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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
OF THE COUNCIL OF EUROPE
(VENICE COMMISSION)

GREECE

URGENT OPINION

ON

**THE 2026 LEGISLATIVE AMENDMENTS
CONCERNING THE REGISTRY OF NON-GOVERNMENTAL ORGANISATIONS,
THE REGISTRY OF NGO MEMBERS
AND THE CRIMINAL LIABILITY OF REGISTERED NGO MEMBERS**

**Issued on 28 September 2026 pursuant to Article 14a
of the Venice Commission's Revised Rules of Procedure**

on the basis of comments by

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I. Introduction

1. By letter of 29 June 2026, the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee) requested an urgent opinion of the Venice Commission of the Council of Europe on the 6 February 2026 amendments to the legislation of Greece on asylum and migration regarding the Registry of Greek and Foreign Non-Governmental organisations (NGO Registry), the Registry of NGO Members, and provisions on criminal liability of NGOs and its members (CDL-REF(2026)038-e).

2. The request for the preparation of the Opinion through the urgent procedure was authorised by the Enlarged Bureau of the Venice Commission pursuant to Article 14a of the Commission's Revised Rules of Procedure.

3. Mr Martin Kuijer, Mr Lauri Mälksoo and Ms Mary O'Toole acted as rapporteurs for this opinion.

4. On 31 August 2026, the rapporteurs alongside the Secretariat held online meetings with civil society, academia and international organisations. On 9 and 10 September 2026, a delegation of the Commission composed of the Rapporteurs, accompanied by Ms Delphine Freymann and Ms Tone Sørfohn Moe of the Secretariat, visited Athens and had meetings with the Minister of Migration and Asylum, representatives from various ministries, the President of the Council of State, the National Transparency Authority, the National Commission for Human Rights, the Greek Ombudsman and representatives of the parliamentary majority and opposition. The Commission is grateful to the authorities for the excellent organisation of this visit.

5. The urgent opinion was prepared in reliance on the English translation of the relevant articles. The translation may not accurately reflect the original version on all points.

6. This urgent opinion was drafted on the basis of comments by the rapporteurs as well as the results of online and physical meetings and written comments received. In line with paragraph 10 of the Venice Commission's Protocol on the Preparation of Urgent Opinions (CDL-AD(2018)019), the draft Urgent Opinion was transmitted to the authorities of Greece on 23 September 2026 for comments. The Urgent Opinion was then issued on 28 September 2026, pursuant to Article 14a of the Venice Commission's Revised Rules of Procedure. It will be submitted to the Commission for endorsement at its 148th Plenary Session (Venice, 9-10 October 2026).

II. Background

A. Scope of the opinion

7. The present Opinion will examine the compatibility of the 6 February 2026 amendments to Greek migration and asylum law (provided by Law 5275/2026, hereinafter the 2026 Legal Migration Law) with Council of Europe standards. Specifically, it will focus on changes to Article 78 of the Asylum Code (Law 4939/2022), now replaced by Article 114 of the Asylum Pact (Law 5307/2026), and Articles 24 and 25 of the Migration Code (Law 5038/2023), as amended by Articles 15 and 16 of the 2026 Legal Migration Law.

8. Article 114 of the Asylum Pact provides the legal basis for the Register of Greek and Foreign Non-Governmental Organisations (NGO Registry) and the Registry of NGO Members, whilst Articles 24 and 25 of the Migration Code seek to transpose Article 1(1) of EU Directive 2002/90/EC ("Facilitation Directive"), requiring member states to criminalise the intentional offence of facilitation, into Greek Law.

9. The Commission will look at the consolidated text of the articles following the amendments of 6 February 2026 in order to make an assessment of the provisions. The Opinion does not deal with the conformity of the provisions with European Union Law.

B. Local context

10. Greece is one of the European Union's principal external border states and has been at the centre of migration since the 2015–2016 migration crisis. Greece continues to receive significant numbers of asylum seekers and migrants in a complex and challenging environment where life-saving operations are frequently required.¹

11. Greece has several accommodation facilities for asylum applicants and migrants. These facilities provide a range of services, including legal assistance and information, psychosocial support, medical and health-related assistance, interpretation, protection and support for vulnerable persons, and other humanitarian or reception-related services. During the visit, the delegation was informed that civil society organisations played a pivotal role in addressing the urgent needs that arose during the sudden onset of the migration crisis in Greece. While the state has since developed and strengthened the accommodation facilities, NGOs continue to play a vital role by supplementing or complementing state-provided services, often delivering support that, in many countries, would typically be the responsibility of public services.²

12. Since 2020, organisations and their members active in the field of asylum, migration, and social inclusion have had to register with the Ministry of Migration and Asylum in the NGO Registry and Registry of NGO Members pursuant to Article 78 of the Asylum Code, now Article 114 of the Asylum Pact. Running parallel to this, all NGOs must register with the Ministry of Interior's Public Database or Special Registry in order to access public funding.³ During the visit, the delegation was informed by various interlocutors that other sector-specific registries also exist in Greece, maintained by the competent Ministry within each sector.

13. Shortly after the introduction of the NGO Registry, an application for its annulment was lodged before the Council of State challenging its regulatory framework. The case was heard by the Plenary of the Council of State in December 2022. Following the reassignment of the case to a different judge-rapporteur, a new hearing was required. After subsequent adjournments in 2026, including in the context of the 6 February 2026 amendments to the applicable regulatory framework, the case was reheard by the Plenary on 26 June 2026. Several proceedings before the Council of State concerning individual refusals of registration have been suspended pending the Council of State's ruling.⁴

14. On 16 September 2026, the President of the Council of State issued an announcement concerning the outcome of the deliberations concerning the NGO Registry and the Registry of NGO Members.⁵ The President announced, *inter alia*, that, the Council found the enabling legal provision for regulating the Registry of NGOs to be compatible with the Constitution, while the enabling provision for regulating the Registry of NGO Members was found

¹ Council of Europe Commissioner for Human Rights, Memorandum on migration and border control, following the Commissioner's visit to Greece from 3 to 7 February 2025 (17 April 2025), para. 9.

² See AIDA Greece Country Report 2025, page 78, 197–198. AIDA reports that the interruption of interpretation services provided by an NGO, following *inter alia* delays in payments by the Ministry of Migration and Asylum, significantly disrupted the functioning of the asylum procedure, with the Asylum Service in almost the entire territory ceasing to carry out procedures including registrations, interviews and the service of decisions. It further notes that the lack of interpretation impeded access to asylum procedures and essential services, including healthcare.

³ Law 4873/2021, Protection of volunteerism, strengthening of the action of Civil Society, tax incentives for strengthening the public benefit action of O.Koi.P. and other provisions.

⁴ Asylum Information Database (AIDA), Country Report on Greece: Access to NGOs and UNHCR, 30 July 2026. Cambridge University Press, Elli Kriona Saranti, Can Strategic Litigation Backfire? Challenging the Crackdown on Migration NGOs in Greece Through EU Law, 24 January 2025.

⁵ Announcement, President of the Council of State, Athens 16 September 2026.

unconstitutional as its essential rules regarding registration and certification are set out by ministerial decision. The Council found that, in principle, the requirement of NGOs to register in order to carry out activities within the Ministry's facilities and receiving state and EU funding, is not contrary to the right to freedom of association. The Council, however, found the following provisions to be contrary to the right to freedom of association: (a) the Secretary-General's discretionary power to reject applications, (b) the obligation to publish information about subscribers/donors, (c) removal of an organisation with a prohibition on re-registration for two years. The Council did not find the requirement on audited financial statements, verification of compliance, or removal on the basis of a document issued by the competent authority to be contrary to the right to freedom of association. The Council also referred questions to the CJEU on the compatibility with the Charter of Fundamental Rights of (i) barring registration based on pending felony prosecutions and (ii) on past defamation convictions, in addition to a question relating to the processing of personal data concerning criminal convictions (GDPR).

C. The 2026 legislative amendments

1. Context

15. On 6 February 2026, Greece adopted the 2026 Migration Law, introducing amendments to the Asylum Code and Migration Code. These amendments were followed on 11 June 2026 by the adoption of the Asylum Pact, which adapted the Greek legal and institutional framework to the EU Pact on Migration and Asylum, ahead of the Pact becoming applicable across the EU on 12 June 2026. By the adoption of the Asylum Pact, the provisions of the Asylum Code were incorporated into the Asylum Pact, and the Asylum Code was repealed.

16. Prior to the adoption of the 6 February 2026 amendments, the Greek authorities conducted a consultation process on the NGO registry, including an electronic questionnaire sent to registered NGOs and a feedback event with direct dialogue between NGOs and ministry officials.⁶ This consultation process fed into the preparation of the amendments introduced in 2026. A number of interlocutors welcomed this process.

17. The 6 February 2026 amendments – introducing changes to the NGO Registry and providing for aggravated criminal liability for members of registered NGOs through the offence of facilitation – have been the object of debate both domestically and internationally. Local civil society organisations and the Greek National Commission for Human Rights have expressed concerns that the 6 February 2026 amendments may disproportionately affect the NGOs active in migration and asylum.⁷ Commenting on the draft amendments in a hearing of 2 February 2026, the UNHCR also raised concerns in relation to the increased sanctions and provision for aggravating circumstances for offences attributed to civil society members.⁸ Following their adoption, the United Nations Special Rapporteur on human rights defenders also expressed concern in a letter of 19 February 2026 about the expansion of the NGO Registry and enhanced penalties against registered NGO members,⁹ building on previous concerns raised after her country visit of 2022.¹⁰ The Expert Council on NGO Law of the

⁶ Described in the reply of the Permanent Mission of Greece to the United Nations Office and other International Organisations in Geneva, Note Verbale No. 6170.3/AS 1349, 24 November 2025.

⁷ Greek National Commission for Human Rights, Statement on the provisions of the draft law targeting civil society organisations, 3 February 2026. Refugee Support Aegean, Joint Civil Society Statement on the Migration Ministry bill, January 2026. Joint Civil Society Report on the Rule of Law in Greece 2026, (January 2026), see paras 235-265. Addendum to Joint Civil Society Report on the Rule of Law in Greece 2026, March 2026, paras 29-34. Addendum II to Joint Civil Society Report on the Rule of Law in Greece 2026, May 2026, paras 27-32.

⁸ UNHCR, UNHCR intervention at the hearing of actors regarding the draft law on legal migration policies, 2 February 2026.

⁹ Office of the United Nations High Commission on Human Rights, ref OL GRC 1/2026, Letter of the UN Special Rapporteur on human rights defenders and other UN experts, 19 February 2026.

¹⁰ UN Special Rapporteur on human rights defenders, Country Visit Report: Greece (A/HRC/52/29 Add.1), 15 March 2023. See also OHCHR Communication of UN Special Procedures mandate holders to Greece: sent on 25

Council of Europe has also issued several opinions relating to the NGO registry.¹¹ The amendments have further been addressed in the Rule of Law Report of the EU Commission,¹² with the latter finding that civic space in Greece continues to be rated as “obstructed” by CIVICUS.¹³ Various reports also highlight growing concerns regarding criminalisation of humanitarian activities, and concerns about a hostile environment in Greece with regard to defenders of the rights of refugees.¹⁴

2. The amendments

a. The NGO Registry and Registry of NGO Members: Article 114 of the Asylum Pact

18. In 2020, Article 78 of the Asylum Code, now replaced by Article 114 of the Asylum Pact, established two different registries: the Registry of Greek and Foreign Non-Governmental Organisations (NGO Registry) and the Registry of NGO Members.

19. The scope of the NGO Registry follows from Article 114 (1) which provides that, “the Registry shall contain the registrations carried out by the competent authority of all Greek and international voluntary organisations and civil society organisations that meet the minimum requirements necessary for participation in the implementation of activities relating to international protection, migration and social integration. Non-profit organisations, voluntary organisations and any other corresponding organisation, whether Greek or international, that is not registered in the Registry shall not be eligible to receive State or EU funding or to operate in any manner whatsoever within the structures of the Ministry of Migration and Asylum”. The scope of the Registry of NGO Members follows from Article 114 (4), which provides that, “members, employees and associates of the organisations registered in the Registry referred to in paragraph 1 shall be entered and recorded therein. The registration and certification of such persons in the Registry shall constitute a prerequisite both for their activities within the Greek territory and for their cooperation with public-sector bodies”.

20. Pursuant to the former version of Article 78 of the Asylum Code, as applicable since 2020 and now repealed, the regulatory framework entailed a legal prohibition for all Greek and international NGOs on participating in activities of international protection, migration and social integration in Greece, unless the NGO was registered in the NGO Registry.¹⁵ The 6 February

March 2026 (GCR 2/2026, no state reply), 16 September 2025 (GRC 2/2025, state reply of 24 November 2025), 28 December 2022 (GRC 3/2022, state reply of 24 February 2024), 19 July 2022 (GRC 2/2022, state reply of 13 September 2022), 16 November 2021 (GRC 4/2021, state reply of 29 December 2021), 31 March 2021 (GRC 1/2021, state reply of 6 October 2021) and 1 May 2020 (GRC 2/2020, state reply of 1 July 2020).

¹¹ Expert Council Opinion - Opinion on the compatibility with European standards of recent and planned amendments to the Greek legislation on NGO registration (2 July 2020, CONF/EXP(2020)4). 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 (23 November 2020, CONF/EXP(2020)5). Expert Council on NGO Law - Opinion on the law of Greece, “law on the promotion of legal migration policies” (18 March 2026, CONF/EXP(2026)3). Conference of INGOs, Presidents of CINGO and its Expert Council reiterate concerns about Greece's NGO registration and Ministerial Decision No. 82876 of 8 May 2026, 23 June 2026.

¹² European Commission, 2026 Rule of Law Report, Country Chapter on Greece, SWD(2026) 908 final, pp. 22-24.

¹³ The underlying CIVICUS score on Greece is 51/100.

¹⁴ Council of Europe Commissioner for Human Rights, Memorandum on migration and border control, following the Commissioner's visit to Greece from 3 to 7 February 2025, 17 April 2025, para. 34-35. Council of Europe Commissioner for Human Rights, Letter of Commissioner for Human Rights, 3 May 2021, Ref CommHR/DM/sf 019-2021. UN Human Rights Committee, Concluding observations on the third periodic report of Greece (2024), UN Doc. CCPR/C/GRC/CO/3, para. 32. Conference on INGOs, Civil participation in Serbia and Greece: CINGO publishes two country reports calling for improvements, 4 May 2026. Norwegian Appeal Court, LH-2026-50254 of 15 May 2026 concerning rejection of extradition to Greece. Also taken into consideration by the ECtHR in A.R.E. v. Greece, Application no. 15783/21 (2025), para 263.

¹⁵ Former Article 78 (1) last sentence of the Asylum Code (repealed): “Non-profit organizations, voluntary organizations, and any corresponding domestic or international entity that has not successfully enrolled in the registry shall not be eligible to participate in the implementation of international protection, migration, and social

2026 amendments revised this legal prohibition by providing that registration in the NGO Registry is a prerequisite for operating within the structures of the Ministry of Migration and Asylum and to receive state and EU funding. NGOs who are not registered are free to operate within the area of international protection, migration and social integration in Greece, including organising activities or interact with refugees and migrants, but are not entitled to receive EU or state funding or have access to the structures of the Ministry of Migration and Asylum. The structures of the Ministry of Migration and Asylum are understood to encompass accommodation facilities for asylum and migrants in Greece, as described in paragraph 11. The 6 February 2026 amendments did not provide substantive changes to the scope of the Registry of NGO Members.¹⁶

21. Article 114 (3) provides a basis for delegation to the effect that a ministerial decision may regulate in greater detail the concrete requirements and procedures for (de-)registration and reporting. Ministerial Decision No. 82876/2026 of 11 May 2026 (“Ministerial Decision”) sets out such detailed procedures and requirements for the operation of the NGO Registry and the Registry of NGO Members, replacing the previous regulatory framework established under Joint Ministerial Decision No. 10616/2020.

22. Article 114 read in conjunction with the Ministerial Decision provides for both registration obligations, disclosure obligations and reporting obligations for NGOs. In sum, registration requires *inter alia* submission of legal documents, audited financial statements, appointment of a Data Protection Officer, and criminal record checks for management and legal representatives. In addition, NGOs are required to register “employees, members, and associates” in a separate Registry of NGO Members, providing identification and criminal record information for each individual. After registration, NGOs must annually submit updated documents including financial statements, criminal record checks, and activity reports. NGOs must keep all registered data current, reporting any status or document changes within one month and respond to requests for clarification or further documentation within ten days. Failure to comply with registration or reporting obligations, including non-submission of required information for either the NGO or its members, will lead to removal from the NGO Registry after a thirty-day compliance notice. Re-registration is allowed only after two years.¹⁷

23. Structured dialogue between NGOs and the Ministry has been formalised by Article 17 of the Ministerial Decision, providing that these meetings must take place at least twice a year, for the purpose of “consultation, the exchange of views and the formulation of proposals on matters falling within its remit”. The Commission has been informed that the first structured dialogue took place in June 2026, with a focus on the proposed structure and modalities for the dialogue, and the second is scheduled for December 2026. The EU Commission has recommended to Greece to intensify efforts to consolidate a regular and sustained structured dialogue with NGOs.¹⁸

integration actions within the Greek territory, and notably in the provision of legal, psychosocial, and medical services of par. 5 of Article 51, the provision of material reception conditions of par. 1 of Article 59, and the provision of information and briefing of Articles 70 and 74 of the present Code”.

¹⁶ Former Article 78 (4) of the Asylum Code (repealed): “A Registry of Members of Non-Governmental Organizations (NGOs) operating in the fields of international protection, migration, and social integration has been established and is functional within the NGO Registry Unit of the Special Secretariat for the Coordination of Involved Stakeholders of the Ministry of Migration and Asylum; the members, employees, and regular associates of the aforementioned organizations operating in Greece shall be registered and cataloged therein. The successful enrollment of these natural persons in the Registry and their subsequent official certification constitute an indispensable pre-requisite both for their capacity to execute activities within the Hellenic territory and for their cooperation with public sector bodies”.

¹⁷ Article 114 (2) of the Asylum Pact, read in conjunction with the Ministerial Decision, namely Article 2 (Conditions for registration), Article 3 (Procedure for initial registration), Article 4 (Procedure for changes to registration), Article 5 (Obligations for registered organisations), Article 6 (Verification of compliance with obligations – Sanctions).

¹⁸ European Commission, 2026 Rule of Law Report, Country Chapter on Greece, SWD(2026) 908 final, pp. 2 and 22-24.

b. Facilitation offences: Article 24 and 25 of the Migration Code

24. Articles 24 and 25 of the Migration Code seek to transpose into Greek Law Article 1(1) of the Facilitation Directive,¹⁹ providing for aggravated criminal liability for members of registered NGOs and the possibility of deregistration.

25. Article 24 criminalises facilitation activities related to irregular migration, such as assisting unlawful residence, letting property to irregular migrants, submitting false declarations, facilitating entry or exit without proper checks, obstructing authorities, and possessing or withholding travel documents, with penalties that vary according to the circumstances and identity of the offender, including if the act was carried out for profit, by profession or if the crime is committed by two or more persons (Article 24 (4) – (6)). The 6 February 2026 amendments introduced harsher penalties when these acts are committed by a member of an NGO registered in the NGO registry. The law further provides that if criminal proceedings are initiated against any NGO member for these criminal acts, the authorities may remove the NGO from the registry, and re-registration is permitted only after the accused member has been irrevocably acquitted (article 24 (8)).

26. Article 25 criminalises the transport of third-country nationals not entitled to enter the Greek territory, with aggravated penalties for certain categories of offenders, introducing harsher penalties when these acts are committed by an individual who acts for profit or by profession, is a repeat offender, is a public official, is a tourism, shipping, or travel agent, if the offenders are two or more and acted in concert, or, pursuant to the 6 February 2026 amendments, is a member of a NGO registered in the NGO Registry (Article 25 (1) (b)). Article 25 (6) provides for an exemption from criminal liability: penalties do not apply to cases of rescue at sea, transport of persons in need of international protection, or onward movement within the country for such persons following notification of the competent authorities.

III. Analysis

A. The NGO Registry and its compatibility with the right to freedom of association

1. Framework for analysis

27. The obligation for NGOs to register undoubtedly represents an interference with the enjoyment of the right to freedom of association, which is protected by Article 11 of the European Convention on Human Rights (ECHR) and Article 22 of the International Covenant on Civil and Political Rights (ICCPR)²⁰ as ratified by Greece. Article 11 ECHR provides:

“Everyone has the right to freedom of peaceful assembly and to freedom of association

¹⁹ EU Directive 2002/90/EC Article 1 provide: “1. Each Member State shall adopt appropriate sanctions on: (a) any person who intentionally assists a person who is not a national of a Member State to enter, or transit across, the territory of a Member State in breach of the laws of the State concerned on the entry or transit of aliens; (b) any person who, for financial gain, intentionally assists a person who is not a national of a Member State to reside within the territory of a Member State in breach of the laws of the State concerned on the residence of aliens. 2. Any Member State may decide not to impose sanctions with regard to the behaviour defined in paragraph 1(a) by applying its national law and practice for cases where the aim of the behaviour is to provide humanitarian assistance to the person concerned”. Article 3 provides: “Each Member State shall take the measures necessary to ensure that the infringements referred to in Articles 1 and 2 are subject to effective, proportionate and dissuasive sanctions”.

²⁰ Article 22 (2) ICCPR provides: “(1) Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests. (2) No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. (...)”

with others, including the right to form and to join trade unions for the protection of his interests.

No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society 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 (...)."

28. Freedom of association is a fundamental human right that constitutes an essential condition for the exercise of other human rights.²¹ As the ECtHR stated in the case of *Sidiropoulos and others*, the ability to form a legal entity in order to act collectively in a field of mutual interest is one of the most important aspects of the right to freedom of association. The way in which national legislation enshrines this freedom and its practical application reveals the state of democracy in a country.²² The UN Human Rights Committee has likewise underlined that the "existence and operation of associations, including those which peacefully promote ideas not necessarily favourably received by the government or the majority of the population, is a cornerstone of a democratic society".²³ Building on this case law, the CJEU has also underlined that freedom of association is "one of the essential basis of a democratic and pluralist society".²⁴

29. The freedom of association is not an absolute but a qualified right. It may, however, only be restricted under the conditions set out in international human rights instruments (Article 11 (2) ECHR, Article 22 (2) ICCPR). These conditions are threefold and encompass the conditions of legality, legitimacy and necessity/proportionality. The condition of legality is met, when the restriction is prescribed by law, i.e. it has a legal basis and this legal basis is precise, certain and foreseeable, making it possible for natural and legal persons to understand which acts are expected or prohibited to them.²⁵ Under the condition of legitimacy, restrictions need to pursue one of the legitimate aims exhaustively indicated in Article 11 (2) ECHR and Article 22 (2) ICCPR. Under the condition of necessity/proportionality, restrictions must be necessary in a democratic society to achieve the legitimate aim, and they have to be proportionate to that aim.²⁶ All three conditions need to be met cumulatively. At the same time, restrictive measures must not be discriminatory in nature or effect.²⁷

2. Prescribed by law

30. The expression "prescribed by law" not only requires that the measure should have a legal basis in domestic law but also refers to the quality of the law in question, which should be accessible to the person concerned and foreseeable as to its effects.²⁸ Moreover, executive

²¹ CDL-AD(2019)002 - Report on Funding of Associations, para 6.

²² *Sidiropoulos and Others v. Greece*, 10 July 1998, para 40. *Gorzelik and others v Poland*, Application No 44158/98 (2004), para 88. *Election Monitoring Centre and Others v. Azerbaijan*, Application No. 64733/09 (2021), para 65.

²³ Human Rights Committee, *Korneenko et al. v. Belarus*, CCPR/C/88/D/1274/2004 (2006), para 7.3. *Mikhailovskaya and Volchek V. Belarus*, CCPR/C/111/D/1993/2010, (2014), para 7.3. *Lee v. Republic of Korea*, CCPR/C/84/D/1119/2002, (2005), para 7.3.

²⁴ CJEU *European Commission v Hungary*, Case C-78/18 (2020), para 112

²⁵ *Hasan and Chaush v. Bulgaria*, Application No. 30985/96 (2000), para 84, *Aliyev and others v. Azerbaijan*, Application No. 28736/05, (2008), para 35.

²⁶ UN Doc. A/HRC/50/23, Access to Resources. Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voule, 10 May 2022, para 14: "To meet the condition of necessity, authorities must demonstrate that the measure can truly be effective in pursuing the legitimate aim and be the least intrusive means among those which might achieve the desired objective".

²⁷ CDL-AD(2025)041 - Slovak Republic – Opinion on Law No. 109/2025 amending the Law "on non-profit organisations providing services of general interest" and other related laws, para 43 with further references. CDL-AD(2025)034 - Georgia - Opinion on the Law on the Registration of Foreign Agents, the amendments to the Law on Grants and other Laws relating to "foreign influence", para 35 onwards.

²⁸ *Kudrevičius and Others v. Lithuania*, Application no. 37553/05 (2015), para 108-110, para 124. CDL-AD(2025)041 - Slovak Republic – Opinion on Law No. 109/2025 amending the Law "on non-profit organisations providing services of general interest" and other related laws, para 36 with further references. CDL-AD(2014)025,

and administrative discretion may not be unfettered but must be clearly indicated in the law, as vague provisions may lead to an excessively expansive interpretation of the supervisory powers.²⁹

a. Scope of the NGO Registry

31. Following the 6 February 2026 amendments, the registration requirement serves as a prerequisite for state and EU funding and access to the structures of the Ministry of Migration and Asylum, previously covering all organisations operating within the field of international protection, migration and social integration. The Commission welcomes this reduction of the scope of the NGO Registry.

32. Despite the reduction of the scope, the Commission, however, notes that the law still leaves some room for ambiguity in so far as it does not specify what the “minimum requirements necessary” for participation entail, nor does it define “social integration”, thus creating uncertainty as to which entities and persons are subject to this specific sub-sector registration obligation, potentially covering actors beyond the scope of migration and asylum. Accordingly, the law could benefit from clearer explanation of what the “minimum requirement” entails and what kind of activities is covered by “social integration”.

b. Scope of the Registry of NGO Members

33. Article 114 (4) further provides that “members, employees and associates” of registered NGOs shall be registered in a specific Registry of NGO members. Such registration constitutes, according to Article 114 (4), “a prerequisite both for their activities within the Greek territory and for their cooperation with public-sector bodies”. The Minister of Migration and Asylum clarified during the meeting with the delegation that the purpose of requiring members, employees, and associates of registered NGOs to be listed in the Registry of NGO Members is to ensure that only those participating in public work within the structures of the Ministry of the Migration and Asylum are subject to the registration obligation. Other staff, such as those providing legal advice or humanitarian support outside such structures, are no longer required to register.

34. Due to the wording of the law, referring to all “members, employees and associates” of registered NGOs, various interlocutors have however indicated that the obligation to register members covers not only managerial staff and staff with access to structures of the Ministry of Migration and Asylum, but rather all members, employees and associates of registered NGOs. Moreover, the wording provides for a legal prohibition of carrying out “activities within the Greek territory and for their cooperation with public-sector bodies” unless registered, providing for a broader scope than only activities within the structures of the Ministry of Migration and Asylum. The Commission is of the view that the statutory wording is broad and vague as it does not clearly define which individuals must be registered.³⁰ The Commission recommends the authorities to amend the wording of the law so that it aligns with its stated object and purpose, which is, based on information received from the Minister of Migration and Asylum, to make the registration requirement limited to members of registered NGO who

Opinion on Federal Law N. 121-FZ on non-commercial organisations (“Law on Foreign Agents”), on Federal Laws N. 18-FZ and N. 147-FZ and on Federal Law N. 190-FZ on making amendments to the Criminal Code (“Law on Treason”) of the Russian Federation, paras 73-82

²⁹ CDL-AD (2025)002 – Updated Rule of Law Checklist, para 66: “It is contrary to the Rule of Law for executive and administrative discretion to be unfettered. Consequently, the law must indicate the scope of any such discretion, to protect against arbitrariness”. CDL-AD(2024)033 - Kyrgyzstan - Opinion on Law No. 72 of 2 April 2024 amending the Law “On Nonprofit Organisations”, para 62. CDL-AD(2025)041 - Slovak Republic – Opinion on Law No. 109/2025 amending the Law “on non-profit organisations providing services of general interest” and other related laws, para 38.

³⁰ CDL-AD (2025)002 – Updated Rule of Law Checklist, para 47-50.

participate in public work within the structures of the Ministry of Migration and Asylum or manage public funds.

c. “Competent authority” and administrative discretion

35. The NGO Registry and the Registry of NGO Members are placed under the authority of the Non-Governmental Organisations Registry Unit of the General Secretariat for the Reception of Asylum Seekers of the Ministry of Migration and Asylum (Article 114 (1)). Pursuant to Article 114 and the Ministerial Decision, the Secretary-General for the Reception of Asylum Seekers is the competent authority for the administration, registration, and decision on removal relating to the NGO registry and the Registry of NGO Members. The Commission has previously expressed the view that consideration should be given to “ensuring that the government body in charge of granting the status of legal entity to an association is separate from the government body or bodies in charge of their oversight and supervision”.³¹ In previous opinions, the Commission has also recalled the importance of ensuring “greater transparency and increase regulatory independence”, expressing that “neutrality and impartiality (...) can hardly be expected to be available in an executive organ”.³²

36 Articles 5 (4) and 14 (3) of the Ministerial Decision empower the competent authority to withdraw registration on grounds such as “inadequate performance” and “activities of the organisations”, provided that such grounds are documented by a “relevant document”.³³ Moreover, the Secretary-General for the Reception of Asylum Seekers holds discretionary authority to approve or reject registration even if all legal requirements are met. Pursuant to Ministerial Decision Article 3 (4), the Secretary-General for the Reception of Asylum Seekers “reserves the right, in all cases, to verify the information submitted with all the competent state authorities, as well as the right, having regard to all the above, in conjunction with information relating to the activities of the organisations seeking registration and at his or her discretion, to reject or accept the organisation's application for registration, by means of a reasoned decision”.³⁴

37. The Minister of Migration and Asylum clarified during the meeting with the delegation that any “inadequate performance” must be confirmed by a “relevant document”, and so that a “relevant document” relates specifically to findings of audits carried out on state or EU funds. The Minister emphasised that such a decision of removal would thus only be rendered if the NGO in question was found to be in “breach of contract” under the respective project agreements entered with the state or with the EU.

38. Whilst taking note of the position of the Council of State that the provision for removal on the basis of a document issued by a competent administrative authority is not contrary to the

³¹ CDL-AD(2014)046 - Joint Guidelines of the Venice Commission and OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) on Freedom of Association (“Guideline”), para 229.

³² CDL-AD(2024)033 - Kyrgyzstan - Opinion on Law No. 72 of 2 April 2024 amending the Law “On Non-profit Organisations”, para 96, para 86.

³³ Ministerial Decision, Article 5 (4): “Organisations registered in the ‘Register of Greek and Foreign Non-Governmental Organisations (NGOs)’ must properly carry out the project they have undertaken, whether funded by the State or the European Union or in any other way, both within and outside the structures of the Ministry of Migration and Asylum. If it is established that the work they have undertaken has been carried out inadequately, as confirmed by a relevant document from the competent administrative authority in each case, the provisions of Article 6 of this Act shall apply”. Ministerial Decision, Article 14 (3) “Members registered in the ‘Register of Members of Non-Governmental Organisations (NGOs)’ are required to carry out the work they have undertaken to a satisfactory standard. Inadequate performance of the work shall be established by a relevant document issued by the competent administrative authority”.

³⁴ See also Ministerial Decision Article 11 (2): “The Secretary-General for the Reception of Asylum Seekers reserves the right, in all cases, to verify the information submitted with all the competent state authorities, as well as the right, taking all the above into account, in conjunction with information relating to the character and previous conduct of the natural persons seeking registration, and at his discretion, to reject or accept the natural person's application for registration, by means of a reasoned decision”.

right to freedom of association, the Commission recalls that a legal text must be “formulated with sufficient precision and clarity to enable legal subjects to regulate their conduct in conformity with it”.³⁵ In this respect, as no definition of “relevant document” is provided in the legal text, the law could benefit from further clarification by providing in the law a definition for what constitutes a “relevant document”.

39. In line with the findings of the Council of State, the Commission also concludes that the discretion granted to the Secretary-General for the Reception of Asylum Seekers pursuant to Article 3 (4) to reject or accept an application runs contrary to principles of legal clarity and foreseeability. In the view of the Commission, such discretion should be clearly defined in the law and may not be left unfettered. In this context, the Commission also refers to the findings of the Council of State providing that the Registry of NGO Members is contrary to the second subparagraph of Article 43 (2) of the Constitution, as it authorises the Minister for Migration and Asylum to regulate those matters by ministerial decision without the law itself laying down the essential substantive rules governing the conditions.

40. The Commission recommends amending the wording of the law, clearly setting out the grounds for removal and limiting the discretionary power to bar registration. Moreover, and in view of the discretionary powers granted, the Commission recommends considering additional safeguards to enhance regulatory independence and procedural safeguards in decision making.

41. As previously found by the Commission, any suspension of the activities of an organisation should be based on a court order or preceded by judicial review.³⁶ During the meeting with the delegation, the Minister clarified that the law provides for judicial protection through the general provisions of administrative law,³⁷ confirming in subsequent observations received on 25 September 2026 that individual administrative acts must be fully substantiated, reasoned, and tailored to the individual case³⁸ and may be challenged before the Council of State by filing a petition for annulment. The Minister further underlined that the Ministry of Migration and Asylum respects judicial decisions, is bound by them, and complies with their rulings on matters brought before it, confirming that Greece is required to adapt both its primary and regulatory legislation in cases where a court rules that there has been a violation of a higher legal norm, whether national (the Constitution of Greece) or supranational (EU law and international law). The Commission takes due note of the Minister’s clarifications that general administrative law provides for judicial review of registration and removal decisions, which is positive.

d. Public disclosure obligations

42. Article 1 (4) of the Ministerial Decision provides for the obligation to disclose “for example, the organisation’s name, tax identification number (AFM), date of incorporation, date of registration in the Register, details of its registered office and contact details, and details of the persons who manage it and/or are its legal representatives, the purpose and categories of activities, the current articles of association or instrument of incorporation, and the number of members of each registered organisation”. In this respect, the Commission observes that Article 1 (4) of the Ministerial Decision does not provide an exhaustive list of the public disclosure obligations. The Commission furthermore notes that some of the data collected is sensitive, including criminal records and home addresses of the members, raising concerns

³⁵ CDL-AD (2025)002 – Updated Rule of Law Checklist, para 49.

³⁶ CDL-AD(2014)046 – Guidelines, para. 255.

³⁷ Law 2690/1999, the Greek Code of Administrative Procedure. Article 24 provides for application for reconsideration / hierarchical appeal, whilst Article 25 regulates special administrative appeal / quasi-judicial administrative appeal.

³⁸ As provided for in Articles 20 (1), (2) and 95 of the Constitution and in Articles 16 et seq. of the Code of Administrative Procedure (Law No 2690/1999).

under Article 8 of the ECHR.³⁹ In light of this, the Commission considers that the lack of clear limits on the scope of information subject to public disclosure may fail to provide adequate safeguards for privacy and legal certainty, and therefore recommends providing an exhaustive definition of the disclosure obligations.

e. Conclusion

43. In conclusion, although it is neither possible nor desirable for the drafting of statutes to be absolutely accurate or rigid, procedures and restrictions require a clear legal basis with sufficient precision to enable NGOs to foresee the effects of their actions.⁴⁰ The Commission thus recommends that the authorities amend the wording of Article 114 and the Ministerial Decision by (i) providing precise definitions of key terms, such as the criteria for registration, grounds for removal, and information that may be subject to public disclosure, (ii) limiting the discretion of enforcement authorities in decisions on registration and removal, to ensure greater legal certainty, and (iii) considering additional safeguards to enhance regulatory independence and procedural safeguards in decision making.

3. In pursuit of a legitimate aim

44. The aim of the legislation may be inferred from the implementing by-law (Ministerial Decision, Article 1 (1)), which states that the law has two governing aims: (i) to ensure transparency in the operation of the relevant NGOs thereby optimising the services they provide, and (ii) to avoid access to a vulnerable group of people by individuals who exhibit criminal behaviour or have been convicted. Indeed, in the observations of 25 September 2026, the Minister of Migration and Asylum underlined that the key feature of the 6th February amendments is that only those organisations which receive state or EU funding or operate within the facilities of the Ministry of Migration were required to register with the Ministry. Failure to register in the NGO registry results only in the inability to receive state or EU funding, or access to areas under the Ministry of Migration and Asylum's jurisdiction and control. The Minister emphasised that the amendments were adopted following dialogue with the European Commission. The aim was, according to the Minister, to streamline the institutional framework for the supervision of organisations active in the fields of international protection, migration and social integration for the benefit of applicants for international protection and refugees. More specifically, to ensure respect for the freedom of association, to enhance the effectiveness of the oversight system, transparency and accountability applied to organisations that effectively implement the policy of the Ministry of Migration and Asylum by implementing state- or EU funded programs for vulnerable populations that fall under the Ministry's full control and responsibility, aiming to ensure the proper management of public and European Union funds, as well as significantly reducing bureaucracy and administrative costs for civil society organisations.

45. As for the first aim, the ECtHR has recognised that the financial activities of associations may be monitored in the interests of reliability and transparency.⁴¹ The objective of increasing transparency does however not in itself constitute a legitimate aim pursuant to Article 11 (2) ECHR. To qualify as such, "a regulatory framework needs to correspond with the scenario of

³⁹ Article 8 ECHR reads, "(1) Everyone has the right to respect for his private and family life, his home and his correspondence. (2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, 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".

⁴⁰ Korkut and Amnesty International Türkiye v. Türkiye, Application No. 61177/09 (2023), para 82-83. Cumhuriyet Halk Partisi v. Turkey, Application No. 19920/13 (2016), para 105. CDL-AD(2014)046 - Guideline, para 33.

⁴¹ Korkut and Amnesty International Türkiye v. Türkiye, Application No. 61177/09 (2023), para 70

a sufficiently serious threat to a fundamental interest of society, which those obligations are supposed to prevent".⁴²

46. As for the second aim, the Commission notes that requirements governing access for third parties,⁴³ including NGOs, to reception, detention and closed border facilities are not uncommon in European States.⁴⁴ In the context of Greece, the NGO Registry and the Registry of NGO Members is understood to serve a similar purpose, namely, to control who may enter the structures of the Ministry on Migration and Asylum housing vulnerable groups and to verify that persons with access to vulnerable people in these structures have no relevant criminal records.

47. Whilst noting the findings of the Council of State, the Commission is of the view that registration requirements and oversight over the expenditure of public funds may serve legitimate aims under Article 11 (2) of ECHR if these requirements and this oversight are clearly and specifically linked to the prevention of disorder and the protection of the rights and freedoms of others. In what follows, the central question for the Commission is thus whether the framework governing the NGO register meets the requirements of necessity and proportionality in a democratic society with respect to the stated aims.

4. Necessary in a democratic society

48. The Commission recalls that the ECtHR has clarified that the notion of necessity includes two conditions: a) any interference must correspond to a "pressing social need", and b) the interference must be proportionate to the legitimate aim pursued. Moreover, "exceptions to the rule of freedom of association are to be construed strictly and only convincing and compelling reasons can justify restrictions on that freedom".⁴⁵ Similarly, the Human Rights Committee has emphasised that the mere existence of objective justifications for limiting the right to freedom of association is not sufficient. The State "must demonstrate that the prohibition of an association is necessary to avert a real and not only hypothetical threat to national security or democratic order, that less intrusive measures would be insufficient to achieve the same purpose, and that the restriction is proportionate to the interest to be protected".⁴⁶ As recalled by the Commission, procedures need to be designed to facilitate, not inhibit, the exercise of

⁴² *Ecodefence and Others v. Russia*, Applications nos. 9988/13 and 60 others (2022), para 166. [CDL-AD\(2025\)034](#) - Georgia - Opinion on the Law on the Registration of Foreign Agents, the amendments to the Law on Grants and other Laws relating to "foreign influence", para 67. See also *Cumhuriyet Halk Partisi v. Turkey*, Application no. 19920/13 (2016), para 69 and 71.

⁴³ Asylum Procedure Regulation (EU) [2024/1348](#) Article 30 (3) provides: "Organisations and persons permitted under national law to provide advice and counselling shall have effective access to applicants held in detention facilities or present at border crossing points, including transit zones, at external borders. Such access may be subject to a prior agreement with the competent authorities. Member States may impose limits on access as referred to in the first subparagraph, by virtue of national law, where they are objectively necessary for the security, public order or administrative management of a border crossing point, including transit zones, or detention facility, provided that access is not severely restricted or rendered impossible". See also Court of Justice of the European Union, *European Commission v Hungary*, 16 November 2021 (Case C-821/19), para 56.

⁴⁴ Based on a country overview provided by AIDA (Access to NGOs and UNHCR): In *Italy*, NGO access to hotspots is subject to Ministry of Interior authorisation and specific agreements for the services concerned, whilst the Procedure Decree requires the authorities to guarantee asylum applicants possibility to contact UNHCR and NGOs. In *Croatia*, NGOs wishing to conduct activities or provide assistance inside reception centres require prior authorisation from the Ministry of Interior, allowing restrictions on access only for serious health or safety reasons. In *Spain*, NGOs may enter immigration detention centres pursuant to a special accreditation mechanism. In *Belgium*, NGOs wishing to visit immigration detention centres require accreditation from the Immigration Office with easy access to NGOs. In *Germany*, there is no general NGO right of entry into reception centres, access can be governed by the facility's house rules, including prior notification requirements.

⁴⁵ *Gorzeliik and others v Poland*, Application No 44158/98 (2004), para 95. *Sidiropoulos and Others v. Greece*, Ref 57/1997/841/1047 (1998), para 40. *Jehovah's Witnesses of Moscow and Others v. Russia*, Application No 302/02 (2010), para 108.

⁴⁶ Human Rights Committee, *Mikhailovskaya and Volchek V. Belarus*, [CCPR/C/111/D/1993/2010](#), (2014), para 7.3.

the right to freedom of association,⁴⁷ and such restrictions should be grounded in a presumption of legality for associations.⁴⁸

a. Scope of criminal record checks

49. The Commission notes that Article 114 (2) (e) bars registration for any NGO in the event that its manager or legal representative is subject to “criminal prosecution” for “any felony”, or have been finally convicted for misdemeanours as defined in law.⁴⁹ Moreover, on an annual basis, the registered NGO must provide a “statutory declaration by the natural persons who manage the organisation and/or are its legal representatives”, “stating that no criminal prosecution have been brought against them for any felony” (Ministerial Decision Article 5 (2) (j)). Similarly, Ministerial Decision Article 8 (3), bars registration for individual members of a registered NGO in the NGO Registry, in the event that he or she is “subject to criminal prosecution for any felony”, or subject to a “final conviction for the [relevant] offences” as referred to in the article.⁵⁰

50. In his written comments, the Minister of Migration and Asylum explained that NGOs registered in the register engage, by delegation of the Ministry of Migration and Asylum, with an inherently vulnerable population falling under the responsibility of the Ministry of Migration and Asylum. Therefore, in the view of the Minister, their treatment should correspond to that of public officials of the Ministry who perform similar functions and are bound by similar duties. In the case of public officials, it is provided that if criminal prosecution is initiated against them, under the Civil Service Code (Law 3528/2007), they are placed on administrative suspension.

51. The Commission considers that an obligation to declare that there has been no criminal conviction for relevant and clearly enumerated offences (i.e. felonies *and* misdemeanours), linked to the legitimate aim of protecting the rights of others, for managers and legal representatives of NGOs may be justified in the present context.

52. However, in the event of barring an NGO from registration based on the alleged conduct of its manager or legal representative, the Commission wishes to stress that it is necessary for the authorities to establish, by reasoned decision, why the individual's conduct can legitimately be attributed to the organisation and why the restriction imposed on the organisation is itself necessary and proportionate (Article 11 of the ECHR).⁵¹ In this respect,

⁴⁷ CDL-AD(2013)030 – Kyrgyz Republic - Joint Interim Opinion on the Draft Law amending the Law on non-commercial Organisations and other legislative Acts of the Kyrgyz Republic, paras 69, 75, 76. CDL-AD(2018)004 – Romania - Joint Opinion on Draft Law No. 140/2017 on amending Governmental Ordinance No. 26/2000 on Associations and Foundations of Romania, para 40. CDL-AD(2014)046 - Guidelines, para 36, 68.

⁴⁸ CDL-AD(2014)046 - Guidelines, para 26.

⁴⁹ Article 114 (2) (e): “no criminal prosecution having been brought against the natural persons who exercise their management functions or are their legal representatives for any felony, and no final conviction having been issued against them for the misdemeanours of unlawful trafficking of third-country nationals, theft [Article 372 of the Penal Code (Law 4619/2019, A' 95)], embezzlement (Article 375 of the Penal Code), fraud (Article 386 of the Penal Code), extortion (Article 385 of the Penal Code), forgery (Article 216 of the Penal Code), forgery of certificates (Article 217 of the Penal Code), bribery (Article 236 of the Penal Code), breach of trust (Article 390 of the Penal Code), breach of duty (Article 259 of the Penal Code), false certification (Article 242 of the Penal Code), defamatory libel (Article 363 of the Penal Code), money laundering from criminal activities under Law 4557/2018 (A' 139), the misdemeanours referred to in Articles 187 and 187A of the Penal Code, offences under the legislation on weapons (Law 2168/1993, A' 147), offences under the legislation on narcotic drugs (Law 4139/2013, A' 74), as well as any misdemeanour falling under Chapter 19 of the Special Part of the Penal Code”.

⁵⁰ Ministerial Decision Article 8 (3): “The natural person must not have been subject to criminal prosecution for any felony, nor must there be a final conviction for the offences of the illegal trafficking of third-country nationals, theft, embezzlement, fraud, extortion, forgery, forgery of documents, bribery, breach of trust, breach of duty, making a false statement, defamation, money laundering, and the offences under Articles 187 and 187A of the Criminal Code (Law 4619/2019, A' 95), the Weapons Act, the Drugs Act, as well as any misdemeanour under Chapter 19 of the Special Part of the Criminal Code”.

⁵¹ Adana TAYAD v. Turkey, Application No. 59835/10 (2020), para 34: “However, in order to make a decision on the dissolution of the association, the civil courts should carry out an independent assessment that is not automatically

the decision must show why the alleged criminal act is relevant for and related to the work of the NGO, and as such, proportionate to the aim of protecting the rights of others, transparency and good governance of the system. The decision must further establish a connection between the conduct of the individual member and the organisation, ensuring that the restriction is not imposed automatically or by mere association, also providing for proportional approach.⁵²

53. For the obligation concerning individual members, the Commission further takes the view that it may, based on the legitimate aim of protecting the rights of others, be justified to ask upon registration in the Registry of NGO Members that the member has not been convicted of any relevant criminal offence. Such declaration must however be clearly linked to the legitimate aim of protecting the rights of others and must, in the view of the Commission, be made limited to relevant and enumerated offences.

54. In the case of removing already registered members from the Registry of NGO Members due to an individual member being subject to criminal prosecution for a felony, the Commission notes that in the context of criminal prosecutions, it is normally for a competent criminal court to render decisions, pending final conviction, on restrictive measures. This ensures that restrictive measures limiting the freedom of an individual, such as limitations to the freedom of movement or association, are subject to an assessment by an independent and impartial court, ensuring procedural fairness and the respect for the rights of the individual. Under Greek criminal procedure, restrictive measures in the context of a criminal case are decided by the investigating judge with the consenting opinion of the public prosecutor. In the event that the judge and the prosecutor do not agree, the matter is referred to a judicial council.⁵³ Accordingly, the Commission is of the view that a decision affecting the rights of an individual member, such as deregistration from the Registry of NGO Members, on the basis of a criminal prosecution should be taken by the investigating judge with the consenting opinion of the public prosecutor, within the relevant criminal proceedings and not by an executive body, which cannot be expected to provide the same level of independence, impartiality, and procedural guarantees as the judiciary.⁵⁴

55. On this basis, the Commission recommends that the law (i) clearly specify the circumstances under which the Secretary-General for the Reception of Asylum Seekers may issue a decision on barring the NGO from registering in the event of criminal prosecutions, requiring that before any organisational liability is imposed, a separate, independent, and reasoned decision is made, demonstrating a connection between the conduct of the individual member and the organisation ensuring that liability is not imposed automatically or by mere association, and (ii) ensure that the power to remove an individual from the Registry of NGO Members on the basis of a pending criminal proceedings is reserved to the competent judicial body, and not to the administrative authority. The Commission also notes that criminal record checks and declarations concern sensitive personal data, and that any handling of such data must comply with Article 8 of ECHR and relevant EU law.

based on the findings adopted by the criminal courts against the individual members of the defendant association, especially when the latter verdicts are not final". In the context of Article 7 and Article 6 (2), see also G.I.E.M. S.r.l. and Others v. Italy, Application Nos. 1828/06 and 2 others (2018), para 272 – 274 and para 317.

⁵² CDL-AD(2018)013 - Hungary - Joint Opinion on the Provisions of the so-called "Stop Soros" draft Legislative Package which directly affect NGOs (in particular Draft Article 353A of the Criminal Code on Facilitating Illegal Migration), para 89-90. Jehovah's Witnesses of Moscow and others v. Russia, Application No 302/02 (2010), para 159.

⁵³ Greek Code of Criminal Procedure (Law 4620/2019) Article 288, cf. Article 282. CED/C /GRC/1, 11 March 2019, Report submitted by Greece under article 29 (1) of the Convention, para 64.

⁵⁴ CDL-AD(2024)033 - Kyrgyzstan - Opinion on Law No. 72 of 2 April 2024 amending the Law "On Non-profit Organisations", para 96, para 86.

b. Scope of the Registry of NGO Members

56. Building on the preceding concerns referred to in section III.2.b., the Commission is of the view that the obligation of registering members pursuant to Article 114 (4) is overly broad, raising concerns under the principle of proportionality. This is particularly significant due to the fact that the wording of the law provides for a legal prohibition against carrying out “activities within the Greek territory and for their cooperation with public-sector bodies” for “members, employees and associates” of organisations registered in the NGO Registry. In the view of the Commission, this broad prohibition extends beyond what is required for the protection of public order and vulnerable groups⁵⁵ and beyond its stated aim of ensuring transparency, good governance and safeguarding human rights of refugees. The Commission therefore recommends that the authorities limit the obligation of registering members in the Registry of NGO Members to those members who, by virtue of their functions require access to the structures of the Ministry of Migration and Asylum, i.e. accommodation facilities for refugees and asylum seekers, or those managing public funds.

c. Funding threshold

57. The Commission notes that Article 114 (2) (d) limits eligibility for registration to NGOs which do not receive more than 30% of their budget (excluding payroll) from state or EU funds.⁵⁶ During the visit, it was clarified in meetings that this threshold applies to national or EU-funded programmes or grants, excluding public procurement procedures which are subject to their own rules.⁵⁷ Apart from the objective of ensuring transparency, no further reasoning for this threshold has been provided. On this basis, and whilst acknowledging that the legislator has a margin of discretion to regulate the exact percentage, the Commission recommends the authorities to provide clear reasoning demonstrating the necessity and proportionality of the 30 % funding threshold in relation to the aims pursued.

d. Reporting obligations and public disclosure obligations

58. Pursuant to Ministerial Decision Article 5, organisations registered in the NGO Registry are required to register in the Registry of NGO Members natural persons who are “members, employees and associates”, and must submit, on an annual basis from 1 October to 30 November, proof of tax compliance, social security compliance, audit report, solemn declaration on no conflict of interest, statutory declaration on compliance with funding threshold, tax assessment, report on the organisations activities, criminal record certificates of manager/ legal representative and statutory declaration of no criminal prosecutions for any felony. Pursuant to Article 4, any changes to the documentation submitted upon registration in accordance with Article 3, must be submitted within one month and NGOs must respond to requests for clarification or further documentation within ten days.

59. As recognised by the Commission, reporting linked to public funding may be legitimate, but, such a “reporting obligation should not be unduly burdensome and should not require the submission of excessive detail about either the activities or the accounts”,⁵⁸ and so that

⁵⁵ [CDL-AD\(2025\)034](#) - Georgia - Opinion on the Law on the Registration of Foreign Agents, the amendments to the Law on Grants and other Laws relating to “foreign influence”, para 71. [CDL-AD\(2014\)046](#) – Guidelines, para 167.

⁵⁶ [Article 114 \(2\) \(d\)](#): “the absence of regular State grants exceeding thirty per cent (30%) of their operating budget, excluding their payroll costs, as well as loans guaranteed by the State. The requirement set out in the preceding sentence shall not apply where the grant does not exceed five thousand euros (€5,000) per year”.

⁵⁷ See [Law 4412/2016](#) on Public Works, Supply and Service Contracts (adaptation to Directives 2014/24/EU and 2014/25/EU). The Ministry of Migration and Asylum uses the National Electronic Public Procurement System for major migration-related service contracts. A current example is its [June 2026](#) open tender for a framework agreement for food services in reception facilities.

⁵⁸ [CDL-AD \(2018\)004](#) - Romania - Joint Opinion on Draft Law No. 140/2017 on amending Governmental Ordinance No. 26/2000 on Associations and Foundations, para 39-40.

“specific reporting obligations imposed on associations with public utility status should be related and limited to the use made of the public funds granted to them. Public utility status cannot be a pretext to impose additional reporting obligations concerning the private funds and donors which are subject to reporting requirements generally applicable to all grants and donations”.⁵⁹ In this respect, the Commission takes note of the funding threshold of 30 %, whilst observing that the obligation to submit detailed financial statements, audit reports and a report on the organisation’s activities is not limited to the source of funding (i.e. *public* funding) but rather applies to all financial means and activities of the registered NGO. The Commission accepts that the state can require detailed reporting on public funds. However, the same reasoning does not apply to private funding. On this basis, the reporting obligations appear to be too broad, and the Commission recommends the authorities to limit the reporting obligations, to the extent possible, to those relevant for the use of public funds.

60. Moreover, and as recalled by the Commission, a distinction needs to be made between reporting obligations and public disclosure obligations.⁶⁰ Where the goal of reporting obligations is to inform the authorities, the goal of a public disclosure obligation is rather to inform the public. In this respect, the Commission refers to the findings of the Council of State, providing that Article 2 (i) (v) of the Ministerial Decision, insofar as it imposes a general obligation on organisations to disclose on their websites information concerning their subscribers/ donors, is contrary to the freedom of association.

e. Sanctions – removal

61. As noted above under section III.2.c., the Commission is concerned by the broad discretionary power granted to the Secretary-General for the Reception of Asylum Seekers, which allows him or her to reject an organisation’s application for registration (Ministerial Decision Article 3 (4)) or order the removal from the registry, resulting in a two-year ban, for any failure to comply with reporting obligations, with a 30-day compliance deadline (Ministerial Decision Article 6).⁶¹ As previously held by the Commission, a lengthy suspension of activities can effectively lead to a freezing of the operation of the organisation resulting in a sanction tantamount to dissolution.⁶²

62. As provided by Article 114 (1), operating in this area without due registration legally bars the organisation from accessing public or EU funds and from carrying out activities within the structures of the Ministry of Migration and Asylum. Following the 6 February 2026 amendments, NGOs may continue to operate outside of these structures and without public funding. The Commission notes, however, that for organisations whose work depends on direct access to persons accommodated in the structures of the Ministry, the majority of their core activities are contingent upon being granted access to such structures. The consequence of removal is thus *ipso facto* that the NGO may have to suspend most of its core activities, subject to a time bar of two years. Such a decision will thus have severe consequences for the continued functioning of an NGO. In view of this and in the absence of suspensive

⁵⁹ [CDL-AD\(2019\)002](#) – Report on funding of associations, para 30.

⁶⁰ [CDL-AD\(2019\)002](#) - Report on funding of associations, para. 83.

⁶¹ [Ministerial Decision Article 6](#): “1. In the event of failure to comply with the obligations set out in Article 5 of this Regulation, the competent department shall, without delay, send a written notice to the registered organisations, requesting them to take all necessary steps to comply with the obligations set out herein, within a period of thirty (30) days from the date of notification of the notice. 2. Should the deadline set out in paragraph 1 lapse without action being taken, the competent authority, by decision of the Secretary-General for the Reception of Asylum Seekers, shall remove the non-compliant organisation from the ‘Register of Greek and Foreign Non-Governmental Organisations (NGOs)’ and shall notify the following: (a) the organisation, (b) the website of the NGO Register; and (c) any other competent body. 3. An organisation that has been removed from the Register of Greek and Foreign Non-Governmental Organisations (NGOs) pursuant to the provisions of paragraph 2 and wishes to be re-registered may submit an application for registration, in accordance with the provisions of this Act, after a period of two (2) years has elapsed from the date of its removal”.

⁶² [CDL-AD\(2014\)046](#) - Guideline, para 255.

remedies, the Commission recommends that the grounds for removal be amended to provide for reasonable and flexible deadlines, introducing alternative, proportionate sanctions, so that removal from the register and long-term bans are reserved for serious or repeated violations. Furthermore, the Commission recommends that the deadlines and the list of sanctions be established by law, rather than secondary legislation, thereby ensuring greater stability and legal certainty in this area. In this respect, the Commission also refers to the findings of the Council of State, providing that Article 6 (3) runs contrary to the right to freedom of association, insofar as that prohibition applies indiscriminately to all cases of removal resulting from non-compliance with formal obligations incumbent upon registered organisations.

f. Potential overlap of additional reporting obligations

63. The Minister of Migration and Asylum clarified during the meeting with the delegation, that the NGO registry is intended to grant the state oversight over NGOs who receive state and EU funding and who have access to structures of the Ministry. Bearing in mind the central role played by NGOs in the field of migration and asylum in Greece, with NGOs *de facto* providing public services on behalf of the State, the Commission understands the need of the State to ensure oversight over who may enter the structures of the Ministry on Migration and Asylum and to ensure oversight over services provided. Notwithstanding this specific context, the Commission notes that the authorities are under an obligation to assess the cumulative effect of all legal rules combined, since the overlap of additional reporting obligations with other already existing reporting obligations is likely to create an environment of excessive State monitoring over the activities of NGOs.⁶³

64. As previously held by the Commission, “the parallel operation of multiple laws imposing similar requirements exacerbates (...) the problems of lawfulness and necessity”,⁶⁴ requiring that “legislation which is addressing the same issue (...) in respect of the same subjects (individuals or legal entities) should be examined through a systemic approach”.⁶⁵ In this respect, the Commission refers to the general register applicable to all NGOs governed by the Ministry of Interior, which also provides for a framework to ensure oversight of national and EU-funded programmes or grants. The Minister of Migration and Asylum has clarified in his written comments that NGOs registered in the NGO Registry are not required to register with the register of the Ministry of Interior for the purpose of avoiding duplication, whilst stating that by the end of October 2026, these two registries will achieve full interoperability. The 2026 Rule of Law Report of the EU Commission noted that the number and complexity of registration requirements for CSOs remain a challenge and recommended that Greece intensify efforts to simplify registration requirements, with a view to maintaining an open framework for civil society organisations to operate.⁶⁶ The Commission underlines the importance of legislative clarity and foreseeability concerning the requirement of ensuring interoperability, whilst recommending the authorities to ensure that the parallel operation of multiple registries imposing similar requirements does not result in disproportionate restrictions.⁶⁷

⁶³ CDL-AD(2019)002 - Report on funding of associations, para. 147.

⁶⁴ CDL-AD(2025)035 - Amicus curiae brief for the European Court of Human Rights in the case of Georgian Young Lawyers' Association and Others v. Georgia (no. 31069/24) on regulation of foreign influence, para 23.

⁶⁵ Ibid. para 31.

⁶⁶ European Commission, 2026 Rule of Law Report, Country Chapter on Greece, SWD(2026) 908 final, pp. 2 and 22-24.

⁶⁷ CDL-AD(2025)035 - Amicus curiae brief for the European Court of Human Rights in the case of Georgian Young Lawyers' Association and Others v. Georgia (no. 31069/24) on regulation of foreign influence. para 25.

g. Conclusion

65. The Venice Commission recognises the complex migration-related challenges facing Greece⁶⁸ and the considerable burden and pressure placed on frontline States by mass arrivals.⁶⁹ The Venice Commission also acknowledges the legitimate aim of ensuring oversight of the use of public funds to prevent disorder and the protection of vulnerable persons.

66. Nevertheless, and whilst noting the observations submitted by the Minister of Migration and Asylum that the registries are fully in line with the Council of Europe's legal framework governing the operation of NGOs,⁷⁰ the Commission is of the view that in their current form, some of the registration requirements, as outlined above, appear to exceed what is necessary in a democratic society. The Commission therefore recommends to (i) clearly specify the circumstances under which the Secretary-General for the Reception of Asylum Seekers may issue a decision on barring the NGO from registering in the event of criminal prosecutions, requiring that, before any organisational liability is imposed, a separate, independent, and reasoned decision is made, demonstrating a connection between the conduct of the individual member and the organisation, ensuring that liability is not imposed automatically or by mere association, (ii) ensure that the power to remove an individual from the Registry of NGO Members on the basis of pending criminal proceedings is reserved to the competent judicial body, and not to the administrative authority, (iii) limit the obligation of registering members in the Registry of NGO Members to those members who, by virtue of their functions, require access to the structures of the Ministry of Migration and Asylum or manage public funds, (iv) provide clear reasoning demonstrating the necessity and proportionality of the 30 % funding threshold in relation to the aims pursued, (v) limit the reporting obligations, to the extent possible, to those relevant for the use of public funds, (vi) amend the grounds for removal to provide for reasonable and flexible deadlines, introducing alternative, proportionate sanctions, so that removal from the register and long-term bans are reserved solely for serious or repeated violations, ensuring that deadlines and list of sanctions is established by law, rather than secondary legislation, and (vii) ensure that the parallel operation of multiple registries imposing similar requirements does not result in disproportionate restrictions. By addressing these concerns, the regulatory framework would, in the view of the Commission, be better positioned to achieve its objectives in a manner that remains compatible with European standards.

B. Article 24 and 25: criminal liability for registered NGOs and their members

1. Legal clarity and exemptions from criminal liability

67. The Facilitation Directive forms part of the EU framework for combating irregular migration and migrant smuggling. It establishes a common definition of the facilitation of unauthorised entry, transit and residence, with the aim of strengthening sanctions against conduct facilitating irregular migration and, in particular, activities linked to organised criminal networks.

⁶⁸ Council of Europe, Council of Europe foreign ministers adopt political declaration on the ECHR and migration, 15 May 2026. Reference to CDDH(2026)R3 Extra Addendum 20 March 2026, Steering Committee for Human Rights, CDDH outcome document containing elements for political declaration, as adopted by the CDDH at its third extraordinary meeting 10-12 March 2026.

⁶⁹ M.S.S. v. Belgium & Greece [GC], Application No. 30696/09 (2011), para. 223, E.A. & H.A.A. v. Greece, Application No. 14969/20 (2025), paras. 45, 47.

⁷⁰ Reference was made to Recommendation CM/Rec(2007) 14/10.10.2007, according to which a) the freedom of NGOs to conduct research, provide education, and engage in advocacy is guaranteed, even when their position does not align with government policy or aims to change the law, b) it establishes their obligation to submit financial statements, activity reports, and undergo an independent financial audit, and c) it is stipulated that obligations limited to the proper implementation of the funded activity, transparency, and accountability are legitimate, and penalties are imposed in the event of non-compliance with the law.

68. In meetings with the delegation and in subsequent observations, the Minister of Migration and Asylum argued that amended Article 24 and 25 of the Migration Code constitute a proper transposition of the Facilitation Directive and fully adopts the provisions of the new Proposal for a Directive of the European Parliament and of the Council establishing minimum rules for the prevention and combating of the facilitation of illegal entry.⁷¹ According to the Minister, both provisions are special criminal laws to which Article 12 of the Penal Code applies,⁷² forming part of national criminal law and as a general clause of continental European criminal law. Consequently, the Minister contends that both the interpretation of these provisions and their application by the Greek Courts are based on the general rules of criminal law that apply horizontally, emphasising that these amendments did not create new offences but strengthened sanctions specifically for those involved in smuggling or facilitating irregular migration through privileged access or abuse of entrusted roles.

69. Whilst Article 24 of the Migration Code criminalises various forms of facilitating irregular migration, Article 25 criminalises the transport of third-country nationals not entitled to enter Greece. Pursuant to Article 26 of the Greek Penal Code, and as confirmed by the Minister of Migration and Asylum in subsequent written comments, the offence requires intent (*dolus*).⁷³ The provisions do not require any form of motive or financial gain. Moreover, and as stated by the Ministry in their written observations, Article 25 (6) provides for an explicit provision for exempting the act of smuggling migrants from criminal liability in cases “of people rescued at sea, in cases of transport of persons who are in need of international protection in accordance with the requirements of international law, as well as in cases of internal relocation within the country or facilitation of transport, for the purpose of subjecting such persons to the procedures set out in Article 83 of Law 3386/2005 (A’ 212) or in Article 42 of the Code of Legislation on the Reception, International Protection of Third-Country Nationals and Stateless Persons, and Temporary Protection in the Event of a Mass Influx of Displaced Foreigners following notification of the competent police and port authorities”. There is no corresponding general exemption in Article 24, and Article 25 (6) does not extend its application to other articles.

70. The ECtHR has confirmed that, having regard to the absolute character of Article 3 ECHR, an increasing influx of migrants cannot absolve a State of its obligations under that provision.⁷⁴ Migrants, as a particularly vulnerable group, are entitled to an effective remedy, which includes access to translators and lawyers, in addition to protection against refoulement under Article 3 and collective expulsion under Article 4 of Protocol No. 4.⁷⁵ Moreover, and as previously observed by the Commission, activities of NGOs, “including specifically providing information and legal aid and assistance in relation to existing procedures for applying for asylum and on human rights-based arguments to lodge appeals and make full use of the appeal procedures (including before international bodies) are protected under international law, including the ECHR”.⁷⁶

⁷¹ COM/2023/755 final, Proposal for a Directive of the European Parliament and of the Council laying down minimum rules to prevent and counter the facilitation of unauthorised entry, transit and stay in the Union, and replacing Council Directive 2002/90/EC and Council Framework Decision 2002/946.

⁷² Article 12 of the Greek Penal Code states, “the provisions of the general part of the Penal Code also apply to criminal offenses provided for in special laws, unless those laws expressly provide otherwise”.

⁷³ Law 4619/2019, Greek Penal Code, Article 26: «Felonies and misdemeanours are punishable only when committed with intent. Exceptionally, in cases specifically provided for by law, misdemeanours are also punished when committed through negligence».

⁷⁴ Case of Khlaifia and others v Italy, Application No 16483/12 (2016), para 184.

⁷⁵ M.A. and Others v. Lithuania, Application No. 59793/17, (2018), para 107-109, D v. Bulgaria, Application No. 29447/17, 20 July 2021, para 124, Hirsi Jamaa & Others v. Italy [GC], Application no. 27765/09 (2012), para 76-82, 133. M.S.S. v. Belgium & Greece [GC], Application No. 30696/09 (2011), paras. 250-251.

⁷⁶ CDL-AD(2018)013 - Hungary - Joint Opinion on the Provisions of the so-called “Stop Soros” draft Legislative Package which directly affect NGOs (in particular Draft Article 353A of the Criminal Code on Facilitating Illegal Migration), para 83.

71. The Commission has previously observed that, while a number of European countries criminalise facilitation of unauthorised entry, transit, or residence of migrants, “if domestic law does not provide for an exception concerning humanitarian assistance, it is usually criticised from an international law perspective, in particular when “financial gain” is not an element of the offence of facilitation”.⁷⁷ Moreover, in its jurisprudence on the Facilitation Directive, the CJEU has confirmed that states may not criminalise in a way that frustrates access to protection or deprive asylum seekers of protected rights, including humanitarian, legal or organisational support.⁷⁸

72. Article 1 (2) of the Facilitation Directive provides that Member States may exempt from criminal liability, “cases where the aim of the behaviour is to provide humanitarian assistance to the person concerned”. Providing guidance on the interpretation of the Facilitation Directive, the European Commission further states that facilitation offenses should provide for an “assessment of whether an act falls within the concept of “humanitarian assistance in Article 1 (2) of the Directive”, “carried out on a case by case basis”.⁷⁹ In its conclusion, the European Commission further refers to Resolution 2018/2769 of the European Parliament calling on Member States “to transpose the humanitarian assistance exemption provided for in the Facilitation Directive”,⁸⁰ whilst recalling that EU law does not intend to criminalise humanitarian assistance, as also recalled in the Proposal for a Directive of the European Parliament and of the Council establishing minimum rules for the prevention and combating of the facilitation of illegal entry.⁸¹ This is also understood to be the intention of the drafters of the UN Protocol against the Smuggling of Migrants by Land, Sea and Air insofar that the “definition of smuggling of migrants would not apply to the facilitated movement of migrants across national borders for purely humanitarian purposes”,⁸² making “financial or other material benefit” a requirement for its criminalization (Article 6).⁸³

73. The Commission is concerned that the broad formulation of the facilitation offences may make it difficult for individuals to foresee what conduct may give rise to criminal liability⁸⁴ whilst

⁷⁷ CDL-AD(2018)013 - Hungary - Joint Opinion on the Provisions of the so-called “Stop Soros” draft Legislative Package which directly affect NGOs (in particular Draft Article 353A of the Criminal Code on Facilitating Illegal Migration), para 82.

⁷⁸ Court of Justice of the European Union, European Commission v Hungary, 16 November 2021 (Case C-821/19), para 95. Court of Justice of the European Union, OB v Procura della Repubblica presso il Tribunale di Bologna (Klnsa) (Case C-460/23), para 71.

⁷⁹ C(2020)6470 final, European Commission Guidance on the implementation of EU rules on definition and prevention of the facilitation of unauthorised entry, transit and residence, 23.09.2020. Section 4, Guidance: “Article 1 of the Facilitation Directive must be interpreted as follows: i) humanitarian assistance that is mandated by law cannot and must not be criminalised; ii) in particular, the criminalisation of NGOs or any other non-state actors that carry out search and rescue operations at sea, while complying with the relevant legal framework, amounts to a breach of international law, and therefore is not permitted by EU law; iii) where applicable, assessment of whether an act falls within the concept of ‘humanitarian assistance’ in Article 1(2) of the Directive – a concept that cannot be construed in a manner that would allow an act mandated by law to be criminalised – should be carried out on a case-by-case basis, taking into account all the relevant circumstances.”

⁸⁰ European Parliament resolution of 5 July 2018 on guidelines for Member States to prevent humanitarian assistance from being criminalised (2018/2769(RSP)), 05.07.2018.

⁸¹ COM/2023/755 final, Proposal for a Directive of the European Parliament and of the Council laying down minimum rules to prevent and counter the facilitation of unauthorised entry, transit and stay in the Union, and replacing Council Directive 2002/90/EC and Council Framework Decision 2002/946. See “Detailed explanation of the specific provisions of the proposal” Article 3 last sentence, “the recitals also clarify that it is not the purpose of this Directive to criminalise, on the one hand, assistance provided to family members and, on the other hand, humanitarian assistance or the support of basic human needs provided to third-country nationals in compliance with legal obligations”.

⁸² CTOC/COP/WG.7/2017/4, Conference of the Parties to the United Nations Convention against Transnational Organized Crime (2017), Examination of the “financial or other material benefit” aspect of the definition of smuggling of migrants, para 33.

⁸³ *Ibid.* para 6.

⁸⁴ As also referred by the Red Cross EU Office, Protecting people, not punishing them: the case for a humanitarian exemption in the EU Facilitation Directive, 18.09.2025.

potentially providing for broad prosecutorial discretion.⁸⁵ The Commission therefore recommends to introduce exemptions for criminal liability for persons providing life-saving assistance and rescue or providing basic care to irregular migrants for humanitarian purposes exclusively in Article 24 and Article 25 (6).

2. Aggravated criminal liability

74. Articles 24 (4) – (6) and 25 (1) (b) of the Migration Code introduce aggravated criminal liability on members of NGOs registered in the NGO Registry. Article 24 (4) provides for aggravated criminal liability in cases where, the person acted for profit or by profession or is “a member of a Non-Governmental Organization (NGO)” or “if the crime is committed by two (2) or more persons acting in concert” (minimum 10 years imprisonment). Article 24 (5) provides likewise for aggravated criminal liability if the person acted for profit” (3 years in prison), increasing the prison sentence to 10 years, “if the act is committed by profession or by a member of a Non-Governmental Organization (NGO) which is enrolled in the Registry of Greek and Foreign NGOs”. Article 24 (6) provides for aggravated criminal liability if the offender acted for profit or by profession or “is a member of a Non-Governmental Organization (NGO) which is enrolled in the Registry of Greek and Foreign NGOs” (up to 10 years imprisonment). Lastly, Article 25 (1) (b) provides for aggravated criminal liability in cases where, the offender acts for profit or by “profession, or is a repeat offender, or is a public official, or is a tourism, shipping, or travel agent, or is a member of a Non-Governmental Organization (NGO) which is enrolled in the Registry of Greek and Foreign NGOs” (at least 10 years imprisonment).

75. The Minister of Migration and Asylum clarified during the meeting with the delegation that the introduction of enhanced liability rests on the reasoning that a member of an NGO who has been given access to the structures of the Ministry of Asylum and Migration and thus to vulnerable people has, in the event of breaching the penal provision, acted in breach of trust given to him or her. In the meeting with the delegation, the Minister also specified that, in the specific context of Greece, members of NGOs registered in the NGO Registry have access to the structures of the Ministry and *de facto* carry out identical functions to public officials in Greece. As such, both should be given the same penalty, underlining that the tightening of sanctions for NGO members applies in the same way as for public officials. The Minister clarified in subsequent written comments that the heavier penalties imposed are identical to those imposed on employees of the Ministry of Migration and Asylum, the Ministry of Citizen Protection, or the Ministry of Maritime Affairs. In later written observations of 25 September 2026, the Minister further stated that the provisions refer to categories of persons who hold a “particular position” of responsibility, authority, or public trust, noting that when these individuals are involved in migrant smuggling, they commit a proven and substantiated breach of the trust entrusted to them by the state or their profession due to their position. According to the Minister, ethically and legally, the abuse of their position constitutes an aggravating circumstance and is punishable by enhanced penalties, noting that the provision only applies to NGOs and their members who are listed in the Registries maintained by the Ministry of Migration and Asylum.

76. The Commission notes that aggravated liability based on an abuse of a particular position of trust, authority or professional responsibility is a familiar feature of criminal law. Whilst bearing in mind the observations made by the Minister, the Commission observes that the Greek provision aggravates liability based on membership in a registered NGO as such, referring to “a member of a Non-Governmental Organization (NGO) which is enrolled in the Registry of Greek and Foreign NGOs”. The wording of the law does therefore not limit the

⁸⁵ Yüksel Yalcinkaya v Türkiye, Application No 15669/20 (2023), para 238. CDL-AD(2018)013 Hungary - Joint Opinion on the Provisions of the so-called “Stop Soros” draft Legislative Package which directly affect NGOs (in particular Draft Article 353A of the Criminal Code on Facilitating Illegal Migration), para 73.

application to categories of persons who hold a “particular position” of responsibility, authority or public trust, but rather refers to *all* members of NGOs registered in the NGO Registry.

77. As reiterated by the ECtHR, “offences and penalties must be provided for by law” and must ensure the principle of “foreseeability of the effects of the criminal law”.⁸⁶ Further, criminal sanctions must be connected to the responsibility of the person concerned, clearly linked to the individual’s own responsibility and conduct,⁸⁷ confirming that there “can be no penalty unless personal liability has been established”.⁸⁸ The Commission finds that the provision, currently providing for aggravated criminal liability on the basis of NGO membership as such, therefore covering *all* members of a registered NGO regardless of their particular position, does not align with the principle of foreseeability, legal certainty and individual criminal liability.⁸⁹ The Commission thus recommends that the limitation of aggravated criminal liability to cases where there is a substantiated breach of trust in relation to a particular position, ensuring the principle of individual criminal liability, rather than NGO membership as such, be expressly stated in the law.

78. Moreover, the ECtHR has accepted that the imposition of a “grossly disproportionate sentence” could amount to a violation of the ECHR, emphasising that gross disproportionality is “a strict test and it will only be on rare and unique occasions that the test will be met”.⁹⁰ In view of the severe *minimum* penal sentences foreseen in the law, the Commission is concerned that there is a real risk that these severe minimum sentences applicable to all kinds of factual situations – which could differ significantly due to the broad scope of the criminal provisions – could lead to the imposition of such disproportionate sentences. On this basis, the Commission recommends that the law expressly provides for an independent assessment of each individual case to uphold the principle of proportionality. The Commission also recommends that criminal penalties for NGO members should not exceed those imposed on public officials in similar circumstances.

3. Possible deregistration: organisational liability for individual acts

79. Article 24 (8) of the Migration Code provides that, “if the alleged offender of the criminal acts referred to in paragraphs 4, 5, 6 and 7” is a “a member of” an NGO registered in the NGO Registry, “the Minister of Migration and Asylum may issue, after criminal proceedings are initiated against the alleged offender, a decision in which the liability of the NGO’s leadership for the relevant acts committed is established and, thus, order the removal of the relevant NGO” from the registry, providing that re-enrolment is only possible “after the alleged offender has been irrevocably acquitted”. In the explanatory memorandum, it is further provided that deregistration, provided it is deemed necessary in the specific case, requires a ministerial decision substantiating the liability of the NGO’s management for the commission of said offence by its members.

80. The Minister of Migration and Asylum clarified during his meeting with the delegation that an NGO can only be deregistered if there is an implication of the management of the NGO in the criminal act placed under criminal prosecution. The Minister emphasised and confirmed in subsequent written comments that the provision is intended for extreme cases linked to the management of NGOs. The Minister further clarified that if an NGO is deregistered, the NGO may still operate within the field of migration and asylum and that deregistration would entail

⁸⁶ G.I.E.M. S.r.l. and Others v. Italy, Application Nos. 1828/06 and 2 others (2018), para 241.

⁸⁷ G.I.E.M. S.r.l. and Others v. Italy, Application Nos. 1828/06 and 2 others (2018), para 244.

⁸⁸ Case of Varvara v Italy, Application No 17475/09 (2013), para 69.

⁸⁹ CDL-AD (2025)002 – Updated Rule of Law Checklist, para 47.

⁹⁰ Willcox and Hurford v. the United Kingdom, Application Nos. 43759/10 and 43771/12 (2013), para. 74. Murat Vural v. Turkey, Application No 9540/07 (2014), para. 66-68. CDL-AD(2021)002 - Belarus - Opinion on the compatibility with European standards of certain criminal law provisions used to prosecute peaceful demonstrators and members of the “Coordination Council”, para. 42.

that the NGO cannot receive state or EU funding or operate in structures of the Ministry (a decision of deregistration would not have retroactive effect on any funds already distributed). In subsequent observations, the Minister confirmed that a decision to remove an NGO constitutes an individual administrative act, which, as referenced in paragraph 41, must possess the characteristics of any individual administrative act in accordance with Greek administrative law.⁹¹ Any legal defects in the decision may be challenged before the Council of State by filing a petition for annulment.

81. As the ECtHR has established and as underlined in section III.4.a, individual wrongdoing of a member may not be automatically attributed to an association. Such attribution requires authorities to demonstrate a sufficient connection between the individual's conduct and the organisation (Article 11 of the ECHR).⁹² Moreover, even where conduct is attributable to the organisation, it does not automatically follow that severe measures, such as de-registration, are permissible.⁹³

82. The Commission is concerned that, the current legal framework may allow deregistration based on the *alleged* involvement of a member in criminal acts, without requiring a *conviction*. In the view of the Commission, the law should thus (i) stipulate more clearly under which circumstances the "Minister of Migration and Asylum may issue, after criminal proceedings are initiated against the alleged offender, a decision in which the liability of the NGO's leadership for the relevant acts committed is established", and (ii) expressly require that, before any organisational liability is imposed, a separate, independent, and reasoned decision is made, demonstrating a connection between the conduct of the individual member and the organisation, ensuring that liability is not imposed automatically or by mere association, ensuring also that the law provides for the principle of proportional sanctioning.

IV. Conclusion

83. The Monitoring Committee of the Parliamentary Assembly of the Council of Europe has requested an Urgent Opinion of the Venice Commission on the 6 February 2026 amendments to the Greek migration and asylum law relating to the NGO Registry and the provisions on criminal liability of NGOs and their registered members.

84. The Venice Commission recognises the complex migration-related challenges facing Greece and the considerable burden and pressure placed on frontline States by mass arrivals. The Commission also acknowledges the specific context of the legislative amendments, introduced with the stated aim of ensuring oversight of public services, use of public funds, protecting public order, and safeguarding vulnerable groups, particularly within the structures of the Ministry of Migration and Asylum. The Commission also acknowledges developments in the 6 February 2026 amendments, including the reduction and clarification of the registry's scope, efforts to streamline documentary requirements and the introduction of structured dialogue with civil society.

85. The Commission notes that certain aspects of Article 114 of the Asylum Pact, as well as Articles 24 and 25 of the Migration Code, raise questions as to their compatibility with

⁹¹ Greek administrative law Articles 20 (1), (2) and 95 of the Constitution and in Articles 16 et seq. of the Code of Administrative Procedure (Law No. 2690/1999).

⁹² *Adana TAYAD v. Turkey*, Application No. 59835/10 (2020), para 34: "However, in order to make a decision on the dissolution of the association, the civil courts should carry out an independent assessment that is not automatically based on the findings adopted by the criminal courts against the individual members of the defendant association, especially when the latter verdicts are not final". In the context of Article 7 and Article 6 (2), see also *G.I.E.M. S.r.l. and Others v. Italy*, Application Nos. 1828/06 and 2 others (2018), para 272 – 274 and para 317.

⁹³ *CDL-AD(2018)013* - Hungary - Joint Opinion on the Provisions of the so-called "Stop Soros" draft Legislative Package which directly affect NGOs (in particular Draft Article 353A of the Criminal Code on Facilitating Illegal Migration), para 89-90. *Jehovah's Witnesses of Moscow and others v. Russia*, Application No 302/02 (2010), para 159.

international human rights standards. In particular, the Commission is of the view that the NGO Registry and the Registry of NGO Members could be further improved with regard to foreseeability and legal clarity and that some of the current registration requirements, as outlined in this opinion, exceeds what is necessary in a democratic society, recommending that the authorities take measures to remedy this. The Commission also recommend the authorities to introduce exemptions for criminal liability in the facilitation offences in cases of life-saving assistance and rescue or providing basic care to irregular migrants. In addition, the Commission finds that the provision on aggravated criminal liability does not align with the principle of foreseeability, legal certainty and individual criminal liability, and is concerned that such introduction may lead to disproportionate sentences. Finally, it recommends the authorities to clarify in law the circumstances under which individual liability may result in the deregistration of an organisation.

86. Based on the above, the Commission encourages the authorities to continue the reform in this area to address the above issues. The Commission makes the following main recommendations:

NGO Registry and Registry of NGO Members

- (1) Amend the wording of Article 114 and the Ministerial Decision by providing precise definitions of key terms, such as the criteria for registration, grounds for removal, and information that may be subject to public disclosure.
- (2) Limit the discretion of enforcement authorities in decisions on registration and removal, to ensure greater legal certainty.
- (3) Consider additional safeguards to enhance regulatory independence and procedural safeguards in decision making.
- (4) Clearly specify the circumstances under which the Secretary-General for the Reception of Asylum Seekers may issue a decision on barring the NGO from registering in the event of criminal prosecutions, requiring that, before any organisational liability is imposed, a separate, independent, and reasoned decision is made, demonstrating a connection between the conduct of the individual member and the organisation, ensuring that liability is not imposed automatically or by mere association.
- (5) Ensure that the power to remove an individual from the Registry of NGO Members on the basis of pending criminal proceedings is reserved to the competent judicial body, and not to the administrative authority.
- (6) Limit the obligation of registering members in the Registry of NGO Members to those members who, by virtue of their functions, require access to the structures of the Ministry of Migration and Asylum or manage public funds.
- (7) Provide clear reasoning demonstrating the necessity and proportionality of the 30 % funding threshold in relation to the aims pursued.
- (8) Limit the reporting obligations, to the extent possible, to those relevant for the use of public funds.
- (9) Amend the grounds for removal to provide for reasonable and flexible deadlines, introducing alternative, proportionate sanctions, so that removal from the register and long-term bans are reserved solely for the serious or repeated violations, ensuring that deadlines and list of sanctions is established by law, rather than secondary legislation.
- (10) Ensure that the parallel operation of multiple registries imposing similar requirements does not result in disproportionate restrictions.

Facilitation offences

- (1) Introduce exemptions for criminal liability for persons providing life-saving assistance and rescue or providing basic care to irregular migrants for humanitarian purposes exclusively in Article 24 and Article 25 (6).

- (2) Make aggravated criminal liability expressly limited to cases where there is a substantiated breach of trust in relation to a particular position, ensuring the principle of individual criminal liability, rather than NGO membership as such.
- (3) Provide for independent assessment of each individual case to uphold the principle of proportionality, ensuring that criminal penalties for NGO members does not exceed those imposed on public officials in similar circumstances.
- (4) Stipulate more clearly the circumstances under which the Minister of Migration and Asylum may issue a decision in which the liability of the NGO's leadership is established, and require that, before any organisational liability is imposed, a separate, independent, and reasoned decision is made, demonstrating a connection between the conduct of the individual member and the organisation ensuring that liability is not imposed automatically or by mere association.

87. The Venice Commission remains at the disposal of the Greek authorities and the Parliamentary Assembly for further assistance in this matter.