tensions... Civil society must have access everywhere. There is a lot of opportunity for creativity. But how to avoid tensions ? The work of universities is important (see geographers). It is important to receive first-hand information from the local population.

This is why NGOs must be able to access the camps, and more importantly, move children out of the camps. Children cannot be confined behind barbed wire fences.

The role of NGOs is essential in places where migrants are deprived of their liberty, and consists of :

- direct support to persons, legal assistance, material, sanitary and food aid. Also a link to the outside which is essential for mental health !
 - Monitoring what goes on inside the camps and prevent torture or other inhuman treatment. It is becoming increasingly more difficult to monitor as access to places deprived of liberty is restricted. It is however extremely useful for communicating information to the authorities.
 - The issue concerning access to places is of course important, but one must not neglect access conditions (confidential meetings...).
- It is possible for some migrants to become volunteers in associations. This greatly facilitates relations with migrants.

Meeting closed with thanks by Daniel Guery, Coordinator of the Migration Task Force and Anna Rurka, President of the Conference of INGOs.