

## AMNESTY INTERNATIONAL PUBLIC STATEMENT

9 May 2023 EUR 25/6364/2023

# GREECE: CONCERNS ABOUT PROSECUTION OF AMNESTY INTERNATIONAL ACTIVISTS

Amnesty International is deeply concerned about the prosecution of two Amnesty International activists indicted on several misdemeanor charges following their arrest by police after a protest in November 2022.

The two activists – Areti Androni, who was a board member of Amnesty International’s Greece Section at the time of her arrest, and Penny Verganelaki, a Greek section member and activist, categorically deny all charges against them. Amnesty International emphasizes that they must be presumed innocent in the absence of individualized and compelling evidence to the contrary. A criminal trial demands the highest possible standard of proof whereupon each charge must be convincingly proven beyond reasonable doubt following an independent and rigorous investigation.

Areti Androni and Penny Verganelaki participated in a protest of over 300 individuals against the creation of a metro in Exarcheia Square in central Athens and the redevelopment of Strefi Hill on 4 November 2022.<sup>1</sup> According to the testimonies received, Amnesty International understands that the police dispersed the protest that was held in the area of Propylaia at Panepistimiou street before it had even started. The two activists sought to leave the area together with many other protesters. They described how they were subsequently chased by riot police who also used chemical irritants, stun grenades and a water cannon against protesters trying to leave the area. They also stated that they were arrested after having been encircled by police, together with thirteen other protesters in a street in the neighborhood of Exarcheia. The fifteen protesters were detained overnight by the police at the Attika General Police Directorate and were only formally notified that they had been arrested and of the grounds for their arrest in the morning of 5 November 2022. They now face criminal charges of disturbing the public peace; attempting to cause dangerous bodily harm against police officers; using force against police officers; insulting police officers; damaging private property; and violations of legislation on weapons (i.e. carrying wooden sticks).

Areti Androni and Penny Verganelaki told Amnesty International that they categorically and strongly deny all these charges. The first instance trial of the two activists is due to start on 10 May, following postponements in November 2022 and January and March 2023. If convicted, the two activists could face a prison sentence of up to five years.

The testimony provided by the two activists described how after the dispersal of the protest by the police, they ran seeking safety from the tear gas. However, when they were some 10 minutes walking distance from the site of the protest they, along with a few others, were suddenly encircled by police. The police then subjected the activists to large quantities of chemical irritants at extremely close range, despite them not posing any threat of any kind and this being contrary to the rules about how such chemicals should be used. They also described how the police beat a number of other protesters as they were being arrested, noting that none of the protesters resisted arrest at this time. They further recounted that during their detention by the police, and despite their repeated requests to have legal assistance, a lawyer was not allowed to see them until early the next morning.<sup>2</sup> Areti Androni told Amnesty International: "... We ended up behind a car that was parked ... and we went there simply so we would not be beaten up ... [W]e were sprayed with a lot of chemical irritants ... They hit [the guys who were further out] without even seeing where they hit them. [They hit them], on the head, neck, and back ... The riot police officers were out of control. They did not even look to see where they were hitting, they did not care ...".<sup>3</sup>

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<sup>1</sup> Interviews with Amnesty International, 6 and 8 November 2022.

<sup>2</sup> The two activists were held in Attika General Police Directorate from around 9 pm in the evening and a lawyer was allowed to see them around 5 am, the next morning.

<sup>3</sup> Interview with Amnesty International 6 November 2022.

Amnesty International interviewed others present that evening who also confirmed the two activists' assertion that they participated peacefully in the protest at Propylaia and left the area together with other protesters following the dispersal by the police.<sup>4</sup> A journalist also told Amnesty International that he was sprayed with chemical irritants by riot police from a very close range while trying to document the transfer of those arrested to the police station.<sup>5</sup>

Amnesty International reiterates that criminal charges should be based on the individual behaviour of a specific person, a condition that applies in all situations, including in the context of an assembly. Liability must always be based on individual culpability and be supported by convincing and compelling evidence. As has been emphasized by the UN Human Rights Committee, "isolated acts of violence by some participants should not be attributed to others, to the organizers or to the assembly as such."<sup>6</sup> The mere fact that an individual participated in, or was present at, a protest during which sporadic incidents of violence occurred is, without more, wholly insufficient to ground the kind of criminal charges that have been brought in the present case.

Amnesty International is additionally concerned about the application of the provision on 'disturbance of the public peace' to the two activists in view of its potential incompatibility with international human rights standards. Specifically, Article 189 of the Greek Criminal Code punishes, among other things, the participation of an individual in a gathered crowd that with united force commits violence against persons or objects. 'Participation' must not be interpreted to mean mere 'presence', otherwise the implementation of this broad provision would lead to the criminalization of entirely peaceful protesters who find themselves amongst or in the vicinity of others who use violence. Peaceful protesters should be able to continue exercising their right of peaceful assembly and it is the duty of law enforcement officials to differentiate between those who remain peaceful and those who do not and to facilitate and protect the former. Even if some participants engage in violence, this does not turn an otherwise peaceful gathering into a non-peaceful assembly.

Police should therefore ensure that those who remain peaceful are able to continue protesting. The decision to disperse a protest must be a last resort, when all other less restrictive means have proven unsuccessful. Arresting people based solely on their peaceful participation in an assembly is a violation of the right to freedom of peaceful assembly.

Under international human rights law and standards, including the European Convention on Human Rights, any use of force by the police must be lawful, necessary and proportionate. These principles are binding for Greece. In terms of the use of force as a response to violence, law enforcement officials must distinguish between those individuals who are engaged in violence and those who are not (be they peaceful demonstrators or uninvolved bystanders) and carefully target for proportionate sanction only those engaged in violence.<sup>7</sup>

Hand-held kinetic impact devices such as batons should not be used for the purpose of obtaining compliance with a police order against a person resisting passively. The use of a baton against a person who is neither engaged in nor threatening violent behaviour is likely to amount to cruel, inhuman or degrading treatment, or even torture. Baton strikes to certain areas of the body, such as the head, neck and spine, should be avoided in view of their potentially lethal consequences. Chemical irritants should only be used when the level of violence has reached such a degree that law enforcement officials cannot contain the threat by directly targeting violent persons only. Such equipment can have damaging and even deadly effects if it is not used in compliance with international human rights law and standards. It can also have a particularly harmful impact on specific groups, including older persons, people with disabilities, children, and pregnant people, or those whose health is compromised. State actors, including police, who exercise such force, as well as those who authorise or supervise its use, must be held accountable for any misuse of this power.<sup>8</sup>

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4 Interviews, February 2023,

5. Interview with Amnesty International, 8 November 2022.

6 General comment No. 37 (2020) on the right of peaceful assembly (article 21), CCPR/C/GC/37, 17 September 2020, para. 17.

7 UN Basic Principles on the use of Force and Firearms by Law Enforcement Officials, 1990, Principle 3.

8 See: <https://policehumanrightsresources.org/content/uploads/2015/01/The-Human-Rights-Impact-of-Less-Lethal-Weapons-and-other-Law-Enforcement-Equipment.pdf?x19059>.

Finally, the organization urges the Greek authorities to conduct a prompt, thorough and impartial investigation into all allegations of excessive use of force including misuse of chemical irritants by the riot police during the 4 November 2022 protest.

## BACKGROUND

The trial will commence on 10 May 2023 before a three member Misdemeanors Court of Athens. Thirteen other protesters will also be tried for the same charges. Ten of the protesters are also facing the additional charge of 'disobedience' for refusing to be fingerprinted after the arrest.

In a July 2021 report, Amnesty International documented how, under the guise of the Covid-19 pandemic, the Greek authorities conducted arbitrary arrests, imposed blanket bans on protests, levelled unjustified fines against protesters and employed the unlawful use of force to curb peaceful protest.<sup>9</sup> Since then, reports of unlawful use of force and disproportionate interference with the right to freedom of peaceful assembly have persisted, including dispersal of peaceful assemblies and unnecessary and excessive use of force against protesters, including students protesting in Thessaloniki University in May 2022 and also against journalists covering some demonstrations. Reports have also been received about unlawful use of force including misuse of chemical irritants and stun grenades by police against peaceful demonstrators and photojournalists during large demonstrations in March 2023 that followed the devastating Tempi rail crash of 28 February 2023.

Amnesty International notes with concern the frequency of reports of unnecessary and excessive use of force in the policing of demonstrations in the past two and half years, and urges the Greek authorities to stop characterizing acts of unlawful use of force as "isolated" and instead to acknowledge the systemic nature of these abuses and take specific steps to ensure a human rights compliant approach to protest policing,

The case of the two Amnesty International Greece activists being treated in this way by police is not an isolated one. On 14 December 2022, a member of staff of Amnesty International's Greek Section was arbitrarily deprived of her liberty following questions raised to police officers at a stop-and-search operation in the centre of Athens.<sup>10</sup>

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<sup>9</sup> Greece: Freedom of Assembly at risk and unlawful use of force in the era of Covid-19, 14 July 2021 (Index: EUR 25/4339/2021).

<sup>10</sup> Greece: Amnesty member of staff arbitrarily deprived of liberty after raising concerns on stop-and-search operation, 21 December 2022 (Index: EUR 25/6332/2022).