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signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council  
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COMMITTEE OF THE REGIONS 2020 Rule of Law Report The rule of  
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Brussels, 30.9.2020  
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**COMMISSION STAFF WORKING DOCUMENT**

**2020 Rule of Law Report  
Country Chapter on the rule of law situation in Greece**

*Accompanying the document*

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

**2020 Rule of Law Report  
The rule of law situation in the European Union**

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## **ABSTRACT**

Greece has adopted a significant number of justice reforms initiated in the context of the three economic adjustment programmes. Reform activities included changes in the organisation of courts, measures to improve the management of courts, the broadening of the use of information technology tools in courts and the promotion of alternative dispute resolution mechanisms. However, the implementation record shows mixed results and the justice system continues to face challenges as regards its quality and efficiency. Ongoing efforts to ensure the effective implementation of the recent reforms and further progress in the digitalisation of the justice systems are particularly important for achieving concrete results.

Greece embarked on a wide range of anti-corruption reforms in the past years and continues implementing a comprehensive national anti-corruption plan. Efforts have been made to streamline the institutional framework and improve coordination of various agencies and bodies tasked with fighting corruption. A modern legal framework for asset declarations and political party financing is in place, but implementation still shows some gaps. Some obstacles to the prosecution of high-level corruption were eliminated by way of constitutional review in 2019, as procedures regarding immunity regimes and statutes of limitation were modified. A revision of the criminal legislation in June 2019 raised a number of concerns, most notably as regards the criminalisation of bribery. While subsequent revisions remedied this situation, ongoing cases remain affected. Lobbying in Greece remains largely unregulated and the whistle-blower protection framework is incomplete.

The Constitution provides for the protection of freedom of expression and the right to access public information. Structures to ensure media pluralism and press rights are in place. However, some questions exist with regard to the effectiveness of rules geared at ensuring transparency of media ownership. Key concerns relate to insufficient mechanisms to ensure respect for professional standards in the practice of journalism, and precarious working conditions for journalists resulting from, among other things, the economic and financial crisis.

The system of checks and balances in Greece has been facing some challenges in practice. In particular, the process for enacting laws has been under considerable pressure in past years, mainly due to the consequences of the economic and financial crisis. Better regulation principles were not fully adhered to, but recent comprehensive legislation in this field aims at addressing these challenges and is gradually being implemented. Fundamental and constitutional rights are protected through the courts and independent authorities. There is no specific enabling framework for civil society in Greece, and there are civil society organisations active in the field of migration which have expressed concerns that the civic space to operate on the ground has narrowed.

## **I. JUSTICE SYSTEM**

The court system in Greece is based on the separation between the ordinary civil and criminal courts and the administrative courts. There are no distinct commercial, labour, financial or social security courts. Such cases all fall under the normal jurisdiction of civil or 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 and the Supreme Court. Administrative courts are organised into 30 administrative courts of first instance, 9 administrative courts of appeal and the Council of State. The Greek Constitution also foresees a certain number of special courts<sup>1</sup>. Special departments have been established in some courts for specific matters, *e.g.* on maritime disputes and on trademark and intellectual property disputes. The Court of Auditors has a dual nature, acting partly as a court and partly as an administrative authority entrusted with auditing public accounts<sup>2</sup>. There is no formal Constitutional Court and all Greek courts have competence to review the constitutionality of laws. 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. 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, there is also a Prosecutor for Economic and Financial Crime and a Prosecutor for Corruption Offences. There are 63 bar associations in Greece, one at the seat of each court of first instance.

### **Independence**

**The three branches of the judiciary enjoy a high level of self-administration.** There are three supreme judicial councils, one for each of the main branches of the judiciary<sup>3</sup>. The executive and legislature are not represented in the composition of these bodies<sup>4</sup>. These councils decide on appointments, promotions, transfers and secondments of judges in the respective branches of the judiciary and prosecutors, as far as the Judicial Council of Civil and Penal Justice is concerned. As regards the most senior positions of judges and

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<sup>1</sup> European e-Justice Portal, Judicial systems in Member States – Greece.

<sup>2</sup> The Court of Audit, one of the three Supreme Courts, has exclusive jurisdiction to audit the State expenditures and related cases, for example the cases arising from the audit of the unjustified growth of assets of the persons liable to asset declaration (Referred to in Art. 1 of law 3213/2003) and charge to the detriment of those responsible.

<sup>3</sup> Special courts established in accordance with the Constitution may also have their own judicial council.

<sup>4</sup> The composition of the three supreme judicial councils (SJC, one for civil and criminal justice, one for administrative justice and one for the Court of Audit) are composed by the president of the relevant court (Supreme Court, Council of State and Court of Audit respectively) and members of that court selected by the drawing of lots, as well as two judges from the relevant branch of the judiciary (with no right of voting); in addition, regarding the SJC for civil and criminal justice, it also includes the prosecutor and two vice-prosecutors of the Supreme Court, while the SJCs for administrative justice and for the Court of Audit include the General Commissioner of the State serving at the Council of State and the one serving at the Court of Audit respectively (see article 90(1)-(4) of the Constitution, read in connection with articles 67, 72 and 78 of the law 1756/1988 - Code on the Organization of courts and the status of magistrates. Enhanced formations of above councils are foreseen with regard to promotions to senior posts, *i.e.* at the Supreme Court (judges and prosecutors), the Council of State and the Court of Audit (for the posts of Councillor and of the General Commissioner) and at the Court of Appeal (for the posts of section presidents and prosecutors).

prosecutors in Greece, such as the President and Vice-President of the Council of State or the Supreme Court, the Greek Constitution stipulates that appointments are effected by presidential decree, following a proposal by the Council of Ministers. This has been subject to some criticism by the Council of Europe's Group of States against Corruption (GRECO), but so far Greece has not amended the relevant framework<sup>5</sup>. A change in the selection method would also require a constitutional revision, given that the manner of appointment to the courts in question is prescribed by the constitution<sup>6</sup>.

**The level of perceived judicial independence is average.** Among the general public, 53% consider judicial independence to be fairly and very good, a share which has been decreasing in the recent years. The corresponding figure among companies is 51% and has been stable<sup>7</sup>.

## Quality

**A significant number of reforms have been initiated in the context of the economic adjustment programmes in the past years, but the implementation record shows mixed results.** Reform activities included *inter alia* the following changes in the organisation of courts: the reduction of the number of magistrate courts, measures to improve the management of courts and to accelerate the administration of justice, the broadening of the use of information technology (IT) tools in courts<sup>8</sup>, the introduction and promotion of alternative dispute resolution mechanisms, the revision of codified legislation of major importance<sup>9</sup>, as well as embarking on reforming and consolidating the complex legislative framework<sup>10</sup>. However, reform implementation has had a mixed record so far. A number of challenges remain, such as the lack of availability of online information about the judicial system to the general public, the lack of arrangements for machine-readable judicial decisions, or the absence of surveys conducted among court users or legal professionals<sup>11</sup>. Improvements have been registered, however, for example as regards the availability of means to submit cases electronically or to monitor the different stages of proceedings, and the promotion of and incentives for using alternative dispute resolution methods<sup>12</sup>. The authorities also reported positive trends as regards the uptake of mediation in commercial and family/parental disputes<sup>13</sup>. As regards resources, the general expenditure of the Government for the justice system seems to almost exclusively cover wages and salaries<sup>14</sup>.

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<sup>5</sup> GRECO Fourth Evaluation Round - Compliance Report, para. 57, where it is considered that these positions are subject to a potentially strong influence of the executive and recommended to revise the method of selection concerning the most senior positions of judges and prosecutors to involve the peers in the process.

<sup>6</sup> Constitution of Greece, Article 90(5). In February 2019, the Parliament rejected a revision of this provision.

<sup>7</sup> Figures 44 and 46, 2020 EU Justice Scoreboard. 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>8</sup> Technical support is being provided by the European Commission under the Structural Reform Support Programme to the Greek Ministry of Justice as regards the improvement of the courts administration and the modernisation of the system for the evaluation and promotion of judges.

<sup>9</sup> Code of Civil Procedure, Code of Criminal Procedure, Code of Administrative Processes, Code of Administrative Procedure, Statute on the Court of Audit, Rules of Procedure of the Court of Audit, Penal Code, Insolvency Code, Code for the Administration of Justice (ongoing) and the Status of Magistrates (ongoing), Code of Judicial Employees (ongoing).

<sup>10</sup> For further detail, see European Commission, Country Report Greece 2019, SWD(2019) 1007 final, pp. 57 - 58; Country Report Greece 2020, SWD(2020) 507 final, p. 62.

<sup>11</sup> Figures 22, 29, 31, 41, 2020 EU Justice Scoreboard.

<sup>12</sup> Figures 27, 30, 2020 EU Justice Scoreboard.

<sup>13</sup> Information received in the context of the country visit to Greece.

<sup>14</sup> Figure 34, 2020 EU Justice Scoreboard.

**In the context of the COVID-19 pandemic, Greece has made efforts to accelerate the digitalisation of the public administration**<sup>15</sup>. In May 2020, the Ministry of Justice, in cooperation with the Ministry of Digital Governance, made available the digital/electronic issuance of 15 certificates, such as different certificates in the field of inheritance<sup>16</sup> and commercial law, through the existing network of Citizen Service Centres. It also unified 20 insolvency law-related certificates into a single one, electronically available from the General Commercial Registry.

**The authorities recently launched an initiative of creating specialised chambers in civil and administrative courts.** The new chambers would deal with specific categories of cases, such as cases involving claims for damages based on the transgression of national and EU legislation on electronic communication, energy and the protection of personal data<sup>17</sup>. A debate about a more systematic reform of the judicial map to better take account of current demographics, developments in information and communication technology and other relevant parameters is ongoing among members of the legal community<sup>18</sup>.

## Efficiency

**The justice system continues to face challenges as regards its overall efficiency.** 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 increased again (559 days in 2018 compared to 479 days in 2017)<sup>19</sup>. In addition, the productivity of first instance courts is falling as regards the clearance rate for litigious civil and commercial cases (86.3 % in 2018 compared to 96.0 % in 2017)<sup>20</sup>, which means that Greece is facing a clear risk of building up new backlogs<sup>21</sup>. Stakeholders identified a range of procedural challenges, which the reformed Code of Civil Procedure sought to address, but which persist to this day. For instance, these challenges concern the duration of litigious civil and commercial proceedings or enforcement proceedings. An implementation report on the Code of Civil Procedure is ongoing and a number of recommendations have already been formulated<sup>22</sup>. Stakeholders reported that criminal justice also faces similar problems and extensive delays in processing cases<sup>23</sup>. The administrative branch of courts continues to improve its performance, maintaining a high resolution rate (163.5% in 2018), reducing the time needed to resolve administrative disputes in first instance and lowering existing backlogs by resolving more cases than are incoming<sup>24</sup>. However, both the time needed to

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<sup>15</sup> Greece did not impose a state of emergency in the context of COVID-19 pandemic.

<sup>16</sup> Communique of the Ministry of Justice of 25 May 2020.

<sup>17</sup> European Commission, Enhanced Surveillance Report May 2020, pp. 28 and 106.

<sup>18</sup> Pikrammenos, 'Judicial territorial planning: a choice of the legislator with a major import for the judicial system', in: 'Justice in Greece', Dianeosis 2019 ('Δικαστική Χωροταξία: επιλογή του νομοθέτη με μείζονα σημασία για το δικαστικό σύστημα', στο συλλογικό έργο 'Η Δικαιοσύνη στην Ελλάδα', Διανέοσις 2019).

<sup>19</sup> Figure 6, 2020 EU Justice Scoreboard.

<sup>20</sup> Figure 11, 2020 EU Justice Scoreboard.

<sup>21</sup> Figures 11 and 14, 2020 EU Justice Scoreboard.

<sup>22</sup> European Commission, Enhanced Surveillance Report May 2020, Institutional Paper Series 127, p. 73.

<sup>23</sup> Contribution from the Transparency International for the 2020 Rule of Law Report, p. 11. According information received in the context of the country visit to Greece, this regularly causes that misdemeanour cases are terminated by ad-hoc legislative measures, leading to *de facto* impunity for a wide range of misdemeanours (see e.g. Article 63 of law 4687/2020, for a recent example of this practice).

<sup>24</sup> Figures 12, 8, 15, 2020 EU Justice Scoreboard.

resolve administrative cases in first instance (601 days in 2018) and the number of pending cases remain comparatively high<sup>25</sup>.

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

Greece has set up a comprehensive anti-corruption strategic framework, 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. In the past years, the country undertook a number of steps to revise its anti-corruption legal framework. The most recent Constitutional review in 2019 modified the immunity regime for Members of Parliament and Ministers. Several anti-corruption laws that were revised in recent years are currently being implemented, such as in the area of party financing and asset declarations. Regarding the latter, an online system for submitting declarations is now fully operational. The whistle-blower protection regime is currently under discussion. Lobbying remains unregulated.

**Whereas Greece scored 36/100 in 2012 on the Transparency International Corruption Perceptions Index, its score increased to 48/100 in 2019<sup>26</sup>, placing Greece 17<sup>th</sup> in the EU and 60<sup>th</sup> globally.** 95% of the respondents to the latest Eurobarometer survey on corruption think that corruption is widespread in their country (EU average: 71%)<sup>27</sup>. 95% of businesses see corruption as a widespread and more than half (58%) say that corruption is a problem when doing business<sup>28</sup>. Then, 36% of people consider that there are enough successful prosecutions to deter people from corrupt practices (EU average of 36%) while 20% of companies believe that people and businesses caught for bribing a senior official are appropriately punished, against a EU average of 31%.

**A recent revision of the criminal legislation took place and some further amendments are envisaged.** In the past years, Greece undertook a number of steps to revise its anti-corruption legislative framework, criminalise corruption offences and include sanctions that are proportionate and dissuasive. Amendments passed in June 2019, which downgraded the active bribery offence to a misdemeanour, and lowered the associated sanction, were repealed in November 2019. This repeal was a reaction to concerns voiced by the Group of States against Corruption (GRECO) and the Organisation for Economic Co-operation (OECD), which also issued a series of recommendations in this regard<sup>29</sup>. However, due to the applicable *lex mitior* principle<sup>30</sup> in Greek criminal law, a number of ongoing cases will be affected due to a shortened statute of limitation or more lenient sanctions<sup>31</sup>.

**The cooperation and coordination among different audit authorities and inspection bodies has been strengthened.** The National Transparency Authority (NTA), established in

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<sup>25</sup> Figures 9, 15, 2020 EU Justice Scoreboard.

<sup>26</sup> Transparency International Greece: <https://www.transparency.org/en/countries/greece>.

<sup>27</sup> Flash Eurobarometer 502 (2020), Corruption.

<sup>28</sup> Flash Eurobarometer 482 (2019), Businesses' attitudes towards corruption in the EU.

<sup>29</sup> GRECO Ad hoc Report on Greece (Rule 34); European Commission, Country Report for Greece 2020, (SWD(2020) 507 final).

<sup>30</sup> The *lex mitior* principle is the principle of applying the less severe law and constitutes a general principle of national criminal laws as well as a general principle of EU law.

<sup>31</sup> For more details, see European Commission, Country Report for Greece 2020, (SWD(2020) 507 final) pp. 64, 65.

August 2019<sup>32</sup>, merged six previously separate audit bodies under its umbrella, with the aim of addressing institutional fragmentation and lack of coordination. NTA has six regional offices and is responsible for the overall planning, coordination, supervision and evaluation of the effectiveness of all control mechanisms. Preventing, detecting and addressing fraud and corruption in the public sector also falls within the NTA's responsibilities, as well as raising awareness. The authority is responsible for the overall coordination of the National Anti-Corruption Action Plan (NACAP), which has been the framework for planning and monitoring the efforts for preventing and combating corruption since 2013<sup>33</sup>. NTA cooperates with other administrative bodies and with prosecution services, being endowed with powers to impose administrative sanctions, while its inspectors-auditors may carry out a preliminary examination or an investigation following a public prosecutor's order. The Authority's operational independence and administrative and financial autonomy are enshrined in law, and its activity is subject to parliamentary scrutiny.

**Two specialised anti-corruption units are responsible for tackling corruption committed by politicians and high-ranking officials.** The prosecution service in charge of economic crimes and the prosecution service in charge of corruption cases are supported by special investigative agencies, such as the General Directorate for Financial and Economic Crime Unit (SDOE) and the Financial Police. Following specific recommendations from the OECD, Greece is making efforts to equip the investigating and prosecuting authorities with adequate human and technical resources<sup>34</sup>.

**Important steps to address obstacles to prosecuting high-level corruption have been taken through constitutional amendments.** The constitutional provisions regarding the immunity regime for Members of Parliament and of serving or former Ministers were modified in 2019. Under the previous legal regime, the possibility to prosecute serving and former members of government was severely restricted by a complex and time-constrained procedure for parliamentary approval at various steps of the criminal procedure. The special statute of limitations has also been abolished, 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<sup>35</sup>. The relevant provisions entered into force on 28 November 2019 and will not apply retroactively for already pending cases.

**Several important anti-corruption reforms completed in the past are currently being implemented.** After a series of legislative reforms, a modern law on party financing is in place<sup>36</sup>. It seems, however, that its full implementation is a matter of concern, as the control mechanisms is not yet fully effective and no sanctions have been imposed to date by the competent audit committee of the Parliament on any political party<sup>37</sup>.

**Greece has carried out several reforms to improve and strengthen the legal framework of the asset declarations system.** As of 2016, asset declarations for all categories covered are submitted online<sup>38</sup> and the system is now fully operational. However, the relevant Law on

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<sup>32</sup> Law 4622/2019.

<sup>33</sup> National Transparency Authority (2018): Anti-corruption action plan 2018-2021. Greece adopted its first NACAP in March 2013, which was further updated in August 2015.

<sup>34</sup> OECD (2018): Phase 3bis follow-up: additional written report by Greece.

<sup>35</sup> European Commission, Country Report for Greece 2020, (SWD(2020) 507 final).

<sup>36</sup> Law 3023/2002 as amended by the Laws 4304/2014, 4472/2017, 4475/2017, 4509/2017.

<sup>37</sup> European Commission, Country Report for Greece 2020, (SWD(2020) 507 final).

<sup>38</sup> Asset disclosure rules are provided in L. 3213/2003 as it stands after the enactment of L. 4571/2018.

the Submission of the Declarations of Assets and Financial Interests by Liable Individuals has been amended once more in 2018, stipulating that all persons covered would have to submit again their asset declarations for the years 2015, 2016 and 2017<sup>39</sup>. There are four main authorities in charge of receiving and auditing asset declarations: i) the Committee of Parliament for the Investigation of Declarations of Assets (CIDA), the so-called Committee 3-A, which consists of 11 members and is responsible for the oversight and sanctions on political entities' (such as parties and persons) financing, and on asset declarations. It is supported by a Special Service, composed of 20 staff members and headed by a specialist seconded from the Special Secretariat of the Financial Investigative Body; ii) the Source of Funds Investigation Unit of the FIU (Anti-Money Laundering Authority), which is responsible for the audit of asset declarations of several categories of public officials, as well as for individuals performing management duties in specific private legal entities; iii) the Internal Affairs Unit of the Police, which is responsible for the audit of asset declaration of police officers, and (iv) the Head of the National Transparency Authority who is responsible for receiving and verifying the asset declarations of administrative control authorities (inspectors, auditors, investigators). The four authorities are independent from each other and no formal cooperation mechanism exists to coordinate their activities. Additionally, other oversight bodies can verify an asset declaration on an *ad hoc* basis, in case they received a complaint<sup>40</sup>.

**A recent reform introduces new provisions on conflicts of interest.** They cover members of the Government, the general and special secretaries, as well as coordinators of decentralised administrations, the presidents or heads of independent authorities and presidents, vice presidents, governors, deputy governors and CEOs of public and private legal entities<sup>41</sup>, except for those enshrined in the Constitution, who answer only to Parliament and not to the Government. The Civil Servants' Code outlines several restrictions and incompatibilities for civil servants. Similar provisions exist for members of parliament within the Code of Conduct for Members of Parliament<sup>42</sup>. The violation of these provisions may result in a disciplinary offence<sup>43</sup>.

**Lobbying in Greece remains largely unregulated and the whistle-blower protection framework is incomplete.** At present, there are no specific obligations for the registration of lobbyists or the reporting of contacts between public officials and lobbyists. However, a draft law is currently under preparation. There is no overall legal framework for whistle-blower protection. Some provisions exist under the framework for 'public interest witnesses'<sup>44</sup>, which introduce limited protection against criminal prosecution for persons disclosing certain crimes, including corruption. Some steps have been taken to introduce guidelines for whistle-

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<sup>39</sup> Government Gazette 186 /A/ 30.10.2018. Law 4571/2018 requested that all categories of obligors submitted again their assets declarations for the years 2015, 2016 and 2017.

<sup>40</sup> Furthermore, the Court of Audit adjudicates on cases arising from the audit of the unjustified growth of assets of the persons liable to asset declaration (Referred to in Art. 1 of law 3213/2003), which are filed in the form of a law suit by the General Prosecutor's Office at the Court of Audit, following an audit by the competent administrative bodies. The aim of the audit is to locate assets growth deemed to be product of corruption and claim it back (Art. 3B par. 4 and 12 of law 3213/2003, Art. 118 law 4700/2020) to the detriment of those responsible.

<sup>41</sup> Art. 71 Law 4622/2019.

<sup>42</sup> Art. 3 of the Code of Conduct for Parliamentarians.

<sup>43</sup> United Nations – Office on Drugs and Crime (2018) Thematic Compilation of Relevant Information Submitted by Greece – Asset and interest Disclosure systems.

<sup>44</sup> Law 4254/2014.

blower protection in the private sector<sup>45</sup>, and a legislative initiative for the establishment of an effective mechanism for whistle-blower protection is part of the 2018-2021 National Anti-Corruption Action Plan, but an overall framework remains to be developed.

**As regards ‘revolving doors’, the legal framework has been amended in 2019.** Previously the legislation provided that senior public officials must abstain from any private professional activity similar to their previous duties for a period of 2 years. The infringements of the provisions were punished by several sanctions such as fines, prohibition of being appointed as public administration officials for a period of ten years and removal from the relevant National Registry<sup>46</sup>. However, these provisions have been abolished through new amendments, which introduced a reduced cooling off period from two years to one year and removed sanctioning provisions<sup>47</sup>. An independent Ethics Committee established within the National Transparency Authority is responsible for granting this permission (or for allowing this activity under specific conditions) and for proposing sanctions within the framework of the law, to be imposed by the Head of the National Transparency Authority.

### **III. MEDIA PLURALISM**

The Greek legal framework concerning media pluralism is based on a set of constitutional safeguards and legislative measures. In particular, freedom of expression is recognised by the Constitution. Structures to ensure media pluralism and press rights are in place. Greek media has been affected by the economic crisis, resulting in an increased financial vulnerability of media companies and journalists<sup>48</sup>.

**Independence of the regulator for audio-visual media services is ensured, but it lacks resources.** The National Council for Radio and Television (NCRTV) supervises and regulates the radio and television markets. Its independence is enshrined in the Constitution<sup>49</sup> and its legal framework set out in the Media Law<sup>50</sup>. NCRTV is a nine-member body, consisting of a President, a Vice-President and seven members, who are appointed by the Plenary of the Presidents, a special body of the Parliament in charge of the nominations to the independent authorities in which all political parties are represented<sup>51</sup>. Its independence and effectiveness has been assessed to be at low risk by the Media Pluralism Monitor 2020 (‘MPM 2020’). However, the MPM 2020 also indicates that there are no specific safeguards to avoid arbitrary decision-making on behalf of the state as regards the budgetary resources of the authority. It also claims that, whilst rules on incompatibility exist, the appointment procedures are not sufficiently transparent, and the qualifications required are determined in general terms, which does not preclude member selection on the basis of political considerations<sup>52</sup>. It was raised during the country visit that NCRTV lacks adequate financial and staffing resources to perform all its tasks, notably when it comes to monitoring audio-visual media services that originate from the regions and islands located furthest from Athens

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<sup>45</sup> OECD (2018) Guidelines on Whistle-blower Protection for Companies in Greece. These guidelines have been developed with EU support.

<sup>46</sup> Art. 23 of Law 4440/2016.

<sup>47</sup> Law 4622/2019 (art. 119) on the “Executive State: organisation, operation and transparency of the Government, government bodies and central public administration” which came into force in August 2019.

<sup>48</sup> In 2020, Greece was at 65th position worldwide in the Reporters Without Borders World Press Freedom Index.

<sup>49</sup> Article 15(2) of the Constitution.

<sup>50</sup> Law 4339/2015 and also Laws 1866/1989, 2328/1995, 2644/1998, 2863/2000 etc., as amended.

<sup>51</sup> Input from Greece for the 2020 Rule of Law Report.

<sup>52</sup> 2020 Media Pluralism Monitor.

and cannot be viewed from the capital. The authorities have started the process of transposing the revised Audio-visual Media Services Directive (AVMSD)<sup>53</sup>. This Directive reinforces the independence of audio-visual media regulators by ensuring that they are legally distinct from their government as well as functionally independent from the government and from any other public or private body.

**Transparency of media ownership is ensured only partially, notably for audio-visual media services.** Whilst audio-visual media are mandated to report on their ownership structures to the NCRTV<sup>54</sup>, the print media are not required to indicate their owner on their copies. It is worth noting, however, that in order to register with the Registry of the Regional and the Local Press, media operators must provide domestic authorities with ownership information<sup>55</sup>. Disclosure of news media ownership to the public takes place only partially, especially as regards the ultimate beneficial owners<sup>56</sup>. The MPM 2020 has assessed transparency of media ownership as being at medium risk, indicating that “*domestic legislation is not characterized by clear provisions on the disclosure of news media ownership*”. As regards transparency of online media ownership, the Greek Authorities report that the Secretariat-General for Media and Communication launched an online media registry, called “e-media”<sup>57</sup>. This registry is addressed to all media owners with online presence (website), encouraging them to register their online activities.

**The criteria for the distribution of indirect state subsidies are reported to be fair.** The MPM 2020 reports that the criteria for indirect state subsidies, such as postal distribution subsidies, reduced value added tax and rates for electronic communication services, are fair. However, stakeholders have reported concerns about the lack of financial support from the Government for journalists and the non-transparency of allocation of pandemic-related state advertising<sup>58</sup>. The Greek authorities indicate that the Secretariat-General for Communication and Media supervises the implementation of the communication programs and actions of public services and organisations. Each service or organisation that runs a communication program with a budget exceeding EUR 30 000 is obliged to submit an application to be approved by the Secretariat-General. Yet, according to the MPM 2020, the transparency of the policy is problematic, as the amounts received by eligible print media outlets are not publicly disclosed.

**Freedom of expression is recognised by the Constitution.** Recent modifications to the Criminal Code have abolished the criminal offence of blasphemy. Imprisonment is among the possible sanctions for defamation. The right to information is enshrined in the Constitution. It also provides for a right of access to documents held by public bodies. Restrictions are defined in accordance with international standards and appeal mechanisms are in place. The regulatory framework for the protection of whistle-blowers, who are often important sources

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<sup>53</sup> Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU.

<sup>54</sup> The revised AVMSD encourages Member States to adopt legislative measures providing that media service providers under their jurisdiction make accessible information concerning their ownership structure, including the beneficial owners.

<sup>55</sup> Articles 20 and 22 of Law 4557/2018 on the provisions for a Central Beneficial Ownership Registry.

<sup>56</sup> 2020 Media Pluralism Monitor. According to the Greek authorities, a new Ministerial Decision (667/2020) now obliges all entities performing business in Greece to keep a Special Beneficial Ownership Registry disclosing their ultimate beneficial owners and the whole beneficiary chain. This applies to media companies as well.

<sup>57</sup> The E-media registry can be found here: <https://emedia.media.gov.gr/>.

<sup>58</sup> Information received in the context of the country visit to Greece.

for journalists, remains incomplete. According to the MPM 2020, key concerns include insufficient mechanisms to ensure respect for professional standards in the practice of journalism. Stakeholders reported that ethical bodies in the journalists' unions are not very active and not able to effectively monitor ethical journalism or other issues, but pointed, at the same time, to a relatively healthy online media landscape in Greece, in particular at local level<sup>59</sup>.

**Journalists face challenges as regards their working conditions and safety.** Working conditions remain problematic and journalists are not free from attacks and threats to their physical integrity. Several attacks on journalists have been reported in the recent past<sup>60</sup>. The European Centre for Press and Media Freedom (ECPMF) indicates that, with few exceptions, the main threat to journalists' safety in Greece comes from far-right extremists<sup>61</sup>. In 2019 and 2020, the Council of Europe's Platform to promote the protection of journalism and safety of journalists<sup>62</sup> and Mapping Media Freedom<sup>63</sup> reported nine alerts linked to smear campaigns against journalists, attacks targeting journalists covering migration and refugees issues and Covid-19 state funding to media. Journalists' unions in Greece provide legal assistance, limited financial support, and training for journalists.

#### **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<sup>64</sup>. Legislative power is vested in the Parliament and the President<sup>65</sup> and the right to introduce legislation belongs to the Parliament and the Government.

**The legislative process is undergoing reform efforts to standardise and streamline the preparatory phase and to improve its quality.** The Greek legislative reality until very recently was characterised by a lack of coherence and a large degree of fragmentation. This has become known under the terms of '*polynomia*' or even '*kakonomia*', and was further exacerbated by the lack of authoritative and comprehensive codification of legislation<sup>66</sup>. To deal with these challenges, a 2019 legislative initiative<sup>67</sup> redefined and elaborated the normative framework for good legislation and codification practices. This resulted in the recent development and adoption of standardised methods, set out in respective manuals that were distributed throughout the administration and are available online<sup>68</sup>.

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<sup>59</sup> 2020 Media Pluralism Monitor.

<sup>60</sup> In December 2018, a bomb attack on the SKAI TV station in Athens caused extensive damage. In May 2019, the car of a reporter for CNN Greece reporter was destroyed in an arson attack. The European Centre for Press and Media Freedom (ECPMF) reports that, also in 2019, anarchists stormed into the headquarters of the newspaper Athens Voice and smashed office equipment, computers and furniture.

<sup>61</sup> European Centre for Press and Media Freedom (2019), Greece: New democracy – new press freedom?

<sup>62</sup> Council of Europe, Platform to promote the protection of journalism and safety of journalists.

<sup>63</sup> ECPMF, Mapping Media Freedom.

<sup>64</sup> Article 26 of the Constitution.

<sup>65</sup> See previous note.

<sup>66</sup> Sotiropoulos/Christopolous, 'Polynomia and Kakonomia in Greece', *Dianeosis 2017 ('Πολυνομία Και Κακονομία Στην Ελλάδα')*; see also European Commission, Country Report Greece 2019, SWD(2019) 1007 final, p. 55.

<sup>67</sup> Law 4622/2019 on the 'Executive State', section 3, chapter C, 'Law-drafting process and good legislation practices', articles 57-64 and chapter D, 'Codification and Law Review', articles 65-67.

<sup>68</sup> Manuals on legal codification, legislative methodology and impact assessments.

**A comprehensive reform of law-making procedures aims at strengthening the quality of legislation.** Until recently, conducting impact assessments and consulting stakeholders were not well-established practices for enacting legislation. The Executive State Law of 2019<sup>69</sup> aims at a comprehensive reform of law-making procedures, based on better regulation principles and techniques, with an emphasis on strengthening the role of impact assessments. The law also created an independent scientific evaluation body with the participation of both lawyers and economists, and strengthened the institutional setup for legal codification and reform. Implementation of the Executive State Law is ongoing. The authorities recently adopted a detailed legislative methodology manual and a template for a comprehensive impact assessment<sup>70</sup>. Stakeholders, such as the Greek National Human Rights Institution<sup>71</sup> or the Greek Ombudsman<sup>72</sup> pointed to the fact that they do not receive the draft laws in advance, and are thus lacking sufficient time to comment on the provisions in detail. Moreover, the time allowed for public consultation is often very short. The new law-making process aims at addressing these shortcomings. In addition, authorities reported on efforts taking place in order to limit recourse to fast-track procedures and emergency ordinances in the law making process.

**Respect for fundamental and constitutional rights is ensured in several ways, including independent authorities.** As there is no formal constitutional court in Greece, the Greek Constitution enables every judge to establish whether the constitutional rights of a person have been breached by a law in breach of the constitution<sup>73</sup>. Due to the existence of such a system of diffused constitutional review, all courts have competence to review the constitutionality of laws<sup>74</sup>. However, under the 1975 Constitution, a special ad hoc court was created, the Supreme Special Court<sup>75</sup>. Its limited jurisdiction includes the *ex post* review of constitutionality of legislation in the event of a disagreement between the Supreme Courts. Its judgments on the constitutionality of statutory provisions that come under its scrutiny are binding for all courts. The Greek Ombudsman, which is an independent administrative authority established in 1997, has the task of mediating between citizens and public services, local authorities, bodies governed by public law and utilities, to protect civil rights, combat maladministration and ensure compliance with due process<sup>76</sup>. Greece has further established a National Commission for Human Rights as National Human Rights Institution in 1998, acting as an independent advisory body of the State on issues related to the protection and promotion of human rights. It was reaccredited with A-status in line with the UN General Principles<sup>77</sup> in March 2017.

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<sup>69</sup> Law 4622/2019.

<sup>70</sup> This was prepared with technical support provided by the European Commission, see European Commission, Enhanced Surveillance Report May 2020, pp. 27, 103.

<sup>71</sup> Information received in the context of the country visit to Greece.

<sup>72</sup> ENNRHI, The rule of law in the European Union, p. 115.

<sup>73</sup> Article 87(2) of the Constitution, which stipulates that judges are not obliged to comply with provisions enacted in violation of the Constitution. Article 93(4) of the Constitution stipulates that the courts are bound not to apply a statute whose content is contrary to the Constitution.

<sup>74</sup> See e.g. Contiades, Papacharalambous and Papastylanos, The Constitution of Greece: EU Membership Perspectives, in: National Constitutions in European and Global Governance: Democracy, Rights, the Rule of Law, 2019, pp. 642 – 643.

<sup>75</sup> Article 100 of the Constitution.

<sup>76</sup> The Greek Ombudsman is also the national equality body with a mandate to combat discrimination and promote the principle of equal treatment irrespective of gender, racial or ethnic origin, family or social status, religion or belief, disability or chronic illness, age, sexual orientation and gender identity.

<sup>77</sup> Principles relating to the Status of National Institutions (The Paris Principles), adopted by UN General Assembly resolution 48/134 on 20 December 1993

**Access to information, including to administrative decisions, is secured and transparency is safeguarded through a policy on access to governmental information.** Since 2010, Greece is operating an electronic platform (*‘Di@vgeia’*) to which all public authorities have to upload every administrative act, including *inter alia* appointment decisions, awards of grants, transfers of personnel and decisions on state subsidies to citizens<sup>78</sup>. Relevant legislation further stipulates that no act is deemed to be valid, unless it is first uploaded and shown on the electronic platform to which every interested person has direct access<sup>79</sup>.

**The freedom of association is enshrined in the Constitution, although there is no specific enabling framework for civil society.** The Greek authorities reported that the current legal framework does not provide for specific provisions on the establishment and operation of NGOs<sup>80</sup>. In 2018, however, a *‘Greek and Foreign NGO Members Registry’* was established by a Joint Ministerial Decision<sup>81</sup>, which was subsequently further regulated in 2020<sup>82</sup>. This latter law introduced and gradually extended rules on the registration and certification of Greek and foreign NGOs active in the area of asylum, migration and social inclusion, provides for the terms and conditions for the registration of organisations and grants power to the Ministry of Migration and Asylum to lay down additional requirements for the registration of NGOs. This is subject to criticism from a number of stakeholders, as they consider that the regulations on the operation of NGOs include too stringent and disproportionate requirements for registration and certification<sup>83</sup>. Also, a rise in attacks on NGOs working with refugees and migrants in Greece has been reported<sup>84</sup>, and concerns have been expressed that the *‘civic space’* for civil society to operate in Greece has narrowed since 2019<sup>85</sup>.

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<sup>78</sup> The electronic platform is available here: <https://diavgeia.gov.gr/en>.

<sup>79</sup> Law 4210/2013.

<sup>80</sup> Input from Greece for the 2020 Rule of Law Report, point 45.

<sup>81</sup> Joint Ministerial Decision 7586/18.

<sup>82</sup> Law 4662/2020, further amended by Law 4686/2020.

<sup>83</sup> Refugee Support Aegean, *New Rules on Civil Society Supporting Refugees and Migrants in Greece, 2020*, pp. 1 – 3; Expert Council on NGO Law, *Conference of INGOs of the Council of Europe, CONF/EXP(2020)4*, p. 23.

<sup>84</sup> Contribution from the Front Line Defenders for the 2020 Rule of Law Report, pp. 2-3.

<sup>85</sup> Contribution from Greenpeace for the 2020 Rule of Law Report, p. 2; see also Rating by CIVICUS Monitor – Tracking Civic Space; ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed.

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

\* *The list of contributions received in the context of the consultation for the 2020 Rule of Law report can be found at (COM website).*

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Virtual country visit to Greece in the context of the 2020 Rule of Law Report.

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

The Commission services held virtual meetings in June 2020 with:

- 3A Committee
- Athens Bar Association
- Council of State
- Court of Audit
- Deputy Minister's Cabinet
- Financial Intelligence Unit
- General Secretary for Legal and Parliamentary Affairs
- Hellenic National Audio-visual Regulator
- Journalists' Union of Macedonia and Thrace
- Ministry of Justice
- National Transparency Authority
- Ombudsman
- Prosecutor's Office for Financial Crimes and the Financial Police Division
- Special Agency supporting the Political Financing Audit Committee
- Supreme Court

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

- Amnesty International
- 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
- Free Press Unlimited
- Front Line Defenders
- ILGA-Europe
- International Commission of Jurists
- International Federation for Human Rights
- International Press Institute
- Lifelong learning Platform
- Open Society Justice Initiative/Open Society European Policy Institute
- Reporters without Borders
- Transparency International EU

