

**United Nations Special Rapporteur on the situation of human rights defenders, Mary Lawlor**

Preliminary observations and recommendations

Athens, 22 June 2022

Ladies and gentlemen, members of the press,

I carried out an official country visit to Greece from 13 to 22 June 2022 on the invitation of the government. This is my first country visit since I have taken up my mandate, due to previous COVID-19 related restrictions.

During my visit, I met a large number of government officials, including several ministries, as well as the Hellenic Coast Guard and the police. I also held meetings at the Supreme Court, with the Greek Bar Associations in Athens and on several islands, and with local prosecutors and police commanders. I held multiple discussions with members of civil society, including international and national non-governmental organisations (NGOs), individual human rights defenders, journalists and lawyers. I also met representatives of international organizations and UN agencies and programmes. Besides my meetings in Athens, I travelled to Lesvos, Chios, Samos and Thessaloniki. I visited reception centres, RICs and CCACs in Athens, Lesvos and Samos.

I would like to thank the Government of Greece for accepting my visit request and for extending their support to the organization of the visit. I would particularly like to thank the Ministry for Migration and Asylum policy for granting me access to facilities where migrants, asylum seekers and refugees are being held.

What follows are my preliminary observations and recommendations which will be further developed in the report that I will submit to the United Nations Human Rights Council when it meets in March next year.

Before I began my visit, I was aware of the complex and particular situation Greece finds itself in, as a result of the geopolitical realities that surround it, including around migration and the uneven EU support. Seeing the reality on the ground, however, significantly contributed to my understanding of the nuances of the situation. I would like to acknowledge the efforts made by the Government to improve the situation of those seeking asylum on its territory.

While in the country, I met a vibrant and enthusiastic civil society. Their enthusiasm and dedication to protecting and promoting human rights has left a lasting impression on me. Individual human rights defenders, members of CSOs, humanitarian workers, grassroots volunteers, lawyers, trade unionists and journalists are doing tremendous work to empower and promote the rights of the most vulnerable and marginalized in society, often in the face of resistance and incomprehension by others. I salute each and every one of them for their bravery and perseverance.

As such, I was disheartened to hear from a number of interlocutors about negative perceptions concerning the role and work of civil society in the country. I was told several times about the negative connotation attached to the word ‘NGO’, and the overall hostile atmosphere in which they work. I note that the concept of ‘human rights defenders’ is not widespread, and where it is known, is often misunderstood, both by the authorities and the general public. I would like to stress that, according to the UN Declaration on Human Rights Defenders, all persons acting peacefully for the promotion and protection of human rights are human rights defenders. They might carry out their activities in the framework of a registered organization, but this need not be the case and often it isn’t. Individuals become human rights defenders for specific acts, regardless of whether they are carrying out their activities in a formal or informal manner.

The arrival of a large number of migrants, refugees and asylum seekers in 2015, tested the capacity of both the government and society as a whole. Since then, Greece has made important efforts to improve the conditions in which migrants and asylum seekers are held, and I was impressed with the quality of the facilities. At the same time, I am concerned that these developments took place against the backdrop of a policy that prioritizes security and prevention over solidarity. I also note that the improvements in the reception facilities are accompanied by a progressive move towards more securitized structures, which, together with remote locations, impact the movement of both asylum seekers and those trying to assist them.

What I have understood from my meetings is that the nature of cooperation between the Government and civil society, and the overall perception about the role of civil society and human rights defenders in Greece, has undergone a significant shift since 2019. Since then, human rights defenders have found it increasingly difficult to carry out their work, especially in fields that might be considered controversial or geopolitically complicated or sensitive. This is particularly tangible in relation to those who defend the rights of asylum seekers, migrants and refugees, including those providing humanitarian assistance, legal aid, participating in search and rescue operations and documenting pushbacks. While previously human rights defenders in these areas had enjoyed an overall conducive environment for carrying out their activities, the current policy framework, that emphasises ‘security’ over humanitarian assistance, has led to a number of constraints. I also note the sense of pervasive fear that is felt by a significant segment of human rights defenders, which seems to be a direct result of the criminalization of migration and their legitimate, peaceful work for the rights of refugees, asylum seekers and migrants.

One of the biggest constraints is an increasingly restrictive legislative environment, which, among other requirements, obliges NGOs working in the field of migration, asylum and social inclusion to register on an NGO Registry maintained by the Ministry of migration and asylum. The imposition of a registration requirement on a specific segment of civil society, and the disproportionate requirements within the registration process itself, are in violation of Greece’s obligations under international human rights law and are discriminatory. The onerous registration requirements, coupled with the wide discretion afforded to the competent authorities to refuse to register applicant NGOs, have the effect of further restricting civil society space, and augmenting significantly and disproportionately the control of the State over the work of NGOs in the field of migration.

NGOs supporting refugees and migrants who are not registered by the Ministry for migration and asylum are not able to access asylum seekers and migrants in the facilities where they are held and provide legal assistance and other serviced to populations that greatly need them. The administrative burden of applying to the registry, often followed by disproportionate delays and unjustified rejections, also puts an important financial and bureaucratic strain particularly on small organizations. Individual human rights defenders are not able to obtain registration. Lawyers, whose organizations have not been registered, are only able to access the facilities with their Bar Association cards, and only after submitting a prior request. While I acknowledge the need to control the flow of access to the facilities, especially those housing children, I feel that the current arrangements result in depriving the beneficiaries of important assistance, including but not limited to legal aid.

I am extremely concerned about the continuous and preventable loss of life and human suffering at international borders, both at land and at sea, which we are witnessing across the globe. The situation is particularly dire for those obliged to embark upon perilous routes to seek international protection abroad. In this context, I am concerned about the increasing criminalization of humanitarian assistance in Greece. Solidarity should never be punished and compassion should never be put on trial.

I fully respect the Government’s right to seek to prevent people trafficking and smuggling and prosecute those involved in these acts. However, I feel that the efforts aimed at curbing these practices have come at a great expense to human rights defenders, who have seen prosecutions and criminal proceedings initiated against them in some cases merely for providing water or food for people landing on shores of Greece, or for carrying out search and rescue operations. While it is important to prevent and punish trafficking in persons, such efforts should not be deployed in a manner that generates fear among human rights defenders and leads to self-censorship and withdrawal from certain activities. In order not to be wrongly pursued or painted as complicit in illegal activities, many of them have scaled back their operations.

The charges in ongoing criminal cases against human rights defenders are based on the  [Migration Code](https://www.kodiko.gr/nomothesia/document/95295/nomos-4251-2014) (Law 4251/2014**)**, which implements the EU Facilitator’s Package. This law criminalises both the facilitation of irregular entry and transit of third-country nationals as well as the facilitation of residence as per the Facilitation Directive[[1]](#footnote-2). However, Greek law does not define which acts or omissions constitute facilitation in this regard. Article 29 of the Migration Code, for instance, merely provides that ‘persons who facilitate the entry into or exit from the territory of Greece of third-country nationals without performing the controls provided by law’ are punishable. Due to this overly broad provision, a broad range of otherwise legitimate conduct by human rights defenders can become the target of enforcement authorities.

Coordinating humanitarian assistance, for example, by organising to be present in an area where refugee vessels arrive in order to provide first aid, is a key activity of human rights defenders and extremely critical for the lives of those that arrive on shore. Putting human rights defenders on trial for such conduct undermines their work, The provisions of the Migration Code provide an exception from punishment (although not from prosecution) for humanitarian actions in article 30 (6)), which is arguably applicable in the ongoing trials. Yet, the mere fact of a criminal prosecution and judicial proceedings is a heavy burden for human rights defenders and acts as a deterrent to others.

Such persecutions of human rights defenders also compromise public trust in civil society, sabotage their fundraising activities, and often results in self-censorship or an end to their activities altogether.

Human rights defenders not only face criminal sanctions for their activities but are operating in an increasingly hostile environment where the general public is influenced by negative rhetoric from high -ranking officials and their unfavourable portrayal by mainstream media, often conflating their activities with those of people traffickers and criminal networks.

I am concerned about reports of the arrest, intimidation and mistreatment of women human rights defenders (WHRD) in police precincts. WHRDs have reported being brought in for questioning following demonstrations and been held for several hours, without access to layers, in retaliation for their peaceful activities.

Defenders of LGBTI communities have faced anonymous threats, online attacks and physical attacks for their work, including by far-right extremists and others. They reported a lack of access to funding and support from the government and a general unconducive climate for their work. Some organizations working on LGBTI rights have reported attacks on their offices, including arson, as well as hateful comments on social media, often by far-rights extremists.

I note the large number of protests and demonstrations that take place every day both in the capital and in other parts of the country. At the same time, I am concerned about legislation introduced in July 2020 (Law 4703/2020 on Public outdoors gatherings and other provisions), which is problematic for a number of reasons. The main provisions of the legislation include a mandatory notification requirement, without which the demonstration may be banned or dismantled. It also introduces provisions relating to the liability of organizers, who may be held liable for damage and injury caused by protesters. The provisions of the law also provide vague grounds to justify bans or limitations on assemblies. I also heard from human rights defenders participating in assemblies who were met with excessive and unnecessary use of force by the police.

I am concerned by reports of human rights defenders, in particular those supporting migrants, refugees and asylum seekers, being targeted by hostile comments, including by key stakeholders in the government. They are described as traitors, enemies of the state, Turkish agents, criminals and smugglers and traffickers. Such statements, especially when coming from high level officials, contribute to overall negative attitudes towards the role and work of human rights defenders, both by the larger population and by the police and other relevant agencies. This is turn further diminishes the available space for human rights defenders to operate in and may impact upon their activities and contribute to their self-censorship. Vilification of individual human rights defenders in the media, smear campaigns and death threats online and offline place serious burdens on those who the State should be championing as allies in complying with their obligation to respect, protect and fulfil human rights.

Access by civil society to landing sites and facilities where migrants, asylum seekers and refugees are held has been progressively limited over the past two years. Only NGOs included in the Migration Ministry’s registry are able to access RICs and CCACs. Furthermore, at the moment, civil society and humanitarian actors have virtually no access to asylum seekers on landing sites. Some organizations have been forced to provide their services outside of the camps, including food distribution and medical services. Of particular concern is the limited access by lawyers and organizations providing legal aid to asylum seekers and migrants. While lawyers are able to enter the facilities in their individual capacity, albeit only after having notified the competent authorities a day in advance, they are prevented from doing so as member of their organization, in the case that the organization has not been admitted to the NGO Registry. I welcome the activities of NGOs who are currently providing legal aid in the facilities, as well as lawyers working tirelessly on behalf of the beneficiaries, but there should be a broader scope and facilitation for access these facilities.

Journalists who counter the government’s narrative on the management of migration flows are often under pressure and lack access to mainstream media outlets. Their access to information is limited, requests for information and data from authorities, including from local governments, often go unanswered. Journalists also have very limited or no access to facilities where migrants, refugees and asylum seekers are being held, further contributing to a general lack of transparency regarding the government’s policies in this area. Journalists reporting on corruption are sometimes facing threats and even charges.

During my mission, I met many people of good will and incredible commitment, genuinely concerned about the human rights of all. However, this visit has confirmed that a restrictive legislative and administrative environment, combined with negative attitudes towards civil society, has also resulted in decreased monitoring, transparency and oversight of government action in a number of areas. This ability of civil society to document, and if necessary, denounce violations by the executive branch is crucial in a vibrant democratic society.

**I am looking forward to receiving information relevant to issues considered during my visit and would further inform my report, but meanwhile, I would like to share some of my preliminary recommendations:**

* . Bring the current law on anti-smuggling (Migration law) fully in compliance with the UN Protocol against the smuggling of migrants by land, sea and air. The legislation currently in force is overly broad and vague, which gives the opportunity for its misuse in criminal proceedings and in some cases has led to the prosecution of human rights defenders for their legitimate human rights work
* The Government should publicly acknowledge and commend the legitimate work of human rights defenders and the innumerable contributions they have made to the promotion and protection of human rights. Creating an enabling environment, free from intimidation, restrictive administrative and criminal laws is key for a thriving civil society.

Ensure that the Registry for CSOs supporting asylum seekers, migrant and refugees is simplified and made more transparent, with clear timelines set for all steps in the process and a clear time framework on when a decision on being included on the registry may be expected. While I concur that registering NGOs may be necessary for quality control and protection purposes, such a registration system should not be discriminatory and apply to only one specific segment of civil society.

* Establish an independent monitoring and oversight mechanism to oversee the overall handling of the migration situation by the government. While the National Transparency Authority has made some welcome contributions in the fight against corruption, it is not equipped to conduct independent investigations into the management of migration flows.
* Ensure that the UN Declaration on Human Rights Defenders is implemented and consider transposing it into national law, in order to clarify the misconceptions currently prevailing about the role and rights of human rights defenders.

Thank you.

ENDS

1. Directive 2002/90/EC [↑](#footnote-ref-2)