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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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**COMMISSION STAFF WORKING DOCUMENT**

**2021 Rule of Law Report  
Country Chapter on the rule of law situation in Greece**

*Accompanying the*

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL  
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**2021 Rule of Law Report  
The rule of law situation in the European Union**

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## **ABSTRACT**

A number of measures aiming at improving the efficiency and the quality of the Greek justice system are under way. The Code of Judicial Staff was adopted on 24 April 2021 and the elaboration of the Code of Conduct for Administrative Justice is ongoing, though no draft has been made public. Measures are being implemented to improve the quality of justice, in particular as regards the collection of judicial statistics and the creation of specialised chambers in courts and measures related to e-justice, although challenges remain namely as regards digital signatures and the full implementation of electronic filing. The reform of the judicial map is a priority. Ongoing reforms in the civil procedure would have a positive impact on the administration of justice, which continues facing efficiency challenges. Concerns relating to the procedure of appointments in the most senior positions of judges and prosecutors remain.

A wide range of anti-corruption reforms that Greece has embarked on in the past years is being taken forward. The 2019 Constitutional review of the immunity regime for members of the Parliament and Ministers resulted in an extension of the statutory limit for investigations, and immunities have started to be lifted in some corruption cases, ending an important obstacle to the prosecution of high-level corruption. However, some practical issues remain, notably as regards resources for investigating corruption and delays in the management of court files. Legislative gaps have not yet been filled concerning the regulation of lobbying. Significant shortcomings remain in the effective oversight, in particular due to the division among four oversight bodies, and in the follow-up of the provisions concerning asset disclosures, conflicts of interest and party financing. While asset declarations from members of the Parliament and the Government are made public, this is done in a non-machine readable format and the reports on the outcome of the checks and on possible breaches or sanctioning procedures remain unavailable to the public.

The Greek Government has proposed new legislation to enhance the transparency of media ownership and public availability of media ownership information. The independence of the media regulator has been strengthened, while its financial capacity remains weak. The murder of an investigative journalist, currently under investigation, has highlighted concerns about the safety of journalists and the necessity of improving their protection. The working conditions of journalists have been impacted negatively by the COVID-19 pandemic and no significant measures supporting directly the media sector have been put in place.

While there have been some improvements in the system of checks and balances in Greece, some challenges remain. However, improvements are noted in the law making process, in particular as regards the further implementation of the Executive State Law. Specific initiatives aim at improving standardisation and uniformity of the law-drafting process, simplification and rationalisation, as well as the introduction of a higher degree of transparency and legal certainty. During the COVID-19 pandemic, Greece has not triggered a state of emergency and all relevant measures were taken according to the normal legislative procedure. The powers of the Ombudsperson were reinforced. The registration system of NGOs active in the area of asylum, migration and social inclusion continues to be questioned by a number of civil society organisations.

## **I. JUSTICE SYSTEM**

The court system in Greece is based on the separation between the ordinary civil and criminal courts and the administrative courts. Civil courts are organised into 154 magistrate courts, 63 courts of first instance, 19 courts of appeal and the Supreme Court, which is a court of cassation. Criminal courts are organised into 41 courts for less serious offences, 63 courts of first instance, 19 courts of appeal, mixed criminal courts composed by professional and lay judges<sup>1</sup> and the Supreme Court. Administrative courts are organised into 30 administrative courts of first instance, nine administrative courts of appeal and the Council of State. The Court of Audit has a dual nature, acting partly as a court and partly as an administrative authority entrusted with auditing public accounts. There is no formal Constitutional Court and all Greek courts have competence to review the constitutionality of laws<sup>2</sup>. Judges and prosecutors form a consolidated body of “magistrates” subject to a system of recruitment, career, rights and obligations, which is largely homogeneous for all. The Greek system is exclusively composed of career judges and prosecutors<sup>3</sup>. They are appointed to civil and penal jurisdictions or to administrative courts. As regards prosecution authorities, they are organised into 63 prosecution offices at the courts of first instance, 19 prosecution offices at the courts of appeal and the General Prosecutor of the Supreme Court. Additionally, the offices of the Prosecutor for Economic and Financial Crime and of the Prosecutor for Corruption Offences were merged in a single prosecutorial authority in 2021<sup>4</sup>. Greece participates in the European Public Prosecutor’s Office. There are 63 bar associations in Greece, one at the seat of each court of first instance.

### **Independence**

**The level of perceived judicial independence is above average.** Among the general public, 55% consider judicial independence to be fairly or very good, a share that increased compared to last year (53%). The corresponding figure among companies is 61% and has increased substantially compared to last year<sup>5</sup> (53%). There is no clear trend identified during the last five years as regards the level of perceived independence<sup>6</sup>.

**Concerns relating to the procedure of the appointments in the most senior positions of judges and prosecutors persist.** The three main branches of the judiciary enjoy a high level of self-administration. There are three supreme judicial councils, one for each of the branches of the judiciary, in which the executive and legislature are not represented. These councils decide on appointments, promotions, transfers and secondments of judges in the respective branches of the judiciary and prosecutors<sup>7</sup>. As regards the most senior positions of judges and prosecutors such as the President and Vice-President of the Council of State or the Supreme Court, the Constitution stipulates that appointments be effected by presidential decree,

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<sup>1</sup> Constitution of Greece, Art. 97, para. 1: “*Felonies and political crimes shall be tried by mixed jury courts composed of ordinary judges and jurors, as specified by law. The judgments of these courts shall be subject to the legal remedies specified by law*”.

<sup>2</sup> Constitution of Greece, Art. 93, para. 4: “*The courts are obliged to not apply a law whose content is contrary to the Constitution*”.

<sup>3</sup> With the exception of lay judges participating in the mixed courts.

<sup>4</sup> Article 53 of Law 4745/2020 (OJ A 214)

<sup>5</sup> Figures 47 and 49, 2021 EU Justice Scoreboard.

<sup>6</sup> The level of perceived judicial independence is categorised as follows: very low (below 30% of respondents perceive judicial independence as fairly good and very good); low (between 30-39%), average (between 40-59%), high (between 60-75%), very high (above 75%).

<sup>7</sup> 2020 Rule of Law Report, country chapter on the rule of law situation in Greece, p. 2-3.

following a proposal by the Council of Ministers<sup>8</sup>. In November 2020, GRECO in its most recent report, raised once again concerns regarding the system of appointments for the most senior positions in the judiciary (including the Supreme Court President), notably that these positions are subject to a potentially strong influence of the executive and recommended to revise the method of selection and ensure the involvement of the judiciary in the process<sup>9</sup>. The Greek authorities do not have any plans to revise the appointment procedure in the foreseeable future<sup>10</sup>. The government has insisted that the application of the current legislation introduces additional elements of checks and balances<sup>11</sup>. In fact, there is a list of candidates established by the Minister of Justice based on objective criteria of seniority (such as years served in the relevant court)<sup>12</sup>. The list is discussed by the conference of the Presidents (speakers) of the Parliament (current and former Presidents who are still members of Parliament, the Vice-Presidents of the Parliament, the Presidents of Parliamentary Committees, the Presidents of the political groups and one independent Member of the Parliament)<sup>13</sup>. The Minister is not obliged to follow the opinion of the Parliament<sup>14</sup>. In practice, there has always been agreement between the executive and the legislature as of the choice of candidates proposed for appointment. Non-successful candidates do not have the possibility to contest before an independent court the decision not to propose them for appointment<sup>15</sup>.

**New provisions are being prepared on the promotion of judges and prosecutors.** The Greek authorities indicated<sup>16</sup> that a draft law<sup>17</sup> is under preparation, in view of adoption in the third quarter of 2021, in order to amend the “Code on the organisation of the courts and the status of judges” so as to modernise the system of promotion for judges and prosecutors<sup>18</sup>. It

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<sup>8</sup> Constitution of Greece, Art. 90 para. 5: “Promotion to the ranks of President or Vice-President of the Council of State, of the Supreme Civil and Criminal Court and of the Court of Audit shall be effected by virtue of a presidential decree issued on the proposal of the Cabinet, by selection among the members of the respective Supreme Court, as specified by law. Promotion to the rank of Public Prosecutor of the Supreme Civil and Criminal Court shall be effected by virtue of a similar decree, by selection among the members of the Supreme Civil and Criminal Court and Deputy Public Prosecutors of this Court, as specified by law. Promotion to the rank of General Commissioner of the Court of Audit shall be effected by virtue of a similar decree, by selection among the members of the Court of Audit and of the respective General Commission, as specified by law. Promotion to the rank of General Commissioner of Administrative Courts shall also be effected by virtue of a similar decree, by selection among the members of the respective General Commission and the Presidents of the Administrative Courts of Appeal, as specified by law”.

<sup>9</sup> GRECO, Fourth Evaluation Round - Second Compliance Report, recommendation xii (p.7). See also 2020 Rule of Law Report, country chapter on the rule of law situation in Greece, p. 3.

<sup>10</sup> Input from Greece for the 2021 Rule of Law Report, p. 1. In this context, it can be noted that there is a constitutional ban on a revision of the Constitution before the lapse of five years from the previous one. Constitution of Greece, Article 110 para 6.

<sup>11</sup> Information received in the context of the country visit to Greece.

<sup>12</sup> Law 3841/2010 (OJ 55A/06.04.2010) on the selection of magistrates for the top posts of Justice and the reinstatement of the self-governance on courts.

<sup>13</sup> Regulation of the functioning of the Greek Parliament, Art. 12 and 13.

<sup>14</sup> Regulation of the functioning of the Parliament, Art. 1.

<sup>15</sup> In the past, very few non-successful candidates tried to challenge the final decision before the Council of State, which rejected their recourse as lacking the legal base. Information received in the context of the country visit to Greece.

<sup>16</sup> Information received by the Ministry of Justice in the context of the country visit to Greece.

<sup>17</sup> The Greek authorities did not provide any details on this draft.

<sup>18</sup> Information received by the Ministry of Justice in the context of the country visit to Greece.

is important that this draft law takes into account Council of Europe recommendations relating to judicial independence<sup>19</sup>.

**The preparation of a Code of Conduct for the Administrative branch of the Judiciary is ongoing.** The President of the Council of State decided in November 2019<sup>20</sup>, to establish a committee for preparing a draft Code of Conduct, which completed its work in May 2021<sup>21</sup>. Currently, there is no Code of conduct covering the judiciary and as reported by the Group of States against Corruption of the Council of Europe (GRECO), integrity in the judiciary is a challenge<sup>22</sup>.

## Quality

**New specialised court sections are in the process of being set up and are expected to take up their activity shortly.** Legislation adopted in June 2020<sup>23</sup> provides for the set-up of a number of special chambers within civil and administrative courts to improve specialisation in particular in areas related to EU law on electronic communications, energy, protection of personal data, personal insolvency cases, and for certain types of administrative disputes<sup>24</sup>.

**Concrete steps have been taken as regards digitalisation of justice but challenges remain.** Building on past years' achievements, new initiatives<sup>25</sup> have been taken allowing in particular for submitting cases electronically and monitoring the different stages of proceedings<sup>26</sup>. Although the distribution of digital signatures to judges and clerical staff of courthouses is progressing<sup>27</sup>, a number of challenges remain<sup>28</sup>. The full implementation of electronic filing is hampered by delays and its availability remains partial, inconsistent, and mainly restricted to some courts. Even in those courts, the actual use of e-filing remains minimal, partly due to a lack of familiarisation of stakeholders with the new tools<sup>29</sup>. A new electronic recording system for criminal proceedings is being progressively introduced, starting with a pilot at the Court of first instance of Athens, which has been applied to 21 courts<sup>30</sup>. Other relevant measures concern the electronic issuing of certain categories of judicial certificates, including a polyvalent certificate on judicial solvency clearance recently made available. The electronic insolvency registry is operational and linked to other EU

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<sup>19</sup> Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe.

<sup>20</sup> Act of the President of the Council of State of 21.11.2019.

<sup>21</sup> Input from Greece for the 2021 Rule of Law Report, p. 3. The Code is due to be published by the end of 2021.

<sup>22</sup> The Court of Audit has adopted a charter of ethics for its members.

<sup>23</sup> Law 4700/2020 (A' 127), Art. 359 and 360.

<sup>24</sup> Information received by the Ministry of Justice in the context of the country visit to Greece.

<sup>25</sup> 2020 Rule of Law Report, country chapter on the rule of law situation in Greece, p.3.

<sup>26</sup> Figures 40, 43, 44, 47, 48, 2021 EU Justice Scoreboard.

<sup>27</sup> Information received by the Ministry of Justice in the context of the country visit to Greece.

<sup>28</sup> European Commission, Enhanced Surveillance Report for Greece 2021, pp.34-35. The representative of the Supreme Court and the Representative of the association of judges also confirmed this during the Country visit on 18 March 2021. The Athens Bar Association considers that the Minister of Justice has been unresponsive to requests for financial and logistic assistance, thus forcing lawyer associations to proceed as best they could and to launch a call for bids for the provision of digital signatures to their members; Information received in the context of the country visit to Greece by the Supreme Court.

<sup>29</sup> The availability of such means is limited to the Athens, Piraeus, Thessaloniki and Chalkis courts and functionality is mainly confined to the filing of legal documents initiating proceedings (Information received in the context of the country visit to Greece).

<sup>30</sup> There is also ongoing training of staff in 7 courts. Electronic issuance and availability of civil court decisions has also been made available currently in 16 courts and progressing swiftly to the remainder.

registries. The e-platform for the conduct of electronic auctions has been upgraded. Extracts from the criminal records are provided to applicants and criminal complaints are processed electronically<sup>31</sup>.

**The system for the collection of judicial statistics is progressing.** An office for the collection and processing of judicial statistics was established<sup>32</sup> in the Ministry of Justice at the end of 2020, with the objective of systematic collection of qualitative and quantitative statistical data. Implementing legislation is being drafted and the launch of a call for bids for the procurement of the relevant infrastructure and services is being prepared<sup>33</sup>.

**The new Code of Judicial Staff was adopted on 24 April 2021.** Following completion of public consultation on the draft code on 21 January 2021<sup>34</sup>, the legislation was adopted by the Parliament<sup>35</sup>. The legislation introduces new provisions on career and disciplinary procedures for clerical judicial staff.

**The reform of the judicial map is a priority for the Government.** A study published in 2021 provides a detailed analysis of the shortcomings of the current judicial map and proposes changes<sup>36</sup> taking into consideration current demographics, developments in information and communication technology, and other relevant parameters<sup>37</sup>. In the framework of the preparation of the Greek Recovery and Resilience Plan<sup>38</sup>, the Ministry of Justice stated its intention to carry out such reform as a priority on the basis of data to be collected by the office for the collection and processing of judicial statistics. The Council of State started in late 2020 revising the judicial map of the administrative courts nationwide<sup>39</sup>. As regards the civil and criminal courts, the Ministry of Justice intends to start the review of the judicial map with the assistance of a consultant. It is important that this reform takes into account relevant European standards<sup>40</sup>.

**In the context of the COVID-19 pandemic, court hearings and decisions continued to be issued for a category of cases.** During the lockdowns in 2020 and 2021, judicial decisions were regularly issued especially for the majority of civil cases at second instance or higher degree of jurisdiction<sup>41</sup>. Furthermore, during the second lockdown (starting on 7 November 2020), the hearing, including with the use of teleconferences or remote conferences, of a number of categories of cases was allowed to take place before the criminal, civil and administrative courts<sup>42</sup>. By virtue of a proposal from the Ministry of Justice and accepted by

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<sup>31</sup> Input from Greece for the 2021 Rule of Law Report. More generally, the Government notes that as of 1 June 2021 financial aid will be provided to self-employed lawyers for buying new IT equipment.

<sup>32</sup> Law 4700/2020 on certain competences of the Court of Audit, Art. 358.

<sup>33</sup> Information received by the Ministry of Justice in the context of the country visit to Greece.

<sup>34</sup> Draft law of the Ministry of Justice entitled “Code of Judicial Officers”.

<sup>35</sup> Law 4798/2021, “Code of Judicial Staff”. See also European Commission, Enhanced Surveillance Report for Greece 2021, p.37.

<sup>36</sup> Dianeosis, *Justice in Greece, Proposals for a modern judicial system*, pp. 77-108. The issue was also discussed in the context of the virtual country visit to Greece with M. Pikramenos, Judge and Member of the Council of State.

<sup>37</sup> 2020 Rule of Law Report, country chapter on the rule of law situation in Greece, p.4.

<sup>38</sup> A number of reforms including those related to e-justice and the reviewing of the judicial map will be implemented with the assistance of the Recovery and Resilience Facility.

<sup>39</sup> Information received by the Council of State in the context of the country visit to Greece.

<sup>40</sup> GRECO, Fourth Evaluation Round - Evaluation Report. See also Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe, para. 52

<sup>41</sup> As there was no obligation to be present or to hear witnesses.

<sup>42</sup> Another halt has been marked in February 2021.

the judiciary, hearings postponed during the COVID-19 pandemic will be rescheduled in the near future, without any additional fees placed upon the parties<sup>43</sup>. However, all enforcement proceedings, including auctions, were suspended for most part of 2020 and remained so by virtue of consecutive Joint Ministerial Decisions until early April 2021<sup>44</sup>.

## **Efficiency**

**The justice system continues to face challenges as regards its overall efficiency<sup>45</sup>.** Judicial statistics show that in particular the civil court system continues to face efficiency challenges, as the time needed to resolve litigious civil and commercial disputes in first instance has continued to increase (637 days in 2019 compared to 559 days in 2018)<sup>46</sup>. In addition, the productivity of first instance courts has not improved as regards the clearance rate for litigious civil and commercial cases (86.2% in 2019 compared to 86.3% in 2017)<sup>47</sup>, which means that Greece is facing a clear risk of building up additional backlogs, further exacerbated by the consequences of partial interruptions of work due to the COVID-19 pandemic<sup>48</sup>. Postponements caused significant delays and backlogs, some cases having been scheduled for trial on remote future dates, up to 2026 or even later<sup>49</sup>. Stakeholders continue identifying a range of procedural challenges, which the previous reforms of the Code of Civil Procedure sought to address, but which persist to this day<sup>50</sup>.

**Steps are being taken for the review of the Code of Civil Procedure.** The authorities are working on the finalisation of draft amendments to the Code of Civil Procedure, which will include improvements in judicial proceedings in all instances and in the execution of judicial sentences through the e-auction framework. The code is scheduled for adoption by July 2021 to enable its entry into force at the beginning of the new judicial year in September 2021<sup>51</sup>.

## **II. ANTI-CORRUPTION FRAMEWORK**

Greece has in place a comprehensive anti-corruption strategic framework, called the National Anti-Corruption Action Plan (NACAP). The National Transparency Authority, which oversees the implementation of the Plan, was established in 2019 with a view to improve cooperation and coordination among different audit authorities and inspection bodies under its jurisdiction<sup>52</sup>. A new anti-corruption strategy for 2022-2025 is under preparation. Drawing on the experience from the previous national anticorruption plans, the new strategy aims to focus on high-risk sectors and activities.

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<sup>43</sup> Information received by the Ministry of Justice in the context of the country visit to Greece.

<sup>44</sup> Input from Greece for the 2021 Rule of Law Report, pp. 4-6.

<sup>45</sup> 2020 Rule of Law Report, country chapter on the rule of law situation in Greece, p.4.

<sup>46</sup> Figure 6, 2021 EU Justice Scoreboard.

<sup>47</sup> Figure 11, 2021 EU Justice Scoreboard.

<sup>48</sup> Figures 11 and 14, 2021 EU Justice Scoreboard.

<sup>49</sup> Information received during the meeting with the High Jurisdictions, in the context of the country visit to Greece.

<sup>50</sup> Information received by the Bar Association in the context of the country visit to Greece.

<sup>51</sup> European Commission, Enhanced Surveillance Report for Greece 2021, p.25.

<sup>52</sup> 2020 Rule of Law Report, country chapter on the rule of law situation in Greece, p. 5.

**The perception among experts and business executives is that the level of corruption in the public sector remains relatively high<sup>53</sup>.** In the 2020 Corruption Perceptions Index by Transparency International, Greece scores 50/100 and ranks 16<sup>th</sup> in the European Union and 59<sup>th</sup> globally<sup>54</sup>. This perception has improved<sup>55</sup> over the past five years<sup>56</sup>.

**Administrative capacity in anti-corruption authorities is gradually improving.** Established in August 2019, the National Transparency Authority is an independent authority responsible for the coordination of the anti-corruption plan as well as for preventing, detecting and addressing fraud and corruption in the public sector and, under certain circumstances, in private sector entities. The National Transparency Authority continued recruiting additional personnel and has recently reached a total of 390 officers (including 260 investigators and auditors, 70 experts and 60 supporting staff). The National Transparency Authority has recently released a fraud risk-management tool, for risk mapping in public institutions. The prosecutor's office of economic crime has merged with the regional prosecutor's offices of corruption of Athens and Thessaloniki.

**Shortcomings remain regarding the effectiveness of action against high-profile corruption.** The challenges for the prosecution office concern in particular the lack of administrative and paralegal staff and as well as highly skilled investigators; a general lack of and delay in rolling out digital tools to detect sophisticated financial crimes; and absence of a system for case-management<sup>57</sup>. As a follow-up to the assessment in last year's report of the consequences of successive amendments to the definition of active bribery and the applicable sanctions<sup>58</sup>, it was reported that, while there is no data on the number and type of corruption cases affected by these successive changes, in 2020 the *lex mitior* ("most favourable law") principle was applied in at least one high-profile case, which involved politicians<sup>59</sup>.

**Provisions regarding immunity were recently updated.** The constitutional review of 2019 on the modification of the immunity regime for members of the Parliament and Ministers entered into force in 2020 and resulted in an extension of the statutory limit for investigations against these high-level officials and in a lifting of immunity for corruption cases<sup>60</sup>.

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<sup>53</sup> Corruption Perceptions Index 2020, pp. 2-3. The level of perceived corruption is categorised as follows: low (the perception among experts and business executives of public sector corruption scores above 79); relatively low (scores between 79-60), relatively high (scores between 59-50), high (scores below 50).

<sup>54</sup> Transparency International, Corruption Perceptions Index 2020 (2021).

<sup>55</sup> In 2015 the score was 46, while in 2020, the score was 50. The score significantly increases/decreases when it changes more than five points; improves/deteriorates (changes between 4-5 points); is relatively stable (changes from 1-3 points) in the last five years.

<sup>56</sup> The Eurobarometer data on corruption perception and experience of citizens and businesses as reported last year is updated every second year. The latest data set is the Special Eurobarometer 502 (2020) and the Flash Eurobarometer 482 (2019).

<sup>57</sup> Information received in the context of the country visit to Greece.

<sup>58</sup> Last year's report referred to the amendments passed in June 2019, which downgraded the active bribery offence to a misdemeanour, also lowering the associated sanctions and were repealed in November 2019 following concerns voiced by the Group of States against Corruption (GRECO) and the Organisation for Economic Co-operation (OECD).

<sup>59</sup> Information received by the Ministry of Justice in the context of the country visit to Greece.

<sup>60</sup> The constitutional provisions on immunity for Members of Parliament and of Ministers were modified in 2019, in addition to the abolishment of the special statute of limitations, thus lifting some important legal obstacles to the prosecution of high-level corruption (notably as regards the removal of the time limit for the Parliament to adopt a motion for prosecution against serving or former Ministers). The relevant provisions entered into force on 28 November 2019 and are not applicable retroactively. Information received in the

**Legislative steps to reform the asset declaration framework are being undertaken, while the verification and publication of asset declarations for officials and parliamentarians continues to face challenges, despite some progress.** A draft law is being currently developed, with the aim to reform the framework of the asset declarations<sup>61</sup>. The system of asset declarations is divided<sup>62</sup> among four oversight bodies<sup>63</sup>. Audits performed in 2020 by the National Transparency Authority, which is also responsible for asset disclosures by civil servants, auditors and inspectors, have revealed several breaches, notably 15 cases of non-declared revenues and two cases of possible conflict of interest. Data available for publication concerning asset declarations by members of Parliament, political parties and members of the judiciary is published. The Committee of Parliament for the Investigation of Declarations of Assets (CIDA) is competent for reviewing the asset declarations by members of Parliament, political parties and members of the judiciary. The CIDA is supported by a secretariat (a directorate of 21 officers), individual accountants and a prosecutor. The CIDA secretariat manages an annual workload of several thousands of declarations. The authorities report that, in early 2021, CIDA had a backlog of approximately 20 000 declarations pending scrutiny<sup>64</sup>. Practice shows that asset declarations by members of Parliament are not published in a machine-readable format<sup>65</sup>. Political parties are to submit their financial statements to CIDA indicating the amount and source of income and expenses, including financial obligations or debts. Following audits, CIDA has found financial breaches by 11 political parties<sup>66</sup>. Recurrent violations concern state subsidies that are not properly spent (i.e. not on time or for the given purpose), and payments are not made from a party's official bank account. Parties found in breach of financial provisions have had their state subsidies reduced accordingly. No data is available on the asset declarations by members of the judiciary<sup>67</sup>. CIDA publishes its yearly report online. Information on the results of the checks performed by CIDA as well as on the breaches or sanctions issued is not included in the public report<sup>68</sup>.

**The Internal Affairs Unit of the Police is competent for the follow-up of anti-corruption measures in the police and other public security services<sup>69</sup>.** The audit committee

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context of the country visit to Greece. No figures have been provided regarding cases handled under the new provisions.

<sup>61</sup> This draft law would replace law n. 3213 of 2003 (on Declaration and verification of assets for members of parliament, public officials and employees, media owners and other groups of persons) and it is expected to simplify the electronic procedure and to promote further the transparency and the fight against corruption. The draft of this initiative is expected to be submitted to the Quality Evaluation Committee within the law making procedure. Input from Greece for the 2021 Rule of Law Report.

<sup>62</sup> Information received in the context of the country visit to Greece.

<sup>63</sup> The Committee of Parliament for the Investigation of Declarations of Assets (CIDA), the Source of Funds Investigation Unit of the FIU; the Internal Affairs Unit of the Police, and the National Transparency Authority.

<sup>64</sup> The authorities report that in July 2019 CIDA had to check approximately 20,000 declarations of the past four years, which were resubmitted following a court order in 2018. Due to COVID-19 situation and restrictions in 2020 and 2021, the check is expected to be completed at the end of 2021. Input from Greece for the 2021 Rule of Law Report.

<sup>65</sup> Information received in the context of the country visit to Greece.

<sup>66</sup> Information received by CIDA in the context of the country visit to Greece.

<sup>67</sup> Data on the asset declarations by members of the judiciary are expected to be included in the forthcoming reports. Input from Greece for the 2021 Rule of Law Report.

<sup>68</sup> The results of the checks performed by CIDA in case of breaches or sanctions issued are forwarded to the regular justice. The outcome of that procedure is beyond the competence of the CIDA, and it is not known beforehand. Input from Greece for the 2021 Rule of Law Report.

<sup>69</sup> Officers from the police and other services, such as guards and security forces (around 54 000 in total) are required to submit their asset declarations online. In 2020, more than half of the officers has filed asset

responsible for checking the filed declarations, composed of 20 officers, has the capacity to verify only 15-20% of the declarations filed annually<sup>70</sup>. No clear records are available in relation to the workload and effectiveness of the internal affairs unit. Similarly, there is no evidence of specific anti-corruption training or educational awareness delivered to officers under the purview of the internal affairs unit.

**There has been no change as regards regulation of lobbying compared to the previous reporting period.** The National Transparency Authority, together with the Ministry of the Interior, has developed a draft law on the regulation of lobbying. The objectives are to establish clear rules and a publicly available registry of lobbyists and lobbying activities<sup>71</sup>. This draft is now subject to public consultation.

**Legislation for the legal protection of whistleblowers is in preparation.** A committee (consisting of a judge, lawyers, law professors, the National Transparency Authority, the Ministry of Justice and the Ministry of Interior) has been set up by the Government, and it is tasked with preparing draft legislation on whistleblower protection<sup>72</sup>. For the time being, whistleblower protection exists in administrative law for the protection of civil servants against retaliation and in criminal law for the protection of ‘public interest witnesses’ in penal cases.

**Some amendments were made in the public procurement procedures in the context of the COVID-19 pandemic.** Since the outbreak of the COVID-19 pandemic, the Hellenic Single Public Procurement Authority, the Greek authority for the effective and uniform implementation of the public procurement framework, has declared that emergency procedures should be followed only as far as necessary, and always within the legal framework<sup>73</sup>. In response to the higher risk of corruption linked to the COVID-19 pandemic, between May and December 2020, the National Transparency Authority has performed 10 678 audits, and it has issued fines for an amount of EUR 954 950, and suspensions of operation for 109 business actors<sup>74</sup>.

### **III. MEDIA PLURALISM AND MEDIA FREEDOM**

The Greek legal framework concerning media pluralism is based on a set of constitutional safeguards and legislative measures. The Constitution provides for the protection of freedom of expression and the right to access public information and provides for a right of access to documents held by public bodies. Legislation was adopted to transpose the revised Audiovisual Media Services Directive (AVMSD). The National Council for Radio and Television (NCRTV) supervises and regulates the radio and television markets. Its independence is enshrined in the Constitution<sup>75</sup>, and its legal framework<sup>76</sup> is set out in the Media Law<sup>77</sup>.

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declarations. For those not disclosing their assets, the internal affairs unit may send a reminder of the obligation. In case of inaccurate or incomplete asset declaration filed, the case can be sent to the prosecutor (for further analyses, and possible criminal action), or be assessed by the internal affairs unit under a disciplinary procedure (for a possible fine of up-to EUR 5 000).

<sup>70</sup> Information received by the Internal Affairs Unit of the Police in the context of the country visit to Greece.

<sup>71</sup> *Ibid.*

<sup>72</sup> Information received by the National Transparency Authority in the context of the country visit to Greece.

<sup>73</sup> Hellenic Single Public Procurement Authority (2020), *COVID-19 and Public Procurement*.

<sup>74</sup> Input from Greece for the 2021 Rule of Law Report.

<sup>75</sup> Constitution of Greece, Art. 15(2).

**Greece has strengthened the independence of the media regulator, but its financial resources continue to be a matter of concern.** The new law<sup>78</sup> transposing the revised AVMSD includes provisions aimed at reinforcing the independence of the NCRTV from the Government and other state entities. However, the Greek government has not foreseen any reinforcement of the financial capacity of the NCRTV nor provided adequate resources to have it perform the new tasks envisaged in the AVMSD. In this regard, the Greek Government has requested the NCRTV to submit an action plan, indicating resources and technical equipment needed for the new enhanced tasks<sup>79</sup>.

**New legislation aims to enhance the transparency of media ownership and public availability of media ownership information.** The new law<sup>80</sup> introduces the obligation for media service providers, linear or non-linear, subscription or free-to-air, to register in the NCRTV Business Register. The registration information includes the name of the provider, its registered office, the details of its legal representatives, full contact details and information on the provider's ownership status. Some concern remains on the lack of systematic disclosure of ownership information to the public by news media<sup>81</sup>. Media legislation contains safeguards against high horizontal concentration in 'information' media markets (TV, radio, newspapers and magazines) and cross-media concentration<sup>82</sup>.

**The Government has adopted certain measures to mitigate the effect of the COVID-19 pandemic.** Such measures were mainly centred around payment facilities for the licence and retransmission fee, reduction of the rent of cinemas, and a small fund to support the production of documentaries. In addition, further measures have been adopted which include, amongst others, exemptions from the payment of the advertising contribution and tax and facilities for the payment of the journalist's contributions to their security fund<sup>83</sup>.

**Attacks on and threats to the physical safety of journalists continue.** Following the concerns described in the last report, as regards journalists' working conditions and safety, there were further attacks on journalists, followed by an immediate reaction from the authorities. Four new alerts were created on the Council of Europe Platform to promote the protection of journalism and safety of journalists<sup>84</sup>. The most recent alert refers to the murder of Greek investigative journalist Giorgos Karaivaz, which has highlighted concerns in relation to the safety of journalists and the necessity of improving their protection<sup>85</sup>. The Government condemned the murder and an investigation started immediately. Another alert refers to an attack by police officers on a journalist reporting on protests. The Greek

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<sup>76</sup> Law 4339/2015; Laws 1866/1989, 2328/1995, 2644/1998, 2863/2000 etc., as amended.

<sup>77</sup> Greece has fallen five places down to 70<sup>th</sup> (24<sup>th</sup> place among the EU Member States), out of 180 monitored countries, in the 2021 World Press Freedom Index of Reporters Without Borders.

<sup>78</sup> Law 4779/2021.

<sup>79</sup> Input from Greece for the 2021 Rule of Law Report.

<sup>80</sup> Law 4779/2021.

<sup>81</sup> 2021 Media pluralism Monitor, Greece, p. 15

<sup>82</sup> Availability of data on market and audience shares in certain media markets and the media market as a whole appears to be an issue. See 2021 Media Pluralism Monitor, Greece, p.11.

<sup>83</sup> European Regulators Group for Audiovisual Media Services (ERGA), Report on the economic impact of the COVID-19 crisis on the audiovisual sector 2020 and information received in the context of the country visit to Greece.

<sup>84</sup> Council of Europe, Platform to promote the protection of journalism and safety of journalists, Greece.

<sup>85</sup> The case is currently under investigation. Pursuant to the Greek legislation (art. 68, 70 and 156 of the Presidential Decree 141/1991) protection by the Police is available for vulnerable targets, provided either ex officio or after the interested person's request, when there is a threat against their life and physical integrity.

Government has replied to this alert that an investigation has been ordered. Yet another alert concerns an assault on the offices of a TV station by individuals protesting in support of a convicted terrorist. The Government condemned the “unacceptable intimidation” in a statement, calling the attack “another blow against the free press and the republic by the supporters of the convicted terrorist”. The final alert concerns an arrest warrant issued against a journalist and publisher of a newspaper over an alleged violation of data privacy rights. The arrest warrant was never acted upon but the complaint by the police officers over an alleged violation of data privacy rights is still active. The 2021 Media Pluralism Monitor (MPM 2021) also indicates that journalists are not free from attacks on and threats to their physical safety.

#### **IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES**

Greece is a parliamentary democracy with a unicameral Parliament. The separation of powers is enshrined in the Constitution. Legislative power is vested in the Parliament and the President and the right to introduce legislation belongs to the Parliament and the Government<sup>86</sup>.

**Further steps were taken to improve the quality of the legislative process.** The implementation of the Executive State Law<sup>87</sup> is ongoing in order to standardise and streamline the preparatory phase of the legislative process and to improve its quality. This law introduced a new executive public service, the Presidency of the Government, with a more active role in the legislative process, through the General Secretariat of Legal and Parliamentary Affairs. At the end of 2020, the General Secretariat for Parliamentary and Legal Affairs issued guidance to all Ministries on the drafting of impact assessment reports accompanying draft legislation and on the methodology and codification of legislation. An interdisciplinary body, the Committee for the Evaluation of the Quality of the Law-making Process<sup>88</sup>, has been established to carry out quality control of each draft law against the law-making principles as well as the constitutionality of draft legislative provisions<sup>89</sup>. A Central Codification Committee has been established<sup>90</sup> to coordinate the legal codification and for the development of the annual codification plan<sup>91</sup>. In September 2020, the Cabinet of Ministers endorsed the first annual plan and work is progressing<sup>92</sup>. According to national stakeholders, these reform initiatives have improved the quality of draft bills tabled in Parliament and have contributed to a considerable reduction of “last-minute” amendments containing provisions unrelated to the main provisions of the law<sup>93</sup>. However, stakeholders, and particularly the Ombudsperson, often do not receive draft legislation in a timely manner and sometimes only when the draft becomes public<sup>94</sup>. The consultation of the Ombudsperson and stakeholders, is

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<sup>86</sup> 2020 Rule of Law Report, country chapter on the rule of law situation in Greece, p. 10.

<sup>87</sup> Law 4622/2019.

<sup>88</sup> The Committee is composed of independent and highly qualified lawyers and economists who provide feedback on impact assessment.

<sup>89</sup> Information received by the Committee for the Evaluation of the Quality of the Law-making Process in the context of the country visit to Greece. Since October 2020, the Committee has been reinforced by adding three members and dividing its operational structure in two chambers, so as to increase its efficiency.

<sup>90</sup> Law 4622/2019, Art. 65-67.

<sup>91</sup> In consultation with the line ministries under each policy area, and the coordination of the implementation of the annual codification plan, while the groundwork on the legal codification has been transferred to the line ministries.

<sup>92</sup> Information received by the Ministry of Justice in the context of the country visit to Greece.

<sup>93</sup> Reduced by 33% in 2020 and by 50% currently.

<sup>94</sup> Information received by the Ombudsperson in the context of the country visit to Greece

taking place for approximately half the proposed legislation<sup>95</sup>. Furthermore, the Government involved NGO's with a variety of initiatives, such as the national plan for persons with disabilities or reforms to family law<sup>96</sup>.

**During the COVID-19 pandemic, Greece has not triggered a state of emergency.** All relevant measures were taken according to the normal legislative procedure. No court has been reported to have ruled on any of the measures taken in this context yet<sup>97</sup>. During this period, Parliament allowed votes to be cast before parliamentary sessions under certain conditions, by letter or fax, in the absence of more developed digital systems, with the member's signature and indication of the matter put to the vote<sup>98</sup>. Although the circumstances under which this possibility can be used are limited, Parliament decided to make a flexible interpretation of its internal rules, accepting the non-physical presence of its Members, to adapt to the context of the COVID-19 pandemic<sup>99</sup>.

**The powers of the Ombudsperson Institution have been reinforced.** Pursuant to new legal provisions adopted at the end of 2020<sup>100</sup>, the Ombudsperson is designated as the National Mechanism for Investigating Incidents of Arbitrariness with the responsibility of collecting, recording, evaluating and investigating complaints about action or inaction by law enforcement agents. The new provisions have provided the Ombudsperson Institution with a set of tools and mechanisms, as well as with the necessary additional human resources. The Ombudsperson monitors continuously the level of compliance of the public administration with its recommendations<sup>101</sup>. In the COVID-19 pandemic context, the Ombudsperson has not been contacted formally by any State authority, but submitted on his own initiative a set of recommendations, mainly concerning vulnerable groups. As part of its Annual Report for the United Nations he submitted information describing the COVID-19 related restrictions<sup>102</sup>. Given the relevance of migration and asylum in Greece, the Ombudsperson intervenes on these issues and recently published an own initiative report on allegations of pushback<sup>103</sup>.

**The requirements for the registration of NGOs active in the area of asylum, migration and social inclusion continue to raise concerns.** These concerns regarding the ability of NGOs to operate in Greece and to receive financial support in light of the rules on the registration and certification introduced in 2020<sup>104</sup> have been highlighted in a recent report of the Council of Europe Expert Council on NGO Law<sup>105</sup> by three UN Special Rapporteurs<sup>106</sup>,

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<sup>95</sup> *Ibid.*

<sup>96</sup> Information received by the Ministry of Justice in the context of the country visit to Greece.

<sup>97</sup> *Ibid.*

<sup>98</sup> Standing Orders of the Hellenic Parliament, Art. 70A.

<sup>99</sup> As explained by its president on 12 March 2020; European Parliamentary Research Service (2020), *Parliaments in emergency mode: How Member States' parliaments are continuing with business during the pandemic*.

<sup>100</sup> Law 4662/2020, Art. 188.

<sup>101</sup> Information received by the Ombudsperson in the context of the country visit to Greece.

<sup>102</sup> *Ibid.*

<sup>103</sup> The Greek Ombudsman, *Interim Report - Alleged pushbacks to Turkey of foreign nationals who had arrived in Greece seeking international protection*, 31 December 2020, p. 21.

<sup>104</sup> 2020 Rule of Law Report, country chapter on the rule of law situation in Greece, p. 12.

<sup>105</sup> Expert Council on NGO Law, *Addendum to the opinion on the compatibility with European standards of recent and planned amendments to the Greek legislation on NGO registration*, 23 November 2020; See also Expert Council on NGO Law of the Conference on INGOs of the Council of Europe, *Opinion on the compatibility with European standards of recent and planned amendments to the Greek legislation on NGO registration*, 2 July 2020;

by the European Union Agency for Fundamental Rights<sup>107</sup> and by an NGO specialised in asylum, migration and social inclusion issues<sup>108</sup>. The aim pursued by the legislation, namely ensuring transparency on registration<sup>109</sup>, can be considered as legitimate. Nevertheless, the registration requirements should not go beyond what is strictly necessary and proportionate and in particular should not be excessively burdensome. An appeal is pending before the Council of State on some aspects of the legislation and a complaint has been filed with the Ombudsperson by NGOs, which have been refused registration for not fulfilling either formal or substantial criteria<sup>110</sup>.

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<sup>106</sup> UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Special Rapporteur on the situation of human rights defenders and Special Rapporteur on the human rights of migrants, letter of 31 March 2021, OL GRC 1/2021.

<sup>107</sup> Contribution from the European Union Agency for Fundamental Rights (FRA) to the 2021 Rule of Law Report, Chapter on Greece, “Legal environment and space of civil society organisations in Greece”, pp: 6-8.

<sup>108</sup> Contribution from Refugee Support Aegean (RSA) for the 2021 Rule of Law Report, pp: 6-9. See also Amnesty International, “Greece: Worrying legal developments for asylum-seekers and NGOs” of 4 May 2020 and “Greece: Regulation of NGOs working on migration and asylum threatens civic space” of 31 July 2020.

<sup>109</sup> I.e. the objective of ensuring transparency in the way NGOs active in the area of international protection, migration and social inclusion operate, and thereby optimizing the services provided by them, as well as of enabling the human rights of refugees and migrants to be safeguarded and for reasons of public interest. In April 2021 the Ministry of Migration and Asylum provided an official briefing note presenting the explanation and the aims of the legislation.

<sup>110</sup> Information received by the Ombudsperson in the context of the country visit to Greece.

## **Annex I: List of sources in alphabetical order\***

\* *The list of contributions received in the context of the consultation for the 2021 Rule of Law report can be found at <https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism/2021-rule-law-report-targeted-stakeholder-consultation>.*

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## **Annex II: Country visit to Greece**

The Commission services held virtual meetings in March 2021 with:

- Ministry of Justice
- Supreme Court
- Court of Audit
- Council of State
- Prosecutor's Office to the Supreme Court
- Prosecutor for Financial Crimes and the Financial Police Division
- Association of Judges
- School of Judges
- Bar Association
- Committee for the Evaluation of the Quality of the law-making process
- Central Codification Committee
- National Transparency Authority
- Internal Affairs Unit of Law Enforcement Bodies
- Committee of Parliament for the Investigation of Declarations of Assets (CIDA, or Committee 3-A)
- National Audio-visual regulator
- Journalists' union ESIEMTH
- Greek Ombudsman
- Transparency International
- Refugee Support Aegean
- PRAKSIS

\* The Commission also met the following organisations in a number of horizontal meetings:

- Amnesty International
- Center for Reproductive Rights
- CIVICUS
- Civil Liberties Union for Europe
- Civil Society Europe
- Conference of European Churches
- EuroCommerce
- European Center for Not-for-Profit Law
- European Centre for Press and Media Freedom
- European Civic Forum
- European Federation of Journalists
- European Partnership for Democracy
- European Youth Forum
- Front Line Defenders
- Human Rights House Foundation
- Human Rights Watch
- ILGA-Europe
- International Commission of Jurists
- International Federation for Human Rights
- International Planned Parenthood Federation European Network (IPPF EN)
- International Press Institute
- Netherlands Helsinki Committee
- Open Society European Policy Institute

- Philanthropy Advocacy
- Protection International
- Reporters without Borders
- Transparency International EU