



FUNDAMENTAL RIGHTS AND THE RULE OF LAW

Report on the visit to Greece

5-6 May 2022



European Economic
and Social Committee



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Six members took part in the visit to Greece. The delegation met with several representatives of civil society, specifically civil society organisations (CSOs), social partners, the media and the legal profession, as well as the Greek authorities. The aim of this report is to faithfully reflect and reproduce the views of civil society.

1. Fundamental rights related to social partners

Participants in this session considered that the **rights of social partners** were well protected by the broad statutory framework and the Constitution, which included explicit provisions on the right to collective bargaining, freedom of association, the rights of trade unions and the right to strike.

However, they also felt that **the consequences of the 2008 financial crisis and austerity policies** had affected collective bargaining, public consultation, the ability of the social partners to influence political decisions, and democratic processes in general. This had exacerbated subsequent crises such as climate change, reception of asylum seekers and COVID, increasing economic and social inequalities in the country and leading to a gradual fall in the standard of living of the majority of Greece's population. The public sector had borne the brunt of that situation, as illustrated by the compression of salaries – notably with the suppression of the 13th month's pay and lack of salary increases in the past years.

Social partners regretted their underrepresentation in **trilateral social dialogue**, which meant that the authorities had *de facto* had the last word. Years of economic adjustment programmes had also affected the quality of consultation of social partners, which they felt was too fast. Participants considered that social dialogue had proved useful during the COVID crisis and led to appropriate solutions, showing the need to set up a genuine tripartite dialogue to discuss all socioeconomic questions, beyond the simple remit of labour law.

Participants explained that collective bargaining existed at national, sectoral, company level, but that there had been a longstanding practice of **submitting collective agreements to arbitration**, abiding by the authorities' decision in the final instance. Greece had issued a declaration on Article 6 of the revised European Social Charter (on the right to collective bargaining), stipulating that it would not apply to arbitration mechanisms for the settlement of labour disputes. Social partners described such a system as almost "compulsory arbitration", which they considered was not to the standard of a democratic country and had a long-term freezing effect on collective bargaining. They explained that this system tended to be abandoned with time but that Greece was still looking for a better model of social dialogue.

Social partners, and particularly employers, felt affected by the regrettably **slow judicial system**. A representative of the employers described how a Supreme Court decision on the calculation of the minimum wage had taken two years just to go through the admissibility stage. Others referred to legal cases involving extremely long court decision processes sometimes lasting for years, and thus undermining foreign investors' trust and interest in placing FDI in Greece. Such issues were present in courts at all levels, including administrative courts, acting as a clear deterrent to major investments in the country.

2. Freedom of association and assembly

A CSO representative presented findings of a 2021 report on **abuse of power by the police in the context of assemblies**. This report found that the 2020 legislative reforms regulating assemblies during the COVID period had been problematic in several respects. They had allowed the police to disperse peaceful assemblies on the grounds of an isolated act of violence – instead of concentrating the response on the individual provoking violence. The report indicated that peaceful protestors had been arrested apparently after having been randomly picked up by the police purely for being part of a rally going out of control. The report also considered that the obligatory regime of notifying the authorities of assemblies was below international standards, as was the fact that assemblies could be banned on the basis of broad references to protection of public order. It also pointed to the fact that the blanket bans on assemblies during the COVID period, in November and December 2020, as well as in January-February 2021, had led to protestors being arrested. The participant in question felt that the authorities considered abuse of power by police to be isolated cases and failed to show clear political willingness to address such a systematic issue and the general judicial impunity surrounding it. The Greek authorities indicated that possible abuses of force by the police were dealt with at several levels, through an internal police mechanism, the Ombudsman and the National Transparency Authority.

Participants felt that civil society had been impacted by years of **austerity measures** and that the effects had become almost permanent in this sector, as in the rest of society. The health system, labour

rights and vulnerable groups were presented as having been hit by several waves, with the COVID crisis following austerity measures.

In that context, participants regretted the rise of **a suspicious narrative** against civil society, in particular organisations and individuals working with migrants, including asylum seekers, which sometimes led to the individual targeting of CSO workers. They also regretted a lack of trust between CSOs and authorities and felt that the most active and vocal CSOs did not benefit from public funding, leading to an overall weakening and division of civil society. Access to public funding – especially for sums over EUR 50 000 – was subject to heavy financial audit requirements costing thousands of euro, which greatly complicated access to any funds for small or medium CSOs. Participants acknowledged that public consultation of CSOs existed but they regretted that it was generally too quick to be meaningful.

Participants talked about the mandatory **registry for CSOs working in the area of asylum and migration**, established in 2020. They felt that demands set by authorities in that framework had become more and more strict and disproportionate with time, as had the scope of their responses. One such requirement concerned criminal records for employees and volunteers, which was seen as limiting the possibilities for reintegrating ex-offenders through employment. According to a participant, authorities could decide if a CSO was "beneficial" in the area of asylum and migration on the basis of vague criteria. Participants also regretted that a CSO could be deregistered if a deadline in the hefty registration procedure was not met. They considered that this situation indirectly affected migrants, including asylum seekers, as CSOs played a major role in them exercising their rights. The Greek authorities explained that their position with regard to the CSO registry was that no CSO failing to keep the law should be included in it or have access to it.

Participants explained that **Turkish and Macedonian minorities** could not organise themselves as CSOs with explicit references to the name of their communities – a restriction which had been justified by the Supreme Court on grounds of protection of public order. Decisions by the European Court of Human Rights in that domain were not being implemented.

3. Freedom of expression and freedom of the media

Participants in this session pointed out that, regrettably, Greece had fallen a long way down the **Reporters Without Borders Index** in the past years, and was now last on the EU list. They considered that the issue was not so much that journalists were not free, as there was overall good legal protection of freedom of expression. Challenges rather lay in a combination of state and major business capture of media, authorities' reluctance to be transparent, and self-censorship in the media sector.

Participants explained that there was a trend towards **concentration** of traditional media outlets. Major media belonged to businesspeople: for example, a large majority of private TV channels were owned by huge ship-owners. The restructuring of the media sector following the various socioeconomic crises and the digital transformation had led to a great number of media professionals being laid off. In parallel, small online media had proliferated, reaching a wide readership based on a precarious economic model in which a few staff were employed on fairly low wages under less favourable work conditions. Small independent media outlets could not count on regular profitable business advertisements as a source of sustainable and independent revenue and were looking for alternative models such as grants from foundations supporting investigative journalism, subscription-based models, or a non-profit status. Concerning transparency of ownership, the Greek authorities explained that a new law required all media to publish information on this.

The **socioeconomic conditions of journalists** were considered to be average if compared to the general economic situation of the country, with journalists generally receiving a salary slightly above the minimum wage. However, participants regretted that working conditions had severely deteriorated since the austerity measures had been introduced, with the sector being one of the first to experience the labour laws put in place around the bailout. In that context, many complained that collective bargaining was non-existent and that media workers were at the mercy of cancellable media contracts. Many of the younger generation of journalists could only find employment opportunities in "news rooms", where they mostly reformatted existing information, instead of working in the area of investigative journalism.

Participants explained how **self-censorship** was driven by invisible factors. Most journalists would not address issues seen as critical to the authorities, and there was a polarising tendency in public debates to associate journalists with one or other side of official narratives. For example, it was particularly difficult to report on alleged illegal pushbacks of migrants at the Greek borders without risking being portrayed as an agent of Turkey, and there were cases of journalist arrests for pictures taken at the border. Representatives of recognised international daily newspapers were also accused of spreading fake news for having reported on pushbacks.

Participants considered that the authorities had considerable **influence over public TV and radio** and that instructions on how to treat any matters involving them were sometimes circulated. Journalists in these public media outlets would tend to be particularly challenging of representatives of the opposition during interviews. News agencies tended not to question the official government narratives on a number of domains.

Participants felt that **pressure** could sometimes be more explicit, giving the example of an investigating journalist who risked going to prison for having used leaks to report on alleged bribery involving the pharmaceutical company Novartis. Concerning this file, the Greek authorities asserted that the journalist had been investigated for the alleged use of classified information and possible extortion of information without any evidence, not for having written articles.

Participants also regretted the absence of a breakthrough in the investigation of the **assassination** of investigative journalist Giorgos Karaivaz in 2021. The Greek authorities indicated that this case was still under investigation but no link had been established with political or public affairs. More generally, they mentioned their work on developing initiatives on the safety of journalists, which they aimed to align with best practices.

Participants also warned against the development of **surveillance of journalists**. Reference was made to one specific case of a journalist who had allegedly been hacked with spyware software, after having been wiretapped by the national secret services. They believed that the Greek authorities had issued a great number of surveillance decrees on state security grounds, and that there was no reason why the use of spyware would remain an isolated case. The Greek authorities explained that they had provided several public justifications of the surveillance in question, which represented their official position. Three investigations were under way concerning the possible involvement of national services in wiretapping of journalists – by the National Transparency Agency, the Authority for Communication Security and Privacy, and the Public Prosecutor.

A participant gave an example of what was considered to be authorities' general reluctance to provide **access to information** – in particular concerning sensitive issues such as migration or the arms trade – or to answer critical questions in the framework of journalist investigations. Information access requests concerning the obscure criteria for the allocation of EUR 20 million by the authorities to some "friendly" media outlets to broadcast public health messages during COVID had remained mostly unanswered. Without such information, and in the absence of any judicial investigation into the matter, it had been impossible for the investigative journalists behind the requests to clarify why some outlets received much more than others. The only possibility left for journalists to obtain the information had been to go to court, where they had won their case.

Participants took note with extreme caution of the **2021 law against fake news**. While they acknowledged the need to address the phenomenon following its rise during the COVID period, they feared that excessively vague criteria on news "provoking fear or anxiety for citizens" could lead to abusive and unacceptable implementation.

4. The right to non-discrimination

During the session with social partners, employers suggested that Greece was compliant with the EU directives on **non-discrimination** in the area of employment, and referred to 2021 labour legislation explicitly prohibiting termination of a contract for reasons linked with the EU protected criteria on non-discrimination. References were also made to the work of the Ombudsman in persistently promoting the principle of equal treatment in the public and private sectors. Participants in the session

on non-discrimination acknowledged the existence of a number of national strategies concerning groups suffering discrimination, but they called for more systematic implementation and for funding to support activities in these areas. The Greek authorities explained that National Action Plans had indeed been adopted in the past years concerning the rights of children, sexual abuse against children, racism and intolerance, people with disabilities, gender equality and LGBTIQ rights. They indicated that relevant CSOs were represented in the preparation committees and implementation mechanisms.

Participants in the session on non-discrimination strongly condemned the **alleged illegal pushbacks** at the Greek borders, referring to similar positions by the United Nations High Commissioner for Refugees (UNHCR), the International Organisation for Migration (IOM) and the European Commission, and to numerous cases currently being considered by the European Court for Human Rights. Some participants pointed out that the Greek official position was that it abided by international law, whereas, in their view, these pushbacks amounted to a pattern which represented a *de facto* policy for national border management. Participants regretted that the authorities had only set up an independent border monitoring mechanism after much international pressure, saying that they expected much more tangible results from it. The Greek authorities explained that they looked specifically into the allegations of illegal pushbacks, adding that investigations were underway by the National Transparency Authority, the Ombudsman, and the Public Prosecutor.

Participants considered that pushbacks added to **other human rights violations against migrants**, including the breach of the obligation to provide individualised analysis of asylum claims. Migrants, including asylum seekers, faced illegal detention in poor conditions and widespread discrimination in a number of fields. In particular, cases were mentioned of hundreds of years of imprisonment of individual migrants for alleged shipwreck and human trafficking. Other examples of discrimination and human rights violations faced by migrants included restriction of freedom of movement on Greek territory; impeded access to health services; great difficulties in opening a bank account and access to insurance; and disproportionate targeting by the police, for example in the application of COVID-related restrictions.

It was noted that there was significant **difference in the treatment** of Ukrainian war-asylum seekers and asylum seekers from other origins who had arrived in previous years. For example, the education sector sought to integrate Ukrainian asylum seekers into the local school system, and they received all the equipment needed at school. On the other hand, child asylum seekers who had arrived from other countries and were living in camps could not attend education during COVID because of the lack of digital access, the difficulty of leaving the camp (which was often left to the discretion of the camp manager), and the fact that camps were often situated in very remote areas. Life in camps in general was described as preventing integration of migrants into society: in addition to the endemic violence which prevailed there, access to health, schooling and employment was very difficult. However, during the session with social partners, employers indicated that some sectors of the Greek economy, such as the tourism and hospitality industry, had a high demand for staff, and they considered this to be an opportunity for integration through work.

A participant outlined the difficult situation of **Roma** women facing double discrimination – from within their own community and from wider society. Roma people had been particularly impacted by the COVID crisis and they notably suffered from certain discriminatory lockdown restrictions as well as a general suspicion that they were spreading the virus. The participant gave examples of discrimination faced by Roma individuals in their relations with the police, in accessing hospitals, or in seeking employment, bank loans or housing. Special schooling programmes were still failing to break the *de facto* school ghettoising of Roma pupils. The Greek authorities referred to the Roma Action Plan and to a number of programmes lead by the Ministry of Labour, Social Security and Welfare to facilitate integration into the labour market and access to banking.

A participant explained that, despite the fact that the Constitution provided for equality before the law, **people with disabilities** had to wait until 2005 to benefit from specific legislation prohibiting discrimination in the area of labour, thanks to the transposition of the EU directives on the matter. Despite this legal protection, discrimination remained high in practice, as the vast majority of people with disabilities (especially more severe disabilities) remained excluded from the labour market. Reasonable accommodation allowing people with disabilities to work under proper conditions was rare, as were complaints by people with disabilities against their employers, for fear of losing their job. A law was being drafted to propose personal assistants, but it would initially be limited to a pilot project in Athens. Some participants voiced complaints about the visible lack of solidarity and human rights-based accessibility for people with disabilities, while others emphasised there were a number of key government and municipality initiatives in the pipeline aiming to make the lives of people disabilities easier. The Greek authorities confirmed that a law was being drafted, as one of the tangible results of the National Action Plan on Persons with Disabilities, which coordinated action by several ministries and included cooperation with CSOs.

Participants considered that COVID had particularly impacted **women and children**, both in terms of domestic violence and in terms of the economic situation. Participants regretted that Greece consistently ranked last amongst all EU Member States in the Gender Equality Index and that there were very few shelters for women fleeing domestic violence. Child poverty was high and single parent families received little help from the state. Children of irregular migrants could get stuck in a gridlock, with great difficulty accessing citizenship, hindering their access to the labour market. There was a lack of adequate support for children with disabilities, notably in terms of accessible leisure and school personal carers.

Participants also mentioned the relatively mild sentencing of perpetrators for lynching a **transsexual person** and the fact that the victim had been demonised.

5. The rule of law

Participants again complained that the Greek **justice system** was plagued with delays, a situation which had been reinforced by the COVID period. They felt that efforts to speed up justice had not

yielded visible results. They also regretted what they estimated to be decisive influence of the executive on the judiciary through the appointment of higher judges to the Council of State and the Supreme Court.

Corruption was considered still common and insufficiently addressed, and occurring whatever political force was in power. A stakeholder who had earlier attended a conference in Boston (USA) discussing FDI opportunities in Greece echoed the complaints of some American investors regarding the high level of corruption in this country. Digitalisation provided some hope of highlighting corruption cases but financial support to civil society in that domain remained nearly inexistent. A participant welcomed the fact that the European Commission's Rule of Law Report treated the topic with high priority, while regretting that it mostly focussed on laws and policies instead of the real challenges of failure to enforce the law and criminal cases. The Greek authorities pointed to significant progress over the past years, and they referred to the Transparency International 2021 Corruption Perceptions Index, according to which Greece had "reaped the rewards of anti-corruption reforms". They also considered that the national Action Plan on corruption was ambitious and holistic, based on the pillars of prevention, detection, and awareness-raising and the work by the National Transparency Authority set up in 2019.

Participants explained that the **Criminal Procedure Code** had been amended several times in recent years to rationalise some sentences which had previously not been properly implemented. Some participants, however, regretted that changes in criminal law did not include criminal provisions against illegal enrichment or accounting fraud, leading, for example, to impunity for bankers who had illegally funded political parties. On the other hand, when people were prosecuted for misdemeanour the jail sentence would not be suspended while an appeal was conducted, which was a breach of the right to be presumed innocent. The Greek authorities explained that the reform of the Criminal Procedure Code and of the Criminal Code had integrated recommendations by the Council of Europe Group of States against Corruption (GRECO) and the Working Group on Bribery in International Business Transactions of the Organisation for Economic Cooperation and Development (OECD), and that they had led to vital changes in how bribery was treated in the country. The Code of Civil Law and the organisation of courts and judges were also going to be reformed, and the overall objective of these processes was to speed up justice without compromising quality.

The way the **legislative process** was conducted was considered to be one of the most serious rule of law issues, having deteriorated over the past years. Participants thought that a reference to national security imperatives and the use of emergency procedures had become the norm. In the past years, a great number of bills had been rushed through the legislative process in just a week, preventing the normal public consultation procedure and parliamentary analysis, which would usually span several weeks. They pointed to the practice of tabling amendments after the official deadlines, immediately before the vote, which prevented Members of Parliament from reading them properly and made public consultation meaningless. The Greek authorities asserted that improving the quality of the law had been a government priority over the past years, notably by codifying a number of sectors of the law, impact assessments, and efforts to make the legislative process more accessible on line. They also

referred to statistics showing a gradual fall in last minute amendments and emergency legislative procedures over the last three years – there was no example of the use of the emergency legislative procedure in 2022. Concerning the transparency of the legislative process, the Greek authorities mentioned that a platform existed to ensure public consultations on draft laws.

While acknowledging the progress represented by the **lobbying law**, participants regretted a lack of implementation of transparency requirements regarding meetings between MPs and lobbyists. The Greek authorities presented the law as a modern approach to the regulation of lobbying, which followed recommendations by international bodies. The transparency register to be set up would apply both to the legislative and executive branches, putting Greece above the current practice in most countries.

As during the session on freedom of expression and media freedoms, participants pointed to the **emergency procurement** which had taken place during the COVID period, and in particular to the EUR 20 million "We stay at home" campaign in Greek mass media, which raised the question of unfair allocation of funding, including seemingly in favour of pro-government press and even for non-existent outlets. The Greek authorities said that all procurement tenders were accessible on line.

Participants felt that **access to information and transparency** was not treated as a priority by Greek authorities despite two laws on the subject and recognition of these rights in the Constitution. This made oversight work by journalists and CSOs much more difficult. Some participants considered that the creation of the National Transparency Authority in 2019 had been positive, but others also underlined the lack of continuity created by the succession of transparency and anti-corruption institutions and failure to respond to appeals, often leaving courts as the only genuine means of redress to exercise the right to access documents.

Participants regretted that Greece had failed to transpose the 2019 **Whistleblower** Directive before the 2021 deadline. They also regretted the fact that the Novartis bribery scandal did not lead to civil or penal penalties, despite the case being handled by the anti-corruption prosecutor. Participants considered the case to be a fiasco in terms of protecting whistleblowers and journalists because of the way they were targeted in the context of this scandal, despite the fact that company officials had admitted the bribes. The Greek authorities said they had been proactive in setting up a legal framework to protect whistleblowers, in particular in criminal proceedings. The draft law was ready to be submitted for public consultation. It notably entailed the obligation for organisations in over 50 persons to put internal reporting procedures in place.



European Economic and Social Committee

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1040 Bruxelles/Brussel
BELGIQUE/BELGIË

Published by: "Visits and Publications" Unit
EESC-2023-28-EN

www.eesc.europa.eu



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Publications Office
of the European Union



Print
QE-07-23-164-EN-C
ISBN 978-92-830-5941-7
doi:10.2864/074509

Online
QE-07-23-164-EN-N
ISBN 978-92-830-5937-0
doi:10.2864/5156

EN