Country report - Greece

1. **Delays in justice**

    a. **Delays civil & criminal courts:**

The administration of justice in Greece continues to face significant challenges that raise serious concerns about access to justice and the right to a fair trial within a reasonable time, as guaranteed under Article 6 of the European Convention on Human Rights. Recent statistical data from the Council of Europe's European Commission for the Efficiency of Justice (CEPEJ Report 2024) and the Athens Court of First Instance reveal systematic delays that far exceed European standards. A comparative analysis of case disposition times between Greece and other Council of Europe member states presents a troubling picture of judicial inefficiency that may constitute a structural impediment to effective legal protection. The disparity between Greek judicial processing times and European median values is particularly stark in civil proceedings, where cases take more than three times longer to resolve than the European median, potentially undermining citizens' fundamental right to timely judicial protection.

Civil Cases:

- First Instance: 746 days (Council of Europe median: 239 days)
- Second Instance: 422 days (Council of Europe median: 200 days)
- Supreme Court: Greece did not provide relevant data to the EU (Council of Europe median: 152 days)

Criminal Cases:

- First Instance: 223 days (Council of Europe median: 133 days)
- Second Instance: 294 days (Council of Europe median: 110 days)
- Supreme Court: 304 days (Council of Europe median: 101 days)

At the same time , the data from the CEPEJ report show that the number of new cases has decreased dramatically: from 5.83 incoming civil cases at first instance per 100 inhabitants in 2012 to merely 1.31 per 100 inhabitants in 2022.

The statistics from the Athens Court of First Instance are even more revealing: In 2010, 224,391 cases entered the judicial system of the Athens Court of First Instance, whereas in 2023, this number decreased to 102,285 cases, representing a 54.5% reduction in incoming casesin 2023.

This conclusively demonstrates that delays in the administration of justice cannot be attributed to either adjournments requested by attorneys or the alleged overcrowding of the legal profession purportedly generating an excess of new cases entering the judicial system. This is evidenced by the fact that while the number of Athens-based attorneys increased from 21,430 in 2010 to 24,450 (a 12.4% increase), during the same period, there was a 54.5% decrease in civil cases filed with the Athens Court of First Instance. Not only did the number of cases not increase or remain stable, but it decreased dramatically by over 50%.

Meanwhile, the number of judges (per 100,000 inhabitants) has increased significantly over the last decade in Greece and now substantially exceeds the Council of Europe median:

- 2022: Greece: 37.3 | Council of Europe median: 17.6
- 2012: Greece: 23.3 | Council of Europe median: 17.7

Based on the Athens Court of First Instance data, the number of judgments rendered in 2010 was 133,440, while the number of incoming cases in 2010 was 224,391, indicating that the clearance rate reached 60%. This means that for every 100 cases filed with the Athens Court of First Instance, only

60 resulted in judgments, leading to a considerable annual increase in the case backlog. Nearly the same ratio persisted in subsequent years.
In 2023, the number of judgments rendered decreased by 57.4% to 56,860, of which 9,388 concerned mortgage pre-notation matters and 9,472 were payment orders, totaling 18,860. This means that the remaining judgments requiring reasoned judicial decisions amounted to only 38,000.

b. **Delays in administrative courts:**

The disparities in administrative justice processing times between Greece and other European jurisdictions raise significant concerns about the effectiveness of administrative judicial protection. Statistical data from the Council of Europe's CEPEJ Report 2024 reveals that Greek administrative courts consistently exceed European medians for case disposition times across all instances, with the most severe delays occurring at the Supreme Administrative Court level. These delays are particularly troubling given that administrative cases often involve disputes between citizens and state authorities, where prolonged proceedings can significantly impact individuals' rights, livelihoods, and access to essential services.

Disposition Time (in days) for Administrative Cases:

- First Instance: 464 (Council of Europe median: 292)
- Second Instance: 661 (Council of Europe median: 215)
- Supreme Administrative Court: 1,239 (Council of Europe median: 234)

The stark difference between Greek processing times and European medians is most pronounced at the Supreme Administrative Court level, where cases take more than five times longer than the Council of Europe median to resolve. This significant deviation from European standards suggests a systemic issue in the Greek administrative justice system that requires urgent attention.

2. Excessive judicial formalism in Greek Supreme Courts: Analysis of recent ECtHR Jurisprudence

The major issue highlighted by recent European Court of Human Rights (ECtHR) jurisprudence concerning the Greek judiciary is the **unjustified formalism of the supreme courts**. This matter has a well-established precedential history. The ECtHR has consistently condemned the disproportionate stringency of Greece's supreme courts, indicating that jurisprudential practices amounting to denial of justice are incompatible with the need to effectively safeguard the right of access to justice. In its judgments in *Alvanos* (20.3.2008), *Perlala* (22.2.2007), and *Karavelatzis* (16.4.2009) concerning the Areios Pagos (Supreme Civil and Criminal Court), the ECtHR criticized the court for its unjustifiably formalistic interpretation of national law provisions regarding the admissibility of legal remedies and individual grounds of appeal presented by the parties. Regarding the Council of State, in *Sotiris and Nikos Koutras ATTEE* (16.11.2000), it was held that Article 6 of the ECHR was violated by the Council's then-strict jurisprudential position concerning the inadmissibility of appeals filed with competent agencies other than itself, when the relevant filing document lacked certain formal elements that could have been inferred from other sources.

The ECtHR increasingly employs stronger language toward supreme courts, reminding that Article 6 § 1 does not permit procedural traps aimed at avoiding examination of the merits of a dispute (*Giannousis and Kliafas v. Greece*, 14.12.2006, §§ 26-27). The message of each condemning judgment remains consistent: **priority must be given to protecting substantive rights rather than procedural form**.

Unfortunately, as evidenced by recent ECtHR decisions, the adjudicative practice of the supreme courts has not adapted to ECHR requirements:

- In *Zoumpoulidis* v. Greece *(No.3)* of 4 September 2024, the Court identified fundamental flaws in the Council of State's jurisprudential stance regarding the state's mandatory liability for judicial error. Notably, this decision led to the formation of a legislative drafting committee composed of judges, without participation from the bar association.
- The Georgiou v. Greece judgment of 10 July 2023 demonstrates how the unjustified refusal to refer preliminary questions to the CJEU by supreme courts can violate the right to a fair trial, beyond raising EU law issues.
- Finally, in the recent judgment Tsiolis v. Greece of November 19, 2024, the Strasbourg Court ruled that the Council of State violated the applicant's right to a fair trial by dismissing the cassation appeal as inadmissible due to lack of documentation showing absence of case law on the crucial issue or failure to produce (contrary) case law by the appellant. The ECtHR condemned the Council of State's jurisprudential application of Law 3900/2010, as it defies legal reasoning for the supreme administrative court to insist upon the production of case law by the appellant when national administrative court decisions are not published in their entirety in any official publication or database accessible to the litigant and their lawyer.

  The Strasbourg Court reiterated that national courts must avoid excessive formalism that contravenes the requirement to ensure an effective right of access to court in practice, pursuant to Article 6 § 1 of the ECHR.

3. **Erosion of Bar Associations' standing to challenge Independent Administrative Authority appointments**

Recent developments in Greek administrative law have raised significant concerns regarding judicial oversight of independent administrative authorities. In Supreme Administrative Court Rulings No. 1641 and 1639/2024, the Plenary Session of the Council of State held that the Athens Bar Association lacks standing (*locus standi*) to challenge the Minister of Justice's decree regarding the

appointment of members to the Hellenic Authority for Communication Security and Privacy (ADAE) and the National Council for Radio and Television (ESR), respectively, which were adopted without the constitutionally required majority. This change in the composition of the Independent Authority took place just one day before it was set to decide on whether or not to impose a fine on the National Intelligence Agency (EYP) for the illegal surveillance of the leader of the parliamentary opposition's minor party.

These court rulings represent a significant shift in Greek administrative jurisprudence regarding the role of Bar Associations in safeguarding institutional independence of independent administrative authorities.

Through this ruling, the Court has effectively avoided to address the (substantive) merits of these cases, which pertained to the major scandal involving the wiretapping of telephone conversations of a politician by EYP and the illegal "predator" spyware

The majority opinion of the Council of State's Plenary Session, which holds that the application for annulment directed against individual administrative acts assumes the character of an "actio popularis" - not established by the Constitution or applicable legislation - represents a regression in the Court's jurisprudential history and is contrary to explicit statutory provisions.

Article 90 of Law No. 4194/2013 explicitly provides that Bar Associations are vested with: a) The defense of rule of law principles and standards in a democratic state; b) The safeguarding of an independent judiciary, which always administers justice in the name of the Greek people; (...) g) The authority to intervene before courts and any public authority (including independent administrative authorities) regarding any matter of national, social, cultural, or economic interest and substance that concerns either its members or the legal profession in general, as well as any matter of national, social, cultural, or legal significance. To implement and achieve this purpose, Bar Associations may file actions, primary or additional interventions, reports, criminal complaints, civil party declarations, applications for annulment, substantive appeals, and generally any legal remedy or means of any nature before any criminal, civil, or administrative court of original or cassational jurisdiction in Greece, the European Union, or any

international court. Furthermore, regarding the aforementioned matters, they may intervene through any appropriate means before any competent authority in Greece, the European Union, or any other international legal body or authority.

The above provision unequivocally and indisputably establishes that Bar Associations have legal standing to seek judicial review regarding matters of broader social interest, such as the legality of acts appointing members to Independent Authorities or concerning their operation and fulfillment of their mandate.

The ministerial decrees challenged by the Athens Bar Association through application for annulment materially alter the composition of ADAE and ESR, which are constitutionally established as independent authorities. Corresponding safeguards include, inter alia, the selection process of their members, which is designed to prevent interference from the executive branch or other sources of influence in their operations. This element is crucial for the rule of law and the protection of citizens' fundamental rights.

The Plenary Session of the Council of State, through these rulings, effectively attempts to nullify the provisions of Article 90 of the Legal Practice Code and deprive Bar Associations of their institutional and historical role in intervening in matters of national, social, cultural, and economic interest that are of broader concern.