

RESILIO

Country Report

Croatia



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1. Introduction

The state of democracy in Croatia has passed through several distinct cycles since the country declared its independence in 1991. From 1991 to 1995, the political system was influenced by the war of independence, insurrection in parts of Croatia, and the occupation of around a third of Croatian territory.

The second half of the 1990s saw an increase in autocratic tendencies of the then president of the republic, Franjo Tuđman and his party, the Croatian Democratic Union (HDZ). This autocratisation manifested itself in increased control over the judiciary¹ and other independent institutions including the Constitutional Court, as well as an overall disregard for democratic practices and respect for the opposition, the election results, and the stability of the system as a whole.

After Tuđman's death in 1999 and the united opposition's 2000 victory in the parliamentary and presidential elections, the new government instituted several actions that ensured the resilience of the political system against future autocratic impulses of political actors. The constitution was changed several times, first to replace the semi-presidential system of government with a parliamentary system, which severely limited presidential powers. A second change was needed to remove the second chamber, making the Croatian parliament (the *Sabor*) a unicameral body.

The first decade of the new millennium saw great strides in building resilience within Croatia's political system, with the greatest focus on strengthening the rule of law and judicial reform. During that time, many important watchdogs and independent institutions were set up or solidified,² including the State Judicial Council, the State Attorney's Office, and the anticorruption and conflict-of-interest bodies. All of this was due to the overwhelming influence of Croatia's accession process to the European Union³ and the complete agreement across the political elite on the need for Croatia to become a new EU member state.

However, since Croatia became a member of the European Union, and especially after the HDZ returned to power in 2015 (confirmed by 2016 snap elections), many of the gains made during the EU accession process either unravelled, or were weakened or overhauled in such a way as to benefit the political elite – especially the ruling HDZ – to the general detriment of the political community as a whole.⁴

In the last eight years, the HDZ government has almost neutered the Conflict of Interest Commission after it insisted on scrutinising the use of public funds by the HDZ for party affairs.⁵ The ruling majority also elected a controversial judge close to the HDZ and some of the country's most corrupt officials, who are currently under indictment, as the new public prosecutor.⁶ All these measures were not only supported by the government, but also praised by the Prime Minister, despite fierce criticism from

the political opposition and the general public. Nevertheless, there are certain pockets of resilience integrated within the constitutional, institutional, and societal design that help maintain democracy within Croatia's political system, and will continue to do so, at least in the short- to medium-term.

2. Analysis of the country along the RESILIO model

2.1. Most important systemic factor: constitutional resilience

Several constitutional changes introduced in the 2000s and 2010s helped to move Croatia from a clearly autocratic path based on a semi-presidential system, to one in which parliamentary-type liberal representative democracy can be maintained, strengthened, and safeguarded. After these changes, the only major areas where the president exercised any power were in foreign and security policy (where the president shares powers with the government), and in the military, since the president continued to be the supreme commander of the armed forces. Constitutionally, the president was forbidden from heading a political party, which was a major contentious issue during the 1990s. Considering the fact that the president of the republic was the major actor in disrupting and weakening democratic practices during the 1990s, this was a major step in the right direction.

The second major constitutional change transformed the Croatian Parliament from a bicameral to a unicameral body,⁷ thus removing the potential chokehold of an upper body that lacked political legitimacy, and downsizing the political system to be more manageable for a small and relatively poor country that had just suffered a devastating and costly war. This parliamentary reform further removed another power of the president of the republic, namely his constitutional right to elect up to five members of a 65-member body – a huge power given to one actor.

Despite the introduction of several minor changes since then (majorities needed for a referendum to pass, the number of MPs elected by Croats living abroad, etc.), most of which made Croatia's EU accession easier, the major constitutional changes implemented in 2000 and 2001 still remain in effect. This allows for a greater stability of the entire political system: all major political actors know the rules of the game, and citizens are aware of their constitutionally guaranteed rights and freedoms. Despite some

disagreements, all relevant political actors support the current constitutional design with no major voices calling for an overhaul, thus showing that the design of the constitutional framework serves an important purpose in safeguarding the democratic character of the political system.

2.2. Most important subsidiary factor: electoral quality

Although electoral quality is only one element (together with the party system) comprising the political resilience variable in the RESILIO model, this section will focus not on the entire variable, but just its electoral part. This is due to several reasons. First is the overall state of the party system, which is dominated by one political party,⁸ the HDZ,⁹ against an ideologically divided and relatively weak opposition. Polarisation is strong and it is common for parties to splinter both within and outside the parliament. Short-lived 'independent' non-party lists are a regular occurrence, as is the existence of many so-called token MPs, whose support for the government can be easily and cheaply bought.¹⁰

The second reason for focusing on the electoral system is the almost consensual agreement that it has been the most stable part of the entire political system, despite recent criticisms.¹¹ It was built in the late 1990s, marking the end of a decade of HDZ rule, and first used during the 2000 general election, when the opposition coalition beat HDZ to form an unstable six-party coalition with a majority large enough to change the constitution. In 2003 and 2007, the electoral rules remained the same and helped HDZ to return to power and stay there for eight years, before once again delivering a win for the opposition gathered around the Social Democratic Party (SDP), who ruled for the next four years. The electoral system delivered another HDZ victory at the 2015, 2016, and 2020 elections, proving that it was not built for the sole benefit of a single party. There is no political pressure for the electoral system to be changed, reformed, or completely scrapped.

Under proportional representation, Croatian voters elect 14 MPs in each of ten electoral districts by casting one preferential vote that can be given to any candidate within a party or coalition closed list. Minorities can select up to eight MPs in a separate district: the Serbian minority can elect three members, while all other minorities elect the other five. Three more members of parliament are elected by Croats living abroad in a separate, at-large electoral district. The number of electoral districts, together with the

five percent electoral threshold and use of the d'Hondt method guarantees the dominance of the largest and most popular parties, while excluding the most radical political forces from parliament (unless they form a pre-election coalition among themselves or with one of the major parties). This keeps the system more or less stable, and elected actors usually work within the institutional design without calling for its complete overhaul.

However, the most important factor for electoral stability is its obvious characteristic that it does not benefit a single political party, having produced victories for both major ideological blocs on multiple occasions. Hence, calls for it to be replaced or put through major overhaul are few and far between, and arguments both within the political elite as well as among the general public focus only on sporadic tweaks to the system (introducing preferential votes, re-drawing electoral districts). With the party system constantly fracturing on all planes of the ideological spectrum, and political actors frequently changing political parties and ideological leanings, the current electoral system will likely remain the most stable element of Croatia's political system.

2.3. Most important contextual factor: economic resilience

In Croatia, relative levels of economic equality play a major role in the stability of the system. Thus, any strong rise in economic inequality, which is already visibly growing, can have an impact on the overall stability of the rule of law.¹² In global terms, Croatia is considered a country with relative economic equality and a comparatively low Gini coefficient.¹³

This equality is a result of two major factors, one being the socialist history of the country which was part of socialist Yugoslavia, with its distinctive workers' self-management of economic resources from 1945 until its collapse in 1991. The other factor is linked to remittances from Croats working abroad (mostly in Austria and Germany), as well as from the nascent tourism industry.

Both of these factors have influenced, for example, the high percentage of homeownership in Croatia, which helps alleviate economic inequalities. Owning one's home is still seen as one of the rare forms of investment and the only 'secure' way of safeguarding money from any future disruptions, most notably from inflation. It is also a good way of investing money earned from the grey economy,

especially funds earned from tourism.

Although tourism and remittances remain major sources of family wealth in 21st-century Croatia, there are signs of growing economic inequality. Younger generations of Croats are choosing Ireland, the Netherlands, Scandinavian countries, and Germany as their preferred economic destinations. Furthermore, a large percentage of those leaving are highly skilled and well-educated individuals who take their families with them, unlike previous generations of economic migrants, most of whom worked manual jobs abroad while supporting their families back home.

Regarding tourism, since Croatia joined the European Union in 2013, we have seen tourism numbers breaking all records¹⁴ – with almost 19 million tourists visiting the country of 4 million inhabitants in 2022¹⁵ – as well as more and more foreigners buying seaside properties in Croatia as their summer homes. This pushes up rental prices and squeezes Croats out of the local real estate market altogether,¹⁶ increasing pressure on them to leave the country and further exacerbating social inequalities. Despite this, relative economic equality currently still makes for an important contextual factor of rule of law resilience in Croatia.¹⁷

The rise in economic inequality impacts certain geographical areas and age groups in particular. People living in the capital city Zagreb or in the coastal regions have been the economic winners of recent decades mostly through tourism, in contrast to those living in the war-ravaged eastern or mountainous areas of Croatia, where almost all industry was shut down and the agricultural sector is on its last legs. Age-wise, younger generations are in a much harder situation than their parents' and grandparents' generations, who constitute the majority of homeowners. This, coupled with the pressures from a booming tourism industry, pushes rent prices up, forcing younger generations to live with their parents longer and longer, or to emigrate to western countries in search for better economic opportunities.

3. Impact of crises on the rule of law: natural disasters of 2020 in Croatia

The Covid-19 pandemic, coupled with the two major earthquakes that hit the country in 2020, exacerbated the deterioration of the rule of law in Croatia. Examples included instances of executive overreach, undermining the

role of the parliament and the rights of people's representatives, and the severe curtailing of individual liberties. The ruling majority, for example, refused to vote on the state of emergency¹⁸ despite two severe natural disasters, because the Constitution gives powers to the president during extraordinary times, and because the right-wing government did not want to cede power to the left-of-centre president. However, the government still used extraordinary measures to govern, including curtailing individual freedoms without prior parliamentary consent, which the Constitutional Court proclaimed legal and constitutional.

By summer 2020, when the worst elements of the first Covid-19 wave had subsided, the ruling majority took the opportunity to call for early elections in order to cash in on what they called 'a win over Covid,' despite many criticisms that elections held during a pandemic would not be able to fulfil all democratic expectations. However, not all citizens could exercise their vote, since those who were Covid positive at the time were not allowed into voting centres, and no mobile voting booths were provided for them. Despite this and other criticisms, the ruling party proceeded with elections, which they won.

Management of the pandemic and the vaccination process one year later was mired with corrupt practices among the political and economic elite, the medical community, and the well-off who jumped queues, received vaccinations without being on any priority lists, and were able to move freely, despite severe restrictions on the right of movement. Some privileged organisations, such as the Catholic Church, were allowed to continue as before the pandemic, while others were forced to shut down.

This showed that proximity to the government and politicians from the ruling party assured privileged positions compared to the experience of the general public. Despite that, the majority of the public acquiesced and accepted the quarantine obligations, at least during the first wave of the pandemic. At the same time, the public continued to lose trust in political institutions,¹⁹ politicians, and the system in general, witnessed among other things in low electoral turnouts for several post-2020 elections.

4. Conclusion

Croatia's democratic experience is short and recent, spanning the last two or three decades, depending on how critical one is towards the first decade of independence in the 1990s. Hence, the resilience of democratic institutions, es-

pecially those linked to the rule of law, is weaker and more precarious compared to some other EU member states. This resilience was weakened further during the war in the 1990s and the complete political dominance of HDZ, Croatia's dominant national-conservative right-of-centre political party, which shaped most of the political institutions.

However, the resilience that does exist was introduced through two separate but interconnected processes. The first was the electoral success of the opposition parties in early 2000 and the subsequent constitutional changes they instigated, which transformed the semi-presidential system into a parliamentary system of governance. The second was Croatia's EU accession process, during which the European Commission insisted on strengthening the rule of law, independent institutions, and individual freedoms. What remains of the rule of law today stems from those two processes.

Resilience is safeguarded through a combination of constitutional and electoral factors, predominantly the role of the directly-elected president of the republic in a parliamentary democracy with a strong prime minister, as well as a largely stable electoral system which guarantees the legitimacy of the victor and is not questioned by the losing parties. The former affords a system of checks-and-balances that often does not exist in a purely parliamentary system with a strong, chancellor-like prime minister (e.g. as in Hungary), while Croatia's electoral system solidifies the legitimacy of the government both for other political actors and the general population.

The influence of contextual factors on the resilience of the rule of law in Croatia is ambivalent. On the one hand, it helps that Croatian society is largely economically egalitarian. On the other, economic inequality is on the rise, impacting certain geographical areas and age groups in particular, notably people living outside Zagreb and the coast, and younger people who cannot afford to buy properties.

In summary, resilience factors protect the rule of law in Croatia from disintegrating in the short term. However, in the medium- to long-term, the weaknesses within the system, coupled with political actors who are not keen on abiding by the letter of the constitution or Croatia's international obligations, as well as large-scale economic emigration, could erode the rule of law in the country to such an extent that Croatian democracy would be replaced by a type of a hybrid non-democratic or quasi-

democratic regime. This would be a democracy in name only; a façade in which power is pooled in the hands of the prime minister, with independent institutions, media, and the judiciary subservient to the government's need to remain in power. We can already see first signs of that process and if we want to stop it early enough, there needs to be much greater political and broader public interest in safeguarding the constitution, independent institutions, and the rule of law as whole.

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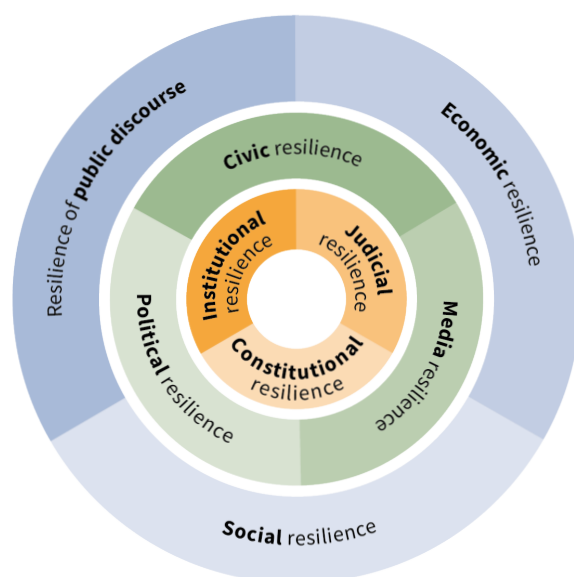
About the project

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.

RESILIENCE FACTORS



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.

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