

## AMNESTY INTERNATIONAL PUBLIC STATEMENT

21 December 2022 EUR 25/6332/2022

# GREECE: AMNESTY MEMBER OF STAFF ARBITRARILY DEPRIVED OF LIBERTY AFTER RAISING CONCERNS ON STOP-AND-SEARCH OPERATION

Amnesty International is seriously concerned over the arbitrary deprivation of liberty of a member of staff of Amnesty International's Greek Section, who was taken to a police station for an identity check in the evening of 14 December 2022 following questions raised to police officers at a stop-and-search operation in the centre of Athens.

According to the staff member, shortly after leaving work she witnessed a group of 13 individuals encircled by police from the DELTA motorbike unit and a police van nearby. Several of them were reportedly stopped by police while they were on their way to participate in a protest related to the death of Kostas Frangoulis, a 16-year-old Roma boy who died eight days after he was shot during a police chase in Thessaloniki.<sup>1</sup>

Amnesty's member of staff asked the police if they had informed the group about the grounds under which they would be taken to the police station. She said that the police did not respond to explain to the group the grounds behind such a transfer. She also expressed her concerns about the police decision to bring another bystander to the police station for an identity check shortly after she asked them to show her their identification badges.

Shortly after, the police told Amnesty's staff member that she would also be taken to the police station for an identity check. Despite her protests that there was no justification for being taken to the police station as she had not committed any offence and that she had provided her identity documents, she was told by police that she was a suspect for an offence, that this was an order by a senior police officer and that she would be formally arrested for disobeying a police order if she did not board the police van.

The Amnesty staff member was then brought together with the other 14 individuals to the Attika General Police Directorate (GADA), where they were held for two hours. They were all then released without any charge.

The exercise of police powers to stop and search, as well as to arrest and detain, should generally be taken with a view to prevent and detect crime – based on a reasonable suspicion that a person is likely to be involved in a criminal offence or of carrying an item related to such a criminal offence. Suspicion should be based on the behaviour of a specific person, a condition which continues to apply in the context of an assembly. Arresting people based on their peaceful participation in an assembly is a violation of the right to freedom of peaceful assembly, particularly if there is no justification to restrict or prohibit an assembly.

As stated by the UN Human Rights Committee, the role of human rights defenders involved in monitoring or reporting on assemblies is of particular importance for the full enjoyment of the right to freedom of peaceful assembly. Human rights defenders and other monitors must be allowed to conduct their activities without undue restrictions or interference, including with respect to monitoring the actions of law enforcement officials.<sup>2</sup>

This recent incident in which peaceful protesters, human rights defenders and bystanders were arbitrarily deprived of their liberty adds to numerous reports in recent years of unnecessary and excessive use of force by police during demonstrations in Greece, intimidation of protesters and other forms of interference with the right to peaceful assembly,

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1 See Amnesty International Greek Section social media statement at: <https://www.facebook.com/amnestygreece>

2 Human Rights Committee General Comment No. 37 (2020) on the right of peaceful assembly (article 21), CCPR/C/GC/37, 17 September 2020, para. 30.

including arbitrary arrests of peaceful protesters and other individuals.<sup>3</sup> These developments raise serious concerns about safeguarding the right to freedom of peaceful assembly and the prohibition of arbitrary detention.

Amnesty International condemns the arbitrary deprivation of liberty of a staff member who was taken to a police station for an identity check simply after she raised questions about a police operation. The organization is also concerned about the wider chilling effect this will have on human rights defenders and those wishing to exercise their right to protest. Amnesty International urges the Greek authorities to halt the practice of transferring large numbers of individuals to police stations for identity checks before and after protests without specific, reasonable suspicion that any offence has been committed, to ensure they fully guarantee the right to freedom of peaceful assembly.

## BACKGROUND

Under international human rights law, an individual may only be lawfully deprived of their liberty on grounds and according to procedures established by law. Domestic laws authorizing arrest and detention and regulating the relevant procedures must conform with international human rights law. Anyone who is arrested or detained must be informed immediately of the reasons for depriving them of their liberty. This right applies at all times and cannot be derogated from. According to Article 74 para. 15 case ix of the Greek Presidential Decree (PD) 141/1991, police can take "...individuals to the police station for examination when they lack evidence of their identity or who, because of the place, time, circumstances and conduct, raise suspicion of conducting a criminal act".<sup>4</sup>

In 2003 and 2005 respectively, the Greek Ombudsperson and Head of the Greek Police have also provided written guidance on the manner in which individuals are being taken to police stations must be conducted.<sup>5</sup> In his 2020 Special Report, the Greek Ombudsperson in his capacity as a 'National Mechanism for the Investigation of Arbitrary Incidents' noted that "the practice of bringing individuals to the police station without any apparent legal reason and in violation of the terms of Article 74 paragraph 15 case ix PD 141/1991,34 is observed by the Mechanism in many cases".<sup>6</sup>

The following principles, among others, apply to police officers conducting stop and search operations:<sup>7</sup>

- i. An individual subjected to an identity check should be exempted in principle from the prospect of being taken to a police station for an additional identity check if he/she shows his/her identity card;<sup>8</sup>
- ii. A person who possesses a proof of their identity can be taken to the police station for an additional identity check only if their conduct (and not simply the place, time or the circumstances) raises suspicions that he/she has committed an offence;<sup>9</sup>
- iii. "Citizens are not obligated to associate their physical presence in a public space with a "legal" purpose";<sup>10</sup>

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3 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).

4 See Greek Ombudsperson, 2020 Special Report of the National Mechanism for the Investigation of Arbitrary Incidents, pp. 34 (official translation).

5 See Greek Ombudsperson, Findings – Legal requirements for individuals being taken to police stations and police searches, June 2003, available at: [https://old.synigoros.gr/resources/docs/por\\_16024\\_2002\\_da.pdf](https://old.synigoros.gr/resources/docs/por_16024_2002_da.pdf); Head of the Greek Police Circular 7100/22/4a'/ 17.06.2005, The transfers of individuals to police stations as a preventative and repressive measures in the exercise of police powers, 17 June 2005; also Comments of the Greek Ombudsman on Head of the Greek Police Circular 7100/22/4a'/ 17.06.2005, Athens, 28 June 2005.

6 See Greek Ombudsperson, 2020 Special Report of the National Mechanism for the Investigation of Arbitrary Incidents, p. 34 (official translation).

7 See 2020 Annual Report of the National Mechanism for the Investigation of Arbitrary Incidents, pp. 34-35; Greek Ombudsperson, Findings – Legal requirements for individuals being taken to police stations and police searches; and Head of the Greek Police Circular 7100/22/4a'/ 17.06.2005.

8 Greek Ombudsperson, Findings – Legal requirements for individuals being taken to police stations and police searches, p. 6 (unofficial translation).

9 Greek Ombudsperson, Findings – Legal requirements for individuals being taken to police stations and police searches, p. 6 (unofficial translation).

10 See Greek Ombudsperson, 2020 Special Report of the National Mechanism for the Investigation of Arbitrary Incidents, p. 34 (official translation).

- iv. “Every effort must be made for the verification of the individuals’ judicial identity on the spot via an online application, particularly when the individuals have their identification documents with them”;<sup>11</sup>
- v. An apprehension for an identity check, “...must be done with the least possible inconvenience, i.e., without restricting his personal freedom, especially when there is no evidence to support the suspicion that a crime has been committed”;<sup>12</sup>
- vi. Persons taken to the police station should not remain there beyond the minimum time required for the procedure to be carried out.<sup>13</sup>

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11 See Greek Ombudsperson, 2020 Special Report of the National Mechanism for the Investigation of Arbitrary Incidents, p. 34 (official translation).

12 See Greek Ombudsperson, 2020 Special Report of the National Mechanism for the Investigation of Arbitrary Incidents, p. 34 (official translation).

13 Greek Ombudsperson, Findings – Legal requirements for individuals being taken to police stations and police searches, p. 7 (unofficial translation).