

Joint submission for the stakeholder consultation of the EC Rule of Law report 2024 - Greece

January 2024

Submitted by:

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[Committee to Protect Journalists](#) (CPJ)

[Foreign Press Association](#) - Greece

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III. Media pluralism and media freedom

33. Please provide information on measures taken to follow-up on the recommendations received in the 2023 Report regarding media pluralism and media freedom (if applicable)

The Task Force on Ensuring Protection of Journalists was introduced by the Greek government in July 2022 through a Memorandum of Understanding between six Greek ministries, journalist unions, representatives from academia, public news media and other stakeholders. The 2023 [Rule of Law-report](#) recommended that the Task Force should take forward the process of adopting non-legislative safeguards and the legislative process for the protection of journalists.

While the collaboration between the actors in the Task Force is important and laudable, the work of the Task Force has to date been largely invisible to the Greek media community. Its activities since the previous Rule of Law-report have been mostly limited to the establishment of an [International Training Centre](#) for the Safety of Journalists, events about the safety of (female) journalists and the development of a survey about the safety of journalists. [A joint mission of press freedom organisations](#) to Greece in September 2023, in which undersigned organisations Free Press Unlimited (FPU), Committee to Protect Journalists (CPJ), International Press Institute (IPI), Osservatorio Balcani e Caucaso Transeuropa (OBCT), and Reporters Without Borders (RSF) took part, found that most Greek journalists and media outlets were unaware the Task Force existed. The mission

inquired about the Task Force's achievements and plans, and concluded that the Task Force lacks concrete and actionable plans regarding several of the priorities included in its mandate, in particular the issue of SLAPPs and the safety of journalists. The mission will publish its full report in late January 2024.

Despite the alarming number of SLAPPs filed against journalists in Greece (covered in further detail under question 43 below), the Task Force could not share concrete plans with the mission to address SLAPPs, nor proposals for legislative measures towards this end. The unit lacks comprehensive data on attacks against journalists and impunity rates, and did not have action plans to address impunity for attacks against journalists and/or measures to expedite and improve investigations of attacks. The Task Force shared that it wants to develop a monitoring platform in collaboration with academia, but also confirmed that it does not have funds available to initiate and staff such a platform.

If it continues on the current path, the Task Force risks becoming merely a symbolic answer to the ongoing media freedom issues in Greece. The undersigned organisations therefore strongly recommend that the 2024 Rule of Law-report requests more concrete targets and plans from the Task Force, in particular regarding the 1) monitoring of the safety of journalists 2) investigation of attacks against journalists and 3) action plans to decrease (the impact of) SLAPPs filed against journalists.

A. Media authorities and bodies

34. Measures taken to ensure the independence, enforcement powers and adequacy of resources (financial, human and technical) of media regulatory authorities and bodies.

The NCRTV (ΕΣΡ), The National Council for Radio and Television, regulates the television and radio market in Greece. As has been reported in previous consultations for the Rule of Law-report [see e.g. RSF for the 2023-report], the NCRTV's procedures leave room for political interference and other acts that threaten its independence. In late 2022, the NCRTV initiated a draft Code of Conduct. Public consultations were completed on 28 February 2023. The draft Code posed several risks to press freedom, as it proposed to prohibit the publication of information covered by national security and stated that journalistic investigations should not replace police investigations or investigations by other authorities. It also extended its scope to the internet. It raised particular concern in relation to the ongoing Predatorgate scandal, which was categorised as a matter of 'national security' by the Greek government and largely came to light due to investigative journalism in 2022 and 2023.

On 28 September 2023, the Conference of Presidents of the Greek parliament met to decide on the appointment of six new members of the NCRTV, as their terms lapsed - in some cases, several months prior. The appointment procedure of the six new members led to

controversy, and illustrates that the appointment procedures for this independent authority continue to be politicised. The main concerns include the failure to comply with the constitutionally required majority, the failure to consult with all parties before this meeting and/or organise hearings with the proposed members, and the hasty manner with which the meeting was called (for a full analysis see the legal analysis prepared by Vouliwatch and their letter to Commissioner Reynders). At the same meeting, new members of the Hellenic Authority for Communication Security and Privacy (ADAE) - which has played an instrumental role in investigating the Predatorgate case - were appointed. The decision to expedite the selection of new members for only these two bodies, while other independent bodies also had vacancies, cause further concern over political interference with both NCRTV and ADAE.

37. Measures taken to ensure the fair and transparent allocation of state advertising (including any rules regulating the matter)

In the past year, the National Transparency Authority of Greece has continued to refuse the release of documentation related to the allocation of state advertising during the Covid-19 crisis, in which media perceived as opposition-friendly media received disproportionately lower amounts of state advertising. As described in the 2022 Rule of Law-report, requests for access by non-profit organisation Vouliwatch were denied, leading to public concern by international press freedom organisations in light of the strong public interest in the matter. The NTA did not comply with the court order by the Athens Court of Appeals to release the documentation, and the Court decided in the NTA's favour in a second case on 26 June 2023. On 16 October 2023, Vouliwatch appealed this decision before the European Court of Human Rights. Due to the refusal to release these documents, the decision-making and proceedings concerning the allocation of state advertising for the "We Stay Home"-campaign remain unclear to date.

40. Rules and practices guaranteeing journalist's independence and safety, including as regards protection of journalistic sources and communications, referring also, if applicable, to follow-up given to alerts lodged with the Council of Europe's Platform to promote the protection of journalism and safety of journalists.

The protection of journalistic sources and communications:

The protection of journalistic sources and communications in Greece continues to be marked by the handling of the Predatorgate scandal that started in 2021, when it became known that over a dozen journalists and media owners were surveilled illegally through Predator spyware and, in some cases, wiretapping by the National Intelligence Service EYP (covered in the Rule of Law-reports of 2022 and 2023). The fact that multiple individuals, including journalist Thanasis Koukakis, were surveilled with 'traditional' wiretapping by EYP as well as the Predator-spyware, has strengthened concerns of government involvement. In the past year, the impact of this crisis has deepened due to the ongoing lack of accountability and the intimidation of official investigations into these surveillance practices.

In 2022, the Hellenic Authority for Communication Security and Privacy (ADAE) conducted several audits of telecommunications companies to verify surveillance by the EYP. In 2023, ADAE was subject to pressure on several occasions in response to its investigations. On 10

January 2023, Greece's chief prosecutor Isidoros Dogiakos issued a controversial legal opinion arguing that ADAE, cannot conduct audits of telecommunication companies to find out who is under surveillance by the country's intelligence agency, and warned the members of ADAE with criminal prosecution if they continued with their audits. On 25 October 2023, a magistrate summoned former and current members of ADAE as suspects for leaking classified information. In response, ADAE president Christos Rammos stated: "It is remarkable that the Greek justice system, that has not up until now — after 18 months — done anything, or charged anyone with spyware use, the same justice system rushes to prosecute two members of the oversight body, who just did their duty'. During a hearing in the EP's LIBE-committee, Rammos also noted he was threatened by members of the Greek parliament and government officials in response to this matter.

On 23 October 2023, Reporters Without Borders reported that Supreme Court Prosecutor Georgia Adilini ordered the transfer of the investigation from the first-instance prosecutor's office to the Supreme Court. According to RSF, this decision came just as the prosecutors in charge of the investigation were about to compare the spyware's target list with the one of the EYP in order to verify potential matches between the 88 owners of the 92 telephone numbers. In November 2023, Greek media reported that some targets were infected with Predator via text messages sent "within a few hours" from the mobile phone belonging to a political figure "who held an important government office until the summer of 2022".

In addition to the lack of successful investigation of the surveillance, structural weaknesses in the protection of journalistic sources and communication remain. The EYP remains under the direct command of the Prime Minister, following a legislative change in 2019. The Parliamentary supervision over its practices is limited as the Permanent Supervisory Committee only has the right to be informed. Oversight is further hampered as the procedure to authorise surveillance of an individual by EYP only requires the signatures of two prosecutors, who do not need to register their justification for approving the surveillance. Individuals who suspect they have been subjected to surveillance can only receive information three years after the surveillance was ended. The decision to do so is made by a panel of three, including the two prosecutors who authorised the surveillance. Special protections for journalists are lacking in the legal framework, while the use of spyware by EYP remains unregulated. Meanwhile, accountability over the prosecution of the Predatorgate case also remains limited as the highest prosecutorial authority, the Prosecutor of the Supreme Court, remains a political appointment.

The protection of journalists and safety of journalists

Journalists who spoke with the forementioned mission of international press freedom organisations in September 2023, described the situation of safety for journalists as worsening. The impact of the murder of Giorgios Karaivaz in 2021 continues to be felt, while attacks on journalists persisted in 2023. Key examples in 2023 were the attack on a family member of journalist Kostas Vaxevanis in response to his journalistic work, the physical attack on Ta Nea-journalist Giorgos Papachristos and the vandalization of the house of journalist Stavros Theodorakis. In addition to these attacks, many journalists expressed their concerns about online violence and intimidation, and especially the targeting of female journalists.

As noted with regards to the Task Force, the Greek government does not collect comprehensive data on these attacks. The consistent collection of such data is essential to the establishment of protection and prevention-measures, in line with the EC Recommendation on the Safety for Journalists. Several Greek journalists also indicated that they frequently do not file criminal complaints after attacks, in particular in cases of online threats, as the procedure to do so is time-consuming and they observe that these attacks are rarely prosecuted.

As is described above, there are few concrete government plans to improve the protection of journalists. While the training of journalists as part of the Task Force's work is important, representatives of the Minister of Civil Protection confirmed that, apart from the topic of demonstrations, there are no initiatives to develop training and/or guidelines for law enforcement authorities to improve the protection of journalists. This is problematic, as several practices and incidents in which police and border authorities failed to protect journalists persisted in 2023 (see e.g. this alert on the Mapping Media Freedom-platform and this case). In August 2023 a journalist at newspaper TA NEA was punched in the back of the head by a well-known businessman and shipowner. No one has yet been held accountable. In 2023, the Council of Europe's Platform for the safety of journalists documented nine new cases. On 25 August 2023, Kostas Vaxevanis, a veteran journalist and publisher of Documento and his family were attacked by a man who appeared to be unhappy with a report the newspaper had published about a tax evasion scandal. In August 2023, Lefteris Charalambopoulos, a journalist working for Greek news site In.gr, was threatened and intimidated by Athens Football Club (AEK) owner and supporters due to his reporting.

41. Law enforcement capacity, including during protests and demonstrations, to ensure journalists' safety and to investigate attacks on journalists

With regards to the investigation of attacks on journalists, three main observations were made with regards to the past year. Firstly, Greece continues to be the only Member State of the European Union with two open cases of impunity for the murder of a journalist. The 2021 murder of Giorgios Karaivaz saw two arrests of suspected assassins in April 2023. The arrests were not announced in a formal press conference, but in a message on the personal Facebook-page of the Minister of Justice. Both suspects have not been brought to court yet and, since April, no tangible progress has been announced regarding the pursuit of the masterminds of the crime. The 2010 murder of Sokratis Giolias also remains unresolved, as an investigative report released in 2023 illustrates. During the mission of international press freedom organisations in September 2023, it became clear that the Greek authorities have not analysed the cause of the substantial delays in pursuing the perpetrators in both cases, and have not planned any steps to expedite these investigations. This is not only problematic in light of Greece's international obligations to investigate crimes against journalists and the journalists' relatives, but also further contributes to the chilling effect of these crimes on journalists and press freedom in Greece. The worsening climate for press freedom following these, and other attacks on press freedom, has already been documented in September 2022 by the Committee to Protect Journalists. The ongoing impact of (the impunity for) these murders was confirmed in the aforementioned investigation about the murder of Sokratis Giolias and the September 2023-mission. During the latter mission, the Ministry of Justice and the Ministry of Civil Protection confirmed that there is no special protocol for the investigation and prosecution of attacks against journalists. By law, the

Prosecutor of the Supreme Court is the highest oversight body over the public prosecution, and thereby uniquely mandated to oversee the quality of prosecutorial investigations and to intervene in inadequate prosecutions. As long as the prosecutor does not take up this role with regards to the prosecution of attacks against journalists, or an independently appointed authority is established, this accountability gap remains.

43. Lawsuits (incl. SLAPPs - strategic lawsuits against public participation) and convictions against journalists (incl. defamation cases) and measures taken to safeguard against manifestly unfounded and abusive lawsuits

Strategic Lawsuits Against Public Participation (SLAPPs) and other forms of legal pressures and threats continue to form one of the biggest threats to independent journalism in Greece. Similarly to the issue of safety, systematic data collection on SLAPPs in Greece is currently lacking, although the Panhellenic Federation of Journalists Association (POESY) has initiated an Observatory on SLAPPs. Nevertheless, Greece saw more SLAPP lawsuits documented than most other EU member states, according to the Coalition Against SLAPPS (CASE) and the MFRR (Media Freedom Rapid Response).

Several prominent SLAPP-cases culminated in 2023, including the case against independent media outlet Altheress from Thessaloniki, in which journalists were used on the basis of the GDPR. While Altheress followed all international standards in its publication, the judge found the journalist, Stavroula Poulimeni, guilty at the end of March 2023. This verdict was appealed and a final decision is expected in April 2024.

Journalists from Reporters United, who were also subjected to another SLAPP that culminated in 2023, were targeted in a SLAPP initiated by Grigoris Dimitriadis. Dimitriadis, the nephew of the Greek Prime Minister, stepped down from his position as Secretary during the Predatorgate scandal. Dimitriadis initiated lawsuits for defamation claiming between 400.000 euros of damages against the two journalists. Besides the journalists at Reporters United, journalist Thanasis Koukakis - who was himself a spyware victim - and the newspaper Efimerida ton Syntakton (EFSYN) were also targeted by such lawsuits. The case is due to go to court in January 2024. In December 2023, Dimitriadis filed another multi-million-euro lawsuit against journalists from Reporters United and EFSYN.

Greek journalists have also faced potentially arbitrary criminal lawsuits. In October 2023, French journalist Romain Chauvet was given a six-month suspended sentence for spreading disinformation in a word-against-word trial. In early November 2023, Vaxevanis and one of the newspaper's journalists, Vangelis Triantis, were summoned as suspects as part of a criminal investigation into "possible offence of the use of official secrecy" in connection with their investigative reporting.

No measures appear to have been announced in 2023 to counter the filing of SLAPPs and their impact on journalists. While Greek judges have shown restraint in applying penalties in these cases, the cases strongly impact journalists due to the long delays in the judicial system, the financial resources and time needed to prepare the court hearings and psychological impact and stress.

In November 2023, the Greek Ministry of Justice presented draft amendments to the penal code which media unions warned could leave journalists at risk of serving prison sentences for criminal defamation. The proposed reforms would impose stricter penalties for a series of offences, while also reducing the suspension of sentences on appeal for misdemeanours. In Greece, defamation is treated as a misdemeanour within the penal code, as well as within the civil code. Currently, if a journalist is found guilty of criminal defamation and receives a sentence of more than three years, they could have the sentence suspended until the appeal. Under the changes, simple defamation would be removed from the penal code, however, the crime of aggravated defamation (libel) would remain. If the changes are adopted, any sentence over three years will see the offender spend time behind bars, even for first degree convictions, since the suspension will not be open to appeal. Journalist unions warned that this could mean that journalists convicted of aggravated defamation could face jail time, even if they appeal to a higher court and are ultimately found not guilty. In cases involving the convictions of journalists for defamation, appeals to higher courts have in the past overturned the first instance rulings. A public consultation was launched until 28 December 2023 and the Parliament is expected to vote on the bill in 2024. The stated aim of the reform bill is to modernise criminal legislation and speeding up and improving the quality of criminal trials. While observers have welcomed some aspects of the proposed changes, media groups in particular warned about its negative implications.