

RESILIO Country Report Sweden



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1. Introduction

Sweden is a unicameral, parliamentary constitutional monarchy, with popular sovereignty and a well-regarded justice system where the key principles of the rule of law are transparency and impartiality. Sweden's modern court system traces its history back to the 14th century, and over the course of its development, courts have gained autonomy from local politicians and royalty, becoming increasingly specialised and professionalised. Sweden's major Court Reform of 1971 established the current justice system, known as the Sveriges Domstolar.¹

The justice system today is comprised of two branches. The first is the general courts, which have three tiers made up of 48 district (lower) courts, six appellate courts, and the Supreme Court. The second is the administrative courts, with 12 lower administrative courts, four administrative courts of appeal, and one Supreme Administrative Court. All permanently appointed judges are selected by a politically independent Judges Proposal Board (Domarnämnden), and the National Courts Administration (Domstolsverket) under the Ministry of Justice oversees coordination among courts, providing information, education, and preparation of regulation, along with serving as a source of information to citizens. The primary aim of the judicial system is 'due process,' whereby the society prosecutes crimes under established law in a timely manner, while providing vic-

tims and witness the resources they need and the accused with a fair and impartial hearing.

Sweden is most often ranked among the top performers on global measures of corruption, rule of law, and democratic institutions. Since the inception of the well-known World Bank Governance Indicators, Sweden currently ranks twelfth globally, and has been ranked in the top 5% since 1996.² Concerning corruption, Sweden is ranked sixth best in the world (third in the EU behind Finland and Denmark), and consistently among the top 5-8 countries. Further measures, such as the World Justice Project (WJP) Rule of Law Index (2021) ranks Sweden fourth out of 139 countries measured, while Transparency International's Corruption Perceptions Index (CPI) placed Sweden as the fifth least corrupt country in the world in 2022. Among peer EU countries, it ranks behind only Denmark and Finland with respect to control of corruption. Sweden in 2023 was also ranked fourth out of 180 countries regarding protection of press freedom and the environment for journalistic integrity according to the World Press Freedom Index.³ Similarly, Reporters Without Borders (RSF) assesses Sweden as the third best environment for journalists worldwide. In 2023, no journalists were killed or detained by the government. However, there are some threats, as RSF warns that Sweden's second largest party (Sweden Democrats, Sveriedemokraterna), has blocked press access and high-ranking members have openly talked about 'pushing journalists

around.⁴

While most countries demonstrated a decline in the rule of law during the recent Covid-19 pandemic, Sweden was one of only 25% of countries that either improved or remained the same in its rule of law ranking, according to the WJP.⁵ Similarly, the newly crafted RESILIO index places Sweden second among EU member states (behind only Denmark). The global rankings in recent years thus suggest that Sweden is among the top performers worldwide, and data going back to the mid-1990s also suggest that there is a strong resilience of rule of law, anti-corruption, and strong protections for media and transparency in Swedish society.

Citizens' perceptions of the rule of law, independence of courts, corruption, and impartiality among institutions show comparatively high levels of trust and confidence. A 2021 Eurobarometer survey shows that 71% of Swedes have a positive assessment of the independence of their courts and judges, compared with an EU27 average of 54%.⁶ The most salient reason behind the positive assessment was that the status and position of judges sufficiently guarantee their independence, yet Swedes are less confident when it comes to economic and special interest groups interfering with and/or pressuring judges, which is the driving reason behind more pessimistic views of the judicial system. This paper seeks to unpack the reasons behind Sweden's strong performance in these indicators.

2. Analysis of the country case along the RESILIO model

2.1 Most important systemic factor: institutional resilience

This analysis will focus on the institutional resilience of Swedish institutions, although it should be stressed that this factor works in tandem with judicial independence and constitutional resilience.

According to the Swedish political scientist Bo Rothstein, key components of Sweden's institutional quality are universalism and impartiality: the use of public authority is not skewed by factors such as bribes, political affiliation, personal/family connections, or biases based on race, age, ethnicity, or gender.⁷ Yet

how did Sweden succeed in establishing one of the world's most impartial public sector bureaucracies? While all countries have historically been marred by favouritism (usually toward a monarch) and corruption, Rothstein argues that Sweden broke out of the corruption trap and established an impartial and effective bureaucracy after 1850, when public office was no longer viewed as private property.⁸ Personal appointments to public positions or connections to aristocrats or the monarchy were replaced by the more Weberian principles of merit and competence. Following Sweden's defeat in the 1814 war against Norway, a series of reforms introduced from 1842 to 1878 led to a new 'social contract' which underpins the current level of institutional resilience.⁹ The state was professionalised, and a new social contract produced the tangible benefits of peace, national independence, law and order, more equitable distribution of resources from taxes, and new opportunities for social mobility, leading to a self-reinforcing 'virtuous cycle'.¹⁰

Several other inter-related factors help maintain the equilibrium of impartial governance in Sweden today. First is the office of Ombudsman, which receives complaints and monitors the activities of civil servants and government agents, and can investigate wrongdoings. It has the power to 'order the prosecution of a judge or a civil servant who has committed a fault or neglected his duty'.¹¹ Second, Sweden has strong codes of conduct for hiring civil servants, even at higher levels, and thus maintains a strong degree of civil service political independence to ensure that impartial rules are followed.¹² The Swedish civil service is also well funded by a broad-based tax collection agency (Skatteverket). In essence, 'the hallmarks of the Swedish system have been its broad base, its stability, and its high revenue yield'.¹³ By achieving one of the highest compliance rates in the world, even among wealthier people, the system signals impartiality to the public and collective contribution to Sweden's formal institutions of government.

2.2. Most important subsidiary factor: political resilience

Civic, media and political resilience are all salient factors that are inter-related and self-reinforcing in Swedish society. Trust or civic engagement are most likely consequences of political and media institutions, yet also reinforce them. Likewise, the media

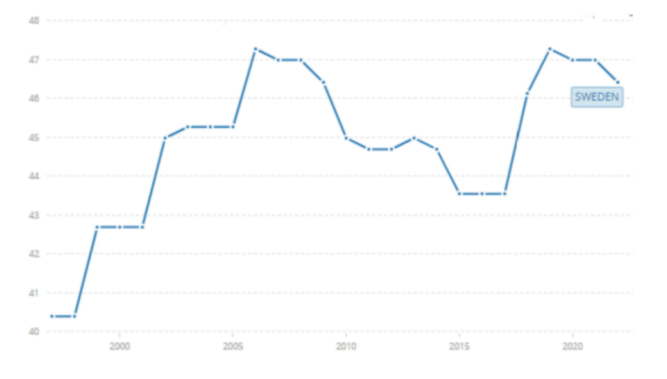
landscape and freedom for journalists to work without political interference is highly important in Swedish democracy, yet one can argue that this factor also depends on a stable political bedrock. Thus, this section highlights the political resilience of Sweden's system, focusing on electoral quality and the party system, and the underlying salient factors of longstanding democracy, impartiality, gender equality and party system stability.

As a parliamentary democracy, Sweden has a unicameral parliament (Riksdag) which has 349 MPs elected every four years by proportional representation, with an electoral threshold of 4% for parties or 12% in an electoral district. The prime minister (PM) is the head of government and is appointed by the speaker of the Riksdag. Currently, eight parties were elected in 2022 and sit in the Riksdag. Sweden also has popular elections for its 21 regions (Län) and 290 municipalities (Kommuner). According to all international observers' accounts, 'Swedish elections are broadly free and fair'¹⁴ and the integrity of elections is not in doubt.¹⁵¹⁵ Elections are regulated by the Swedish Election Authority (Valmyndigheten) which is led by a committee that is appointed by the government. The political independence of the committee is ensured by the fact that its board members are appointed for a specific period a priori and are thus not political appointments owing their position to a political party.

Historically, Sweden is one of the oldest democracies in the world. Royal absolutism was abolished in 1809, and a committee in the Riksdag subsequently developed a new constitution, whereby considerably more power was transferred to the parliament.¹⁶ In 1866, a bicameral parliament was introduced with a second chamber designed to better reflect the make-up of the population. The introduction of near universal suffrage for men was established in 1909, as well as women's suffrage for local elections. Full suffrage was granted to adult women in 1918, with the first elections with full suffrage occurring in 1921, whereby five women were elected to office. Since 1921, several other reforms have been adopted to make the system more inclusive, including the legalisation of homosexuality, separation of church and state, lowering of the voting age to 18, and allowing foreign citizens to vote in local elections.

Sweden is now considered a full and consolidated multi-party democracy, and one of the most inclusive in terms of gender equality in the world, with the latter being a state aim of the parliament.¹⁷ Currently, 46.4% of Riksdag MPs are female, one of the highest rates in the world and the highest among EU members.¹⁸ The first female prime minister, Magdalena Andersson, sat from 2021-2022. Figure 1 shows the trend over time.

Figure 1: Percentage of Female MP's in the Swedish Riksdag: 1995-2022



Source: World Bank gender data for countries¹⁹

Considering the impact on resilience, the greater the diversity of people involved and participating in democratic elections, the more invested the population is as a whole to its institutions.

In addition to strong norms and practices of gender inclusiveness in electoral politics, the Swedish party system is also remarkably resilient and stable over time. Of the eight sitting parties in parliament, five are over 100 years old: the Social Democrats (S), Liberals (L), Moderates (M), Centre (C), and the Left (V). The Christian Democrats (KD) entered parliament in 1964, and the Green Party (MP) in 1981. The youngest party, the Sweden Democrats (SD), is a far-right party and currently the second largest. Compared to many other multi-party European countries where volatility is much higher, Sweden has a stable party system. This means 'the process by which the patterns of interactions between political parties become routine, predictable and stable over time',²⁰ a factor that is key for the predictability of elections and party positions for citizens, and in turn reinforces reliance on the electoral system. Among all

European countries, Sweden has the second lowest measured party system volatility since the end of WWII, just below the UK.²¹ It is also a system that encourages coalition building and consensus, demonstrated by the current four-party government (M, SD, KD and L). Moreover, it is a system of ‘negative parliamentarism’, the PM does not need the majority support of the Riksdag to remain in power, only that the majority does not oppose them, which has led to minority-coalition government being rather common in Sweden.²² This feature has arguable led to more stability and fewer irregular elections that we observe in other countries, like Belgium, Greece, or Italy. Yet while the party system itself is comparatively stable, we do observe regular left-right shifts in government, and that predictability (along with other institutional features such as low corruption) leads to a much lower ‘winner-loser gap’ in political trust than in other countries.²³

2.3. Most important contextual factor: social resilience

Because the RESILIO report highlights the social dimension as the strongest in Sweden’s score, this will be discussed in more depth in this section.

Sweden’s emphasis on impartiality has meant it has a longer history of promoting inclusion and diversity (gender, religion, sexuality, ethnicity, etc.) than most other countries, European or non-European. Sweden’s inclusivity is a defining characteristic of its identity and culture and is a self-reinforcing component in its rule of law resilience, as groups with (relatively) recent equal status do not want to backslide. Sweden’s *de jure* laws towards the LGBTQ community highlight an example of protection of minority groups. Currently, Rainbow Europe ranks Sweden joint fourth in respecting human rights and full equality of the LGBTQ community. Historically, Sweden was the fourth country in Europe (after Denmark, Iceland, and Switzerland) to decriminalize homosexuality in 1944. In 1972, Sweden was the first country to allow transgender people to surgically change their sex legally.²⁴

LGBT people in Sweden were among the first to be able to serve in the military. After legally allowing registered partnerships in 1995, Sweden was the fourth country in Europe to legalize same-sex marriage (behind the Netherlands, Belgium, and Spain) in

2009, when a center-right government expanded marriage rights to all people. The law received overwhelming majority support from all parties, save the Christian Democrats. Same-sex couples have been allowed to adopt children since 2003.

There are also legal protections against discrimination of the LGBTQ community. In 2002, ‘sexual orientation’ was added to the constitution as a protected group.²⁵ In 2008, transgender people were added as a protected group, and in 2018, a new law defined crimes against transgendered people as a ‘hate crime.’

Such clear elite consensus helps to create resilience in support for the LGBTQ community country wide. For example, according to Eurobarometer, 71% of Swedes were supportive of the idea that ‘gay, lesbian or bisexual people should have the same rights as heterosexuals’ in 2006, while in 2019, over 98% supported that statement, the highest in the EU.²⁶ A 2023 Pew Research poll shows that a higher percentage of Swedes ‘strongly favour’ same-sex marriage (74%) than in any other country polled, and 92% favour the law as a whole.²⁷

Overall, this serves as an example of how the commitment to impartiality vis-à-vis the formal laws and informal norms for previously discriminated communities can lead to strong majority consensus support for their rights. In other countries with a shorter history of LGBTQ rights (or none at all), people in this community might be reliant on friendly governments, and can still be susceptible to backsliding in the form of legal or informal discrimination with a change in government, as demonstrated by US states such as Florida,²⁸ or Hungary or Poland.²⁹ While it is impossible to predict the long-term future, such backsliding in Sweden would be unthinkable in the short to medium term, despite a growing far-right party (SD).

3. Impact of crises on the rule of law: the Covid-19 pandemic

Identifying general patterns of rule of law in times of crisis can be difficult, as each crisis has different features and thus different implications for the rule of law. The COVID-19 pandemic, which affected all

countries simultaneously, allowed some opportunistic leaders and governments to consolidate power and suspend the rule of law in the name of 'public health.' As in all other countries yet to a lesser degree, the Swedish government enacted some suspensions of people's rights in certain areas. The classification of Covid-19 as threatening to the public health of the country in February 2020 allowed the adoption of 'extraordinary measures' according to the Communicable Diseases Act 2004. As such, certain businesses were closed or hours were restricted, large events were cancelled, visits from family members to see loved ones in hospitals or elderly care homes were limited, and travel was restricted, in particular international travel. Many of these restrictions were loosely enforced in 2020. In 2021, the government passed a temporary Covid-19 Act, which decentralised control over possible binding restrictions to the regional level (Länsstyrelserna). This new power was thus not in the hands of the central government and used sparingly. It was later repealed in 2022.

However, as the level of trust – both toward the government and social trust among citizens – is relatively high in Sweden, the government was able to carry out many of its COVID-19 measures via non-binding recommendations instead of repressive measures, as in other countries. The government argued it never had a formal COVID strategy, but was dealing with individual events, one at a time.³⁰ There were also no quarantine rules in place. Nor were schools systematically closed for grades 0-9. The government legitimised its lack of binding restrictions with reference to the constitution and Sweden's commitment to human rights, arguing that such restrictions would be a violation of such.

Instead, the government relied on the advice of health experts from the Public Health Agency (Folkhälsomyndigheten), which also signalled to the public that decisions were not politically motivated but based on expertise. Thus, responses largely consisted of providing information on social distancing, mask wearing (voluntary), small gatherings, etc., along with promoting the free vaccine doses when they became available.

In terms of the suspension of elections that happened in many other European countries, Sweden did

not have any scheduled until 2022, after which restrictions were lifted. Overall, given these events, experts did not find any long-term damage to the rule of law in Sweden due to the pandemic crisis.

4. Conclusion

While not without problems or contemporary threats (including organised crime, the rise of an illiberal right wing, and terrorist threats), there is near universal acknowledgement that Sweden is one of the most robust rule of law countries in the world, and among those with the lowest levels of corruption. This equilibrium has lasted for decades, showing Sweden's resilience to crises, be they financial or pandemic-related.

This report acknowledges that many factors are at play in explaining – most likely simultaneously – this equilibrium. Many other factors not discussed, such as the freedom of press, transparency, and relatively low-income inequality and high social mobility also contribute to a strong rule of law culture. However, the report highlights Sweden's long history with unpoliticised courts and democratic institutions dating back centuries, which means that most people have grown up their entire lives surrounded by these values, which are thus unquestioned by most. Since introducing its democratic institutions, Sweden has had a strong commitment to building an impartial, Weberian-style bureaucracy of professional civil servants, not dependent on politics for their career path as crucial components to building the current state today. Impartiality as a norm also translated into the early expansions of rights for previously excluded groups – highlighted here via gender equality and the expansions of rights for the LGTBQ community – supported by strong elite consensus, signalling to citizens that these are values intertwined with Swedish identity. In turn, valuing diversity and supporting equal treatment before the law irrespective of one's background is ingrained in residents in Sweden, and thus likely explains why well-performing, impartial institutions persist – because they are to most people's benefit.

Sources

- ¹ The Swedish legal system. URL: [Sveriges Domstolar](https://sverigesdomstolar.se/) (last checked: 13.10.2023).
- ² World Bank Worldwide Governance Indicators. URL: <https://info.worldbank.org/governance/wgi/> (last checked: 13.10.2023).
- ³ Reporters Without Borders on Sweden. URL: <https://rsf.org/en/country/sweden> (last checked: 13.10.2023).
- ⁴ Reporters Without Borders. (2022). Sweden: RSF asks the country's second biggest party to stop undermining press freedom and right to information. URL: <https://rsf.org/en/sweden-rsf-asks-country-s-second-biggest-party-stop-undermining-press-freedom-and-right-information> (last checked: 13.10.2023).
- ⁵ World Justice Project. (2021). Sweden ranked 4 out of 139 countries on rule of law. Press release, 14 October. URL: https://worldjusticeproject.org/sites/default/files/documents/Sweden_2021%20WJP%20Rule%20of%20Law%20Index%20Country%20Press%20Release.pdf (last checked: 13.10.2023).
- ⁶ European Commission. (2021). Perceived independence of the national justice systems in the EU among the general public. Flash Eurobarometer 489. URL: <https://webgate.ec.europa.eu/ebsm/api/public/deliverable/download?doc=true&deliverableId=76186> (last checked: 13.10.2023).
- ⁷ Bo Rothstein. (2017). What is the opposite of corruption?. In *Corruption in the Aftermath of War* (pp. 15-30). Routledge.
- ⁸ Bo Rothstein. (2021). *Controlling Corruption: The Social Contract Approach*. Oxford University Press.
- ⁹ Bo Rothstein. (2011). Anti-corruption: the indirect 'big bang' approach. *Review of International Political Economy*, 18(2), 228-250.
- ¹⁰ M. Nistotskaya & M. D'Arcy. (2018). Getting to Sweden. *The Leap of Faith: The Fiscal Foundations of Successful Government in Europe and America*, 33.
- ¹¹ A. Bexelius. (1967). The Swedish Ombudsman. *The University of Toronto Law Journal* 17(1), pp. 170-6.
- ¹² C. Dahlström & M. Holmgren. (2019). The Political Dynamics of Bureaucratic Turnover. *British Journal of Political Science*, 49(3), 823-836.
- ¹³ S. Steinmo. (1993). *Taxation and Democracy: Swedish, British, and American Approaches to Financing the Modern State*. Yale University Press.
- ¹⁴ Freedom House. (2022). Sweden: Freedom in the World 2022 Country Report. URL: <https://freedomhouse.org/country/sweden/freedom-world/2022> (last checked: 13.10.2023).
- ¹⁵ OSCE. (2018). Sweden, General elections, 9 September 2018: Final Report. URL: <https://www.osce.org/odihr/elections/sweden/403760> (last checked: 13.10.2023).
- ¹⁶ Swedish Parliament. The development of democracy in Sweden. URL: <https://www.riksdagen.se/en/how-the-riksdag-works/the-history-of-the-riksdag/the-development-of-democracy-in-sweden/> (last checked: 13.10.2023).
- ¹⁷ Government of Sweden. Gender equality. URL: <https://sweden.se/life/equality/gender-equality> (last checked: 13.10.2023).
- ¹⁸ Eurostat. (2021). 1 in 3 parliament and government members are women. URL: <https://ec.europa.eu/eurostat/web/products-eurostat-news/-/edn-20210307-1> (last checked: 13.10.2023).
- ¹⁹ <https://genderdata.worldbank.org/countries/sweden/> (last checked: 24.10.2023).
- ²⁰ F.C. Bértoa. (2014). Party systems and cleavage structures revisited: A sociological explanation of party system institutionalization in East Central Europe. *Party Politics*, 20(1), 16-36.
- ²¹ A. Chiamonte, & V. Emanuele. (2017). Party system volatility, regeneration and de-institutionalization in Western Europe (1945–2015). *Party Politics*, 23(4), 376-388.
- ²² Bergman, T. (1993). Constitutional design and government formation: the expected consequences of negative parliamentarism. *Scandinavian Political Studies*, 16(4), 285-304.
- ²³ S. Dahlberg & J. Linde. (2017). The dynamics of the winner-loser gap in satisfaction with democracy: Evidence from a Swedish citizen panel. *International Political Science Review*, 38(5), 625-641.
- ²⁴ Riksförbundet för sexuell upplysning. (2005). Lagen om könsbyte ska utredas. URL: https://web.archive.org/web/20071012000954/http://www.rfsu.se/lagen_om_konsbyte_ska_utredas.asp (last checked: 13.10.2023).
- ²⁵ Article 12 states that 'No act of law or other provision may imply the unfavourable treatment of anyone because they belong to a minority group by reason of ethnic origin, colour, or other similar circumstances or on account of their sexual orientation.'
- ²⁶ European Commission. (2019). Perception of minorities in the EU: LGBTI people. URL: https://commission.europa.eu/system/files/2019-10/infographic_ics_2019_lgbti_final.pdf (last checked: 13.10.2023).
- ²⁷ Pew Research Center. (2023). How people in 24 countries view same-sex marriage. URL: <https://www.pewresearch.org/short-reads/2023/06/13/how-people-in-24-countries-view-same-sex-marriage/> (last checked: 13.10.2023).
- ²⁸ E. Berger. (2022). How Florida's 'don't say gay' law could harm children's mental health. *The Guardian*, 4 April. URL: <https://www.theguardian.com/us-news/2022/apr/04/florida-dont-say-gay-bill-children-mental-health> (last checked: 13.10.2023).
- ²⁹ N. Duffy. (2022). Council of Europe condemns 'virulent attacks on LGBT rights' in the UK, Hungary and Poland. *Inews*, 25 January. URL: <https://inews.co.uk/news/world/council-of-europe-condemns-virulent-attacks-on-lgbt-rights-uk-1423399> (last checked: 13.10.2023).
- ³⁰ Civil Liberties Union for Europe. (2022). Rule of Law Report Sweden. URL: https://dq4n3btxmr8c9.cloudfront.net/files/BlyxW/SWEDEN_Rule_of_Law_Report_2022.pdf (last checked: 13.10.2023).

About the author

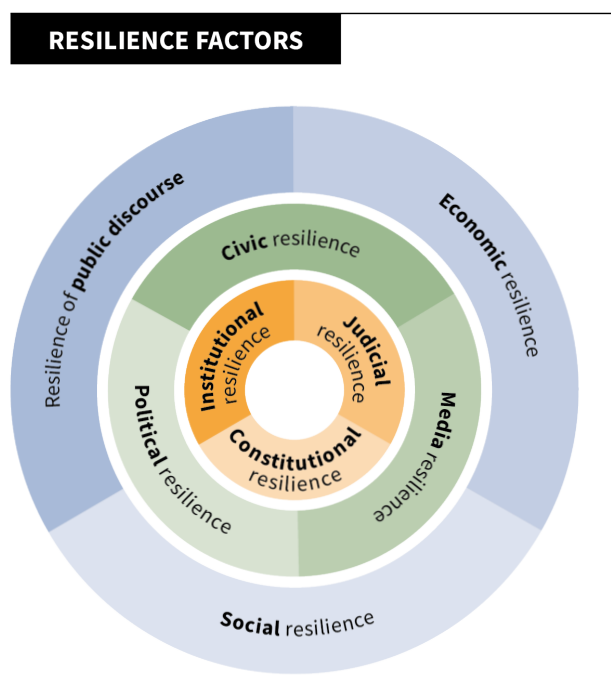
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About the project

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.



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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For more information, visit the project website: www.iep-berlin.de/en/projects/future-of-european-integration/resilio/

