



GREECE: PROPOSED BILL ON ASYLUM DOWNGRADES EU AND INTERNATIONAL LAW STANDARDS ON REFUGEES PROTECTION

AMNESTY INTERNATIONAL SUBMISSION ON THE HUMAN RIGHTS IMPLICATIONS ON THE GOVERNMENT PROPOSAL TO CHANGE THE GREEK LAW ON INTERNATIONAL PROTECTION, RECEPTION AND RETURNS

On 16 October 2019, the Ministry of Citizen Protection submitted a long-anticipated draft legislative proposal to reform the law on International Protection in Greece. Further to slight amendments, the Bill was submitted for discussion at the Greek Parliament on 21 October. The new Bill introduces significant changes to asylum procedures, the rights and obligations of asylum seekers, reception and detention, as well as economic social and cultural rights.

Today, Amnesty submits its detailed comments and observations on the human rights implications of some of the key amendments proposed in the bill.

External stakeholders, including Amnesty, who had been promised the opportunity to feed into a public consultation process to share their views on the Bill ahead of Parliamentary discussions, have been left outraged as the Government set the deadline for contributions on the 21 October, effectively preventing a meaningful review of the bill within the given timeframe.

Amnesty International and other organisations working on refugees' rights in Greece (Including MSF (Greece), the Hellenic Association for Human Rights, the Greek Council for Refugees, the Greek Refugee Forum and HumanRights360) announced a press conference on 29 October 2019 to draw attention to the Greek Government's clear disregard for NGOs' voices in such a delicate process, affecting the lives of thousands of refugees and asylum seekers in the country.

"The proposals in the new Asylum Bill show a rushed and worrying attempt to address refugee and migration issues in Greece at the expenses of individuals' protection" said Massimo Moratti, Amnesty International Director for Research at the European Regional Office. "The amendments proposed create significant burdens for asylum seekers. They accelerate asylum procedures sacrificing applicants' right to have their claims properly assessed and raise barriers to asylum seekers' life in Greece, in breach of European and International Human Rights standards binding on the country".

Below are some of Amnesty International's overarching concerns and recommendations on the Bill. A more comprehensive analysis can be downloaded below.

- **Vulnerable categories:** if approved, the Bill would no longer list persons with post-traumatic stress disorder (PTSD) as 'vulnerable' asylum seekers. PTSD is a pervasive condition in many who flee scarring experiences or endure harsh migration journeys. Amnesty recommends rejecting the proposed changes, as they risk excluding a significant group of asylum seekers from the more protective standards granted to them under EU law. Similar considerations apply to the proposal to require that survivors of torture have their status certified by public health providers, which excludes private certifications from NGOs or others. This requirement has no basis in EU law and risks creating significant obstacles for asylum-seekers in this category, especially since there were no public health structures identifying torture survivors on mainland Greece as of 2018 and the relevant functions have been substantially exercised by NGOs.
- **Accelerated and border procedures and 'safe third country' lists:** The Bill is oriented towards reducing the timeframe for asylum applications and appeals and increasing the use of admissibility procedures to avoid examining claims on the merits. To this end, rules on accelerated and border procedures, also for vulnerable cases, and lists of 'safe third countries' are proposed and developed in the Bill. The use of safe third country rules is not well-established and is widely questioned in the migrants' rights community, as it relies on the often-inaccurate presumption that a country is safe enough for an asylum seeker to seek protection there, largely disregarding personal factors or objective changes in the conditions of the country itself. In general, these changes risks exposing asylum seekers to serious violations of their rights both in terms of their effective access to asylum procedures and of protection from return to situations of risk. As such, they should be rejected.

- **Procedural rights in first instance and appeals procedures:** The Bill introduces changes affecting various stages of proceedings. Among others, it makes access to information about the reasons for first-instance negative asylum decisions and the possibility to appeal conditional upon the applicant's request, in violation of international standards on effective remedies. Furthermore, obligations to cooperate with the authorities in the course of the procedures are increased and failure to comply is unduly considered as a reason to treat the relevant application as manifestly unfounded, something that is particularly concerning and puts at risk refugees' rights to a fair asylum procedure. The changes also risk exposing applicants to *refoulement*, in that the automatic suspensive effects of appeals where applications are rejected as manifestly ill-founded or not assessed on the merits is excluded. While applicants can file a separate request to remain in the country, the provision fails to explicitly consider EU jurisprudence standards on appeals where the decision exposes an individual to serious risks of torture or other ill-treatment.
- **Access to health, labour market and education:** the proposed amendments significantly hamper asylum seekers full enjoyment of their economic, social and cultural rights in Greece. The Bill proposes to reduce material conditions of reception for asylum seeking children who don't enroll in public schools and for the adult members of his/her family, in violation of the spirit and purpose of children's right to education, as per Article 28 of the UN Convention on the Rights of the Child, and of their independent right to an adequate standard of living. Access to employment for registered asylum seekers is no longer granted immediately but only after 6 months, undermining the already precarious economic conditions of the refugee population in Greece. Access to public health facilities pending the issuing of AMKA, will be granted through K.Y.P.A. (Foreigner Health Cards), according to proposals, although this system has never been operational so far. With the law entering into force in January 2020, obstacles to asylum seekers health rights risk being unduly protracted further.

Changes to rules on detention are also of particular concern. The automatic judicial review of detentions orders, currently in force in the law, is proposed for removal, with serious consequences for asylum seekers' right to a remedy in detention. The extension of the maximum detention period from 45 to 50 days (also applied to extension orders) is also problematic, especially as changes suggest that pre-removal and asylum detention will be counted separately for the purposes of calculating the maximum detention period. Asylum seekers risk to find themselves in detention in Greece for protracted periods of time and with more limited remedies, in clear violation of International standards whereby asylum seekers should not, as a rule, be detained.

Amnesty is finally concerned to note the change in authorities involved at various stages of the process. Amnesty is deeply alarmed by the proposal to allow **members of the police or the Greek army** to conduct admissibility interviews. If implemented, this would be a serious backward step that will compromise the impartiality of the asylum procedure, and hence urges the Greek authorities to repeal the relevant part of the provision. Similarly, the new **composition of Asylum Appeals Committee**, removes the requirement for a UNHCR appointed officer to be involved, in favour of a 3-Administrative Courts judges panel and introduces the possibility of a single-judge procedure. Amnesty considers this a worrying development and an indication of the Greek Government's attempt to sideline specialised organisations working on the protection of refugees' rights. The proposed composition and rules are not capable to ensure the necessary level of expertise and the composition of the Committees and the single-judge procedure could be found to be incompatible with the Greek Constitution and at odds with European Law standards.

See Amnesty International's recent statement on refugees' access to health services in Greece here: <https://www.amnesty.org/download/Documents/EUR2512132019ENGLISH.PDF>

See Amnesty International's recent submission on the proposed changes to the Greek Law on International Protection here: <https://www.amnesty.org/en/documents/eur25/1280/2019/en/>

For more information, contact Adriana Tidona, at: adriana.tidona@amnesty.org