

**EXPERT COUNCIL ON NGO LAW**

**ADDENDUM TO THE  
OPINION ON THE COMPATIBILITY WITH EUROPEAN  
STANDARDS OF RECENT AND PLANNED AMENDMENTS TO  
THE GREEK LEGISLATION ON NGO REGISTRATION**

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

*The opinions expressed in this work are the responsibility of the author(s) and do not necessarily reflect the official policy of the Council of Europe.*

## Introduction

1. On 2 July 2020, the Expert Council on NGO Law issued an Opinion on the Compatibility with European Standards of Recent and Planned Amendments to the Greek Legislation on NGO Registration.<sup>1</sup> The Opinion focused on the registration and certification of Greek and foreign NGOs engaged in activities related to asylum, migration, and social inclusion, considering in particular Ministerial Decision 3063/2020 of 14 April 2020 and several legislative provisions.<sup>2</sup>
2. The Opinion concluded that the requirements for NGO and individual member registration (including re-registration) and for maintaining an active membership in the Registry, as well as the certification process, were incompatible with freedom of association among other rights and freedoms.
3. As a result, the Opinion recommended that Ministerial Decision 3063/2020 and related legislative provisions be substantially revised so that they are brought into line with European standards, and that NGOs be consulted prior to adopting any further measures.
4. This Addendum to the Opinion focuses on Ministerial Decision 10616/2020 of 9 September 2020 entitled: Specification of operations concerning the "Register of Greek and Foreign Non-Governmental Organizations (NGOs)" and the "Register of Members of Non-Governmental Organizations (NGOs)" ("Ministerial Decision 10616/2020"), which are active in matters of international protection, immigration and social inclusion within the territory of Greece.
5. Notwithstanding one of the recommendations in the Opinion, Ministerial Decision 10616/2020 was introduced without consultation of NGOs.
6. Furthermore, Ministerial Decision 10616/2020 imposes even stricter and more intrusive rules on the registration and certification of NGOs and their members, and will further impede their work.

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<sup>1</sup> Opinion CONF/EXP(2020)4 of 2 July 2020, available at: <https://rm.coe.int/expert-council-conf-exp-2020-4-opinion-ngo-registration-greece/16809ee91d>.

<sup>2</sup> Article 66 of Law no. 4636/19 of 1 November 2019; Article 191 of Law no. 4662/2020 of 7 February 2020; and Article 58 of Law 4686/2020 of 8 May 2020.

## Ministerial Decision 10616/2020 of 9 September 2020

7. The objective of Ministerial Decision 10616/2020, and in particular the maintenance of the Register of Greek and Foreign NGOs established and operating at the Ministry of Immigration and Asylum, is:

“... for reasons of public interest, ..., in order to enable transparency in their mode of operation and, through it, the optimization of the services provided by them; as well as to make it possible to guarantee the human rights of refugees, asylum seekers and all those who seek international protection and immigrants who are in the territory of Greece. ...”<sup>3</sup>
8. However, the onerous registration and certification requirements, coupled with the wide discretions on the competent authorities to refuse to register or certify applicant NGOs, have the effect of further restricting what was already a severely restricted civil society space, and augmenting significantly and disproportionately the control of the State over the work of NGOs in the field of asylum, migration and social inclusion.
9. The results of these requirements are likely to have the opposite effect to the stated objectives.

### *Registration*

10. Prior to the introduction of Ministerial Decision 10616/2020, registration of individual employees or others associated with NGOs was only required for a relatively contained subset of persons carrying out activities at reception facilities and regional asylum offices.
11. This has now changed. All NGO members, staff and volunteers – regardless of the work they are carrying out and irrespective of the degree of their contact with refugees and other migrants - are now required to individually register with the NGO Members Registry, in order to be authorised to carry out any activity pertaining to asylum, migration and social inclusion.<sup>4</sup> Ministerial Decision 10616/2020 seems to exclude unregistered organisations from carrying out any activity related to asylum or migration, including providing legal or psycho-social assistance.
12. Furthermore, natural persons whose registration is revoked from the Register of Members of NGOs can no longer be active as members, employees or associates of NGOs, whether paid or on a voluntary basis, nor can they be active in matters of asylum, immigration and social inclusion within the territory of Greece.<sup>5</sup>
13. Ministerial Decision 10616/2020 doubles the time period within which the Ministry on Migration and Asylum may respond to requests for registration (from 30 to 60 days) and at the same time reduces the period within which NGOs and individual applicants may respond to requests from the Ministry for supplementary information (from 15 to 10 days).<sup>6</sup>

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<sup>3</sup> See Article 1(3) of Ministerial Decision 10616/2020.

<sup>4</sup> Articles 10(1) and 13(2) of Ministerial Decision 10616/2020.

<sup>5</sup> Article 14(2) of the Ministerial Decision 10616/2020.

<sup>6</sup> Articles 3(2) and 12(2) of Ministerial Decision 10616/2020.

14. Perhaps in recognition of the onerous registration and certification requirements, the Ministerial Decision allows for (non-registered/certified) organisations to be exceptionally provided with access to reception facilities for a period of up to two months.<sup>7</sup>
15. Whilst this provides a useful and flexible route for the Government to obtain external support when it deems that it needs it, it underscores the underlying problems with the registration and certification process. Further, there are no clear criteria as to how this exception would be applied, and so there is a real risk of it being applied arbitrarily.

### *Certification*

16. Previously, certification was an optional and separate procedure for NGOs who wished to undertake certain activities which required certification.
17. However, Ministerial Decision 10616/2020 has introduced a change whereby all NGOs working in the field of asylum, migration and social inclusion must now comply with the extremely onerous and deeply problematic requirements for certification,<sup>8</sup> regardless of the nature of their activities.<sup>9</sup>

### *Impact*

18. The impact of these requirements will be particularly serious for the NGOs concerned despite the stated objective of Ministerial Decision 10616/2020.
19. Firstly, instead of optimising their services, Ministerial Decision 10616/2020 makes it virtually impossible for NGOs working in the domains of asylum, migration and social inclusion to provide any services at all, and impedes their access to government and EU funding.
20. Secondly, instead of guaranteeing the rights of refugees and other migrants, Ministerial Decision 10616/2020 removes a key means by which their rights (e.g., to claim asylum; to health, shelter and food; to dignity and humanity) were capable of being realised. It ignores the crucial role played by NGOs in fostering access by refugees and other migrants to their human rights.
21. Thirdly, instead of fostering greater transparency as to how NGOs operate, the Ministerial Decision fails to address a key problem identified by the Expert Council and others with Ministerial Decision 3063/2020 of 14 April 2020: the lack of transparency and significant potential for arbitrary decision-making coupled with an absence of effective recourse to review procedures associated with decisions to deny registration or certification.<sup>10</sup>

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<sup>7</sup> Article 16 of Ministerial Decision 10616/2020.

<sup>8</sup> See, Articles 2 and 5 of Ministerial Decision 10616/2020, according to which NGOs must meet formal criteria as well as satisfy the regulators about their efficiency, organisational capacity and accountability standards. The incompatibility of these requirements was covered in depth by the Expert Council in its 2 July Opinion, paras. 66-79.

<sup>9</sup> Articles 6(1) and 5 of Ministerial Decision 10616/2020.

<sup>10</sup> See Articles 3(4) and 12(3) of the Ministerial Decision 3063/2020.

22. Finally, the Expert Council recalls that transparency and accountability per se are not legitimate grounds for interference with freedom of association but can only be invoked as a means to attain the legitimate goals set out in Article 11(2) of the European Convention on Human Rights, i.e., in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.<sup>11</sup>

### ***Recommendations***

23. The Ministerial Decision 10616/2020 should be revoked as soon as possible.
24. The Greek Government should carry out a full review of its laws and related decisions pertaining to the registration, certification and operation of NGOs in order to guarantee civil society space, in line with European standards. This should be done with the input from local NGOs working on asylum, migration and social inclusion, as from other domains.
25. The Expert Council on NGO Law offers its continued assistance and support to Greece in the review of any proposed new ministerial decisions or legislation, or amendments to existing provisions.

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<sup>11</sup> Expert Council on NGO Law, *International Standards Relating to Reporting and Disclosure Requirements for NGOs*, CONF/EXP(2018)3, 27 November 2018, para. 45.