

govwatch

ANNUAL RULE OF LAW REPORT
FOR GREECE

2022



Govwatch monitors the state of the rule of law in Greece.

Govwatch is an independent, not-for-profit initiative by Vouliwatch. It collects, records and reports violations or suspected violations of the rule of law in Greece, by theme.

Govwatch aims to provide a source of information for citizens and institutions, to enable civil society to highlight wrongdoing, and to increase accountability in the political system. Govwatch is also available in English so that its findings can have an impact abroad, especially in relevant international organisations such as GRECO and the European Commission.

The picture that Govwatch paints of the state of the rule of law in Greece is made up of reports not just from the Govwatch team, but also from civil society organisations, journalists, academics, and citizens.

The collection and recording of Govwatch reports has been carried out in chronological order starting from 2021, retrospectively to 2015, by subject and by the date of the pertinent decisions and opinions of international, European or domestic organisations.



Rule of Law areas

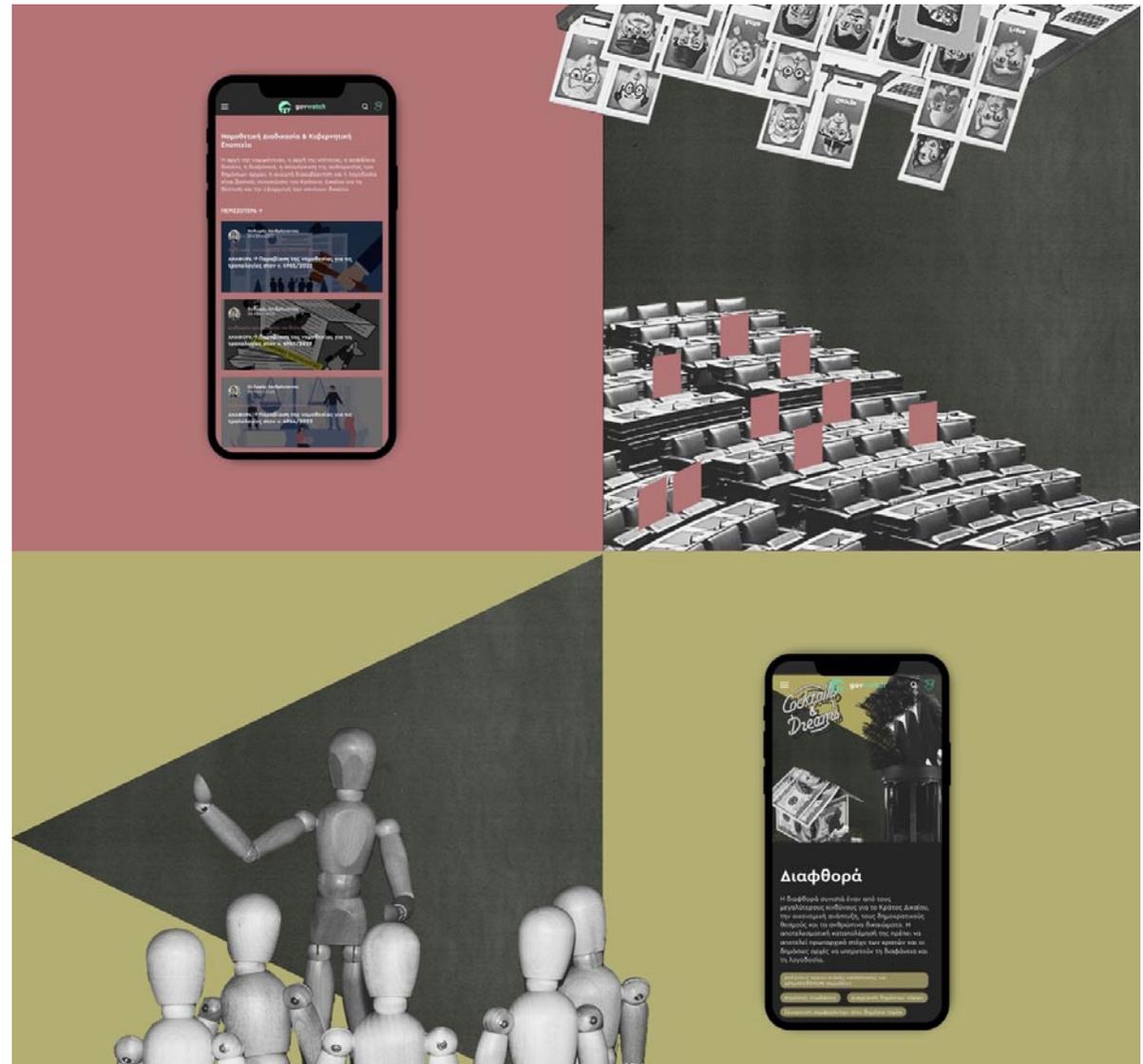
The choice of topics was based on the dominant rule of law issues in Greece and on the two most basic principles of the rule of law – the supremacy of the law, and its observance not only by citizens, but above all by state power and the public administration.

Legislative Affairs & Government	Law & Order	Corruption	Fundamental Rights
<ul style="list-style-type: none">Freedom of the PressLegislative ProcedureTransparency in Decision-MakingIndependent AuthoritiesParliamentary Transparency and OpennessConcentration and abuse of power	<ul style="list-style-type: none">Penal systemPolice violence and arbitrarinessExcessive surveillance	<ul style="list-style-type: none">Asset declarations and political moneyPublic procurement	<ul style="list-style-type: none">Rights of Ethnic Minorities and Vulnerable GroupsRefugee and Migrant RightsFreedom of speech and expressionFreedom of Thought, Conscience and ReligionFreedom of Assembly



Reports of non-compliance with the rule of law

Govwatch reports of violations or suspected violations of the rule of law in Greece are submitted by our team of experts, civil society, citizens, journalists and academics. The cases are presented in a simple and direct way, with the fullest possible referencing and evidence provided, as well as the legal background. We want our reports to be fully evidenced but also accessible and direct in order to inspire citizens to submit their own reports.





What is the rule of law?

The rule of law, which is the basis of every modern constitutional democracy, is a legally binding principle that ensures that public authorities act within the limits of the law, in accordance with the values of democracy and fundamental rights, under independent and impartial courts. The principle of the rule of law is a broader concept that consists of and includes many more specific principles, such as the principles of proportionality, equality, legality, the prohibition of the arbitrary exercise of executive power, the certainty of the law, the independence of the judiciary and effective judicial protection, and transparency and respect for human rights. In general then, respect for the principle of the rule of law is inextricably linked to respect for democracy and human rights. The aim of the principle of the rule of law is to place legal

limitations on public authority and to protect the individual from arbitrary or unlawful actions by those in public authority (for more, see 1, 2, 3, 4, 5, 6, 7)

Article 2 of the Treaty on European Union states:

"The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail."

Article 25 of the Greek Constitution states:

"The rights of man as an individual and as a member of society and the principle of the social rule of law are guaranteed by the State. All state bodies are required to ensure their unhindered and effective exercise. Any restrictions imposed on these rights must be provided for directly in the Constitution or by the law...and must respect the principle of proportionality"

In short, the rule of law is a system where law prevails.

"The modern democratic state limits itself in the exercise of its power by establishing legal rules, which determine the responsibilities and the modus operandi of state bodies; that



is why it is called a state of law. The rule of law is contrasted with the police state, in which state power is legally unbound and can take any measure, even at the cost of the individual liberties of citizens, as long as it deems it necessary to achieve the goals of the state". (Georgiadis A., What is fair? Legal science for everyone, University Publications of Crete, Heraklion 2018, p. 176) / Γεωργιάδης Α., Τι είναι δίκαιο; Η νομική επιστήμη για όλους, Πανεπιστημιακές εκδόσεις Κρήτης, Ηράκλειο 2018, σελ. 176)

The World Justice Program defines the rule of law as a system governed by 4 universal principles: a) Accountability, b) Just Law, c) Open Government and d) Accessible and Impartial Justice. These principles are then further examined in 8 primary factors: 1. Constraints on Government Powers, 2. Absence of Corruption, 3. Open

Government, 4. Fundamental Rights, 5. Order and Security, 6. Regulatory Enforcement, 7. Civil Justice and 8. Criminal Justice. These areas form the basis for the formation of the score and ranking of countries in the WJP Rule of Law Index (see more about how each factor is defined in 1, 2, 3, 4, 5, 6, 7, 8 respectively).

We developed the choice of categories for our platform taking these categories into account, as well as the dominant rule of law issues in Greece.

We aim to highlight incidents and phenomena that violate (or seem to violate) basic principles of the rule of law in Greece.

We don't believe in criticism for its own sake, but the first and most important step in solving a problem is recognizing it. Adherence to and respect for the principles of the rule of law is a matter that concerns and affects us all.



2022 was yet another year in which serious human rights issues were raised, with Greece facing criticism in major institutional reports and by the European Court of Human Rights (ECtHR), which found Greece to be in violation of a number of human rights laws.

According to the [European Commission's latest report](#) on the rule of law in Greece, in 2022 our country continued to face significant challenges to the rule of law in key areas such as the independence of the judiciary and strengthening citizens' trust in the judicial system; the fight against corruption; the quality of lawmaking and respect for public consultation; the safeguarding and effective exercise of the rights of refugees, and the protection of journalists and civil society from illegal surveillance and from so-called SLAPP lawsuits.

Similar concerns were expressed in the [State Department's report](#) on the human rights situation in Greece last year, which highlighted issues such as: the poor conditions of detention of prisoners; the ill-treatment of migrants and asylum seekers; restrictions on the media and threats against journalists; lack of accountability for incidents of gender and domestic violence, and for violence against the LGBTQ+ community. Further-

more, a report by the European Parliament's [PEGA](#) committee (which investigates the illegal use of spying software in EU Member States) highlighted the dangers of both the proven use of the illegal Predator spying software against targets in Greece and the export of this software through the Greek government to countries with a problematic record of human rights protection.

These reports highlight the rule of law issues which Govwatch, an independent initiative launched by Vouliwatch, has been documenting for the last two years. The project aims to systematically collate cases of violations, or serious suspicions of violations, of the principles of the rule of law, and to hold the competent state authorities accountable.

We do this across a broad spectrum of issues including the functioning of institutions and the exercise of human rights; from the constitutional principles of good lawmaking and parliamentary transpar-



ency to the fight against corruption, and from public procurement to police arbitrariness and fundamental freedoms. Govwatch is a watchdog organisation recording cases where the rule of law has been flouted, with a direct impact on the daily lives of citizens.

Summarising some of the quantitative and qualitative findings of Govwatch for 2022, it is worth noting that in 30 bills the government violated the rules of good lawmaking, tabling amendments that were late (75) and/or irrelevant (81) to the main subject of the bill, in violation of the Constitution and the Rules of the Parliament. Furthermore, in nine cases, the competent ministries, in violation of the rule of law, shortened the consultation period on the bills, without justification. In the field of Independent Authorities, in 2022 the Greek government assigned the National Transparency Authority to investigate the wiretapping scandal despite the fact that this investigation should not fall under its remit, but rather under the

remit of the independent authority for Safeguarding the Confidentiality of Communications (ADAE) and the Authority for Personal Data Protection (DPA).

In 2022 we also collected 25 reports of the misuse/abuse of power, in which Greece did not comply with decisions of the highest Greek courts, mediations of the Ombudsman or provisions of EU law, prompting the European Commission to take infringement action against Greece in several cases. In the area of excessive surveillance, we recorded 9 reports detailing dozens of cases of the illegal surveillance of journalists, politicians, businessmen and members of the Armed Forces, while in the area of police arbitrariness we collected 45 reports of incidents and complaints of the excessive use of force by police authorities. Two of these led to convictions in the European Courts, with 13 new appeals being filed to these Courts. Finally, we recorded 25 incidents and complaints of violations of the rights of LGBTQI+ people, vulnerable

groups and minorities, refugees and migrants, as well as of freedom of speech and expression.

All of these reports -by the Commission, the PEGA Committee, as well as other international institutions and members of civil society- on violations of the rule of law in Greece raise the need for measures to be taken in order to improve the quality of the modus operandi of state institutions, the respect of the law by the state authorities and the effective exercise of human rights by all citizens and individuals in Greece, in an effort to improve the overall functioning of democratic institutions.

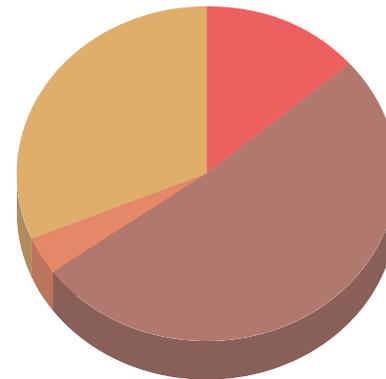
Legislative Process & Government Oversight





Adherence to the law and to the principles of equality, legal certainty, transparency, open governance and accountability, as well as the avoidance of arbitrariness, are key components of establishing and applying the rule of law.

For 2022, in the category **"Legislative Process & Government Oversight"**, Govwatch recorded a total of **80 violations**. See all reports [here](#).



- **Press freedom** 13.75% (11)
- **Legislative procedure** 51.25% (41)
- **Independent Authorities** 3.75% (3)
- **Concentration & abuse of power** 31.25% (25)



Freedom of the Press (11 reports)

Freedom of the press, which is indispensable for the proper functioning of a democratic constitution, is guaranteed in the [Greek Constitution](#) (Article 14), the [European Convention on Human Rights](#) (ECHR, Article 10) and the [EU Charter of Fundamental Rights](#) (Article 11). However, in 2022

there were significant reports of violations and serious threats to press freedom in Greece. These reports fall into two major categories; firstly, surveillance, and secondly, abusive SLAPP lawsuits.

These cases include [the surveillance of reporters investigating the wire-tapping scandal](#), the [lawsuit filed against investigative journalists by Grigoris Dimitriadis](#), who resigned from his position following the so-called Predator Gate revelations, as well as [lawsuits filed by the administrator of the hospital of Chios](#) against a journalist investigating the management of hospital public funds.

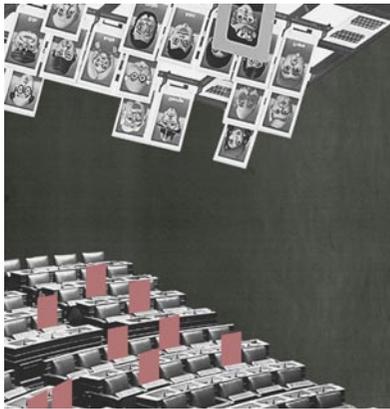
Other reports concerning the freedom of the press included [a lack of pluralism at the Athens News Agency](#), [the arrest of photojournalists doing their job](#), [the arrest of journalists](#),

[statements by the Prosecutor of the Supreme Court](#) appearing to threaten the media for hostile coverage of judicial officials, as well as [the hostile behaviour of the police authorities](#) against journalists covering demonstrations.



Legislative Procedure

(41 reports)



There is a framework of good lawmaking rules outlining the process of drafting and enacting laws in order to ensure transparency and the participation of civil society in the lawmaking process.

Despite the importance of this framework for the rule of law and the democratic constitution, during 2022 several of these rules were systematically violated by the Greek government. Specifically, in 30 cases, the competent ministries submitted amendments that were either late, or irrelevant to the main subject of the bill, in violation of the Constitution and the Rules of Procedure of the Parliament (the provisions on the rules of good lawmaking were violated in the laws: [4903](#), [4908](#), [4914](#), [4915](#), [4916](#), [4917](#), [4918](#), [4919](#), [4920](#), [4926](#), [4933](#), [4934](#), [4938](#), [4949](#), [4950](#), [4954](#), [4955](#), [4960](#), [4962](#), [4963](#), [4964](#), [4965](#), [4972](#), [4974](#), [4975](#), [4982](#), [4985](#), [4986](#), [4994](#), [4995](#)). Furthermore, in nine cases the competent ministries unjustifiably shortened the consultation period on bills, limiting the timeframe in which members of civil society could exercise their right to express their views on the proposed regulations. These violations were found in bills emanating from the Ministry of Finance (1, 2), the [Ministry of](#)

[Environment and Energy](#), the [Ministry of Citizen Protection](#), the [Ministry of Development and Investment](#), the [Ministry of Justice](#) (1, 2), as well as the [Ministry of Health](#) and the Ministry of Interior.

Furthermore, in 58 cases the title of the bills included the phrases 'and other provisions', 'other urgent provisions' or similar wording, which indicates a circumvention or even a violation of the rules of good lawmaking, since such titles indicate either that the law contains provisions unrelated to their main subject matter or that amendments unrelated to the main subject matter of the law were adopted into the bills.



Status of Independent Authorities

(3 reports)

Case study: how the government used an independent authority that was not authorised to do so, to investigate the wiretapping scandal

Under the rule of law, independent authorities are institutionally central to the accountability of the executive branch, investigating any wrongdoing and abuses by governments and state authorities within their remit.

However, in 2022, following reports that journalist Thanasis Koukakis was being monitored by the National Intelligence Service (EYP) and the malicious spying software Predator the government announced that the National Transparency Authority would be tasked with investigating the wiretapping scandal, negating the institutional and constitutional role of the Hellenic Authority for Communication Security and Privacy (ADAE) and the Hellenic Data Protection Authority (DPA).

The issue raised in this case is that the Koukakis case concerns the lifting of telecommunications secrecy, and in Greece the relevant competent authority (Law no. 3115/2003 | Government Gazette A' 47/27.2.2003) is the ADAE, while the DPA

could also claim jurisdiction. In any event, the NTA has no connection with the matter, as is clear from its competences. The violation of the provisions on the competences of these authorities and the investigation by the NTA could constitute an obstacle to effective investigation.

GovWatch recorded two more cases concerning Independent Authorities in Greece. Firstly, the European Parliament's recommendations to Greece following the wiretapping scandal should be highlighted, in which the EU institution called for the withdrawal of legislative amendment 826/145, which removed the ability of the Hellenic Authority for Communication Security and Privacy (ADAE) to notify individuals that the confidentiality of their communications has been revoked. Secondly, the failure of the Ministry of Citizen Protection to respond to the Ombudsman or to act upon recommendations to limit the excessively long retention period of fingerprints by the Hellenic Police Force, should also be noted.



Concentration & misuse of power (25 reports)

Under the rule of law, government and state authorities must comply with the law and court decisions. However, this has not always been the norm in Greece in 2022. This is because in several cases the Greek authorities did not comply either with national and EU law or with the decisions of supreme courts, such as the Court of Auditors and the Council of State (CoE).

In particular, the state authorities have failed to comply with Court of Auditors' judgments on the retirement pay of former members of parliament and with decisions of the Council of State pronouncing water to be a public good. According to the Ombudsman, they also failed to take the measures provided for by law to protect a traditional settlement in Paros from unlawful construction.

At the EU level, the European Commission has launched infringement proceedings against Greece for failing to inform the Commission of the measures it has taken to transpose European legislation regarding excise duties, as well as for failing to fully transpose the Road Infrastructure Safety Directive and for failing to comply with EU rules on: the application of VAT to postal services; the protection of whistleblowers; the return of illegally staying third-country nationals to Member States; the recognition of professional qualifications; the protec-

tion of personal data; the updating of flood risk maps; on the free movement of capital, on the management of invasive species, on cross-border collective investment, on the promotion of green energy, on road transport, on late payments, on intellectual property rights.

In fact, in July 2022 the European Commission referred Greece to the Court of Justice of the European Union (CJEU) for non-compliance with EU rules on the provision of data link services.

Law & Order

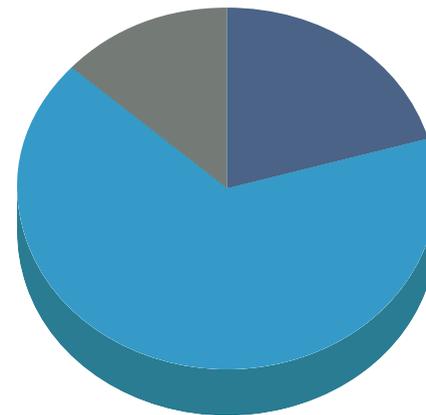




Freedom and security are values essential to the rule of law. Often, however, they seem to come into conflict and a dilemma arises as to which of the two values should prevail.

The way in which the state resolves the dilemma is often indicative of the quality of its democracy.

For 2022, in the **"Law & Order"** category, Govwatch recorded a total of **68 violations**. See all reports [here](#).



- Excessive surveillance 20,59% (14)
- Police violence & arbitrariness 66,18% (45)
- Penal system and detention facilities 13,23% (9)



Excessive surveillance

(14 reports)

One of the most serious cases of the violation of the rule of law in Greece in 2022 was the surveillance scandal, as ev-

idence proved beyond reasonable doubt that the intelligence services (EYP), under the authority of Prime Minister Kyriakos Mitsotakis and his Secretary General Gregoris Dimitriades, were monitoring journalists, politicians, members of the government and businessmen, as well as senior members of the Armed Forces. Targets in Greece were also monitored with the illegal Predator spying software, which often monitored the same persons that EYP had put under surveillance, in some cases at the same time, although the government continues to deny any involvement.

Some of the most serious cases of illegal wiretapping included the attempted illegal [surveillance of Nikos Androulakis](#) and [employees of the National Intelligence Service](#) by Predator. [According to an investigation](#) by the independent Data Protection Authority, the number of people targeted amounts to at least 94 people.

Surveillance by the National Intelligence Services of the [Minister of Environment and Energy, Kostis Hatzidakis](#) and the Chief of the Hellenic National Defence General Staff, [General Konstantinos Floros](#) were also confirmed by investigations conducted by the Hellenic Authority for Communication Security and Privacy (ADAE). The same investigations [also confirmed the surveillance](#) of PASOK leader Nikos Androulakis, Chief of the Hellenic Army General Staff. Lt. Gen. Charalambos Lalousis, former National Security Advisor Alexandros Diakopoulos, the head of the General Directorate of Armaments Aristides Alexopoulos, as well as the latter's predecessor in the same position, Theodoros Lagios.



The failure of ministers Pierrakakis and Tsiraras to proceed with the creation of a digital archive for the ADAE, [despite the adoption of the relevant legislation](#) in March 2021, has made it substantially more difficult for the independent authority, which is charged by the Constitution with protecting the confidentiality of communications, to exercise its responsibilities and to effectively monitor state agencies and telecommunications providers.

Considering the seriousness of these cases of surveillance as a threat to the rule of law in Greece, the European Parliament's PEGA committee [has made recommendations](#) regarding the illegal use of Predator against targets within Greek territory.



Police violence & arbitrariness (45 reports)

There were 45 reports and complaints of the use of excessive force by police authorities recorded in 2022.

On 7 March 2022, Greece was notified of [13 applications](#) lodged by prisoners against the country with the ECtHR for unlawful police violence and torture. Furthermore, the ECtHR condemned Greece in the case of [Torosian v Greece](#) for violating Article 3 of the ECHR (prohibition of torture), as the applicant, having complained of being beaten during his arrest by police officers, did not enjoy his right to the effective investigation of his complaint.

The ECtHR also condemned Greece in the case of [Safi et al v Greece](#), as it found that Greece violated Articles 2 and 3 of the ECHR, which guarantee the right of everyone to be protected from unlawful killing and torture. The application was lodged by a group of 16 applicants, consisting of 13 Afghan nationals, two Syrian nationals and one Palestinian national. It concerned the sinking, on 20 January 2014, of a fishing vessel carrying 27 foreign nationals in the Aegean Sea, off the coast of Farmakonisi. The applicants were on board the vessel, the sinking of which resulted in the death of 11 persons, including their relatives. This conviction against Greece is a landmark



case, as it is the first to directly concern refoulement practices and highlights many of the problematic aspects of the handling of such complaints by the domestic authorities, as well as the treatment of asylum seekers in general.

Other serious incidents of violence or arbitrariness on the part of the state authorities include the [unlawful killing of a 16-year-old Roma boy](#) by a police officer; the -according to the Ombudsman- [excessively long retention period of fingerprints](#) by the police force; complaints of [unjustified arrests and abusive behaviour](#) by police officers during a police operation; the [beating of demonstrators](#) in Ex-archia, [allegations of torture](#); [the beating of a citizen in a police station](#); the [shooting of Roma minors](#), and the [verbal attack and arbitrary arrest](#) of a female student in Thessaloniki.



Penal System & Detention Facilities (9 reports)

In 2022 Greece was convicted by the ECtHR [in the case of Tousios v. Greece](#), for violation of Articles 3 (prohibition of torture) and 13 (right of effective remedy) of the ECHR. In particular, the ECtHR, taking into account the conditions of the appli-

cant's detention, the duration of his detention and the findings of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment concerning the premises in which the applicant was held, concluded that there had been a violation of Article 3 of the ECHR in this particular case. Furthermore, the Strasbourg Court held that the applicant had no effective remedy available to him to complain about the conditions of his detention. There was therefore also a violation of Article 13 in conjunction with Article 3 of the ECHR.

In the same year, [in the case of G.T. v. Greece](#), the ECtHR condemned the country for violating Articles 8 (right to respect for private and family life) and 13 (right to an effective remedy) of the ECHR, as it considered that the rejection of the applicant's requests for leave to visit his sick mother and then attend her funeral, on the one hand, and the absence of a legal remedy allowing him to challenge the decision, on the other, were contrary to the above provisions of the ECHR.



In the case of [Zographos and Others v Greece](#), the ECtHR again condemned the country for violating Article 13 of the ECHR (right of effective remedy). In particular, following its established case-law on the matter, the Strasbourg Court ruled that there had been a violation of the above article because the applicants had no effective and real remedy available to them to enable them to complain about the conditions of their detention. In [Makrylakis v. Greece](#), the ECtHR condemned Greece for a violation of Article 6(6) of the ECHR (right to a fair trial) as it considered that the duration of the criminal proceedings against the applicant was not reasonable.

Another case saw a prisoner in Korydallos prison, [Vassilis Dimakis, go on a hunger and thirst strike](#) to denounce the restriction of his right to education and the delay in submitting his application for an educational permit to the competent prison authority. His request for educational leave was granted after the strike.



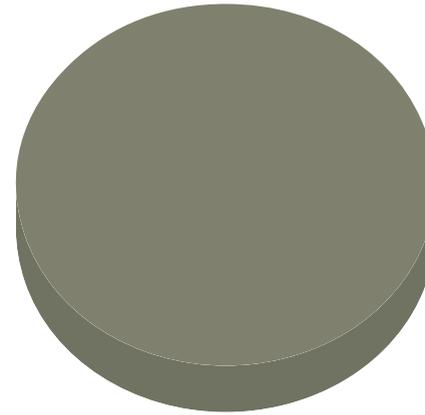
Corruption





Corruption is one of the greatest threats to the rule of law, economic development, democratic institutions and human rights. Combating it effectively must be a primary objective of states, and public authorities must serve transparency and accountability

For 2022, in the category "**Corruption**", Govwatch recorded a total of **1 violation**. See all reports [here](#).



● **Asset declarations and party funding** 100% (1)



Asset Declarations & Political Money

Case study: Audit agency has failed to publish annual report on asset declarations since 2013

The implementation of the legal framework on Asset Declarations has faced significant problems. One of the issues identified in 2022 was the **failure of the asset declarations auditing agency of the Anti Money Laundering Authority to post an annual activity report**. In accordance with paragraph 7 of Article 3A of law **3213/2003**, all auditing committees are to submit an annual report of their activities in March of each year to the Committee on Institutions and Transparency of the Parliament and to the Ministers of Finance and Justice, Transparency and Human Rights. Despite this obligation, the last annual report published by the body is for the year **2013**.

The annual report must contain, at a minimum, the number of persons obliged to make a declaration, the number of persons who submitted declarations, the measures taken for those who did not submit a declaration and the results of the audits carried out in the performance of the committee's duties. The report is to be posted on the official website on the internet no later than one (1) week after its

submission, where it remains for seven (7) years. This obligation applies to all competent bodies that receive and process declarations of assets.

This obligation is established by article 175 par. 2 of Law 4389/2016. The explanatory statement details that the submission and posting of the annual activity reports enables citizens to inform themselves about the committee's work, and to hold the committee accountable. These measures are expected to contribute to strengthening citizens' trust in the transparent and lawful exercise of state power.

Despite the importance of this provision for transparency and the prevention and detection of corruption, the last annual report posted by the asset declarations auditing agency of the Anti Money Laundering Authority that has been posted is for **2013**.

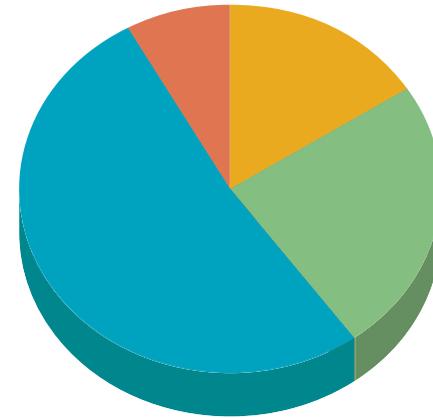
Fundamental Rights



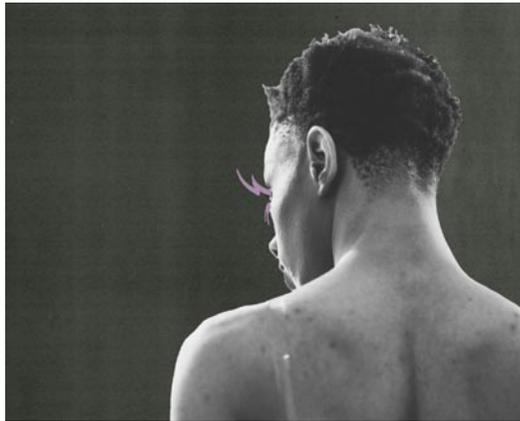


Respect for human rights, as reflected in the ECHR and the EU Charter of Fundamental Rights, is one of the basic obligations of a state within the rule of law, such as freedom of association and assembly, freedom of expression and the right to non-discrimination.

For 2022, in the category "**Fundamental Rights**", Govwatch recorded a total of **25 violations**. See all reports [here](#).



-  **LGBTQI rights** 16% (4)
-  **Rights of ethnic minorities and vulnerable** 24% (6)
-  **Rights of migrants, refugees and asylum seekers** 52% (13)
-  **Freedom of speech and expression** 8% (2)



LGBTQI rights (4 reports)

In 2022, a number of serious incidents and complaints of violations of LGBTQI+ rights were recorded. On 1 December 2022, in the case of [Barmaxizoglou et al. v. Greece](#), the ECtHR condemned Greece for violating Article 14 (prohibition of discrimination) in conjunction with Article 8 (right to respect for private and family life) of the ECHR, as prior to the adoption of Law No. 4356/2015, same-sex couples

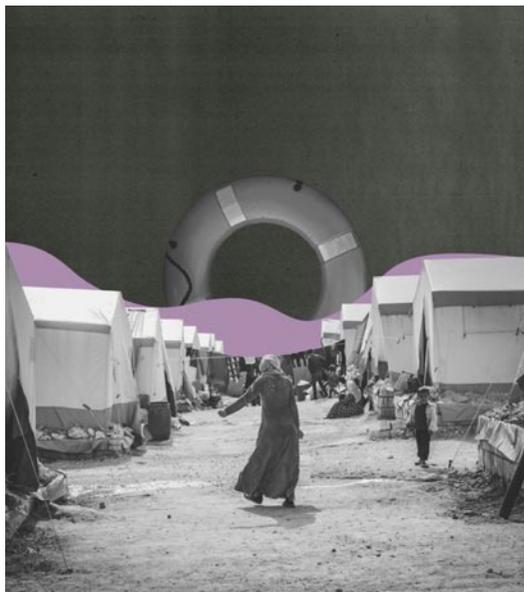
had been unjustifiably excluded from the scope of the application of Law No. 3719/2008 on civil partnerships.

In this case, 324 applicants -162 same-sex couples- filed an application before the ECtHR in 2015 (before the entry into force of Law 4356/2015), complaining that the civil partnership introduced by Law 3719/2008 was intended only for opposite-sex couples. The ECtHR held in this case that there had been a violation of Article 14 ECHR in conjunction with Article 8, noting that the Greek government had not provided valid and convincing reasons capable of justifying the exclusion of same-sex couples from the scope of Law No. 3719/2008 on civil partnerships.

Following a petition by the Association for the Support of Transgender Persons, [the Ombudsman found that the exclusion of transgender persons from the recruitment to police schools constitutes direct discrimination](#) against them and a violation of the principle of equal treat-

ment of citizens in employment, as enshrined in Law No. 4443/2016 and Directive 2000/78/EC. The Hellenic Police has directly discriminated against transgender persons in its recruitment notices for both 2018 and 2022.

The Ombudsman, in the context of another investigation, [found that](#) a school textbook contained wording that allowed negative characterizations relating to homosexuality and migrants, in violation of the principle of equal treatment of citizens, as enshrined in Law No. 4443/2016. A complaint lodged by the Transgender Support Association (SYD) [alleges discriminatory treatment](#) against a gender-diverse child at the First Music High School of Ilion, Attica, in violation of the legal framework and the Council of Europe recommendations on the need to combat discrimination based on sexual orientation and gender identity.



Rights of ethnic minorities & vulnerable groups (6 reports)

Some groups (such as, inter alia, persons belonging to ethnic minorities, the Roma community, released prisoners, women who have been the victims of domestic

violence, the mentally ill, juvenile offenders, and substance abusers) have limited or no access to public and social goods, with all that this implies for their ability to effectively enjoy their rights. Therefore, a state under the rule of law must take appropriate measures to ensure that the rights of these groups are both properly and adequately safeguarded.

However, during 2022, we recorded a number of cases where the rights of these groups of people were violated, such as in [the case of a disabled student](#) who was unlawfully obliged to pay tuition fees, [the racist targeting of Roma](#) by a municipal councillor, [the case of a complaint of excessive police violence](#) and racist behaviour against Roma by police officers, and [a case of the excessive use of force against a patient](#) who was being transferred for an involuntary psychiatric examination.

Refugee and migrant rights (13 reports)

There were also serious cases of violations of the rule of law in 2022 regarding the rights of refugees and migrants, especially in the context of increasing evidence of push backs of asylum seekers by the Greek authorities. Pushbacks are prohibited by Article 33 of the 1951 Convention relating to the Status of Refugees, also known as the [Geneva Convention](#).

In the year under review, reports have shown how, [in violation of international law](#), the Greek authorities coerced asylum seekers into pushing other immigrants back to Turkey over the river Evros in an organised system of push backs that, according to testimonies, routinely includes theft, violence and the violation of the rights of refugees. Another report [alleges 206 pushbacks](#) in Evros in the



period May-June 2022, and another details [pushbacks which took place despite an interim ruling](#) issued by the ECtHR; an investigation revealed [1. 018 pushbacks in the Aegean Sea](#) from March 2020 to March 2022 and the [systematic illegal removal of objects](#) from refugees by Greek authorities, as well as a complaint by UNHCR regarding the [refoulement of eight Turkish dissidents](#).

Another worrying development was [the prosecution of human rights defenders](#) on charges of forming a criminal organisation and facilitating illegal entry into the country, potentially criminalising, in essence, the defence of human rights.



Freedom of speech and expression (2 reports)

In 2022 Greece was twice condemned by the ECtHR in cases related to the freedom of speech and expression.

On September 2, 2022, the decision of the ECtHR in the case of [Kitsos v. Greece](#) (appeal no. 21793/14) was published, concluding that Greece had violated Article 10 of the ECHR in this case. The application concerned the violation of the applicant's right to freedom of expression through his criminal conviction for the offence of defamation under Article 363 of

the Criminal Code. The applicant's conviction by the Greek judiciary concerned negative statements made against two persons on a local television network. The persons involved were later discharged from office and convicted of embezzlement in connection with the above-mentioned actions.

The ECtHR concluded that the applicant's conviction amounted to an "interference by a public authority" with his right to freedom of expression. Although it found that the interference was provided for in the law, it asked whether it was "necessary in a democratic society". The Court found that the national courts had failed to take into account the context in which the statements were made, as, in the Court's view, they touched on matters of public interest, since they related to a person well known in the local community. It therefore held that there had been a violation of the applicant's right to freedom of expression



and held that Greece should pay the applicant EUR 7,500 for non-material damage and EUR 1,210 for costs and expenses.

On 10 November 2022, the ECtHR judgment in the case of [Lyparis v Greece](#) was published, in which it was acknowledged that Greece had violated Article 10 of the ECHR. The applicant, a politician, was found liable in national civil defamation proceedings for an article he had published in the local press in which he had criticised his opponent, and was ordered to pay a large amount of compensation. The conviction was upheld both on appeal and on appeal by the domestic courts of appeal and higher courts.

The applicant, in an open letter published in the local press and addressed to his opponent, made negative statements against him concerning various projects which, in his view, were incomplete or defective. Relying on its case-law, the

ECtHR held that the applicant's observations contained value judgments which were not amenable to proof and thus to judicial authority and that the national courts had examined the expressions at issue outside the context of the article. They had therefore failed to consider whether the context of the case, the public interest and the intention of the author justified the possible use of a degree of provocation and, although the applicant's expressions could be considered provocative, they did not rise to the level of offence.

This along with the fact that the applicant had supported his statements with a clear factual context. and had made it clear that he did not hold his opponent personally responsible but rather referred to his capacity as leader of a political party, led the Strasbourg Court to the conclusion that neither the contested statements nor the article as a whole could be regarded as an unnecessary personal attack or insult.

Furthermore, according to the ECtHR, the national courts had failed to take into account the status of the complainant as an elected local official who was therefore justifiably subject to scrutiny by both journalists and the general public and that, consequently, the criticism levelled at him on the specific issues of the applicant's management of funds concerned a matter of public interest and should therefore have been subject to a narrower interpretation by the national courts.





govwatch

Βουλής 16, Αθήνα - 10563, Greece



<https://govwatch.gr>



facebook.com/govwatch.gr



twitter.com/vouliwatch



press@vouliwatch.gr