

NATIONAL  
STAKEHOLDER  
REPORT

August 2018

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# MIGRATION

The crackdown on NGOs assisting  
refugees and other migrants





This project has received funding from the European Union's Horizon 2020 research and innovation program under the grant agreement **770730**



The **National stakeholder reports** aim at taking the academic debate provided by the ReSOMA discussion briefs to the national level throughout the EU. For each topic, a **structured feedback process** has been implemented in a number of Member States where the issue at hand is most relevant in terms of current developments and upcoming trends. Leading experts discussed the **possible consequences of evolving (or lacking) EU policies for the Member State**, and the **country's role in shaping the EU agenda**. These feedback loops enabled researchers, practitioners and policy-makers to exchange experiences and strategies to face issues related to migration, asylum and integration matters.

## LINGUISTIC VERSION

Original: EN

Manuscript completed in August 2018

This document is available at: [www.resoma.eu](http://www.resoma.eu)

The ReSOMA Consortium would like to acknowledge the contribution of the European University Institute, Robert Schuman Centre for Advanced Studies' team, consisted of Dr Caterina Francesca Guidi (coordinator, EUI Research Fellow), Ms Virginia Passalacqua and Ms Eleonora Milazzo (EUI Research Students); GRITIM-Pompeu Fabra University's team, consisted of Professor Ricard Zapata Barrero and researcher Paolo Leotti; and HAS Center for Social Sciences- Institute for Minority Studies' team, consisted of András Kováts (MA) and Eszter Kovács (MA). Each team conducted stakeholder interviews and wrote the background country reports on which these thematic reports are based in the following countries: Austria, Germany, Greece and Italy (EUI team); France, the Netherlands and Spain (GRITIM-UPF team) and Hungary (MTA TK team).

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## National stakeholder report

# The crackdown on NGOs assisting refugees and other migrants\*

## Crackdown on NGOs Assisting Refugees and Other Migrants

European Union (EU) and national policies are increasingly affecting civil society organisations and individuals who provide humanitarian assistance and access to rights to refugees, asylum seekers and undocumented migrants. The [Facilitation Directive](#) and its Framework Decision represent the main legislative instrument at the EU level to tackle migrant smuggling and criminalise the facilitation of unauthorised entry, transit and residence of migrants in the European Union. In addition, in the context of the so-called “European refugee humanitarian crisis” at the EU level political and operational priority has been given to combating migrant smuggling. This has led to criminal charges, legal restrictions and administrative penalties against civil society actors. In some countries, suspicion has led to a shift in attitudes of the public and media towards civil society actors and individuals in the Member States.<sup>1</sup>

As summarized in the [Ask the expert policy brief](#), recent studies pay attention to increasing pressure on NGOs working with irregular migrants. The Facilitators Package is also criticized for its optional char-

acter, lack of clarity, coherence with international law and legal certainty even though facilitation of irregular entry on humanitarian grounds is not automatically criminalized. This unclarity certainly muddies the water for third sector organisation on the limits of their actions and obligations to report their beneficiaries with irregular legal status.

## Stakeholder outreach and feedback

This report reaches out to stakeholders from a variety of countries where the crackdown on NGOs has been a concern. It provides an overview and analysis of the feedback provided by these stakeholders in relation to limitations on migration-related NGOs' activities that have been developed in earlier ReSOMA publications. This involves the following countries:

- France
- Germany
- Greece
- Hungary
- Italy
- Spain

In each of these countries, between 6 and 10 stakeholders were consulted (see appendix for a full but anonymized overview). This includes policy actors working at the national as well as the local level, NGOs working in the social field and ex-

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<sup>1</sup> See ReSOMA Ask the Expert Brief on migration and the ReSOMA Synthetic state of the art policy brief on Crackdown on NGOs Assisting Refugees and Other Migrants, 2018.



perts from the various national contexts with specific topic of the consultation. In many cases, the consultation took the form of an individual interview (via Skype or Gotomeeting); in several cases where this was seen as appropriate, the consultation took a form of a virtual meeting with several stakeholders at the same time, allowing for interaction on specific topics. The consultations followed a standardized template and were implemented by experts with access to networks in the selected countries. For this report, this involved the European University Institute (Italy, Germany and Greece), UPF-Barcelona (Spain, France) and the Institute for Minority Studies of the HAS Centre for Social Sciences (Hungary). Based on reports of the stakeholder consultations, this stakeholder outreach report was compiled by the ReSOMA team of Erasmus University Rotterdam.

The consultations focused on two topics that emerged as central from the [Ask the Expert policy briefs](#) and the synthetic state of the art report on crackdown on NGOs. These two main topics include:

- *Criminalization of humanitarian assistance*: Have there been cases of disciplining or even criminalization of humanitarian assistance provided by NGOs to migrants? What are the possible implications of this for the NGOs involved in different member states?
- *Obligations to report*: Are national stakeholders aware of obligations to report irregular migrants/asylum seekers/refugees for private and civil society actors? If there are, what are the impacts of these obligations?

## **Criminalization of humanitarian assistance and its effects on NGOs**

According to the stakeholders consulted, criminalization is taking place in every country at different degrees while Hungary sits at the most extreme end. The Hungarian government's stigmatization and criminalization of NGOs reached a new level with the latest bill Hungarian Parliament passed in June 2018. The bill is commonly referred as "[Stop Soros](#)" and it sanctions persons who help irregular migrants claiming asylum. As underlined by several Hungarian stakeholders, stigmatization severely affects the civil societies' relations with government authorities, discourages volunteer involvement and limits the physical outreach of the NGOs.

For NGOs in other member states consulted, the main shift occurred in the monitoring of their activities. Some stakeholders consider this increase in monitoring as a positive step as far as it achieves further accountability and overcome for example mismanagement of reception centers in Italy where even criminal organizations known as 'Mafia Capitale' were getting involved in migrants' reception. Similarly a Greek NGO working on unaccompanied minors notes cases of misbehavior and even some criminal offenses due to lack of proper training and supervision at the height of emergency. These examples show that assisting refugees and migrants is in deed a delicate matter that needs close monitoring without a priori criminalization.

There is also a gradual change in public attitude and policy towards NGOs working the social field. On the one hand, as



noted by Italian and German NGOs, from 2015 onwards public opinion have become more and more negative towards NGOs working with migrants and even more so for organizations active in the border regions. In Germany, there is a widespread perception that humanitarian operators are treated as idealists and an effort to make their work harder and more cumbersome.

*"In 2015 people working with migrants were hero, and now they are blamed for their work." (German NGO)*

On the other hand, there has been more and more collaboration between NGOs and governmental actors. Many NGOs began to receive public funding to provide first assistance to refugees and other migrants alike especially in Spain, Germany and Italy. Italian NGOs draw attention to the newly introduced '[Code of Conduct](#)' as emblematic of a broader change in attitude towards NGOs. It is a new episode where for example NGOs or associations managing reception centers must keep migrants under strict control if they want to abide by Italian immigration laws and hence receive public funding for their activities. Therefore, unlike the Hungarian case where the activities of NGOs are defused by law, Italian NGOs are brought under stricter government control. As clearly uttered by some German NGOs, their dependence on governmental funding to function makes them feel highly vulnerable to political decisions.

Finally, in countries other than Hungary, it is mostly individuals rather than NGOs that are directly targeted and criminalized for assisting migrants. In Italy, Spain and Greece, stakeholders noted criminal pro-

ceedings against those involved in rescue operations at sea. Examples provided include, next to the [seizure of NGO vessels](#) by Italian police, a [Spanish activist](#) being acquitted at the Spanish court while waiting to hear Moroccan court's decision, and most recently the [trial of Spanish firefighters and Danish volunteers](#) who went to Lesbos to save Syrians from drowning in Lesbos and were accused of smuggling refugees as well as the [trial of Cedric Herrou](#) in France, after being convicted in the first instance, whose actions for assisting migrants was eventually found legal by the French Constitution Council.

## **Obligation to report and its effects on NGOs**

There is a general agreement and confidence among the stakeholders in France, Greece, Italy and Spain about the fact that there is no obligation to report whereas Hungarian and German stakeholders are less certain in their knowledge of whether such obligations exist in their country. Two German NGOs aware of NGOs obligations to report whereas other German stakeholders generally talk about civil servants obligation to report -with the exception of those in hospitals and in compulsory education- as something that puts migrants and NGOs helping them at risk of being criminally charged. However, overall, some NGOs' accounts show that they find themselves reporting irregular migrants and asylum seekers even if they would not want to.

This is because of the intriguing position of some NGOs vis-à-vis the public authorities. NGOs that provide services are often the ones to step in if the national, region-



al or local government is not doing it for different reasons. In such cases, NGOs may get their expenses covered by the state. This is increasingly the case in Spain, Italy as well as in Germany. Several NGOs, especially in Germany, express their concern over such a relationship as it may jeopardize the independence of NGO activities. The type of service they provide might put them directly under the same jurisdiction as public servants, as it is the case for some Italian NGOs. Additionally, it is mentioned that this fuzziness might also cause confusion among NGO workers or volunteers, such as doctors, who may not always be aware of the absence of obligation to report. From migrants' perspective, this makes it very risky to seek certain social services or reach out to service providers. For further details on this topic see our report on the *Better Regulation of Support for the Undocumented*.

Similarly, there are active attempts to negate the activities of NGOs who are not obliged to report. A striking example is the possible changes in the French data protection law which is ensured by [CNIL](#), an independent body with the power to avoid measures that excessively involve the provision of persons' data. It is noted by one French NGO that, in order to overcome this legal barrier, there are government-led attempts to create a nation-wide file containing information about unaccompanied minors.

The obligation to report, in fact, hints at a major moral dilemma, as some NGOs in Greece mention, when it comes to reporting people in need of protection and specifically reporting or not reporting unaccompanied minors.

“The situation of unaccompanied minors is a huge dilemma for us. It is the only option that the legal framework accepts. The national registrar has to protect the children with protective custody. But in fact, it is detention. So, we suggest children to get protection and follow this process...” (Greek NGO)

In Greece, as in other member states, NGOs have a duty to inform the prosecutor and the national social service for unaccompanied minors to access shelters. This would mean they are given accommodation but at the same time are under “protective custody” in detention conditions for up to 3 months. NGO workers face such dilemmas on a daily basis in Greece where legal firewalls are very effectively in place unless there is an abuse of humanitarian assistance, yet, given the excessive number of applicants, only very vulnerable people have access to certain services as well as asylum procedures. At the end of the day, NGOs accept and act within the limits of the legal framework.

## Conclusion

Stakeholder consultations reveal that the criminalization and crackdown takes place at different levels and degrees in each state. What seems common in all of six countries is that assisting refugees and other migrants is met with individualized instead of a collective punishment on the whole organization, although one humanitarian NGO in Italy reported that its reception centers' recently becoming object of a police raid.

Several key observations can be drawn from the feedback provided by stake-



holders that are relevant for future policies:

- Negative political and public attitude on migration directly affects how NGOs's work on migration is framed as well. It is repeatedly noted that, while in the initial years of the "crisis," NGOs involvement were welcomed with no strings attached, nowadays there is increasing control over their activities.
- The recent examples of individual punishment together with less positive framing of NGOs have negative consequences for volunteer base of NGOs, even if NGOs are not directly criminalized.
- Monitoring of NGO activities and services is seen positively by even some NGOs. It is seen necessary especially

when activities and services provided involve vulnerable groups and against the possibilities of NGO volunteers and personels' abuse of power.

- Yet, monitoring and cooperation are not and should not mean right to control. NGOs underline that especially acquiring public funding for better service provision for refugees and other migrants make them more vulnerable to and dependent on political climate.
- Finally, stakeholder accounts show that obligations to report and legal firewalls are not always black and white as the NGOs' decision to report is shaped by moral dilemmas as much as existing laws.



## Appendix I: Consulted stakeholders

Country	City	Institution
France	Nantes	Expert
France	Paris	Coordination Sud
France	Paris	CERI-CNRS
France	Paris	Expert-Advocate
France	Paris	Expert
France	Paris	Forum réfugiés
Germany	Hannover	Lower Saxony Refugee Council
Germany	Berlin	Office of a member of Parliament
Germany	Berlin	Jesuit Refugee Service Germany (JRS)
Germany	Berlin	German Diakonie
Germany	Kiel	Medibüro
Germany	Gütersloh	Bertelsmann Stiftung
Germany	Berlin	University of Berlin
Greece	Athens	Solidarity Now
Greece	Athens	Norwegian Refugee Council
Greece	Athens	Ministry of Migration Policy
Greece	Athens	Danish Refugee Council
Greece	Athens, Thessaloni- niki	Diotima Centre for Research on Women Issues
Greece	Athens	Babel Day Centre for Migrants' Mental Health
Greece	Thessaloniki	Association for the Social Support of Youth (ARSIS)
Greece	Athens	Greek Council for Refugees
Hungary	Budapest	IOM Hungary
Hungary	Budapest	National Police Headquarters
Hungary	Budapest	Menedék Association
Hungary	Budapest	Menedék Association
Hungary	Budapest	Prime Minister's Office
Hungary	Budapest	Hungarian Helsinki Committee
Hungary	Budapest	UNHCR Regional Representation
Hungary	Budapest	Metropolitan Municipality of Budapest
Hungary	Budapest	Central Statistical Office
Italy	Rome	Civico Zero
Italy	Rome	IOM Italy
Italy	Rome	Caritas
Italy	Palermo	Centro Astalli
Italy	Bergamo	CESVI
Italy	Rome	"Victims of Torture Programs"- Médecins Sans Frontières
Italy	Milan	NAGA
Italy	Udine	SIMM
Italy	Rome	UNAR and Università la Sapienza
Spain	Barcelona	In Strategies
Spain	Murcia	Cepaim Foundation
Spain	Brussels	EU affairs adviser Autonomous Region of Catalonia
Spain	Barcelona	Barcelona Municipality
Spain	Madrid	ACCEM foundation
Spain	Madrid	ACCEM foundation
Spain	Barcelona	General directorship of equality migration citizenship. Au- tonomous Region of Catalonia



### ReSOMA - Research Social Platform on Migration and Asylum

is a project funded under the Horizon 2020 Programme that aims at creating a platform for regular collaboration and exchange between Europe's well-developed networks of migration researchers, stakeholders and practitioners to foster evidence-based policymaking. Being a Coordination and Support Action (CSA), ReSOMA is meant to communicate directly with policy makers by providing ready-to-use evidence on policy, policy perceptions and policy options on migration, asylum and integration gathered among researchers, stakeholders and practitioners.

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