

Greece in Institutional Decline

Joint Civil Society Submission to the European Commission
on the 2024 Rule of Law Report
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Prepared by:

Vouliwatch
Greek Council for Refugees (GCR)
HIAS Greece
Refugee Support Aegean (RSA)
Hellenic League for Human Rights
Reporters United

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Surveillance, including use of illegal spyware

1. 2023 was another year in which serious questions arose regarding the protection of the rule of law and the privacy of communications in the context of the surveillance scandal in Greece, both in respect of the wiretapping by the National Intelligence Service (*Εθνική Υπηρεσία Πληροφοριών*, EYP) under the control of the Prime Minister and the illegal use of Predator spyware against targets in Greece. The use of spyware both by state entities and businesspeople is illegal under Greek law.
2. In January 2023, an investigation by the Hellenic Authority for Communication Security and Privacy (*Αρχή Διασφάλισης Απορρήτου Επικοινωνιών*, ADAE), an independent authority enshrined under Article 19(2) of the Greek Constitution, found that six senior government and armed forces officials have had their communications privacy lifted for reasons of national security. More specifically, the privacy of communications had been lifted from: the Minister for Energy, Kostas Hatzidakis; the Chief of the Hellenic National Defence General Staff, General Konstantinos Floros; the Chief of the Hellenic Army General Staff, Lt. Gen. Charalambos Lalousis; former National Security Advisor Alexandros Diakopoulos; the Head of the General Directorate of Armaments, Aristides Alexopoulos; as well as the latter's predecessor in the same position, Theodoros Lagios.¹
3. Following the revelations, Professor of Constitutional Law at the Aristotle University of Thessaloniki and former Deputy Prime Minister, Evangelos Venizelos, argued in a speech that the lifting of confidentiality of communications of senior officials in the armed forces was illegal. Venizelos reasoned that if the surveillance of these persons were legal and conducted for a justified reason, then the persons in question should not have remained in power, noting that the surveillance of senior armed forces personnel raises a major issue of national security, as well as a matter of respect for the rule of law and for the Constitution and namely Article 19 which guarantees the absolute inviolability of the confidentiality of communications.²
4. On 20 March 2023, the New York Times published an investigation alleging that former Meta (Facebook) security manager, Artemis Seaford, a dual US and Greek citizen, was the victim of surveillance by both EYP and the malicious spyware Predator.³ Although the Greek government has denied any involvement in the illegal use of Predator since the outbreak of the surveillance scandal,⁴ the double and simultaneous surveillance of Ms Seaford by both EYP and Predator raises concerns as to the credibility of this statement. As the New York Times report points out: "The simultaneous tapping of the target's phone [Artemis Seaford] by the national intelligence service and the way she was hacked indicate that the spy service and whoever implanted the spyware, known as Predator, were working hand in hand." More than a year after her surveillance by

¹ Gownwatch, 'National Intelligence Service: Surveillance of six senior politicians and military officials', 20 February 2023, [URL](#).

² Evangelos Venizelos, 'Ομιλία Ευάγγελου Βενιζέλου σε εκδήλωση για τις υποκλοπές', 26 January 2023, [URL](#).

³ New York Times, 'Meta Manager Was Hacked With Spyware and Wiretapped in Greece', 20 March 2023, [URL](#).

⁴ Reporters United, 'Συγκάλυψη #2: Πώς η κυβέρνηση Μητσοτάκη προσπαθεί (ξανά) να κλείσει την υπόθεση Κουκάκη', 21 April 2022, [URL](#).

the Greek intelligence service and the illegal spyware infection of her mobile device, no charges have been brought against Ms Seaford, and she has not been asked to cooperate with the authorities on any investigation.

5. On 22 May 2023, the PEGA Inquiry Committee, established by the European Parliament in order to investigate alleged contraventions or maladministration in the implementation of EU law as regards the use of the Pegasus and equivalent surveillance spyware e.g. Predator, published its final report of the investigation regarding the use of spyware in the EU.⁵ In its report, PEGA stated: "There is no doubt that there were close connections and interdependencies between certain persons and events relating to the government, the EYP and the providers of spyware, notably Krikel, a preferred supplier of communications and surveillance equipment to i.a. the police and the EYP. Krikel is closely connected with persons from the entourage of Prime Minister Mitsotakis."⁶
6. The PEGA report added: "Mr [Grigoris] Dimitriadis (former General Secretary to the Greek Prime Minister and politically responsible for the EYP) is also closely connected in several ways to Felix Bitzios and Giannis Lavranos. The three men are personally acquainted. Mr Dimitriadis and Mr Lavranos were each other's best men ('Koumbaroi') and Mr Dimitriadis is the godfather of Mr Lavranos' second child. Mr Dimitriadis was also indirectly connected to Mr Bitzios through business transactions with Mr Bitzios' brother. This puts him at the heart of a network connecting him professionally as well as personally to key persons at Intellexa, Krikel and EYP."⁷ The connections between the Greek government and the illegal Predator spyware were also underlined by the investigative media outlets Inside Story (Athens) and Investigative Reporting Lab (Skopje). According to a 13 July 2023 report, an open channel of communication was established between the Greek Prime Minister's Office under Grigoris Dimitriadis, and Intellexa, the vendor of Predator spyware.⁸
7. On 20 July 2023, the Hellenic Data Protection Authority (*Αρχή Προστασίας Δεδομένων Προσωπικού Χαρακτήρα*, DPA) released the findings of its investigation into the illegal use of spyware in Greece, confirming the mass targeting of citizens with Predator. The DPA has stated that over the past years 92 users of Greek phone numbers have been targeted with malicious Predator spyware SMS messages for the purpose of surveillance by this system. This targeting is unlawful under Greek law and included surveillance attempts against members of the Greek government, opposition politicians, journalists and businesspeople.⁹

⁵ European Parliament, *Report following the investigation of alleged contraventions and maladministration in the application of Union law in relation to the use of Pegasus and equivalent surveillance spyware*, A9-0189/2023, 22 May 2023. See also Govwatch, 'EU's PEGA Committee report on illegal surveillance in Greece', 30 May 2023, [URL](#).

⁶ *Ibid*, para 141.

⁷ *Ibid*, para 146.

⁸ Inside Story, 'Intellexa makes corrections on a Greek Intelligence Service document', 13 July 2023, [URL](#).

⁹ DPA, 'Ενέργειες της Αρχής σε σχέση με δραστηριότητες εγκατάστασης και χρήσης κατασκοπευτικού λογισμικού στην Ελλάδα', 20 July 2023, [URL](#); Inside Story, 'Predatorgate: Τι έγγραφαν τα SMS-παγίδα που έλαβαν επιχειρηματίες, υπουργοί και δημοσιογράφοι', 27 July 2023, [URL](#).

8. Following these events, the Rapporteur of the PEGA Inquiry Committee, MEP Sophie in't Veld, sent a letter to the European Commissioner for Justice, Didier Reynders, stating: "Events this week seem to confirm the concerns over political interference and possible obstruction of the inquiry".
9. In early October 2023, the "[Predator Files](#)" cross-border investigation coordinated by the European Investigative Collaborations network reported that Nexa, a company based in France and linked to Intellexa, had stored surveillance equipment in Greece, while a former employee of Cytrox, the North Macedonia-based company that developed the Predator spyware, told the investigation that there was a training centre in Athens for agents on the use of Predator.¹⁰
10. On 3 November 2023, Predator Files revealed for the first time that Dimitriadis' mobile phone number had been used to send messages with a link infected with illegal Predator spyware to 11 targets in Greece. At the time the messages were sent, Dimitriadis was serving in the Prime Minister's office and oversaw EYP.¹¹
11. However, on 23 October 2023, Supreme Court Prosecutor Georgia Adilini ordered the transfer of the "Predatorgate" investigation from the Athens Public Prosecutor's office to the Supreme Court, while the first instance prosecutor was investigating the connections between EYP and the illegal Predator spyware.¹² This judicial decision was met with criticism as it is expected to bring about more delays in the investigation for the surveillance case (see [Justice: Independence](#)).¹³
12. On 5 January 2024, media reports noted that disciplinary proceedings against former EYP Prosecutor Vassiliki Vlachou regarding her involvement in surveillance carried out by EYP were shelved. The proposal to archive the case was made by Deputy Supreme Court Prosecutor Evdokia Poulou, who has replaced Ms Vlachou as EYP Prosecutor.¹⁴ On 10 January 2024, opposition MPs urged for a debate on the matter at the Institutions and Transparency Committee of the Hellenic Parliament.¹⁵

Interference with and intimidation of constitutionally protected independent authorities

13. Throughout 2023, ADAE and its members faced several issues in their efforts to investigate the surveillance scandal, within the framework of their mandate. In January 2023, Supreme Court Prosecutor Isidoros Dogiakos, appointed in July 2022, issued a legal opinion asserting that, following the entry into force of Law (L) 5002/2022 in

¹⁰ Reporters United, 'Predator Files: Ο γαλαξίας της Intellexa και η ελληνική μαύρη τρύπα', 4 October 2023, [URL](#); 'Predator Files: Η Αθήνα κόμβος των υποκλοπών της Intellexa', 6 October 2023, [URL](#).

¹¹ Reporters United, 'Predator Files: Από τον αριθμό του Γρηγόρη Δημητριάδη, με αγάπη', 3 November 2023, [URL](#).

¹² Reporters United, 'Πώς ο Άρειος Πάγος ματαιώσε την αποκάλυψη της σχέσης κυβέρνησης – Predator', 24 October 2023, [URL](#).

¹³ RSF, 'Predatorgate scandal in Greece: RSF denounces the political sabotage of the investigation', 2 November 2023, [URL](#).

¹⁴ Οι Eidiseis, 'Υποκλοπές: Απαλλάχθηκε από τον πειθαρχικό έλεγχο η Εισαγγελέας Βασιλική Βλάχου - Ποιοι νέοι εισαγγελείς πηγαίνουν στην ΕΥΠ', 5 January 2024, [URL](#).

¹⁵ Οι Eidiseis, 'Υποκλοπές: Σύγκληση της Επιτροπής Θεσμών ζητά ο ΣΥΡΙΖΑ μετά την απαλλαγή της Βασιλικής Βλάχου', 10 January 2024, [URL](#).

December 2022,¹⁶ ADAE does not have the competence to manage requests from citizens who ask to be informed whether they have been placed under surveillance by EYP for reasons of national security, nor can it address telecommunications operators for that purpose.¹⁷ The opinion was issued following checks by ADAE with telecommunications providers which revealed that EYP was monitoring six senior officials, including serving Ministers and senior armed forces personnel.

14. The Supreme Court Prosecutor opinion has been opposed *inter alia* by renowned Greek legal scholars and by bar associations on the ground that (i) in no way may the legislature restrict the supervisory powers and duties conferred by Article 19(2) of the Constitution upon ADAE to scrutinise the exercise of power by state agencies for the purpose of ensuring legality, and that (ii) the Supreme Court Prosecutor may not issue opinions on matters relating to pending judicial investigations.¹⁸
15. Following the 28 September 2023 Conference of Presidents of the Hellenic Parliament, the new members of ADAE were appointed, without meeting the necessary $\frac{3}{5}$ majority of votes. The replacement came at a time when the Authority was reportedly set to decide on the imposition of a fine against EYP, at a meeting rescheduled from 27 to 29 September 2023.¹⁹ The fine, amounting to 100,000 €, was to be imposed because EYP destroyed evidence from the files it kept on the surveillance of journalist Thanasis Koukakis and the leader of the opposition party PASOK-KINAL, Nikos Androulakis. The destruction of evidence from the files of Mr Koukakis and Mr Androulakis created obstacles to the efforts of ADAE and of other state and judicial authorities in establishing the surveillance scandal. Following the change in the composition of ADAE, no fine was issued against EYP (see [Checks & Balances: Independent Authorities](#)).
16. In October 2023, in the context of a judicial investigation initiated by Supreme Court Prosecutor Isidoros Dogiakos, the judiciary summoned two members of ADAE as suspects for the offence of leaking sensitive state secrets to journalist Thanasis Koukakis,²⁰ despite the fact that he himself has disclosed being informed of his EYP surveillance by the journalists of the investigative media outlet Reporters United which revealed his surveillance.²¹ This move has been criticised as an attempt to intimidate the members of ADAE due to their investigation of the surveillance case in the framework of the mandate of the independent authority.²²

¹⁶ Gov. Gazette A' 228/09.12.2022.

¹⁷ 2023 Rule of Law Report Joint Civil Society Submission, para 66, [URL](#).

¹⁸ *Ibid.* See also Govwatch, '15 constitutional law professors denounce Supreme Court Prosecutor's opinion that ADAE has no competence to check surveillance records', 15 January 2023, [URL](#).

¹⁹ Reporters United, Facebook Post, 27 September 2023, [URL](#); Facebook Post, 28 September 2023; [URL](#); Facebook Post, 28 September 2023, [URL](#); Facebook Post, 29 September 2023, [URL](#); Facebook Post, 29 September 2023, [URL](#).

²⁰ Avgi, 'Σκάνδαλο υποκλοπών / Πρωτοφανές – Καλούν μέλη της ΑΔΑΕ ως ύποπτα σε διαρροή κρατικών μυστικών', 25 October 2023, [URL](#).

²¹ Reporters United, 'Έχθρός του Κράτους: Αποδεικνύουμε ότι η κυβέρνηση Μητσοτάκη παρακολουθούσε τον δημοσιογράφο Θανάση Κουκάκη', 15 April 2022, [URL](#).

²² HLHR, 'Οι Ανεξάρτητες Αρχές υπό διωγμό', 27 October 2023, [URL](#); Efsyn, 'Στοχοποιούν μέλη της ΑΔΑΕ στο θέμα των υποκλοπών', 25 October 2023, [URL](#).

17. On 2 November, 2023, the President of ADAE, Christos Rammos, former chief judge at the Greek Council of State, denounced a verbal attack launched against him from the floor of the Hellenic Parliament by Prime Minister Kyriakos Mitsotakis, after Mr Rammos exercised his functions as the head of the independent authority in order to investigate and shed light on the surveillance case.²³ “These are not conditions for the head of an independent authority in a European country to carry out his duties”, Mr Rammos said.²⁴

Enforced disappearance of people seeking asylum

18. Greek authorities have continued to perform unlawful, violent push backs of refugees and migrants to Türkiye despite mounting evidence²⁵ of flagrant violations of EU and international norms and strong condemnation of Greek policy, including by the European Border and Coast Guard (Frontex).²⁶ This has led the Frontex Fundamental Rights Officer (FRO) to urge for withdrawal of the Agency’s operations in Greece on account of systemic breaches of the EU *acquis*,²⁷ to no avail. The Ministers of the Greek government have subsequently construed the continued presence of Frontex as an indication of EU support for their border management policies.²⁸
19. The Greek government has continued to show unacceptable contempt for interim measures indicated by the European Court of Human Rights (ECtHR) under Rule 39 of the Rules of Court relating to assistance and rescue of persons in distress at borders (see [Checks & Balances: Implementation of Judgments](#)) and has proceeded to unlawfully removing such people from its territory.²⁹
20. The European Commission has continued to receive a substantial amount of parliamentary requests for scrutiny of Greece’s push backs. Its consistent replies thereto reiterate the Commission’s view that the Member State has put in place adequate mechanisms to conduct investigations.³⁰ Yet, Greece has still not delivered effective investigations into unlawful conduct of law enforcement officials involved in push backs, given the lack of independence and effectiveness of both the prosecution service (see [Justice: Independence](#)) and other authorities entrusted with investigations, namely the National Transparency Authority (*Εθνική Αρχή Διαφάνειας*, NTA) and the FRO of the Ministry of Migration and Asylum (see [Checks & Balances: Independent](#)

²³ Conference ‘Συνταγματικά κατοχυρωμένες Ανεξάρτητες Αρχές’, 2 November 2023, [URL](#).

²⁴ TVXS, ‘Αιχμηρή απάντηση Ράμμου σε Μητσοτάκη / Τα περί «ατζέντας» θίγουν τη δικαστική μου τιμή’, 2 November 2023, [URL](#).

²⁵ New York Times, ‘Video shows Greece abandoning migrants at sea’, 19 May 2023, [URL](#).

²⁶ Le Monde, ‘Frontex threatens to suspend its activities in Greece’, 26 June 2023, [URL](#).

²⁷ Politico, ‘EU border agency chief does not rule out suspending operations in Greece’, 6 July 2023, [URL](#); Euronews, ‘Frontex: Will the EU border agency quit Greece over the latest migrant boat tragedy?’, 29 June 2023, [URL](#).

²⁸ Ministry of Migration and Asylum, ‘Δ. Καιριδης – N. Gregori: Ενισχύει την παρουσία της στην Ελλάδα η Ευρωπαϊκή Υπηρεσία Ασύλου’, 23 November 2023, [URL](#); Liberal, ‘Πώς ναυάγησε το σχέδιο να διώξουν τη Frontex από το Αιγαίο’, 17 September 2023, [URL](#).

²⁹ GCR, ‘Information Note on interventions and on interim measures granted by the ECtHR in cases regarding pushbacks’, 3 December 2023, [URL](#).

³⁰ See e.g. European Commission, Reply to written question E-1651/2023, 9 August 2023; Reply to written question E-773/2023, 12 July 2023; Reply to written question E-996/2023, 6 July 2023; Reply to written questions E-762/2023 and E-788/2023, 15 May 2023; Reply to written question E-323/2023, 25 April 2023; Reply to written question E-371/2023, 21 March 2023.

[Authorities](#)). The Commission has stated it has not been granted access to the inspection reports prepared by the NTA in related cases. The Commission has also not received a response from the Greek authorities on the status, timeline and outcome of investigations and judicial proceedings launched into such incidents, based on information gathered through obtained documents and meetings.³¹

21. Execution of related ECtHR condemnations remains open, while the Court has handed down fresh condemnations against Greece for breaching its human rights obligations on account of ineffective investigations (see [Checks & Balances: Implementation of Judgments](#)).³²

Declining press freedom

22. Greece continues to face several challenges regarding press freedom. For the second year in a row, Greece came last among EU countries in Reporters Without Borders' (RSF) 2023 World Press Freedom Index. Greece now ranks 107th out of 180 countries globally. RSF points out that "Press freedom in Greece suffered severe setbacks between 2021 and 2023, including with a wiretapping scandal that revealed the National Intelligence Service (EYP) was spying on several journalists. Furthermore, SLAPPs (Strategic Lawsuits Against Public Participation) are commonplace, and, even more troubling, the murder of veteran crime reporter Giorgos Karaivaz in 2021 has not yet been solved" (see [Media Freedom: Protection](#)).³³
23. Following its mission to Athens in March 2023, the LIBE Committee of the European Parliament pointed out serious issues regarding press freedom in Greece, stating that it "is highly alarmed about the fact that many journalists face physical threats, verbal attacks, including from high-ranking politicians and ministers, violation of their privacy with spyware, or SLAPPs", and that "media pluralism is under threat as media ownership in the country is mainly distributed among a small number of oligarchs, resulting in dramatic under-reporting on certain topics, such as the Tempi train accident".³⁴

Police violence & impunity of law enforcement officers

24. As in previous years, incidents of police violence and arbitrariness are a frequent and increasingly common phenomenon in Greece. Given that this issue was not mentioned by the Commission in the 2023 Rule of Law Report, we highlight that the use of unjustified and/or excessive force, violent operations against crowds e.g. in protests or concerts, as well as arrests without sufficient grounds, unfortunately seems to have become fairly common in the country.³⁵ In its latest Annual Report as National

³¹ For instance, European Commission, Letter to the Minister of Migration and Asylum, Ares(2021)6658201.

³² ECtHR, *B.Y. v. Greece* App No 60990/14, 26 January 2023. The supervision of execution of the judgment has been brought the group *Sidiropoulos & Papakostas v. Greece* App No 33349/10, 25 January 2018.

³³ RSF, Greece, [URL](#). See also Tagesschau, 'Wo Pressefreiheit Mut braucht', 13 January 2024, [URL](#).

³⁴ European Parliament, *Mission report following the LIBE mission to Athens, 6 to 8 March 2023*, PE742.480, 11 April 2023, 14, [URL](#).

³⁵ Reported incidents available at: [govwatch.gr](#); [copwatch.gr](#); [themanifoldfiles.org](#); [hlhr.gr](#).

Mechanism for the Investigation of Arbitrariness Incidents,³⁶ the Greek Ombudsman notes that certain groups of citizens (young people, foreigners, Roma and women) are the usual victims of arbitrary actions by police officers.

25. We note that late 2023 saw yet another case of a Roma juvenile being shot and killed by a police officer in Voiotia.³⁷ Only four months before, a young Syrian national was shot dead in a similar pursuit in Larissa.³⁸ In addition, there appears to be a general sense of impunity for police officers who exhibit unlawful behaviour both at the criminal and disciplinary level. According to the Ombudsman, incidents of arbitrariness are not investigated thoroughly or effectively, and the Ombudsman's repeated recommendations for improvement do not appear to have been adopted, leading the Ombudsman to conclude that documented problems not only persist but deteriorate.³⁹

³⁶ Ombudsman, *Έκθεση 2022: Εθνικός Μηχανισμός Διερεύνησης Περιστατικών Αυθαιρεσίας*, 17 October 2023, [URL](#).

³⁷ Govwatch, 'Question of excessive police violence in the death of a 17-year-old Roma boy in Boeotia', 29 November 2023, [URL](#).

³⁸ HLHR, 'Police deadly force in Larissa: The lengthy criminal record of Greek Police', 11 July 2023, [URL](#).

³⁹ Ombudsman, *Έκθεση 2022: Εθνικός Μηχανισμός Διερεύνησης Περιστατικών Αυθαιρεσίας*, 17 October 2023, 24: "the regularity in reporting – in almost every annual report of the Mechanism – of the same deficiencies and gaps of the internal procedure for investigation of disciplinary offences and thereby of their durability despite insistent recommendations and repeated interventions of the Authority led it to highlight last year the risk between paper and real legislation. This year's observations as outlined in detail in the individual chapters of the report not only confirm the same trend but document a new risk stemming from intensification of already recorded deficiencies" (unofficial translation).

I. Justice system

2023 Rule of Law Report recommendation: Take steps to address the need for involvement of the judiciary in the appointment of President and Vice-President of the Council of State, the Supreme Court and the Court of Audit taking into account European standards on judicial appointments

26. The justice system as a whole has been slowly deteriorating over time. In a December 2023 statement, the Greek Association of Judges and Prosecutors (*Ένωση Δικαστών και Εισαγγελέων*, ENDE) has expressed concern that “the deficiencies underlying our country’s justice system, despite serious, sensible and substantiated positions taken by Judicial Unions, not only are not being addressed but are exacerbated (lack of infrastructure, failure to fill vacant posts of judicial officials, lack of digitalisation etc.)”⁴⁰

A. Independence

Independence/autonomy of the prosecution service

27. **Persisting ineffectiveness of criminal investigations into ill-treatment by law enforcement bodies:** Greece continues to fall far short of the independence, impartiality and effectiveness standards required by Articles 2 and 4 of the Charter of Fundamental Rights – and corollary provisions of the European Convention on Human Rights – as regards investigations into the conduct of the Hellenic Police and Hellenic Coast Guard. Criminal proceedings are marred by systemic deficiencies yet to be meaningfully addressed despite numerous ECtHR judgments and an increasing number of pending cases against the Member State (see [Checks & Balances: Implementation of Judgments](#)). Beyond the execution of *Safi v. Greece* App No 5418/15, the incorporation of the recent judgment in *B.Y. v. Greece* App No 60990/14,⁴¹ involving condemnation of Greece for failure to properly investigate cases of unlawful removal of refugees from its territory, into the *Sidiropoulos & Papakostas v. Greece* App No 33349/10 group reaffirms the inherent link between ill-treatment of refugees and migrants and the absence of effective redress in criminal justice (see [Cross Cutting Issues: Enforced Disappearance of People Seeking Protection](#)). A related circular was issued by the Supreme Court Prosecutor, recalling the importance of rapid and thorough investigations.⁴² Yet, this link and persisting issue was not directly addressed in the December 2023 decision of the Committee of Ministers to close the supervision of execution of the part of the *Sidiropoulos* ruling relating to effectiveness of investigations.⁴³
28. The systemic concerns highlighted above have also resurfaced following the Pylos shipwreck occurred on 14 June 2023 when the *Adriana*, a fishing trawler carrying an estimated 750 passengers, sank in the Greek search and rescue zone off the coast of

⁴⁰ ENDE, ‘Ψήφισμα της Ετήσιας Τακτικής Γενικής Συνέλευσης της Ένωσης Δικαστών και Εισαγγελέων’, 9 December 2023, para 6, [URL](#).

⁴¹ App No 60990/14, 26 January 2023.

⁴² Supreme Court Prosecutor, Circular 18/2023 ‘Εκτέλεση της απόφασης του ΕΔΔΑ, στην υπόθεση του τούρκου υπηκόου B.Y. κατά Ελλάδας με αριθμ. προσφυγής 60990/2014’, 3 November 2023, [URL](#).

⁴³ Council of Europe Committee of Ministers, CM/Del/Dec(2023)1483/H46-16, 7 December 2023, para 5.

Pylos, leaving only 104 survivors.⁴⁴ Several institutions have called upon Greece to deliver a credible investigation into the incident.⁴⁵ The Greek authorities have launched two discrete investigations into the incident: one by the Public Prosecutor of Kalamata resulting in prosecution of nine persons for smuggling, illegal entry, criminal organisation, causing of a shipwreck, negligent manslaughter and endangerment, and one by the Naval Court Prosecutor concerning potential responsibility of the Hellenic Coast Guard. The latter is at the stage of preliminary investigation (*προκαταρκτική εξέταση*) at the time of writing.

29. **Lack of independence of investigating officers:** We recall that investigations into potential criminal conduct by law enforcement bodies are carried out by the very same state bodies (Hellenic Police, Hellenic Coast Guard) in their capacity as “general investigating officers” (*γενικοί ανακριτικοί υπάλληλοι*) competent for the conduct of the preliminary investigation and pre-interrogation (*προανάκριση*) following a Public Prosecutor order or *ex officio*.⁴⁶
30. In the context of the Kalamata Prosecutor case opened following the 14 June 2023 Pylos shipwreck, the preliminary interrogation (*προανάκριση*) was carried out by officers of the Coast Guard of Kalamata, even though the incident involves potential responsibility of the Coast Guard. This follows a wider pattern of coast guards performing preliminary interrogations on incidents involving the Coast Guard, also present in pending cases before the ECtHR including: *F.M. v. Greece* App No 17622/21 regarding the 16 March 2018 shipwreck of a boat off the coast of Agathonisi island; *Almukhlis v. Greece* App No 22776/18 on the 31 August 2015 lethal shooting of a minor passenger by Coast Guard fire inside a boat near the coast of Symi island; *Alkhatib v. Greece* App No 3566/16 on the 22 September 2014 lethal shooting of a passenger by Coast Guard fire on the engine of a boat carrying refugees near the Pserimos island.⁴⁷
31. Similarly, in *Muhammad v. Greece* App No 34331/22 relating to the criminal investigation into the death of Muhammad Gulzar, a Pakistani national who was allegedly shot by the Greek authorities at the Turkish-Greek border on 4 March 2020,⁴⁸ the police officers who conducted the investigations belonged to the same Police Directorate with those allegedly involved in the incident. Additionally, one of them was of an inferior rank to the police officer from whom she took a testimony.
32. Following the 7 July 2022 judgment of the ECtHR in *Torosian v. Greece*, the Supreme Court Prosecutor issued Circular 1/2023 urging prosecutors to ensure that, in the context of complaints against police and correctional officers relating to ill-treatment in the

⁴⁴ RSA, ‘Pylos Shipwreck: Timeline and archive of a tragedy that could have been avoided’, 27 July 2023, [URL](#).

⁴⁵ Council of Europe Commissioner for Human Rights, ‘Pylos shipwreck: the Greek authorities must ensure that effective investigations are conducted’, 28 July 2023, [URL](#).

⁴⁶ Articles 31(1)(b) and 245 Criminal Procedure Code, L 4620/2019, Gov. Gazette A’ 96/11.06.2019. Independence and impartiality safeguards in the criminal procedure apply to investigating officers as well: Article 25 Criminal Procedure Code.

⁴⁷ RSA & Stiftung PRO ASYL, *Beyond Farmakonisi: The responsibility of the Greek Coast Guard for human rights violations at sea*, August 2023, 12-13, [URL](#).

⁴⁸ Note European Commission, Ares(2020)2505995, 9 July 2020, per which the President of the European Commission inquired with the Greek authorities into the follow up to the incident and informed the European Parliament that “the Greek authorities firmly maintained that no such incident was caused by actions of the Greek Forces.”

sense of Article 3 ECHR, preliminary investigations are conducted by First Instance Court Prosecutors and not by police officers.⁴⁹ The Circular adds that the Court of Appeal Prosecutor shall be informed in order to ensure independence where the supervising officer of the Public Prosecutor is allegedly involved in the incident under investigation. There are no similar prosecutorial instructions in place with regards to investigations of complaints against officers of the Hellenic Coast Guard, including *ex officio* preliminary examinations launched into incidents that may involve responsibility of the Coast Guard for breaches of Articles 2 and 4 of the Charter e.g. push backs, deadly shipwrecks or other casualties at sea.⁵⁰ We note that Circular 4639/2023 issued by the Naval Court Prosecutor and transmitted to the Presidents and Prosecutors of all military courts and to the Hellenic Coast Guard headquarters following the *Safi v. Greece* judgment does not address the aforementioned systemic deficiencies.

33. Furthermore, the Prosecutor may archive cases without preliminary investigation where an administrative inquiry (*ένορκη διοικητική εξέταση*) has been conducted or a NTA report has been issued.⁵¹ However, administrative inquiries are often also conducted by police officers of the very same Directorate under investigation.
34. **Deficient evidence collection:** Witnesses called in the context of the Kalamata Prosecutor case on the aforementioned Pylos shipwreck have reported omissions and tampering of their testimonies on the incident, including identical records of different witness statements.⁵² Similar deficiencies have been documented in cases such as *F.M.*, *Almukhlas* and *Alkhatib* mentioned above.⁵³ In addition, over twenty mobile phones of survivors of the Pylos shipwreck have been confiscated by the Hellenic Coast Guard⁵⁴ without a formal procedure, documentation of information on how they can be retrieved.
35. Contrary to the immediate mediatisation of the Kalamata Prosecutor investigation against the alleged smugglers, the Naval Court Prosecutor investigation into the shipwreck was initiated on 19 June 2023 but was only made public by the European Commission in a 6 July 2023 meeting of the LIBE Committee. Yet, during the first three months of the investigation, the Naval Court Prosecutor had called none of the survivors of the shipwreck to testify on the circumstances of the incident. This was only triggered after forty of them lodged a criminal complaint to said Prosecutor, represented *inter alia* by GCR and RSA.⁵⁵ In a similar vein, the Prosecutor ordered the confiscation of the mobile phones of the coast guards on board the Coast Guard

⁴⁹ 2023 Rule of Law Report Joint Civil Society Submission, para 13.

⁵⁰ GCR & ECRE, *Submission to the Committee of Ministers in Safi v. Greece*, November 2023, 16, [URL](#).

⁵¹ Article 43(4) Criminal Procedure Code, as amended by Article 102 L 4855/2021.

⁵² GCR & ECRE, *Submission to the Committee of Ministers in Safi v. Greece*, November 2023, 22-23.

⁵³ RSA & Stiftung PRO ASYL, *Beyond Farmakonisi: The responsibility of the Greek Coast Guard for human rights violations at sea*, August 2023, 13-14.

⁵⁴ Ministry of Maritime Affairs and Island Policy, Reply to parliamentary question, 1500.1/59296/2023/110, 22 August 2023, [URL](#).

⁵⁵ GCR et al., '40 survivors of the Pylos shipwreck file a criminal complaint before the Naval Court of Piraeus', 14 September 2023, [URL](#).

vessel in question no earlier than three months after the shipwreck, after the survivors' criminal complaint.⁵⁶

36. Despite the launch of criminal proceedings on the Pylos shipwreck, the Hellenic Coast Guard has refused to carry out a disciplinary investigation into its operations relating to the shipwreck. This led the Greek Ombudsman to launch its own examination of the incident in its capacity as National Mechanism for Investigation of Arbitrariness Incidents.⁵⁷
37. Additional procedural irregularities are highlighted in a December 2023 application to the ECtHR lodged by GCR regarding a push back occurred upon entry of the applicants into a state-run reception facility on Lesbos island with the involvement and coordination of Hellenic Police officers. None of the Coast Guard or Hellenic Police officers on duty on the dates and hours of the alleged incident were examined in the context of the preliminary examination, following which the case was shelved in the archive of unknown perpetrators.
38. In an incident documented by Doctors without Borders (MSF) in October 2022,⁵⁸ involving the handcuffing and ill-treatment of newly arrived asylum seekers on Lesbos by masked men posing as doctors, the case files were shelved on grounds of unknown perpetrators and of insufficient evidence, even though a police radio had been found on site and had been returned to the Greek authorities.⁵⁹
39. Finally, cases such as *Muhammad* illustrate that the Greek authorities have refused judicial cooperation with Türkiye with a view to establishing the circumstances of the case and collecting the necessary evidence for its adjudication.

Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

40. A series of issues have arisen throughout the reporting period which could potentially endanger the perception of the independence of the judiciary. Indicatively we highlight the following:
 - 40.1. The allegations levelled by the Vice-President of the Supreme Court, Christos Tzanerikos, of attempted government interference in the justice system. After his resignation, he also claimed to have been approached by government officials and to have been requested to assist in the blocking of a specific political party from national elections in exchange for potential career advancement in the future.⁶⁰

⁵⁶ GCR & ECRE, *Submission to the Committee of Ministers in Safi v. Greece*, November 2023, 25.

⁵⁷ Ombudsman, 'Ο Συνήγορος του Πολίτη ερευνά το ναυάγιο της Πύλου', 9 November 2023, [URL](#).

⁵⁸ MSF, 'People found handcuffed and injured on the Greek island of Lesbos', 25 October 2022, [URL](#).

⁵⁹ Hellenic Parliament, Reply to parliamentary question, 017/4/26237-δ, 26 November 2022, [URL](#).

⁶⁰ Govwatch, 'Allegations of an attempt to interfere with the justice system', 12 April 2023, [URL](#).

- 40.2. The actions taken by the justice system in relation to the [Surveillance scandal](#), consisting of: (i) Opinion 1/2023 of the Supreme Court Prosecutor deeming that ADAE had no competence to check surveillance records, in contravention of the supervisory powers bestowed upon the authority by the Constitution; (ii) the removal of the criminal case file from the Athens Prosecutor's office in October 2023;⁶¹ (iii) the summons of ADAE members for questioning (see [Cross-Cutting Issues: Interference with Independent Authorities](#)).⁶²
- 40.3. The broader issue of placement of judicial officials in public bodies (e.g. independent authorities) immediately after retirement from the judiciary. It has been argued that such a practice may constitute indirect influence on judicial work that may also affect the perception of independence and impartiality of the judiciary.⁶³

B. Quality of justice

Accessibility of courts

41. **Legal aid:** There is an urgent need for reform and enhanced accountability on account of significant shortcomings within the legal aid institution in Greece. Establishing coordination and evaluation mechanisms is essential to building a comprehensive understanding of legal aid, identifying specific needs, conducting quality control, investigating complaints and implementing appropriate corrective measures.⁶⁴
42. Delayed payments to lawyers could jeopardise the effectiveness of the legal aid system, as correctly noted in the 2023 Rule of Law Report. The issue is likely to arise again in the future, given that the clearance procedure introduced through Article 69 L 5016/2023 was only a temporary solution pertaining specifically to earlier years and to the payment of 80% of lawyers' fees.⁶⁵
43. As regards remedies against immigration detention in particular, the obstacles previously described persist.⁶⁶ The Greek authorities have taken no action to establish a free legal assistance scheme for challenging immigration detention, despite EU and domestic law obligations. Whereas 30,631 detention orders were issued by the Hellenic Police in 2022, no more than 5,011 objections against detention were lodged with the

⁶¹ ReportersUnited, 'Πώς ο Άρειος Πάγος ματαιώσε την αποκάλυψη της σχέσης κυβέρνησης – Predator', 24 October 2023, [URL](#).

⁶² RSF, 'Predatorgate scandal in Greece: RSF denounces the political sabotage of the investigation', 2 November 2023, [URL](#); HLHR, 'Οι Ανεξάρτητες Αρχές υπό διωγμό', 27 October 2023, [URL](#).

⁶³ Δικαστικό, 'Χαράλαμπος Σεβαστιδής: Υπευθυνότητα και υποχρεώσεις των δικαστικών λειτουργών μετά την αφυπηρέτησή τους', 25 April 2023, [URL](#); Bar Association of Athens, 'Συνάντηση του Προέδρου της Ολομέλειας με την Επιτροπή Πολιτικών Ελευθεριών, Δικαιοσύνης και Εσωτερικών Υποθέσεων (LIBE) του Ευρωπαϊκού Κοινοβουλίου', 8 March 2023, [URL](#).

⁶⁴ HLHR, *Legal Aid Watch, Συμπεράσματα και προτάσεις για την παροχή νομικής βοήθειας σε ποινικές υποθέσεις*, 29 June 2022, [URL](#).

⁶⁵ Gov. Gazette A' 21/04.02.2023.

⁶⁶ 2023 Rule of Law Report Joint Civil Society Submission, para 20.

Administrative Courts. This means that less than one out of five detention orders were challenged before the courts.⁶⁷

44. **Interpretation services:** Court interpreters have long been scarce on account of the state's failure to pay their accrued wages, provide training and improve working conditions.⁶⁸ This has palpable repercussions on the state's ability to achieve the requirement of a fair trial for foreign defendants, and on compliance with Greece's obligations under Article 7 of the Victims' Rights Directive (see [Justice: Efficiency](#)). We recall the findings of a 2022 monitoring report on 256 legal aid trials before the Criminal Courts of Athens in 2020-2022, per which only in 1/3 of cases was interpretation provided in order to facilitate communication between the lawyer and the accused.⁶⁹ In practice, parties to the proceedings are expected to secure their own interpreters.

Court statistics and their transparency

45. The statistical data published online by the Ministry of Justice for 2023 appear to be patchy, inconsistent and incomplete, exactly as reported the previous year.⁷⁰ Statistics relating to the justice system can be found in fragments on the websites of the Hellenic Statistical Authority and the Hellenic Police, while the statistics made available in the "Crime and Justice" section of the data.gov.gr website are outdated. We generally consider the data available to the public to be insufficient.

C. Efficiency of the justice system

Length of proceedings

46. Persisting deficiencies with regard to processing times in the Greek justice system should be reiterated with due reference to the factors underlying chronic delays and to the inadequacy of interim relief mechanisms.
47. **Delays in civil courts:** Requests for interim measures (*ασφαλιστικά μέτρα*) lodged before the Civil Court of Athens in the context family law proceedings are scheduled for hearing three to four months later.⁷¹ A provisional order (*προσωρινή διαταγή*) may be requested on grounds of urgency pending the outcome of interim measure proceedings. However, provisional order applications may take weeks or even a month to adjudicate at the Civil Court of Athens.⁷²

⁶⁷ RSA, *Immigration detention in 2022: Sharp rise in detention orders, no access to remedies and legal aid in Greece*, April 2023, [URL](#).

⁶⁸ Efsyn, 'Χρωστούν 200.000€ στους δικαστικούς διερμηνείς', 13 October 2023, [URL](#); Dikastiko, 'Κραυγή απόγνωσης δικαστικής διερμηνέως προς τον Υπουργό Δικαιοσύνης: "Χρωστούν πάνω από 240.000 ευρώ σε 140 διερμηνείς για δεδουλευμένα από το 2020"', 11 October 2023, [URL](#); Imerodromos, 'Σε επ' αόριστον απεργία οι Δικαστικοί Διερμηνείς', 31 May 2023, [URL](#); Efsyn, 'Και κακοπληρωμένοι και απλήρωτοι οι δικαστικοί διερμηνείς Αττικής', 14 February 2023, [URL](#).

⁶⁹ 2023 Rule of Law Report Joint Civil Society Submission, para 22.

⁷⁰ Ministry of Justice, *Στατιστικά στοιχεία από το 2016 έως σήμερα*, [URL](#); *Ανοικτά Δεδομένα Υπουργείου Δικαιοσύνης*, [URL](#).

⁷¹ For instance, Civil Court of Athens, 88368/2023 lodged on 22 August 2023 and heard on 12 December 2023.

⁷² For instance, Civil Court of Athens, 88364/2023 lodged on 22 August 2023 and heard on 29 September 2023.

48. **Delays in administrative courts:** RSA has lodged a total 47 applications for judicial review (*αιτήσεις ακύρωσης*) with first-instance administrative courts in the period 2021 to 2023. By the end of 2023, a judgment had been rendered in only one out of 18 applications lodged in 2021, one out of 19 lodged in 2022 and none out of 10 lodged in 2023. As for judicial review applications lodged by GCR in the same period, only in 1/3 of cases had a judgment been rendered by the end of 2023, most of which by the Administrative Court of Thessaloniki. In judicial review applications represented by HIAS, no judgment has been rendered in one application lodged in 2020, two lodged in 2021, three lodged in 2022 and three lodged in 2023; for two of those no hearing has been scheduled to date.
49. Protracted delays are observed throughout all stages of judicial proceedings at the administrative courts:
- 49.1. **Delayed schedule of hearings:** The setting of a hearing date (*ορισμός δικασίμου*) at the administrative courts takes several months and exceeds one year in cases represented by our organisations.⁷³
- 49.2. **Repeated postponement of hearings:** Administrative courts continue to systematically postpone hearings of their own motion (*οίκοθεν αναβολές*). Current litigation supported by our organisations before the Council of State includes cases postponed as many as 20 times before the actual hearing.⁷⁴
- 49.3. **Delayed delivery of decisions:** Even after a hearing has taken place, administrative courts may not issue a judgment for periods exceeding a year or eighteen months.⁷⁵
50. At the same time, interim relief cannot effectively be sought pending the outcome of proceedings. Requests for suspensive effect (*αιτήσεις αναστολής εκτέλεσης*) in asylum cases are scheduled for hearing over one month later, and decisions on suspensive effect may take one to two months.⁷⁶ In a case represented by HIAS, the hearing took

⁷³ For instance, Administrative Court of Athens, AK1397/2022 lodged on 6 September 2022; AK1593/2022 lodged on 18 October 2022; AK1903/2022 lodged on 22 December 2022; AK250/2023 lodged on 3 March 2023; AK608/2023 lodged on 1 June 2023; AK612/2023 lodged on 2 June 2023; AK621/2023 lodged on 6 June 2023; AK701/2023 lodged on 29 June 2023. Note also Administrative Court of Thessaloniki, AKY552/2022 lodged on 30 June 2022 and scheduled to be heard on 16 November 2023; AKY775/2022 lodged on 2 November 2022 and scheduled to be heard on 14 December 2023.

⁷⁴ Council of State, E1686/2018 lodged on 13 June 2018 and heard on 27 September 2022 after 21 postponements; E368/2020 lodged on 27 January 2020 and scheduled to be heard on 14 May 2024 after 10 postponements.

⁷⁵ For instance, Council of State, E1686/2018 lodged on 13 June 2018, heard on 27 September 2022 and not yet decided; E259/2021 lodged on 1 February 2021, heard on 2 December 2022 and not yet decided; Administrative Court of Athens, AK868/2020 lodged on 16 July 2020, heard on 6 May 2022 and not yet decided; AK760/2020 lodged on 29 June 2020, heard on 2 December 2021 and decided on 31 July 2023.

⁷⁶ For instance, Administrative Court of Athens, ANΔ571/2022 lodged on 14 September 2022, heard on 7 October 2022 and decided on 27 January 2023; ANΔ621/2022 lodged on 5 October 2022, heard on 10 November 2022 and decided on 16 January 2023; ANΔ181/2023 lodged on 3 April 2023, heard on 5 May 2023 and decided on 31 July 2023; ANΔ210/2023 lodged on 12 April 2023, heard on 5 May 2023 and decided on 13 December 2023; ANΔ483/2023 lodged on 20 July 2023, heard on 25 September 2023 and

place more than one month after the filing of the request for suspensive effect and the decision granting suspension was issued almost five months later. No provisional order (*προσωρινή διαταγή*) can be requested pending the conclusion of suspensive effect proceedings in these cases.

51. **Delays in criminal courts:** The issue of delays in criminal courts is a systemic challenge of the Greek justice system. In one criminal case represented by HIAS, no first-instance hearing has taken place after more than six years since the alleged commission of the offence. In another case no hearing has taken place after more than four years, in four cases no hearing has taken place after more than three years, while in three cases the hearing took place more than three years later.
52. The intricate and continually evolving procedural and substantive legal framework stemming from constant changes to the Criminal Code and Criminal Procedure Code is another factor contributing to persistent delays in criminal justice in Greece (see [Checks & Balances: Law-Making](#)).

Other – Misuse of criminal law for targeting of particular groups

53. **Criminalisation of refugees and migrants for smuggling:** Greece routinely imposes long prison sentences to refugees and migrants for driving boats or vehicles, even where no participation in a smuggling network, pursuit of profit or intent of smuggling has been established. “[T]he current application of anti-smuggling laws do not protect migrants but rather further harm and punish people on the move for the sole act of crossing borders”.⁷⁷ This has led people convicted of smuggling to form the second largest population group in Greek prisons. Almost 90% of them are third-country nationals.⁷⁸
54. Findings of a Borderline-Europe monitoring of 81 trials of 95 people arrested and tried in Greece for smuggling between December 2022 and March 2023 reveal that:⁷⁹
 - 54.1. Arresting boat / vehicle drivers or other individuals on board for smuggling offences is a routine practice by law enforcement with little regard for the actual involvement or intention of the accused persons.
 - 54.2. Smuggled people themselves, including asylum seekers, are systematically convicted of smuggling on the alleged grounds of driving or assisting in driving of the boat or vehicle.
 - 54.3. Arrests and preliminary investigations are riddled with severe fundamental rights violations, including arbitrary arrest, violence and coercion, little to no access to interpretation or legal support, as well as obstacles to accessing the asylum procedure during detention.

decided on 21 November 2023; ANΔ519/2023 lodged on 8 August 2023, heard on 22 September 2023 and decided on 2 November 2023; Administrative Court of Thessaloniki, ANΔ141/2022 lodged on 27 April 2022, heard and decided on 6 June 2022.

⁷⁷ Border Criminologies, ‘Imprisonment of Boat Drivers in Greece – examples from Lesbos’, 16 June 2023, [URL](#).

⁷⁸ Borderline-Europe, *A legal vacuum – the systematic criminalization of migrants for driving a boat or a car to Greece*, July 2023, 7, [URL](#).

⁷⁹ *Ibid.* See also I Have Rights, *Criminalisation of Asylum Seekers: The #Samos2 trial*, [URL](#).

- 54.4. 84% of cases of persons arrested are subjected to pre-trial detention that lasts an average of eight months. As of the end of February 2023, there were 634 people in pre-trial detention for smuggling.
- 54.5. Judgments are issued based on limited and questionable evidence e.g. testimony of a single Hellenic Police or Hellenic Coast Guard officer. In 68% of monitored cases, the officers who provided the testimony forming the basis of the indictment did not appear in court to be cross-examined.
- 54.6. Monitored trials lasted 37 minutes on average. This drops to 17 minutes for trials with state-appointed lawyers. The shortest trial lasted six minutes.
- 54.7. Trials lead to an average imprisonment sentence of 46 years and a 332,209 € fine.
- 54.8. 52% of convicted persons are serving a 15-year to life imprisonment sentence.

55. **Religion as basis for restrictions on freedom of speech:** While Greece has abolished blasphemy laws, religion continues at times to form the basis of prosecutions aimed at restricting freedom of speech and satire. At least one such prosecution was initiated for religious insult based on the defamation and insult provisions of the Criminal Code.⁸⁰

Other – Ineffectiveness of judicial review

56. **Ineffective scrutiny of immigration detention:** Effective review of immigration detention orders remains a long-lasting issue of concern in the Greek justice system. Whereas national law allows for the examination of the lawfulness of detention orders, Administrative Courts do not always ensure an effective and thorough scrutiny thereof. Main persisting concerns include:

- 56.1. Lack of legal certainty and predictability of court rulings on objections against detention. This includes cases of contradictory judgments dealing substantially with the same facts or legal issues.⁸¹
- 56.2. Contravention of clear provisions of EU or domestic law or CJEU or ECtHR case law. For example, domestic courts have erroneously ruled that (i) third-country nationals expressing the intention to apply for asylum do not acquire “asylum seeker” status and are detainable under the Return

⁸⁰ Articles 361 and 363 Criminal Code. HLHR, ‘The instrumentalization of religion to forward prosecutions’, 31 January 2023, [URL](#).

⁸¹ On the point of acquisition of “asylum seeker” status, Administrative Court of Athens, AP721/2023, 23 January 2023, *contra* AP1645/2023, 9 June 2023.

Directive,⁸² or that (ii) the absence of feasibility of removal and of progress of return proceedings does not affect the lawfulness of detention.⁸³

- 56.3. Lack of proper examination, or disregard, of applicants' main submissions on the lawfulness of detention regarding e.g. the lack of prospects of removal and the impact thereof on asylum seekers,⁸⁴ or the use of detention on wrong legal basis.⁸⁵
- 56.4. Lack of effective assessment of allegations on detention conditions. As a rule, courts summarily dismiss those as unsubstantiated.⁸⁶

Proposed 2024 Rule of Law Report recommendations

Ensure a more efficient and accountable institution for legal aid in Greece, a centralised approach under the supervision of the Ministry of Justice addressing identified shortcomings and promoting a fair and effective provision of legal aid.

Promptly and fully comply with interim measures indicated by the European Court of Human Rights under Rule 39 of the Rules of Court.

Enhance transparency on the effectiveness of investigations of allegations of ill-treatment by law enforcement bodies, including through disclosure of the number of cases processed by the criminal justice system and by non-judicial monitoring mechanisms, and of the outcome of such investigations.

⁸² Namely, Administrative Court of Athens, AP1664/2023, 16 June 2023; AP709/2023, 8 March 2023; Administrative Court of Komotini, AP333/2023, 29 June 2023, *contra* CJEU, C-72/22 PPU *Valstybės sienos apsaugos tarnyba*, 30 June 2022, para 80; C-808/18 *Commission v Hungary (Accueil des demandeurs de protection internationale)*, 17 December 2020, para 97; C-36/20 PPU *Ministerio Fiscal*, 25 June 2020, paras 79 and 94.

⁸³ Administrative Court of Komotini, AP204/2023, 10 April 2023; AP115/2023, 10 March 2023; Administrative Court of Kavala, AP319/2023, 16 April 2023, *contra* CJEU, C-357/09 PPU *Kadzoev*, 30 November 2009; C-924/19 PPU *Országos Idegenrendészeti Főigazgatóság Dél-alföldi Regionális Igazgatóság*, 14 May 2020, paras 278 and 290; ECtHR, *Khlaifia v. Italy* [GC] App No 16483/12, 15 December 2016, para 90.

⁸⁴ Administrative Court of Komotini, AP333/2023, 29 June 2023; AP204/2023; Administrative Court of Kavala, AP318/2023, 14 March 2023.

⁸⁵ Administrative Court of Athens, AP2818/2023, 2 November 2023; AP709/2023, 14 March 2023.

⁸⁶ Administrative Court of Athens, AP2818/2023, 2 November 2023.

II. Anti-corruption framework

2023 Rule of Law Report recommendation: Step up efforts to establish a robust track record of prosecutions and final judgments in corruption cases, including high-level corruption

57. Although Greece theoretically has a relatively adequate legal framework, issues arise around enforcement or at least the perception thereof, as a lack of transparency renders it difficult to assess the extent to which the law is actually enforced. Concerns persist regarding insufficient or ineffective scrutiny, as well as the public perception of such inadequacy. Additional issues include a *de facto* practice of refraining from sanctions against law-breaking, inadequate safeguards, lack of transparency in the activity of the competent authorities and an ensuing lack of trust in the public sector. We also highlight that related legislation is frequently amended and that the same issues are often regulated by several different legislative instruments, thereby rendering it difficult to identify – and thus apply or abide by – the provisions in force to be applied in each specific case (see [Checks & Balances: Law-Making](#)).⁸⁷

A. Prevention

General transparency of public decision-making (including rules on lobbying and their enforcement, asset disclosure rules and enforcement, gifts policy, transparency of political party financing)

Lobbying

58. **Transparency Register:** Part A of L 4829/2021 governs lobbying issues.⁸⁸ A series of Ministerial Decisions issued in spring 2022 regulate issues relating to the Transparency Register.⁸⁹ At the time of writing, however, one and a half years since the enactment of the framework, very few lobbyists – only 17 in fact – have registered on the Transparency Register. These include one landfill company and one association manufacturing and maintaining fire safety equipment, none of which are legally required to register. No statistics have been released on the operation of the Transparency Register,⁹⁰ nor has any NTA report thereon been uploaded.⁹¹ More generally, the operation of the Register and the obligations it imposes on lobbyists do not appear to have become public knowledge, while available information on the way the law is being applied in practice is scarce.

⁸⁷ The National Codification Portal, [URL](#), containing consolidated versions of all legislative instruments appears to still be a work in progress. This is despite a prior announcement of its completion without any reference to its launch date: General Secretariat of Legal and Parliamentary Affairs, 'Ολοκλήρωση δράσεων δημοσιότητας για το έργο «Εθνική Πύλη Κωδικοποίησης / Ολοκληρωμένη πλατφόρμα κανονιστικής διαδικασίας μέσω Αξιολόγησης και επικαιροποίησης προτύπων καλής νομοθέτησης και νομοπαραγωγικής και κανονιστικής διαδικασίας», 1 December 2023, [URL](#).

⁸⁸ Gov. Gazette A' 166/10.09.2021.

⁸⁹ NTA, *Μητρώο Διαφάνειας: Υπουργικές Αποφάσεις*, [URL](#).

⁹⁰ NTA, *Μητρώο Διαφάνειας: Στατιστικά στοιχεία*, [URL](#).

⁹¹ NTA, *Μητρώο Διαφάνειας: Εκθέσεις*, [URL](#).

Gifts policy

59. **Gifts to Members of Cabinet and Deputy Ministers:** Article 17 L 4829/2021 provides that a list shall be published in January of every year on the website of the Presidency of Government, containing a description of any items offered as gifts to Members of Cabinet and Deputy Ministers in the previous years, and listing the names of donors. The Ministerial Decision set out in Article 19(3) L 4829/2021 was only issued in November 2023, following an NTA opinion issued that month.⁹² No list has been uploaded on the website for the years 2021 or 2022. On 18 July 2023, Vouliwatch submitted a request to the Secretariat of the Prime Minister and to the Deputy Minister to the Prime Minister for access to the list.⁹³ No response has been received at the time of writing.
60. **Gifts to Members of Parliament:** Article 4(2) of the Code of Conduct for Members of the Hellenic Parliament provides for a list of gifts and benefits offered to Members of Parliament. Vouliwatch has submitted two access to information requests in relation to such lists, one in 2019 and one in 2023.⁹⁴ No reply has been delivered on either request.
61. More broadly, we maintain doubts as to compliance with legally required gift lists, particularly in the case of Members of Parliament.

Asset declarations

62. **Concerning aspects of the legal framework (L 5026/2023):** New legislative rules on asset declarations were adopted through L 5026/2023 in February 2023.⁹⁵ Vouliwatch had expressed doubts and concerns about the contents of the law prior to its adoption.⁹⁶ Whereas some of the proposed changes were accepted,⁹⁷ many provisions – and omissions – of L 5026/2023 continue to raise major concerns in terms of both transparency and effectiveness of scrutiny. These include:

⁹² On 23 October 2023, following an unanswered request to the Secretariat of the Prime Minister and a New York Times article ('Gifts, Gadgets and Greece: Inside a Huawei Lobbying Campaign', 28 September 2023, [URL](#)) claiming that Huawei had given gifts to government officials, Vouliwatch presented the Minister of Interior with a document outlining concerns and proposals concerning the "gifts policy": Vouliwatch, 'Δώρα πολιτικών – Οι προτάσεις του Vouliwatch για το νομικό πλαίσιο', 23 October 2023, [URL](#). In that document, Vouliwatch noted *inter alia* that it had not been able to locate the Ministerial Decision provided by Article 19(3) L 4829/2021 even though the 2023 Rule of Law Report had stated that "the NTA has prepared a draft opinion and Ministerial Decision on the technical specifications, content and procedures for an electronic gift registry and rules for the management and utilisation of the gifts. The drafts are currently under consultation with the Government" (pp. 16-17, fn. 141). Two days later, the Secretary General for Public Administration replied that the implementation of L 4829/2021 is one of the main priorities of the Ministry of Interior and that the relevant ministerial decision would be issued in the near future. The Decision was published a few days later.

⁹³ Vouliwatch, 'Το Vouliwatch ζητάει τη λίστα με όλα τα δώρα που έχουν λάβει τα μέλη της Κυβέρνησης', 19 July 2023, [URL](#).

⁹⁴ Vouliwatch, 'Το Vouliwatch ζητάει από τη Βουλή τη λίστα με όλα τα ΔΩΠΑ των Βουλευτών/ριών', 18 September 2023, [URL](#); 8 February 2019, [URL](#).
Gov. Gazette A' 45/28.02.2023.

⁹⁶ Vouliwatch, 'Νομοσχέδιο για τα Πόθεν Έσχες - Μικρές βελτιώσεις, σημαντικές οπισθοχωρήσεις', 20 February 2023, [URL](#). See also Ministry of Justice, *Δημόσια ηλεκτρονική διαβούλευση για το σχέδιο νόμου: «Υποβολή των δηλώσεων περιουσιακής κατάστασης (πόθεν έσχες) και οικονομικών συμφερόντων»*, 30 January 2023, [URL](#).

⁹⁷ Vouliwatch, 'Ο Υπ. Δικαιοσύνης αποδέχεται αλλαγές του Vouliwatch στο νομ/διο για τα Πόθεν Έσχες', 24 February 2023, [URL](#).

- 62.1. The unjustified, excessive reduction of the period for which the annual report of the Parliamentary Committee for the Investigation of Declarations of Assets (CIDA) is available from seven to three years.⁹⁸
- 62.2. The unjustified, excessive reduction of the period for which MPs' declarations remain online to only three years, compared to the previous rule of retention for the entire duration of term of office plus three years.⁹⁹ This aspect of the reform seems to run counter to GRECO recommendations.¹⁰⁰
- 62.3. The repeal of the obligation to declare cash exceeding 30,000 € and movable assets exceeding 40,000 €, previously laid down in L 3213/2003.¹⁰¹
- 62.4. The provision of a single audit body – the CIDA of Article 3A L 3213/2003 – raises serious concerns, given that the large number of persons subject to the obligation to submit an asset declaration creates an unmanageable workload. Furthermore, the Committee seems to have moved very slowly so far and has not published sufficient data on the outcome of audits it has undertaken.¹⁰² Additionally, the Audit Committee enjoys problematic, wide discretion as to which declarations it shall audit, without publicly available criteria. The legislative choice of placement of both the Anti-Money Laundering Authority and the National Transparency Authority (NTA) under the orders of the Committee may raise issues of interference with the independence of those authorities.
- 62.5. The lifting of confidentiality (tax, banking financial etc.) for the completion of the audit remains optional. This increases uncertainty as to the

⁹⁸ Article 25(10) L 5026/2023, compared to the previous Article 3A(7) L 3213/2003.

⁹⁹ Article 32(1) L 5026/2023, compared to the previous Article 2(2) L 3213/2003.

¹⁰⁰ GRECO, *Evaluation Report Greece*, Greco Eval IV Rep (2014) 9E, 22 October 2015, para 52, [URL](#): "It is important that the publication of declarations is improved in such a way that information on the relevant declarations remains available on-line not just for one month but for the time of the MP's mandate as well as beyond that period since the duty to file a declaration applies also for three years after the cessation of functions." GRECO's viii recommendation was, "that the system of declaration of assets, income and interests is reviewed so that all pertinent information is adequately reflected, including on debts and liabilities, and to ensure that declarations are accessible to the public conveniently and for an adequate period of time." GRECO had concluded in 2017 that the recommendation had been implemented in a satisfactory manner: GRECO, *Compliance Report Greece*, GrecoRC4(2017)20, 1 March 2018, paras 36-37, [URL](#). However, this is clearly no longer the case after the introduction of L 5026/2023.

¹⁰¹ Govwatch, 'Transparency backsliding in new legislation on asset declarations', 27 February 2023, [URL](#); Vouliwatch, *Παρατηρήσεις επί του προτεινόμενου σχεδίου νόμου για την «Υποβολή δηλώσεων περιουσιακής κατάστασης (πόθεν έσχες) και οικονομικών συμφερόντων»*, 20 February 2023, [URL](#).

¹⁰² Indicatively, the CIDA 2022 *Annual Report*, [URL](#) states that the declarations of 398 declarants were audited in the first half 2022. This represents 8.4% of returns submitted in 2019 and covered the time period from 2016 to 2019. The audit of 2020 declarations – referring to the fiscal year 2019 – had started in 2021 and was completed in 2022. The audit of 6,095 returns for the year – fiscal year 2020 – had also begun. As for the results of the audits, the reports only states that 13 complaints were closed, two are still being audited and one was referred to the Public Prosecutor while the audit is ongoing.

effectiveness of essential functions of the Committee, especially in the crucial area of scrutiny of political money.¹⁰³

63. **Deficiencies in asset declaration in practice:** Observations from the implementation of rules in practice include the following issues:

- 63.1. The possibility to publish financial interest statements has yet to be realised. Whereas Article 23(2) L 5026/2023, in line with the provisions of L 3213/2003, provides that declarations of financial interest may be published under the same conditions as asset declarations when they concern government or local government officials or MPs, these are still not made public. The publication of such declarations has been a matter of concern to GRECO since 2015.¹⁰⁴
- 63.2. The statutory deadlines for the submission of asset declarations have become merely indicative submission dates in recent years due to the granting of continuous legislative extensions.¹⁰⁵ The practice has continued in 2023: Article 119 L 5072/2023 added a new paragraph to the transitional provisions of Article 44 L 5026/2023, stating that 2023 declarations on the fiscal year 2022 may be submitted until 30 June 2024. Though the extension of the deadline has partly been put forward as warranted by legal changes entailing a reconfiguration of the electronic system,¹⁰⁶ it remains excessive, abusive and liable to create even more delays in the auditing process and in realising the objective of accountability.
- 63.3. Although Article 32(1) L 5026/2023, as Article 2(2) L 3213/2003, provides that asset declarations shall be published after the audit and within three months from the submission deadline at the latest, 2022 declarations for the fiscal year 2021 were only published in November 2023, i.e. almost 10 months after the deadline for submission and almost nine months after the enactment of L 5026/2023.¹⁰⁷ The Hellenic Parliament stated that

¹⁰³ The lifting of confidentiality was made optional in 2019 in a move liable to undermine transparency and accountability: Vouliwatch, 'Δεν θα είναι πλέον υποχρεωτική η άρση απορρήτου για τον έλεγχο Πόθεν Έσχες!', 21 October 2019, [URL](#); Govwatch, 'Removal of the obligation to lift banking secrecy for the scrutiny of asset declarations', 18 April 2019, [URL](#).

¹⁰⁴ GRECO, *Evaluation Report Greece*, Greco Eval IV Rep (2014) 9E, 22 October 2015, paras 51-52, [URL](#).

¹⁰⁵ For previous years, Govwatch, 'Repeated extensions to the deadlines for the submission of asset declarations continues in 2022', 30 November 2022, [URL](#); 'Extensions to the deadlines for the submission of asset declarations continue in 2021', 29 December 2021, [URL](#); 'Repeated extensions to the deadlines for the submission of asset declarations', 20 December 2020, [URL](#).

¹⁰⁶ According to the impact assessment accompanying the provision, introduced as an amendment upon submission of the bill to vote: Hellenic Parliament, *Δάνεια: Διαφάνεια, ανταγωνισμός, προστασία των ευάλωτων - Ενσωμάτωση της Οδηγίας (ΕΕ) 2021/2167, επανεισαγωγή του προγράμματος «ΗΡΑΚΛΗΣ» και άλλες επείγουσες διατάξεις*, [URL](#).

¹⁰⁷ Note that although the deadline according to Article 18(1) L 5023/2023 and Article 1(2) L 3213/2013 is three months after the deadline for submitting the Personal Income Tax Return, the deadline of submission for 2022 (concerning the year 2021) was 15 January 2023 due to the extension given by Article 24 L 4998/2022, Gov. Gazette A' 221/30.11.2022.

declarations would be posted on its website before auditing and as submitted on the same day (6 November 2023) at 10:30 am.¹⁰⁸

Political party financing

64. This year too, we reiterate that the legislative framework on political party financing does not seem to effectively enhance transparency, accountability and objectivity of audit mechanisms.¹⁰⁹ There has been no change in the quantity or quality of information published by the Committee on its website, which remains extremely incomplete. We namely note that no content whatsoever is available under the heading "Audit Findings".¹¹⁰
65. **Deadlines for publication of special reports on election revenues and expenses:** Article 12(6) of Presidential Decree (PD) 15/2022 provides that political parties and coalitions of parties are required to prepare and publish a special report on election revenues and expenses on their website at the latest within three months from the date of the elections. Failure to publish this report within the deadline is subject to penalties.¹¹¹ Parliamentary elections were held in Greece on 21 May 2023 and on 25 June 2023, meaning that the above reported should have been prepared and published on the websites of the political parties by 21 August and 25 September 2023 respectively. Yet, the Audit Committee announced on 29 September 2023, i.e. after the lapse of said deadlines, the extension of the deadlines to 31 October 2023,¹¹² in a decision of dubious legality.¹¹³ Note that the special reports published by New Democracy and SYRIZA, the two parties with the most MPs, were dated 31 October 2023 and 30 October 2023 respectively.¹¹⁴
66. **Lack of transparency on MPs' and candidates' revenues and expenses:** Article 19(2)(m) PD 15/2022 provides that the Audit Committee shall maintain and manage an official website on which it shall publish the election expenses and revenues of each party or coalition of parties. Regrettably, no corresponding provision exists for the publication of expenditure and revenue of MPs and parliamentary candidates. We deem this legislative omission extremely worrying. Note that at the local government level, Article 10 L 3870/2010 has long provided that the election revenues and expenses of both

¹⁰⁸ Hellenic Parliament, 'Δημοσιεύονται τη Δευτέρα οι δηλώσεις περιουσιακής κατάστασης πολιτικών προσώπων', 2 November 2023, [URL](#).

¹⁰⁹ PD 15/2022, Gov. Gazette A' 39/01.03.2022, as amended by L 4954/2022, Gov. Gazette A' 136/09.07.2022 and L 5027/2023, Gov. Gazette A' 48/03.03.2023.

¹¹⁰ CIDA, Αιτιολογικά πορίσματα ελέγχων, [URL](#).

¹¹¹ Article 21(2) PD 15/2022.

¹¹² CIDA, 'Προθεσμία δημοσίευσης Ειδικών εκθέσεων εκλογικών εσόδων – δαπανών κομμάτων - συνασπισμών κομμάτων που λαμβάνουν τακτική χρηματοδότηση', 29 September 2023, [URL](#).

¹¹³ In 2019, the same Committee, acting as the audit body under L 3213/2003, had also decided *proprio motu* to allow the correction of already submitted declarations: Govwatch, 'CIDA Parliamentary Committee announcement allows correction of asset declarations after submission deadline', 27 November 2019, [URL](#).

¹¹⁴ New Democracy, Ειδική Έκθεση Δαπανών στις εκλογές 25 Ιουνίου 2023, 31 October 2023, [URL](#); Ειδική Έκθεση Δαπανών στις εκλογές 21 Μαΐου 2023, 31 October 2023; [URL](#); SYRIZA, Ειδική Έκθεση Δαπανών στις εκλογές 25 Ιουνίου 2023, 30 October 2023, [URL](#); Ειδική Έκθεση Δαπανών στις εκλογές 21 Μαΐου 2023, 30 October 2023, [URL](#).

coalitions and candidates in municipalities with a population exceeding 10,000 inhabitants shall be published on the Central Database of the Ministry of Interior.¹¹⁵

67. In light of this lack of standardisation, Vouliwatch sent an access to information request to CIDA on 30 March 2023, requesting the detailed income and expenditure statements of MP candidates of the Hellenic Parliament that had been submitted thereto for the 2019 parliamentary elections, as well as the corresponding audit conclusions.¹¹⁶ Unfortunately, the only response to the request was received several months later and solely consisted in requesting the statutes of Vouliwatch.
68. More generally, we express again¹¹⁷ our concern vis-à-vis the substantial inadequacy of the Audit Committee's work in the overall – critical – context of political money, which we believe can only be addressed through greater transparency.

Rules and measures to prevent and address conflicts of interest in the public sector

69. Various laws, including the Executive State Act (L 4622/2019),¹¹⁸ L 5026/2023 and the Code of Conduct for Members of the Hellenic Parliament, regulate issues relating to conflicts of interest of state officials. However, the data that officials submit concerning the prevention of cases of conflict of interest as well as data on the controls carried out by the competent bodies in this area are generally not publicly available, even in the form of a statistical representation. The only exception to this rule are the decisions made by the Ethics Committee of the NTA which, however, are no more than nine at the time of writing.¹¹⁹
70. We are also concerned as to whether the provisions of Article 73 L 4622/2019 regarding obligations after leaving office are in theory or in practice capable of preventing conflict of interest cases. This is in particular because L 4622/2019 replaced the two-year 'cooling off period' set by previous legislation,¹²⁰ with the following process: "Persons appointed to the posts referred to in Article 68 of this Law shall, for one (1) year after leaving their post for any reason, obtain a permission for any professional or business activity related to the activity of the body to which they have been appointed, if it may create a conflict of interest within the meaning of Article 71... The aforementioned Commission, after taking into account the person's application, shall issue, within an exclusive period of one (1) month, a reasoned decision... Where the Commission does not give a decision within the time limit set, the permission shall be deemed to have been granted."
71. A number of recent press reports alleging conflicts of interest of politicians and their relatives raise reasonable doubts as to the application of the law and to the investigation of such cases by competent authorities. This contributes to an impression

¹¹⁵ Ministry of Interior, *Ανάρτηση Εσόδων και Δαπανών*, [URL](#).

¹¹⁶ Vouliwatch, *Χορήγηση αναλυτικών καταστάσεων χρηματοδότησης και διαχείρισης οικονομικών στοιχείων υποψηφίων ή/και αιρετών της Βουλής των Ελλήνων καθώς και πορίσματος ελέγχου - Βουλευτικές Εκλογές Ιουλίου 2019*, 30 March 2023, [URL](#).

¹¹⁷ Gouwatch, 'Shortcomings in the publication of the work of the Committee of Parliament for the Investigation of Declarations of Assets (CIDA)', 11 December 2021, [URL](#).

¹¹⁸ Gov. Gazette A' 133/07.08.2019.

¹¹⁹ NTA, *Επιτροπή Δεοντολογίας*, [URL](#).

¹²⁰ Article 23 L 4440/2016, Gov. Gazette A' 224/02.12.2016.

of impunity and of a lack of effective accountability. In order to restore citizens' confidence and to effectively apply the principles of the rule of law, it is imperative to strengthen transparency standards and to ensure the implementation of the law. Hence, Vouliwatch has submitted relevant proposals to be included in the next national Anti-Corruption Action Plan, upon invitation of the NTA.

Public procurement & direct awards

72. It has repeatedly been highlighted that the public procurement practices followed by public entities, in particular in the context of special / exceptional procedures e.g. direct awards and negotiated procedures, may raise concerns of abuse, opacity and arbitrariness. By way of example, the 4/2023 Report of the Hellenic Supreme Financial Court and Audit Institution (Ελεγκτικό Συνέδριο) makes a number of observations drawing on an audit of 64 public bodies:¹²¹

- 72.1. Public bodies do not make timely and rational planning to meet their needs. They rather adapt their needs to the limits imposed by the direct award procedure and thereby address needs in a fragmented, piecemeal manner.
- 72.2. Recourse to the negotiated procedure is often not sufficiently justified by the ostensibly unforeseen and urgent character of the needs identified by the body.
- 72.3. In many cases, the scope of the contract is not clearly defined, nor is the method of calculation of the estimated cost clearly indicated.
- 72.4. There are no transparency safeguards in the selection of the contractor and the price determination, especially with regard to repeated awards made to the same contractor.
- 72.5. Public bodies have no system for evaluating complaints.

Proposed 2024 Rule of Law Report recommendations

Ensure that the asset declaration system, both in terms of legislation and implementation, is aligned with the principles of transparency and accountability and with GRECO recommendations.

Increase transparency in the work of the Parliamentary Committees and especially CIDA.

¹²¹ Court of Auditors, Απευθείας αναθέσεις: πότε οι απευθείας αναθέσεις δημοσίων συμβάσεων ή οι αναθέσεις ύστερα από σύντομη διαδικασία διαπραγμάτευσης διασφαλίζουν την αντικειμενική ακεραιότητα της διαδικασίας;, Special Report 4/2023, [URL](#).

III. Media freedom and pluralism

2023 Rule of Law Report recommendation: Take forward the process of adopting non-legislative safeguards and start the legislative process in relation to the protection of journalists, building on the activities initiated by the Task Force, in particular as regards abusive lawsuits against journalists and their safety, in line with the adopted Memorandum of Understanding and taking into account European standards on the protection of journalists

A. Media authorities and bodies

Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies

73. **Unconstitutional change of NCRTV composition:** Following the 28 September 2023 meeting of the Conference of Presidents of the Parliament, the new President and some members of independent authorities National Council for Radio and Television (Εθνικό Συμβούλιο Ραδιοτηλεόρασης, NCRTV) and ADAE were appointed. The modalities and circumstances of said selection procedure raise concerns around the independence of the authority and of its members,¹²² resulting *inter alia* in a judicial review application by the Athens Bar Association before the Council of State (see [Checks & Balances: Independent Authorities](#)).¹²³

B. Safeguards against government or political interference and transparency and concentration of media ownership

Measures to ensure the fair and transparent allocation of state advertising

74. A total of 6,839,890.36 € were granted to seven television channels in October 2023 on the basis of Joint Ministerial Decision (JMD) E298/2023¹²⁴ and subsequent Ministerial Decision (MD) E/1119/2023.¹²⁵ This grant has raised concerns in recent coverage.¹²⁶
75. As for access to information on details of the financing received by media outlets for public health broadcasting messaging during the COVID-19 pandemic through the so-called "Petsa list", Vouliwatch filed a second appeal to the Administrative Court of Appeal of Athens following repeated refusal on the part of NTA to disclose the

¹²² Govwatch, 'Reflections on the selection of members of ADAE and NCRTV: Was this an attempt to interfere in the functioning of these independent authorities?', 17 October 2023, [URL](#).

¹²³ Bar Association of Athens, 'Προσφυγή ΔΣΑ στο ΣΤΕ για ΑΔΑΕ και ΕΣΡ', 30 November 2023, [URL](#).

¹²⁴ Gov. Gazette B' 2673/21.04.2023.

¹²⁵ Deputy Minister to the Prime Minister, Απόφαση Υπαγωγής Δικαιούχων Επιχειρήσεων στο Πρόγραμμα χρηματοδότησης για την οικονομική στήριξη επιχειρήσεων παρόχων περιεχομένου επίγειας ψηφιακής τηλεοπτικής ευρυεκπομπής ελεύθερης λήψης εθνικής εμβέλειας, σύμφωνα με την ΚΥΑ Ε298/2023 (B' 2673), όπως ισχύει, 24 October 2023, [URL](#).

¹²⁶ Namely, Newsbreak, 'Ο Μπρατάκος «ντύθηκε» Πέτσας και μοιράζει λεφτά στα κανάλια', 31 October 2023, [URL](#); Efsyn, 'Μοιράζουν εκατομμύρια «ζεστό» χρήμα στα κανάλια με πρόφαση τον πόλεμο στην Ουκρανία', 30 October 2023, [URL](#); Data Journalists, 'Νέο «δώρο» 6,8 εκατομμύρια ευρώ από Μαξίμου στα κανάλια', 27 October 2023, [URL](#). See also Info War, 'Προεκλογικά «δώρα» προς τους μιντιάρχες', 4 May 2023, [URL](#).

requested information. Following the rejection of this appeal, which it deems unjustified, Vouliwatch has appealed to the ECtHR.¹²⁷

C. Framework of journalists' protection, transparency and access to documents

Rules and practices guaranteeing journalists' independence and safety

76. In 2023, the [Mapping Media Freedom](#) platform of the European Centre for Press and Media Freedom (ECPMF) recorded 23 cases of attacks, threats or violations against the freedom of the press, journalists and media in Greece:

- 76.1. Riot police physically and verbally assaulted several journalists covering a solidarity protest;¹²⁸
- 76.2. Minister of Sports, Lefteris Avgenakis, publicly discredited and mocked a critical journalist;¹²⁹
- 76.3. The son of a Government Minister filed a 100,000 € lawsuit against journalist Vassilis Lambropoulos;¹³⁰
- 76.4. The Head of the Steering Committee of an Electoral District publicly and verbally assaulted journalists;¹³¹
- 76.5. Documento and Kouti Pandoras media outlets were targeted by DDoS cyber-attacks following articles on a Turkish businessman;¹³²
- 76.6. Lawyer Alexis Kougiaris threatened and insulted journalist Petros Kousoulos during a murder trial;¹³³
- 76.7. SYRIZA MP Pavlos Polakis posts on social media called on the party to "get rid" of journalists;¹³⁴
- 76.8. Three journalists and one camera operator were detained while reporting on the Tempi train disaster interrogation in Larissa;¹³⁵
- 76.9. An anarchist group vandalised the house of journalist Stavros Theodorakis;¹³⁶
- 76.10. Deputy Minister of Development Nikos Papathanasis threatened Documento with a defamation lawsuit;¹³⁷

¹²⁷ Vouliwatch, 'Υπόθεση Λίστας Πέτσα - Το Vouliwatch προσφεύγει στο ΕΔΔΑ', 18 October 2023, [URL](#).

¹²⁸ Mapping Media Freedom, 'Riot police physically and verbally assaults several journalists covering solidarity protest', 4 January 2023, [URL](#).

¹²⁹ Mapping Media Freedom, 'Minister of Sports publicly discredits and mocks critical journalist', 22 January 2023, [URL](#).

¹³⁰ Mapping Media Freedom, 'Son of government minister files 100,000 euro lawsuit against journalist Vassilis Lambropoulos', 2 February 2023, [URL](#).

¹³¹ Mapping Media Freedom, 'Head of D.E.P of Iliia publicly discredits and verbally assaults journalists', 10 February 2023, [URL](#).

¹³² Mapping Media Freedom, 'Documento and Koutipandoras targeted by DDoS cyber-attacks following articles on Turkish businessman', 13 February 2023, [URL](#).

¹³³ Mapping Media Freedom, 'Lawyer Alexis Kougiaris threatens and insults journalist Petros Kousoulos during murder trial', 17 February 2023, [URL](#).

¹³⁴ Mapping Media Freedom, 'SYRIZA MP posts rant on social media calling for party to "get rid" of journalists', 25 February 2023, [URL](#).

¹³⁵ Mapping Media Freedom, 'Three journalists and one camera operator detained while reporting on train disaster apology in Larissa', 5 March 2023, [URL](#).

¹³⁶ Mapping Media Freedom, 'Anarchist group vandalizes journalist Stavros Theodorakis' house', 21 March 2023, [URL](#).

¹³⁷ Mapping Media Freedom, 'Minister Nikos Papathanasis threatens Documento with defamation lawsuit', 26 March 2023, [URL](#).

- 76.11. A sports commentator was verbally attacked by basketball fans;¹³⁸
- 76.12. Investigative platform Solomon received a legal warning from the Union of Evros Border Guards to remove an article published in collaboration with El Pais, alleging that border guards have confiscated money and personal belongings of refugees during unlawful push backs (see [Cross-Cutting Issues: Enforced Disappearance of People Seeking Asylum](#));¹³⁹
- 76.13. Television crews were attacked outside the house of killed AEK football fan;
- 76.14. Journalists were attacked by fans outside the AEK stadium;
- 76.15. S journalist was threatened by owner and supporters of AEK football club;
- 76.16. A family member of Documento publisher Kostas Vaxevanis was injured during a restaurant attack;
- 76.17. Journalist Giorgos Papachristos was physically attacked and injured by businessman Yiannis Karagiorgis;
- 76.18. Journalists in Serres criticised "insulting" social media post by Greek politicians;
- 76.19. Journalists' access to refugee camps was restricted indefinitely. Specifically, the Ministry of Migration and Asylum suspended access of journalists to refugee camps, i.e. Closed Controlled Access Centres (CCAC), Reception and Identification Centres (RIC) and other reception facilities.¹⁴⁰
- 76.20. A journalist was given a six-month suspended sentence for "dissemination of false information";¹⁴¹
- 76.21. The Mayor of the city of Volos incited violence against journalists;
- 76.22. Documento publisher and journalist were summoned as "suspects" in official secrecy investigation.

Access to information and public documents by public at large and journalists

- 77. **Consistent failure to reply to information and access to documents requests:** The right of access to public documents enshrined *inter alia* in Articles 5A and 10 of the Greek Constitution and in Article 42 of the Charter of Fundamental Rights is an expression of the principle of transparency. Despite the relative adequacy of the relevant Greek legal framework, its implementation in practice is disappointing at the very least. Data published by public bodies online is regrettably insufficient to ensure transparency and accountability even at statistical level. For their part, access to information requests, including on issues falling within the scope of the Rule of Law Report, are routinely disregarded and receive no replies in our experience.
- 78. Over ten access to documents requests filed by our organisations to parliamentary and government bodies throughout 2023 have not been met with a reply, namely:

- 78.1. HLHR request of 23 March 2023 to the **Minister of Citizen Protection** for information on follow up and investigations in response to footage of

¹³⁸ Mapping Media Freedom, 'Sport commentator verbally attacked by basketball fans', 27 May 2023, [URL](#).

¹³⁹ Mapping Media Freedom, 'Investigative platform Solomon receives legal demand to remove article', 29 May 2023, [URL](#).

¹⁴⁰ Computer Weekly, 'Greek data watchdog to rule on AI systems in refugee camps', 30 October 2023, [URL](#).

¹⁴¹ RSF, 'Greece: RSF is concerned about the possible conviction of a French-Canadian reporter accused of issuing a false bomb alert', 25 October 2023, [URL](#).

- Hellenic Police violence at a 16 March 2023 protest and relevant instructions given to police officers (see [Cross-Cutting Issues: Police Violence](#));
- 78.2. Vouliwatch request of 30 March 2023 to the **CIDA Committee of the Hellenic Parliament** on the finances of candidates and elected MPs in the parliamentary elections of 2019 (see [Anti-Corruption: Prevention](#));
- 78.3. Vouliwatch request of 6 June 2023 to the **Ministry of Finance** on the 100 final recipients of the Recovery and Resilience Fund;¹⁴²
- 78.4. Vouliwatch request of 18 July 2023 to the **General Secretariat of the Prime Minister** and to the **Deputy Minister to the Prime Minister** on the list of gifts received by Members of Cabinet (see [Anti-Corruption: Prevention](#));
- 78.5. Vouliwatch request of 4 September 2023 to the **General Secretariat of the Prime Minister** and to the **General Secretariat for Legal and Parliamentary Affairs** for access to the Acts of the Council of Ministers containing the proposal for the – early – dissolution of Parliament due to national issues of extreme importance;¹⁴³
- 78.6. Vouliwatch request of 13 September 2023 to the **Ethics Committee of the Hellenic Parliament** on the list of gifts received by MPs (see [Anti-Corruption: Prevention](#));
- 78.7. Vouliwatch request of 2 October 2023 to the **President of the Hellenic Parliament** on the composition of the Conference of Presidents and on the minutes of its 28 September 2023 meeting (see [Checks & Balances: Independent Authorities](#));
- 78.8. Vouliwatch request of 2 November 2023 to the **Minister of Digital Governance** for access to annual reports on the availability and further use of open data;¹⁴⁴
- 78.9. RSA request of 6 November 2023 to the Statistics Department of the **Ministry of Migration and Asylum** for statistics on implementation of its NGO Registry (see [Checks & Balances: Civil Society](#)) and on the activities of its Fundamental Rights Officer (see [Checks & Balances: Independent Authorities](#));¹⁴⁵

¹⁴² Vouliwatch, 'Αυτοί είναι οι TOP 100 αποδέκτες χρηματοδότησης από το Ταμείο Ανάκαμψης', 4 October 2023, [URL](#). Although the request was never answered, the requested information was posted online a few months later.

¹⁴³ Vouliwatch, *Αίτηση περί χορήγησης των Πράξεων του Υπουργικού Συμβουλίου που περιέχουν την πρόταση περί διάλυσης της Βουλής για εθνικά θέματα εξαιρετικής σημασίας*, 4 September 2023, [URL](#).

¹⁴⁴ Vouliwatch, *Χορήγηση ετήσιων εκθέσεων για τη διάθεση και περαιτέρω χρήση των ανοικτών δεδομένων*, 2 November 2023, [URL](#).

¹⁴⁵ Ref. No RSA β/105/06.11.2023.

- 78.10. HIAS request of 13 November 2023 to the **NTA** for statistics on the handling of complaints relating to ill-treatment of refugees and migrants (see [Checks & Balances: Independent Authorities](#));¹⁴⁶
- 78.11. Vouliwatch request of 14 November 2023 to the **Financial Services Directorate of the Hellenic Parliament** on the salaries and benefits received by MPs;¹⁴⁷
- 78.12. Vouliwatch request of 14 December 2023 to the **Financial Services Directorate of the Hellenic Parliament** on information on the associates of MPs;¹⁴⁸
79. Out of 50 access to information requests submitted in 2023 by citizens via the [arthro5a.gr](#) platform developed by Vouliwatch, less than 10 were answered by the competent authorities.
80. The specific deadlines set by legislation for public bodies to respond to citizens' requests do not seem to be respected in practice. Furthermore, citizens do not appear to have sufficient tools at their disposal to assert their rights. As early as in 2017, the Ombudsman had urged for the reinstatement in legislation of the possibility of financial compensation to citizens where the administration fails to meet the deadlines laid down in the Code of Administrative Procedure (L 2690/1999).¹⁴⁹
81. In addition, we do not know whether and to what extent public officials who fail to meet the deadlines set by law are subjected to disciplinary proceedings given the scarcity of available data on the disciplinary procedure against employees of the public sectors; the main source are the few mentioned in the NTA annual report.
82. Whereas Article 73 L 4727/2020 provides that an annual report on the open availability and further use of documents shall be uploaded annually on the website of the Ministry of Digital Governance,¹⁵⁰ we have not been able to locate such a report. An access to information filed by Vouliwatch to said Ministry for access to the report was never answered.¹⁵¹

[Lawsuits \(incl. SLAPPs\) and convictions against journalists \(incl. defamation cases\) and measures taken to safeguard against manifestly unfounded and abusive lawsuits](#)

¹⁴⁶ Ref. No NTA 48390/13.11.2023. The NTA initially refused to provide the requested data, citing data protection considerations, and has not replied further to a clarification sent by HIAS: NTA, 49944 ΕΞ 2023, 21 November 2023.

¹⁴⁷ Vouliwatch, *Χορήγηση δημόσιων δεδομένων για την επαρκή πληροφόρηση του κοινού και την κοινοβουλευτική διαφάνεια*, 14 November 2023, [URL](#).

¹⁴⁸ Vouliwatch, *Χορήγηση πληροφοριών σχετικά με τους ειδικούς επιστημονικούς συνεργάτες Βουλευτ(ρι)ών και το προσωπικό που υπηρετεί στα γραφεία αυτών*, 14 December 2023, [URL](#).

¹⁴⁹ Ombudsman, *Επαναφορά της δυνατότητας αποζημίωσης πολιτών από τη διοίκηση λόγω μη τήρησης των προθεσμιών του Ν.2690/1999*, July 2017, [URL](#).

¹⁵⁰ Gov. Gazette A' 184/23.09.2020.

¹⁵¹ Vouliwatch, *Χορήγηση ετήσιων εκθέσεων για τη διάθεση και περαιτέρω χρήση των ανοικτών δεδομένων*, 2 November 2023, [URL](#).

83. So far, the Greek government has not adopted legislation in order to deal with SLAPPs which pose a threat to the media and journalists, despite the recommendations made by the Commission in the 2023 Rule of Law Report. In November and December 2023, RSF and the International Press Institute (IPI) condemned the new series of legal notes and lawsuits launched by the nephew and former Secretary General of the Prime Minister, Grigoris Dimitriadis, against several media and journalists over their public-interest reporting on his involvement in the surveillance case (see [Cross-Cutting Issues: Surveillance](#)).¹⁵²

Proposed 2024 Rule of Law Report recommendations

Adopt a robust legal framework regarding the protection of journalists and sources from illegal surveillance, as well as speed up the investigations regarding the surveillance of journalists and other persons, both in respect of wiretapping by the National Intelligence Service (EYP) and of illegal use of Predator spyware against targets.

Adopt anti-SLAPP legislation to protect journalists and media from SLAPPs.

Ensure the effective practical application of the right of access to information and open data provisions.

¹⁵² IPI, 'Greece: Media and journalists targeted in second lawsuit by PM's nephew over spyware revelations', 21 December 2023, [URL](#); RSF, Twitter Post, 10 November 2023, [URL](#).

IV. Other institutional issues related to checks and balances

Implementation of European Court of Human Rights judgments

84. Several Strasbourg judgments have been in supervision at the Committee of Ministers of the Council of Europe for over a decade e.g. 12-13 years in the case of *M.S.S. v. Greece* App No 30696/09 group relating to asylum procedures and reception and detention conditions for asylum seekers.

84.1. **Asylum procedure and reception of asylum seekers:** The Committee of Ministers continues to identify persisting and emerging gaps in the execution of the *M.S.S. v. Greece* group, including obstacles to access to asylum procedures in particular in mainland Greece. The Committee has also requested Greece to clarify how it ensures dignified reception conditions for asylum seekers,¹⁵³ against the backdrop of inaccurate information provided by the Greek government *inter alia* on the continued operation of a decentralised programme for accommodation of applicants in apartments despite its closure at the end of 2022.¹⁵⁴ Related judgments issued against Greece during the reporting period have also been placed under the *M.S.S.* group, including *E.F. v. Greece* on inhuman and degrading treatment of an HIV+ asylum seeker on Lesbos on account of failure to ensure her continued access to health care,¹⁵⁵ and *A.D. v. Greece* on inhuman and degrading treatment stemming from living conditions of a pregnant woman on Samos.¹⁵⁶ More recent judgments have been delivered against Greece in this field in *M.B. v. Greece*,¹⁵⁷ *M.L. v. Greece*,¹⁵⁸ and *D.S. v. Greece*.¹⁵⁹ In addition, the ECtHR has recently granted interim measures on account of grossly inadequate living conditions facing vulnerable asylum seekers in Closed Controlled Access Centres (CCAC) on the Greek islands of Lesbos, Samos and Kos.¹⁶⁰

84.2. **Search and rescue and shipwreck management:** In its 2 June 2023 first action plan on the execution of the *Safi v. Greece* ruling,¹⁶¹ where the Court found Greece to have breached the substantive and procedural limbs of the right to life, as well as the prohibition on torture, inhuman and degrading treatment in relation to the treatment of the 20 January 2014 shipwreck off

¹⁵³ On facilities on the islands, note European Ombudsman, *Decision in strategic inquiry OI/3/2022/MHZ on how the European Commission ensures respect for fundamental rights in EU-funded migration management facilities in Greece*, 7 June 2023, [URL](#).

¹⁵⁴ Council of Europe Committee of Ministers, CM/Del/Dec(2023)1475/H46-15, 21 September 2023, paras 3-5. The Committee did, however, close the supervision of the *Rahimi* case under the group.

¹⁵⁵ App No 16127/20, 5 October 2023.

¹⁵⁶ App No 55363/19, 4 April 2023.

¹⁵⁷ App No 8389/20, 23 November 2023.

¹⁵⁸ App No 8386/20, 23 November 2023.

¹⁵⁹ App No 2080/19, 30 November 2023.

¹⁶⁰ GCR, 'Absolutely inadequate conditions in the new Closed Controlled Access Center (CCAC) of Kos: The European Court of Human Rights has granted Interim Measures', 14 December 2023, [URL](#); in.gr, 'Πρόσφυγες: Η Ελλάδα έχασε εκδίκαση ασφαλιστικών μέτρων για την δομή της Σάμου', 21 September 2023, [URL](#); HIAS, 'European Court of Human Rights Grants Interim Measures to Afghan Family in Legal Limbo', 9 August 2023, [URL](#).

¹⁶¹ App No 5418/15, 7 July 2022.

the coast of Farmakonisi, the Greek government declared that “it is evident that the *Safi* was of an individual character” and that it has thereby exhausted general measures by disseminating the judgment to its authorities.¹⁶² This plan was submitted to the Committee of Ministers less than two weeks prior to the Pylos shipwreck which led to the loss of over 600 lives in the Greek search and rescue zone (see [Justice: Independence](#)). The Pylos shipwreck has prompted the Council of Europe Commissioner for Human Rights to stress that “the shipwreck of 14 June is unfortunately not an isolated incident” and to urge for its consideration in the execution of the *Safi* judgment.¹⁶³

84.3. **Judicial scrutiny of immigration detention:** In the context of the *M.D. v. Greece* App No 60622/11 judgment where matters relating to violations of Article 5(4) ECHR regarding judicial review of immigration have been incorporated from the closed case of *S.D. v. Greece* App No 53541/07, Greece has yet to supply the Committee of Ministers with the court case law and statistics requested since 2016.¹⁶⁴

85. Greece remains among the top countries addressed by the ECtHR in Rule 39 orders of interim measures, superseded only by Belgium in interim measures granted in the course of 2023. The majority of Rule 39 orders concerned immediate assistance to and non-removal of refugees and migrants at Greek borders. However, Greece continues to demonstrate unacceptable contempt for the Rule 39 process and has proceeded to unlawfully removing refugees from its territory in direct breach of Court orders (see [Cross-Cutting Issues: Enforced Disappearance of People Seeking Asylum](#)).¹⁶⁵

86. From March to December 2023, GCR filed 16 applications for interim measures under Rule 39 of the Rules of Court. The Strasbourg Court granted measures in all cases and ordered the Greek government not to remove the refugees from its territory, to provide them with food, water, proper medical care and access to the asylum procedure. However, in most cases applicants were pushed back to Türkiye after the interim measures order or pending the proceedings.¹⁶⁶

¹⁶² Greek Government, *Action plan in Safi v. Greece*, DH-DD(2023)696, 2 June 2023, para 18.

¹⁶³ Council of Europe Commissioner for Human Rights, ‘Pylos shipwreck: the Greek authorities must ensure that effective investigations are conducted’, 28 July 2023.

¹⁶⁴ Council of Europe Committee of Ministers, CM/Del/Dec(2016)1265/H46-13, 21 September 2016.

¹⁶⁵ For instance, *B.M. v. Greece* App No 29860/23, Order of 1 August 2023; *H.A. v. Greece* App No 27303/23, Order of 12 July 2023; *M.D. v. Greece* App No 13532/23, Order of 30 March 2023.

¹⁶⁶ GCR, ‘Information Note on interventions and on interim measures granted by the ECtHR in cases regarding pushbacks’, 3 December 2023, [URL](#).

A. The process for preparing and enacting laws

2023 Rule of Law Report recommendation: Ensure the effective and timely consultation in practice of stakeholders on draft legislation, including by allowing sufficient time for public consultation

Framework, policy and use of impact assessments, stakeholders' / public consultations (particularly consultation of judiciary on judicial reforms), and transparency and quality of the legislative process

87. The standards laid down in the Greek legal order for the preparation, submission and adoption of legislation continue to be systematically disregarded by both executive and legislative powers.¹⁶⁷
88. Throughout 2023, Parliament passed 72 pieces of legislation, of which 52 laws and 20 international conventions. The section below draws on Vouliwatch analysis of the enactment of 49 of the laws adopted last year.¹⁶⁸
89. **Inadequate public consultation of bills:** Public consultation deadlines are often shortened without sufficient justification, at times beyond the limits permitted by law. Out of 47 bills put to public consultation and subsequently submitted to Parliament for voting either in their entirety or in part in the course of 2023:
- 89.1. 27 bills (57.4%) were subject to a consultation period shorter than the legally prescribed 14 days without any justification for the use of a shorter deadline. In fact, in 11 of the bills the consultation was less than seven full days, even though Article 61 L 4622/2019 sets seven days as the minimum permissible duration of public consultations.¹⁶⁹
- 89.2. No information was found on the conduct of public consultation for five of the 49 adopted laws (10.2%).¹⁷⁰

¹⁶⁷ Namely, Articles 74-75 Constitution; Articles 85, 87, 88 and 101 Standing Orders of the Hellenic Parliament (Section of Parliamentary Business); Articles 57 et seq. L 4622/2019; Manual of Legislative Methodology, 2020, [URL](#).

¹⁶⁸ Collation available at [URL](#). The list excludes the 20 international convention and L 5077/2023, L 5065/2023 and L 5064/2023 relating to the state budget and state balance sheets in view of applicable special voting rules.

¹⁶⁹ For example, L 5037/2023, Gov. Gazette A' 78/29.03.2023 was available for consultation for only four days: Ministry of Environment and Energy, Δημόσια ηλεκτρονική διαβούλευση για το σχέδιο νόμου του Υπουργείου Περιβάλλοντος και Ενέργειας με τίτλο: «Διατάξεις για τις ανανεώσιμες πηγές ενέργειας και την προστασία του φυσικού και χωροταξικού περιβάλλοντος», 24 February 2023, [URL](#). L 5036/2023, Gov. Gazette A' 77/28.03.2023 was available for consultation for just three days: Ministry of Infrastructure and Transport, Δημόσια ηλεκτρονική διαβούλευση για το σχέδιο νόμου: «Διατάξεις για την ανάπτυξη, τις υποδομές και τη στήριξη της επιχειρηματικότητας και του τουρισμού», 26 February 2023, [URL](#).

¹⁷⁰ L 5015/2023; L 5022/2023; L 5046/2023; L 5048/2023; L 5059/2023. These laws mainly concern sanctions of emergency decrees (Πράξεις Νομοθετικού Περιεχομένου) (L 5046/2023; L 5059/2023) or of concession contracts (L 5048/2023) or of donations (L 5015/2023; L 5022/2023). We highlight L 5015/2023 in particular since its version introduced for voting included a provision entitled "other provisions of competence of the Ministry of Health" which should have been preceded by consultation.

- 89.3. In four cases (8.1%), the bills introduced for voting contained provisions that had been included in two or more bills put to consultation.¹⁷¹
90. Furthermore, many legislative provisions do not seem to go through public consultation. In 35 cases, the bill introduced for voting had more articles than the corresponding bill submitted to public consultation. In addition, the bills introduced for voting appear to have had a total of 3,091 articles, with only 2,587 of those found in the corresponding version of the bills put to public consultation, regardless of changes in form in the two versions.¹⁷² We also note that articles included through amendments are usually not put to prior consultation.
91. Note that 12 of the laws adopted last year contained over 100 articles, while the length of adopted texts ranges from two to 309 articles. The total number of articles in legislation enacted in 2023 amounts to 3,537.
92. **Last-minute amendments** unrelated to the subject matter of the bill remain a frequent phenomenon, as is their inclusion in the final text. In 42 out of 49 cases (85.7%), ministerial amendments were tabled after the bill had been submitted to Parliament for voting. A total of 75 amendments were submitted, amounting to a total of 439 articles. Of those 75 amendments:
- 92.1. 49 were filed either on the day or the eve of adoption of the law – or the start of the plenary debate in cases where two sessions have been held prior to adoption.
- 92.2. 70 contained provisions that were not directly related to the main subject matter – or at least one of the main topics – governed by the original bill submitted to public consultation.

The practice contravenes Article 74(5) of the Constitution, per which “A Bill or law proposal containing provisions not related to its main subject matter shall not be introduced for debate. No addition or amendment shall be introduced for debate if it is not related to the main subject matter of the Bill or law proposal. Additions or amendments by Ministers are debated only if they have been submitted at least three days prior to the commencement of the debate in the Plenum, to the Section specified in article 71 or to the competent standing parliamentary committee, as specified by the Standing Orders.”¹⁷³

93. **‘Omnibus’ legislation** regulating a number of unrelated topics remains a frequent phenomenon. The titles of 36 of the 49 laws (73.4%) contained terms such as “and other provisions”, “other urgent provisions/regulations”, “and related provisions” etc. This indicates either that the legislative texts in question contain provisions that deviate from the main subject matter of the law or that irrelevant amendments were submitted and

¹⁷¹ L 5034/2023; L 5035/2023; L 5037/2023; L 5039/2023.

¹⁷² The calculation excludes L 5015/2023, L 5022/2023, L 5046/2023, L 5048/2023 and L 5059/2023 (or their respective articles) regarding the sanctions of emergency degrees or concession contracts or donations.

¹⁷³ Hellenic Parliament, *The Constitution of Greece*, [URL](#).

adopted during the processing of the bills in question. There were also cases where bills contained provisions regulating many different areas from the moment they were introduced for voting or even at the consultation stage. This indicates that the requirements of Article 74 of the Constitution are not respected in practice.

94. **Recurrent amendments of recently adopted legislation:** We also highlight that legislation is frequently amended, often within a very short period of time from its enactment or previous amendment. Indicatively:

94.1. Several provisions of L 5043/2023 on companion animals and Local Government Organisations bring about amendments to laws passed within 2023.¹⁷⁴

94.2. Article 86 L 5043/2023, introduced by way of a last-minute unrelated amendment,¹⁷⁵ extended the deadline for the licensing of television channels and radio stations to 31 December 2023. The deadline was again extended to 31 December 2024 by Article 96 L 5079/2023.¹⁷⁶

94.3. L 5049/2023 extensively modifies the provisions on the Judicial Police which was – at least formally – established just last year with L 4963/2022.¹⁷⁷

94.4. Within 2023, three laws introduced by the Ministry of Interior were passed on regulations regarding both the welfare of companion animals and Local Government Organisations: L 5027/2023; L 5043/2023; L 5056/2023.

95. Continuous amendments are made to the provisions of the Criminal Code (L 4619/2019) and Criminal Procedure Code (L 4620/2019). The Codes entered into force in 2019,¹⁷⁸ and subsequently underwent extensive changes with two laws entitled “Amendments to the Criminal Code and the Criminal Procedure Code”: L 4637/2019 and L 4855/2021.¹⁷⁹ At the time of writing, a new bill has gone through public consultation which amends many provisions of the two Codes.¹⁸⁰ Individual amendments to the Codes in question have also been brought about by different laws.¹⁸¹ Additionally, many of the changes to criminal law brought about by these laws have been severely criticised.¹⁸² This applies perhaps to an even greater extent to

¹⁷⁴ Gov. Gazette A' 91/13.04.2023, notably Articles 53, 54, 66, 80, 88, 107, 115, 116 and 121.

¹⁷⁵ Article 4 Amendment 1720/186/11-4-2023.

¹⁷⁶ Gov. Gazette A' 215/22.12.2023.

¹⁷⁷ Gov. Gazette A' 152/15.09.2023; Gov. Gazette A' 149/30.07.2022.

¹⁷⁸ Gov. Gazette A' 95/11.06.2019; Gov. Gazette A' 96/11.06.2019.

¹⁷⁹ Gov. Gazette A' 180/18.11.2019; Gov. Gazette A' 215/12.11.2021.

¹⁸⁰ Ministry of Justice, *Δημόσια διαβούλευση νομοθετικής πρωτοβουλίας του Υπουργείου Δικαιοσύνης, υπό τον τίτλο: «Παρεμβάσεις στον Ποινικό Κώδικα και τον Κώδικα Ποινικής Δικονομίας για την επιτάχυνση και την ποιοτική αναβάθμιση της ποινικής δίκης – Εκσυγχρονισμός του νομοθετικού πλαισίου για την πρόληψη και την καταπολέμηση της ενδοοικογενειακής βίας»*, 28 November 2023, [URL](#).

¹⁸¹ Among others, Articles 95-99 L 4623/2019; Article 94 L 4689/2020; Article 53 L 4745/2020; Article 29 L 4800/2021; Articles 58-64 L 4871/2021; Article 72 L 4908/2022; Articles 1-13 L 4937/2022; Articles 1-20, 36, 38-41 and 43 L 4947/2022; Articles 14 and 17 L 4995/2022; Articles 10-12 L 5002/2022; Article 41 L 5005/2022; Articles 12-18 L 5023/2023; Articles 66-69 L 5039/2023.

¹⁸² Govwatch, ‘Concerns raised around the compatibility of new legislation with the protection of the presumption of innocence’, 22 December 2022, [URL](#); ‘The amendment

provisions contained in the bill that was in public consultation until the end of December 2023, which has been criticised by legal experts as being regressive and contradictory to the principles of the rule of law.¹⁸³

96. The aforementioned observations reveal a continuation of the generally haphazard approach to legislating with palpable repercussions on the principle of legal certainty and on the observance of the principles of the rule of law and good law-making.

B. Independent authorities

Independence, resources, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions

97. A frequent subject of concern relating to independent authorities concerns the lack of sufficient and/or specialised staff, as well as broader general shortcomings – of financial or procedural nature – that often appear to hinder their effective operation.¹⁸⁴

National Transparency Authority (Εθνική Αρχή Διαφάνειας, NTA)

98. **Management:** The resignation of the NTA Governor was accepted in July 2022. By the time of writing, however, no open competition has been announced for the selection of the new Governor of the Authority. The state of the NTA's management for over one

of Article 187 of the Penal Code by law 4908/2022', 15 January 2022, [URL](#); 'Changes to Article 191 of the penal code risk endangering the right to freedom of expression', 3 December 2021, [URL](#); 'Extensive critique levelled at law 4855/2021 and the changes it makes to the Penal Code and the Code of Criminal Procedure', 1 December 2021, [URL](#); 'Greek money laundering legislation regresses', 20 December 2019, [URL](#).

¹⁸³ Plenary of Greek Bar Associations, 'Δυναμική συνέχεια κινητοποιήσεων των δικηγόρων', 8 December 2023, [URL](#); Bar Association of Athens, 'Ψήφισμα της γενικής συνέλευσης της Νομικής Σχολής του ΕΚΠΑ για τις τροποποιήσεις του ΠΚ και του ΚΠΔ', 9 January 2024, [URL](#); Antimolia, 'Ψήφισμα Μελών ΔΕΠ για το Σχέδιο Νόμου του Υπουργείου Δικαιοσύνης για τον ΠΚ και τον ΚΠΔ', 21 December 2023, [URL](#); 'Παρατηρήσεις στο Σχέδιο Νόμου για τροποποίηση των Ποινικών Κωδικών', 6 December 2023, [URL](#); Efsyn, 'Νομοσχέδιο Φλωρίδη: ο φαύλος κύκλος των χαμένων νομοθετών', 18 December 2023, [URL](#); TVXS, 'Ποινικός Κώδικας / Σφοδρές αντιδράσεις για το αντιεπισημονικό «τερατούργημα» του υπουργείου Δικαιοσύνης', 15 December 2023, [URL](#); Εναλλακτική Παρέμβαση Δικηγόρων Αθήνας, 'Για τις νέες τροποποιήσεις ΠΚ-ΚΠΔ: Να βάλουμε φρένο στην αντιμεταρρύθμιση της κυβέρνησης!', 7 December 2023, [URL](#).

¹⁸⁴ NCRTV, 'Δελτίο Τύπου για την ολοκλήρωση του συνεδρίου των συνταγματικά κατοχυρωμένων Ανεξάρτητων Αρχών – ομιλία της Προέδρου του Ε.Σ.Π.', 7 November 2023, [URL](#); Conference 'Συνταγματικά κατοχυρωμένες Ανεξάρτητες Αρχές', 2 November 2023, [URL](#); Data Protection Authority, 2021 Annual Report, 2022, 13, [URL](#); Syntagmawatch, 'Podcast | Συναντήσεις στο Σύνταγμα Ε11: Οι Ανεξάρτητες Αρχές σε κρίσιμη καμπή', 19 October 2023, [URL](#); Proto Thema, 'Η Αρχή Προστασίας Προσωπικών Δεδομένων ζητά επαρκείς οικονομικούς πόρους για να μπορεί να λειτουργεί', 18 December 2023, [URL](#); Efsyn, 'Ανεξάρτητες αρχές – προβλήματα και προτάσεις', 20 March 2023, [URL](#).

year raises concerns both in terms of legality and sustainability.¹⁸⁵ At the end of November 2023, the Chair and two other members of the Board of the NTA resigned.¹⁸⁶

99. **Persisting lack of independence:** The European Parliament has expressed severe concerns as to the lack of independence and effectiveness of the NTA during the reporting period. Following a mission to Athens in March 2023, the LIBE Committee of the European Parliament stated that the NTA “does not seem to be effective and concerns have been raised about its independence”,¹⁸⁷ while the PEGA Inquiry Committee has urged the Greek government to “ensure the independence of the National Transparency Authority (EAD) leadership”.¹⁸⁸ No steps have been taken by Greece to comply with the above recommendations.

100. **Lack of effectiveness and transparency in NTA investigations of push backs against refugees and migrants** has persisted since our previous submission (see [Cross-Cutting Issues: Enforced Disappearance of People Seeking Protection](#)). According to data shared bilaterally with the Commission, as of September 2022 the NTA had been tasked to investigate: the case of a push back of a Frontex interpreter, concluded by October 2022; a “set of 198 cases referred by one person”, of which 41 cases under “ongoing investigations”; an undefined “set of cases referred by the Commission”, expected to be concluded by October 2022; and “13 cases referred by UNHCR [United Nations High Commissioner for Refugees]”, expected to be concluded by the end of 2022.¹⁸⁹ The NTA has not published any information on the above investigations or on the outcome thereof, including in its annual reports. The Commission also noted in late November 2023 meeting with Greek civil society that it had not been informed of the outcome of the above concluded investigations.¹⁹⁰

101. As regards the first case in particular, the NTA has informed the European Commission that it has completed its investigation on the incident of a Frontex interpreter pushed back to Türkiye as of October 2022 and that its report “will be evaluated/used also by the Public Prosecutor, who has already opened a preliminary investigation on this

¹⁸⁵ Govwatch, ‘Failure to advertise a competition to fill the post of the Governor of the National Transparency Authority’, 4 April 2023, [URL](#). On 4 September 2023, Vouliwatch, sent a letter to the NTA, the Minister of Interior and the Minister of State, asking why a competition has yet to be announced with a view to appointing a new Governor of the NTA and requesting information on when this is expected to be announced. Following an – incomplete in our view – response from the NTA on 11 October 2023, Vouliwatch insisted that its reasonable questions be answered. No reply has been delivered to date: Vouliwatch, ‘(Μη) Εκκίνηση διαδικασίας για την πλήρωση της θέσης του Διοικητή της Εθνικής Αρχής Διαφάνειας- Ερωτήματα’, 4 September 2023, [URL](#); NTA, 42881/2023, 11 October 2023, [URL](#); Vouliwatch, ‘(Μη) Εκκίνηση διαδικασίας για την πλήρωση της θέσης του Διοικητή της Εθνικής Αρχής Διαφάνειας- Απάντηση σε υπ’ αριθμ. πρωτ. 42881ΕΞ/11-10-2023 έγγραφο της Εθνικής Αρχής Διαφάνειας’, 19 October 2023, [URL](#).

¹⁸⁶ in.gr, ‘Παραιτήθηκε ο πρόεδρος της Εθνικής Αρχής Διαφάνειας Μενέλαος Τσουπλάκης’, 29 November 2023, [URL](#).

¹⁸⁷ European Parliament, ‘MEPs concerned by threats to EU values in Greece’, 8 March 2023, [URL](#).

¹⁸⁸ European Parliament, *Report following the investigation of alleged contraventions and maladministration in the application of Union law in relation to the use of Pegasus and equivalent surveillance spyware*, B9-0260/2023, 22 May 2023, para 20(i).

¹⁸⁹ European Commission, Email exchange: ‘Meetings with the Greek Ombudsman and the NTA’, Ares(2023)3886802, 16 September 2022.

¹⁹⁰ Meeting minutes of the Legal Aid Working Group CEAS Sub-Working Group, 27 November 2023, Item 3.

case”.¹⁹¹ Whereas it had reported in February 2023 that Greece “agreed to seek authorisation to share the outcome of the [Frontex] interpreter case that was referred to the public prosecutor”,¹⁹² the Commission stated in June 2023 that it has no access to the outcome of the investigation.¹⁹³ The NTA has not made any information publicly available on the investigation either.¹⁹⁴

102. In the same vein, following a report and footage released by the New York Times, documenting an unlawful push back operation by the Hellenic Coast Guard on 12 April 2023 on the island of Lesbos,¹⁹⁵ the European Commission requested the NTA to investigate the incident on 19 May 2023.¹⁹⁶ No information has been made available on the NTA investigation or on its state of play or outcome.¹⁹⁷

103. On 13 November 2023, HIAS requested statistical data on the number of complaints received and processed by the NTA relating to push backs of refugees and migrants. The NTA initially replied without providing any data or information beyond citing that inspection reports are confidential and covered by data protection legislation.¹⁹⁸ A clarifying reminder was sent to the NTA at the end of November 2023, emphasising that the request was strictly limited to statistical data, and again on 13 December 2023. However, no reply has been received to date.

Hellenic Authority for Communication Security and Privacy (Αρχή Διασφάλισης του Απορρήτου των Επικοινωνιών, ADAE) – Article 19(2) Constitution

104. **Direct government interference in ADAE, intimidation & obstruction of functions:** Throughout the reporting period, reports have emerged of unlawful behaviour from institutional actors towards the President of ADAE, Christos Rammos, involving pressure, attacks, insults and threats (see [Cross-Cutting Issues: Interference with Independent Authorities](#)).¹⁹⁹ In a November 2023 statement, the National Commission for Human Rights highlighted “the serious barriers faced by ADAE in the performance of its tasks, the summons of ADAE Members to justice for acts related to their duties pursuant to the

¹⁹¹ European Commission, Email exchange: ‘Meetings with the Greek Ombudsman and the NTA’, Ares(2023)3886802, 16 September 2022.

¹⁹² European Commission, *Flash Report – Meeting between Commissioner Johansson and Minister of State Gerapetritis – 6 February 2023*, Ares(2023)3886599.

¹⁹³ European Parliament, *LIBE Committee*, 5 June 2023, [URL](#).

¹⁹⁴ Note ECtHR, *Al Nashiri v. Romania* App No 33234/12, 31 May 2018, para 641: “where allegations of serious human rights violations are involved in the investigation, the right to the truth regarding the relevant circumstances of the case does not belong solely to the victim of the crime and his or her family but also to other victims of similar violations and the general public, who have the right to know what has happened... there must be a sufficient element of public scrutiny of the investigation or its results to secure accountability in practice as well as in theory”.

¹⁹⁵ New York Times, ‘Video Shows Greece Abandoning Migrants at Sea’, 19 May 2023, [URL](#).

¹⁹⁶ European Commission, Request for investigation, Ares(2023)3494606, 19 May 2023; Reply to written question E-1796/2023, 27 September 2023.

¹⁹⁷ RSA et al., ‘No monitoring of fundamental rights violations in Greece without independent and effective mechanisms’, 21 June 2023, [URL](#).

¹⁹⁸ NTA, Reply to letter, 49944/2023, 21 November 2023.

¹⁹⁹ Conference ‘Συνταγματικά κατοχυρωμένες Ανεξάρτητες Αρχές’, 2 November 2023, [URL](#); European Parliament, *LIBE Committee Meeting*, 26 October 2023, [URL](#); Efsyn, ‘Λάβρος ο Ράμμος στη LIBE: Αντί να διώξουν όσους έκαναν υποκλοπές, διώκουν μέλη της ΑΔΑΕ’, 26 October 2023, [URL](#); Politico, ‘Greek government accused of defanging probe into its wiretapping scandal’, 26 October 2023, [URL](#).

auditing competence of the Independent Authority, as well as the allegations by the President of ADAE before the Civil Liberties, Justice and Home Affairs Committee of the European Parliament of 'increasing pressure' on ADAE in the course of investigations relating to breach of confidentiality of communications." The Commission noted that the Authority is called to perform its tasks under a "depressing, toxic climate".²⁰⁰

105. **Unconstitutional change of ADAE composition:** Serious concerns have been levelled against the procedure followed on 28 September 2023 to select and appoint members of two constitutionally enshrined independent authorities, ADAE and NCRTV (see also Media Freedom: Authorities).²⁰¹ The National Commission for Human Rights statement has expressed serious concerns "at the haste of submission to the Conference of Presidents and completion of the appointment procedure for new Members of ADAE and NCRTV at the recent meeting of 28.9.2023 which precluded the possibility to seek wider consensus and persons enjoying broad support, in accordance with the spirit of para 2 of Article 101A of the Constitution". The Commission added that "a fortiori the appointment of new Members with a majority below that required by Article 101A of the Constitution is constitutionally impermissible."²⁰²

106. Vouliwatch submitted on 2 October 2023 a request to Parliament for access to the minutes of the 28 September 2023 meeting and to information on the composition of the Conference of Presidents.²⁰³ The request has not been answered at the time of writing.

107. On 23 November 2023, the Bar Association of Athens applied to the Council of State for judicial review of the decisions to amend the composition of ADAE and NCRTV by replacing their members on constitutionality grounds. The Bar Association submits that the appointments of new members of the two independent authorities breach Article 101A of the Constitution since (i) no prior consultation was held with political parties to ensure the broadest possible consent and (ii) no majority of at least $\frac{3}{5}$ of the members of the Conference of Presidents of the Hellenic Parliament had been secured.²⁰⁴

²⁰⁰ National Commission for Human Rights, 'Δήλωση ΕΕΔΑ για τις Ανεξάρτητες Αρχές: Ζητήματα διασφάλισης της θεσμικής ακεραιότητας των συνταγματικά κατοχυρωμένων Ανεξάρτητων Αρχών και σεβασμού του καθεστώτος αυξημένων εγγυήσεων των Μελών τους', 30 November 2023, [URL](#).

²⁰¹ Gouvwatch, 'Reflections on the selection of members of ADAE and NCRTV: Was this an attempt to interfere in the functioning of these independent authorities?', 17 October 2023, [URL](#). Note that in reply to a Vouliwatch letter of 18 October 2023, the European Commissioner for Justice stated on 12 December 2023 that the issues in question will be examined in the context of preparation of the 2024 Rule of Law Report: Vouliwatch, 'Η Κομισιόν ανταποκρίνεται στο Vouliwatch για το θέμα της εκλογής των μελών ΑΔΑΕ και ΕΣΡ', 12 December 2023, [URL](#). This position was reiterated in European Commission, Reply to written question E-3270/2023, 5 January 2024.

²⁰² National Commission for Human Rights, 'Δήλωση ΕΕΔΑ για τις Ανεξάρτητες Αρχές: Ζητήματα διασφάλισης της θεσμικής ακεραιότητας των συνταγματικά κατοχυρωμένων Ανεξάρτητων Αρχών και σεβασμού του καθεστώτος αυξημένων εγγυήσεων των Μελών τους', 30 November 2023, [URL](#).

²⁰³ Vouliwatch, *Χορήγηση εγγράφων σχετικά με τη σύνθεση της Διάσκεψης των Προέδρων της Βουλής καθώς και τη συνεδρίασή της κατά την 28η Σεπτεμβρίου 2023*, 2 October 2023, [URL](#).

²⁰⁴ Bar Association of Athens, 'Προσφυγή ΔΣΑ στο ΣΤΕ για ΑΔΑΕ και ΕΣΡ', 30 November 2023, [URL](#).

108. **Obfuscation of mechanisms on monitoring of violations of the rights of refugees and migrants:** The European Commission has expressed concerns about the risk of the Fundamental Rights Officer (FRO) and Special Commission on Fundamental Rights Compliance of the Ministry of Migration and Asylum created pursuant to L 4960/2022 being a “paper tiger”, in its bilateral discussions with Greece.²⁰⁵
109. The Greek government issued JMD 329937/2023 on the competences and functioning of the Special Commission on Fundamental Rights Compliance of the Ministry of Migration and Asylum,²⁰⁶ flagged as “among the key priorities” since the beginning of 2023.²⁰⁷ The Decision notably provides that said Special Commission “shall be informed by the Fundamental Rights Officer on complaints lodged through the complaints mechanism”, “shall make every effort possible and ensure that all admissible... complaints regarding potential fundamental rights violations are conclusively examined by the competent authority, in accordance with applicable legislation”, “shall cooperate with the Monitoring Committee” of home affairs funds and shall ensure that the FRO performs its duties independently and impartially, receives all necessary documents for the performance of its tasks and receives monthly information from competent authorities on complaints they have received.
110. In its comments on draft versions of the JMD, the National Commission for Human Rights had reiterated its concerns about the unclear role and lack of independence of the two entities established under L 4960/2022.²⁰⁸ The Greek Ombudsman has also deplored the fact that “he was included without his consent to the Special Committee” and “would expect the EU to be more supportive vis-à-vis the GR government on his exclusive competence over and above the governmental services.”²⁰⁹
111. On 6 November 2023, RSA requested statistical data on the number of complaints received and processed by the FRO since its establishment. No response has been received on the request.

²⁰⁵ European Commission, *Flash Report – Meeting between Commissioner Johansson and Minister of State Gerapetritis – 6 February 2023*, Ares(2023)3886599.

²⁰⁶ Gov. Gazette B' 4147/23.06.2023.

²⁰⁷ European Commission, Email exchange: 'Task Force for Human Rights Compliance and MMA FRO – Update', Ares(2023)3887034, 23 January 2023.

²⁰⁸ National Commission for Human Rights, 'Επιστολή της ΕΕΔΑ προς τον Γ.Γ. Μεταναστευτικής Πολιτικής, Υποδοχής και Ασύλου', 19 April 2023, [URL](#).

²⁰⁹ European Commission, Emails exchange: 'Meetings with the Greek Ombudsman and the NTA', Ares(2023)3886802, 16 September 2022.

C. The enabling framework for civil society

2023 Rule of Law Report recommendation: Take further steps to evaluate the current registration system for civil society organisations, including by initiating a structured dialogue with CSOs, and assess whether there is a need to amend it

112. In her 2023 report on Greece, the UN Special Rapporteur on human rights defenders issued a wide range of recommendations to the Greek government, including to “Put an end to the misuse of criminal law for the peaceful and legitimate activities of human rights defenders, in particular those working in the context of migration and asylum”, “Drop outstanding criminal charges and investigations against human rights defenders, including members of NGOs and volunteers, rescind travel bans and unblock their bank accounts”, “Ensure no retaliation, including stigmatizing statements by public officials and threats of criminal proceedings, including investigations, against human rights defenders on the basis of their engagement with regional human rights mechanisms, in particular the European Court of Human Rights”.²¹⁰
113. For her part, the Council of Europe Commissioner for Human Rights reiterated her call to Greece to “actively create and maintain an enabling legal framework and a political and public environment conducive to the existence and functioning of civil society organisations and to the work of human rights defenders and investigative journalists and to stop their criminalisation and other forms of harassment.”²¹¹
114. **Onerous registration requirements for civil society organisations (L 4873/2021):** A vast number of civil society organisations have heavily criticised the provisions of the legal framework introduced in 2021 for the protection of volunteering, the strengthening of civil society organisations and the introduction of tax incentives to support the public benefit activities of such organisations.²¹² According to civil society, a large number of provisions weaken, to the point of extinction, the smaller and more financially fragile organisations and by extension the diversity and pluralism of Greek civil society. While ostensibly creating a guarantee of transparency, the provisions in reality burden the operation of civil society organisations, discourage, hinder or prevent the establishment of new organisations rather than empowering the third sector.²¹³
115. On 21 December 2023, the “Coordinating Committee of Greek CSOs for the improvement of the implementation of Law No. 4873/2021” met with the Secretary General of the Ministry of Interior and a representative of the administration of the Ministry. At the meeting, civil society representatives opened a dialogue on a range of issues that have arisen in practice in the implementation of the law. A detailed memorandum outlining specific problems and proposed solutions will be submitted in January 2024.

²¹⁰ UN Special Rapporteur on human rights defenders, *Visit to Greece*, A/HRC/52/29/Add.1, 2 March 2023, [URL](#).

²¹¹ Council of Europe Commissioner for Human Rights, CommHR/DM/sf 024-2023, 19 July 2023, [URL](#).

²¹² Gov. Gazette A' 248/16.12.2021.

²¹³ For a detailed critique, HIGGS et al., ‘Κοινή Δήλωση 303 Οργανώσεων για το νέο Νομοσχέδιο της ΚτΠ’, 23 November 2021, [URL](#).

116. **Arbitrary registration requirements imposed specifically on NGOs working with refugees and migrants (L 4939/2022, JMD 10616/2020):** The Ministry of Interior Registry of civil society organisations established pursuant to L 4873/2021 has had no impact on the existence and operation of the pre-existing NGO Registry of the Ministry of Migration and Asylum specifically for NGOs working with refugees and migrants (L 4939/2022, JMD 10616/2020). The 2023 Rule of Law Report unfortunately appears to conflate the two frameworks insofar as it suggests that the “commissioning of the study on the simplification of the procedures” regarding the former is a positive step towards resolving issues with the latter.²¹⁴ We would therefore urge for clarification of the two legislative frameworks as discrete initiatives that have not had any interaction to date.
117. Furthermore, the 2023 Rule of Law Report cites data from the Ministry of Migration and Asylum, per which “between September 2020 and March 2023, 82 CSOs have been registered in the Registry of the Ministry of Migration and Asylum and 11 applications have been pending for evaluation. 42 CSOs are actually active in the field of migration, their number being close to 50% of the number of those registered in the Registry, while the rest of them are either not particularly active or they focus on other social groups or they are registered for possible future activities.”²¹⁵ However, no such categorisation exists under the domestic legal framework, nor are Commission services in Greece aware of any criteria for classifying registered organisations as “actually active in the field of migration” or not.²¹⁶
118. The implementation of the NGO Registry is still marred by deficiencies, arbitrariness and a lack of transparency in practice. One civil society organisation was again denied registration on the NGO Registry for failing to comply with substantive criteria, on the basis that its website was in English and not Greek. The Registry, however, includes other organisations that have no Greek website.

Severe deficiencies are consistently encountered in the process of registration of members, staff and volunteers of civil society organisations in the NGO Members Registry established also under JMD 10616/2020. Recent examples of application of the latter Registry include the following:

- 118.1. Refusal to register EU citizens for want of a Greek criminal record, even though they are required by law to obtain a criminal record from their home Member State and produced copies thereof officially translated into Greek.
- 118.2. Refusal to register refugees awaiting the renewal of their residence permit due to prolonged delays attributable to the Ministry of Migration and Asylum.²¹⁷

²¹⁴ European Commission, *2023 Rule of Law Report: Country Chapter Greece*, SWD(2023) 808, 5 July 2023, 28, fn. 250. Note that said study has not been published to date.

²¹⁵ *Ibid*, fn. 250.

²¹⁶ Meeting minutes of the Legal Aid Working Group CEAS Sub-Working Group, 25 September 2023, Item 5.

²¹⁷ On protracted delays in residence permit renewals, RSA, ‘Refugee residence permit renewal applications pending for over a year at the Greek Asylum Service’, 26 October 2022, [URL](#).

- 118.3. Refusal to register natural persons on the ground that their solemn declaration of no conviction for serious offences did not reflect the text of Article 11(1)(a) JMD 10616/2020 verbatim, even though submitted solemn declarations covered more offences than those set out in the above provision.
- 118.4. Arbitrary obligation on natural persons to list up to four state-run reception facilities to which they are to be granted access. There is no basis for such a restriction in the domestic legal framework.
119. At least one civil society organisation has had its own registration suspended from the NGO Registry due to failure to register its individual staff members due to data protection concerns. Judicial review of the suspension decision is pending before the Greek Council of State.
120. The European Commission has noted in a January 2023 mission report that “the National Transparency Authority (NTA) examines the functioning of the registry.”²¹⁸ However, neither the NTA nor said Ministry have made any information publicly available thereon.
121. On 6 November 2023, RSA requested statistical data on the number of organisations and individuals approved, rejected and/or de-registered from the Registry since its establishment. No reply has been received on the request to date.
122. In a meeting held on 23 October 2023 with civil society organisations, the European Commission and UNHCR, the Ministry of Migration and Asylum communicated its intention to review the legal framework governing its NGO Registry. On 9 November 2023, RSA submitted proposals for amendments to the legislative instruments in question. No updates have since been provided on the matter by either the Greek government or the Commission.
123. The judgment of the Council of State on judicial review of JMD 10616/2020 on the NGO Registry of the Ministry of Migration and Asylum is still pending at the time of writing, even though the hearing took place on 2 December 2022 (see [Justice: Efficiency](#)). We recall that at the hearing the Greek government argued *inter alia* that the fundamental right to freedom of association should not be applicable to NGOs.²¹⁹
124. **Hostile narrative and incrimination of NGOs and human rights defenders** persists at the level of government representatives and agencies. Government discourse continues to point to the involvement of NGOs in smuggling operations and to suggest that criminal case files are being drawn up against them, without any confirmation of criminal proceedings actually lodged.
125. During the reporting period, the Hellenic Police published on 29 July 2023 a press release titled “verification of the activity of an organised criminal network, composed by two criminal organisations, whose members systematically engaged in facilitation

²¹⁸ European Commission, *Task Force Migration Management Mission Report – Athens – January 2023*, Ares(2023)3018530, 7.

²¹⁹ 2023 Rule of Law Report Civil Society Submission, para 70.

of illegal entry of foreigners on Greek territory via Lesbos island".²²⁰ According to the press release, the Public Prosecutor is conducting a preliminary investigation into what the Hellenic Police describes as "engineered" (επιτηδευμένες) migration flows, where persons contacted NGOs after having arrived on Greek territory, NGOs contacted the Greek authorities and disclosed the details of the persons and subsequently went to the location of the persons, "with the pretext of provision of humanitarian-medical assistance thereto".²²¹ To our knowledge, no NGOs have been officially contacted or prosecuted to date in relation to the above allegations.

Furthermore, in its annual report released in November 2023, EYP stated that it "contributed definitively to revealing the truth in cases that risked undermining the country's reputation, in breaking international illegal smuggling networks, in highlighting new migration routes, and in documenting the controversial, even criminal, role of certain members of NGOs."²²² The report further cites "high-profile" examples as follows:

125.1. "In November 2022, in the context of an intelligence operation, [EYP] uncovered a fabricated narrative of migrants concerning the ostensible presence of a dead minor girl in a border area. [EYP] highlighted the crucial role of collaborators and members of NGOs driving the creation of the alleged narrative, with the ulterior aim of pressuring the Greek authorities to secure their collection and granting of asylum." This appears to refer to the incident brought before the ECtHR in *K.A. v. Greece and B.A. v. Greece and Türkiye*²²³ and to make a value judgment as to the facts of the pending case.

125.2. "In April 2023 [EYP] uncovered the *modus operandi* of an illegal migrant smuggling network on Lesbos. Throughout our investigation, [EYP] documented the process activated for the smuggling of migrants, and ascertained the *modus operandi* of the smugglers. The Hellenic Police relied on this data to draw up a criminal case file against 21 persons, including smugglers and members of NGOs." This seems to refer to the information published in the 29 July 2023 press release of the Hellenic Police which has not, however, led to any prosecution to date.

126. Derogatory and defamatory language has continued to be routinely used against civil society by Members of the Hellenic Parliament.²²⁴

127. **Criminalisation of NGOs working with refugees and migrants** has continued during the reporting period, including in the context of ongoing criminal cases:

²²⁰ Hellenic Police, 'Διακριβώθηκε η δράση οργανωμένου εγκληματικού δικτύου, αποτελούμενο από δύο (2) εγκληματικές οργανώσεις, τα μέλη των οποίων δραστηριοποιούνταν συστηματικά στη διευκόλυνση της παράνομης εισόδου αλλοδαπών στην ελληνική επικράτεια, μέσω της νήσου Λέσβου', [URL](#).

²²¹ *Ibid.*

²²² EYP, *Ετήσια Έκθεση (Annual Report) Προτεραιοτήτων και Τομέων Δράσης της Εθνικής Υπηρεσίας Πληροφοριών (Ε.Υ.Π.)*, November 2023, 10, [URL](#).

²²³ App Nos 35090/22 and 38444/22, Communicated 31 March 2023.

²²⁴ See e.g. Hellenic Parliament, Written question by Hellenic Solution, No 1568, 6 November 2023, [URL](#).

- 127.1. The most recent incident relates to the founder of the Greek Helsinki Monitor, as reported in our previous submission. The founder of the organisation is currently accused of having “set up a criminal organisation with the purpose of receiving data of third country nationals who attempt to enter Greece illegally, in order to facilitate their illegal entry and stay, sending to the authorities their full details and their exact location in the country, in order for them to be subject to asylum procedures”. He was called for interrogation before the Investigating Judge of Kos on 20 December 2022 in response to the above charges, which are classified as felonies. The charges are brought with the aggravating circumstances of commission “by profession, as the infrastructure he has created (namely the operation of the organization Greek Helsinki Monitor) demonstrates an intention of repeated commission of the act and for profit”. As noted in a Joint Statement of twelve civil society organisations, the incident on which the criminal prosecution is based refers to the entry into Greece of an asylum seeker, where the founder of the Greek Helsinki Monitor had acted in line with the mandate of the organisation – namely the support of human rights – by sending the Greek authorities information about the presence of asylum seekers on Greek territory, as well as the intention of those asylum seekers to be subject to asylum procedures, i.e. by asking for their protection claims to be registered and for applicable procedures to be applied.²²⁵
- 127.2. On 10 January 2023, 24 humanitarian activists, including search and rescue volunteers and humanitarian workers, faced trial for a series of misdemeanour charges, including unlawful use of radio frequencies, espionage, forgery, and assisting the criminal organization of the NGO Emergency Response Center International (ERCI) in their smuggling activities. The Court of Mytilene acquitted all defendants for the crime of unlawful use of radio frequencies, which had been abolished in the meantime. It also annulled the summons for all foreign defendants on the ground that it had not been translated in a language they could understand, and the charge of espionage for all defendants due to lack of precision. It eventually referred to trial two of the Greek defendants for the respective crimes of forgery and provision of information to ERCI. However, the first instance decision was partially annulled following an annulment application by the Prosecutor of the Supreme Court. The Supreme Court found *inter alia* that the Greek authorities were not obliged to have provided translation of the summons to those defendants that had not informed them that they do not understand the Greek language, as well as that the charge of espionage was sufficiently precise. As a result, 15 persons will have to stand trial again. Proceedings resumed in January 2024.
- 127.3. It should be noted that the 24 defendants also face felony charges for smuggling, facilitation of illegal entry and for forming and participating in a criminal organisation that engages in the commission of felonies, in

²²⁵ 2023 Rule of Law Report Civil Society Submission, para 77.1.

particular in the facilitation of illegal entry of third-country nationals. Should the felony charges come to trial, they could lead to up to 25 years imprisonment. Additionally, three of the defendants who were working for the NGO ERCI had been kept in pre-trial detention for more than 100 days. Amnesty International has called the charges farcical.²²⁶ Serious concerns have also been voiced by the UN Special Rapporteur on human rights defenders²²⁷ and by the Council of Europe Commissioner for Human Rights.²²⁸

127.4. Other significant cases of criminalisation of human rights defenders include the launch of preliminary examinations for serious crimes against 35 members of NGOs in September 2020,²²⁹ and four members of NGOs in July 2021.²³⁰ The persons concerned have not even been informed of the accusations against them. The first case mainly concerns citizens of Germany, France, Norway and Austria, whom the Police accused *inter alia* of forming a criminal organisation facilitating the smuggling of third-country nationals from Türkiye to Lesbos, and espionage. In the second case, the charges are similar, with one of the accused reporting being sexually harassed while in police custody. In both cases, the defendants are human rights defenders engaging in the documentation of human rights abuses at the Greek borders. No hearing has taken place to date.

128. **Arbitrary criminalisation of lawyers:** On 13 July 2023, the Bar Association of Thessaloniki adopted a resolution “expressing its indignation against the legally baseless arrest of a young colleague during the exercise of his functions and in fact for reasons directly related thereto. According to the information received by the Bar Association, the manifestly unsubstantiated charges against the colleague are solely based on the fact that he went to obtain authorisations from clients in order to submit an asylum application.”²³¹

129. The Bar Association of Athens issued an opinion in September 2023, clarifying that lawyers providing legal advice and assistance to persons arriving in Greece and wishing to apply for international protection – as well as interpreters used to enable communication – can in no way be construed as facilitating irregular entry or stay, in line with CJEU case law. The opinion also highlighted that communication with such parties is covered by client-attorney privilege under the *lex specialis* provisions of the Lawyers Code.²³²

²²⁶ Amnesty International, ‘Greece: humanitarian workers’ lives remain on hold as trial is adjourned’, 18 November 2021, [URL](#).

²²⁷ UN Special Rapporteur on human rights defenders, ‘Greece: Guilty verdict for migrant rights defenders could mean more deaths at sea – UN expert’, 18 November 2021, [URL](#).

²²⁸ Council of Europe Commissioner for Human Rights, ‘Greek authorities should reverse the trend undermining the work of human rights defenders and journalists’, 12 January 2023.

²²⁹ Kathimerini, ‘Δικογραφία εις βάρος 35 μελών ΜΚΟ’, 29 September 2020, [URL](#).

²³⁰ Ethnos, ‘ΕΛΑΣ: «Πολυεθνική» ΜΚΟ σε κύκλωμα διακίνησης μεταναστών από την Τουρκία στη Λέσβο’, 19 July 2021, [URL](#).

²³¹ Bar Association of Thessaloniki, ‘Ψήφισμα για τη σύλληψη συναδέλφου’, 13 July 2023, [URL](#); Gownwatch, ‘Lawyer arrested during the performance of his duties’, 26 July 2023, [URL](#).

²³² Bar Association of Athens, Opinion No 143, 11 September 2023, [URL](#).

Civil society participation in the decision-making process

130. Vouliwatch is occasionally invited – by the opposition parties – to attend relevant meetings of parliamentary committees and to express its opinion on bills,²³³ as well as by the NTA to express its views in meetings with international bodies or to contribute to the work of the Authority.²³⁴ In our view, however, civil society is not invited to consult or contribute anywhere near as often as we might expect to be, while our proposals and recommendations are rarely taken into account.

D. Initiatives to foster a rule of law culture

Measures to foster a rule of law culture

131. **Refusal to engage with the European Parliament rule of law process:** The Greek government has demonstrated unprecedented contempt for EU institutions through its stance on the European Parliament rule of law and fundamental rights monitoring process. Government officials and the Supreme Court Prosecutor refused to meet with a delegation of the LIBE Committee visiting Athens on 6-8 March 2023 to monitor the country's rule of law performance in the context of the Democracy, Rule of Law and Fundamental Rights Monitoring Group (DRFMG).²³⁵ In an earlier letter to the Committee, the government falsely submitted that Greece was in national mourning, even though the three-day mourning period following the Tempi train accident had lapsed and the Hellenic Parliament was back in session. It also accused the European Parliament of undue interference in domestic elections by falsely invoking an election period, which was not announced until 22 April 2023. Conversely, the government agreed to meet with the European Commissioner for Justice upon his visit to Athens the following week.²³⁶

132. **Govwatch initiative for rule of law monitoring:** In April 2022, Vouliwatch launched the [Govwatch](#) initiative, a rule of law monitor that collects, analyses and reports violations or suspected violations of the rule of law in Greece. With this tool we aim to showcase the reality of the state of the rule of law in Greece, which is unfortunately very different from that depicted by the Greek government. With this platform, as well as with the observations that we herein submit to the Commission this year, we again wish to highlight the importance of the implementation aspect of existing legislation.

²³³ In 2023, Vouliwatch was invited to express its views on the new asset declaration law.

²³⁴ In November 2023, Vouliwatch was invited by the NTA to submit proposals for the updated 2022-2025 Anti-Corruption Action Plan and in June 2023 to provide assistance for the implementation of the EEA Grants (XM-EEA) Action for "Strengthening the Framework for Integrity, Transparency and Anti-Corruption" in the context of mapping the existing framework for conflicts of interest.

²³⁵ Politico, 'Brussels Playbook: Watchdog to probe free Qatar flights — Kallas wins — Spain's gender parity', 6 March 2023, [URL](#); European Parliament, *Mission report following the LIBE mission to Athens, Greece, 6 to 8 March 2023*, PE742.480, 11 April 2023, [URL](#).

²³⁶ AMNA, 'EU Commissioner for Justice Reynders in Athens on March 16-17', 16 March 2023, [URL](#).

Proposed 2024 Rule of Law Report recommendations

Apply the rules set by the Constitution, the Standing Orders of the Hellenic Parliament (Section of Parliamentary Business), L 4622/2019 and the Manual of Legislative Methodology for the preparation, submission and enactment of legislation, in accordance with the principles of the rule of law and of good law-making.

Ensure the independent and unimpeded operation of independent authorities and their members in the exercise of their functions.

Revise rules on registration of civil society organisations to ensure alignment with EU standards, including the fundamental rights to freedom of association, privacy and data protection, and compliance with UN and Council of Europe recommendations.

Adopt guidelines clarifying that advice and assistance to persons irregularly arriving in Greece with the intention to apply for international protection and communication to that end are not construed as criminal conduct.

Contributing organisations

Vouliwatch

Areas of work Anti-corruption; Open government; Good law-making;
Parliamentary openness; Press freedom
Website <https://vouliwatch.gr/>
Contact details info@vouliwatch.gr

Greek Council for Refugees (GCR)

Areas of work Justice; Asylum; Migration
Website <https://www.gcr.gr/en/>
Contact details gcr1@gcr.gr
Transparency Register No 514887748984-49

Refugee Support Aegean (RSA)

Areas of work Justice; Asylum; Migration
Website <https://rsaegean.org/en/>
Contact details info@rsaegean.org
Transparency Register No 583270644066-47

HIAS Greece

Areas of work Justice; Asylum; Migration
Website <https://hias.org/where/greece/>
Contact details greece@hias.org
Transparency Register No 722561452336-16

Hellenic League for Human Rights

Areas of work Justice, Migration, Police Arbitrariness – Impunity,
Citizenship, Freedom of Speech
Website <https://www.hlhr.gr/>
Contact details info@hlhr.gr
Transparency Register No 852353652323-31

Reporters United

Areas of work Press freedom; Surveillance; Media
Website <https://www.reportersunited.gr/en/>
Contact details reporters@reportersunited.gr