

Criminalisation of humanitarian assistance

Now, we will be talking about the range of ways in which organisations providing support in countries are targeted :

In the context of humanitarian assistance, the *criminalisation* is the decision (by parliaments) that a specific conduct is considered as a criminal offence because of some reasons (*the harm it causes, the recognition that there is no more appropriate method of adressing this harm...*).

The criminalisation of humanitarian assistance is reflected in various contexts of people providing help to migrants:

• ***Criminalising the facilitation of residence or stay (64)***

Some acts such as assistance with an asylum application, buying or providing money to buy public transport tickets, and providing food, water or shelter to migrants have resulted in **allegations of facilitation of residence or stay**.

It was a case :

- Of the NGO MiGreat, in the Netherlands (who answered the questionnaire for this study), who is occasionally distributing tents. The members were often said by order keepers that this was a criminal activity. The municipality also warned a member that this act could result in a 3-month prison sentence.
- Of some journalists and migrants in Belgium, who have been prosecuted as they were helping migrants with shelter, food, clothing and lending phones.
- In France, where an investigation was opened against members of an NGO who chartered a bus to bring people hosted in an overcrowded shelter near the border with Italy to Paris.

• **Criminalisation as a form of harrassment (65)**

A phenomen seems to appear: the use of criminalisation as a form of harassment. Indeed, it has been seen that many criminal cases lodged against members of NGOs and solidarity networks have been overturned on appeal or resulted in acquittals.

- For example, in Austria, the authorities have tried to bring charges for criminal libel against the head of a civil society organisation for discussing the percentage of negative decisions that were overturned by the Federal Administrative Court.
- In France, the Constitutional Court ruled that as the principle of fraternity was protecting humanitarian assistance to others, regardless of their immigration status, the absence of an exemption for humanitarian acts in French law was unconstitutional.

However, these investigations have a **negative impact on civil society**, as some individuals are detained, sometimes for a long period of time, and others are subject to campaigns of intimidation and face administrative repercussion impeding their work, such as:

- The freezing of assets – for the CEO of a Danish NGO who was listed by Greece as an *“undesirable foreigner”* and subjected to a re-entry ban
- In Greece, where an organisation faced criminal investigation due to the alleged involvement of volunteers in forming a criminal organisation. Despite any indictment or trial, a press statement issued by the local police has led to a smear campaign, which caused the loss of funding and travel restrictions for volunteers, and ultimately to the cession of activities of the organisation.

Overall, criminalisation can delegitimise the actions of people who promote, protect and defend human rights, as the Greek Refugee Council states it.

Indeed, NGOs and members of solidarity networks are impacted by criminalisation, by being more exposed to arrest, intimidation, and at risk of being kept under police surveillance...

Thus, it can deter them from providing humanitarian assistance and support, which ultimately affects not only them, but also those needing support.

Thank you.