



CONFERENCE OF INGOs
OF THE COUNCIL OF EUROPE

CONFERENCE DES OING DU
CONSEIL DE L'EUROPE

EXPERT COUNCIL ON NGO LAW
CONF/EXP(2020)3

May 2020

GUIDELINES ON PROTECTING NGO WORK IN SUPPORT OF REFUGEES AND OTHER MIGRANTS

Prepared by the Expert Council on NGO Law of the
Conference of INGOs of the Council of Europe

Introduction

1. These guidelines have been developed by the [Expert Council on NGO Law](#) to ensure that laws, policies and practices concerned with human trafficking, migrant smuggling and the treatment of refugees and other migrants do not encroach on the legitimate activities of non-governmental organisations (NGOs).
2. NGO activities in support of refugees, victims of human trafficking and other migrants are a manifestation of the right to freedom of association guaranteed by Article 11 of the European Convention on Human Rights and elaborated in Recommendation CM/Rec(2007)14 of the Council of Europe Committee of Ministers to member states on the legal status of non-governmental organisations in Europe, and the Joint Guidelines on Freedom of Association of the European Commission for Democracy through Law (Venice Commission) and the OSCE Office for Democratic Institutions and Human Rights.
3. These NGO activities are an essential contribution to securing the human rights of refugees and other migrants, including the rights to be treated with dignity and respect for their humanity, to be provided with adequate food, shelter and health care, to liberty and security, to seek asylum, to protection against torture and other ill-treatment and against refoulement and collective expulsion.
4. These guidelines complement the Expert Council's study, [Using Criminal Law to Restrict the Work of NGOs Supporting Refugees and Other Migrants in Council of Europe Member States](#).¹

¹ CONF/EXP(2019)1 December 2019. Available at: <https://rm.coe.int/expert-council-conf-exp-2019-1-criminal-law-ngo-restrictions-migration/1680996969>.

The Guidelines

5. Laws, policies and practices should not:

- a. Prohibit or prevent NGOs from helping refugees and other migrants in distress whether at sea or on land;
- b. Prohibit or prevent NGOs from monitoring the treatment of refugees and other migrants at border crossings, reception centres and wherever they are deprived of their liberty;
- c. Prohibit or prevent NGOs from providing refugees and other migrants with food, shelter, medical treatment, education and legal advice and assistance on these and other needs;
- d. Prohibit or prevent NGOs from raising funds to help refugees and other migrants in distress or provide refugees and other migrants with food, shelter, medical treatment and legal advice and assistance on these and other needs;
- e. Impose taxes, other charges and reporting obligations with respect to income raised or received by NGOs solely on account of its intended use being to help refugees and other migrants in distress or provide refugees and other migrants with food, shelter, medical treatment and legal advice and assistance on these and other needs;
- f. Treat NGOs, their members and their staff who help refugees and other migrants in distress or provide refugees and other migrants with food, shelter, medical treatment and legal advice as aiding and abetting or otherwise being complicit in any illegality involved in their presence in, or gaining access to or leaving, the country;
- g. Prohibit or prevent NGOs from campaigning to bring laws or practices concerning refugees and other migrants into line with international standards and best practices;
- h. Prohibit or prevent NGOs from submitting complaints or bringing proceedings under national and international procedures with respect to the rights and treatment of refugees and other migrants;
- i. Tolerate the advocacy, promotion or incitement, in any form, of the denigration, hatred or vilification of NGOs, their members and their staff on account of them having helped refugees and other migrants in distress or having provided them with provision of food, shelter, medical treatment and legal advice; and
- j. Impose any disqualification or other disadvantage on NGOs, their members or their staff on account of them having helped refugees and other migrants in distress or having provided them with food, shelter, medical treatment and legal advice.

6. Laws, policies and practices should:

- a. Establish that assisting refugees and other migrants in distress without financial gain and providing those already in the country with food, shelter, medical treatment and legal advice and assistance does not fall within any type of offence concerned with human trafficking or migrant smuggling;
- b. Provide NGOs with information, as well as the right to seek and receive it, about migration flows and places where refugees and other migrants are deprived of their liberty;
- c. Permit NGOs to monitor the treatment of refugees and other migrants, including at border crossings and wherever they are deprived of their liberty;
- d. Facilitate the provision of legal advice and assistance by NGOs to refugees and other migrants, who are deprived of their liberty or are at risk of a violation to their human rights;
- e. Protect NGOs, their members and their staff from harassment, intimidation, physical attacks and threats of prosecution on account of them having helped refugees and other migrants in distress or having provided them with food, shelter, medical treatment and legal advice; and
- f. Encourage and facilitate the participation of NGOs helping refugees and other migrants in distress or providing them with food, shelter, medical treatment and legal advice in processes to reform any requirements relevant to these activities.