

# Contesting Migration in Law



Perspectives on Cases involving Pro- and Anti- Migration  
Mobilisation in Greece

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**Perspectives on Cases involving Pro- and Anti- Migration Mobilisation in Greece**

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Contesting Migration in Law  
 Perspectives on Cases Involving Pro- and Anti- Migration Mobilisation in Greece

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#### About the project:

This report has been produced as part of the ESRC-funded project “Contesting Migration: Pro- and Anti-Migrant Mobilization in Mediterranean Refugee Reception Sites” (ES/W012324/1), led by Olga Demetriou at Durham University in collaboration with Antonis Ellinas at the University of Cyprus.

Contesting Migration brings together anthropologists and political scientists to study one of the main social and humanitarian contemporary challenges, that of forced displacement. The project focuses on the impact of grand policy shifts on migration and refugee protection over the last decade on local activist communities in the Mediterranean. Taking locations in Greece, Italy, and Spain as its main sites of focus, and building on previous research in Greece and Cyprus, the project studies the governance of migration through the lens of refugee reception sites with a focus on political contestation. Mobilising political ethnography in nine sites, the project seeks to understand in a comparative frame, refugee politics and policy from the point of view of activists involved in conventional, contentious, and cultural forms of activism.

The project’s legal reports address the landscape of activism for and against migration in the three countries and provide a frame for understanding the legal context in which this form of conventional activism operates. They seek to provide contextual and judicial background, through studying the provisions of the law and how these are put in practice. Each report uses two legal case studies to compare the approach to pro- and anti-migration activism in each country.



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## Perspectives on Cases Involving Pro- and Anti- Migration Mobilisation in Greece

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A monument in Lesvos draped in migrant life jackets.  
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## Contesting Migration in the Sphere of Law Report on Greece

### Report Summary

Over the past decade, Greece has become a frontline laboratory of European migration governance, transforming from a site of spontaneous solidarity movements into the designated “shield of Europe”.

This report examines how law –through legislative reform, prosecutorial practice and judicial interpretation– has become a key mechanism for regulating and shaping migration-related activism and a core instrument of migration governance.

Mapping the current context and legal frameworks governing migration, asylum, humanitarian assistance, protest, hate speech and anti-racism, the report identifies an increasingly dense web of legal, judicial and administrative obstacles that have led to the shrinking of civic space.

Through the comparison of two emblematic criminal cases –the prosecution of civil search and rescue activists in the “ERCI and others” case and the racist attacks targeting migrant protesters at Sappho Square in Lesvos in 2018– the report reveals a structural asymmetry in policing, prosecution and adjudication of different forms of mobilisation.

The findings suggest that criminal law in Greece does not operate neutrally in migration-related contexts. Instead, it contributes to a hierarchy of enforcement priorities in which border control prevails over anti-racism enforcement. While solidarity is disciplined through lengthy lawfare and procedural burden, racist violence risks normalisation and impunity through tolerance and downgrading.

By documenting these patterns and their concrete implications on migration-related activism, the report invites an urgent reflection on the shrinking of civic space, accountability for hate crimes and the future of fundamental rights at Europe’s borders.

# Introduction

## Context

Since 2015, Greece has experienced an unprecedented influx of migrants seeking international protection in Europe.<sup>1</sup> More than 1.28 million people have entered the country through its land and sea borders, primarily via the Eastern Mediterranean route through Türkiye –which remains one of the principal entry points into the European Union.<sup>2</sup> In 2025 alone, approximately 41,000 arrivals<sup>3</sup> were recorded despite intensifying border control and attacks on migrants.

While significant, the scale of arrivals does not in itself account for the country's marked transformation in its political, legal and social approach to migration governance. This shift is more accurately understood when looking at Greece's role over the past decade as a designated laboratory or testing ground for the development and implementation of the European Union's deterrence-based migration policies. Initially celebrated for the spontaneous acts of solidarity mobilised by local communities and civil society actors,<sup>4</sup> Greece gradually came to be framed as the “shield of Europe” tasked with deterring migration at Europe's external borders at any cost.<sup>5</sup>

As shown below, successive legislative reforms have institutionalised increasingly restrictive practices and infrastructures, including enhanced border surveillance, normalisation of pushbacks, erosion of access to asylum and procedural safeguards, expansion of detention-like camps and the widespread criminalisation of migration. This shift reflects broader European policy trends toward deterrence, externalisation and securitisation of migration, culminating in the adoption of the EU Pact on Migration and Asylum in 2024.<sup>6</sup> These changes were accompanied by an increasingly hostile media framing and public discourse: for instance, the widely used term “refugee” was progressively replaced by hostile, derogatory and stigmatising terms such as “irregular migrants,” “illegal third-country nationals” and, more recently, “invaders” or “criminals.”<sup>7</sup> Such discursive shifts have contributed to the increased stigmatisation and dehumanisation of migrants, shaping both policy and public opinion, as evidenced in the regular racist attacks recorded against them.

As a result, a wide and polarised landscape of activism has emerged ranging from migrant self-organised groups, solidarity networks and humanitarian organisations to nationalist and anti-migrant groups. The interaction of these actors with an increasingly regulated and restrictive legal environment has made Greece a fast-changing and highly contested arena for migration-related mobilisation.

## Aims and Scope

This report investigates the role of law in regulating activism in Greece with a focus on how state institutions –and in particular the legislature, judiciary and prosecutorial authorities– shape the legal environment within which both pro- and anti-migration activism occurs. It looks into how and to which extent these institutional actors influence the viability, legitimacy and risks associated with various forms of mobilisation. By doing so, it also analyses the place and impact of legal activism in this context.

<sup>1</sup> The term “migrant” is used to refer to all people who are forced to and/or choose to migrate and/or seek asylum, irrespective of their legal status or categorisation. When relevant, the terms “asylum seeker” and “refugee”, are used to refer to asylum status.

<sup>2</sup> ACAPS, Country Analysis, (no date).

<sup>3</sup> UNHCR, Operational Data Portal–Eastern Mediterranean Arrivals, (2025).

<sup>4</sup> See for instance, the nomination of several Greek islanders for their role during the so-called refugee “crisis” for the 2016 Nobel Prize: The Guardian, Greek islanders to be nominated for Nobel peace prize, 24 January 2016; Papataxiarchis, E., Being ‘There’: At the Front Line of the ‘European Refugee Crisis’, *Anthropology Today*, (2016).

<sup>5</sup> See EU Commission President Ursula von der Leyen naming Greece as the “shield” of Europe: The Guardian, Migration: EU praises Greece as ‘shield’ after Turkey opens border, (3 March 2020).

<sup>6</sup> European Commission, EU Pact on Migration and Asylum, (21 May 2024).

<sup>7</sup> Kollias, A.; Kountouri, F.; Kalamanti, S. Framing Migration Through the Crisis Era 2015–2022: A Content and Semantic Network Analysis of the Greek Press. *Journal. Media* (2025), 6, 4.

The report begins with a presentation of the socio-political context of migration-related mobilisation in the country and a mapping of the relevant legal frameworks, including legislation governing migration, humanitarian assistance, protest, public order, anti-racism measures and hate speech.

Particular emphasis is placed on the criminalisation of activities related to humanitarian and legal assistance at the borders, human rights monitoring and advocacy that constrain the activism of pro-migrant actors. Equally, focus is placed on the criminalisation of acts of violence or incitement perpetrated by anti-migrant groups. This provides a comparative perspective on the role of the state in tolerating, supporting or restricting activism for and against migration through the use of law.

Towards this comparison, the report analyses the practical application of some of these legal frameworks through two case studies drawn from completed proceedings before Greek courts. These case studies serve to illustrate how laws are interpreted and operationalised in practice, how criminalisation mechanisms function and how judicial outcomes reflect broader socio-political pressures. Finally, the report draws conclusions about possible imbalances and challenges faced by activists on each side and formulates recommendations to the Greek Government and Parliament.

## Methodology

This research was carried out in November 2025 and updated in February 2026. Primary methodological components included a comprehensive desk research, comprising analysis of relevant Greek legislation, ministerial decisions, decrees and administrative circulars; a review of existing scholarship, including academic literature on migration management, criminalisation and activism in Greece and Europe; and consultation of national and international reports, including by NGOs and human rights institutions.

The report benefited from peer review by activists and legal practitioners with expertise in Greek law. Given the fast-changing pace of legislation, in particular in the area of asylum and migration, this report is up to date as of February 2026. Subsequent legislative amendments or judicial developments may therefore alter specific aspects of the analysis and information presented here.

## Socio-political context

Migration has remained one of the most contentious domains of Greek political and social life since the mid 2010s. Since 2015, Greece has progressively hardened its migration governance model, shaped in part by the “hotspot approach”, the EU-Türkiye Statement of March 2016 and the subsequent EU funding conditionalities.<sup>8</sup>

### Policy shift towards European and Greek border deterrence regimes

Reports highlight how reception, asylum procedures and border control became increasingly integrated into a broader European deterrence regime.<sup>9</sup> A central point of this policy shift has been the adoption of the ‘hotspot approach’ which was presented by the European Commission as part of the European agenda on migration in April 2015, as a means to support migration management of frontline Member States considered under high migratory pressure, i.e. Italy and Greece.

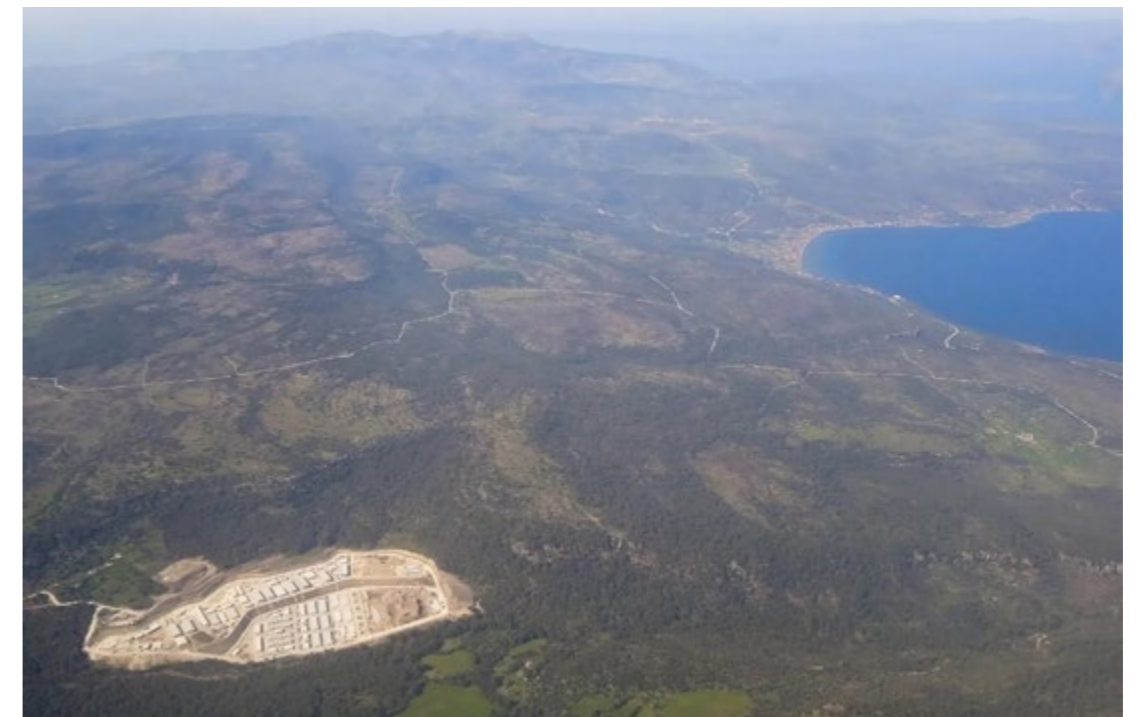
In Greece, five ‘hotspot’ camp facilities were created for the initial reception, identification and registration of asylum-seekers arriving at the main points of arrivals by sea in the Eastern Aegean islands, i.e. Lesvos, Chios, Samos, Kos and Leros. With the EU-Türkiye Statement, these islands were transformed, overnight, into places of forced containment for people, channelled through

<sup>8</sup> European Council, Press release, 18 March 2016., EU-Turkey statement, (18 March 2016); on the EU funding allocated to Greece related to migration and borders between 2014-2020 and 2021-2027 under the Asylum, Migration and Integration Fund (AMIF), the Border Management and Visa Policy Instrument (BMVI) and the Internal Security Fund (ISF) and the Emergency Support Instrument (ESI), see also European Commission, Financial Support from the EU, and Managing migration, EU financial support to Greece, (September 2021).

<sup>9</sup> ELIAMEP, Hellenic Foundation for European and Foreign Policy, Migration Trends in Greece: Key Developments and Challenges in 2023 – 2024, (2024).

fast-tracked asylum procedures, and into deportation platforms to Türkiye and countries of origin for rejected asylum seekers. Since their creation, the hotspot camps have exposed people to extreme levels of overcrowding, endangering, inhumane and degrading living conditions and deprivation of essential services, including health care –violations for which Greece was repeatedly condemned by the European Court of Human Rights.<sup>10</sup>

Implemented most intensively on the Aegean islands’ hotspots, this regime institutionalised the containment/detention of migrants in degrading, overcrowded and substandard refugee camps, first in Reception and Identification Centres (RICs) and later in closed, highly securitised Closed Controlled Access Centres (CCACs), which some media described as shifting “from a jungle model to a prison model”.<sup>11</sup>



Aerial view of Vastria © Marion Bouchetel

The structural failure of the “hotspot” model and asylum infrastructures adopted during the so-called refugee crisis, the human suffering and trauma caused by it, the implementation of deterrence and exclusion policies under successive governments, as well as the rise of nationalist –and counter-mobilising solidarity– movements, have led to repeated protests, rights claims and state responses.

<sup>10</sup> Indicatively, M.A. and Others v. Greece, no. 15192/20, 3 October 2024.

<sup>11</sup> See Le Monde, Registration sites shift from a jungle model to a prison model, (9 July 2025); Refugee Support Aegean, Refugee facilities on the Aegean islands, (10 December 2024); CPT Aegean Migrant Solidarity, How to build a detention centre, The case of Vastria in Lesvos, (16 July 2025). Note that the five ‘hotspots’ camps established on the Eastern Aegean islands were originally named Reception and identification Centers (RICs) and conceived as migrant registration sites under the management of the Ministry of Migration and Asylum. Following the fires that destroyed the Moria RIC in Lesvos and part of the Vathy RIC in Samos in 2020, the Greek government shifted towards a new model of camp facilities with the construction of new detention-like centres –entirely financed by the European Union for a total amount of 276 millions euros– on the same five islands. The EU refers to these closed centres as “Multi-Purpose Reception and Identification Centres” (MPRICs) but the Greek government officially adopted the term “Closed Controlled Access Centres” (CCACs) (see Ministerial Decision 25.0/466733/15-12-2021). CCACs are designed to concentrate all asylum and deportation procedures in one facility, in remote areas and under strict surveillance. CCACs are meant to implement the European Pact on Migration and Asylum adopted in 2024, which provides for fast-tracked border procedures, deportations and the expansion of possibilities of administrative detention. The CCAC in Samos was inaugurated on 18 September 2021 and the ones in Leros and Kos on 27 November 2021. In Lesvos and Chios, the new CCAC constructions have faced legal obstacles, leading the existing RIC facilities to be converted into CCACs (Article 12, Presidential Decree 77/2022- Gov. Gazette 212/A/17-11-2022).

Another defining feature of the border regime has been the normalisation of systematic pushback practices or refolements of migrants at the sea and land borders which became routine in particular during the COVID-19 pandemic period, and since the tensions at the Greek-Turkish borders in February 2020.<sup>12</sup> When Türkiye's president Recep Tayyip Erdoğan announced, at the time, that he would no longer prevent migrants from reaching Europe,<sup>13</sup> Greek authorities deployed military and police forces along the Evros land border, in an attempt to prevent migrants from entering the country. Violence escalated with military and police reportedly firing teargas and stun grenades, and causing casualties amongst migrants through shootings.<sup>14</sup> Following this, the Greek government unilaterally suspended its asylum system for a month,<sup>15</sup> and from that moment onwards, Türkiye stopped accepting rejected migrants back from Greece as foreseen in the EU-Türkiye statement.

Greece, for its part, started to informally (and unlawfully) forcibly return or push back migrants into Turkish waters (when arriving to the Greek islands) and across the Evros/Meriç river (when crossing the land border).<sup>16</sup> Despite overwhelming documentation of such dangerous and violent refolement practices by NGOs,<sup>17</sup> institutions<sup>18</sup> and the media,<sup>19</sup> the Greek government keeps denying it carries out pushbacks at the borders. A 2025 ruling of the European Court of Human Rights was a turning point in this process, as it condemned Greece for the first time for a refolement operation in Evros and recognised pushbacks constituted a systematic practice.<sup>20</sup> Investigations further documented the operational role of national authorities and the oversight failures and complicity of Frontex.<sup>21</sup> Despite repeated calls from the Council of Europe to halt the practice,<sup>22</sup> pushbacks have remained central to state policy. Even amidst the ongoing preliminary investigation for felonies of 21 members of the Coast Guard following the Pylos shipwreck of

12 The Guardian, Erdoğan says border will stay open as Greece tries to repel influx, (29 February 2020); Politico, Violence at Greek border as migrants head for Europe, (29 February 2020).

13 This was an attempt to pressure the European Union over support both for Türkiye's intervention in Syria as well as for the millions of refugees hosted in Türkiye.

14 Forensic Architecture, Lighthouse Reports and Bellingcat, The killing of Muhammad Gulzar, (8 May 2020). Muhammad Gulzar was a Pakistani national killed during these violent episodes.

15 Gov. Gazette A' 45/2.3.2020, Government Decree on "suspension of the submission of asylum applications", 2 March 2020.

16 The practice of pushbacks had been reported in Greece before February/March 2020, however from that moment onwards pushbacks became systematic and widespread.

17 See, inter alia, Forensic Architecture, Drift-Backs in The Aegean Sea, (15 July 2022).

18 UN Committee Against Torture, Concluding observations to the seventh period report of Greece, (3 September 2019), (CAT/C/GRC/CO/7), para. 16; Committee for the Prevention of Torture (CPT), Report to the Greek Government on the Visit to Greece Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 13 to 17 March 2020, CPT/Inf (2020) 35, (19 November 2020); Council of Europe Commissioner for Human Rights, Letter to Greek Minister of Citizens' Protection, Minister of Migration & Asylum and Minister of Shipping and Island Policy, (3 May 2021); Special Rapporteur on the human rights of migrants, Report on means to address the human rights impact of pushbacks of migrants on land and at sea, (12 May 2021), para. 55; UN Committee on Enforced Disappearances, Concluding observations on the report submitted by Greece under article 29 (1) of the Convention, CED/C/GRC/CO/1, (12 May 2022); UNHCR, News Comment: UNHCR warns of increasing violence and human rights violations at European borders, (21 February 2022); Greek National Commission for Human Rights (GNCHR), Statement on the reported practices of push backs, (9 July 2020), and Interim Report, Recording mechanism of incidents of informal forced returns interim report, (January 2023); Annual Report 2023, Recording mechanism of incidents of informal forced returns interim report, (June 2024); Annual Report 2024, Recording mechanism of incidents of informal forced returns interim report, (July 2025).

19 See for instance, The Guardian, Greece accused of 'shocking' illegal pushback against refugees at sea, (26 April 2021), report of a pushback case currently pending before the European Court of Human Rights in *S.A.A and others v. Greece*, no 22146/21, (in French); see also New York Times, Video shows Greece abandoning migrants at sea, (19 May 2023), report documenting for the first time an entire pushback operation by Greek authorities of a group of migrants in Lesbos.

20 *A.R.E. v. Greece*, no. 15783/21, § 229, (7 January 2025); The Guardian, Greece guilty of systematic pushback of asylum seekers (7 January 2025); see also *G.R.J. v. Greece* (dec.), no. 15067/21, § 190, (3 December 2024).

21 OLAF, European Anti-fraud office, Investigation of Frontex, Case No OC/2021/0451/A1; The Guardian, Greek government under fire after video shows 'pushback' of asylum seekers, (19 May 2023); Reuters, EU border agency reviewing 12 cases of potential rights violations by Greece, (8 April 2025).

22 Council of Europe Commissioner for Human Rights, Greece should prevent pushbacks and ensure accountability for human rights violations at the borders (6 May 2025); Greece: the Commissioner calls for accountability for human rights violations committed at the borders and intensified efforts to honour the human rights of Roma (11 February 2025); Greek authorities should investigate allegations of pushbacks and ill-treatment of migrants, ensure an enabling environment for NGOs and improve reception conditions (12 May 2021); see also: Euronews, Europe's human rights watchdog urges Greece to end 'pushbacks' of migrants (6 May 2025).

June 2023<sup>23</sup> and Greece's repeated condemnations by the European Court of Human Rights for inadequate rescue efforts and endangering operations against migrants at sea,<sup>24</sup> pushbacks remain a reality.



No Frontex banner © Marion Bouchetel

Such policies have been accompanied by regular decisions to arbitrarily restrict access to asylum<sup>25</sup> and repeated legislative reforms towards increasingly more restrictive asylum policies.<sup>26</sup> In parallel, as discussed below, successive governments have continuously implemented a policy of criminalisation of newly arrived migrants, systematically arresting boats and car drivers, under the mantle of fighting smuggling.

### Public opinion and anti-migrant mobilisations

Greek public attitudes toward migration have oscillated between solidarity-based initiatives and periods of intense xenophobia. Early local solidarity networks on the Aegean islands, shaped by long histories of migration, initially mobilised humanitarian support and solidarity actions. However, prolonged containment conditions, deteriorating camp infrastructures and heightened border securitisation contributed to increased polarisation of public opinion, including anti-migrant sentiment.<sup>27</sup>

23 Refugee Support Aegean, Pylos shipwreck: Criminal prosecution on felony charges against the current head of the Coast Guard and senior members of its leadership, (7 November 2025). Forensic Architecture, the Pylos shipwreck, (7 July 2023);

24 European Court of Human Rights, *Alkhatib and Others v. Greece*, no 3566/16, (16 April 2024); and *Safi and Others v. Greece*, no. 5418/15, (7 October 2022).

25 See Greece's Parliament vote of a 3-months suspension of the right to seek asylum for people arriving from Libya in July 2025: APnews, Greek parliament passes suspension of asylum claims despite international criticism, (11 July 2025); and see one-month suspension of all asylum claims in March 2020: Government Decree on the "Suspension of the submission of asylum applications", 2 March 2020, Government Gazette A' 45/2.3.2020; Refugee Support Aegean, Rights denied during Greek asylum procedure suspension, (April 2020).

26 See Legal Context / Migration / Asylum Procedure and Criminalisation; see also The Guardian, Greece passes draconian legislation with prison terms for rejected asylum seekers, (3 September 2025).

27 Bram J. Jansen, The humanitarian border as a violence-producing environment: revisiting aid and anti-migration protests on Lesbos, Greece, (27 February 2025); Kouros, T. Contextualizing Anti-Migrant Sentiment: A Comparative Ethnography of Lesbos and Samos, Greece, *Journal of Borderlands Studies*, 1–19, (2025).

Nationalist, right-wing populist and far-right mobilisation against migration intensified especially on the Eastern Aegean “hotspot” islands after 2018.<sup>28</sup> In January 2020, local communities protested overcrowding in camps, and the negative impact on their communities caused by the containment policy (or geographical restriction), impeding migrants arriving to the islands to move elsewhere, and the flawed asylum procedures.<sup>29</sup> In Lesvos and Chios, tensions escalated again in February 2020, in resistance to the announced plans of construction of new EU-funded Closed Controlled Access Centres (CCACs) on the Eastern Aegean islands.<sup>30</sup> In Lesvos, local far-right and vigilante groups established roadblocks on several roads on Lesvos<sup>31</sup> and targeted migrants, journalists and NGOs in a series of violent attacks that continued until the COVID-19 lockdown of March 2020.<sup>32</sup> At the time, members of far right groups from several European countries even travelled to Greece to stop migrants from crossing Greece’s borders.<sup>33</sup>



Protests, February 2020 © Marion Bouchetel

Hostile and violent mobilisations against migrants and people who support them are not limited to the Greek islands. For instance, in August 2023, some government officials and politicians publicly blamed migrants for being at the origin of the large wildfire that burned more than 300 sq miles of the Dadia forest in Evros, and declared the region under attack.<sup>34</sup> The false accusations persisted despite the fact that experts determined that the fire started due to lightning and that the fire killed at least 18 migrants who got trapped by the flames.<sup>35</sup> Spurred by this hostile rhetoric and accusations, hundreds of local far-right vigilantes started a manhunt against migrants in the

- 28 Refugee Support Aegean, Xenophobia and racism in the island communities: yet another loss caused by the EU-Turkey “Deal”, (9 March 2018).
- 29 Ekathemirini, Islanders protest against overcrowding in migrant camps, slow processing, (22 January 2020).
- 30 Ministry of Migration and Asylum, Speech by the Minister of Immigration and Asylum, Notis Mitarakis at the meeting of the Board of Directors of KEDE, (26 February 2020); Efsyn, Mitarakis: Closed detention centres will open in the summer, (10 February 2020) (in Greek); Stonisi, Battles in Karava, (25 February 2020) (in Greek); Dimitra Grous, The chronicle of the violent confrontations in Lesvos and Chios, Athens Voice, (27 February 2020) (in Greek).
- 31 Stonisi, Manhunt in Moria, (4 February 2020) (in Greek); LIFO, Greece/Moria: They were knocking on doors “looking” for refugees, migrants and NGO members, (5 February 2020) (in Greek); Stonisi, Before the prosecutor on charges of setting up a criminal group, (7 February 2020) (in Greek).
- 32 The Pressroom, Lesvos: Young men armed with clubs attack NGO members, (5 February 2020) (in Greek); Alexandros Kalafatis, New commando attack in Mytilene - Craneporters against NGO volunteers, Ethnos, (27 February 2020) (in Greek); Keep Talking Greece, Lesvos: Locals mob against migrants boat, attack reporters (videos), (1 March 2020); Alex Constantine, Greek City Times, Migrant search and rescue ship denied entry into Lesvos, (6 March 2020); Efsyn, New Democracy official finds the burning of a refugee structure more idyllic than a sunset, 8 March 2020 (in Greek) — all cited in Legal Centre Lesvos and Feminist Autonomous Centre for research, A Pandemic of Abuses, (August 2023). Also Kouros, T. Contextualizing Anti-Migrant Sentiment: A Comparative Ethnography of Lesvos and Samos, Greece, *Journal of Borderlands Studies*, 1–19, (2025).
- 33 InfoMigrants, Greece: Far-right activists in violent clashes to ‘defend Europe’ against migrants, (9 March 2020).
- 34 The Press Project, Evros: Fascists call for pogroms against refugees and migrants via Viber, (23 August 2023) (in Greek);
- 35 See for instance BBC, Greek fires rage after migrant tragedy near border, (23 August 2023); Forensic Architecture, The Evros/Meriç river: a century of border design, (15 January 2025).

border region, with some of the vigilantes abducting and detaining migrants in a transport trailer while videotaping them and accusing them of arson, and subsequently posting the video on social media.<sup>36</sup> Three men were brought to trial on charges of abduction with racial motivation and condemned to 5 years in prison each. These prison sentences were converted to a monetary penalty by the appeal court of Thrace which downgraded the felony charge with racial motivation to a misdemeanor charge of illegal detention and acquitted the three men of other misdemeanor charges, such as incitement to commit violence and illegal possession of weapons. A review of this decision has been requested by the Supreme Court Prosecutor.<sup>37</sup>

Such cases intersected with broader political developments, including the decline of Golden Dawn following the 2020 conviction of its leadership as a criminal organisation.<sup>38</sup> Despite this, anti-migration rhetoric became mainstreamed within parliamentary debates.<sup>39</sup> Media coverage using discursive frames of “illegality”, “security”, “crime”, “invasion”, “emergency” and “geopolitical threat” when speaking about migration, has further contributed to fuelling and normalising racist and anti-migrant discourse and mobilisation in Greece.

### Grassroots mobilisations and solidarity activism

In answer to the state-led deterrence, Greece has developed into a unique hub of transnational solidarity movements. With thousands of volunteers, activists and aid workers passing by or staying in Greece over the last years, the landscape of pro-migration activism has also been very diverse and intense.<sup>40</sup> In Athens, the neighborhood of Exarcheia became emblematic for self-organised housing efforts in squats. The City Plaza squat (2016–2019) stands out as an example of sustained migrant-led and solidarity-based activism. Activist scholarship points to these initiatives as forms of “infrastructures of solidarity” that contested state narratives and provided alternative modes of reception.<sup>41</sup>

In Lesvos, the Moria Reception and Identification Center (RIC) became a global symbol of humanitarian crisis, causing regular injuries and deaths due to endangering conditions in the camp, and leading to migrant-led protests and riots.<sup>42</sup> These mobilisations were rooted in demands for freedom of movement, relocation, access to asylum, vital medical services and dignified living and safety conditions. For instance, in September 2019 a large and fatal fire led to the death of one Afghan woman and injured 19 persons including children, leading to riots.<sup>43</sup> Several marches and demonstrations were also organised in January and February 2020 by migrants and solidarity activists to protest against the escalation of deadly violence, exploitation and inhumane and dangerous conditions in Moria camp, where 3 people had been killed in January alone.<sup>44</sup> Much larger demonstrations happened again in 2020, when Moria camp was



Antifa graffi, Lesvos © Marion Bouchetel

- 36 Refugee Support Aegean, 19 refugees dead in the devastating fires and escalation of racist violence in Evros, Greece, (23 August 2023); The Press Project, Evros: Fascists call for pogroms against refugees and migrants via Viber, (23 August 2023) (in Greek);
- 37 To Vima, High Court Prosecutor Orders Review of Convictions for Evros Vigilantes, (17 July 2024).
- 38 Ellinas, A.A., Societal mobilization and the fall of the Neo-Nazi Golden Dawn in Greece, *Georgetown Journal of International Affairs*, (2021), 22(1), pp.61-67; The Guardian, Neo-Nazi leaders of Greece’s Golden Dawn sentenced to 13 years, (14 October 2020).
- 39 Bailey-Morley, A. and Lowe, C., Public narratives and attitudes towards refugees and other migrants: Greece country profile. London: ODI, (2023).
- 40 For a critical view on volunteer tourism, see for instance The Guardian, Refugees in Lesbos: are there too many NGOs on the island?, (5 January 2016).
- 41 Cabot, H., *The Business of Anthropology and the European Refugee Regime*, (2019).
- 42 For an extensive record of the deaths of people residing in Moria Reception and Identification Centre between 2016 and 2020, see CPT Aegean Migrant Solidarity, *Deadly End*, (2023).
- 43 The Guardian, Riots at Greek refugee camp on Lesbos after fatal fire, (30 September 2019).
- 44 Deportation Monitoring Aegean, Three Arrested After Protest Against Deadly Violence, (23 January 2020).



Neglect at Moria centre © Marion Bouchetel



Protests during Moria trial © Marion Bouchetel

burned to the ground.<sup>45</sup> Protests were always violently suppressed by police forces and often leading to arbitrary arrests and prosecutions of migrants deemed to be unfair.<sup>46</sup>

From grassroots protests and squats, pro-migration activism increasingly moved towards legal and institutional arenas, with human rights defenders and monitors escalating legal strategies, such as bringing cases to Greek courts, the European Court of Human Rights and other international fora.<sup>47</sup> While NGOs have extensively documented pushbacks, detention conditions and rights violations, legal accountability has unfolded slowly and policy change has largely been limited, with Greek authorities and institutions disputing or denying evidence, publicly promising monitoring mechanisms and investigations,<sup>48</sup> which remain inaccessible and ineffective.<sup>49</sup>

### Harassment, intimidation and shrinking of civil society

Public discourse –including by government officials– has increasingly adopted a rhetoric of hostility and suspicion against NGOs and activists working with refugees and their activities, as well as against journalists. As reported by the UN Special Rapporteur on Human Rights Defenders, NGOs and human rights defenders in Greece are publicly portrayed as “traitors, enemies of the state, Turkish agents, criminals, smugglers and traffickers.”<sup>50</sup> In 2022, for instance, the Greek Migration Minister accused some NGOs of coordinating with human smuggling networks “tolerated by Turkish authorities.”<sup>51</sup> In

45 Al Jazeera, Thousands protest after Greece's Moria refugee camp burns down, (11 September 2020); Reuters, Migrants stranded by Lesbos fire resist new temporary camp, (15 September 2020).

46 See for instance the Moria 35 case in 2018, Legal Centre Lesbos, Op-Ed: Moria 35 – Trial at the Gates of Fortress Europe (20 April 2018).

47 For instance, the number of pending cases against Greece before the European Court of Human Rights in 2022 increased by 100% compared to 2021, while cases communicated to the Greek government in 2022 increased by 179% compared to 2021 (European Court of Human Rights, Analysis of Statistics, Trends for Greece).

48 See for instance, PM Mitsotakis' position in CNN Live interviewed by Christiane Amanpour, following a 2020 New York Times investigation on pushbacks, available on X (19 August 2020) and similarly following the 2023 investigation by the New York Times, as reported in AP, Greece says it's investigating claim migrants were illegally deported back to Turkey, (25 May 2023); InfoMigrants, Greek authority finds no evidence of migrant pushback claims, (30 March 2022).

49 See ECtHR, A.R.E. v. Greece, No. 15783/21, (7 January 2025), para 201. See also, on the lack of independence of investigating officers and persisting ineffectiveness of criminal investigations into ill-treatment by law enforcement bodies in Greece, Vouliwatch et al., Struggle for accountability, the state of the rule of law in Greece, (January 2025), from p.15; and Greece in Institutional Decline, Joint Civil Society Submission to the European Commission on the 2024 Rule of Law Report, (January 2024), from p.9.

50 UN Special Rapporteur on Human Rights Defenders, Statement on preliminary observations and recommendations following official visit to Greece, (22 June 2022).

51 ECRE, Greece: Minister Accuses MEPs of Being Manipulated by Propaganda and NGOs of Coordinating with Human Smugglers, (24 June 2022).

February 2026, in the aftermath of the fatal collision in Chios of a boat of the Hellenic Coast Guard and a migrant dinghy, which killed 15 persons and injured 24 others,<sup>52</sup> several ministers in post publicly portrayed NGOs and NGO members supporting the survivors as accomplices of smuggling networks and accused them of manipulating survivors to “slander” the Coast Guard.<sup>53</sup>

Greek authorities have also repeatedly opened investigations and launched criminal proceedings, mostly based on Greece's smuggling legislation (further described below), against humanitarian workers, rescuers and activists, which have had chilling and deterrent effects on grassroots engagement.<sup>54</sup> Beyond the case of criminalisation of members of the Emergency Response Centre International (ERCI) and others in 2018,<sup>55</sup> volunteers working with the Spanish NGO Proem-Aid and the Danish NGO Team Humanity were accused of migrant smuggling in Lesbos before being acquitted.<sup>56</sup> During and following the COVID-19 pandemic –at a time of increased pushbacks and human rights concerns– the pattern of prosecution of migrant rights activists intensified and expanded to journalists and reporters documenting the situation at the borders and abuses against migrants in Greece.

Amongst others, in September 2020, the police accused 33 NGO workers of espionage and aiding smugglers for allegedly sharing critical operational data such as boat coordinates and coast guard positions.<sup>57</sup> In June 2021, a journalist was arrested and accused of “facilitating the illegal stay of a foreigner in Greece” for hosting an asylum seeker in her home.<sup>58</sup> In July 2021, the police in Lesbos announced a criminal investigation against ten foreign nationals, four of whom were part of NGOs, for allegedly helping migrants to enter Greece illegally and espionage.<sup>59</sup> Similar accusations continued in 2022 with several reporters and NGO workers arrested and prosecuted for taking pictures in the port of Lesbos,<sup>60</sup> being present at the locations of newly arrived migrants landing and giving them water, or informing the authorities of migrants' arrivals.<sup>61</sup> In 2025, the Minister of Shipping and Island Policy claimed that certain NGOs maintained illicit ties with smuggling networks and announced a formal judicial review of their activities.<sup>62</sup> More recently, a European arrest warrant was issued against the founder of the NGO Aegean Boat Report, active in the documentation of pushbacks of migrants, and accused by Greek authorities of “forming a criminal organisation” and “facilitating illegal entry” since 2021.

Combined with increasingly strict and even prohibitive regulations for NGOs (see Legal Context), this hostile and deterring environment in which human rights defenders, civil society and journalists work has led to a clear shrinking of the civic space over time, despite being repeatedly raised as a serious issue of concern by the Council of Europe.<sup>63</sup> In her 2023 report, the UN Special Rapporteur on the situation of human rights defenders, Mary Lawlor, equally expressed

52 Human Rights Watch, Greek Coast Guard Under Scrutiny for Migrant Death, (6 February 2026).

53 The Press Project, Plevris targets lawyer of Moroccan survivor of Chios shipwreck, (10 February 2026) (in Greek); ProtoThema, Georgiadis: Doctors Without Borders interpreters told migrants in Chios to say “the port authority hit us”, hatred of the state has exceeded all limits of absurdity (9 February 2026) (in Greek).

54 Office of the UN High Commissioner for Human Rights, Trial of human rights defenders in Greece for helping migrants, (13 January 2023); Council of Europe Commissioner for Human Rights, Greek authorities should reverse the trend undermining the work of human rights defenders and journalists, (12 January 2023); UN Special Rapporteur on the situation of human rights defenders, A/HRC/52/29/Add.1: Visit to Greece - Report of Mary Lawlor, (3 March 2023), and Preliminary observations and recommendations (following a country visit to Greece), (22 June 2022).

55 Eirini Fasia, In Court for Saving Lives, The Binder and Mardini case, Verfassungsblog, (24 November 2021).

56 El Pais, Greek court acquits Spanish firemen accused of people smuggling, (8 May 2018); New Internationalist, Humanitarian workers acquitted of ‘crime’ of helping refugees, (10 May 2018).

57 The police file was based on evidence relating to groups answering distress calls from migrants crossing borders and informing Greek authorities about migrant groups' location or arrival, see reports in Keep Talking Greece, Greece files against 33 NGO members for assisting human traffickers, (28 September 2020); Reuters, Greek police probe aid workers on Lesbos island, (28 September 2020).

58 The Guardian, Greek police arrest Dutch journalist for helping Afghan asylum seeker, (24 June 2021).

59 Human Rights Watch, Greek Authorities Target NGOs Reporting Abuses against Migrants, (22 July 2021).

60 Ekathimerini, Norwegian photographer held on spy charge released, (21 March 2022).

61 International Federation for Human Rights, Greece: Judicial harassment of migrants' rights defenders Panayote Dimitras and Tommy Olsen, (23 December 2022).

62 ProtoThema, Kikilias: The justice system is investigating NGO files for possible links to smugglers, (28 April 2025).

63 See in particular repeated interventions, recommendations and calls for action by the Council of Europe Commissioner for Human Rights, Greek authorities should reverse the trend undermining the work of human rights defenders and journalists, (12 January 2023); Pushed beyond the limits Four areas for urgent action to end human rights violations, (7 April 2022); Greek authorities should investigate allegations of pushbacks and ill-treatment of migrants, ensure an enabling environment for NGOs and improve reception conditions (12 May 2021);

significant concerns about the treatment of human rights defenders in Greece, particularly those working with migrants –concerns that she had also raised at multiple points in the recent past.<sup>64</sup> Her concerns include smear campaigns, criminalisation of human rights defenders' work, increasingly harsh regulatory environment, and threats stemming from Greece's migration policy, as discussed below.

## Legal Context

The legal frameworks relevant to activism and migration in Greece relate to the regulation of migration, humanitarian work, protests, and racism and hate. The overview below summarises this context to facilitate the analysis of the case studies.

### Migration

#### *Criminalisation of migration/irregular border crossing under anti-smuggling legislation*

Greece's anti-smuggling law is part of the Migration Code (**Law 5038/2023**)<sup>65</sup> and was substantially amended by recent **Law 5275/2026**.<sup>66</sup> Greek law does not single out "migrant smuggling" as a specific offence but rather refers to the **facilitation of unauthorised entry, transit or stay** in the country. It is systematically being used by Greek prosecutorial authorities to criminalise migrants crossing borders irregularly or smuggled persons –who have no connection to criminal offences– but are accused of having steered or helped operate their dinghy, including asylum seekers.<sup>67</sup> This legislation is considered one of the harshest in the European Union as it provides for extremely high penalties while covering a very broad range of situations.<sup>68</sup> The offence of facilitation of illegal entry was upgraded from a misdemeanour to a felony in 2009 (Law 3772/2009), resulting in significantly increased penalties.<sup>69</sup> The new amendments adopted in February 2026 provide for a further significant escalation of these penalties.

**Article 25** of the Migration Code is used to criminalise the conduct of captains and drivers who transport third-country nationals into or through Greece irregularly. With the latest legislative changes, typical penalties provided for the facilitation of unauthorised entry and exit now include imprisonment from 5 to 20 years (previously up to 10 years) and financial penalties between €30,000–€60,000 per person transported. Where deaths or very serious harm occur, penalties can rise dramatically, and there have already been several cases where lengthy or life imprisonment sentences and very large fines were pronounced against migrants.<sup>70</sup>

64 UN General Assembly, Human Rights Council, Report of the Special Rapporteur on the situation of human rights defenders on her visit to Greece, (2 March 2023).

65 Law 5038/2023, Migration Code, Government Gazette A' 81 / 01.04.2023 (based on the EU's Facilitators Package: Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence and 2002/946/JHA: Council framework Decision of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence.)

66 Law 5275/2026 on the promotion of legal migration policies and the transposition of Directive (EU) 2024/1233, Government Gazette A' 17/06.02.2026.

67 For a recent overview of systematic criminalisation cases brought, inter alia, against Sudanese migrants arriving to Crete, see The Civil Fleet, Solidarity is not a crime, Episode 85, Greece's criminalisation of Sudanese refugees, (17 December 2025); as well as the publications and work of the Mataris Sudan Solidarity Committee and 50 Out Of Many, and recent cases and publications by de:criminalize and Captain Support network; see also CPT-Aegean Migrant Solidarity, bordermentoring.eu, borderline-europe, Incarcerating the marginalized, The fight against alleged smugglers on the Aegean islands, (November 2020); Borderline Europe, A legal vacuum, the systematic criminalisation of migrants for driving a boat or a car in Greece, (July 2023).

68 borderline-europe, A legal vacuum, the systematic criminalisation of migrants for driving a boat or a car in Greece, (July 2023).

69 Georgios Maniatis, Country report Greece. The development of the legal framework concerning the facilitation of illegal entry, exit and transport; cited in: borderline-europe, Criminalization of Flight and Escape Aid, (2017).

70 See for instance the main findings of borderline-europe study, A legal vacuum, the systematic criminalisation of migrants for driving a boat or a car in Greece, (July 2023), stating that over 81 trials of 95 migrants who were arrested and tried in Greece for smuggling: "On average, trials last for 37 minutes, (...) lead to an average prison sentence of 46 years and a fine of 332.209 Euros; 52% of all convicted people are serving a prison sentence of 15 years to life"; see also specific cases: borderline-europe, Aegean Migrant Solidarity and Can't Evict Solidarity, Crete: 16-year-old faces 4670 years in prison for smuggling, (26 February 2024); Middle East Monitor, Greece sentences Egypt fisherman to 280 years imprisonment for steering migrant boat, (9 March 2023); The Guardian, 'The real smugglers are rarely on the boat': activists in Greece question jailing asylum seekers, (17 May 2024), 'It was steer or they would kill me': why Sudanese war refugees are filling prisons in Greece, (28 April 2025).

Importantly, the Greek anti-smuggling law (like the EU package, and Spanish and Italian legislation) deviates from the internationally accepted definition of smuggling provided under the **UN Protocol against the smuggling of migrants by land, sea and air** ("UN Smuggling Protocol") which requires the aim of obtaining a 'financial or other material benefit' as a constitutive element of the offense.<sup>71</sup> Unlike other EU Member States, like Cyprus for instance, Greek anti-smuggling law does not require an individual to act for profit.<sup>72</sup> This factor, as well as acting as part of an organised criminal group or posing a risk to the safety or life of the smuggled individuals, are only considered aggravating circumstances for the evaluation of the sentence.

Greek law provides for an "exemption clause" under **Article 3(3)(e) of Law 5038/2023** (which remains with the 2026 amendments now under Article 4) whereby the anti-smuggling legislation is not applicable to recognised refugees and asylum seekers. This exemption is justified as recognised refugees and people seeking asylum should not to be penalised for their **own** irregular entry or for facilitating their own journey into a country, in accordance with Article 31 of the 1951 Refugee Convention and Articles 5 and 19 of the UN Smuggling Protocol.<sup>73</sup> However, national courts routinely disregard this safeguard.

Recent reports indicate that as of September 2025, over 2,400 people were imprisoned in Greece on smuggling charges, many of whom were asylum seekers accused of steering a dinghy or driving a car used to cross the border.<sup>74</sup> Monitoring groups, lawyers and journalists continue to document the arbitrary arrests of people seeking asylum upon arrival in Greece under facilitation charges, their systematic and prolonged pre-trial detention, their limited access to legal assistance and interpretation, and their convictions often to high prison sentences based on insufficient or no evidence at all, determined during very short trials that ultimately fail core standards of fairness and due process.<sup>75</sup>

#### *Asylum procedures and criminalisation*

The asylum procedure in Greece underwent substantial and repeated reforms from 2016, in order to implement the drastic changes provided by the EU-Türkiye statement of 18 March 2016.<sup>76</sup> Following the Nea Demokratia government election in July 2019, the national asylum legislation continued to be radically reformed and amended every year<sup>77</sup> towards increasingly more restrictive policies, speeding up procedures, lowering protection standards, adding procedural and substantive obstacles for people seeking international protection and increasing legal grounds for the asylum service to reject applications as manifestly unfounded.<sup>78</sup> Asylum procedures, reception conditions and content of international protection are currently provided by the **Asylum Code** ratified by **Law 4939/2022**.<sup>79</sup>

71 The United Nations, Protocol Against The Smuggling Of Migrants By Land, Sea And Air, Supplementing The United Nations Convention Against Transnational Organized Crime, (2000) provides for the harmonisation of legislation through an internationally recognised definition, according to which migrant smuggling is "the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident" (Article 3).

72 Article 19A of Aliens and Immigration Law Cap. 105; cited in Eurojust, European Union Agency for Criminal Justice Cooperation, Legal definition of migrant smuggling and/or facilitation of irregular migration, An overview of EU legislation, (January 2024).

73 Human Rights Legal Project Samos and Legal Centre Lesvos, The exemption from criminalisation, A real safeguard or an illusion?, (November 2025).

74 Human Rights Legal Project Samos and Legal Centre Lesvos, The exemption from criminalisation, A real safeguard or an illusion?, (November 2025).

75 Human Rights Legal Project Samos and Legal Centre Lesvos, The exemption from criminalisation, A real safeguard or an illusion?, (November 2025); PICUM, Criminalisation of migration and solidarity in the EU, (2024); Legal Centre Lesvos, JUSTICE FOR PYLOS: Prosecution Of The Pylos 9 And Fight For Justice Following The Deadly 2023 Pylos Shipwreck.

76 Law 4375/2016 was adopted in April 2016 and amended in June 2016, March 2017, August 2017 and May 2018 for the implementation of the EU-Türkiye statement.

77 Law 4636/2019 (International Protection Act or IPA) entered into force on 1 January 2020. A new bill was proposed and Law 4686/2020, Gov. Gazette A' 96 /12 May 2020 was adopted on 9 May 2020. Further amendments were introduced by Law 4825/2021, adopted in September 2021.

78 ECRE, Greece, Country Report: Short overview of the asylum procedure, (18 December 2025). In June 2022, the Asylum Code ratified by Law 4939/2022 was adopted by the parliament and codifies amendments introduced after 2019 in one piece of legislation.

79 Asylum Code: Law 4939/2022, "Ratification of the Code on reception, international protection of third-country nationals and stateless persons, and temporary protection in cases of mass influx of displaced persons", Government Gazette: A' 111 / 10.06.2022 –as amended by Law 4960/2022, Government Gazette A', 145, 22-7-2022; Law 5027/2023, Law 5043/2023, and Law 5078/2023.

On 2 September 2025, Greece's Parliament passed a controversial new **Law. 5226/2025**, titled "Reform of the Framework and Procedures for the Return of Third-Country Nationals and Other Provisions of the Ministry of Migration and Asylum"<sup>80</sup> amends provisions of the Migration Code (Law 5038/2023) and introduces sweeping reforms to the country's migration policy. One of the main measures introduced by this law is the creation of a new **criminal offense for illegal stay, under its Article 27**.

Under this article, foreign nationals found remaining in the country without legal authorisation (e.g. asylum seekers rejected on appeal) will now face prison terms ranging from 2 to 5 years, along with a minimum fine of €5,000. A court may suspend the execution of the prison sentence only on condition that the person "will depart voluntarily immediately from the country." Under Article 27, a third-country national who fails to comply with obligations imposed during a removal procedure is punishable by at least 2 years' imprisonment and a fine of €10,000. It is the first time that illegal stay is criminalised in Greece and sanctioned with prison penalties and fines. Before that, rejected asylum seekers on appeal were requested to leave the country within a specific deadline (usually 15 days, but changing over time) and risked being placed in administrative detention if found without valid documentation after that.

As part of the reform, the Minister of Migration and Asylum issued a circular to replace the term "irregular migration" with "illegal migration" in all official documents to reportedly reflect the new legal framework distinguishing between lawful and unlawful residence in the country.<sup>81</sup>

Law. 5226/2025 also abolishes the possibility of regularisation for people who can prove 7 years of continued presence undocumented in the country<sup>82</sup> and suspends the possibility to apply for a work-related residence permit after 3 years of residence.<sup>83</sup> Furthermore, the government is tightening rules on subsequent asylum applications. Amongst other stipulations, the fee to be paid by rejected asylum seekers to be able to bring forward new and substantial material elements in their asylum case –through a second subsequent asylum application– has now tripled, and 300 euros are requested per person applying, instead of 100 euros.<sup>84</sup> This move was presented by the Greek government as a way to curb "abuse of the system" but raised serious concern amongst refugee rights monitors.<sup>85</sup>

### Humanitarian & NGO work

Since 2018, humanitarian, NGO work and pro-migrant activism have been progressively restricted by legislative reforms and governmental measures limiting or regulating their activities. As described below, a combination of judicial, legislative and administrative means were deployed to obstruct aid work and human rights monitoring.

#### *Criminalisation of aid work and pro-migrant activism*

**Article 24 of the anti-smuggling legislation** (Migration Code, Law 5038/2023, as amended by Law 5275/2026) is the main statutory framework used to criminalise migrant rights activists in Greece. Here again, Greek law does not define which acts or omissions constitute facilitation, thus a broad range of conducts can be targeted and criminalised under these provisions.

Moreover, the latest February 2026 reform provides for increased risks of criminalisation for civil society organisations supporting migrants and a significant escalation of penalties against them.<sup>86</sup> In fact, being a member of a registered NGO in Greece has become an aggravating

<sup>80</sup> Law. 5226/2025, "Reform of the Framework and Procedures for the Return of Third-Country Nationals and Other Provisions of the Ministry of Migration and Asylum", Government Gazette: A' 154 / 08.09.2025.

<sup>81</sup> Ekathimerini, Greece replaces 'irregular' with 'illegal' migration in official documents, (12 September 2025).

<sup>82</sup> As previously provided under article 19 of the Law 4251/2014 for residence permits "under special circumstances"

<sup>83</sup> As previously provided as a temporary category of residence permit under Article 193 of Law 5078/2023 and the Circular of the Ministry of Migration and Asylum of 22 January 2024.

<sup>84</sup> See for instance Article 38 of Law. 5226/2025, "Reform of the Framework and Procedures for the Return of Third-Country Nationals and Other Provisions of the Ministry of Migration and Asylum", Government Gazette: A' 154 / 08.09.2025.

<sup>85</sup> UNHCR, Press release, UNHCR Comments on the Draft Law of the Ministry of Migration and Asylum, 29 August 2025.

<sup>86</sup> Arab News, Greece seeks to toughen punishment for migrant smuggling, (24 January 2026).

factor in migration-related offenses, allowing prosecutorial authorities to elevate pronounced sentences against NGO workers.

**Article 24 Para. 4** criminalises the facilitation of unauthorised entry or exit of third-country nationals (felony) with a penalty of 5-15 years of imprisonment (previously up to 10 years) and a fine of at least €20,000. If the offense of facilitating illegal entry or exit was committed by a member of a registered NGO, the minimum sentence is now 10 years and up to 20 years of imprisonment and a €50,000 fine.

**Article 24 Para. 5** criminalises the facilitation of illegal stay or hindering the authorities' efforts to locate, arrest or deport irregular migrants (misdemeanour) with a penalty of at least 2-5 years of imprisonment (previously from 1-5 years) and a minimum fine of €5,000, rising to €10,000 if profit is involved. If the offense is committed by the member of a registered NGO, the offense converts into a felony punishable by 5-10 years of imprisonment and fines of a minimum of €20,000.

**Article 24, Para. 6** criminalises the withholding or refusing to hand a passport or travel document belonging to another person to the authorities as a misdemeanor punishable by at least 1 year of imprisonment and a fine of at least €3,000 (irrespective of profit). Following the February reform, if the offense is committed by a member of a registered NGO, the offense converts into a felony punishable by at least 10 years' imprisonment and a fine of a minimum of €50,000.

A new felony offense for the unauthorised transit/transportation of third country nationals by members of registered NGOs was introduced under **Article 25**, providing for an imprisonment sentence of at least 10 years and a fine of €60,000 to €100,000 for each person transported.

Moreover, as per **Article 24, Para. 8**, the mere criminal prosecution –not conviction– of an NGO member suffices for the removal of the organisation from the official Registry of NGOs.

Civil society organisations have called for the immediate withdrawal of these provisions which are intended to intimidate civil society and deemed unjust and unlawful.<sup>87</sup> The new government-led legislative reform has been qualified by major organisations as undermining democratic checks and balances.<sup>88</sup> The UN Special Rapporteur for Human Rights Defenders stated that this law will "further demonise civil society in the country" and "criminalise the defence of migrants' rights, placing Greece in violation of its international human rights obligations."<sup>89</sup>

**Article 25, Para. 6**, provides for an exemption from the sanctions for facilitation (smuggling) for specific humanitarian operations, such as rescue at sea and the transportation of people in need of international protection, provided that the competent police or coast guard authorities have been notified. This exemption of criminalisation has been criticised for not being an adequate or efficient safeguard, as it does not protect all kinds of solidarity work and requires advance notification of the coast guard or authorities, which constitutes a barrier to spontaneous or independent assistance.<sup>90</sup>

Beyond facilitation –which remains the most commonly used criminal charge in the prosecution of aid workers– other criminal charges such as espionage, being part of a criminal organisation and money laundering are also commonly invoked to criminalise aid work, as further described in Case study 1.

#### *NGO registration requirements*

The increased regulatory pressure put on NGOs started a few years ago. In 2020, additional requirements for registration in a special registry (Μητρώο Ελληνικών και Ξένων ΜΚΟ) maintained by the Ministry of Migration and Asylum were introduced specifically for NGOs that operate in the

<sup>87</sup> Joint Statement, Refugee Support Aegean et al., Joint Civil Society Statement on the Migration Ministry bill, Greece: NGO work a punishable offense? (20 January 2026).

<sup>88</sup> Human Rights Watch, Greece Continues Its Relentless Assault on Civil Society, (16 February 2026).

<sup>89</sup> Mary Lawlor, UN Special Rapporteur for Human Rights Defenders, Facebook post, (4 February 2026); see also Human Rights Watch, Greek Immigration Bill Demonizes Civil Society, (29 January 2026).

<sup>90</sup> In November 2023, the European Commission published a proposal for a new Facilitation Directive which fails to address the risk of criminalisation of migration and solidarity, while adding new grounds for criminalisation. See, PICUM, 2024, How the New EU Facilitation Directive Furthers the Criminalisation of Migrants and Human Rights Defenders, (2024).

fields of international protection, migration and social integration, purportedly to promote their accountability. This new requirement was codified in **Article 58 of Law 4686/2020**,<sup>91</sup> according to which, non-profit organisations (both Greek and foreign) that are not registered may not carry out activities in Greece in these fields –especially key services such as legal aid, psychosocial and medical services, material reception and information.

The operational details of the NGO registry are governed by a **Joint Ministerial Decision (JMD) 10616/2020**<sup>92</sup> under which the Ministry has powers to verify the data submitted by NGOs, do on-site checks and de-register organisations that fail to comply with administrative obligations. NGOs must provide detailed documentation: their legal form, tax status, governing bodies, staff (paid and volunteers), budget, funding sources, projects, previous two-year activity reports, etc. For staff, volunteers and partners of the NGO, the registry requires the provision amongst other information of personal data, identity documents, employment or volunteer contract and criminal record.

According to the Asylum Code (**Article 78 of Law 4939/2022**, as amended and currently in force), only NGOs that are registered and whose members are certified may participate in activities inside Reception & Identification Centers (RIC), detention or reception facilities placed under the Ministry of Migration and Asylum. Practically, unregistered NGOs or NGOs whose staff are not registered, are barred from accessing state-controlled migrant facilities. The Ministry has discretionary power to remove NGOs from the registry. When an NGO is removed from the registry, this does not necessarily dissolve the NGO as a legal entity, but deprives the NGO of the right to access camp facilities, which might be critical for its operations.

These measures have been assessed by civil society<sup>93</sup> and institutions<sup>94</sup> as severely impacting the right of freedom of association, producing a chilling effect on civil society, discriminating among NGOs based on their field of activities, and offering an excessively wide margin of discretion to the authorities. At the time of writing, the judicial review for the annulment of the JMD 10616/2020 was still pending a judgement by the Council of State (Greece's highest administrative court).<sup>95</sup> Instead of amending the legal framework around registry obligations, Greece's Minister for Migration and Asylum, Thanos Plevris, recently announced his intention to further tighten rules on NGOs and specifically to remove NGOs from the official registry if they legally challenge or otherwise oppose the government's migration policies.<sup>96</sup> These threats were immediately condemned by several institutions as a clear intention to silence civil society criticism of the government's migration policies.<sup>97</sup>

91 Law 4686/2020, "Modernization of immigration legislation, amendment of provisions of Law 4636/2019, and other provisions", Government Gazette 96 / A' 12.05.2020 – as amended by Law 5038/2023, Immigration Code, Government Gazette A' 81 / 01.04.2023; and Law. 5226/2025, "Reform of the Framework and Procedures for the Return of Third-Country Nationals and Other Provisions of the Ministry of Migration and Asylum", Government Gazette: A' 154 / 08.09.2025.

92 Joint Ministerial Decision 10616/2020, Government Gazette B 3820/09-09-2020.

93 Amnesty International, Greece: Regulation of NGOs working on Migration and Asylum threatens Civic Space, (31 July 2020); HIAS, Strict New Regulations Limit NGOs Helping Refugees in Greece, (17 August 2020). RSA, Repression Continued, Greece Further Restricts Civil Society Supporting Refugees and Migrants, (September 2020); Registry of NGOs working with refugees and migrants in Greece under scrutiny, (16 May 2021);

94 Council of Europe Commissioner for Human Rights, Expert Council on NGO Law Opinion on the Compatibility with European Standards of Recent and Planned Amendments to the Greek Legislation on NGO Registration, (2 July 2020); Letter to the Greek ministers, (3 May 2021); Memorandum on migration and border control, following the Commissioner's visit to Greece from 3 to 7 February 2025, (17 April 2025); UN Special Rapporteur on the Rights of Freedom of Peaceful Assembly and of Association, Special Rapporteur on Human Rights Defenders, Special Rapporteur on the Human Rights of Migrants, Joint Letter to Greek Prime Minister about Law 4686/2020 and Joint Ministerial Decision 10606/2020 (31 March 2021); ECRE, Expert Opinion upon request from the ELENA Coordinator in Greece concerning the lawfulness of Greek legislation regulating the registration of non-governmental organisations (NGOs) on the Registry of NGOs working with refugees and migrants in Greece, (December 2021);

95 Vouliwatch et al., Struggle for accountability, the state of the rule of law in Greece, (January 2025), para. 207; Greece in Institutional Decline, Joint Civil Society Submission to the European Commission on the 2024 Rule of Law Report, (January 2024), para. 123; Rule of Law Backsliding Continues in Greece, Joint Civil Society Submission to the European Commission, on the 2023 Rule of Law Report, (January 2023), para. 70. During a hearing that took place on 2 December 2022, the Greek government is reported to have argued *inter alia* that "the fundamental right to freedom of association should not be applicable to NGOs".

96 Human Rights Watch, Greece Latest Assault on Civil Society, EU Action Needed to Protect Civic Space, (16 September 2025).

97 Council of Europe Conference of INGOs, CINGO President and Expert Council react to recent statements by Greece's Minister of Migration and Asylum, (5 September 2025); United Nations High Commissioner for Human Rights and Greek National Commission for Human Rights, UNHCR and GNCHR express concern over rhetoric undermining civil society, (28 August 2025).

### *Prohibitive regulation of civil sea search and rescue operations*

Search and rescue operations by civil society have been specifically and heavily restricted by law in 2021, virtually prohibiting any life-saving activities at sea under **Law 4825/2021** ("Deportation and Return Bill").<sup>98</sup>

**Article 40** of the said law relates to the "Conditions for activity in areas under the jurisdiction of the Hellenic Coast Guard" and provides that, in order to conduct their operations legally, search and rescue and human rights organisations monitoring at sea and their members are required to register with the Greek Registry of NGOs operating in the field of migration (see below 'NGO registration requirements'). Moreover, these organisations may only operate under the orders and instructions of the port authorities, provided that the action of the Greek Coast Guard is not possible, and only upon prior written approval from the Port Authorities. In the event of a breach, Article 40 foresees significant fines for both the organisations and its members, removal from the NGO registry and a sentence of imprisonment of at least 3 years if an accident is caused as a result of a breach of the article.

The Council of Europe Commissioner for Human Rights' expressed serious concerns about the possible impact of such provision, which risked to "further jeopardise NGO's human rights activities in relation to migrants arriving by sea, and severely undermine the necessary scrutiny of the compliance of the operations of the Greek Coast Guard with human rights standards".<sup>99</sup> Despite these concerns, Article 40 was added to the Deportations and Returns Bill after the closure of the public consultation period (de facto depriving those primarily affected and the national human rights structures from a chance to provide their observations) and finally adopted in September 2021.

The above-mentioned law is so restrictive that it effectively prevents any independent and spontaneous operations at sea and at the islands' shores.

As further explained below, while the disengagement of all civil search and rescue and onshore response teams in the Aegean islands was already effected by the time of this 2021 law, the effect of the said legislation was to ensure that such activities could not possibly resume. Since then, no entities have indeed been able to re-establish such operations in Greece.

### **Protests**

Another area of migration-related activism affected by recent legal changes is the policing of protests. The right to assemble is enshrined in Article 11 of the Greek Constitution: "Greeks shall have the right to assemble peacefully and unarmed." The Constitution also allows the police to prohibit outdoor public assemblies, but only under certain conditions, e.g., when "a serious threat to public security is imminent," or a "serious disturbance of social and economic life" is threatened.

In July 2020, Greece passed **Law 4703/2020**,<sup>100</sup> which regulates public assemblies and gatherings. According to this law, organisers must notify authorities in advance about a planned demonstration, and failure to do so can lead to the assembly being banned or forcibly dismantled (in accordance with Articles 7, 8 and 9 of Law 4703/2020). This law holds demonstration organisers liable for damage or injury to persons or property if caused during the protest.

Authorities have a broad discretion to ban or restrict protests, including on grounds of "disproportionate disturbance of socioeconomic life." The law requires protest organisers to cooperate with a designated police liaison/mediation officer. This includes "abiding by recommendations" from the police, helping to prevent the presence of dangerous items, and appointing people to help with crowd management. Participants in unauthorised assemblies (or who do not comply with the rules) may face criminal penalties. For example, "anyone arrested for attempting to subvert the peaceful character" of a demonstration can face up to 2 years in prison.

98 Law 4825/2021, "Reform of procedures for the expulsion and return of third-country nationals ... and other provisions", Government Gazette 157 A', 04.09.2021.

99 Council of Europe Commissioner for Human Rights, Greece's Parliament should align the deportations and return bill with human rights standards, (3 September 2021).

100 Law 4703/2020, "Public, outdoor gatherings and other provisions", Government Gazette A' 131 / on 10.07.2020.

There have been numerous reports of excessive or unnecessary use of force by Greek police during protests, in particular during the COVID-19 restriction period.<sup>101</sup> Tactics documented include the use of water cannons, chemical irritants, stun grenades, and police baton strikes. Human rights organisations argue that the 2020 law represents a chilling effect on freedom of assembly as some provisions are too vague (especially “socioeconomic disturbance”) and could be used to arbitrarily restrict assemblies.<sup>102</sup>



Pro-migrant protests © Marion Bouchetel

Migrant-led protests in Greece are systematically met with force, arbitrary arrests, and criminal prosecution, rather than being treated as legitimate political expression. An example of this type of repression includes the case of the “Moria 35”, a group of 35 men living in Moria Reception and Identification Centre who were arrested in July 2017 after taking part in a peaceful protest in Moria camp denouncing inhumane living conditions and demanding the right to freedom of movement for everyone trapped in Lesvos. Despite a lack of evidence, the 30 of the 35 defendants were held in pre-trial detention for 10 to 15 months and brought before the court under charges of arson with intent to endanger life, dangerous bodily harm, damage to property and resisting arrest.<sup>103</sup> After a four day trial, all defendants were acquitted of arson, damage to property, and resisting arrest, however 32 were found guilty of causing dangerous bodily harm (επικίνδυνη σωματική βλάβη) to the police – despite a lack of evidence of such harm in court. This conviction was later abandoned, due to a subsequent change in the criminal code.

As in other cases of criminalisation of racialised migrants, the severity of these charges (e.g., violence, arson) considering the limited or inexistent evidence provided, raises serious concerns about due process and proportionality.

### Racism and hate

Criminal law provisions to fight against racism and racial discrimination are included in **Law 927/79**<sup>104</sup> (as amended by Laws 1419/1984, 2910/2001 and 4285/2014) often referred to as the “Antiracist Law”. This is the law mostly used to prosecute anti-migrant activism.

**Article 1.1 of Law 927/1979** criminalises **hate speech** as the intentional public incitement to acts or activities that may lead to discrimination, hatred or violence against individuals or groups on the basis of racial, national or ethnic origin, colour, religion, sexual orientation, gender identity and gender characteristics. Article 1.4 prohibits the creation or leadership or participation in a group that promotes racism and **Article 2** criminalises the act of denying, approving or trivialising genocide, crimes against humanity and war crimes. **Article 3** concerns cyber hate and stipulates that “When the acts of the previous articles are performed via internet or other means

<sup>101</sup> For instance, Amnesty International, Greece: Freedom of assembly at risk and unlawful use of force in the era of COVID-19, (14 July 2021).

<sup>102</sup> In October 2025, Greece’s parliament banned demonstrations near the prominent war memorial right outside its building in Syntagma square, Athens, which is traditionally a central point of demonstrations, including since the anti-austerity protests during Greece’s 2009 crisis. The ban was introduced after the father of one of the victims killed in the deadly Tempi train crash of February 2023 (that killed 57 people, mostly young adults), held a 23-day sit-in hunger strike near the site, demanding more accountability from the government. The ban was implemented despite criticism by opposition parties that the new restrictions violate people’s right to rally in public; see Reuters, Greece bans protests near memorial outside parliament, (22 October 2025).

<sup>103</sup> Legal Centre Lesvos, Free the Moria 35.

<sup>104</sup> Law 927/1979, “On the punishment of acts or actions aimed at racial / ethnic discrimination”, Government Gazette A’139/28.6.1979

of communication, the Greek territory is also considered as a place of execution, if that access to the specific means is provided in its territory, regardless of their place of establishment.”

As reported in the 2026 International Network Against Cyber Hate report, “Hate speech in Greece remains widespread and persistent, primarily targeting migrants and refugees, Roma communities, LGBTQI+ people and Jews.”<sup>105</sup> Moreover, the INACH report notes a climate of impunity as “authorities rarely react, hate speech is frequently echoed by politicians beyond the extreme right, and existing legislation significantly limits effective prosecution. Prosecutors often dismiss cases because the anti-racism law criminalises only incitement to hatred or violence when it poses a risk to public order, meaning most harmful hate speech can be addressed only through private complaints by victims, which require legal fees and complex procedures.”

There is no specific provision criminalising or addressing **racist or hate crime** but Greece amended its criminal code in 2008 to make racist motivation an aggravating circumstance for sentencing purposes. Currently, **Article 82A of the Penal Code**<sup>106</sup> provides for enhanced penalties (aggravating circumstances) for any crime (e.g. homicide, bodily harm, rape, insult to sexual dignity, theft, robbery, arson, assault, threat, intimidation, insult, domestic disturbance, etc.) committed with racist characteristics or other bias motivations<sup>107</sup> (also called hate crime), i.e. targeting or selecting the victim because of race, colour, religion, descent, national or ethnic origin, sexual orientation, gender identity or disability.

According to **article 184 par. 2 of the Penal Code**, the act of incitement to commit crimes, violence or discord is punished with imprisonment of up to 3 years or a fine, if it is attempted in order to commit acts of violence against a group or a person identified on the basis of racial characteristics, colour, national or ethnic origin, genealogical decent, religion, disability, sexual orientation, identity or gender characteristics. In such cases, Article 82A of the Penal Code is not applicable.

The **prohibition of discrimination** is also enshrined in **article 5 Para. 2 of the Greek Constitution** which provides that all those who are in the Greek territory, regardless of whether they are Greeks or foreigners, enjoy the absolute protection of their life, honour and freedom, without discrimination in relation to their nationality, race, language and religious or political beliefs. **Law 4356/2015** established a National Council against Racism and Intolerance,<sup>108</sup> with the participation of representatives of the administration and civil society, which works on policy, oversight, and coordination to combat racism, including the development of a National Action Plan against Racism and Intolerance.<sup>109</sup> The promotion of the principle of equal treatment and the fight against discrimination are also provided in **Law 4443/2016**,<sup>110</sup> which addresses the prohibition of discrimination more broadly including areas like employment and education. Based on article 14 Para 1 of Law 4443/2016, the Ombudsman was appointed as the monitoring body to promote the implementation of the principle of equal treatment in the private, public and wider public sector.

According to the **Code of police ethics** (article 1 P.D. 254/2004),<sup>111</sup> police staff are obliged to respect the value of the person and to take care of the protection of their rights as an individual and as a member of society and must act in the performance of their duties on the basis of the principles of legality, equal treatment and respect for the diversity of individuals. They must also avoid prejudicial behaviour on the basis of colour, gender, ethnicity, ideology and religion, sexual orientation, age, disability, marital status, economic and social status or other distinctive

<sup>105</sup> INACH and partners, Monitoring hate speech: Trends and Patterns, see from p. 5 on Greece, by the Greek Helsinki Monitor Greece, Panayote Dimitras, (February 2026).

<sup>106</sup> Law 4619/2019, National Gazette A’ 95/2019, as amended in 2024 (set in force in 1/5/2024) by Articles 14 and 138 par. 1 N. 5090/2024 (National Gazette A’ 30/2024).

<sup>107</sup> Article 82A of the Penal Code provides that: “If a crime has been committed against a victim who was selected because of race, color, national or ethnic origin, descent, religion, disability, sexual orientation, identity, or gender characteristics, the sentencing framework is as follows: a) In the case of misdemeanor, punishable by up to one year in prison, the minimum sentence is increased by six months. In other cases of misdemeanors, the minimum limit is increased by one year. b) In the case of a felony, the minimum sentence is increased by two years. The above penalty framework is also applied when a crime is committed with intent against a minor or a person who cannot defend himself and no heavier penalty framework is provided by another provision.”

<sup>108</sup> Law 4356/2015, “Cohabitation agreement, exercise of rights, criminal and other provisions”, Government Gazette A’ 181, 24.12.2015. (see Articles 15 to 18).

<sup>109</sup> National Action Plan Against Racism And Intolerance, 2020-2023.

<sup>110</sup> Law 4443/2016, “Equal treatment – Combating discrimination, etc.”, Government Gazette A’ 232, 09.12. 2016.

<sup>111</sup> Code of Police Ethics established by Presidential Decree 254/2004.

characteristic (article 5 Para. 3 p.d. 254/2004). The police are also responsible for receiving and handling complaints relating to hate crimes.

Several recording mechanisms were put in place to report racially motivated and anti-migrant violence including:

The Racist Violence Recording Network (RVRN):<sup>112</sup> This is a network of 55 Non-Governmental Organizations and civil society bodies, as well as the Greek Ombudsman and the Migrant Integration Council of the Municipality of Athens, as observers. The network is coordinated by the Greek National Commission for Human Rights (GNCHR) focusing on the recording of hate speech offenses on the basis of ethnic or national origin, skin colour, religion, disability, sexual orientation or sexual identity.

The Greek Ombudsman:<sup>113</sup> This office was appointed as the monitoring body to promote the implementation of the principle of equal treatment in the private, public and wider public sector.

Racially motivated and anti-migrant violence is regulated by the legal framework detailed above. While legislation exists, convictions that explicitly recognise a racist motive have been rare. Greece has faced criticism for its ineffective enforcement of the above provisions,<sup>114</sup> in particular regarding serious gaps in training for law enforcement and judiciary officials (police, prosecutors and judges), as well as lenient and non-deterrent penalties against the perpetrators and lack of consistent implementation.<sup>115</sup>

Case study 2 below constitutes an illustration of the failure by Greek courts to consistently implement these specific articles.

<sup>112</sup> Racist Violence Recording Network website: <https://rvrn.org/el/>

<sup>113</sup> Greek Ombudsman website: <http://www.synigoros.gr/?i=stp.en>

<sup>114</sup> Heinrich Böll, Vasilis Sotiropoulos, LGBTQI Rights in Greece, (25 May 2022).

<sup>115</sup> Council of Europe, To Vima, Save democracy in Greece, (14 April 2013).

## Case Studies

### Case-study 1: Criminalisation of ERCI and others' search and rescue work at EU borders and others, Lesvos, 2018

This section examines the "Emergency Response Centre International (ERCI) and others" case, which ended with the acquittal of all defendants in January 2026,<sup>116</sup> 7 years after it emerged as "the largest case of criminalisation of solidarity in Europe".<sup>117</sup> The case was initiated under the previous Syriza government and raises significant concerns regarding the legal safeguards afforded to pro-migrant activists engaged at the borders. It also underscores the direct and collateral impacts specific prosecutions might have on the civil society landscape more broadly.

#### Case background

The ERCI was a Greek-registered humanitarian organisation active primarily on the island of Lesvos between 2015 and 2018. At the time, ERCI, together with a few other NGOs and self-organised groups of activists, were operating maritime search and rescue (SAR), first aid and post-rescue/landing assistance on shores, as well as coast monitoring or boat spotting activities to avoid shipwrecks and other injuries or fatalities amongst people crossing the sea from Türkiye. This rescue and first aid work was happening for several years with regular coordination, and even at times joint operations, with the Greek Coast Guard, in a context of large-scale migrant arrivals, limited state capacity and extensive involvement of international volunteers, in particular on Lesvos.

In 2018, a police investigation and a prosecutor's accusation targeted ERCI volunteers as well as several other activists involved in similar shore activities in Lesvos, for allegedly going beyond lawful humanitarian assistance and, amongst other activities, coordinating the facilitation of irregular entry of third-country nationals into Greece.

Following the arrests of three ERCI volunteers, the organisation suspended and ultimately ceased its operations.<sup>118</sup> The case has since evolved through multiple procedural phases, spanning over 7 years and involving repeated trials, procedural flaws, appeals and adjournments.

#### Roles of actors and state

Greek prosecutorial authorities have framed the 'ERCI and others' case as a matter of enforcing domestic criminal and migration law in the context of border control and the fight against organised migrant smuggling. The case officially started with a police investigation triggered in February 2018, after ERCI's volunteer rescuers Sara Mardini and Seán Binder were first arrested and shortly detained while using their organisation's car –which was found to have fake military license plates beneath its lawful civilian license plates. Following this arrest, the Greek police obtained warrants to access both rescuers' mobile phones and computers. Using information obtained from their smartphones, and in particular text conversations from WhatsApp groups created to coordinate humanitarian actors on the island, a police report was finalised in June 2018 detailing allegations against them and other activists in Lesvos, including people smuggling in an organised crime ring.<sup>119</sup> This culminated in the arrest and pre-trial detention of several aid workers, including ERCI rescuers Sara Mardini, Seán Binder and Nassos Karakitsos for approximately 3 months.<sup>120</sup>

The investigation produced an extensive criminal file encompassing both misdemeanour and felony charges against 24 aid workers (with and without ties to ERCI), exposing them to a risk of up to 25 years imprisonment if convicted. Allegations ranged from offenses classified as

<sup>116</sup> Human Rights Watch, Humanitarians Cleared of Bogus Charges in Greece, After 7 Years, Abusive Prosecution Ends in Acquittal, (15 January 2026).

<sup>117</sup> European Parliament, STUDY Requested by the LIBE committee, The EU Approach on Migration in the Mediterranean, Policy Department for Citizens' Rights and Constitutional Affairs, Directorate-General for Internal Policies PE 694.413 (June 2021), p.111.

<sup>118</sup> Refugee Observatory (Aegean), Criminalising Assistance and Solidarity (14 September 2018).

<sup>119</sup> Human Rights Watch, Greece: Rescuers at Sea Face Baseless Accusations (5 November 2018).

<sup>120</sup> CPT, Aegean Migrant Solidarity, Reporting a trial that never started: 'ERCI and others', (26 January 2023).

administrative and misdemeanour offences, including unauthorised use of radio equipment and forgery, espionage (Article 148 of the Penal Code), violation of state secrets (Article 146 of the Penal Code),<sup>121</sup> to serious felony accusations, such as facilitation of irregular entry (migrant smuggling, then Article 30 of Law 4251/2014, now Article 25 of Law 5038/2023), leadership and membership of a criminal organisation (Article 187 of Penal Code), and money laundering (then Article 4 of Law 4557/2018).

Prosecutors have relied in particular on patterns of repeated rescue operations, use of encrypted messaging applications and financial flows from fundraising activities to support allegations of organised criminal activity and money laundering.<sup>122</sup> Greek police and prosecutorial statements have consistently rejected the characterisation of the case as one targeting humanitarian action as such, maintaining instead that it concerns criminal behaviour disguised as solidarity.<sup>123</sup>

The defendants have denied any criminal intent, asserting that their conduct was strictly humanitarian and aimed at saving lives at sea and providing emergency assistance after landings. Defence counsel have stressed that ERCI's operations were conducted openly and, in practice, often in communication with or to the knowledge of the Hellenic Coast Guard. Evidence has been presented indicating that volunteers routinely relayed information on boats in distress to Greek authorities.<sup>124</sup> From a legal standpoint, the defence has also argued that the prosecution failed to establish the requisite *mens rea* for facilitation, organised crime or money-laundering offences, and that humanitarian rescue activities cannot, without clear proof of profit-seeking or collusion with smugglers, satisfy the constitutive elements of those crimes, in particular when international maritime law imposes a duty to render assistance to persons in distress at sea.<sup>125</sup> Defence submissions further challenged the probative value and admissibility of key evidence and highlighted violations of fair-trial guarantees.

A wide range of national and international human-rights organisations have publicly criticised the proceedings and characterised the case as a paradigm of the “criminalisation of solidarity”, in which the charges are legally unfounded, rely on misinterpretations of lawful rescue activities, and create a chilling effect on civil-society engagement in humanitarian assistance.<sup>126</sup> The ERCI case has attracted sustained attention at the European level. Members of the European Parliament, UN Special Rapporteurs and policy bodies have cited the case as emblematic of a broader EU-wide trend of prosecuting individuals and organisations for assisting migrants. Parliamentary questions, policy briefs and NGO reports have referenced ERCI in debates on the scope of EU anti-smuggling legislation and the need to protect humanitarian exemptions.<sup>127</sup>

### **Trials and outcomes**

#### *Misdemeanour proceedings and dismissals (2019–2024)*

The first trials only concerned charges classified by the prosecution as misdemeanours, including alleged espionage (Article 148 of the Penal Code) or infringement of state secrets (Article 146 of the Penal Code), unauthorised use of radio frequencies, forgery and related offences. The misdemeanour charges were split by the prosecution from the felony charges so they could be tried within the 5-year statute of limitations provided under Greek law.

A first trial hearing planned on 18 November 2021, was adjourned because the prosecution had filed the case before the wrong court.<sup>128</sup> The case was thereby referred to the Appeals Court of

121 Greek City Times, Lesbos Trial Begins: 24 Aid Workers Face Felony Smuggling Charges, Greek Authorities Defend Border Security, (4 December 2025).

122 Reuters, Aid workers stand trial in Greece on migrant smuggling charges (4 December 2025).

123 Ekathimerini, reporting on ERCI prosecutions (2023–2025).

124 Human Rights Watch, Solidarity on Trial in Greece (3 December 2025).

125 Amnesty International, Greek authorities must drop baseless charges against ERCI volunteers (12 November 2025).

126 International Commission of Jurists, Greece: Criminalization of humanitarian support to migrants and refugees must end, (10 January 2023); Front Line Defenders, Seán Binder, Sara Mardini and Nassos Karakitsos receive trial date (2022).

127 PICUM, Criminalisation of migration and solidarity in the EU, (2024).

128 Given that one of the defendants was a practicing lawyer, the case had to be transferred to the Court of Appeal, who is competent to judge practising lawyers in criminal matters according to criminal procedure rules.

the Northern Aegean in Lesbos and finally heard on 13 January 2023, i.e. 4 years and 4 months after the initial arrests.<sup>129</sup>

The court declared the proceedings null and void regarding the espionage-related charges against the 24 defendants, citing insufficient factual basis and serious procedural deficiencies, including failures to provide adequate translation of key documents for non-Greek-speaking defendants.<sup>130</sup> On 1 February 2024, i.e. 6 years after the initial arrests, and following 4 hearings before the Appeals Court of the Northern Aegean in Lesbos, the trial of 16 out of the 24 defendants was finally completed, acquitting them of all the espionage-related and other misdemeanour charges.<sup>131</sup>

#### *Felony proceedings (2024–2026)*

Despite the collapse of significant parts of the misdemeanour case described above, prosecution authorities continued to pursue 3 felony charges relating to facilitation of irregular entry (smuggling), membership of a criminal organisation and money laundering. After prolonged pre-trial proceedings and repeated adjournments, and without new evidence being brought to the file, a felony trial against the 24 defendants started before the Appeals court in Mytilene, Lesbos, on 4 December 2025. Prosecutors indicated that convictions on the most serious counts could result in sentences of up to 20 years' imprisonment.<sup>132</sup> The felony trial was finally concluded on 15 January 2026 with the acquittal of all defendants by the Court of Mytilene in Lesbos.<sup>133</sup>

### **Significance**

The “ERCI and others” case is one of the most significant instances of criminal proceedings against humanitarian actors in Greece. Domestically, it raises fundamental questions about the interpretation of criminal law in migration contexts, prosecutorial discretion and systemic issues in the respect for procedural safeguards. At the European level, the case has become emblematic of the broader phenomenon of criminalising solidarity.

While the case ended in the acquittal of all defendants and the recognition that the prosecution was baseless, the mere subjection to such extended criminal procedures constitutes a clear form of sanction against activists, with damaging consequences including serious financial pressure to cover legal fees, trauma and psychological harm, reputational harm, travel bans, limbo and uncertainty over years.

The “ERCI and others” case catalysed a profound reshaping of the pro-migrant mobilisation landscape in the Aegean border area. While most of the NGOs conducting civil search and rescue and emergency shore response in Lesbos had already disengaged from Greece sea borders following the EU-Türkiye statement in March 2016 (mostly because of loss of opportunity and funding), the prosecution of the “ERCI and others” case indeed led to the withdrawal of all the few remaining NGOs (because of the risks associated with the activity). After 2018, only self-organised/activist groups continued their shoreline support, while facing constant harassment and intimidation by police, as well as attacks by locals. During the COVID-19 pandemic, these remaining civil search and rescue activities also disappeared because of the strict movement restrictions in place, and the violent pushback policies and detention upon arrival by authorities, which impeded any organised and safe assistance to people arriving on the island. In this context, the prohibitive 2021 legislation (Deportation and Return Bill) ensured that civil search and rescue could not practically be re-established and operate again in Greece.

The full disappearance of civil search and rescue operations and emergency shore response in Greece during 2020 has not only created a significant gap in the monitoring possibilities of rights violations at the sea border (at a time of growing evidence of systematic attacks against migrants

129 Human Rights Watch, Sea Rescuers Still Waiting for Justice in Greece, Case Collapses Against Most Defendants but Second Case Pending, (16 January 2023).

130 The Guardian, Greek court drops espionage charges against aid workers, (1 May 2024).

131 CPT, Aegean Migrant Solidarity, Humanitarians acquitted on search and rescue in the Aegean, (23 February 2024).

132 Organised Crime and Corruption Reporting Project (OCCRP), Greek Court to Hear Case Against Aid Workers, (December 2025).

133 Human Rights Watch, Humanitarians Cleared of Bogus Charges in Greece, After 7 Years, Abusive Prosecution Ends in Acquittal, (15 January 2026).

during pushbacks and crossing at sea), it also led to shortcomings in saving lives and preventing shipwrecks and deaths at sea. For reference, at the time of publication, more than 600 people were reported to have died or gone missing while trying to cross the Mediterranean in 2026, marking the “deadliest start to a year” in more than a decade.<sup>134</sup>

This development, in turn, forced the shift of activities of the remaining aid actors and propelled other pro-migrant activists, including organisations providing emergency medical response or legal assistance on the islands, into a new position of “frontline” support for newly arrived asylum seekers.

In this context, the Athens Bar Association released, in September 2023, an official interpretation of the Greek Bar Code with the aim of clarifying the overarching principles of lawyer-client relationship and non-criminalisation.<sup>135</sup> It specifically states that the provision of legal assistance to migrants who crossed borders irregularly before their registration as asylum seekers with the Greek authorities, “cannot be considered as assisting in the unlawful entry of third country nationals” and is covered by the principle of professional confidentiality.<sup>136</sup> This is a further indication of the lack of trustworthy and actionable safeguards to protect any type of aid work from criminalisation on the part of the state.

134 The Guardian, More than 600 people have died trying to cross Mediterranean in 2026, UN says, (23 February 2026).

135 European Legal Network on Asylum (ELENA), Greece: Athens Bar Association’s interpretation of the Greek Bar Code on guaranteeing the lawyer-asylum applicant relationship without criminalisation, 12 September 2013.

136 The Athens Bar Association refers in particular to Principles 17, 18 and 20 of the UN Basic Principles on the Role of the Lawyer, Article 6 of the Framework Decision 2002/946/JHA, and Court of Justice of the European Union judgement in case C-821/19 (16 November 2021)..

## Case-study 2: Racist rally and attacks against the Sappho square sit-in protesters, Lesvos, April 2018.

This case study examines the prosecution of racist and anti-migrant mobilisation against the Sappho square protesters which took place on 22 and 23 April 2018. During that time, migrants who were peacefully demonstrating against their substandard living conditions in Lesvos’ Moria camp, were attacked by an organised group of far right activists.

### Case background

On 17 April 2018, a group of asylum seekers residing in Moria refugee camp in Lesvos, mainly of Afghan origin, marched from Moria “hotspot” camp to Mytilene city centre where they occupied the city’s main square, in protest against their substandard living conditions and rights violations on the island (see “Socio-political context” above). The demonstration was sparked by the death of an Afghan refugee residing in Moria camp attributed to medical neglect of some NGOs and the public hospital.<sup>137</sup> The demonstrators also protested their living conditions in Moria hotspot camp, delays in the asylum procedures, restriction of movement and extremely limited access to healthcare for camp residents. After a week of peaceful occupation of Sappho square which gathered about 150 migrants, mostly families with children, the protesters were violently attacked by about 200 far right and anti-migrant activists, who had organised with the aim to surround and empty the square. During the entire night of 22-23 April 2018, despite the presence of police, the racist rally threw stones, bottles and firecrackers at the group of asylum seekers and people in solidarity with them, who tried to protect women and children present under a tent of blankets. The racist attackers were screaming “burn them alive” and ended up physically attacking, chasing down and injuring dozens of protesters, leaving many severely wounded and unconscious, with at least 10 persons reported to have been hospitalised.<sup>138</sup>

When the far-right attackers dispersed in the early hours of 23 April, the Greek police immediately arrested 108 migrants, including 12 minors, and two Greek supporters. The rest of the protesters were taken back to Moria refugee camp. On the same day, criminal charges were brought against the arrested protesters, including for unauthorised occupation of public space (Articles 168 and 189 of the Penal Code) and violent resistance (Article 167 of the Penal Code). In contrast, none of the anti-migrant attackers were arrested during the rally. It was only after months of investigation, in November 2018, that the Lesvos police department identified 26 potential perpetrators who were prosecuted.

### Roles of actors and state

In the days preceding the racist rally and attacks of Sappho square, various complaints and publications about the presence of protesting migrants were circulated on social media and in the local press in Lesvos. These included, for instance, publications by Mytilene’s former mayor, Spyros Galinos, who described the peaceful protest as a “provocation”, justifying potential escalating tensions in response by local society and the likely outbreak of racist violence.<sup>139</sup> Specific nationalist groups, such as the “Patriotic Movement for Mytilene” urged local residents to attend the weekly military parade ceremony on Sunday and to be “ready for anything.”<sup>140</sup> Moreover, a court order had been issued on the very day of the far-right mobilisation to evacuate the protesters from Sappho square.

While the riot police were present and deployed on Sappho square during the entire night of 22-23 April, they failed to prevent the racist attacks and remained largely passive during the rally, forming a physical barrier between the racist attackers and the peaceful protesters. The police eventually used tear gas to disperse the assailants.

During the night of the attacks, about 100 individuals, pro-migrant supporters, locals and activists, joined Sappho square in solidarity with the protesters. Reports suggest that many residents of

137 CPT, Aegean Migrant Solidarity, CPTer documents minute-by-minute account of fascist attack on Afghan refugees in Sappho Square, Mytilene, (25 April 2018).

138 Al Jazeera, Far-right attacks increase tension in Greece’s Lesbos, (23 April 2018).

139 Observatory of the Refugee and Migration Crisis in the Aegean, Observatory News Bulletin: On the events of the 22nd of April at Sappho sq. in Mytilene (updated 7 November 2018).

140 CPT, Aegean Migrant Solidarity, Appeal trial for the “Pogrom of Sappho Square” concluded, (6 June 2025).

Moria camp were ready to reach Mytilene city centre and provide support to the protesters but were stopped by the police and driven back to the camp which was locked down.<sup>141</sup>

### Trials and outcomes

On 9 May 2019, i.e. 1 year after the racist attacks, all of the 110 charged protesters were finally acquitted by the Three-Member Misdemeanours Court of Mytilene. The lawyers representing some of the protesters denounced another concerning case of criminalisation of peaceful protest, after their clients had suffered racist violence and disproportionate use of violence by the police.<sup>142</sup>

On the other hand, the Lesvos Police Department identified 26 individuals suspected of involvement in the racist attacks in November 2018.<sup>143</sup> Following a preliminary investigation, the Public Prosecutor at the Court of First Instance of Mytilene decided, almost a year after the attack, to press charges *ex officio* against the 26 suspects, for a series of felonies and misdemeanours, in some cases including the aggravating factor of racist characteristics (then Article 81A of the Penal Code, now Article 82A).<sup>144</sup> The case was, however, only referred to trial in November 2022, i.e. over 4 years after the attacks.<sup>145</sup> On 9 July 2024, i.e. over 6 years after the Sappho square attacks and 5 court hearings, the Three-Member Misdemeanor Court of Mytilene finally convicted 21 of the attackers.<sup>146</sup>

Given the unprecedented delays observed in the pre-trial phase, most prosecution witnesses, who were, for most of them, migrants and activists, had already left Lesvos at the time of the first instance trial and the ones who were present, including police officers, could not remember all the facts.

Four defendants were acquitted of all charges and one passed away, putting an end to the prosecution. Four defendants were found guilty of causing dangerous bodily harm with a racist motive (Article 309 and Article 82A of the Penal Code) and for causing dangerous bodily harm without a racist motive to police officers and other bystanders. They were also found guilty of aggravated disturbance of public peace (Article 189 of the Penal Code). Two of them were additionally found guilty of threatening refugees with a racist motive (Article 333 and Article 82A of the Penal Code). The first two were sentenced to 5 years and 9 months in prison, while the other two were sentenced to 6 years in prison. The sentences were suspended for 3 years and convertible to a fine of 5 euros per day. 17 defendants were found guilty of simple disturbance of public peace (Article 189 of the Penal Code) and sentenced to 1 year in prison, except for one defendant who was sentenced to 9 months due to his young age at the time.

The defendants appealed the verdict. On 5 June 2025, i.e. over 7 years after the attacks, the Three-Member Misdemeanour Court of Appeal of Mytilene issued a final decision on appeal, significantly reducing the sentences of the 15 defendants who appeared and were represented. The appeal court did not recognise the racist motives behind the attackers' actions and acquitted the defendants of charges of bodily harm and threats. Ten of the defendants were thereby found guilty of simple disturbance of the public peace, under Article 189 of the Penal Code, and were sentenced to 6 to 7 months of imprisonment. The youngest of them was granted mitigating factors because of his age and his sentence was converted into a fine allowing him to return to service with the border forces from which he had been suspended pending the outcome of

<sup>141</sup> No Border Kitchen Lesvos, Pogrom night in Mytilini, (28 April 2018).

<sup>142</sup> HIAS, 108 Refugees Acquitted of Criminal Charges in 2018 Sappho Square Protest, HIAS Greece secures legal victory, continues to advocate against criminalization of protests, (29 May 2019).

<sup>143</sup> The Press Project, Identification and criminal case against 26 people for the fascist attack against refugees in Lesvos, (6 November 2018) (in Greek).

<sup>144</sup> The Press Project, The prosecution of the 26 for the pogrom in Mytilene is racially motivated, (8 April 2019); StoNisi, Crimes with racist characteristics, (8 April 2019), (both in Greek).

<sup>145</sup> CPT, Aegean Migrant Solidarity, Appeal trial for the "Pogrom of Sappho Square" conclude, (6 June 2025).

<sup>146</sup> CPT, Aegean Migrant Solidarity, The Sappho Square case heard six years later, (30 July 2024).

Ekathimerini, Court convicts 21 people for 2018 attack against migrants on Lesvos, (9 July 2024); InfoMigrants, Greece: Court convicts 21 people for attack on migrants in 2018, (10 July 2018).

his trial. Four others, charged under the aggravated form of disturbance of the public peace, received 9-month prison sentences. All sentences were suspended for 3 years.

### Significance

Despite having been overturned, the 2024 first instance verdict against the attackers remains of particular significance because it was the first time that a court in Lesvos formally recognised racist motives as an aggravating factor, using Article 82A of the Penal Code (at the time, 81A of the Penal Code).

The Sappho square case is also significant as it illustrates the dynamics and gaps of legal accountability in the context of racialised violence and demonstrations in Greece. The case demonstrates the stark differences in using force, arresting and prosecuting migrants and pro-migrants activists who exercise their right of peaceful demonstration compared to local anti-migrant or racist attackers. The acts and decisions taken by the Greek authorities led to the immediate arrest and prosecution of nearly all of the peaceful protesters (at least 110 persons arrested over an estimated 150 protesters reported). In contrast, only 26 potential perpetrators were identified on the side of the attackers (out of an estimated 200 reportedly present in the racist rally) and only after an extraordinarily long pre-trial investigation phase (over 4 years before charges were pressed against some of the identified perpetrators).

This shows the ease with which police and judiciary routinely arrest and prosecute racialised migrants –even when they are victims of an attack– and the complacency shown towards individuals from local society –even when they are in the position of perpetrators and that the racist motives of their actions are flagrant. While the police acts towards the sit-in protesters might have been justified, in law, by a court order allowing for the evacuation of Sappho square, the case highlights clear clemency and tolerance towards the acts of the racist attackers.

Moreover, the gradual downgrading of the Public prosecutor's requests against the attackers to the point of requesting their full acquittal at the appeal stage, similarly shows leniency or favourable treatment towards them. The fact that the final decision erased all racist motives from the sentence is extremely concerning when looking at accountability for hate and racist crimes. While the 2018 racist rally and attacks of Sappho square remain one of the most violent attacks against migrants in Lesvos, they appear to have been tolerated over time by police, prosecution and judiciary authorities, and handled as a simple altercation between opposing groups, depriving it from its racist essence.

Due to the unprecedented level of violence observed, the racist and xenophobic aspect targeting persons of a religious, racial and national minority, and the apparent tolerance towards the organised mob attack, many groups denounced the Sappho square attacks as a pogrom.<sup>147</sup>

<sup>147</sup> See for instance, Sto Nisi, The Golden Dawn members of the Sapphos Square pogrom are "put in the drawer", (11 October 2020) (in Greek).

## Comparative analysis, themes and lessons emerging

Comparing the above cases allows for a deeper understanding of how criminal law is operationalised and selectively mobilised in migration-related contexts, revealing not only who is punished but also how different types of activism are impacted in the long-term. The juxtaposition of both cases highlights structural biases in policing, prosecution and adjudication, with significant implications for the civil society and mobilisation space, the protection of fundamental rights, the saving of lives and accountability for hate crimes.

### Asymmetrical policing and prosecution

The two cases reveal stark asymmetries in state response. In the ERCI and others case, law enforcement manifested in proactive surveillance, arrests and prolonged investigation targeting humanitarian actors, while in the Sappho square case, police presence during the racist attacks was largely passive and enforcement measures were directed primarily at the peaceful protesters and victims of racist violence rather than at its perpetrators. This differential treatment suggests a hierarchy of enforcement priorities in which migrant and pro-migrant activists are treated as threats to public order, while racist or anti-migrant mobilisation is tolerated or addressed belatedly.

This asymmetry can also be observed when looking at the coercive measures enforced against the defendants in each case during the pre-trial procedural phase. While the Sappho square attackers primarily underwent investigation without reported pre-trial custody, by contrast, the defendants in the ERCI and others case were subjected to significant pre-trial detention, travel bans to Greece after release from pre-trial detention for some and prolonged legal uncertainty.

Similarly, the severity of charges brought against the defendants in each case and the penalties they faced differ considerably. Comparatively, the defendants in the “ERCI and others” case faced much more serious criminal charges under Greek law, including serious felonies (i.e. smuggling, criminal organisation, money laundering) that could have resulted in very long prison sentences, if convicted. The Sappho Square perpetrators, however, were only charged with misdemeanour offences and the aggravating factor of racist characteristics was finally abandoned by the prosecution and judges, so that the defendants only received short and suspended prison sentences.

### Delay as a mechanism of inequality

Both cases were marked by extraordinary procedural delays, including at the pre-trial and investigative phase of the procedures. However, the effects of time on the defendants differed significantly in each case.

In the ERCI and others case, delays functioned per se as a form of punishment against the aid actors prosecuted, extending the period of judicial limbo they faced, as well as the uncertainty, financial pressure, reputational and psychological damage, and deterrence they experienced. As described above (see “Case Study 1 / Significance”), the extension of this procedure spanning over 7 years has had a broader impact on civil society in Greece, deterring the remaining NGOs from carrying out search and rescue operations and creating a long-lasting hostile climate towards NGOs, undermining the credibility of their work.

In the Sappho square case, the 4 years that passed before the defendants were sent to trial rather worked to their advantage: prosecution witnesses left the island, memories faded and prosecutorial demands were progressively weakened. The eventual downgrading of charges and the erasure of all racist motives in the final sentence underscores how temporal distance can operate as a mechanism of *de facto* impunity for hate-motivated violence, particularly when victims belong to racialised and marginalised groups.

### Erasure of the political dimensions of activism

Perhaps the most significant parallel between the two cases lies in how criminal law and prosecution redefined the nature of the conduct at stake. In the ERCI case, humanitarian rescue

was reframed as organised crime and espionage. In the Sappho square case, racist mob violence was reframed as a disturbance of public peace. In both instances, the legal narrative stripped the events of their substantive political dimensions by simply replacing them with categories of disorder and criminality.

The Appeal court’s refusal to recognise racist motives in the Sappho square case is particularly troubling, given the scale and the assumed and explicit nature of the violence. This judicial erasure undermines the purpose of anti-racism and hate-crime legislation and signals a reluctance to confront racism as a structural phenomenon within criminal adjudication. These asymmetries produce a contraction of civic space and reinforce a hierarchy of protected interests in which border enforcement prevails over anti-racism enforcement

### Impacts on mobilisation and activism

The uneven judicial treatment of the “Sappho square” attacks compared to the “ERCI and others” case is unsurprising when looking at the general socio-political context around migration described above.

Logically, this also led to different deterrence effects for the future. While the criminal prosecution of aid actors in the “ERCI and others” case produced a powerful chilling and deterrence effect on pro-migrant activism –concretely contributing to the disappearance of civil search and rescue operations and a general shrinking of civil society presence and perception, and therefore, of the border monitoring space– the lack of accountability for racist violence in the Sappho square case promoted or, at least, failed to deter, similar xenophobic attacks.

Specifically, the absence of effective judicial response in the Sappho racist attacks coincides with the recurrence and escalation of hate-based violence, including far-right mobilisations against migrants and solidarity actors on Lesvos and elsewhere. For instance, from January 2020 onwards, migrants’ protests against their conditions during the COVID-19 pandemic were violently repressed and repeatedly blocked by the Greek police,<sup>148</sup> while local far-right and vigilante groups started operating roadblocks on several roads on Lesvos, and violently attacked migrants and non-governmental organisations, with full impunity, as mentioned above.

More broadly, the Racist Violence Recording Network (RVRN) reported a sharp rise in racist violence in Greece in 2023, documenting 158 incidents of hate speech and racist attacks, primarily targeting migrants and LGBT individuals.<sup>149</sup> On the contrary, self-organised mobilisation of migrant groups has become more rare over time, given inter alia the risks involved, and is increasingly taking other forms –that do not include street demonstrations. By contrast, the recent acquittal of all defendants in the “ERCI and others” case is unlikely to enable the resumption of civil search-and-rescue operations at Greece’s maritime borders.

Shifting interpretations of law and legality surrounding pro-migrant activism have therefore significantly and permanently reconfigured the “frontline” of civil society engagement. In light of the restrictive legislative reforms adopted in recent years, alongside increasingly violent state practices at the borders, it seems that a point of no return has been reached, leaving little practical scope for civil search and rescue activities to recommence. At the same time, the “ERCI and others” prosecution has indirectly contributed to a broader climate of distrust and suspicion toward aid work and NGOs in Greece, long-lastingly shaping public opinion in ways that cast doubt on solidarity work and migrant rights activism. In the meantime, racist and hate speech, including anti-migration rhetoric, have been fuelled and normalised within media and parliamentary debates, without any serious challenge or prosecution so far.

These asymmetries produce a durable and harmful contraction of civic space and highlight a hierarchy of protected state interests in which border enforcement apparently prevails over anti-racism enforcement.

<sup>148</sup> The Guardian, Greece sends more riot police to Lesbos after migrant clashes, (4 February 2020).

<sup>149</sup> Racist Violence Recording network, Annual report, (2023).

## Conclusion and key recommendations

The two case studies analysed in this report are only indicative of trends and that pose limitations for reaching general conclusions about the state's approach to pro- and anti-migration activism, which would require more in-depth comparative research. Nevertheless, taken together and in the context documented in this report, the "ERCI and others" and "Sappho Square" cases reveal a clear trend in the governance of migration through criminal law in Greece, and its uneven effects on migration-related activism.

In particular, the two cases show higher severity and punitive intent in the Greek authorities' treatment of allegations relating to pro-migrant assistance operations, and greater leniency towards racist and hate crimes. Solidarity and migrant self-organisation are deterred and criminalised through expansive interpretations of criminal provisions and lawfare, while racist violence is diminished through procedural delay, selective prosecution and gradual sentence downgrading. The result is a system in which those who assist or defend migrants' rights are punished, while those who attack them enjoy impunity.

These cases demand analysis as interconnected manifestations of a broader legal and political logic. Their legacy is shaping not only the future of humanitarian action and pro-migrant protest in Greece, but also the credibility of criminal law and procedures as tools for protecting fundamental rights in contexts of racialised violence and border control.

In light of the above, the following key recommendations to the Greek Government and Parliament are proposed as ways of addressing the imbalances observed.

### On hate and racism

- The government should place greater attention to publicly and unequivocally condemning all instances of racist and xenophobic violence. Incitement to racism and hate speech from government officials or representatives should be closely monitored and prosecuted.
- Active prevention could be encouraged through the provision of obligatory and appropriate training for all enforcement authorities on the detection, prevention, and responses to hate crimes, including racist and xenophobic violence.
- The investigation and prosecution of hate and racist crimes in line with Greece's positive human rights obligations,<sup>150</sup> could be strengthened by:
  - (i) ensuring that any hate speech and racist crime –regardless of the type of offense– is subject to mandatory investigation and *ex officio* prosecution, without the need to prove they could lead to public danger.
  - (ii) providing training for prosecutors and judges on national and European anti-racism legislation.
- Appointments of specialised prosecutorial units for hate crimes in relevant public prosecutor's offices (such as Athens) with exclusive competence over racially motivated violence and organised far-right activity would also help the implementation of the law.
- Expanding the mandate of the Greek Ombudsman to review failures to investigate or prosecute racist violence and to issue binding recommendations would be another step in this implementation.

<sup>150</sup> The ECtHR has repeatedly held that failure to investigate racist motives constitutes an autonomous violation of Articles 2 or 3 in conjunction with Article 14 ECHR (see *Nachova and Others v. Bulgaria*; *Šečić v. Croatia*). In cases concerning Greece, the Court has found violations where authorities failed to adequately address racist violence (*Bekos and Koutropoulos v. Greece*; *Sakir v. Greece*). The handling of the Sappho square attacks reflects precisely the deficiencies identified in this line of case law.

- The wider context in which anti-migrant violence occurs as part of a broader border security regime that produces racist crime through border control should also be addressed. This requires acknowledging, investigating and prosecuting the racist character of border violence targeting migrants at sea and on land, including during refoulement or pushbacks.

### On anti-smuggling legislation

As shown by several studies, the current Greek anti-smuggling legal framework fails to effectively protect smuggled individuals (including those who are refugees or seeking asylum) or migrant rights defenders carrying out legitimate pro-migrant or human rights monitoring work. On the contrary, it facilitates and legitimises their systematic criminalisation. To address this, serious legislative amendments would be needed at national level but also a wider reframing of relevant frameworks at EU level. Specifically:

- The Greek Parliament should propose a bill to reform the anti-smuggling legislation in force so that it cannot continue being instrumentalised in lawfare solely aimed at deterring migration or pro-migrant work.
- Anti-smuggling laws and regulations should, at the very least, be brought in line with the UN Smuggling Protocol, to prevent prosecution when
  - (i) there is no financial or other material benefit,
  - (ii) in cases where migrants are subjected to smuggling networks in order to cross borders, and
  - (iii) in cases of humanitarian and civil society monitoring activities.
- Responsible authorities should ensure the proper training of judges, prosecutors and state appointed lawyers regarding migration law and its interconnection with prosecution under Greece' anti-smuggling legislation to ensure uniform application of the law and systematic use of the existing exemption clauses from criminalisation for asylum seekers and aid workers.

The above recommendations are minimum requirements to address immediate issues related to ongoing unfair criminalisation tactics described before. In order to effectively address smuggling networks and their root causes, **Greece and the EU should focus on creating and multiplying safe and legal pathways**, beyond the sole asylum system, for people to reach Europe regularly and without putting their lives at risk or at the hands of smugglers.

### On civic space and human rights monitoring

To address the wider context in which pro-migrant activism is criminalised, comprehensive amendments would be needed on the part of the Greek government to ensure that the legal frameworks, policies and practices in place do not criminalise NGOs and their members or staff, or impose disproportionate burdens on them, due to their activities assisting migrants. Such amendments should be in line with the Guidelines on protecting NGO work in support of refugees and other migrants issued by the Expert Council on NGO Law of the Council of Europe.<sup>151</sup>

More specifically, with regards to search and rescue activities:

- Law 4825/2021 should be repealed or amended so as to allow for the operations of legitimate and necessary civil society search and rescue and other activities at sea borders and shores. The current legal framework amounts to a strict prohibition of such activities which is disproportionately restrictive and is proven to create a chilling and deterrent effect on civil society.

With regards to the regulations of NGO work related to migration in Greece:

<sup>151</sup> Expert Council on NGO Law of the Conference of INGOs of the Council of Europe, Guidelines on Protecting NGO Work in Support of Refugees and Other Migrants, (May 2020) and Using Criminal Law to Restrict the Work of NGOs Supporting Refugees and Other Migrants in Council of Europe Member States, (December 2019).

- Joint Ministerial Decision 10616/2020 and the related legislative provisions in Law 4686/2020 should be repealed or substantially revised to be brought in line with the ECHR standards and respect for freedom of association and the protection of civil society space.<sup>152</sup>
- NGOs should, as best practice, be consulted prior to adopting any further measures or legislative proposals on NGO work.

Greek government representatives should follow the recommendations of the UN, the Council of Europe and civil society, and refrain from targeting civil society actors, be it through repeated proposals for sweeping legislative reforms aimed at reducing civic space and freedoms, or through issuing intimidating and/or threatening public statements directly targeting the work of NGOs and their members.

<sup>152</sup> See for instance, recommendations proposed by HIAS in Legal Analysis, Some thoughts on the new Joint Ministerial Decision, regulating the registration of migration-related NGOs in Greece, (8 May 2020).

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