

# RESILIO Country Report Greece



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## RESILIO Country Report - Greece

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November 2023

### 1. Introduction

The principle of the rule of law has its origins in Ancient Greece, specifically in Aristotle's work *Politics*.<sup>1</sup> As such, the rule of law, as well as democracy more broadly, have a long and meaningful history in Greece, serving as both a cultural legacy and a source of national pride. Unfortunately, recent history has seen many challenges to the rule of law in Greece, including its suspension during the military dictatorship that ruled between 1967 and 1974. Following the fall of the Junta, the Constitution of Greece was adopted in 1975, marking the start of the Third Hellenic Republic. This constitution serves as the bedrock of democracy and likely constitutes one of the most important resilience factors for the rule of law in Greece.

Modern Greek democracy has, however, been plagued by corruption scandals and a culture of nepotism in a civil service that has not historically been defined by merit-based appointments. Furthermore, recent successive economic, migration and pandemic crises have rocked Greek society to its core, severely damaging public trust in institutions and the political system. All this has significantly impacted the rule of law in Greece, which has suffered significant backsliding, particularly over the past four years. Rule of law issues in Greece have received particular attention in recent months in connection with pushbacks, the wiretapping and spyware scandal, and threats to media freedom and pluralism.

Following a mission to Athens in March 2023, the European Parliament's Committee on Civil Liberties (LIBE) highlighted 'serious threats to the rule of law.' The Greek authorities did not in fact meet the delegation, claiming that a major train crash ten days earlier demanded all their attention. 'Although Greece has a solid institutional and legal framework, vibrant civil society and independent media, the delegation notes that there are very serious threats to the rule of law and fundamental rights,' the mission's chief, Sophie in 't Veld from the centrist Renew Europe group, told a press conference on 8 March in Athens.<sup>2</sup>

Regarding media ownership, the Dutch politician has also commented that the fact that a small number of oligarchs own most Greek media outlets 'negatively impacts media freedom and pluralism resulting in sometimes dramatic underreporting of certain topics.' According to the World Press Freedom Index for 2022,<sup>3</sup> Greece ranked last among the 27 EU member states. The European University Institute's Media Pluralism Monitor for 2022<sup>4</sup> reported a 'suffocating climate' for independent journalism, due to the systematic rejection of critical voices by the ruling party. The LIBE delegation also raised the use of illegal spyware against journalists characterising the phenomenon as 'a clear violation of their privacy and an obstacle to getting their job done properly'.

As reported by journalists and civil society organisations, the Greek National Intelligence Service has systematically ordered the surveillance of politicians, journalists, and

the chief of the armed forces, invoking national security concerns. The huge increase in the number of authorised wiretaps from 4,871 in 2015 to 15,475 in 2021 suggests that the competent public prosecutor attached to the National Intelligence Service would struggle to conduct a thorough scrutiny of these requests.

Meanwhile, the government continues to deny that it has used Predator spyware to monitor opposition politicians and journalists. The May 2023 report from the European Parliament's PEGA Committee Inquiry on the use of Pegasus and similar surveillance spyware noted: 'if it was not the Greek Government, then it must be concluded that a non-state actor was responsible [...]. That would be a crime under Greek law, which would have to be investigated. The hypothesis that private actors were behind the Predator attacks is, moreover, highly implausible.'<sup>5</sup>

Effective investigation into these practices is unlikely given that almost two years on from the wiretapping revelations, the justice system has yet to take substantial action, and yet all these practices are extremely damaging to the rule of law, signalling weak oversight and the authorities' potential abuse of power.

Transparency issues and anti-corruption efforts are also problematic; according to the 2023 Eurobarometer: 97 percent of those surveyed believed that corruption is widespread in Greece.<sup>6</sup> Transparency International's Corruption Perception Index (2022)<sup>7</sup> also reported that secretive procurement processes have weakened safeguards against corruption.

The European Commission's 2022 Rule of Law Report<sup>8</sup> stated that in the limited cases prosecuted for corruption, substantial progress remains to be seen in issuing judgments. The Report also underlined that while a large number of asset declarations were submitted, only a few of them were verified for accuracy.

The creation of the National Transparency Authority (NTA) in 2019, which absorbed most audit bodies responsible for combating corruption, has given cause for concern, since the members of its governing board and its chairperson were essentially chosen by the Government in a recruitment process that appeared tailored exactly to their chosen candidate, and the body itself has been perceived as largely ineffective and biased.

These threats to the rule of law and the backsliding that has occurred evidently make it even more important to identify resilience factors. This report will attempt to do just that, while acknowledging that many of the RESILIO model resilience factors are unfortunately under extreme duress in modern Greece.

## **2. Analysis of the country using the RESILIO model**

### **2.1 Most important systemic factor: constitutional resilience**

In Greece the most important systemic resilience factor is constitutional. This is not to say that the constitution is unassailable, nor that the checks and balances system works perfectly, but rather reflects weaker institutional and judicial resilience factors.

The first three Greek constitutions were adopted by the revolutionary national assemblies during the War of Independence (1821–1832). The current Constitution was created after the fall of the Greek military junta and marked the start of the Third Hellenic Republic, entering into force on 11 June 1975 (adopted two days prior) and has been amended in 1986, 2001, 2008 and 2019.

The Foreword to the Constitution mentions the conscious choice of a parliamentary republic as a real advance 'considering the institutional backwardness of the Country at the political level during the first decades following World War II' and a grid of fundamental rights which placed it among the most modern of European constitutions.<sup>9</sup> This reflects the importance of the Greek constitution and democratic system in the popular imagination, and the fact that Greek culture and society in general can be seen to be deeply invested in a constitutional democracy. This certainly represents a strong resilience factor for the rule of law. More specifically, the Constitution itself was created to be robust and to prevent its future circumvention or alteration.

Article 110 of the Greek Constitution forms an entrenchment/eternity clause which exempts certain fundamental articles of the Constitution from parliamentary revision, including paragraphs on the parliamentary republic as the Greek form of government, the rule of law (namely paragraph 1 of Article 4, which states that 'Every Greek is equal before the law'), personal liberty, and the separation of powers. The procedural guarantees set out in the Constitution with regard to its revision are intended to ensure its

strict character and supremacy over the common laws, as well as to exclude the ability of a parliamentary majority to modify the fundamental framework of the organisation of the state. The current system of constitutional revision provides the most inflexible guarantee of constitutional rigour compared to all other European constitutions as a counterweight to the lack of institutional trust and the peculiarities of the Greek political culture.

Yet while the checks and balances are perfectly adequate on paper, they are not always adhered to in practice, and the checks on government powers by the other branches are not always effectively exercised. This state of affairs persists through much of the Greek political and institutional system. While the legislation is in place to create a modern, accountable, transparent and democratic state apparatus, much of it is not enforced, or simply bypassed or ignored.

### **2.3 Most important subsidiary factor: political resilience**

Subsidiary factors of rule of law resilience in Greece are on the whole fairly weak. This report identifies political resilience as the strongest subsidiary factor at play, predominantly due to a robust and high-quality electoral process, defined by regular, free, and fair popular elections, with corresponding legislation firmly in place and enforced.

Greece completed two rounds of elections on 21 May and 25 June 2023, after two successive governments introduced changes to the electoral system. Under the Constitution, amendments to the electoral law come into effect starting from the second election to be held following their passage, unless they pass with a supermajority. The May elections were therefore conducted through a fully proportional system which Syriza introduced in 2016. Failing to produce a clear majority (although the centre-right New Democracy did secure a whopping 40.79 percent), elections were held again in June, conducted through a semi-proportional, majority-bonus system, which facilitates a majority by giving the winning party bonus seats; a similar but not identical system to that used before 2016. Under this system, which New Democracy reintroduced after Syriza lost the elections in 2019 (but which was constitutionally not yet applicable to the May elections), most seats will still be allocated through a proportional system. However, the leading party gets a bonus in seats: 20 if it gets 25 percent of the votes and up to 50 if it gets 40 percent.<sup>10</sup>

The Greek political landscape is very polarised. Thirty-two parties and alliances participated in the June elections, and three new parties entered parliament for the first time, bringing the total number of political parties represented in the current Parliament to eight. Prior to this year's elections, Parliament voted on 8 February 2023 to prohibit parties led nominally or actually by convicts from running in the elections. Fifteen far-right parties wanted to run in Greece's upcoming general election, almost half of which were disqualified by the Supreme Court. This was the first time since 1974 that the Supreme Court had excluded a party from elections on policy grounds.<sup>11</sup> As such there are many positive signals of robust political rule of law resilience in Greece.

Civic resilience in Greece resides predominantly in a determined and vibrant civil society, but this is a shrinking space that is under considerable and increasing pressure. Civil society organisations exist in a generally hostile environment in Greece, with minimal and ever decreasing access to funds, and faced with increasing demonisation and persecution from the government. This is particularly the case for organisations working on human rights and migration. In 2020, the government introduced restrictions for the registration and certification of NGOs. The Expert Council on NGO Law has expressed concerns, commenting that this is inconsistent with Greece's obligations to respect freedom of association, and recommends that it should be repealed without delay.<sup>12</sup> Additionally, a number of human rights defenders have faced criminal charges and prosecution.<sup>13</sup> Despite these challenges, civic resilience persists and continues to be an important rule of law resilience factor with considerable impact both at home and abroad.

### **2.4 Most important contextual factor: social resilience**

Contextual rule of law resilience factors are under extreme pressure in Greece today: specifically economic resilience due to a prolonged economic crisis that has profoundly affected wages, compounded by the economic effects of the COVID-19 crisis. Whilst this economic pressure has affected the rule of law resilience in Greece over the last few years, the social resilience of Greek society has certainly been the most important factor in preventing further rule of law backsliding and perhaps even the collapse of Greek society.

The Greek economic crisis was the deepest and longest ever recorded in an OECD country in the post-war period.

Greece lost 25 percent of its GDP and Greeks lost one third of their purchasing power and a quarter of their income, while the unemployment rate exceeded 27 percent. Eurostat data shows that 22.2 percent of the population were 'severely materially deprived' in 2015.<sup>14</sup>

The extreme economic pressure on Greek households was somewhat mitigated and at least partially absorbed by high levels of social solidarity, both through multi-generational households sharing the burden, and through wider community movements and solidarity initiatives. The so-called solidarity economy that emerged in response to the economic crisis included collective kitchens, solidarity pharmacies, medical centres, no middle-men markets and social grocery 'shops.'

According to a study of Greece and Hungary in the second half of the 2010s, around '150 networks of economic solidarity emerged in the early 2010s, at the onset of the Greek austerity crisis [...] the vibrant grassroots movement that emerged in austerity-ridden Greece in the early 2010s planted the seeds of the informal, solidarity economy infrastructures that would play a prominent role during the subsequent arrival of large numbers of migrants and refugees in the country [...]. A constellation of refugee housing squats and other solidarity initiatives—social clinics, collective kitchens, intercultural schools, training workshops, free shops, legal advice, and translation services, etc.—was built through the redirection of the energy and infrastructures of the movement that had assembled during the preceding years of the austerity crisis.'<sup>15</sup>

Without this solidarity movement that emerged in response to the sudden rise in poverty, and with a state unwilling or unable to plug the gap, large numbers of Greeks would have simply not been able to afford food and housing. The social cohesion underpinning these self-organised relief efforts reveals strong social bonds and a certain resilience of social solidarity. Therefore, this report identifies social resilience as the strongest contextual resilience factor in Greece.

As the above quote shows, the refugee crisis again highlighted the strong solidarity structures and social resilience present in Greek society, with the receiving island populations largely welcoming refugees, sometimes into their homes, aiding rescue attempts, and feeding, clothing and housing migrants.

The long-term social ramifications of the influx of large numbers of refugees with different racial and religious profiles into a country that has historically been rather homogenous are yet to be studied and understood well. Moreover, national integration policy is struggling to catch up with a multicultural society. The International Rescue Committee estimates that Greece currently hosts approximately 50,000 refugees, most of whom will remain in the country.<sup>16</sup> These new populations have not yet been incorporated into institutional and political power structures, and it is still too early to draw any conclusions about the long-term effects of these demographic changes on Greek society. Certainly, the successful handling of these changes, and measures to achieve inclusion and integration would improve the rule of law resilience in Greece. The central axes of division in Greece continue to form around the left/right political divide, and the legacy of the relatively recent civil war continues to cleave society, polarising political debate. This is much less pronounced in the younger generations though, possibly signalling the fading significance of these political ideologies in the future.

More generally, the OECD Better Life Index indicates a moderate sense of community and moderate levels of civic participation in Greece, where 78 percent of people believe that they know someone they could rely on in time of need.<sup>17</sup>

Also worth mentioning is the official resilience of public discourse, where electoral defeat is accepted and measures have been taken to delegitimise extreme far right political parties and ideologies. That being said, public debate is extremely polarised and often lacks civility.

### **3. Impact of crises on the rule of law: the economic, financial, and refugee crisis**

Greece has been rocked by three successive crises in recent years, all of which have left their mark on society and on the resilience of the rule of law. To a considerable extent it is probably the combined impact of these crises that have played the largest role in the recent rule of law backsliding.

Prolonged economic crisis has decimated the economic resilience of Greek society and led to a significant drop in living standards and purchasing power. Following the 2008 global financial crisis, Greece found itself in extreme

debt to the European Union and its Member States, which forced Greece to adhere to strict austerity measures such as cutting pensions and increasing taxes. During this period of austerity, Greece's economy shrank, unemployment rose and poverty soared. In 2017, one-third of the Greek population lived below the poverty line and the unemployment rate was 22 percent.

The refugee crisis could hardly have come at a worse time for a state and a population that was already in a dire economic situation. The influx of large numbers of irregular immigrants simply could not be absorbed or successfully managed by a state apparatus under extreme pressure, not to mention economic duress. The solidarity economy that emerged in response to this crisis is truly a testament to the social resilience of Greek society.

The economic situation had begun to improve, but like the rest of the world, the Greek economy entered into another deep economic recession in 2020, provoked by the COVID-19 crisis. In 2021, Greek national debt totalled around US\$ 401.71 billion, and Greece currently comes third in a global ranking of debt to GDP per country.<sup>18</sup>

Continuing low incomes combined with the rapidly increasing cost of living following Russia's war of aggression in Ukraine threaten further increases in poverty. Economic recovery from these crises, evenly distributed across society, is crucial for the broad resilience of the rule of law in Greece. Similarly, good inclusion and integration policies to manage the influx of immigrants and the refugee crisis will determine the course of social resilience and inclusion in Greece, and shore up rule of law resilience.

#### **4. Conclusion**

In summary, while the rule of law is under extreme duress in modern Greece largely due to the impact of successive crises, a number of crucial resilience factors are present that have thus far prevented further backsliding and shored up social cohesion.

A strong constitution along with a historical legacy and national pride in the idea of democracy serve to consolidate constitutional resilience as one of the most important systemic factors of rule of law resilience in Greece. Whilst not unassailable, the Constitution itself as well as the legislative framework of the modern Greek state set the scene for a healthy rule of law systemic resilience across

constitutional, institutional and judicial resilience. These latter two factors though, whilst good on paper, could certainly be improved in political reality, and the state could be held more accountable to the legislative safeguards in place. The political ideals underpinning the modern democratic liberal state, however, are not currently facing any true challenges, and political resilience remains the strongest subsidiary factor of rule of law resilience. Elections are free and fair, and the results accepted unchallenged. Furthermore, steps have been taken to exclude far-right extremist parties from the ballot. Civic resilience, whilst not as strong as it could be, remains an important subsidiary factor of resilience, and with the right support could be boosted further. Contextual factors of resilience are likely Greece's weakest area, although Greek society has shown remarkable levels of social resilience even when tested to breaking point.



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### About the author

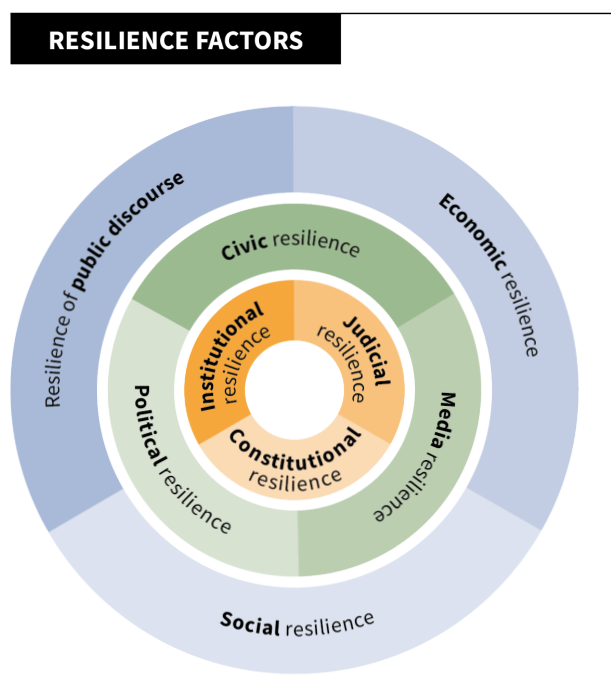
**Stefanos Loukopoulos** is Co-founder and Director of the Athens based democracy watchdog organisation Vouliwatch. He holds a BA in Political Science, a MA in International Relations and in International Conflict Analysis.

### About the project

**RESILIO** aims to identify institutional and societal factors that make the rule of law more resilient, thus adding a constructive contribution to academic and policy debates. It draws on a “thick” definition of the rule of law, understood as closely connected to democracy and fundamental rights. The resilience of the rule of law means that the rule of law can experience hazardous events or incremental threats without losing its core function, structure and purpose.

### About the paper

This paper is part of the **RESILIO Country Report series**. It is a collection of compact analyses that assess the source of rule of law resilience in each EU member state by examining the most prominent resilience factors, using the analytical framework of the RESILIO model.



**RESILIO** offers a multi-layered model of the rule of law resilience. Systemic dimension (orange) reflects upon the resilience of the legal setup; subsidiary dimension (green) looks at the phenomena and tendencies present in societies as possible facilitators; and contextual dimension (blue) analyses the broader habitat, determined by structural and systemic variables like economic growth, social cohesion, and general political climate. RESILIO also takes into account the horizontal effects of unpredicted and unprecedented crises that can affect all dimensions of rule of law resilience with different intensity.

While each factor is necessary for a resilient rule of law, they are only sufficient in combination.

The considerations in this paper are compatible with the developed conceptual model of the resilience of the rule of law. They focus on **social resilience** as a contextual factor strengthening the rule of law.

## resilio

Resilience observatory  
on the rule of law in Europe

RESILIO is implemented by Institut für Europäische Politik in Berlin and funded by Stiftung Mercator.

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