



EUROPEAN COMMISSION
DIRECTORATE-GENERAL JUSTICE AND CONSUMERS

The Director-General

Brussels
JUST.C.1/AG/LNT/3902509

Mr Stefanos Loukopoulos
Director
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Dear M. Loukopoulos,

Thank you for your mail of 27 April 2022 addressed to Vice-President Jourová on various alleged violations of the principle of the rule of law in Greece. Your letter has been transmitted to me for a reply.

The Commission is following closely the rule of law situation in all Member States in the framework of the Rule of Law Mechanism¹. In this framework, since 2020 the Commission adopts annually a Rule of Law Report which looks at significant developments across the 27 Member States in four key areas relevant for the respect of the rule of law: the justice system, the anti-corruption framework, media pluralism and media freedom and other institutional issues related to checks and balances. The Report focuses on systemic issues, rather than on individual cases. On 13 July 2022, the Commission adopted its 2022 Rule of Law report.²

As concerns the country chapter for Greece, the Report takes into consideration all relevant sources including written contributions from the Greek authorities as well as stakeholders. It also builds on the findings made during a country visit which took place at the end of March 2022. For the first time, the 2022 Report also includes specific recommendations on rule of law matters for each Member State.

As regards whistleblowing, please note that the Commission has initiated an infringement procedure against Greece in January 2022 in view of Greece's failure to notify the transposition of Directive (EU) 2019/1937. After the deadline for replying to this letter of formal notice has passed, the Commission is currently considering further steps to be taken to ensure the transposition and implementation of this Directive.

¹ https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism_en

² https://ec.europa.eu/info/sites/default/files/21_1_194014_coun_chap_greece_en.pdf

As regards issues which are not covered or only partially covered by the Rule of law Report and to which you are referring to in your letter, I would like to mention the following:

As part of broader efforts under the European Democracy Action Plan to strengthen media freedom and media pluralism and uphold the rule of law, the Commission presented, on 27 April 2022, a package to tackle the phenomenon of Strategic Lawsuits Against Public Participation (so-called SLAPPs). Our initiatives combine legislation, by way of a Directive, and non-legislative measures in the form of a Recommendation. The proposed Directive will work in three ways: by deterring the filing of a SLAPP, by enabling quick dismissal of a SLAPP once filed, and by providing other remedies, such as an award of costs, compensation of damages and penalties against an abusive claimant. The Directive is currently under negotiation in the Parliament and the Council. The Recommendation is applicable as of its adoption. It is designed among others to build awareness and expertise among SLAPP targets, legal professionals and other groups. It includes measures to support those facing SLAPP and promotes a more systematic monitoring of SLAPP. It applies to domestic cases and covers all types of cases, such as civil, criminal and administrative. The Commission will work with Greek authorities to encourage, facilitate and monitor its implementation.

Concerning allegations as to unlawful police violence, as the Commission has already stressed on several occasions, any use of force by law enforcement authorities should always be exercised in a proportionate manner with any form of inhumane treatment being unacceptable. While the Charter of Fundamental Rights of the European Union applies to Member States when they are implementing EU law, national authorities, including courts, need to ensure the respect of fundamental rights. Therefore, it is important that the Greek authorities carry out independent and accountable investigations leading to the determination of all the relevant facts. The Commission is not competent to review or change the decisions of national authorities.

The Commission acknowledges the important role that non-governmental organisations play in saving lives of migrants and remains committed to supporting their work. In the Guidance on rules on facilitating unauthorised entry, transit and residence³, the Commission recalled that EU law⁴ does not criminalise humanitarian assistance and called on the Member States to distinguish humanitarian activities from those that aim to facilitate irregular entry or transit. As part of the renewed EU action plan against migrant smuggling (2021-2025)⁵, the Commission will continue monitoring the implementation of the Directive and verifying the conformity of national legislation with the EU legal framework.

On the rights of refugees and asylum seekers, according to Union law, external borders can only be crossed at crossing points. Member States should take proportionate measures to prevent and discourage unauthorised crossings of the external borders. However, Member States must also act in full compliance with relevant Union law and people may not be turned back to a third country where they would be exposed to the risk of inhumane treatment.

³ C(2020)6470.

⁴ Council Directive 2002/90/EC and the Council Framework Decision.

⁵ COM(2021) 591.

The Commission remains concerned by the reports of pushbacks and disappearances at the borders in Greece. The competent Greek authorities must investigate these reports in order to establish the facts and to take the necessary follow-up actions. The Greek authorities are clarifying the different elements in place to ensure compliance with the provisions of the European Charter on Fundamental Rights and the EU acquis, through the investigation or, where necessary prosecution, of misconduct by competent state authorities, including on alleged pushbacks. Furthermore, the Commission is working closely with Greece in the context of the Task Force Migration Management, holding regular meetings with the national authorities to provide feedback and strengthening the effectiveness of the monitoring arrangements.

Concerning the point on Greek legislation regulating the registration of NGOs, the Commission is concerned about the pressure currently experienced by NGOs across the Union and is for this reason working closely with Greece in order to monitor the implementation of the legislation and its compatibility with EU law.

Finally, as regards the rights of third-country nationals, the Commission considers that successful integration is an essential part of a well-managed and effective migration and asylum policy. Timely access to the rights by beneficiaries upon the granting of protection, such as social benefits on a par with own nationals, is an essential element of efficient integration. This is why the Action Plan on Integration and Inclusion 2021-2027 sets up several actions aiming at enhancing access of migrants to education, employment, health and housing. The Commission intends to monitor the development of the initiatives regarding integration and to obtain a clear picture of the situation of asylum applicants transitioning to the status of beneficiaries of international protection, and their prospects of integration into Greek society.

In relation to naturalisation and obtaining Greek citizenship, according to settled case-law of the European Court of Justice, it is for each Member State, having due regard to EU law, to lay down the conditions for the acquisition and loss of its nationality⁶. In other words, the conditions and procedures for obtaining citizenship of the Member States are regulated by the national law of the individual Member States, subject to respect for EU law.

(e-signed)
Ana GALLEGO

⁶ Judgment of 2 March 2010, *Rottmann*, C-135/08, EU:C:2010:104, paragraphs 39 and 41 and the case-law cited.