



RSA Submission to the European Commission on the 2022 Rule of Law Report

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The information provided by Refugee Support Aegean (RSA) in this submission covers main developments related to the rule of law in Greece, with a focus on rule of law considerations in the areas of activity of the organisation.

I. Justice system

A. Independence

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

1. Appeals against decisions on asylum applications taken by the Asylum Service take the form of an administrative appeal (ενδικοφανής προσφυγή) before the Independent Appeals Committees (Ανεξάρτητες Επιτροπές Προσφυγών) of the Appeals Authority under the Ministry of Migration and Asylum. However, these three-member Committees are exclusively composed by three administrative judges – either first- (πρωτοδικες) or higher-level judges (εφέτες) – following the entry into force of the International Protection Act (IPA),¹ and are described by legislation as “quasi-judicial bodies” (οιονεί δικαιοδοτικά όργανα) staffed by specialised judges, fulfilling the requirements of a “court or tribunal” set out in EU law.² However, serious concerns arise regarding compliance with guarantees of independence and impartiality, due to the institutional framework in force and the applicable practice. Accordingly, in addition to information on administrative courts, input provided by RSA on the Greek justice system covers the structure and operation of the Independent Appeals Committees.
2. **Undermining of independence and impartiality of judicial review:** Following a reform of judicial review rules introduced by the IPA and entering into force in 2020,³ competence for judicial review of decisions taken by the Appeals Committees was transferred from the Administrative Courts of Appeal (διοικητικά εφετεία) to the first-instance Administrative Courts (διοικητικά πρωτοδικεία) of Athens and Thessaloniki.

¹ Article 5(2) L 4375/2016, as amended by Article 116(2) L 4636/2019 (IPA).

² Explanatory Memorandum to Article 86 L 4399/2016; Council of State, Decision 2347/2017, 22 September 2017, para 20; Decision 536/2020, 2 April 2020, para 5.

³ Article 15(1) L 3068/2002, as amended by Article 115 IPA and Article 57(1) L 4689/2020.

Pursuant to the current judicial review structure, first-instance judges (*πρωτοδίκες*) thereby conduct judicial review of decisions that are often taken by higher-level judges (*εφέτες*) sitting in Appeals Committees.

3. The Council of State (Plenary Session) was requested to rule on the constitutionality of the above framework in a pilot procedure, given its jeopardising of the principle of judicial hierarchy, which constitutes a guarantee of independence and impartiality of the judiciary. The Council of State held by majority that Appeals Committees are a "collective administrative body" which exercises "competences of a judicial function", and that judges participate therein not as judicial officials but as "state officials – members of independent authorities of the executive". The majority reasoned that first-instance administrative courts therefore judicially review decisions by executive bodies, not rulings by judicial officials.⁴
4. The dissenting opinion by four members of the Council of State highlights that the applicable legal framework contravenes the principles of judicial independence and impartiality, insofar as it creates reasonable doubts as to the independence of judgment delivered by lower-level judges against decisions taken by higher-level judges, regardless of whether the latter constitute judicial or administrative decisions.⁵
5. The Council of State ruling contradicts the rationale behind the appointment of judges in the Appeals Committees precisely *qua* members of the judiciary. The memorandum to the IPA stresses that Committees staffed by "three (3) Judicial Officials of the Administrative Courts, who have the absolute expertise on refugee law, due to the longstanding adjudication of relevant cases by these Courts, and additionally in light of the independence and impartiality of Judicial Officials, strengthens the protection offered and offers the highest safeguard to applicants that their applications will be examined by a body which meets all the guarantees required by EU law and by the ECHR."⁶ Previous case law of the Council of State also stresses that the Committees fulfil the requirements of Article 46 of the Asylum Procedures Directive so as to guarantee "the right to an effective remedy before a court or tribunal"⁷ given their composition.

B. Quality of justice

Accessibility of courts

6. The observations made in RSA's submission to the 2021 Rule of Law Report regarding access to appeal procedures and courts and to legal aid remain valid. In addition, barriers to access of legal practitioners to refugee camps have been observed throughout the year, as Ministry of Migration and Asylum officials have often required lawyers to obtain authorisation prior to entering facilities to meet with their clients.

Court statistics and their transparency

7. **Lack of statistics:** The observations made in RSA's submission to the 2021 Rule of Law Report remain relevant. The number of decisions on judicial review of asylum decisions and the backlog of pending cases before the administrative courts are not known. As regards objections against immigration detention (*αντιρρήσεις κατά κράτησης*),

⁴ Council of State, Decisions 1580/2021 and 1581/2021 [Plenary], 8 October 2021, para 14.

⁵ *Ibid*, para 15.

⁶ Hellenic Parliament, Αιτιολογική έκθεση στο σχέδιο νόμου «Περί Διεθνούς Προστασίας», 21 October 2019, 37-38, <https://bit.ly/3mlrECP>.

⁷ Council of State, Decisions 2347/2017 and 2348/2017 [Plenary], 22 September 2017, para 20; Decision 1694/2018 [Plenary], 21 August 2018, para 16.

different Ministries hold diverging statistics on court decisions, as discussed in [Section IV.E](#) below.⁸

C. Efficiency of the justice system

Length of proceedings

8. The observations made by the 2021 Rule of Law Report on length of proceedings remain valid and apply to administrative courts as well.⁹ Proceedings before first-instance Administrative Courts take several years, as hearings are regularly postponed even up to seven times in some cases.¹⁰ Appeals (*εφέσεις*) lodged with the Council of State take longer.¹¹
9. The above delays should be read in conjunction with slow processing times of interim relief (*προσωρινή δικαστική προστασία*) applications. Crucially, administrative judges refrain from issuing interim orders (*προσωρινή διαταγή*) to protect even vulnerable cases in asylum proceedings, pending the adjudication of their remedy.

Other – application of EU law

10. **Disregard of EU law violations:** Administrative courts and Appeals Committees systematically disregard alleged infringements of EU law, in clear dereliction of their obligation to declare such violations.¹² For example, Appeals Committees reject appeals without addressing submissions pointing out that Greek law fails to transpose provisions of the Asylum Procedures Directive and that domestic provisions should therefore be disappplied.¹³
11. Furthermore, administrative courts and Appeals Committees systematically refrain from making requests to the CJEU for preliminary rulings, even where these are expressly requested by appellants.¹⁴

Other – targeting of lawyers

12. **Targeting & intimidation of lawyers:** Lawyers supporting refugees and migrants are increasingly targeted by the Greek government. The National Intelligence Service (*Εθνική Υπηρεσία Πληροφοριών*, EYP) has ordered surveillance of a lawyer representing a migrant in court.¹⁵ Moreover, the Minister of Migration and Asylum has targeted a lawyer who denounced a push back incident he witnessed on Samos in early

⁸ RSA, 'UPDATED - Immigration detention in the first half of 2021: Systematic deprivation of liberty and inaccessibility of remedies', 30 July 2021, <https://bit.ly/3Jr4vyv>.

⁹ European Commission, *2021 Rule of Law Report Country Chapter on the rule of law situation in Greece*, SWD(2021) 709, 20 July 2021, 7.

¹⁰ See e.g. Administrative Court of Athens, AK255/2020, lodged on 14 February 2020 and still pending.

¹¹ See e.g. Council of State, E1686/2018, lodged in 2018 and yet to be heard.

¹² CJEU, C-924/19 PPU and C-925/19 PPU *FMS*, 14 May 2020, paras 139 and 183; C-233/18 *B*, 30 September 2020, para 54; C-64/20 *UH*, 17 March 2021, para 37.

¹³ For instance, on non-transposition of Article 38(2)(b) Asylum Procedures Directive: 18th Independent Appeals Committee, 165176/2021, 3 August 2021; 6th Independent Appeals Committee, 248623/2021, 16 September 2021; 7th Independent Appeals Committee, Decision 378505/2021, 11 November 2021.

¹⁴ See e.g. 7th Independent Appeals Committee, Decision 378505/2021, 11 November 2021.

¹⁵ Efsyn, 'Πολίτες σε καθεστώς παρακολούθησης από την ΕΥΠ', 14 November 2021, <https://bit.ly/3pAmJWi>.

November 2021, citing a need to investigate “inside information” held by local lawyers.¹⁶

II. Anti-Corruption Framework

Rules and measures to prevent conflict of interests in the public sector

13. **Direct grants:** Public procurement expenditure reached 13.5bn € from January 2020 to June 2021 under 305,656 government contracts. Strikingly, 187,706 (65%) of such contracts were direct grants (*απευθείας αναθέσεις*).¹⁷ During the reporting period, the Parliament adopted an amendment to Article 328 L 4412/2016,¹⁸ raising the former 20,000 € cap on direct grants raised to 30,000 € for services and studies and to € 60,000 for works.¹⁹
14. The new rules for direct grants were applied *inter alia* by the Ministry of Migration and Asylum in a 30,000 € direct grant to a private company for information campaigns targeting Afghan nationals under the Asylum, Migration and Integration Fund.²⁰ The grant was awarded on 15 September 2021, i.e. after the Taliban takeover. Members of Parliament have criticised the Ministry of Migration and Asylum for infringing procurement standards set out in L 4412/2016.²¹
15. **Confidential expenditure:** Furthermore, Article 56 L 4686/2020 has set up a Fund to be used by the Ministry of Migration and Asylum for “confidential national needs” (*απόρρητες εθνικές ανάγκες*). These are overly broadly defined as encompassing any activity falling “directly or indirectly in the fulfilment of the mission of this Ministry... the realisation of which amounts to protection of national interests in this field, within or outside Greece”.²² A document uploaded online by the Ministry before being taken down²³ suggests that at least 113 payments had been made under the Fund until the end of December 2021. That particular payment, made on 28 December 2021, amounted to more than 24,000 €. ²⁴ The Ministry does not provide any public information on the implementation of the Fund and the types of activities funded, thereby raising serious transparency concerns.

¹⁶ Astraparais, ‘Στήριξη στον Σαμιώτη δικηγόρο Δημήτρη Χούλη που στοχοποίησε ο Μητράκης’, 10 November 2021, <https://bit.ly/3JnXVc1>; Efsyn, ‘Η Εναλλακτική Παρέμβαση καταγγέλλει τη στοχοποίηση του δικηγόρου Δημήτρη Χούλη’, 5 November 2021, <https://bit.ly/3FHb51C>.

¹⁷ Naftemporiki, ‘Τι έδειξε η «ακτινογραφία» σε δημόσιες συμβάσεις 13,5 δισ. ευρώ’, 29 October 2021, <https://bit.ly/3FLvpyU>.

¹⁸ L 4412/2016, Gov. Gazette A’ 147/08.08.2016.

¹⁹ Article 128 L 4782/2021, Gov. Gazette A’ 36/09.03.2021.

²⁰ Ministry of Migration and Asylum, *Απευθείας ανάθεση παροχής υπηρεσιών υλοποίησης ενημερωτικής καμπάνιας σε τρίτες χώρες*, 250324/2021, 15 September 2021.

²¹ Avgi, ‘Νότης Μητράκης / Στην Βουλή η αποκάλυψη του avgigr για την απευθείας ανάθεση’, 30 September 2021, <https://bit.ly/3mKbOrf>; Efsyn, ‘Με «διαστάσεις σκανδάλου» η καμπάνια Μητράκη στο Αφγανιστάν’, 4 October 2021, <https://bit.ly/3pDEMLh>.

²² Article 56(1) L 4686/2020, Gov. Gazette A’ 96/12.05.2020.

²³ Ministry of Migration and Asylum, *Εντολή Πληρωμής ΑΠΟΠ.113-28/12/2021 [Withdrawn]*, 29 December 2021, 67A746ΜΔΨΟ-ΨΓΙ.

²⁴ *Ibid.*

III. Media pluralism

C. Framework for journalists' protection

Rules and practices guaranteeing journalists' independence and safety

16. The 2021 World Press Freedom Index has downgraded Greece to 70th out 180 countries; the fourth lowest score in the EU after Hungary, Malta and Bulgaria".²⁵ Press freedom in Greece is increasingly under threat from state-sponsored restrictions, including surveillance, intimidation and SLAPPs.²⁶ According to Reporters Without Borders, "Press freedom in Greece has taken a dangerous turn in recent weeks. Especially journalists working on migration, which is an issue of national and European public interest, have been increasingly threatened."²⁷
17. **Surveillance of journalists by intelligence services:** Specifically, the National Intelligence Service (*Εθνική Υπηρεσία Πληροφοριών*, EYP) has ordered surveillance of a journalist covering the story of a refugee child on Kos.²⁸ The Greek government has not provided further information to substantiate the existence of an "internal or external threat" to national security apt to justify such surveillance. Crucially, following a reform introduced in March 2021 (see [Section IV.A](#) below), the Hellenic Authority for Communication Security and Privacy (*Αρχή Διασφάλισης του Απορρήτου των Επικοινωνιών*, AEAD) is prohibited from disclosing lifting of communications privacy in cases where such lifting has been ordered on national security grounds, with retroactive effect.²⁹ The President and members of AEAD have stressed that the reform contravenes Article 7 of the EU Charter and note that the authority was not consulted prior to the amendment.³⁰
18. **Targeting & intimidation of journalists:** Journalists who denounce Greece's push back practices are overtly targeted by smear campaigns in domestic media outlets, as well as by racist violence. Following a confrontation with the Greek Prime Minister on the issue in November 2021, Dutch journalist Ingeborg Beugel was insulted by reputable Greek journalists,³¹ was attacked with a rock and eventually left the country upon advice from the Dutch Ministry of Foreign Affairs, the Dutch Embassy in Greece and the Dutch Union of Journalists.³²

²⁵ Reporters Without Borders, *2021 World Press Freedom Index – Greece*, <https://rsf.org/en/greece>.

²⁶ AFP, 'Greece journalists denounce press freedom backslide', 19 December 2021, <https://bit.ly/3naloEn>; Deutsche Welle, 'Authorities accused of spying on journalists in Greece', 17 December 2021, <https://bit.ly/3pyOEWS>; IFJ, 'Greece: Press freedom increasingly under siege', 7 December 2021, <https://bit.ly/3JvHgDw>; Euractiv, 'Greek media landscape raises eyebrows in Brussels', 12 November 2021, <https://bit.ly/32s2MZI>; Balkan Insight, 'Growing Alarm over Threats to Media Freedoms in Greece', 10 March 2021, <https://bit.ly/3pHCrz8>.

²⁷ Al Jazeera, 'Press freedom in Greece under increased threat: Journalists, NGOs', 2 December 2021, <https://bit.ly/3JrWRUy>.

²⁸ *Ibid*; Balkan Insight, 'Greek Intelligence Service Accused of 'Alarming' Surveillance Activity', 16 November 2021, <https://bit.ly/3mFE3Yq>.

²⁹ Article 5(9) L 2225/1994, as amended by Article 87 L 4790/2021.

³⁰ Reporters United, 'Παρακολουθήσεις ΕΥΠ: Σιωπή, ο βασιλιάς ακούει!', 4 January 2022, <https://bit.ly/3EMPnrO>.

³¹ See e.g. Nikos Hatzinikolaou, 9 November 2021, <https://bit.ly/3eyrObw>.

³² International Press Institute, 'Dutch journalist forced to leave Greece after threats and intimidation', 18 November 2021, <https://bit.ly/3mGVMhR>.

19. **Criminalisation of spreading of information:** Finally, following an amendment by L 4855/2021,³³ Article 191 of the Criminal Code³⁴ penalises the dissemination or spreading in any manner whatsoever of false news liable to cause concern or fear to citizens or to undermine public trust in the national economy, the country's defence capacity or public health. The reform has been sharply criticised *inter alia* by the Union of Judges and Prosecutors for infringing the fundamental and constitutional rights to freedom of expression and information and for endangering press freedom.³⁵

IV. Other institutional issues related to checks and balances

A. The process for preparing and enacting laws

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

20. The quality of the legislative process remains problematic, with no tangible effects of the better law-making objectives enacted in the 2019 Executive State Act.³⁶
21. **'Omnibus' legislation:** The Greek government continues to table 'omnibus' legislation bills (*πολυνομοσχέδια*) with the aim of rapidly effecting changes across various sectors through a single legislative act. The contents of such bills are largely divided into "provisions of competence" (*διατάξεις αρμοδιότητας*) of the respective Ministries. Examples of 'omnibus' legislation during the reporting period include the following:
- 21.1. L 4790/2021,³⁷ adopted on 31 March 2021, is a 124-article act regulating issues of public health, as well as introducing new rules in the areas of finance, justice, home affairs, education, labour and social security, development and investment, digital policy, culture and sport, tourism, as well as migration policy.
- 21.2. L 4876/2021,³⁸ adopted on 23 December 2021, is a 186-article act termed "measures to tackle the COVID-19 pandemic and to protect public health", which includes unrelated reforms on taxation, economy and development, energy, urban planning and environment, transport, maritime and agricultural policy, labour relations and social security, local authorities, digital policy, education, culture and sports, migration, police and others.
22. **Last-minute amendments:** The Greek government undermines the quality of the country's legislative process as Ministries continue to systematically include last-minute unrelated amendments in bills previously approved by the Council of Ministers itself. The number of amendments tabled by Ministries in bills remains high and rose from 192

³³ L 4855/2021, Gov. Gazette A' 205/12.11.2021.

³⁴ L 4619/2019, Gov. Gazette A' 95/11.06.2019.

³⁵ Union of Judges and Prosecutors, *Παρατηρήσεις της Ε.Δ.Ε. στο Σ/Ν για τους Ποινικούς Κώδικες*, 4 November 2021, <https://bit.ly/3qw8ykC>. See also Reporters without Borders, 'New Greek law against disinformation endangers press freedom', 1 December 2021, <https://bit.ly/32HJvTs>.

³⁶ L 4622/2019, Gov. Gazette A' 133/07.08.2019.

³⁷ L 4790/2021, Gov. Gazette A' 48/31.03.2021.

³⁸ L 4876/2021, Gov. Gazette A' 251/23.12.2021.

in 2020 to 213 in 2021.³⁹ Examples of last-minute unrelated amendments during the reporting period include the following:

- 22.1. L 4790/2021, cited above, includes an amendment tabled by the Ministry of Justice only hours prior to the plenary vote.⁴⁰ Neither in the explanatory memorandum nor in the debate did the Ministry of Justice specify the content of the amendment, i.e. the prohibition on disclosing lifting of communications privacy in national security cases (see [Section III.C](#) above).⁴¹
- 22.2. L 4825/2021 on deportations and returns procedures includes two separate amendments with new provisions from the Ministry of Migration and Asylum, one amendment from the Ministry of Health and one on sports legislation.⁴² All amendments were tabled two days ahead of the plenary vote.⁴³
- 22.3. L 4876/2021, cited above, includes one amendment from the Ministry of Finance, one from the Ministry of Health, one from the Ministry of Environment and Energy and one from the Ministry of Interior, all tabled one day before the plenary vote.⁴⁴

23. **Disregard of the work of law commissions:** The work of law commissions (νομοπαρασκευαστικές επιτροπές) tasked with drawing up legislation is often disregarded by the Ministry of Justice and entirely different bills are presented to public consultation. Examples of such practice during the reporting period include the following:

- 23.1. L 4800/2021 on family law reform:⁴⁵ the Ministry of Justice presented a bill of its own initiative after disregarding the recommendations made in the draft of the law commission headed by former Supreme Court Prosecutor, Ioannis Tentas.⁴⁶

³⁹ General Secretariat of Information and Communication, 'Ανακοίνωση Υφυπουργού παρά τω Πρωθυπουργώ και Κυβερνητικού Εκπροσώπου, Γιάννη Οικονόμου, για τη συνεδρίαση του Υπουργικού Συμβουλίου της 21ης Δεκεμβρίου 2021', 21 December 2021, <https://bit.ly/3zcLcnN>.

⁴⁰ Hellenic Parliament, Κατεπίγουσες ρυθμίσεις για την προστασία της δημόσιας υγείας από τις συνεχιζόμενες συνέπειες της πανδημίας του κορωνοϊού COVID-19, την ανάπτυξη, την κοινωνική προστασία και την επαναλειτουργία των δικαστηρίων και άλλα ζητήματα, <https://bit.ly/3qTFy6C>.

⁴¹ Reporters United, 'Παρακολουθήσεις ΕΥΠ: Σιωπή, ο βασιλιάς ακούει!', 4 January 2022, <https://bit.ly/3EMPnrO>.

⁴² L 4825/2021, Gov. Gazette A' 157/04.09.2021.

⁴³ Hellenic Parliament, Αναμόρφωση διαδικασιών απελάσεων και επιστροφών πολιτών τρίτων χωρών, προσέλκυση επενδυτών και ψηφιακών νομάδων, ζητήματα αδειών διαμονής και διαδικασιών χορήγησης διεθνούς προστασίας, διατάξεις αρμοδιότητας Υπουργείου Μετανάστευσης και Ασύλου και Υπουργείου Προστασίας του Πολίτη και άλλες επείγουσες διατάξεις, <https://bit.ly/32t4IRb>.

⁴⁴ Hellenic Parliament, Ρυθμίσεις για την αντιμετώπιση της πανδημίας του κορωνοϊού COVID-19 και την προστασία της δημόσιας υγείας και άλλες επείγουσες διατάξεις, <https://bit.ly/3pxjXBj>.

⁴⁵ L 4800/2021, Gov. Gazette A' 81/21.05.2021.

⁴⁶ RSA, *Greek family law reform puts victims of domestic violence at high risk*, March 2021, <https://bit.ly/3sEOGOU>.

- 23.2. L 4855/2021 amending the Criminal Code and the Criminal Procedure Code:⁴⁷ the bill presented to Parliament was substantially different from that submitted by the law commission headed by Professor Lambros Margaritis.⁴⁸
24. **Lack of ex ante legality review & disregard of expert views:** The Parliament continues to disregard warnings and concerns by international organisations, including the United Nations and the Council of Europe, on the compatibility of bills with international law. Examples of such practice during the reporting period include the following:
- 24.1. L 4800/2021 on family law reform, cited above: the UN Special Rapporteur on violence against women and the UN Working Group on discrimination against women and girls conveyed on 17 May 2021 their substantive concerns related to the provisions of bill and requested that their letter “be shared with the Parliament at the earliest.”⁴⁹ The letter was not shared by the government and was only raised by opposition MPs on 20 May 2021 after becoming public.⁵⁰ The law was adopted without taking into consideration the concerns expressed by UN experts.
- 24.2. L 4825/2021 on deportations and returns, cited above: the Council of Europe Commissioner for Human Rights urged the Parliament to reconsider the proposal and expressed concern at the failure of the government to take into account the recommendations made by national human rights structures.⁵¹ The law was adopted without taking into the account the Commissioner's points.
- 24.3. L 4873/2021 on the regulation of civil society organisations and volunteering, adopted in December 2021,⁵² failed to take into consideration the concerns expressed by over 300 civil society organisations relating to undue restrictions.⁵³
25. The 2021 Rule of Law Report refers to the establishment of a Committee for the Evaluation of the Quality of the Law-making Process (*Επιτροπή Αξιολόγησης Ποιότητας της Νομοπαρασκευαστικής Διαδικασίας*) under the Executive State Act. However, in none of the acts cited above e.g. L 4790/2021, 4800/2021, L 4825/2021, L 4876/2021 did the bill, explanatory memorandum or other available documentation refer to or include an assessment from that Committee.
26. **Disregard of better law-making principles:** The Greek government and Parliament do not comply with law-making safeguards such as Article 59(3) of the Executive State Act, according to which prohibits the legislature from enacting (a) references to unspecified provisions, (b) derogations from established or recent provisions for no specific reason. Yet, Article 140 L 4876/2021 adopted in December 2021, allows the Ministry of Migration and Asylum to “derogate from any other provision” in order to

⁴⁷ L 4855/2021, Gov. Gazette A' 205/12.11.2021.

⁴⁸ Efsyn, 'Πώς φτάσαμε στη ψήφιση του νέου Ποινικού Κώδικα', 22 November 2021, <https://bit.ly/3HdZBmA>.

⁴⁹ UN Special Rapporteur on violence against women & Working Group on discrimination against women and girls, OL GRC 2/2021, 17 May 2021, <https://bit.ly/3qwhgiM>.

⁵⁰ Efsyn, 'Επιστολή-κόλαφος από ΟΗΕ για το νομοσχέδιο συνεπιμέλειας', 20 May 2021, <https://bit.ly/3JnJp4g>.

⁵¹ Council of Europe Commissioner for Human Rights, 'Greece's Parliament should align the deportations and return bill with human rights standards', 3 September 2021, <https://bit.ly/32ERnoK>.

⁵² L 4873/2021, Gov. Gazette A' 248/16.12.2021.

⁵³ HIGGS et al., 'Ναι στη ρύθμιση, Όχι στην συρρίκνωση της Κοινωνίας των Πολιτών', 10 December 2021, <https://bit.ly/3KοFN2l>.

renew existing rental contracts and to enter into new rental contracts for the rental of adjacent land.

COVID-19: provide update on significant developments with regard to emergency regimes in the context of the COVID-19 pandemic

27. **Discriminatory movement restrictions against refugees and migrants:** The Greek government uses regulatory instruments to institute and maintain measures relating to COVID-19 through regularly updated Joint Ministerial Decisions (hereafter "COVID-19 JMD").⁵⁴ The government has applied movement restrictions in a discriminatory manner from 2020 to present, as it has used the pandemic as a pretext to arbitrarily restrict the freedom of movement of refugees and migrants living in camps across the country.⁵⁵
28. Persons residing in Reception and Identification Centres (RIC) and reception facilities across the country are subject to a special regime of movement restrictions, laid down in Annex II to the COVID-19 JMD. These restrictions have remained in force even after lockdown measures were lifted for the general population. Specifically, according to Annex II to the COVID-19 JMD:
- Movement outside the facilities is permitted only within a perimeter set by the Hellenic Police;⁵⁶
 - Only heads of family or community leaders are allowed to move to the nearest city centre to cover essential needs from 07:00 to 21:00.⁵⁷ Crucially, no one is allowed to exit the facilities on Sundays.
29. Police authorities strictly interpret the prohibition and have issued fines even against persons holding valid medical appointments.⁵⁸
30. The Ombudsman has received complaints regarding physical abuse of migrants by police officers, in his capacity as National Mechanism for Investigating Incidents of Arbitrariness.⁵⁹
31. **Discriminatory COVID-19 fines on refugees:** The Coast Guard of Chios has frequently imposed 5,000 € fines on refugees arriving on the island, citing non-compliance with COVID-19 regulations.⁶⁰ In all cases supported by RSA in 2021, the Coast Guard has dismissed appeals (*αντιρρήσεις*) through standardised decisions disregarding the applicability of Article 31(1) of the Refugee Convention.⁶¹ Police authorities have also imposed arbitrary 300 € fines on individuals outside camps on the ground that they were not wearing masks at a time when mask use was not mandatory in outside spaces, and rejected related appeals.⁶²

⁵⁴ See e.g. JMD Δ1α/ΓΠ.οικ. 81558/2021, Gov. Gazette B' 6290/30.12.2021; JMD Δ1α/Γ.Π.οικ. 80417/2021, Gov. Gazette B' 6214/23.12.2021; JMD Δ1α/Γ.Π.οικ.78616/2021, Gov. Gazette B' 5973/18.12.2021.

⁵⁵ MSF, 'Greek government must end lockdown for locked up people on Greek islands', 16 July 2020, <https://bit.ly/3zc84UC>.

⁵⁶ Point 1 Annex II COVID-19 JMD.

⁵⁷ Point 2 Annex II COVID-19 JMD.

⁵⁸ See e.g. Lesvos Police Directorate, Decision 1024/20/130-γ, 24 November 2021.

⁵⁹ Ombudsman, *Εθνικός Μηχανισμός Διερεύνησης Περιστατικών Αυθαιρεσίας - Ετήσια Έκθεση 2020*, 24 May 2021, 33-34, <https://bit.ly/3FBWrbX>.

⁶⁰ Efsyn, 'Νέα πρόστιμα 5.000 ευρώ σε πρόσφυγες', 16 September 2021, <https://bit.ly/33N33q2>.

⁶¹ See e.g. Chios Coast Guard, Decisions 2132.1/4236/2021, 2132.1/4238/21 and 2132.1/4240/21, 16 November 2021.

⁶² See e.g. Chios Police Directorate, Decisions 2515/11/25-β and 2515/11/26-β, 29 November 2021.

B. Independent authorities

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

National Transparency Authority (EAD)

32. **Lack of independence:** The Greek government has referred to the National Transparency Authority (*Εθνική Αρχή Διαφάνειας*, EAD) established under the Executive State Act as an “independent authority” competent *inter alia* for examining allegations of push backs against refugees and migrants (see further [Section IV.E](#) below).⁶³ It is crucial to note that the Executive State Act and the Commission's 2021 Rule of Law Report incorrectly describe EAD as an “independent authority”,⁶⁴ given that it does not comply with the requirements set by the Constitution for the institutional and functional independence of such authorities from political interference.
33. Article 101A(2) of the Constitution provides that candidate members of independent authorities are appointed by the Conference of Presidents of the Parliament on the basis of a supermajority (3/5) vote.
34. However, the Executive State Act foresees that candidates for the positions of Director and Management Board members of EAD are proposed by the Council of Ministers and are approved by simple majority vote of the Institutions and Transparency Committee of the Parliament.⁶⁵ This means that a party holding a majority of seats in Parliament may approve a candidate solely through its own votes in the Committee. Accordingly, the selection procedure not only falls short of the institutional requirements set by the Constitution for independent authorities but also raises risks of political dependency of the EAD on the government. These particular concerns were raised by opposition MPs during the Institutions and Transparency Committee meeting of 6 September 2019, which approved the appointment of the first and current Director of EAD solely on votes of the ruling party, New Democracy.⁶⁶ For those reasons, the EAD does not constitute an “independent authority”.

Ombudsman

35. **Obstruction of investigations:** The Ombudsman, an independent authority in line with the constitutional definition, reports obstacles in cooperation with the authorities vis-à-vis the exercise of his functions. In a recent interim report of his own initiative investigation into unlawful pushbacks of refugees and migrants from Greece to Turkey, the Ombudsman referred to standardised responses on the part of police authorities to his questions, and noted that “the response of the administration to the above

⁶³ Hellenic Parliament, *National Defence and Foreign Affairs Committee: Ενημέρωση των μελών της Επιτροπής από τον Υπουργό Προστασίας του Πολίτη, κ. Παναγιώτη Θεοδωρικάκο και τον Υπουργό Μετανάστευσης και Ασύλου, κ. Παναγιώτη (Νότη) Μηταράκη, σύμφωνα με το άρθρο 36 παρ. 5 του Κανονισμού της Βουλής, σχετικά με τις τελευταίες εξελίξεις στο προσφυγικό – μεταναστευτικό*, 17 December 2021, <https://bit.ly/3mEY9lu>; Naftemporiki, ‘Στην Εθνική Αρχή Διαφάνειας η έρευνα για παράνομες επαναπροωθήσεις μεταναστών’, 27 October 2021, <https://bit.ly/3JqKCru>.

⁶⁴ Article 82(2) Executive State Act; European Commission, *2021 Rule of Law Report Country Chapter on the rule of law situation in Greece*, SWD(2021) 709, 20 July 2021, 8.

⁶⁵ Articles 88(2) and 90(2) Executive State Act.

⁶⁶ Hellenic Parliament, *Institutions and Transparency Committee: Ακρόαση, από τα μέλη της Επιτροπής, του προταθέντος, από το Υπουργικό Συμβούλιο, για τη θέση Διοικητή της Εθνικής Αρχής Διαφάνειας, με διετή θητεία*, 6 September 2019, <https://bit.ly/3sHofbg>.

allegations has not contributed to date to effectively addressing concerns through rigorous investigation of allegations".⁶⁷

36. **Disregard of Ombudsman recommendations:** The executive refrains from following recommendations issued by the Ombudsman in the context of mediation in line with the authority's mandate. Recent examples of non-implementation of recommendations can be drawn from areas such as registration of asylum applications,⁶⁸ rejection of asylum applications based on the "safe third country" concept,⁶⁹ access to social benefits,⁷⁰ registration of non-governmental organisations.⁷¹

C. Accessibility and judicial review of administrative decisions

Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data) and judicial review (incl. scope, suspensive effect)

37. **Lack of transparency of governance:** The current government has reached a record number of political appointments in the public administration, reaching a record 3,138 political appointees (*μετακλητοί*) in the public sector in October 2021 compared to 1,710 in July 2019. German media outlet Taz recently described the government's policy as an "industry of Metakliti" promoting a "culture of mediocrity".⁷²
38. Political appointees are appointed to management positions e.g. Special Secretariats of Ministries, pursuant to the Executive State Act,⁷³ without following the formal procedures for recruitment of officials in the public sector. The above institutional construct should be examined against the backdrop of a sharp rise in political appointments by the government, strongly condemned by the Union of Public Administration School Graduates, with specific reference to the Ministry of Migration and Asylum. The Union refers to political appointments as a policy choice entailing "lack of transparency, absence of objective selection criteria in the staffing of public services and high financial costs... lack of accountability given that, as political appointments, those officials are directly dependent on their political supervisor, usually for the duration of the electoral cycle".⁷⁴
39. In this respect, the government does not comply with the legislative framework it has adopted. Secondary legislation adopted by the government without any prior consultation infringes the institutional rules set out in law. In the particular area of the NGO Registry:
- The government established by way of JMD 3063/2020 and 10616/2020 a Special Secretariat for Stakeholder Coordination in charge of the NGO Registries, headed by a political appointee. This institutional structure contravenes the administrative hierarchy set out in primary legislation i.e. Article 31 L 4375/2016 or Article 58 L 4686/2020.

⁶⁷ Ombudsman, *Καταγγελλόμενες επαναπροωθήσεις στην Τουρκία αλλοδαπών που είχαν εισέλθει στην Ελλάδα αναζητώντας διεθνή προστασία – Ενδιάμεση έκθεση*, May 2021, 30-31, <https://bit.ly/3HccLAo>.

⁶⁸ Ombudsman, 290565/291571/2367/2021, 15 January 2021.

⁶⁹ Ombudsman, *Εξέταση μεταγενέστερων αιτημάτων σύμφωνα με το άρθρο 86 παρ. 5 ν. 4636/2019*, 301755/41017/2021, 22 July 2021.

⁷⁰ Ombudsman, 253053/3945/2021, 20 January 2021.

⁷¹ Ombudsman, *Απόρριψη της αίτησης εγγραφής και πιστοποίησης*, 307758/66068/2021, 3 December 2021.

⁷² Taz, 'Die Apparatschiks von Athen', 30 December 2021, <https://bit.ly/3EB82Xj>.

⁷³ Article 42(2) L 4622/2019.

⁷⁴ Union of Public Administration School Graduates, 'Η ανακοίνωση της ΕΝΑΠ ΕΣΔΔΑ για το ζήτημα των μετακλητών υπαλλήλων', 22 January 2021, <https://bit.ly/31dkivZ>.

- In the three-Member Assessment Commission entrusted with examining registration applications and recommending acceptance or rejection to the Special Secretary, 2 out of 3 members are political appointees, namely the Deputy Managers of the Asylum Service and the Reception and Identification Service.⁷⁵

D. The enabling framework for civil society

Restrictive legislative measures on NGOs in the area of asylum, migration and social inclusion

40. **Hostile narrative and incrimination of NGOs:** The Greek government has continued to use hostile discourse against civil society during the reporting period. In its official communication with UN bodies, as well as in its submissions in judicial proceedings, the government maintained the view that “some of these groups have even come to question the Greek sovereignty over areas of the Greek islands”.⁷⁶ This statement has not been corroborated by evidence. In December 2021, the Special Secretary for Stakeholder Coordination at the Ministry of Migration and Asylum was quoted as suggesting that civil society organisations assisting persons under deportation are acting against the law.⁷⁷
41. The government has openly acknowledged that it employs criminal prosecution as a tool to create chilling effect against civil society and to drive humanitarian organisations out of the country. A recent report by Kathimerini reads: “in private conversations, government officials acknowledge that one of the main objectives of investigations was to remove mainly European volunteers – activists from the Greek-Turkish sea borders, at a time of particularly high tension between the two countries. The objective was met in *realpolitik* terms, since members of NGOs left the maritime field after being alarmed by the severe felony charges attached. Problems, however, arise when the time comes for cases to be “tried” in court.” Faced with the prospect of charges not standing in court, “trials against NGOs better serve their aim when they are still pending”.⁷⁸ This is echoed by a recent statement of the UN Special Rapporteur on human rights on the pending case against ERCI before the Court of Mytilene: “The fact that authorities have spent more than three years investigating the case has been a deterrent to civil society working for migrant rights in Greece... Other human rights defenders have told me that they are afraid to continue their work for fear of facing a similar fate.”⁷⁹
42. Moreover, derogatory and defamatory language against civil society is routinely used in the Hellenic Parliament. The “Hellenic Solution” political party has recently described

⁷⁵ Special Secretary for Stakeholder Coordination, Decision 11803/2020, 23 September 2020, <https://bit.ly/3cIK9sd>, as amended by Decision 12228/2020, 5 October 2020, <https://bit.ly/3vY2KSD>.

⁷⁶ Ministry of Foreign Affairs, Reply to the joint communication by UN Special Procedures, E/473, 24 September 2021, 1.

⁷⁷ Insider, ‘Υπουργείο Μετανάστευσης: Δεν εκχωρούμε σε ΜΚΟ την αρμοδιότητα έρευνας και διάσωσης στα ελληνικά χωρικά ύδατα’, 9 December 2021, <https://bit.ly/33LziFW>.

⁷⁸ Kathimerini, ‘Οι ΜΚΟ, οι διασώσεις και οι δίκες’, 25 November 2021, <https://bit.ly/31aUN1W>.

⁷⁹ OHCHR, ‘Greece: Guilty verdict for migrant rights defenders could mean more deaths at sea – UN expert’, 18 November 2021, <https://bit.ly/3eCyk0X>. See also UN Special Rapporteur on human rights defenders, ‘Hearing with migrants’ rights defenders in Greece’, 5 October 2021, <https://bit.ly/3mJsG1m>.

NGOs as “a Turkish Trojan horse”,⁸⁰ “for-profit or trafficker private NGOs”,⁸¹ and responsible for “anti-Greek positions” in written parliamentary questions.⁸² The same party has referred to NGOs as “cancer” and “business” profiting from European funding and has called for their closure in plenary.⁸³

43. **Legal framework on registration of NGOs working with refugees and migrants:** Criticism from domestic and international expert bodies is mounting against the legal framework on the registration of non-governmental organisations (NGOs) active in the area of international, protection and social inclusion (hereafter “NGO Registry”). In addition to doubts expressed by the Commission in previous Rule of Law Reports, serious concerns as to the compatibility of the NGO Registry with rule of law and human rights requirements have been expressed *inter alia* by UN Special Procedures,⁸⁴ the Council of Europe Commissioner for Human Rights,⁸⁵ the Parliamentary Assembly of the Council of Europe (PACE),⁸⁶ the Expert Council on NGO Law,⁸⁷ the European Union Agency for Fundamental Rights (FRA),⁸⁸ European Council on Refugees and Exiles (ECRE),⁸⁹ and the Bar Association of Athens. Following on from parliamentary questions in 2020,⁹⁰ the European Commission was requested by Members of the European Parliament to express its views on the compatibility of the NGO Registry with EU law,⁹¹ but again failed to respond whether the law complies or not with the EU *acquis*.⁹²
44. The Ministry of Migration and Asylum has clarified that non-profit organisations, volunteer groups and other entities which are not registered on its NGO Registry are not allowed to be active in the areas of international, protection and social inclusion.⁹³
45. The Council of State (Plenary Session) is scheduled to hear judicial review cases on the legality of the Joint Ministerial Decision on 3 June 2022.
46. Furthermore, during the reporting period, the Greek government introduced further legislative provisions constraining the operation of civil society organisations in Article

⁸⁰ Hellenic Parliament, Parliamentary question by Hellenic Solution, 8412/2021, 3 August 2021, <https://bit.ly/3qvGYns>.

⁸¹ Hellenic Parliament, Parliamentary question by Hellenic Solution, 1358/2021, 19 November 2021, <https://bit.ly/3zdhlf9>.

⁸² Hellenic Parliament, Parliamentary question by Hellenic Solution, 985/2021, 8 November 2021, <https://bit.ly/3zjc5Xl>.

⁸³ Hellenic Parliament, Plenary Debate ΠΠΓ', 3 September 2021, 16986, <https://bit.ly/3qzJJnF>.

⁸⁴ UN Special Rapporteur on freedom of assembly and association, UN Special Rapporteur on human rights defenders & UN Special Rapporteur on the human rights of migrants, OL GRC 1/2021, 31 March 2021, <https://bit.ly/3pxBMjw>.

⁸⁵ Council of Europe Commissioner for Human Rights, CommHR/DM/sf 019-2021, 3 May 2021, <https://bit.ly/3FyHFCU>.

⁸⁶ PACE, *Restrictions on NGO activities in Council of Europe member States*, 15205, 6 January 2021, <https://bit.ly/3eCpcJJ>.

⁸⁷ Expert Council on NGO Law, *Opinion on the compatibility with European standards of recent and planned amendments to the Greek legislation on NGO registration*, CONF/EXP(2020)4, 2 July 2020, <https://bit.ly/2Zr118w>; *Addendum*, CONF/EXP(2020)5, 23 November 2020, <https://bit.ly/3pZYq1L>.

⁸⁸ FRA, *Legal environment and space of civil society organisations in supporting fundamental rights – Greece*, January 2021, <https://bit.ly/32Fy8LT>.

⁸⁹ ECRE, *Concerning the lawfulness of Greek legislation regulating the registration of non-governmental organisations (NGOs) on the Registry of NGOs working with refugees and migrants in Greece*, December 2021, <https://bit.ly/32FpXz5>.

⁹⁰ European Parliament, Priority question for written answer P-005656/2020, 16 October 2020.

⁹¹ European Parliament, Priority question for written answer P-005159/2020, 17 November 2021.

⁹² European Commission, Reply to priority question P-005159/2020, 19 January 2022.

⁹³ Ministry of Migration and Asylum, Reply to parliamentary question by Hellenic Solution, 459532/2021, 15 December 2021, <https://bit.ly/3pyKfDp>.

- 40 L 4825/2021, without including the provision in the text presented to public consultation, thereby evading public scrutiny and commentary. The provision sets out strict restrictions and conditions on organisations active in “competence areas” of the Hellenic Coast Guard, flouts Law of the Sea obligations towards persons in distress and imposes strict criminal sanctions and fines of up to 2,000 € per person and 12,000 € per institution.⁹⁴ The Commission has been invited to express its views on the compatibility of the provision with EU law.⁹⁵
47. The authorities do not regularly release statistics on the implementation of the NGO Registry. According to figures shared by the Special Secretary for Stakeholder at the Ministry of Migration and Asylum on 9 December 2021, the Ministry had rejected 115 applications and approved 53, while another 55 were pending.⁹⁶
48. Following on from its submission to the 2021 Rule of Law Report, RSA reiterates that the NGO Registry is not implemented transparently, fairly, consistently and lawfully. Research published by media outlets raises concerns about at least three ‘phantom’ organisations added to the NGO Registry without fulfilling the criteria set out in JMD 10616/2020.⁹⁷
49. On 25 October 2021, the Special Secretary for Stakeholder Coordination rejected RSA’s application to the Registry on the ground that its statute objective of “development of activity in support of... persons under deportation” “contravenes applicable Greek legislation”, without referring to any specific provision. This calls into question the Commission’s view that there is “no information or facts leading to the conclusion that legal assistance to persons subject to return is considered unlawful by the Greek authorities”.⁹⁸ RSA requested the authority to re-examine its decision on 8 November 2021 and lodged a judicial review application before the Council of State on 27 December 2021. The Ombudsman,⁹⁹ the UN Special Rapporteur on human rights defenders,¹⁰⁰ ECRE,¹⁰¹ as well as a joint statement by 19 civil society organisations in Greece,¹⁰² stress that the Ministry’s decision contradicts international and EU law standards. However, the authorities have disregarded the above criticism and upheld the denial of RSA’s registration (see also [Section IV.b](#)).¹⁰³
50. Moreover, while a substantial number of NGOs have pending applications for registration on the NGO Registry, since December 2020, the Special Secretary for

⁹⁴ Council of Europe Commissioner for Human Rights, ‘Greece’s Parliament should align the deportations and return bill with human rights standards’, 3 September 2021, <https://bit.ly/32ERnoK>; RSA, ‘Reject the unlawful Deportations Bill’, 26 August 2021, <https://bit.ly/3FyOJ2o>.

⁹⁵ European Parliament, Question for written answer E-004183/2021, 10 September 2021.

⁹⁶ Insider, ‘Υπουργείο Μετανάστευσης: Δεν εκχωρούμε σε ΜΚΟ την αρμοδιότητα έρευνας και διάσωσης στα ελληνικά χωρικά ύδατα’, 9 December 2021, <https://bit.ly/3sDHYZn>.

⁹⁷ Inside Story, ‘Ουρανοκατέβητες ΜΚΟ και οργανώσεις-«φαντάσματα» στο μητρώο Μηταράκη’, 26 March 2021, <https://bit.ly/39k9UXU>; AFP, ‘“Like pushing a rock”: NGOs decry uphill battle for legitimacy in Greece’, 21 December 2021, <https://bit.ly/3445apv>.

⁹⁸ European Commission, Reply to priority question P-005159/2020, 19 January 2022.

⁹⁹ RSA, ‘Ombudsman calls for re-examination of rejection of RSA’s registration on the NGO Registry’, 13 December 2021, <https://bit.ly/3qq5570>.

¹⁰⁰ UN Special Rapporteur on human rights defenders, 7 December 2021, <https://bit.ly/3JoVy8L>.

¹⁰¹ ECRE, *Concerning the lawfulness of Greek legislation regulating the registration of non-governmental organisations (NGOs) on the Registry of NGOs working with refugees and migrants in Greece*, December 2021, <https://bit.ly/32FpXz5>.

¹⁰² RSA, ‘Joint statement by 19 organisations active on refugee issues in Greece’, 8 December 2021, <https://bit.ly/3pyTX8J>.

¹⁰³ Ministry of Migration and Asylum, Decision 7102/2022, 5 January 2022.

Stakeholder Coordination has granted exceptional permission to at least ten NGOs through the use of the derogation set out in Article 16 of JMD 10616/2020.¹⁰⁴

51. **Legal framework on registration of civil society organisations:** L 4873/2021, cited above, introduced two new Registries of civil society organisations to be set up by the Ministry of Interior. The law applies to all civil society actors, yet specific registries operated by different Ministries continue to exist. Concerns regarding the lack of clarity of legislative provisions and undue restrictions on the operation of civil society were raised by over 300 organisations.¹⁰⁵
52. **Prohibition on disseminating information from camps:** Greek legislation on the rules of operation of reception facilities imposes a strict duty of confidentiality on all staff operating therein, including volunteers. All persons active in such facilities are prohibited from directly or indirectly disseminating or publicising “personal data, information or any other material” they access when performing their duties.¹⁰⁶ Persons are bound by the above confidentiality rules even after their employment comes to an end.¹⁰⁷ Notwithstanding the need for respect of confidentiality of sensitive information, the rules have brought about similar chilling effect by censoring civil society organisations from reporting on conditions in camps.¹⁰⁸

E. Initiatives to foster a rule of law culture

Measures to foster a rule of law culture

53. **Unwillingness to set up mechanisms for monitoring:** Despite mounting allegations of push backs and political pressure from an array of actors, Greece maintains its opposition to setting up an independent mechanism to monitor human rights violations at its borders. During the reporting period, the European Commission has closely engaged with the Greek government on the creation of an independent authority to investigate push backs of refugees and migrants (see also [Section IV.B](#)). While the Greek government has given assurances to the Commission on the establishment of such a mechanism, it has dispelled the existence of such plans in its domestic discourse. The “ever changing”¹⁰⁹ messaging of the government over the past months are highly illustrative of the potent risks to transparency and the rule of law in Greece:
- 23 June 2021: the European Commissioner for Home Affairs stated in reply to a parliamentary question that “it is in constant dialogue with the Greek authorities at all levels”¹¹⁰ on the question of push backs.
 - 22 August 2021: Kathimerini reported that the Commission has conditioned the continuation of emergency funding to the Hellenic Coast Guard upon the

¹⁰⁴ Special Secretary for Stakeholder Coordination, Decision 141/2020, 1 December 2020; Decision 186/2020, 29 December 2020; Decision 202/2020, 30 December 2020; Decision 187/2020, 30 December 2020; Decision 188/2020, 30 December 2020; Decision 189/2020, 30 December 2020; Decision 208/2020, 30 December 2020; Decision 209/2020, 30 December 2020; Decision 8/2021, 11 January 2021; Decision 107404/2021, 5 July 2021, <https://bit.ly/39cjFXT>.

¹⁰⁵ HIGGS et al., ‘Ναι στη ρύθμιση, Όχι στην συρρίκνωση της Κοινωνίας των Πολιτών’, 10 December 2021, <https://bit.ly/3KoFN2l>.

¹⁰⁶ Article 8(1) Ministerial Decision 23/13532/2021, Gov. Gazette B' 5272/30.11.2020.

¹⁰⁷ Article 8(4) Ministerial Decision 23/13532/2021.

¹⁰⁸ Forbes, ‘Greece Has Intensified Its Crackdown On Refugee NGOs With A New Confidentiality Law’, 9 December 2020, <https://bit.ly/3eDfoiC>.

¹⁰⁹ ECRE, ‘Greece: Tone Changes on Independent Border Monitoring, Ombudsman Calls for Re-examination of Rejected NGO Registration, German Court Rules in Favour of Asylum Seeker Over Inhumane Treatment Risk’, 17 December 2021, <https://bit.ly/3ED4fJ7>.

¹¹⁰ European Commission, Reply to parliamentary question E-001777/2021, 23 June 2021.

creation of an independent authority competent to investigate push back allegations.¹¹¹

- 14 September 2021: UNHCR, OHCHR and ENNHRI welcomed “the Greek Government’s declared intention to establish such a mechanism”.¹¹²
- 29 September 2021: the Minister of Migration and Asylum dispelled reports on the creation of an independent monitoring mechanism and stressed in Parliament that Greece has no reason to create any specific mechanism, given that the government has no plans to take action on an issue which does not exist in its view.¹¹³
- 29 September 2021: the European Commission confirmed that it has received assurances from the Greek government on the creation of an independent monitoring mechanism and that the authorities have agreed to set up a working group on the matter.¹¹⁴
- 7 October 2021: the European Commission reiterated the establishment of the mechanism as a “very important” issue ahead of the Justice and Home Affairs Council.¹¹⁵
- 20 October 2021: the European Commissioner for Home Affairs cited “bilateral assurances” from Greece on the establishment of the mechanism.¹¹⁶
- 4 November 2021: the Minister of Migration and Asylum stated in reply to media that creating an authority other than the judiciary to investigate allegations of ill-treatment at borders would contravene the rule of law.¹¹⁷
- 17 November 2021: Kathimerini reported confirmed sources citing the activation of EAD as a competent body to investigate allegations (see [Section IV.B](#) on the lack of independence of EAD).¹¹⁸
- 29 November 2021: the General Secretary for Migration Policy at the Ministry of Migration and Asylum stated that Greece will not be setting up a new mechanism and that the discussion with the Commission has been concluded.¹¹⁹

¹¹¹ Kathimerini, “Έβρος – Ανατολικό Αιγαίο: Σχέδια έκτακτης ανάγκης από ΕΛ.ΑΣ. και Λιμενικό”, 22 August 2021, <https://bit.ly/3JntdQi>.

¹¹² UNHCR, “Ten points to guide the establishment of an independent and effective national border monitoring mechanism in Greece”, 14 September 2021, <https://bit.ly/3FJS3HR>.

¹¹³ Hellenic Parliament, Plenary Debate ΡςΘ, 29 September 2021, 20082, <https://bit.ly/3eA3i9U>.

¹¹⁴ Kathimerini, “Νέος μηχανισμός για το προσφυγικό”, 30 September 2021, <https://bit.ly/32N11rM>; Efsyn, “Η Κομισιόν αδειάζει τον Μηταράκη”, 30 September 2021, <https://bit.ly/3mLV2bn>.

¹¹⁵ Kathimerini, “Μεταναστευτικό: Οι επαναπροωθήσεις στο προσκήνιο”, 8 October 2021, <https://bit.ly/31fdmK>.

¹¹⁶ European Commission, “Commissioner Johansson’s speech at the Plenary debate on pushbacks at the EU external border”, 20 October 2021, <https://bit.ly/3mL1sHF>.

¹¹⁷ EU Observer, “Greek minister says extra border monitoring may “break law””, 5 November 2021, <https://bit.ly/3pFB6J1>.

¹¹⁸ Kathimerini, “Μεταναστευτικό: Στην ΕΑΔ η διερεύνηση καταγγελιών”, 17 October 2021, <https://bit.ly/3JvrmJh>.

¹¹⁹ Ombudsman, *European forced returns framework: developments and challenges*, 29 November 2021, <https://bit.ly/3EGuaj2>.

- 8 December 2021: the European Commissioner for Home Affairs cited a positive meeting with the Minister of State and assurances that the mechanism will soon be up and running.¹²⁰
54. **Contradictory official statistics:** The lack of consistent statistics across the Greek administration hinders effective parliamentary scrutiny. As highlighted by RSA, different statistics are held on areas such as immigration detention by the Ministry of Citizen Protection, the Ministry of Migration and Asylum and the Ministry of Justice. As a result, inconsistent data have been provided by the respective authorities in response to the same parliamentary question.¹²¹
55. In a similar vein, contradictory statistics were recently released by the Ministry of Maritime Affairs and the Ministry of Migration and Asylum on search and rescue cases in 2021. While Minister of Maritime Affairs referred to 29,000 persons rescued by the Coast Guard in 1,450 operations in the Eastern Mediterranean in 2021,¹²² the Minister of Migration and Asylum replied that just over 4,000 people had been rescued.¹²³

¹²⁰ Efsyn, '«Μίλησα με Γεραπετρίτη, θα γίνει ο ανεξάρτητος μηχανισμός επιτήρησης συνόρων»', 8 December 2021, <https://bit.ly/3sHnclt>.

¹²¹ RSA, 'UPDATED - Immigration detention in the first half of 2021: Systematic deprivation of liberty and inaccessibility of remedies', 30 July 2021, <https://bit.ly/3Jr4vyv>.

¹²² Naftemporiki, 'Γ. Πλακιωτάκης: Η Ελλάδα σώζει ζωές που άλλοι θέτουν σε κίνδυνο στο Αιγαίο', 25 December 2021, <https://bit.ly/3FlmX2H>.

¹²³ Parapolitika, 'Μηταράκης στα Παραπολιτικά 90,1: Η Τουρκία έχει διακόψει την αποδοχή όσων δικαιούνται προστασίας – Προκλητική η εικόνα με τους μετανάστες στην πλατεία Συντάγματος', 5 January 2022, <https://bit.ly/3qPsCzT>.