

# **Legal environment and space of civil society organisations in supporting fundamental rights and the rule of law**

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# 1 Civic space developments in 2021

<b>1.1 Regress in freedom of the press</b>	
Area	Freedom of expression and information
Topic	Academic freedom, Artistic freedom, Media freedom; Censorship; Surveillance
Impact	Major

The continued backsliding in freedom of the press observed in Greece in 2020 carries on in 2021, with Reporters without Borders ranking the country in the 70<sup>th</sup> place in their World Press Freedom Index (-5 since 2020).<sup>1</sup>

A new policy paper, issued on 21 January 2021 by the Ministry for Citizen Protection<sup>2</sup> assigns “police liaisons” and institutes designated spaces for reporters covering public demonstrations. The relevant provisions were issued without consultation with Journalists’ associations and have been criticised for having the potential to restrict reporters’ activity and for making it easier for the authorities to disseminate their own version of events at the expense of independent coverage.<sup>3</sup> The Journalists’ Union of Athens Daily Newspapers has expressed their concern and opposition to the new provisions.<sup>4</sup>

The repeal of article 191 of the Criminal Code on the spreading of misinformation<sup>5</sup> constitutes another concerning development, drawing criticism from civil society

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<sup>1</sup> Reporters without Borders (RSF), “Dangerous cocktail for press freedom”, available at <https://rsf.org/en/greece>.

<sup>2</sup> Greece, Ministry for Citizen Protection (*Υπουργείο Προστασίας του Πολίτη*), National Plan for the Management of Public Outdoors Gatherings accessible in Greek [http://www.minocp.gov.gr/images/stories//2021/27012021-ethniko\\_sxedio2.pdf](http://www.minocp.gov.gr/images/stories//2021/27012021-ethniko_sxedio2.pdf). The relevant passage states “The police shall designate a specific area for journalists, where they will be able to resort to in cases of violent incidents, should they wish so, in order to protect themselves. ... An officer, designated in advance will act as a liaison with them for the duration of the public gathering, to facilitate, if so requested, the exercise of their mission and assist them in case of injury”.

<sup>3</sup> Reporters without Borders (RSF), “Greece’s new guidelines for policing protests threaten press freedom”, 2 February 2021, available at <https://rsf.org/en/news/greeces-new-guidelines-policing-protests-threaten-press-freedom>.

<sup>4</sup> Greece, Journalists’ Union of Athens Daily Newspapers (*Ένωση Συντακτών Ημερήσιων Εφημερίδων Αθηνών*), “Letter to the Minister of Citizen Protection Mr. Mich. Chrysochoidis on the National Plan for the Management of Public Outdoors Gatherings” (*Επιστολή προς τον Υπουργό Προστασίας του Πολίτη κ. Μιχ. Χρυσόχοϊδη για το νέο Εθνικό Σχέδιο Διαχείρισης Δημοσίων Υπαιθριων Συναθροίσεων*), Press release 21 January 2021, available at <https://www.esiea.gr/epistoli-pros-ton-ypourgo-prostasias/>.

<sup>5</sup> Greece, Law 4855/2021 “Amendments to the Penal Code, the Code of Criminal Procedure and other urgent provisions” (*Τροποποιήσεις του Ποινικού Κώδικα, του Κώδικα Ποινικής Δικονομίας και άλλες επείγουσες διατάξεις*) (O.G. Α’ 215/12.11.2021). Article 36 states “Whoever spreads publicly or through the internet false information which is capable of causing worry or fear to citizens or to

both nationally and internationally. <sup>6</sup> In accordance with the new provision, the spreading of misinformation through the press or the internet incurs a penalty of a minimum of 6 months imprisonment and a fine for the person who spread the “fake news”, as well as for the owner or the publisher of the medium which hosted the alleged false information.

In light of the recent media reports on a surveillance operation performed by the National Intelligence Service against a journalist, <sup>7</sup> concerns are on the rise regarding freedom of the press in Greece, to the obvious detriment of civil society.

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shake public trust in the economy, the country’s defensive capabilities or public health is punished with imprisonment of a minimum of 3 months and a financial penalty. If the act has been committed repeatedly through the press or the internet, the perpetrator is punished with imprisonment of a minimum of 6 months and a financial penalty. The owner or publisher of the medium through which the previous acts have been committed is punished with the same penalty”.

<sup>6</sup> Greece, Hellenic League for Human Rights (*Ελληνική Ένωση για τα Δικαιώματα του Ανθρώπου*), “The amendment of the Penal Code for the spread of false news violates the freedom of expression and does not prevent the spread of the coronavirus” (*Η τροποποίηση του ΠΚ για τη διασπορά ψευδών ειδήσεων πλήττει την ελευθερία της έκφρασης και δεν αποτρέπει τη διασπορά του κορωνοϊού*), Press release, available at <https://www.hlhr.gr/%ce%b7-%cf%84%cf%81%ce%bf%cf%80%ce%bf%cf%80%ce%bf%ce%af%ce%b7%cf%83%ce%b7-%cf%84%ce%bf%cf%85-%cf%80%ce%ba-%ce%b3%ce%b9%ce%b1-%cf%84%ce%b7-%ce%b4%ce%b9%ce%b1%cf%83%cf%80%ce%bf%cf%81%ce%ac-%cf%88%ce%b5/>; Human Rights Watch, “Greece: Alleged ‘Fake News’ Made a Crime”, available at [https://www.hrw.org/news/2021/11/17/greece-alleged-fake-news-made-crime#:~:text=\(Athens\)%20%E2%80%93%20A%20criminal%20code,of%20expression%20and%20media%20freedom.](https://www.hrw.org/news/2021/11/17/greece-alleged-fake-news-made-crime#:~:text=(Athens)%20%E2%80%93%20A%20criminal%20code,of%20expression%20and%20media%20freedom.)

<sup>7</sup> Greece, Efsyn.gr (*Η Εφημερίδα των Συντακτών*), “Citizens under surveillance by the EYP” (*Πολίτες σε καθεστώσ παρακολούθησης από την ΕΥΠ*), 14 November 2021, available at [https://www.efsyn.gr/themata/thema-tis-efsyn/319063\\_polites-se-kathestos-parakolythisis-apo-tin-eyyp](https://www.efsyn.gr/themata/thema-tis-efsyn/319063_polites-se-kathestos-parakolythisis-apo-tin-eyyp); Deutsche Welle “Authorities accused of spying on journalists in Greece”, 17 December 2021, available at <https://www.dw.com/en/authorities-accused-of-spying-on-journalists-in-greece/a-60152161>. The Journalists’ Union of Athens Daily Newspapers (ESIEA) and the European Federation of Journalists have issued relevant statements (ESIEA: <https://www.esiea.gr/psifismatis-taktikis-genikis-syneley/>; EFJ: <https://europeanjournalists.org/blog/2021/11/19/greece-answers-needed-over-alleged-state-surveillance-of-journalist/>).

<b>1.2 Further restrictions to the activities of NGOs active in the areas of asylum and migration</b>	
Area	Safe space & protection; Freedom of association
Topic	Criminalisation of humanitarian or human rights work; Formation and registration of associations; Surveillance
Impact	Major

Building on restrictions to the activities of NGOs active in the areas of asylum and migration introduced in 2020,<sup>8</sup> law 4825/2021<sup>9</sup> introduces new registration requirements and further criminalizes NGOs providing services in areas within the competence of the Hellenic Coastguard, especially NGOs engaging in search and rescue missions at sea. Specifically, according to article 40 of the new law, NGOs and their members who wish to engage in such activities must:

- (a) Be registered in the special registry for local and foreign NGOs and the separate registry for members of such NGOs kept by the Ministry of Migration and Asylum;
- (b) Act under the orders and guidance of the Coastguard, on the condition that they have prior authorization to perform search and rescue missions based on their inclusion in the Coastguard's Local Emergency Plans, and that they have not performed any such missions in the past without prior authorization by the competent Coastguard authority;
- (c) Engage in the management of cases of irregular entry to the country by sea only if the Hellenic Coastguard is unable to act in a specific instance and provided that they have previously informed the Coastguard authorities and have acquired their written approval.

Violation of the above provisions by a member, employee or associate of the respective NGO incurs a sentence of imprisonment of one year, or of a minimum of 3 years if their actions cause an accident, without prejudice to stricter penalties on the basis of other applicable provisions. In addition, the NGO is liable to pay a fine of up to 6 000 Euros, and each person involved in the mission a fine of up to 1 000 Euros. In case of a second violation these fines are doubled and the NGO as well as its members are automatically removed from the relevant registries.

<sup>8</sup> European Union Agency for Fundamental Rights (FRA), Legal environment and space of civil society organisations in supporting fundamental rights - Country research-Greece, available at <https://fra.europa.eu/en/country-data/2021/civic-space-report-2021>.

<sup>9</sup> Greece, Law 4825/2021 "Reform of deportation and return procedures of third country nationals, attraction of investors and digital nomads, issues of residence permits and procedures for granting international protection, provisions of competence of the Ministry of Immigration and Asylum (Αναμόρφωση διαδικασιών απελάσεων και επιστροφών πολιτών τρίτων χωρών, προσέλκυση επενδυτών και ψηφιακών νομάδων, ζητήματα αδειών διαμονής και διαδικασιών χορήγησης διεθνούς προστασίας, διατάξεις αρμοδιότητας Υπουργείου Μετανάστευσης και Ασύλου) (O.G. A' 157/04.09.2021).

Adding to the worrisome trend of criminalising humanitarian aid and human rights defenders in this particular field, recent media reports reveal that the National Intelligence Service has been monitoring NGOs active in the area of asylum and migration, their members, as well as journalists investigating these topics.<sup>10</sup>

<b>1.3 Financial support to civil society</b>	
Area	Financing framework
Topic	Funding landscape; Tax regime
Impact	Undetermined

A new law was enacted toward the end of 2021,<sup>11</sup> aiming at supporting civil society organisations in their public benefit activities. The law establishes a new database and a public registry for CSOs, introduces state aid and tax exemptions, and provides monetary incentives to private actors in order to encourage charitable donations and donations to CSOs. Some new safeguards are also introduced for volunteers, such as the obligation to equip them with protective gear and to cover some medical and other expenses related to their tasks (travel, accommodation, etc.).

It is not mandatory for CSOs to register to the new database and registry. However, only registered organisations benefit from the above-mentioned exemptions and may request state aid. CSOs registered in the database can request up to 50,000 Euros in state aid each year, while for those which are also in the registry there is no such limit. Entry in the registry is subject to certain conditions and bureaucratic requirements which have been criticised as overly cumbersome, especially for smaller CSOs who lack the requisite administrative capacity.<sup>12</sup> In addition, CSOs must be active for at least three years in order to register.

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<sup>10</sup> Greece, Efsyn.gr (*Η Εφημερίδα των Συντακτών*), "Citizens under surveillance by the EYP" (*Πολίτες σε καθεστώς παρακολούθησης από την ΕΥΠ*), 14 November 2021, available at [https://www.efsyn.gr/themata/thema-tis-efsyn/319063\\_polites-se-kathestos-parakoloythisis-apo-tin-eyyp](https://www.efsyn.gr/themata/thema-tis-efsyn/319063_polites-se-kathestos-parakoloythisis-apo-tin-eyyp).

<sup>11</sup> Greece, Law 4873/2021 "Protection of volunteering, strengthening the action of the Civil Society, tax incentives for the strengthening of the public benefit action of the CSOs and other provisions" (*Προστασία του εθελοντισμού, ενίσχυση της δράσης της Κοινωνίας των Πολιτών, φορολογικά κίνητρα για την ενίσχυση της κοινωφελούς δράσης των Ο.Κοι.Π. και λοιπές διατάξεις*) (Ο.Γ. Α' 248/16.12.2021).

<sup>12</sup> Greece, Vouli Watch, "Civil Society Law: 'Yes' to regulation - 'No' to downsizing" (*Νομοσχέδιο για την Κοινωνία των Πολιτών: «Ναι» στη ρύθμιση - «Όχι» στη συρρίκνωση*), available in Greek at <https://vouliwatch.gr/actions/article/koinonia-ton-politon-nai-sti-rythmisi-ohi-sti-syrriknosi>.

The law will enter into force on 16 April 2022, thus its potential effects on civil society are not yet clear. Nevertheless, it should be noted that more than 300 CSOs have signed a statement <sup>13</sup> urging the government to reconsider the rationale of the – then – legislative proposal, which they claim impacts on the independence of CSOs, creates an uneven playing field and a two-speed civil society to the detriment, in particular, of smaller and newly formed CSOs, and fails to establish an appropriate framework for the interaction of state and civil society.

## 2 Examples of civil society contributions to the rule of law

<b>2.1 Citizenship in Practice</b>	
Topic	Contributing to law and policy making (including involvement in public consultations)

The project “Citizenship in Practice” addresses – for the first time in Greece – the need to evaluate the administrative process of granting citizenship with a view to contributing to equal access and enjoyment of the right to citizenship. The project commenced in May 2021 and is funded under the Active Citizens Fund programme. It is implemented by Generation 2.0 for Rights, Equality & Diversity (coordinator) in partnership with the Hellenic League for Human Rights.<sup>14</sup>

Specifically, the aim of the project is to improve current administrative practice, identify bottlenecks and submit policy proposals to simplify procedures to the benefit of prospective citizens. To this end, the project partners monitor the way in which public administration implements citizenship legislation in order to collect, record and highlight issues that restrict access to and acquisition of citizenship. The first project report, covering the period from April to July 2021, has already been issued.<sup>15</sup>

<sup>13</sup> Greece, HIGGS, “Joint statement of 303 organisations on the new bill on CSOs” (*Κοινή Δήλωση 303 Οργανώσεων για το νέο Νομοσχέδιο της ΚτΠ*), 23 November 2021, available in Greek at <https://higgs3.org/koini-dilosi-287-organoseon-gia-to-neo-nomoschedio-tis-ktp/>.

<sup>14</sup> [Active Citizens Fund](#)

<sup>15</sup> Greece, Generation 2.0, “Citizenship in practice” (*Ιθαγένεια στην Πράξη*), available in Greek at <https://g2red.org/wp-content/uploads/2021/10/%CE%96%CE%B7%CF%84%CE%AE%CE%BC%CE%B1%CF%84%CE%B1-%CE%99%CE%B8%CE%B1%CE%B3%CE%AD%CE%BD%CE%B5%CE%B9%CE%B1%CF%82-%CF%83%CF%84%CE%B7-%CE%B4%CE%B9%CE%BF%CE%B9%CE%BA%CE%B7%CF%84%CE%B9%CE%BA%CE%AE-%CE%B4%CE%B9%CE%B1%CE%B4%CE%B9%CE%BA%CE%B1%CF%83%CE%AF%CE%B1-%CE%91%CF%80%CF%81%CE%AF%CE%BB%CE%B9%CE%BF%CF%82-%CE%99%CE%BF%CF%8D%CE%BB%CE%B9%CE%BF%CF%82-2021.pdf>.

## 2.2 First Greek Asylum Case Law Report

Topic	Monitoring the legality and proportionality of laws, measures and practices; triggering the judicial review of laws, measures and practices and the enforcement of rulings; strategic litigation
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The Greek Asylum Case Law Report is a joint initiative of the Greek Council for Refugees (GCR), HIAS Greece and Refugee Support Aegean (RSA), organisations providing legal support and representation to refugees and asylum seekers in Greece. The report compiles extracts of decisions issued by Administrative Courts, Independent Appeals Committees and the Asylum Service in the area of international protection, selected from the casework of the above organisations in the context of their legal aid and strategic litigation activities.

The first issue, published in 2021, contains excerpts from 127 decisions issued in 2020-2021 relating to topics such as the interpretation of the “safe third country” concept, evidence assessment and refugee status determination, procedural safeguards in the asylum procedure, the workings of administrative appeals and of judicial protection of asylum seekers, the rights of beneficiaries of international protection, as well as immigration detention.

Through the Greek Asylum Case Law Report, the involved organisations seek to contribute to filling important gaps in the availability of Greek case law on asylum and to informing the legal and broader community of jurisprudential developments in the field, ultimately improving legal services and access to justice in this area.

## 2.3 ZackieOh Justice Watch

Topic	Supporting public authorities in countering discrimination, hate crime and hate speech
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ZackieOh Justice Watch <sup>16</sup> is an initiative that was set up to monitor and record the trial currently underway for the killing of Zak Kostopoulos – Zackie Oh, an LGBTQ+ activist and drag artist, who died following a brutal assault by civilians and the police in September 2018. <sup>17</sup>

Building on previous successful initiatives, such as GoldenDawnWatch,<sup>18</sup> a team of professionals and citizen journalists, joined by lawyers and supported by independent media, will record a blow-by-blow account of the process, which

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<sup>16</sup> Greece, ZackieOh Justice Watch, available at <https://zackieohjustice.watch/en/about-en/>.

<sup>17</sup> Wikipedia, Killing of Zak Kostopoulos, available at [https://en.wikipedia.org/wiki/Killing\\_of\\_Zak\\_Kostopoulos](https://en.wikipedia.org/wiki/Killing_of_Zak_Kostopoulos).

<sup>18</sup> <https://goldendawnwatch.org/?lang=en>

began on 20 October 2021, from beginning to end. Those involved base the need for monitoring on their belief that modern media, communication and social networks, have greatly expanded the audience that is required to ensure the public character of a trial as demanded by constitutional law – a fundamental principle for a democratic judiciary.

The live recording of the court hearings is broadcast on ZackieOh Justice Watch's social media accounts:

Twitter: <https://twitter.com/ZJusticeWatch>

Facebook: <https://www.facebook.com/zackieohjusticewatch>