



## **Analysis of Art. 31 of Law 5119/2024 amending Art. 8 par. 1 of Law No. 3090/2002**

The recent amendment to Article 8 par. 1 of Law No. 3090/2002, encapsulated in the new Art. 31 of Law 5119/2024, marks a significant shift in the regulation of media and public access to court proceedings in Greece, and sparked [suspicion](#) over its implications for transparency, freedom of information, and the public's right to be informed about judicial processes. The contested amendment, published in the Government Gazette on 5 July 2024, extends the prohibition of broadcasting trials so as to include internet transmission and digital recording.<sup>1</sup> This analysis delves into the specifics of the amendment, its comparison with the previous law, and its potential impact on constitutional principles and public rights.

The newly introduced Article 31 of Law 5119/2024 modifies the existing legal framework governing the broadcasting of court proceedings. The updated provision now explicitly prohibits the transmission of trials via the internet, as well as the recording of proceedings into written form using speech to text software, unless authorized by the court with the consent of the prosecutor and the parties involved, citing essential public interest as a necessary condition.

### Comparison with Previous Framework

Under the previous Law 3090/2002, the prohibition was primarily focused on audio and video recordings, with similar exceptions allowed by court authorization. The new amendment broadens the scope significantly by including modern digital means of transmission, acknowledging the advancements in technology that facilitate real-time dissemination of court proceedings through online platforms.

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<sup>1</sup> Article 31 Law 5119/2024. Inclusion of transmission of the trial by internet and the recording of the trial in written form with the use of special software in cases of unlawful transmission of proceedings:

*"1. It is prohibited to broadcast in whole or in part by any means whatsoever, in particular by television, radio, Internet and generally by any technological means, as well as to film, tape, and record the trial in written text by means of special software that converts the spoken word into written text, before a criminal, civil or administrative court. By way of exception, the court may authorise such actions if the prosecutor and the parties consent and if there is an essential public interest."* Available [online](#)



This amendment diverges significantly from the previous law, 3090/2002, which stated clearly the prohibition of the recording of the trial by audio or video.<sup>2</sup>

### Explanatory Memorandum

According to the Memorandum accompanying the publishing of the law, subparagraph 1 of Article 8 of Law 3090/2002 was replaced in order to incorporate in the objective definition of the crime both the case where the Internet is used for the transmission of the trial and the case where through special software that automatically converts the spoken word into written speech (usually installed on mobile devices or portable computers or tablets), the recording of the oral proceedings in a written text is posted on internet websites or social media at the same time as the trial takes place. The latter was considered necessary because the modern development of digital technology has created new forms of recording and direct transmission of the proceedings to the audience, in addition to those already mentioned under the previous framework.

By means of that modern methodology, an indefinite number of persons outside the courtroom are informed in real time, through direct transmission (conversion into written speech by means of special software), on websites and social media pages, of the proceedings, a situation which according to the Memorandum, is not consistent with the concept of publicity of criminal proceedings, since the latter is understood to mean the possibility of free access of the public to the courtroom and the unimpeded observation of the oral proceedings, and not the direct transmission of the proceedings to the public.

The explanatory memorandum for the bill emphasizes the necessity of updating the law to include digital forms of recording and transmission, which were not previously addressed. It argues that real-time online dissemination of court proceedings undermines the concept of public access as traditionally understood—limited to physical presence in the courtroom. However, this rationale has been [critiqued](#) for potentially misinterpreting the principle of public trials as enshrined in the Greek Constitution. It is common both in theory and judicial practice to recognize that indirect publicity, which includes the

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<sup>2</sup> Article 8 par. 1 Law 3090/2002. *Total or partial transmission by television or radio, as well as the filming and recording of the proceedings before a criminal, civil or administrative court is prohibited. By way of exception, the court may authorise such actions if the prosecutor and the parties consent and if there is an essential public interest. [...].* Available [online](#)



presence of journalists and trial observers from the courtroom, is protected alongside direct publicity achieved through the physical presence of the public. The Observatories, which record courtroom events without judgments or comments, exemplify the principles of indirect publicity.

### Constitutional Concerns

Article 93 of the Greek Constitution mandates that court hearings be public, allowing restrictions only for protecting public morals or privacy.<sup>3</sup> The new amendment raises concerns in regards to the constitutionally established principle of the publicity of trials.

A simple comparison of the letter of the provisions of the new art. 31 Law 5119/2024 and art. 93 of the Greek Constitution, clearly shows that the legislator, taking into account the difference between the principle of closed door hearings and the transmission of the trial, is clearly differentiating the latter from the Constitution and legislates against the freedom of information and freedom of the press.

With the new framework, the decision on the publicity of the procedure, is not left upon the Court, but upon the prosecutor and the parties of the trial, notwithstanding the fact that it is a matter of publicity of the trial. This absolute and vague choice by the legislator is against the freedom of the information and the press. The decision upon allowing or prohibiting the transmission of a trial should be left upon the presiding judges, and it is not upon the legislator and the parties to decide so. The simple recording in writing and transmitting what is being said in the courtroom with the aim of further informing the public is evidently in line with the spirit and the purpose of Art. 93 of the Greek Constitution and the prohibition should not apply in this case.

The new amendment's broad prohibition on digital transmissions, subject to the discretion of the prosecutor and the parties, is seen as a departure from this constitutional principle. Critics argue that the decision to permit or deny recording and broadcasting should rest with the presiding judges, not the legislature or trial participants, to uphold the spirit of transparency and public access.

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<sup>3</sup> Art. 93 par. 2 of the Greek Constitution. " *The sittings of all courts shall be public, except when the court decides that publicity would be detrimental to the good usages or that special reasons call for the protection of the private or family life of the litigants.*" Available [online](#)



### Impact on Freedom of Information and Press

This amendment aims at shrinking the presence of trial observers in Courtrooms. The choice of the legislator was to reverse the constitutional rule of publicity of trials by turning it into an exception and further making this exception the rule. However, this significant change particularly affects the fundamental right to information. The vague wording of the law leaves room for interpretation that can allow any possible restriction regarding transmission through the internet of what is being said inside the Courtroom.

The amendment appears to prioritize the privacy of court proceedings over the public's right to information and the freedom of the press. By requiring consent from all parties and the prosecutor, it effectively limits journalistic access and the public's ability to stay informed about judicial matters. This shift could lead to a decrease in trial monitoring by the media and the public, undermining the accountability and openness of the judicial process.

The implications of this amendment were immediately felt in the case of the racist attack against refugees in Sapphous Square in 2018. On July 8, 2024, shortly after the law's enactment, the Mytilene Trial Court invoked the new provisions to halt the monitoring of the trial, despite it being in its final stages. This abrupt enforcement highlights the judiciary's readiness to apply the new restrictions, raising concerns about the timing and motivations behind the amendment.

### Conclusion

The amendment to Article 31 of Law No. 3090/2002, as introduced by Law 5119/2024, represents a significant change in the legal landscape of court proceeding broadcasts in Greece. While it aims to address modern technological challenges, it raises substantial concerns regarding the constitutional principle of public trials, freedom of information, and press rights. The law's vague wording and the shift of decision-making power to prosecutors and trial parties rather than judges, suggest a move towards restricting transparency. This development warrants careful scrutiny and potential reconsideration to balance the need for privacy in courtrooms with the public's right to be informed about significant judicial proceedings.



This vague and unclear amendment, confirms the dangerous and ongoing restrictiveness towards activism and journalism seen in Greece and the efforts of the State to hush all actors scrutinizing governmental deficiencies, injustice by the authorities and miscarriage of justice. Hence, it can lead to further prevention of trial watches and observatories from monitoring the Court proceedings, upholding the right to fair trial (Article 6 ECHR) and informing the public about trials of high political significance.

In an era where EU Legislation, such as the Facilitation Directive, suggest introduction of provisions such as the criminalisation of online content which can be considered as publicly instigating people on the move to come to EU territory, it is concerning to see national legislations align with such tendencies.