

LEGAL TEAM – NO BORDER CAMP 2016

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LEGAL RIGHTS GUIDE
for participation in the
NoBorderCamp 2016
activities

Hi there!

Writing a guide on legal issues that might concern those who take part in the NoBorder Camp 2016 was a really difficult issue for the members of the Legal Team, as we first had to give answers to some issues that are both of a legal and political nature, at least to the extent that we all believe that justice is in no way socially neutral. To this difficulty we had to add the fact that people of totally different legal status (asylum seekers, third country nationals with a residence permit etc) will participate in the NoBorderCamp, something that to some extent differentiates the answers that we have to give on each issue. This need led to the addition of a supplementary chapter at the end of the guide, exclusively concerning the issue of deportation, as it is described in detail in law.

It is obvious that for any question concerning this Guide, you can call us at **6980-4-200-40** or email us at **legalteam@noborder2016.com**

In solidarity

Legal Team

NoBorderCamp2016

6980-4-200-40

1. Presence/ participation in the Camp

The main camp of the NoBorderCamp 2016 will take place in the campus of the Aristotle University of Thessaloniki. Such actions are a usual matter in the Universities for many years now, and despite them not being totally “lawful” in the strict sense of the term, they are “legitimised” by the political movement that supports them and by the participation of the people. Consequently, until today we have not seen any signs of intended proactive repression of such movements in the universities from the Dean of the University or the Police.

Our physical presence in the camp is not expected to be faced with any problems, and the presence of the people will guarantee collective safety. In any case, you have to bear in mind that since 2011 the “university asylum” was revoked (by and large, a legal concept that forbade the police from entering university spaces, which was provided for by a 1982 law), something which means that the police can intervene in the Camp when criminal actions take place, as it can anywhere else.

Consequently:

- Avoid having on you objects that might be considered as weapons.

Such are for example knives of any kind, even pocket knives, especially when you take them outside of the place where you stay, and therefore cannot be linked to domestic use (for example if I walk around with a kitchen knife in my bag, this will probably be considered as a “weapon” and cannot be characterised as a kitchen tool anymore).

Also, the Greek courts have considered as weapons objects that are not constructed as such (for example a wooden stick that you might carry with you).

Finally, in Greece defence objects might be considered as weapons, e.g. shields and pepper sprays.

- **Avoid carrying drugs.** Beyond the issues of “penalising” the camp and the possibility of its presentation to the public as a “drug free place”, the possession, for example, of a small quantity of cannabis might cause you problems, as in Greece even the possession of drugs for personal use is illegal (and punished with imprisonment of up to 5 months).

Also, if you will be coming to Greece from abroad, DO NOT consider carrying with you even a small quantity of drugs, because even the possession of a small quantity of cannabis that is IMPORTED in Greece from abroad can be considered as a felony (something which is punishable with up to 20 years imprisonment).

2. Participation in the demonstrations/interventions

In Greece all “peaceful” demonstrations are prima facie legal and a prior permission from the authorities is not needed. The Constitution characterises such as “peaceful” demonstrations which “do not resort to violence” and where demonstrators are “unarmed”. It is obvious though that it is up to the police’s judgement to assess if a demonstration is “peaceful”. The police, also, can forbid a demonstration in advance, if there is a serious danger for public safety or a threat of serious disturbance of socio-economic life. However, generally this prohibition seldom happens. If for any reason one of the demonstrations programmed by the NoBorderCamp 2016 is prohibited by the police, you will be informed for that, so that you can decide, after having evaluated the circumstances and your personal situation, if you are interested in participating. In this case, the participation in the demonstration is an offence in and of itself, bearing the pompous title “audacity against the authority”, which in any case is a relevantly minor offence, punished with a maximum time of six months, and its application is very rare.

Preperation

- Always carry with you the Legal Team’s phone number (6980-4-200-40) or the number of a lawyer that you trust.
- Always carry with you:
 - a. Your identity or passport or asylum seeker card or any other public legal document (proof of your identity and of your country of origin)
 - b. medicine that you might be in need of (in case that you are deprived of your liberty even for a short period of time) or liquid for your contact lenses.

- Carry with you as less personal data as possible: If you use an agenda, it is better that you don't have it with you. If you use a smartphone, erase any stored passwords for email access, social networks, etc. Remember that if you are led for any reason to a police station, you will have to give up all your personal belongings.
- In Greece, it is not considered illegal to wear a mask for teargas or other protective means (scarf, leggings, swimming glasses). But, if you find yourself engaged in an incident, the possession of such objects might be combined with some punishable actions (for example violence against police officers) and will be considered as aggravating circumstances. You may carry with you any of these objects that you find suitable, bearing in mind that the use of such means might catch the attention of the police and might increase your chances of being brought to the police station.
- Try to arrange with your friends a meeting point to meet up after the demonstration. Thus you can avoid panic and aimlessly searching for your friends.

During the demonstration

Try not to be away from the main body of the demonstration and have your eyes and your ears open, so as to defend yourself and the others, testifying, for example, in case of trouble with the police.

In case you are taken away from the demonstration and your identity details are asked for, if the police is demanding that you follow them to the Police Station even though you have the right documents, you can do the following:

1. Ask the reason of this and how it is justified, since you have presented to them the legal documents.
2. Declare to the police that their actions are outlawed as they violate your constitutional rights
3. Ask the names of the police officers arresting you, so as to know who you can submit a complaint against.

If you are asked to be searched on the street, demand to know the reason, i.e. the precise grounds on which the particular policeman suspects you of an offense that warrants investigation. Reasons regarding your appearance or the place are not considered sufficient. If the policeman insists, demand to know his/her personal data, and

ATTENTION! *The discussion for “complaints”, “legality”, “rights” etc., sounds at least naive in case (which is not at all impossible in Greece) that some police officers shove you down and beat you or spray you with teargas in the face and you “invoke your rights” as a response... Therefore, all that is written here about “rights” serves the purpose of empowering you with knowledge and not transform you to a passive receiver of police violence who tries to protect herself invoking legal provisions! At the same time you have to bear in mind that the invocation of legal rights could, instead of making the police change their tactic, bring about the opposite results. Therefore, in any conflict with the police, the judgement if the moment is right for you to invoke your legal rights, cannot but be the result of an overall weighing of the situation at that specific point.*

The police is usually situated behind the demonstration, following it, while usually in parallel streets there are groups of the Riot Police (MAT). The presence of the police inside a demonstration is illegal. However, it is very usual for police officers with civilian clothes to be all around. In case you see a police officer or he/she asks for your identity, inform the others around you and ask for his/her identity, collectively demanding that he/she leaves immediately.

In some cases (and usually when the power dynamics allow it) the police follows a tactic of “close surveillance” of the demonstrations, which consists in the positioning of groups of Riot Police in the side and the back part of the demonstration very close to it, forming a suffocating parallelogram (which we call Pi, because it looks like the 16th letter of the greek alphabet- Π). This police practice does not necessarily mean something in particular and it should not lead to panic, however it is evident that in such cases the protesters should pay extra attention for potential arrests from the main body of the demonstration.

In the case that the demonstration is attacked by the police (usually with teargas) and you want to move away from the spot, try to do it in an organised manner with your comrades, following the main body of the demonstration and remaining on the central street. If you try to leave using the smaller parallel streets, there is a higher chance that you might get isolated and arrested by groups of police officers who are situated in these points in order to more easily arrest those who try to get away. In any case, you must evaluate the situation as cool-headed as you can and try to think calmly without panic.

Finally, in case that it is evident that a police officer is going to arrest you, do not forget to say your name out loud to the people around you so as there is at least one person that will immediately notify the Legal Team. Respectively, in case you are present at the moment that someone else gets arrested try to learn his/her name and notify the Legal Team about the time, the place and the circumstances of the incident.

3. What to do in case of arrest

During your transfer to the police station

If you are arrested, you will probably be transferred to a police station by some means of transport, usually a police car or a police bus. En route take care not to answer any questions by the policemen, or even to engage in «friendly chat» for seemingly minor issues. Anything you say can be used against you or against others. If you are with others when arrested inform them about the legal team and their rights. Contribute as much as possible to an environment of solidarity and of collectively claiming your rights. Exchange identity details with the other people arrested, so that you can immediately inform the Legal Team if someone is released earlier than the others. Do not talk about any of your potential «activities» on the field with other people arrested. It may put you in a worse position.

Inside the police station

Demand to be informed whether you have been charged with something or if you have been simply brought in custody for questioning. In any case, ask immediately to see a lawyer. It is possible of course that the police officers respond that you have no right to a lawyer, because you have not been charged yet, as they have simply brought you in for questioning. In this case, demand to be let go immediately. Even the police officers know they that are obliged to let you go after verifying your personal data and checking for any judgments against you etc. Bear in mind that a simple check can take several hours (and the police «take care» to extend this time as much as possible). Meanwhile take care to maintain a climate of tension, protesting your illegal detention, demanding your release and communication with your lawyer and state that otherwise you will sue.

- In case that you are finally arrested and charged, the fundamental advice that should guide your whole attitude is absolute silence against any attempt of the police officers to approach you. Do not stop continuously requesting a lawyer at all times, regardless of whether the police officers insist that at that particular stage you are not entitled to a lawyer. Do not answer to any other questions except your identity details and generally keep your distance. Even if you believe that something can improve your position, you will have plenty of time to state it later, after you have spoken to a lawyer and to the people close to you.

Among the details that they will ask you to state is your home address. It is important to know that a misleading statement of address or other personal data is not going to help you. In contrast, apart from the fact that it might in itself be a crime, it gives permission to the judicial authorities to legally proceed to judge you in court **WITHOUT YOUR PRESENCE** that would enable you to defend yourself, since they can validly serve the court summons to the wrong address that you have stated. Furthermore, if you state a wrong address, you will be later deprived of the right to complain that you did not know about the court because you live elsewhere. Therefore, if you do not have a very important reason not to disclose your home address, it is better to state a precise address.

- Do not sign any documents (a preliminary deposit etc.) without a lawyer present. No matter how exhausted you are, and even if your signature is presented as «standard procedure», you should remember that these documents that you have signed will later on play a key role against you in court.

Fundamental Rights

- You have the right to make one successful phone call (i.e. a phone call that is answered by someone who can help you). If you call the Legal Team, give us concisely the necessary information (full name and surname, citizenship, police station where you are being detained, where and when you were arrested and in which language you can communicate more easily).

- If Greek is not your native language, REQUEST that an interpreter is appointed. Do not accept to communicate in the few Greek words that you might know or in English. It is a legal requirement that the process is translated in your language in order for you to understand at any moment what is happening and what exactly it is you have signed.

[If an interpreter is appointed, do not forget that this is just an individual who is under oath (and thus assumes responsibility) for the typical part of interpreting accurately and nothing more: they are neither your friend nor a person of confidence necessarily. In any case you continue to insist that you are immediately allowed to contact a lawyer.]

- You have the right to freely choose the lawyer you prefer. If you contact the Legal Team, we will make sure that a lawyer comes as soon as possible.

- It is most likely that the police will remove all personal belongings (e.g. watch, cell phone, money, keys) as well as the laces of your shoes. You have the right to ask for a relevant checklist to be drafted.

- If you are asked to undergo a body search, you have the right to ask that this is performed by a police officer of the same biological sex.

- If you have been injured, demand that you are examined by a coroner and that a relevant medical document is issued.

Fingerprints/DNA

During your detention in the police station, you will be asked to give fingerprints, to have some of your physical characteristics documented (e.g. tattoos or piercings), to give a handwriting sample and to be photographed. The police have a right under the law to do all of the above. If you wish to refuse to undergo this process, bear in mind that most likely another charge will be added against you (which may even send you to court regardless of whether you are ultimately not prosecuted for the initial charges that brought you in custody in the first place).

-It is likely that the policemen will ask you for a DNA sample. This is usually done with a piece of cotton that they ask you to place in your mouth to get a sample of your saliva. If you refuse, they will take a DNA sample against your will, usually by removing a hair. The legality of this practice is challenged, however it is common practice within the Greek police and unfortunately there is not much you can do to prevent it.

After your arrest, the police must lead you within 24 hours before the Prosecutor. How these 24 hours are calculated is, of course, another story and a complex one, and it is common practice in arrests made in the context of large demonstrations that the police artificially prolong this time, stating a time of arrest later than the actual one. In any case, if you have spent 24 hours without having been brought before the Prosecutor, you should complain. ALSO, do not forget that if by then you have not seen a lawyer, you should continue endlessly to complain about it, both to the police and to the judicial authorities that you will be eventually led to (Prosecutor or possibly an Investigating Judge).

After you are let go

Inform your relatives that you are free and the Legal Team on any charges that have been pressed against you and on any other persons that may be still detained. Do not «chat» about your activities not even to your relatives: it does not help you and the «wrong people» might hear you. If you have been abused while in custody, take care to be examined in a public hospital and ask for a copy of the medical document.

ANNEX

As this guide intends to remain grounded to reality and not refer to an abstract realm of rights to in some non-existent non-political and neutral universe, it could not ignore the substantial differences in the situations that alien protesters and demonstrators might encounter (obviously particularly immigrants) in comparison to Greek citizens (such as for example the question of different police treatment).

So what is written here as «guidance», obviously apply to all demonstrators and protesters BUT should be read through the perspective of the personal status under which each one of us finds themselves in Greece.

Moreover, as the possibility of deportation and / or forcible return to the country of origin is one of the additional risks faced by foreigners (beyond that of the possible imposition of a criminal penalty and hence deprivation of liberty for a specific period of time), this guide will examine in detail below the different cases provided for by law.

[Legal Team Note: It is self evident that the categorization hereunder based on terms such as «immigrants», «refugees», «aliens», serves solely the purpose of correctly identifying the relevant legal provisions and not because we support it in any way]

- For foreigners [EU or third country nationals or persons awarded international protection in an EU country or refugees and migrants in Greece] it is possible to order judicial or administrative deportation. Judicial deportation is imposed by a court after a judicial decision imposing a criminal sentence (i.e. imprisonment from 5 to 20 years) when other substantial prerequisites are met. Administrative deportation is imposed by the police, including on grounds of public order, namely by virtue of an often vaguely worded finding that the foreigner might constitute a danger to other citizens.

More specifically:

a) EU nationals or third country nationals that reside legally in the EU or have come to Greece with a visa (special permit of entry)

- Their judicial or administrative deportation can be ordered. Judicial deportation is imposed by a court after a judicial decision imposing an imprisonment sentence for a felony, while administrative deportation is imposed by the police, among other reasons, on public order grounds.

b) Third country nationals who have acquired international protection in another EU country [refugees and persons awarded subsidiary protection status in the EU]

- There is the possibility of **deportation** (judicial or administrative, see above under a) to the country that has granted the international protection status - not to their home country !!!
- What consequences will a prosecution/conviction against them have on their international protection status?

There is a possibility of **revoking** their international protection status by the country that has granted it, if

- a) it is reasonably believed that this person is a danger to the national security of the country,
- b) this person is a danger to society, due to a final decision sentencing them for a particularly serious crime.

- The issue, however, of deporting them back to the country of origin is subject to the condition of non-refoulement in a country where the person concerned risks serious danger for their life, health or is at risk of being subjected to torture (of course this is a huge discussion with many aspects).

c) Third country nationals that have acquired international protection status in Greece [refugees and persons awarded subsidiary protection status in Greece]

- What consequences will a prosecution/conviction against them have on their international protection status?

There is a possibility of **revoking** their international protection status by the country that has granted it, if

- a) it is reasonably believed that this person is a danger to the national security of the country,
- b) this person is a danger to society, due to a final decision sentencing them for a particularly serious crime.

- The issue, however, of deporting them back to the country of origin is subject to the condition of non-refoulement in a country where the person concerned risks serious danger for their life, health or is at risk of being subjected to torture.

d) Third country nationals with an immigrant residence permit in Greece

- There is a possibility of revoking the residence permit if they are deemed dangerous for public order and safety.
- There is a possibility of **deporting** them (judicial or administrative, see above) to their country of origin, which is subject to the relation between their strong ties with Greece and the sufficient reasoning on why they constitute a danger to public order and safety. Their conviction alone is not sufficient grounds for them to be deemed such a danger.

e) Asylum seekers in Greece (asylum seekers in other countries do not have the right to travel abroad, except for very specific reasons which do not include participating in a demonstration)

- There is no possibility to deport them back to their country of origin until the final decision on their asylum request.
- What consequences will a potential prosecution/conviction against them have on their request?

There is a possibility that they will be **excluded** from subsidiary international protection if they are deemed «a danger to the **national security** of the country or to society, due to a final decision sentencing them **for committing a serious crime, that is a felony or a misdemeanor punishable by imprisonment of at least three years**».

f) Foreigners who have applied for relocation in Greece

- There is no possibility to deport them back to their country of origin until the final decision on their request.
- What consequences will a potential prosecution/conviction against them have on their request?
 - A potential denial of their request to relocate to another EU country and its conversion to an asylum request in Greece.
 - There is a possibility that they will be **excluded** from subsidiary international protection if they are deemed «a danger to the **national security** of the country or to society, due to a final decision sentencing them **for committing a serious crime, that is a felony or a misdemeanor punishable by imprisonment of at least three years**».

ATTENTION: To our knowledge, persons that have been pre-registered are not considered as asylum seekers/relocation applicants yet.



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