

Greece 2023

Information from: Greek National Commission for Human Rights

Impact of previous year's rule of law reporting

Follow-up by State authorities

The Greek National Commission for Human Rights (GNCHR) informs that it is not aware of any follow-up action or initiative from state authorities which could be directly linked to the ENNHRI 2022 Rule of Law Report ¹ or the 2022 European Commission's Rule of Law Report on Greece (2022 EC RoL Report) published in July 2022. Unlike the 2020 EC RoL Report which was debated in the Parliament with the participation of the EU Commissioner for Justice and the Greek Minister for Justice ², the 2022 EC RoL Report did not receive such attention or dissemination.

It is worth highlighting, however, that in November 2022, a Greek translation of the "Rule of law Checklist" of the Venice Commission was published by the Hellenic Parliament Foundation for Parliamentarism and Democracy.³

Impact on the Institution's work

In 2022, the GNCHR disseminated in its social media and mailing lists both the 2022 ENNHRI RoL Report and the 2022 EC RoL Report. The GNCHR notes that the annual reporting on rule of law situation enables the GNCHR to systematize its relevant work and mainstream rule of law considerations into different human rights topics. For example, in 2022, rule of law aspects were further explored regarding human rights defenders in Greece, the implementation of the European Court of Human Rights (ECtHR) judgments, the involvement of the Greek NHRI in law-making process, the review of the Greek penitentiary system and institutional racism against refugees and migrants. Moreover, in 2023, the GNCHR plans to issue a report on the institutional framework for the oversight of intelligence services.

The GNCHR welcomes the explicit reference in the EC 2022 Rule of Law Report to the A-Status Greek National Commission as an example of a national independent authority aiming to protect and safeguard human rights in Greece ⁴ and to the findings of the GNCHR, submitted through our regional network ENNHRI during the 2022 reporting cycle.⁵ The NHRI encourage the European Commission to consult further its thematic reports submitted to international bodies which are publicly available in its website and provide a comprehensive analysis on the status of human rights of Greek residents.⁶

Follow-up initiatives by the Institution

The GNCHR informs that no follow-up initiatives were taken to the 2022 ENNHRI Rule of Report. However, the GNCHR has considered the recommendations as well as the European Commission's recommendations in its consulting, monitoring and promotional activities with respect to the shrinking space of the civil society, the accountability gaps for human rights violations at borders and the institutional framework for the oversight of intelligence services. The President, Members of the GNCHR and of the Scientific Staff have raised GNCHR's findings and recommendations from the 2022 ENNHRI RoL Report in newspaper articles⁷, radio interviews⁸ and meetings with regional stakeholders.⁹

NHRI's Recommendations to national and European policy makers

The GNCHR, states that the rule of law and human rights are interlinked. The protection and promotion of human rights are ensured only by respecting the rule of law. It is a universal principle recognised by all member states of the UN. According to the UN, the rule of law and human rights are two sides of the same principle, which is the freedom to live in dignity.¹⁰ In the European context, the rule of law is one of the core values of the European Union, and one of the three pillars of the Council of Europe. In our continent, rule of law questions maintains a main role in upholding healthy, thriving democracies and translating human rights from theory to practice.¹¹

The GNCHR notes that in Greece the focus is more on constitutional aspects rather European ones. The public as well as relevant stakeholders are not familiar with the EU concept of rule of law as it evolved over time and it is reflected in the choice of the four pillars for country monitoring.

The GNHRC highlights that the current rule of law discussions in public discourse provide an opportunity for launching of a coherent, open and inclusive dialogue on rule of law questions among parliamentarians, members of the Government, justice, independent authorities with the participation of the NHRI and civil society. The 2023 European Commission's RoL Report on Greece should serve as a background document along with other relevant reports, such as the ENNHRI 2023 RoL report, civil society's contributions to 2023 monitoring cycle and annual reports of relevant authorities (for instance, Ministry of Justice, National Transparency Authority, Hellenic Authority for Communication Security and Privacy). The GNHRC agrees that rule of law questions cover a diverse range of political, social and economic activities. Therefore, the Greek NHRI concludes that is necessary to establish a common basis for action among all key stakeholders. For example, this inter-institutional dialogue could be a session at the Parliament, an open forum for rule of law or

a stakeholders' hearing under the auspices of the GNCHR which would serve as best practices that might lead to an institutionalisation of this annual public discussions among relevant stakeholders.

The GNCHR is involved in the preparation and implementation phase of the annual rule of law reports to the European Commission. By its statute, the NHRI has the competence to deliver an opinion on human rights reports that the Greek Government submits to international organisations, including the European Commission. In addition, the Greek NHRI can effectively contribute to formulating well evidenced proposals for the strengthening of the rule of law in Greece, within the framework of EU law, principles and recommendations, given:

- Its mandate (acting as a bridge between international law and national practice),
- Its pluralistic composition (independent authorities, trade unions, civil society and academia appoint members to the Commission),
- Its specialized expertise on a wide range of human rights, and
- Its extensive network (not only with international and regional human rights bodies but also with counterpart institutions from other EU member states under the ENNHRI umbrella)

The GNCHR recommends to the Greek state authorities to meaningfully involve the NHRI in the preparation of the state's rule of law report and attach particular importance to the NHRI's recommendations given its mandate and expertise as analysed above.

Greece 2023

Information from: Greek National Commission for Human Rights

Follow-up to last year's rule of law recommendations

State authorities follow-up to regional actors' recommendations on rule of law

The GNCHR welcomes the publication of the 2022 European Commission's Rule of Law Report which contains for the first-time specific recommendations addressed to each Member State. It aims to encourage Member States to promote current or planned reforms and to identify where improvements are needed.

The following are the EC's recommendations to Greece:

- Address the need for involvement of the judiciary in the appointment of President and Vice-President of the Council of State, the Supreme Court and the Court of Audit considering European standards on judicial appointments.
- Ensure the effective and systematic verification of the accuracy of asset disclosures filed by all types of public officials.
- Increase efforts to establish a robust track record of prosecutions and final judgments in corruption cases.
- Establish legislative and other safeguards to improve the physical safety and working environment of journalists, in line with the recently adopted Memorandum of Understanding and considering European standards on the protection of journalists.
- Ensure that registration requirements for civil society organisations are proportionate in view of maintaining an open framework for them to operate.

Regarding the recommendations mentioned above, the GNCHR informs that milestones were agreed under the national recovery and resilience plan. These mainly concern the improvement of the efficiency of justice and the digitalisation of the justice system. The NHRI informs that there are no specific recommendations concerning the Greek NHRI from the regional authorities.

The GNCHR provides input on the follow-up measures on the rule of law, adopted by the Greek State in 2022.

According to the World Justice Project (WJP) Rule of Law Index, Greece's overall rule of law score remains the same as the last years, i.e. 0.61/1. At 44th place out of 140 countries and jurisdictions worldwide, Greece climbed four positions in global rank. Greece's score places it at 28 out of 31 countries in European Union, European Free Trade Association, and North America region. WJP evaluates 8 factors: (1) constraints on government power, (2) absence of corruption, (3) open government, (4) fundamental rights, (5) order and security, (6) regulatory enforcement, (7) civil justice and (8) criminal justice. Greece has better scores in order and security, constraints on government power and fundamental rights. In criminal justice, regulatory enforcement and absence of corruption has the lower.¹²

Furthermore, Economist's Democracy Index 2022 lists Greece as a flawed democracy noting that it makes the most notable overall improvement, rising nine spots in the ranking from 34th in 2021 to 25th in 2022. Its overall score is 7.97/10 in comparison with 7.56/10 in 2021. Economist Intelligence Unit scores are based on the following categories: (1) electoral process and pluralism, (2) functioning of government, (3) political participation, (4) political culture, (5) civil liberties. Greece has the highest score in electoral process and pluralism

(10/10) and civil liberties (8.53/10).¹³

Checks and balances

Rule of law issues have been consistently raised during the second half of 2022 in public discourse. It was due to the break-out of the Greek wiretapping scandal of journalists, politicians and high-ranking officers in the Hellenic Army.¹⁴ The illegal use of spyware software for surveillance purposes by states constitutes a threat to human rights, democracy and the rule of law. Furthermore, it is a cross-cutting issue affecting all four pillars of the EU rule of law monitoring cycle, however the GNCHR opted to address it at national level under the checks and balances system.

On 10 March 2022, the European Parliament decided to set up the PEGA Committee to investigate alleged infringement or maladministration in application of EU law regarding the use of Pegasus an equivalent spyware surveillance software. In particular, the PEGA Committee was asked to gather information on the extent of the use of this intrusive surveillance by Member States or third countries, and to the extent that it violates the rights and freedoms enshrined in the Charter of Fundamental Rights of the EU.¹⁵ Following revelations that Nikos Androulakis's phone was hacked with malicious spyware while serving as a member of the European Parliament, an inquiry committee was set up in the Hellenic Parliament,¹⁶ in parallel to PEGA investigations. The findings of the inquiry committee were submitted to the President of the Parliament and discussed at Plenary. The public did not receive any information on the deliberations and outcome of the proceedings since they were classified as confidential. A meeting in the Special Permanent Committee on Institutions and Transparency took place with the participation of non-parliamentary people invited to provide all relevant information. The meeting was attended by the Minister of State and the discussion was also confidential (art. 43A of the Rules of Procedure of the Parliament).¹⁷ In the meantime, the Head of National Intelligence Service and the General Secretary of the Prime Minister resigned. The Greek NHRI notes that the National Intelligence Services are supervised by the Prime Minister's Office (Law 4622/2019).

The GNCHR informs that the Greek Constitution provides in article 19 that "1. Secrecy of letters and all other forms of free correspondence or communication shall be inviolable. The guaranties under which the judicial authority shall not be bound by this secrecy for reasons of national security or for the purpose of investigating especially serious crimes, shall be specified by law. 2. Matters relating to the constitution, the operation and the functions of the independent authority ensuring the secrecy of paragraph 1 shall be specified by law". By virtue of Law 3115/2003, the Hellenic Authority for Communication Security and Privacy (ADAE) was established to fulfill the role appointed to it by art. 19 par. 2 of the Constitution. It is worth noting that ADAE appoints a representative into the Greek National Commission and therefore the GNCHR

has both the necessary expertise and the relevant evidence to substantiate its opinion on matters related to the secrecy of communications.

On 29 November 2022, a bill was introduced at the Parliament by the Ministry of Justice on “Waiving of communication privacy, cyber security and citizens’ data protection (subsequent Law 5002/2022). According to the Minister, the new legislation aims to address shortcomings in the protection to citizens’ rights and a necessary balance between the protection of privacy and national security.¹⁸ One of its objectives, as stipulated in art. 1 is to protect privacy of communications from spyware software (item c). The Greek National Commission, despite not being timely involved in the law-making process by the Ministry of Justice, it has timely submitted its comments to the Parliament while the deliberations were ongoing. The Greek NHRI questions how the authorities would use the data and the technology to fight criminality ,for national security reasons and yet fully respecting fundamental rights enshrined in international and national law, such as the right to private and family life, the right to privacy, freedom of thought, freedom of opinion and expression, protection of personal data and protection of communications privacy. The NHRI states that of the subject of the Law 5002/2022, i.e. waiving communications privacy constitutes a limitation of the right to free and confidential communication and has adverse consequences on the exercise of individual freedoms of the person against whom is directed. The GNCHR is of the opinion that in democratic states that respect the rule of law, specific guarantees must exist to prevent the executive power from being able to monitor its political opponents under the pretext of national security reasons. On the other hand, when politicians are involved in crimes against national security, they must enjoy the same treatment as any other citizen. Reservations were raised by the Greek National Commission as to the restriction of the ADAE’s constitutional mandate which puts in peril the trust of citizens into national institutions.¹⁹ Moreover, in January 2023, the Public Prosecutor of the Supreme Civil Court (Areios Pagos) issued an opinion, interpreting provisions of Law 5002/2022 after a request made by telecommunications companies.²⁰

In view of the above, the GNCHR prepares a special thematic report on the institutional framework for the oversight of intelligence services. The role of intelligence services in combatting crime and protecting national security is crucial. However, their work affects human rights and imposes restrictions on securing citizen’s communications privacy and data protection. The GNCHR decided to study more in depth the available checks and balances to ensure that both objectives are met, i.e. protection of national security interests and interference with human rights in a proportionate way.

In September 2022, PEGA Committee held a hearing on the use of spyware in Greece with the presence of targeted journalists and Greek authorities.²¹ Later in October 2022, an exchange of views took place with Members of the

European Parliament who have been targeted with spyware.²² The Committee also did some fact-finding missions, including Greece. In January 2023, the European Parliament send its relevant draft recommendations to the Council and the Commission. It calls the Commission and the EEAS to halt any support to third countries that enables the latter to develop surveillance capabilities, to carry out fundamental rights impact assessments and in case they find that the respect of human and fundamental rights, including rule of law and the protection of democratic principles, politicians, human rights defenders and journalists cannot be guarantee, to discontinue the support. The European Parliament also formulates recommendations to the Commission with respect to the Rule of Law monitoring, such as assessing, among others, the responsiveness of state institutions to provide redress to victims of spyware (p.21). Concerning Greece, the European Parliament concludes that contraventions and maladministration have taken place in the implementation of Union law and calls the Greek authorities to: (a) urgently restore and strengthen the institutional and legal safeguards, including effective ex ante and ex post scrutiny as well as independent oversight mechanisms; (b) urgently repeal all export licenses that are not fully in line with the Dual-Use Regulation and investigate the allegations of illegal exports, among others to Sudan; (c) ensure that the authorities can free and unhindered investigate all allegations of the use of spyware; (d) urgently withdraw Amendment 826/145 of Law 2472/1997, which abolished the ability of the ADAE to notify citizens of the lifting of the confidentiality of communications; (e) restore full independence of the judiciary and all relevant oversight bodies, such as the Ombudsman and the Data Protection Authorities, to ensure all oversight bodies get full cooperation and access to information and to provide full information to all victims; (f) reverse the legislative amendment of 2019 that placed the EYP under the direct control of the Prime Minister; (g) urgently implement the Whistleblowers Directive; (h) ensure the independence of the EAD leadership; (i) urgently launch a police investigation following the alleged abuse of spyware and seize physical evidence of proxies, broker companies and spyware vendors that are linked to the spyware infections; and (j) invite Europol to immediately join the investigations. The GNCHR informs it will consider the recommendations, in its consulting, monitoring and reporting activities regarding the challenges raised for fundamental rights and the rule of law by the use of technology and spyware systems. On this matter, the NHRI informs that its forthcoming report on the institutional framework for the oversight of intelligence services will help Greek authorities to improve checks and balances systems

Justice system

According to World Bank's Doing Business Index, it takes 1.711 days to enforce a contract in Athens by launching judicial proceedings, and there are discrepancies between six cities benchmarked in Greece in 2020. Trial time for a commercial dispute at the local first instance court varies from a year and

eight months in Thessaloniki, to under four years in Athens. On average, it takes three years to litigate the standardized commercial dispute through the Greek Single-Member First Instance Courts and enforce the judgment. This is nearly fifteen months longer than the EU average. On the quality of the judicial processes, Greece is close to EU average. On the average cost of suing in court and enforcing a judgment in Greece is slightly cheaper than the EU average.²³

The excessive length of court proceedings is a perennial problem for the Greek justice system. The Greek Parliament already adopted dozens of laws to accelerate the proceedings (Laws 2915/2001, 3160/2003, 3346/2005, 3659/2008, 3900/2010, 3994/2011, 4043/2012, 4198/2013, 4194/2013, Presidential Decree 150/2013, Laws 4239/2014, 4335/2015, 4332/2015, 4411/2016, 4446/2016 and 4738/2020). Despite the efforts, the NHRI notes that there is no substantial improvement in the average time for the completion of a case. It is noteworthy that the main bulk of cases brought before the European Court of Human Rights concern the excessive length of civil, administrative and penal proceedings (art. 6 ECHR). Greece quite recently adopted also a remedy against lengthy proceedings,²⁴ a measure indicated by the Court in *Michelioudakis and Glykatzi* cases.²⁵

In 2022 two more Laws were adopted with a view to accelerate judicial proceedings. Law 4938/2022 was adopted as a new Code of Courts Organization and Status of Judges). The objective was, apart from acceleration of judicial proceedings, the upgrade of inspection procedures, the setting of reasonable times for cases processing and the provision of sanctions for staff delays of issuing decisions, such as, cut on salary, no promotion or reason for dismissal. Law 4947/2022 amended provisions of the Code of Criminal Procedures with a view also to accelerating justice. According to the Deputy Minister of Justice, “the amendments moved in three directions: in facilitating the processing of citizens' complaints (appeals) by public prosecutors; in increasing the amount of the fine imposed on witnesses who have been summoned to testify in the context of a criminal proceeding and do not appear unreasonably and, finally, limiting the current unlimited delay of cases which result in the long trial time of even a simple criminal case with a corresponding burden on the parties - victim and defendant - but also on the sense of security of the citizens, who are reasonably prevented from resorting to the Greek courts”.²⁶

The GNCHR notes that despite previous efforts the legislative reforms did not achieve their foreseen goals. Furthermore, the NHRI elaborates that in a recent research conducted by Dianeosis with the support of seven serving judges concluded that the delays in justice are caused by (1) the distribution of the judicial services, i.e. the spatial planning of the courts and prosecutor's offices, which is based on an outdated design, (2) the administration of the courts which does not take into account the modern needs and methods of administration and (3) the evaluation system of judges and prosecutors which

is not organized and does not produce reliable results.²⁷

The GNCHR informs that the Law 5001/2022 on judicial clerks of the National School of Judges and a National School for Judicial Clerks will be adopted. Currently, there is one judicial clerk for every judge; the target is to employ 3 judicial clerks for every judge. Other relevant developments in January 2023 are: (1) the establishment of the Judicial Police as an independent body under the Ministry of Justice, which will be staffed both by civil and police staff (Presidential Decree 6/2023) and (2) the publication of a call for assistants to judges according to Law 4798/2021.

Improving the overall efficiency of the justice system constitutes also a component of the National Recovery and Resilience Plan (NCRP). The following reforms are mentioned:

- Acceleration of the administration of justice,
- A comprehensive plan to introduce e-justice, including the upgrade of record keeping systems of the courts, the digitisation of archives, and the expansion of IT systems,
- Upgrade of existing infrastructure and new buildings,
- Investment in the reskilling and upskilling of judges and judicial staff. Already in 2022, 10 magistrate judges were enrolled to National School of Judges for training (objective 224 of the NCRP).

The GNCHR states that it has already identified the digitalization of justice as a tool for enhancing accessibility and efficiency of the justice system and monitors national and EU initiatives in this field.²⁸

Anti-corruption framework

The NHRI stresses that the perception of corruption of the public sector in Greece is at average in comparison to other countries. Greece ranks 51st out of 180 countries and its scores are moderately improving in recent years (after 2018).²⁹ According to a Eurobarometer survey conducted in July 2022, 98% of those questioned consider that corruption is widespread in the country, particularly in the healthcare system (91%), the tax authorities (67%), political parties and politicians (65%), officials issuing building permits (65%) and awarding public tenders (63%), inspectors (62%) and officials issuing business permits (61%).³⁰

The NHRI informs that increasing transparency and fighting corruption is among the components of the National Recovery and Resilience Plan. These encompass (1) a comprehensive package of reforms and investments for the detection and prevention of corruption (National Transparency Authority), (2) the strengthening of the legal framework for Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT) and (3) combating illicit trade and protection intellectual property rights.

By virtue of Law 4795/2021 (arts 23-30), it was provided that Independent Offices of Integrity Advisors shall be established in every Ministry – with some exceptions– and under certain conditions, in independent authorities, local governments, decentralised administrations, independent services, legal persons of public law and legal persons of private law belonging to the General Government. The Advisor's role is supportive, informative and advisory for employees who are faced with cases of corruption, abuse of power, anti-social behaviour, sexual harassment but also any other form of breach of integrity either by their colleagues or supervisors. The Integrity Advisor provides personalised counselling assistance to victims, receives relevant reports and mediates to be investigated by the competent authority, while also monitoring their progress, informing the concerned employee. As an advisory body in matters of his competence, the Advisor provides information to employees in principle regarding his role and responsibilities, but also more generally on issues of ethics and integrity by organizing corresponding training initiatives. Finally, the Advisor collaborates with the Division for administrative support and human resources of the Ministry, for the development and implementation of internal integrity policies and standards. The selection of Advisor is done through a General Register kept at the General Secretariat of Public Sector Human Resources of the Ministry of the Interior. Law provides for the qualifications that officers need to have to be appointed as Integrity Advisors. In addition, they should complete a special training program by the National Centre for Public Administration and Local Government in collaboration with the General Secretariat of Human Resources of the Public Sector of the Ministry of the Interior and the National Transparency Authority. The Law 4940/2022 which amended certain provisions of the Law 4795/2021 provides that for the first two years from the entry into force, Integrity Advisors may be appointed officers who have not yet been registered in the General Register and have not completed the training.

On the topic of whistleblowers, in its 2022 RoL Report the Commission stressed that Greece lacked a comprehensive legislative framework for their protection. On 28 January 2022, the Commission addressed a letter of formal notice to Greece for failure to communicate the measures taken to transpose the Directive on the protection of persons who report breaches of Union law (EU Directive 2019/1937) by the deadline of 17 December 2021. On 15 July 2022, the Commission issued a reasoned opinion on lack of transposition of the directive. On 11 November 2022, Greece adopted Law 4990/2022 on “Protection of persons reporting violations of EU law - Transposition of Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 (L 305) and other urgent regulations”. The draft law was shared with the public for consultation for two weeks prior to its submission by the competent Minister to the Parliament for discussion. During the deliberations, relevant stakeholders were invited to express their opinions on the draft provisions. Civil society organisations expressed their disappointment to the scope of

application of the law which is restricted only to violations of EU legislation and does not extend to reporting of violations of domestic law. Transparency International Greece underlined that this may lead to shortcomings in the implementation of the law since public employees wishing to report violations by state organs, shall make the distinction between acts infringing EU law and other acts, not protected under this framework.³¹ Furthermore, Vouliwatch claims that the legislation transposed the Directive into a restrictive way.³²

Other regional organisations drafted recommendations regarding the protection of whistleblowers. The OECD Working Group on Bribery in its last report, urged Greece to implement new legislation for whistleblowers to provide clear and comprehensive protection from retaliation for whistleblowers who report foreign bribery.³³ GRECO recommended Greece to strengthen the protection of whistleblowers within the police and take all other measures necessary to facilitate the reporting of corruption, including by guaranteeing whistleblowers' confidentiality, as appropriate.³⁴ These issues are still pending resolution. In addition, within the framework of the Council of Europe, a particular set of principles have been drafted to help member states render the whistleblower protection effective in practice (CM/Rec (2014)7 of the Committee of Ministers on the protection of whistleblowers). Therefore, the GNCHR recommends that these principles be taken into consideration for the establishment of a comprehensive legal framework for the protection of whistleblowers in Greece.

Media pluralism and freedom

In its annual World Press Freedom Index for 2022, Reporters without borders list Greece in 108th position out of 180 countries, the lowest of any European country and thirty-eight places lower than 2021. The Governmental spokesperson in a press briefing commented on the methodology of this report which includes also evaluations on open investigation cases pending before Greek courts as well as repercussions from the Covid-19 outbreak to the operation of the Press in Greece. According to the 2022 Media Pluralism Monitor of the Centre for Media Pluralism and Media Freedom of the European University Institute, Greece is among European states with a high risk (64%) on media pluralism based on four factors: (1) fundamental protection, (2) market plurality, (3) political independence and (4) social inclusiveness.³⁵ Greece has the highest risk score on market plurality (72%) which is associated with the commercial and ownership influence over the media content (83%) and the economic problems that prohibit media from becoming viable (74%), among others.³⁶

In addition to the above risks concerning market plurality, other worrying factors in 2021 constituted the escalation of threats to journalists' physical and online safety and the amendment in the Greek Penal Code (art. 191) which rendered the offence of spreading fake news punishable with up to five years'

imprisonment. In 2022, the relevant provision was amended: its scope became narrower and the sanctions lighter (see art. 41 of Law 5005/2022).

The Economist mentions that Greece is penalised in the 2022 Democracy Index in relation to freedom of the press, given also that as revealed in 2022, journalists have been victims of the Predator spyware for reasons of national security.³⁷

The GNCHR monitors the safety of newspapers and journalists in Greece within the broader scope of its work on human rights defenders, raising awareness on the situation at national and international level through its communication channels with national, regional and international human rights bodies.

State authorities follow-up to NHRI's recommendations regarding rule of law

The GNCHR informs that it monitors any developments either to the reinforcement or to the restriction of the rule of law in Greece. The Greek National Commission also participates each year to the ENNHRI rule of law report dedicating time and resources. As mentioned above, the recommendations from both 2022 ENNHRI RoL report and 2022 EC RoL report have been disseminated and followed-up in a variety of activities, consulting, promoting and educational ones.

NHRI's follow-up actions supporting implementation of regional actors' recommendations

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Information from: Greek National Commission for Human Rights

Independence, effectiveness and establishment of NHRIs

International accreditation status and SCA recommendations

The Greek National Commission for Human Rights (GNCHR) was established in 1998 as the independent advisory body to the State on all matters pertaining to human rights protection and promotion, in accordance with the UN Paris Principles (General Assembly Resolution 48/134, 20 December 1993). The competent GANHRI Sub - Committee on Accreditation, under the auspices and in collaboration with the Office of the High Commissioner for Human Rights (OHCHR), has accredited GNCHR, since 2011, A status (full compliance with Paris Principles).

The Greek National Commission for Human Rights (GNCHR) was last re-accredited with A-status in March 2017³⁸. The SCA was of the view that the selection and appointment process enshrined in the GNCHR's enabling law was not sufficiently broad and transparent; particularly, it did not specify the process for achieving broad consultation and participation in the application, screening, selection, and appointment process. Further, the SCA noted that providing for different stakeholders to select members according to their rules of operation could result in the different entities using different selection processes. It took the view that these processes should be standardised across nominating entities. The SCA encouraged the GNCHR to continue its efforts to advocate for the formalization of a detailed process in its enabling law. The SCA also recommended GNCHR to strengthen the applicable grounds of dismissal of members of the NHRI. It recalled that the grounds for dismissal must be clearly defined and appropriately confined to those actions that impact adversely on the members' capacity to fulfil their mandate. It recommended that this process should apply uniformly to all nominating entities. Finally, acknowledging that the financial situation in Greece at the time limited the NHRI's ability to advocate for increased funding, the SCA encouraged the GNCHR to continue to advocate for an appropriate level of funding to carry out its mandate including, where appropriate, the establishment of regional offices. The SCA will consider the reaccreditation of the GNCHR at its October 2024 session.

Follow-up to SCA Recommendations and relevant developments

Since 2017, the GNCHR advocated and achieved significant changes in its founding law in line with SCA's above Recommendations with a view to strengthen the National Human Rights Institution of Greece and prepare the Institution to meet the challenges of the future. Further details on the amended law provisions and their implementation progress can be found in the following four chapters.

Regulatory framework

By virtue of Law 4780/2021 the GNCHR is explicitly recognised as the National Human Rights Institution in Greece, acquiring legal personality, fully financial independence and administrative and financial autonomy.³⁹ The GNCHR takes subsidy from the state

budget but also from other sources, such as the European Union in the framework of agreements on EU-funded research or other projects.

Furthermore, the GNCHR may conclude agreements with Higher Education Institutions or other bodies relevant to its mission. It can also assign work by contract to third parties in accordance with the applicable law on public contracts (article 17 of Law 4780/2021).

The organizational structure of the GNCHR is strengthened since a position of a full time Director has been established and the positions of the scientific and administrative personnel increased from 12 to 15. The GNCHR is now structured into two units: (a) the Scientific Organization Unit and (b) the Administrative and Financial Unit. Furthermore, the responsibilities of the President and of the Bureau of the GNCHR are specified in detail in the law. Law also explicitly provides for the power of the GNCHR to conduct field investigations and seek from both public services and individuals, any information, document or any other element relating to the protection of human rights. The President may take cognizance of documents and other elements, which are classified as confidential, unless they are affiliated with national defence, state security and international relations of the State (article 21 of Law 4780/2021).

The GNCHR being a commission type NHRI has a pluralistic composition. The Commissioners are experts in different fields of human rights and come both from public and private sector (independent authorities, universities, third level trade unions, non-governmental organisations, and research institutions). They bring along their expertise in the GNCHR and contribute to the work of the GNCHR (consultative, monitoring, educational, promotional) as well as in organizational matters by voting in the Plenary, which is the decision-making body of the GNCHR. For the facilitation of the organization of the work at the GNCHR, five Sub-Commissions operate under the Plenary.⁴⁰ The Commissioners also elect the three-membered Board (President and two Vice-Presidents). The President is responsible for the representation of the Commission before any authorities and the supervision, coordination and management of scientific and administrative work of the GNCHR. Based on Law 4780/2021, the Commission's term is four years instead of three years under the previous regime. In addition, a significant change in this new term of GNCHR (2022-2026) was the replacement of non-voting members appointed from the Ministries, the Parliament and political parties represented in the Parliament (pursuant to

previous Law 2667/1998) with “liaison officers” designated from the above three categories (art. 16 Law 4780/2021). This amendment was introduced to facilitate decision-making process in the Plenary but still maintain a close collaboration with the Ministries, the Parliament and the political parties. Liaison officers act as bridges between the GNCHR and the governmental and parliamentary authorities facilitating the flow of information between them.

Regarding the specific developments in 2022, the Greek NHRI’s mandates were strengthened.⁴¹ For instance, the GNCHR was appointed as a member with voting rights in the Monitoring Committees on EU Migration Funds 2021-2027⁴², whereas the Ministry of Development and Investment entrusted the Commission with the mandate to monitor the compliance of EU development funds with the provisions of the EU Charter of Fundamental Rights at a strategic and operational level.⁴³ For the implementation of the above mandate, the GNCHR offered its expertise at a strategic level, assisting the authorities with a checklist on the compliance with rights of the EU Charter of Fundamental Rights. At operational level, GNCHR representatives participate in seven thematic and thirteen regional Monitoring Committees.

Further developments in 2022 are the appointment of the twenty new Commissioners and the elections of the new three-membered Board that were held.

The GNCHR informs that its administrative capacity was reinforced in 2022 after four new additional employees joining the Secretariat from other public services (finance, informatics, translation). The GNCHR’s offices were also renovated to create a better working environment for the staff and members of the Commission while the IT equipment has been updated to facilitate hybrid/online meetings and a better service of telephone communications and intranet. Also in 2022, the office of the Recoding Mechanism of Informal Forced Returns was established in the premises of the GNCHR.

Enabling and safe space

The GNCHR informs that it was established as an independent advisory body to the Greek State in accordance with the UN Paris Principles 25 years ago (by virtue of Law 2667/1998).⁴⁴ From day one of its operation until now, the Greek National Commission proudly exercises its mission independently. Members are independent from the bodies that designate them, enjoying full freedom of opinion within the Commission. According to para. 6 of art. 14 of Law 4780/2021: “the members of the Commission shall not be liable, persecuted and questioned for opinions expressed or vote given in the exercise of their functions under the present Law”.⁴⁵ Furthermore, the GNCHR’s independence is guaranteed by the election system provided for its governing board. The President and Vice-Presidents are elected by the body of Commissioners in a quorum of an absolute majority. It is true that in the past, the executive power

interfered with the GNCHR's independence by introducing unilateral changes into its legal framework.⁴⁶ However, in recent years, the GNCHR's mandate was reinforced by law, however challenges persist in practice. Even though the GNCHR operates for at least 20 years, the full range of its responsibilities as well as its unique role as an NHRI is not widely known among the competent authorities, i.e. Ministries, Public Administration, Parliamentarians, Justice. For instance, in 2022, the Greek National Commission was invited only twice to participate in parliamentary debates within the scope of its mandate. In addition, there is a repeated omission on the part of the Ministries to not involve the GNCHR in a pragmatic way in the law-making process. The 2022 EU RoL Report stresses that stakeholders are not involved in a timely manner, and this has an impact on the quality of law-making. The Handbook on Regulatory Impact Assessment issued by the Secretariat General for Legal and Parliamentary Affairs in 2020 explicitly provides that a comprehensive assessment of the consequences of a regulation requires the prior opinion of services or authorities with expertise in the specific subject of the proposed regulation, such as the GNHCR.⁴⁷ The GNCHR, embodied by a sense of duty and professionalism, has always provided its expert opinion on relevant draft legislation and policies, irrespective of whether it was timely involved or not. In 2022, the GNCHR submitted its views in the following bills: Ratification of the Code of Legislation on the reception, international protection of third-country nationals and stateless persons and temporary protection in the event of a mass influx of displaced foreigners (June 2022), Provisions for its simplification of the environmental licensing, establishing a framework for the development of Offshore Wind Farms, tackling the energy crisis, environmental protection and other provisions (July 2022), Reform and modernization of the Penitentiary Code - amendments to Law 2776/1999 (October 2022).

Developments relevant for the independent and effective fulfilment of the NHRI's mandate

The GNCHR informs that following the Recommendation CM/Rec(2021) of the Committee of Ministers to member States on the development and strengthening of effective, pluralist and independent national human rights institutions: "member States should implement the recommendations of NHRIs and are encouraged to make it a legal obligation for all addressees of NHRI recommendations to provide a reasoned reply within an appropriate time frame, to develop processes to facilitate effective follow-up of NHRI recommendations, in a timely fashion and include information thereon in their relevant documents and reports". Indeed, in the GNCHR's statute provides that "at the end of each year, the Ministries represented in the Commission shall submit a report with their observations on the protection of human rights in the field of their responsibility, indicating with special reference the points where they have adopted recommendations made by the Commission" (art. 22 Law 4780/2021).⁴⁸ This provision is being partially implemented by the Ministries (

). The GNCHR, in its Annual Reports dedicates a chapter on the implementation and follow-up on its recommendations by the state authorities (impact and efficiency of the GNCHR's work).

In 2022, the law on reception, international protection and temporary protection was regulated by the Law 4939/2022.⁴⁹ The GNCHR, as the independent advisory body to the state on all matters pertaining human rights protection, submitted its comments to the Ministry of Migration and Asylum.⁵⁰ For the first time in the 20 years of the GNCHR's operation, the Minister of Migration and Asylum invited the Commissioners to an in-person meeting to which the Deputy Minister, the General and Special Secretaries and high-ranking officers attended to discuss in detail the GNCHR's recommendations and provide a reply to each one of them. In the GNCHR's notes that this shall become regular, best practice by all state authorities.

NHRI's recommendations to national and regional authorities

Despite the GNCHR's upgrade into an independent authority and the progress in the staffing of the vacant positions in the last two years, delays in the issuance of delegated acts by Law 4780/2021 hinder the transition of the Greek National Commission into a strong, independent and adequate resourced institution. Pursuant to Article 28 of Law 4780/2021, three Ministerial Decisions must be issued to regulate: (a) the compensation of the President, the Vice-Presidents and other Commission members, (b) the salary and insurance status of the Director and (c) the salaries of the scientific staff. These Ministerial Decisions have not yet been issued. Also the issuance of a presidential decree with the "Organisation" of the GNCHR (structure, name and distribution of posts) is still pending.

The GNCHR would like to address the following recommendations to state authorities:

- Continue to provide the GNCHR with adequate, sufficient and sustainable resources to allow it to carry out its mandate.
- Expedite the issuance of the delegated acts in order for the GNCHR to operate in an enabling environment for its members and staff.
- Award salaries and benefits to the GNCHR's staff comparable to those of civil servants performing similar tasks in other independent institutions of the State.
- Institutionalize a follow-up procedure to the GNCHR's recommendations.
- Provide sanctions to authorities not cooperating with the Greek NHRI despite the explicit provision in Law 4780/2021.
- Always involve the GNCHR in the law-making process of bills with an impact on human rights and use its expertise when drafting national

actions plans and national strategies on human rights.

Greece 2023

Information from: Greek National Commission for Human Rights

Human rights defenders and civil society space

Laws, measures and practices negatively impacting on civil society space and/or on human rights defenders' activities

The GNCHR informs that since 2016, all NGOs active in Greece in the field of international protection, migration and social integration, have an obligation to be registered in a special “Register of Greek and Foreign NGOs” operating under the Ministry for Migration and Asylum. However, by virtue of Laws 4636/2019 and 4686/2020 the requirements for registration and verification became stricter, involving also the registration of their members and employees for anti-laundering purposes.⁵²

The European Commission in its 2022 RoL report recommended that the Greek authorities “ensure that registration requirements for civil society organisations are proportionate in view of maintaining an open framework for them to operate”. The NHRI informs that there is no progress towards the implementation of this recommendation. The Law 4939/2022 which regulates existing legislation on reception, international protection of third country citizens and stateless persons and temporary protection in the event of a mass influx of displaced foreigners reiterated the same provisions. By virtue of the Law 4960/2022, the provisions of art. 191 of Law 4662/2020 on the Register of the Members of Non-Governmental Organisations was added to the art. 78 of Law 4939/2022. The registration of members, employees and partners of NGOs and their certification is a requirement for their activity within the Greek territory as well as for their cooperation with public bodies.

The legality of these requirements was questioned by international and European bodies.⁵³ Most recently, the UN Special Rapporteur on the situation of human rights defenders after her visit in Greece in June 2022 stated that “the imposition of a registration requirement on a specific segment of civil society, and the disproportionate requirements within the registration process itself, are in violation of Greece’s obligations under international human rights law and are discriminatory”.⁵⁴

A judicial review application is currently pending before the Greek Council of State (the hearing took place on 2.12.2022). It is worth mentioning that in April 2022, the Civil Court of Athens declared that the Ministerial Decision on NGO Register was ultra vires on the ground that it exceeded the limits of legislative authorisation granted by primary law.⁵⁵ On 8 November 2022, the Council of State found that the provisions of Law 4808/2021 which regulated, in a similar way, the registration of trade unions into a General Register was contrary to art. 8 of the EU Fundamental Rights Charter and the General Data Protection Regulation.⁵⁶

Developments regarding Human Rights Defenders

The NHRI notes that another concerning provision introduced in national legal framework by Law 4825/2021 is the criminalisation of the search and rescue operations at sea by private vessels. The GNCHR warned, prior to the adoption of this provision, on the risks entailed therein of possible contravention with the customary principle and the law of the sea conventions binding upon Greece regarding the duty to rescue people in distress at sea.⁵⁷

The GNCHR is a commission-type NHRI. The twenty Members of the Commission are experts appointed by independent authorities, universities, research institutions, tertiary trade union organisations, civil society organisations and bar associations. In the Plenary of the Commission are represented, through liaison officers, the Greek Parliament, the Ministries and the parliamentary parties. For monitoring and reporting purposes, the GNCHR maintains a very close relation with NGOs and CSOs. Not only prominent NGOs and CSOs form part of its Plenary, but the Greek National Commission also maintains within its premises the Racist Violence Recording Network (RVRN) and the Recording Mechanism of incidents of Informal Forced Returns (RMIFR) which are comprised by NGOs and other civil society actors, such as migrant and refugee communities.

RVRN records “cases of racist violence”, i.e. any criminal acts, or violent acts or behaviour against people targeted given their national or ethnic origin, colour, religion, sexual orientation, gender identity, sex characteristics and disabilities. RVRN also records criminal acts or violent activities or behaviours against HRDs, namely against people who promote and protect human rights and are targeted because of that. During January-December 2021, the Network recorded 72 incidents of racist violence through interviews with victims. In 28 incidents those targeted were migrants, refugees or asylum-seekers due to their national origin, religion or colour as well as human rights defenders due to their association with refugees and migrants. In 36 incidents, the targets were LGBTQI+ individuals as well as human rights defenders, due to their connection with the LGBTQI+ community. Attacks on human rights defenders show that perpetrators associate them with the people they are defending, thus expanding the use of violence to them. Although the defenders of LGBTQI+

people are not always part of that social group, the targeted organisations do consist of members of the LGBTQI+ community, which is why the assaults have a high impact both on them and the community.⁵⁸

The GNCHR participates since 2022 in the STAND-UP project which aims to establish a public authority-led, multi-agency model for countering hate crime in Italy, Greece, Spain and France. Among others, technological tools are used to enhance monitoring of the phenomenon and inter-agency data exchange (law enforcement, judicial bodies and CSOs). Within this framework, the GNCHR research focused on online hate speech, helping public authorities and CSOs to identify areas of intervention and at-risk groups, among them also human rights defenders.⁵⁹

Access to and involvement of civil society actors in law and policy making

The NHRI informs that in Greece, the legislation initiative lies in the Government's responsibilities. The ordinary law-making process requires, as a mandatory step, that a public consultation has taken place on the provisions of the proposed bill prior to its submission to Parliament.⁶⁰ Bilateral consultations meetings with relevant stakeholders, among them civil society may take place. However, the main tool for public consultation is an online platform (opengov). Civil society actors, unions of employees and any other interested party or citizen may submit his/her comments online. Once the consultation is closed, the competent Ministry that will introduce the bill to the Parliament is obliged to draft a follow-up report on the results of the public consultation; in this report, each comment is addressed separately or in group and note is made whether it has been taken into consideration or not and why. Based on the GNCHR's monitoring on the law-making procedure, it is noted that indeed, comments/proposals by the civil society have been considered and the draft provisions were reworded, amended or abolished.

The GNCHR also participates in different collective bodies whereby national policies, such as National Action Plans are adopted or monitored. The composition of these bodies is usually multi-stakeholder and comprises of national authorities, independent bodies (such as the GNCHR and the Greek Ombudsman), trade unions (if applicable) or other tertiary organisations and representatives of the civil society. For instance, in the National Council against Racism and Intolerance, civil society is mainly represented through the Racist Violence Recording Network.⁶¹ Another example is the participation of three civil society organisations in the Committee that drafted the National Strategy for LGBTQI+ Equality in 2021 and comprised of three academics, three representatives from LGBTQI+ organisations and two governmental officers.⁶² The GNCHR was not a member of this Committee but submitted its own comprehensive memo.⁶³ The final text of the draft National Strategy includes

parts of the GNCHR's proposals.

Abuse of laws to intimidate civil society actors, including strategic litigation against public participation (SLAPPs)

Since 2016, the GNCHR receives information on a number of criminal cases opened against Greek and/or foreign journalists, volunteers, rescuers, refugees and migrants, directors/members of non-governmental organisations providing services to migrants and refugees at borders.⁶⁴ They have been accused of facilitating illegal entry or stay of third country nationals, forgery, facilitation of smuggling, formation and membership into a criminal organisation, revealing of state secrets and espionage. Some cases never reached the courts, others are pending on trial and in others, the defendants were acquitted. In June 2022, the three-membered Court of Chios acquitted a third country national of the criminal charges of facilitating the illegal entry of eleven third country nationals and hampering the work of authorities.⁶⁵ The same month, the trial of a Dutch journalist who faces charges of facilitating illegal stay of a third country national has been postponed. In January 2023, the Court of Mytilene quashed the criminal charges of money laundering, espionage, forgery, collaboration with smuggling networks against twenty-four rescuers, volunteers and members of civil society organisations.

The Greek NHRI informs that the UN Committee against Torture has expressed serious concerns about consistent reports of intimidation and harassment of human rights defenders and humanitarian workers and volunteers, recommending that the Greek state refrains from detaining and persecuting humanitarian workers and volunteers as means of intimidating or discouraging them from delivering vital emergency assistance to refugees and migrants.⁶⁶ The Council of Europe's Commissioner for Human Rights referred in a recent statement reminded the Greek authorities that "targeting human rights defenders and individuals engaged in acts of solidarity is both incompatible with states' international obligations and has a chilling effect on human rights work".⁶⁷

The Greek NHRI stresses that states have a right, and a duty, according to international and European law to protect their borders and tackle organised crime, terrorism and other criminal activities. On the other hand, States have clear obligations under international human rights law which also apply at borders and with respect to both third country nationals seeking asylum and humanitarian workers being at the frontline, assisting refugees with access to basic services (food, shelter, medical care etc) and procedures (reception and identification, asylum etc.). The GNCHR would like to remind to the Greek state that creating an enabling environment for human rights defenders and protect them and their work in defending human rights is also a state's responsibility.⁶⁸

In this framework, the notion of human rights defenders should be broadly interpreted to comprise anyone who acts to protect or promote human rights regardless of his profession, according to international standards.⁶⁹

The GNCHR informs that it is not aware of any laws or measures been introduced in Greece to safeguard against manifestly unfounded and abusive lawsuits against public participation (SLAPPs).

Measures undertaken by State authorities to protect and promote civic space

The NHRI states that a long-standing recommendation of both the GNCHR and the RVRN is to adopt a legislative provision for the protection of human rights defenders. As already mentioned in 2022 ENNHRI RoL Report, the GNCHR has already drafted a proposal for the recognition and protection of Human Rights Defenders and stands ready to cooperate with the Ministry of Justice on a draft bill. In this context, the GNCHR still considers that the GNCHR should be appointed as a focal point for human rights defenders.

NHRI's role in promoting and protecting civil society space and human rights defenders

The GNCHR informs that in 2022, the Recording Mechanism of Incidents of Informal Forced Returns (Recording Mechanism) became operative. The Recording Mechanism was founded by a decision of the Plenary of the GNCHR in September 2021 as the response of the Greek NHRI following two major findings: a) the absence of an official and effective data collection mechanism of informal forced returns; and b) the need for coordination among organisations who record on their own initiative any alleged incidents of informal forced returns from persons who recourse to their services. The GNCHR followed the best practice of the RVRN which operates together with the UNCHR Office in Greece since 2011. It is true that NGOs, responding to the urgent needs of refugees and migrants in the field, often lack the capacity or knowledge to record testimonies of informal forced returns. The Recording Mechanism provides the tools and the expertise to enhance NGOs' capacity in this aspect. The UNHCR Office in Greece, as a Collaborating Agency of the Recording Mechanism, provides technical assistance to its operation. In January 2023, the GNCHR hold a launching event of the Recording Mechanism at its offices where representatives from the EU Agency for Fundamental Rights, the Fundamental Rights Office of Frontex, the UNCHR Office in Greece and the IOM Mission in Greece addressed the public and welcomed the initiative.⁷⁰ The Ministry for Asylum and Migration also welcomed the initiative with a press release.⁷¹

NHRI's recommendations to national and regional authorities

The GNCHR is of the view that Greek authorities should adopt a zero-tolerance policy to hate speech against human rights defenders that stems from politicians or other people that hold public office. The NHRI believes this is crucial to foster a safe environment for civil society to operate and prevent racist crimes against human rights defenders. In parallel, all complaints on racist attacks against human rights defenders shall be effectively investigated by the police and judicial authorities in an expeditious way. Lengthy judicial proceedings add to the prevailing climate of impunity in Greece towards organised groups or individual perpetrators of hate crimes.

Greece 2023

Information from: Greek National Commission for Human Rights

Implementation of European Courts' judgments

Assessment of follow-up activities of State authorities

The NHRI states based on available statistics, that Greece has a good pace of the implementation of judgments of the European Court of Human Rights (ECtHR) and pays the amounts for just satisfaction usually within the set deadlines.⁷²

The European Court of Human Rights (ECtHR) plays a very significant role in the advancement of the effective enjoyment of human rights in Greece.⁷³ For instance, based on an ECtHR's judgment on same sex partnerships (Vallianatos and others v. Greece), Greece passed a law back in 2015 that gave same-sex couples the right to enter civil partnerships. The GNCHR has always been very progressive on LGBT rights and has since 2004 advocated for the recognition of the stable de facto partnerships between same-sex couples in law.⁷⁴ Another significant development which can be attributed to the ECtHR's judgment on Thlimmenos v. Greece is the constitutional amendment in 2001 to grant conscientious objectors the right to perform civilian service. The GNCHR closely follows the effective enjoyment of the conscientious objectors' rights and had recently intervened in times of risk.⁷⁵

Leading European Courts' judgments awaiting implementation

The GNHCR states that the institution maintains a close collaboration with the Department for the Execution of Judgments of the European Court of Human Rights and in 2022, met twice with delegations visiting Greece. According to an updated list of cases under enhanced supervision before the Committee of Ministers,⁷⁶ the following cases or groups of cases are still pending implementation by Greece:

- Beka Koulocheri group v. Greece (38878/03) which relates to a failure or considerable delay in the enforcement of final domestic judgments and absence of effective remedies (art.1 P1, art. 6, art. 6 par. 1, art. 13 ECHR)⁷⁷
- Bekir-Ousta and others group v. Greece (35151/05) which relates to a refusal to register of two associations and dissolution of one association (art. 6 par. 1, art. 11 ECHR)⁷⁸
- House of Macedonian Civilization and others v. Greece (1295/10) which relates to a refusal to register the applicants' association (art. 11 ECHR)
 - M.S.S. group v. Belgium and Greece (30696/09) which relates to shortcomings in the examination of asylum requests, poor detention conditions, absence of adequate support when release and absence of an effective remedy (arts. 3 and 13 ECHR)⁷⁹
- Sidiropoulos and Papakostas group v. Greece (33349/10) which relates to ill-treatment by police agents and coastguards and lack of effective investigations (art. 2, art. 3, art, 6 par.1, art.13, art. 14 ECHR)⁸⁰
- Nisiotis group v. Greece (34704/08) which relates to inhuman and degrading treatment on account of poor detention conditions in prison and lack of an effective remedy (art. 3 and 13 ECHR).⁸¹

During the last years (2019-2022), there have been many reforms to the Criminal Code and the Code of Criminal Procedures following the judgments of the ECtHR. The GNCHR closely followed the matter and convened a hearing of experts on the proposed changes to formulate an informative opinion. In 2022, the Penitentiary Code was amended by Law 4985/2022 on "Reform and modernization of the Penitentiary Code - Amendments to Law 2776/1999 and other provisions". The Greek National Commission commented the draft provisions before the Hellenic Parliament putting emphasis on structural issues identified, among other human rights bodies, by the ECtHR.⁸² The introduction in the new law of a remedy against prison conditions was a positive step towards implementation of the dicta on the Nisiotis group cases pending before the CoE's Committee of Ministers. the GNCHR informs that monitors its implementation and will formulate its conclusions in a forthcoming report on the Penitentiary system. Moreover, the Greek National Commission expressed its disappointment that that the new law did not respond to long-standing crucial issues regarding detention conditions in line with ECtHR's jurisprudence

and the findings of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment of Punishment on its last report on Greece.

The Greek NHRI informs that there is no qualitative analysis carried out by the authorities or other body on the reasons behind the non-execution of those cases that are still pending before the Committee of Ministers. In the GNCHR's view, most of them relate to structural deficiencies in justice, police and prisons systems. The length of proceedings, despite being improved, has not reached the EU average. Police arbitrariness has not been drastically tackled and a general climate of impunity remains. Penitentiary facilities - despite the recent reforms in the Penal Code to facilitate the exit from the system - remain overcrowded and prison conditions are below international human rights standards.

Another factor for the non-expeditious implementation of indicated general measures by the Court is the fact that either legislative reforms are involved or re-opening of cases which make things more complex, time-consuming and may lead to an impasse for several reasons attributed to the particularities of the Greek legal order.⁸³

NHRI's actions to support the implementation of European Courts' judgments

The GNCHR maintains a long standing, multi-level cooperation with the ECtHR, promoting the work of the Court and contributing to the effective implementation of its judgments.

The Greek National Commission is entrusted with the translation into Greek of the ECtHR factsheets. In addition, the GNCHR publishes yearly an updated list of all ECtHR's judgments against Greece with special mention on their status of execution. It has also developed a tool, easily accessible in GNCHR's website to facilitate both the Greek authorities and the civil society in a more effective monitoring of the execution of the ECtHR's decisions.⁸⁴ The GNCHR raises awareness to the public, to students and specific categories of professionals on ECtHR case law through training activities. The Greek National Commission, being an A-status NHRI enjoys credibility and trust by its international interlocutors, among them the Council of Europe organs. The ECtHR in particular makes regularly reference to GNCHR's reports, positions and recommendations as source of credible information on the status of human rights in Greece.

Furthermore, the GNCHR monitors the appeal cycle against Greece from the moment of its submission to the ECtHR to the issuance of a final resolution by the Committee of Ministers. In 2022, there was a high number of interim orders issued by the ECtHR concerning refugees and migrants stranded at borders. NGOs estimate that between 15 March and 21 October 2022 the Court has

granted at least 21 interim measures under Rule 39 in such cases.⁸⁵ The Greek National Commission intervened in support of the implementation of 17 interim measures indicating to the Greek authorities not to remove third country nationals from the Greek territory and to provide them with water, food, clothing and appropriate medical care.⁸⁶ In some of them, the competent Ministry provided a reasoned reply to the GNCHR's letter. In other cases, we have no official information but according to NGOs who handled the cases, most people forcibly returned to Türkiye.⁸⁷

The GNCHR, as an independent advisory body of the State gives particular emphasis on working constructively with the authorities to substantially and fully implement the ECtHR judgements against Greece. In the case of *Chowdury and others v. Greece* (known as the "Manolada case"), which was a landmark case establishing the definition of forced labour under Article 4 ECHR, the NHRI developed a strategy on its implementation, making use of the full range of its competences. Acting as a bridge-builder between the State and the civil society, the GNCHR organized two hearings with domestic stakeholders involved in the fight against human trafficking for the purpose of labour exploitation as a preparatory step for the drafting of a detailed Roadmap for the full compliance of the Greek State with the ECtHR judgment. The GNCHR initiated further a debate in Parliament on forced labour and labour exploitation where Parliamentarians discussed the GNCHR's specific recommendations.⁸⁸

In parallel to these actions at domestic level, the GNCHR submitted for the first time two Rule 9 Communications to the Committee of Ministers where the judgment was pending under enforced supervision (2018, 2020).⁸⁹ This practice was welcomed by the Department for the Execution of Judgements of the European Court of Human Rights and was considered as a best practice among peers (NHRIs).

Furthermore, in 2020, the GNCHR supported, together with UNHCR, the Racist Violence Recording Network (RVRN), a network umbrella of fifty-two civil society organisations for monitoring hate crime in Greece, which is coordinated by the GNCHR and UNCHR Office in Greece, in the preparation of the RVRN Rule 9 Submission to the Committee of Ministers of the Council of Europe in the case of *Sakir v. Greece*, which was pending before the Committee of Ministers classified as a complex problem. The case concerned the breach by the Greek authorities to effectively investigate a violent racist attack against a migrant and provide the needed support and protection to the hate crime victims. The RVRN through the submission of a Rule 9 Communication asked for the listing of this case under enhanced supervision and proposed, additionally, a comprehensive set of coherent actions to the Greek authorities to prevent future violations.⁹⁰

NHRI's recommendations to national and regional

authorities

The NHRI stresses that the execution of ECtHR judgments is extremely important both in the context of the national legal order and in the context of the Council of Europe's system. The implementation of ECtHR judgments – both by indicating individual measures, but mainly by indicating general measures – results in the harmonization of the Greek legal order with the requirements of the ECHR, adds to the prevention of new violations of rights guaranteed by the Convention and contributes to a more efficient functioning of the ECtHR through the reduction of the number of new appeals. The role of NHRIs in the implementation of the ECtHR judgments shall be promoted at national level. Competent bodies for the execution of ECtHR judgements - in Greece it is the Legal Council of State - shall be aware of the unique role and standing of NHRIs in this field and be encouraged to cooperate with them. NHRIs through their reporting and training activities can further enhance the level of awareness and knowledge of bodies entrusted with the national remedies in follow-up to ECtHR judgments. The GNCHR in its training to judges, prosecutors, judicial officers and law enforcement agents always highlights the ECHR dimension and disseminates the ECtHR jurisprudence to assist them in the consolidation of their knowledge on the ECtHR system.

Greece 2023

Information from: Greek National Commission for Human Rights

Artificial intelligence

Impact of AI on human rights, democracy and rule of law

The GNCHR informs that an ecosystem of dialogue on the impact of AI on human rights, democracy and the rule of law is gradually progressing. A National Strategy on AI has been drafted by the Ministry for Digital Governance with the help of experts.⁹¹ In 2022, Law 4961/2022 on “Emerging technologies of information and communication, strengthening digital governance and other provisions” was adopted which is part of the National Strategy and regulates issues of AI, internet of things, blockchain, 3D printing and drones. The Economic and Social Committee of Greece (OKE) has issued an opinion on AI and called for a social dialogue and a broad consultation on the National Strategy.⁹² The GNCHR has not been involved so far in any consultation process.

NHRI's actions to address challenges regarding the use of artificial intelligence

The GNCHR informs that it has not specifically addressed AI impact on the rule of law, democracy and human rights. The National Commission for Bioethics and Technoethics – which appoints a member in the GNCHR – has already addressed the matter with respect to disinformation during the Covid-19 health crisis which can be attributed to AI driven digital platforms.⁹³ Technological means and algorithms exacerbate the problem of misinformation, which increases polarization in society and erodes people's trust in politics.⁹⁴ Fake news constitutes a threat to democracy. Currently the National Commission for Bioethics and Technoethics studies the ethics of AI.

At the GNCHR level, some preliminary conclusions can be drawn from the study of the impact of technology on human rights. The NHRI has provided so far, its opinion on the impact of digitalisation on labour rights and access to asylum.

In 2021, a multi-level reform of labour law took place. The GNCHR, despite not being timely involved in the law-making procedures, submitted its comprehensive comments to all parts of the draft bill. Among others, the Greek NHRI criticised the provisions related to the communication of teleworking hours, the control on employee performance during the teleworking period. Additionally, in reference to the online platform ERGANI II and the Digital Card, the GNCHR found that the draft bill does not consider the fundamental provisions of the General Data Protection Regulation (GDPR), such as the purpose limitation, the data minimisation and the storage limitation.⁹⁵ In 2022, the GNCHR submitted its observations on the 5th National Report on the implementation of the Revised European Social Charter. In this framework, the Greek National Commission focused on the challenges of the digital transition in labour rights protection, the teleworking and the digital employment card. The Greek NHRI drafted comments on the contractual relationship between digital platforms and service providers, the right to disconnect for teleworkers and the implementation of the digital employment card and its impact on personal data of workers.⁹⁶

As regards asylum procedures, Law 4686/2020 introduced new technologies in the asylum procedure with the aim of modernizing the administration and improving the provision of services to asylum seekers. Although some provisions were positively evaluated by the Greek NHRI – such as the replacement of asylum seeker's paper card with a card with electronic registration and renewal – the introduction of an e-service system for decisions on asylum applications raised concerns as to its compatibility with the right to appropriate notification of a decision and of the reasons for that decision in fact and in law (par. 25 of the Preamble, Directive 2013/32/EU).⁹⁷ During 2021-2022, the GNCHR's Sub-Commission for the Application of Human Right to Aliens has extensively dealt with challenges occurred in the implementation of

the above law. It has convened two hearings of relevant stakeholders on asylum matters.⁹⁸ Based on the feedback of organisations or professionals working in the field with asylum seekers, access to asylum is restricted, which is in part linked with the transfer of some actions into the digital platform.

Greece 2023

Information from: Greek National Commission for Human Rights

Other challenges to the rule of law and human rights

In the GNCHR's opinion, as reiterated earlier, it is urgent the reform of the justice system to address structural malfunctions that persist over the years. Without a reform in the judicial system, the reform in all other areas will be less effective. The measures provided by the National Recovery and Resilience Plan as well as recent initiatives of the Greek Government go to the right direction but are not enough. Wider and more robust reforms are necessary to keep up with society's needs and the challenges of the new era. In Greece, the justice system mostly suffers from delays in courts' proceedings. Justice delayed is justice denied. Indeed, Greek justice can effectively tackle threats to democratic states and the rule of law, as shown in the case of the neo-Nazi party and criminal organization Golden Dawn.⁹⁹

At the same time, the role of National Human Rights Institutions is no less important; they have a distinctive role in safeguarding human rights through preventive measures or remedies provided. Consequently, strong and effective national institutions (justice and independent authorities) that are in place and operate independently are essential for upholding the rule of law, democratic values and fundamental rights.

NHRI's recommendations to national and regional authorities

The Greek NHRI recommends to the Greek states to prioritize justice reform measures, such as the digitalisation of procedures at every step (pre-trial, during trial, post-trial), the training of judges on digital skills, the staffing of courts with adequate administrative personnel, the implementation of the new system of evolution and promotion of judges, the review of the legal aid scheme and the promotion of alternative dispute resolution.

Moreover, the administration of courts, judges' associations and unions, the administration of local legal bar associations, the plenary of legal bar associations as well as other legal professions' associations, the Greek National Commission and civil society actors, like the Hellenic League for Human Rights should be consulted during the planning and implementation of governmental justice reform policies to maximise synergies and effectiveness of planned measures.

References

This list of references covers the whole country report.

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