

# GREECE

**By Dominika Spyratou, migration and human rights consultant**

## Summary:

*Since the financial crisis, the country has committed to undertake structural reforms to improve its justice system, anti-corruption framework, the legislative process, media pluralism, separation of powers and other areas relevant to the rule of law, under the strict supervision of its creditors. However, **many reforms are either slow, delayed or have not brought expected results.***

***The environment in which civil society operated in the last year is increasingly hostile.*** New legislation is restricting fundamental rights, including the freedom of association, freedom of expression and press. Requirements for the registration of NGOs active in the area of asylum, migration and social inclusion introduced by the government in 2020 continue to raise concerns. The Ministry of Migration and Asylum's decision to reject the application of Refugee Support Aegean (RSA), a well renowned NGO providing legal support to asylum seekers and refugees, despite a positive opinion from competent services, **confirms worries of arbitrariness in the implementation of the law. A new law entitled "Civil Society Organizations, Voluntary Employment and other provisions" creates an additional registry** managed by the Ministry of Interior. According to CSOs, the new law does not provide measures for strengthening or supporting their development. On the contrary, **the registration requirements** - in particular costly auditing requirements - **will increase costs and bureaucracy** for the entire sector. Non-registration could affect the financial viability of organisations since they will not be able to apply for government funding over a certain amount, and they will be omitted from other benefits, including tax exceptions. **Law 4703/2020 that regulates public outdoor assemblies, and a new National Plan for the Management of Public Outdoor Assemblies**, both introduced in January 2021, **negatively affect the right to peaceful assembly**, providing authorities with the **discretionary power to disperse or prohibit assemblies**, including with the **use of police force**. This is particularly concerning in the context where numerous instances of **excessive use of force and arbitrariness by police forces have not been investigated**. The police have also obstructed journalists from reporting on several occasions in the last year, including during protests, by arresting or by using violence against them. **A meaningful civil dialogue framework is lacking.** While various committees and bodies exist in specific policy areas, they often convene sporadically, and civil society actors are not always included or adequately represented. Civil society and other stakeholders are often not involved in the consultation process prior to the publication of the drafts, and, even then, the timeframe for submission of comments can be very short. These consultations are not usually substantial nor effective, but rather a formality - as feedback is not incorporated in the various documents.

***The government's hostile stance against civil society actors increases the negative image the public has of NGOs***, putting the lives of activists, journalists, and those who are critical of the government, in danger. **The criminalisation of people and organisations helping asylum seekers and refugees remains an issue.** Authorities often use hostile language towards CSOs and arbitrarily arrest human rights defenders, threatening them with deportation or criminal prosecution. **An emblematic case is that of volunteers Sarah Mardini and Seán Binder**, who were arrested in

2018 on numerous baseless charges (including people smuggling, espionage, fraud, membership of a criminal organisation and money laundering), which could lead to up to 25 years of imprisonment. Their trial was scheduled to start in November 2021, over three years after their arrest; nevertheless, the hearing was postponed, as the case was referred to a court of appeals with the panel of judges citing lack of jurisdiction. It is not known yet when their case will be heard, adding to their ordeal. Mardini's and Binden's case also demonstrates the gaps in Greece's judiciary system. **The government has also censored reports related to the migration situation on the islands, such as living conditions of refugees in camps and pushbacks of asylum seekers. A recent report presents evidence that the Greek Intelligence Service is monitoring journalists conducting investigative work as well as other individuals such as lawyers or employees of organisations working with refugees.**

## The regulatory environment for and implementation of civic freedoms

In 2021, there were many key developments that negatively affected the framework and the effective operation of CSOs and human rights defenders.

### **Freedom of association**

Requirements for the registration of NGOs active in the area of asylum, migration and social inclusion introduced by the government in 2020 continue to raise concerns. The law makes it hard for organisations working on migration issues to register, consequently hindering their operations. In 2021, domestic and international bodies continued to raise their concerns about the compatibility of the legislation with the country's legal obligations.<sup>1</sup> Nevertheless, Greece insists on implementing it. Indicatively, in November 2021, the Ministry of Migration and Asylum rejected the application of Refugee Support Aegean (RSA), an NGO providing legal support to asylum seekers and refugees, despite a positive opinion from competent services. Almost 20 civil society organisations<sup>2</sup> and the Greek Ombudsperson<sup>3</sup> have called for a re-examination of the decision, which remains pending. The case proves how the law gives the Greek government the power to arbitrarily reject registration applications and to question NGOs' activities, which also further affects public trust for civic actors.

In December 2021, the government adopted a new law entitled "Civil Society Organizations, Voluntary Employment and other provisions" that restricts freedom of association, this time affecting NGOs working on various issues and

fields. According to the new legislation,<sup>4</sup> a registry will be created and managed by the Ministry of Interior; however, the registration requirements - in particular costly auditing requirements - will not be easily met by NGOs, especially by those that are small or newly established. Non-registration could affect the financial viability of organisations since they will not be able to apply for government funding over a certain amount (over 50,000 EUR in total per year) and they will be omitted from other benefits, including tax exceptions. More than 300 CSOs raised their concerns that the new law does not provide measures for strengthening or supporting their development; instead, it will increase costs and bureaucracy for them.<sup>5</sup>

Criminalisation of people and organisations helping asylum seekers and refugees remains an issue. In recent years, the Greek government has adopted measures (for example, the new NGO Laws presented above) to restrict CSOs' activities. Furthermore, authorities often use hostile language towards CSOs and arbitrarily arrest human rights defenders, threatening them with deportation or criminal prosecution. An emblematic case is that of volunteers Sarah Mardini and Seán Binder, who were arrested in 2018 on numerous baseless charges (including people smuggling, espionage, fraud, membership of a criminal organisation and money laundering), which could lead to up to 25 years of imprisonment. Their trial was scheduled to start in November 2021, over three years after their arrest; nevertheless, the hearing was postponed, as the case was referred to a court of appeals with the panel of judges citing lack of jurisdiction. It is not known yet when their

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<sup>1</sup> <https://rsaagean.org/en/registry-of-ngos-working-with-refugees-and-migrants-in-greece-under-scrutiny/>

<sup>2</sup> <https://rsaagean.org/en/joint-statement-by-19-org-ngo-registry-rejection/>

<sup>3</sup> <https://rsaagean.org/en/ombudsman-calls-for-re-examination-of-rejection-of-rsas-registration-on-the-ngo-registry/>

<sup>4</sup> <https://www.hellenicparliament.gr/UserFiles/bcc26661-143b-4f2d-8916-0e0e66ba4c50/11816870.pdf>

<sup>5</sup> <https://higgs3.org/koini-dilosi-287-organoseon-gia-to-neo-nomoschedio-tis-ktp/>

case will be heard, adding to their ordeal. Mardini's and Binden's case not only demonstrates the gaps of Greece's judiciary system, but it is also a reminder that criminalisation of human rights defenders is an ongoing issue.

### **Freedom of assembly**

Law 4703/2020 that regulates public outdoor assemblies, and a new National Plan for the Management of Public Outdoor Assemblies, both introduced in January 2021, are concerning. The Law, among other issues, gives authorities the discretionary power to disperse or prohibit assemblies. The Plan lacks clarity regarding the instances that allow the use of police force for the dispersal of assemblies, and this could potentially lead to an increase of such instances. Moreover, its guidelines about the use of surveillance systems during demonstrations raise concerns about data retention rules, and this could potentially be intimidating for peaceful protesters.<sup>6</sup>

During the country's lockdowns, the adopted measures and legislation have put the right to freedom of assembly at risk. Public assemblies were banned and peaceful protesters - including human rights defenders, members of trade unions and political parties demonstrating against police violence or other serious issues that occurred during the pandemic (for example, problems in the health care system - were penalised, arrested and fined for allegedly breaching public health rules. On many occasions, the police used unnecessary and excessive force and made keeping safe distances from each other impossible for demonstrators. Likewise, detention conditions following arrests often

did not follow Covid-19 rules, as facilities were overcrowded. In many of these cases, police arbitrariness has not been investigated - which remains a common practice in Greece.

### **Freedom of expression**

In November 2021, a new criminal code provision made 'fake news' a criminal offence, punishable with up to five years in prison. The vague definitions and punitive sanctions of the new law could negatively affect free speech and media freedom, as it could be used to punish journalists and civil society actors who criticise the government.<sup>7</sup>

Greece had until 17<sup>th</sup> December 2021 to transpose the EU Directive on Whistleblowing into national legislation, but it missed the deadline. The country had two years to implement the transposition of the EU Directive; however, it did not manage to do so. Besides delays, concerns also exist regarding the quality of the transposition. So far, reform efforts lack transparency and inclusiveness, despite the fact that CSOs have sent recommendations to strengthen whistleblowing protection and have urged the government to accept input from various stakeholders. As no information about progress is publicly available, in July 2021 MPs filed a relevant question in Parliament. The Ministry of Justice's response was that no data could be provided, as they were being processed by the committee responsible for drafting the law.<sup>8</sup>

Surveillance law could violate rights. A new law amendment regarding the confidentiality of communications - which was adopted in March 2021 - allows the National Intelligence Service (EYP) to monitor citizens without them being notified about it. According to members

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<sup>6</sup> For a full list of freedom of assembly violations and the use of police force in Greece during Covid-19 see Amnesty International's report 'Greece: Freedom of Assembly at Risk and Unlawful Use of Force in the Era of COVID-19' (July 2021): <https://www.amnesty.org/en/documents/eur25/4399/2021/en/>

<sup>7</sup> <https://www.hrw.org/news/2021/11/17/greece-alleged-fake-news-made-crime>

<sup>8</sup> For more information regarding steps the government has taken so far to transpose the Directive and issues that have arose see: <https://whistleblowingmonitor.eu/?country=greece>

of the Hellenic Authority for Communication Security and Privacy (ADAE), the provision may violate the constitutionally guaranteed protection of the confidentiality of communications, as well as the right to respect for one's privacy and family life of the European Convention on Human Rights. A proper consultation process was not followed prior to the adoption of the provision. In this context, it is worth mentioning that the number of cases where confidentiality was lifted for national security purposes has steadily and disproportionately increased in recent years.<sup>9</sup>

Attacks on journalists continue. The police have obstructed journalists from reporting on several occasions in the last year, including during protests, by arresting or by using violence against them. The government has also censored reports related to the migration situation on the islands, such as living conditions of refugees in camps and pushbacks of asylum seekers. A Dutch journalist was forced to leave the country because of threats to her life after asking the Greek Prime Minister a direct question regarding refugee pushbacks. The PM was angered and accused the journalist of insulting him and the Greek people, a reaction that triggered the threats. Moreover, a recent report presenting evidence that the Greek Intelligence Service is monitoring journalists conducting investigative work as well as other individuals such as lawyers or employees of organisations working with refugees is concerning.<sup>10</sup>

### **The framework for civic organisations' financial viability and sustainability**

Following the new legislation that introduced strict requirements for the registration of

NGOs, NGOs unable to register will not be able to access government funding. Funds from the 2021-2027 Multiannual Financial Framework and the new EU Recovery and Resilience Facility, which could have supported the sector during the pandemic's challenging times, were not allocated for such purposes. The country's National Recovery and Resilience Plan (NRRP) does not include civil society as a beneficiary, while the government has yet to take adequate measures to include CSOs in the planning, monitoring and implementation of EU Funds, as per the EC's guidelines.

### **The right to participation and dialogue between the sector and governing bodies**

A meaningful civil dialogue framework is lacking. While various committees and bodies exist in specific policy areas, they often convene sporadically, and civil society actors are not always included or adequately represented. Public consultations, where draft laws and policies are published on a consultation portal for comments, remain the main mechanism through which civil society organisations can provide feedback. However, civil society and other stakeholders are often not involved in the consultation process prior to the publication of the drafts, and, even then, the timeframe for submission of comments can be very short. These consultations are not usually substantial nor effective, but rather a formality - as feedback is not incorporated in the various documents. During the pandemic, dialogue processes were limited, and new laws and measures were adopted following urgent procedures, making it extremely difficult for civil society actors to follow developments, access information and provide input.

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<sup>9</sup><https://www.reportersunited.gr/7359/parakoloythis-eis-eyp-siopi-o-vasilias-akoyei/?fbclid=IwAR3-ZmNHk9h870r2azMQYIzxOsABs-b-eSA7T86cCNxgGvWHNCj71VSIstM>

<sup>10</sup> <https://balkaninsight.com/2021/11/16/greek-state-spies-on-journalists-lawyers-civil-servants-report/>



## Recommendations

2021 was yet another year in which developments in Greece prove that civic space and civil society's ability to act are shrinking. The country's ranking in the 2021 World Justice Project Rule of Law Index is indicative, as Bulgaria and Hungary are the only countries with lower regional scores. Greece is following a declining trajectory, as it has slipped one ranking since 2020 and four since 2019.<sup>11</sup>

Civil society is vital for building and strengthening democracy, as well as for protecting common European values and human rights. It is also crucial for making sure that EU policies are implemented fairly and correctly. During the pandemic, civil society actors offered necessary services and assistance to vulnerable groups which the government did not have the means to support, while they also safeguarded rights, acting as watchdogs on the government's policies and actions. In order to fulfil its mission, civil society needs an enabling environment: therefore, the Greek government and the EU should take coherent actions to reverse this trend.

Such actions include:

- To promptly implement planned structural reforms to increase the efficiency, transparency and quality of the country's justice system, improve law making processes and protect media freedoms;
- To amend legislation that restricts the freedom of assembly and association, as per recommendations by national and international bodies and experts;
- To strengthen the role of civil society actors in policymaking, by supporting an open, transparent and regular dialogue

- To provide financial support to the NGO sector, including through EU funding, and to increase clarity and transparency around EU funding and opportunities for NGOs participation.
- To protect civil society, by recognising the services provided by CSOs to marginalised groups and society as a whole, and therefore by changing the negative public narratives about them.
- To improve the operational framework for CSOs, following a meaningful consultation process with them, to ensure their effective protection against attacks and other forms of harassment.

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<sup>11</sup> <https://worldjusticeproject.org/rule-of-law-index/country/Greece>