The impressive resilience of the Greek Constitution in the current financial crisis in Europe.

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Abstract:

The most remarkable and, indeed, the most curious thing in Greece's case, as far as the impact of the 'crisis' on its Constitution is concerned, is that, in spite of the terrible, unprecedented and unending fiscal crisis that the country is undergoing, the Greek Constitution has displayed *a striking resilience.* Unlike the tattered and discredited *political regime*, the *constitutional regime-politevma*, together with the aura of constitutional legitimacy that surrounds it, is still *bearing up* and *holding firm*, while at the same time *adapting itself*, in a consistently *gentle* though steady manner, to the constantly changing, fluid and extraordinary economic conditions. The resilience of the *Greek constitutional order* to the shock waves of the 'crisis' coincides with, and is manifested in, the equally striking *ability* of this constitutional order to *adapt* to both the multiple demands of the *European integration process* and the 'real' coercive forces of the globalised market economy. The radical changes that have been observed in economy or in social matters during the crisis cannot be described as exceptions to constitutional normality, nor do they overturn established jurisprudence. *They form part of the existing constitutional normality, as 'momentary breaks' in the continuity of a long constitutional tradition.*

I. The paradox: a resilient constitutional regime in spite of a collapsing political system.

The most remarkable and, in fact, the most curious thing in Greece's case, as far as the impact of the 'crisis' on its Constitution is concerned – and also the opposite, the impact of the Constitution on the 'crisis' – is that, in spite of the terrible, unprecedented and unending fiscal crisis that is ravaging the country, the Greek Constitution has displayed *an impressive resilience.*[1]

[1] On the concept and theory of resilience of the constitution in the financial crisis, our contribution is based on the recent study by X. Contiades and A. Fotiadou entitled "On Resilience of Constitutions. What Makes Constitutions Resilient to The External Shocks?", International Constitutional Law Journal, 1/ 2015, pp. 3-26. On the reaction of the constitutions to the financial crisis see "Constitutions in the Global Financial Crisis. A Comparative Analysis" (ed X. Contiades), and the synthetic study by X. Contiades and A. Fotiadou, "How Constitutions Reacted to the Financial Crisis", pp 9-59. With regard to the impact of the crisis on the Greek

In other words, what can be observed during the seven-year-long recession (2009-2016) and the implementation of a brutal EU program of fiscal adjustment and harsh austerity, is that the *government of the country* has, by and large, been conducted *with respect for the constitutional rules of the democratic and parliamentary regime*. It is characteristic that, during this period, three general elections have been held (in 2009, 2012 and 2015 – twice in the latter year, in January and September, together with a referendum), a smooth transfer of power has taken place from a centre-right to a left-wing government and there have been five changes of government and four prime ministers, all in conditions of democratic and constitutional normality. And all this has occurred in spite of the political polarisation, the social tensions and the shocks to the economy. The democratic regime and the parliamentary system of government *have, during the crisis, functioned normally, displaying respect for their fundamental principles,* without the legitimacy of the Constitution being seriously called into question, without the smooth operation of democratic parliamentary government being upset or its very continuance being threatened, and, above all, without there being any question of suspending personal or collective liberties and imposing an emergency regime (Article 48 of the Constitution)[JF1].[2]

The Greek people have endured and continue to endure with admirable fortitude an 'extremely critical' economic situation, without losing their faith in the democratic regime or their confidence in the pluralistic parliamentary system of government. And all this despite the fact that the political forces and the politicians have lost their credibility, the old party system has completely collapsed and the political system has crumbled under the weight of cases of corruption, party clientelism and depravity

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Constitution, see the study by X. Contiades and I. Tassopoulos, "The Impact of the Financial Crisis on the Greek Constitution" in the same volume, pp. 195-217.

[2] For this reason we believe that, from a constitutional point of view, the views of some constitutional theorists are constitutionally unfounded when they argue that the country is in a 'state of emergency' (état d'exception) and that the courts, when they invoke the vague concept of 'the general social, economic or public interest' or when they assess the legitimacy or illegitimacy of violations of individual and social rights on the criterion of the principle of proportionality or its necessity, in effect they are acting as if they were invoking the 'law of necessity'. They give constitutional legitimacy to exceptional circumstances, thereby endowing them with a permanent character and bringing them into the realm of constitutional normativity. For this specific standpoint see I. Kamtsidou, "Un état d'exception nullement exceptionnel. La crise souveraine et le crépuscule de la Constitution. Un aperçu historique", www.constitutionalism.gr and for the concept of a constitutional/legal normality through the legal interpretation of standards, such as necessity, in the Greek legal order, G. Karavokyris, "Constitution and necessity in times of crisis", European Politeia, 2/2015, p.347-365. See also for the concept of "state of emergency" M.- L. Basilien- Gainche, "E□tat de droit et e□tats d'exception. Une conception de l'E□tat", P.U.F., Fondements de la politique, 2013 and F. Saint- Bonnet, "L'e□tat d'exception", P.U.F., Le□viathan, 2001.

and, above all, the inability of different governments to handle the crisis.

Unlike the tattered and discredited *political regime*, the *constitutional regime* (i.e. that established by the Constitution), together with the constitutional legitimacy that envelops it, is still *bearing up* and *holding firm*, while at the same time *adapting itself*, *gently* but steadily, to the constantly changing, fluid and extraordinary economic conditions[JF2].[3]

This peculiar situation, in which the Constitution is displaying resilience while the political system is collapsing, has another, positive side for the constitutional institutions: *throughout this period, there has been no crisis of power or governability*. Governments have been formed without undue delays and have formulated and carried out government policies within the framework of the program of fiscal adjustment, implementing the provisions of the memoranda of understanding. They have governed, while their parliamentary power has rested on the government majorities imposed by the Constitution, and they have passed measures in accordance with the relevant constitutional and parliamentary procedures.

The above findings – if taken no further – support a clear and simple, though ultimately, as we shall see later, simplistic, assertion: that the *existing constitutional order is perfect, displays no weaknesses and therefore does not need to be changed!* Nothing could be further from the truth.

It is true that the Constitution is, for the time being, performing *its legitimising function* perfectly. The dire economic and political crisis has not, it seems, had a negative impact on the validity and application of the Constitution and especially on the institutions of the rule of law. It has not, *in any event, caused a legitimation crisis* with regard to the authority of the Constitution. The citizens' respect for the Constitution has remained unshaken. Besides, the ruling

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[3] On the consequences of the debt crisis in Europe, with a focus on Greece, see the astute observations by Y. Drossos in "Love's Labour's Lost: fighting austerity and crisis with obiter dicta. A gloss on the expediency of constitutional justice in times of crisis" and "Greece. The sovereignty of the debt, the sovereigns over the debts and some reflections", www.constitutionalism.gr, L. Papadopoulou, "Can constitutional rules, even if "Golden", tame the Greek public debt?», in M. Adams, F. Fabbrini, P. Larouche (ed.), "The Constitutionalization of European Budgetary Constraints", Hart Publishing, 2014, pp.223-249.
See also, in a comparative context, X. Contiades (ed.), "Constitutions in the global financial crisis. A comparative analysis", Ashgate, 2013, S. Fabbrini, "Which European Union? Europe after the Euro Crisis", Cambridge, Cambridge University Press, 2015, C. Schweiger-J. Magone, "The effects of the Eurozone Sovereign Debt crisis: differentiated integration between the EU", Routledge, 2015, K. Tuori-K.Tuori, "The Eurozone crisis. A constitutional analysis", Cambridge University Press, 2014, A. Metaxas-I. Pernice, "Europe in crisis: between law and politics", Sideris-Friedrich Ebert Stiftung, 2015, A. Hinarejos, "The Euro area crisis in constitutional perspective", Oxford, 2015.

bodies have taken care to observe the basic letter of the Constitution and the political institutions have generally operated within the framework of constitutional legality.

This idyllic picture of the Greek constitutional reality is, however, too good to be true. It is a wonderful picture only if we ignore its one-sidedness and disregard the well-noted – though few, it is true – violations of the Constitution by the ruling power, as well as the serious 'material' damage or losses that have been inflicted on social rights and the social acquis[4].

II. The reaction of the Constitution to the handling of the crisis in the course of its practical implementation.

The foregoing findings conceal, through their one-sidedness, invisible facets of the constitutional and political reality which are just as important as the visible ones. Above all, they conceal *the interactive relationship between the Constitution and the crisis and particularly the Constitution's influence on the handling of the crisis*. And, of course, they do not explain *the paradox that we noted at the beginning*: how is it that, at a time when the country has been experiencing dire economic and social problems, its system of government has functioned smoothly, in a context of constitutional legality and normality?

An answer to the above question can be provided by investigating the way in which this same reality *is influenced by the implementation and interpretation of the Constitution* by the legislators and judges, respectively.

The advantage of adopting this perspective lies in the fact that, this time, the constitutional reality will be examined through a *multifocal analysis of the way in which the Constitution is implemented in practice*. This impels the researcher to focus his research on the two most basic functions of the constitutional state: that of *enacting laws* and that of (constitutional) *justice*. The investigation of these functions also leads to a comparison being drawn between the work of the legislator and that of the judge: Zeus is drawn up against the demigod Hermes. In the shadow of the confrontation between these two another confrontation takes place: that between Law and Politics[5].

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[4] C. Kilpatrick-B. De Witte (ed.), "Social Rights in Time of Crisis in the Eurozone: The role of fundamental rights challenges", EUI Department of law, Research papers,http://cadmus.eui.eu/bitstream/handle/1814/31247/LAW%20WP%202014%2005%20Social%20Rights%20final%202242014.pdf.

[5] M. Everson-C. Joerges, "Who is the guardian for constitutionalism in Europe?", LSE "Europe in Question", Discussion Paper Series, 63/2013, www.lse.ac.uk. For the relation between politics and law see indicatively M. Tushnet, "Taking the constitutions away from the courts", Princeton, 1999 and M. Troper, "Le constitutionnalisme entre droit et politique", CURAPP, Droit et Politique, PUF, Paris, 1991, p. 68 ff.

From an examination of the *jurisprudence relating to the 'crisis'*, combined with a study of the constitutional processes that have been involved in incorporating the European programme of fiscal adjustment into the Greek legal order – at the same time that the Greek legislator was adopting a massive and chaotic amount of legislation –, the following findings emerge:

A. Resilience through adaptation: compliance with the country's international obligations; constitutional changes through informal amendments to the Constitution[6].

The resilience of the Greek constitutional order in the face of the shocks dealt by the 'crisis' is not merely a sign of a transitory endurance or a temporary resistance to the pressures being placed upon it but also coincides with, and is manifested in – and this is in fact the reason for its impressive endurance – an equally impressive *capacity to adapt* (or *adaptability*) to both the multiple demands of the *European integration process* and the 'real' coercive forces of the globalised market economy.

The former has been achieved by virtue of the flexible *constitutional mechanisms for incorporating the international and European legal orders* into the national one. It has been based entirely on the special constitutional provisions catering for Greece's participation in the European integration processes that were put in place by the legislator who drew up the Constitution of 1975. These are, namely, the highly functional and, as things have proved, *far-sighted* provisions of Article 28 paras. 2 and 3 of the Constitution, which *establish an informal procedure for amending the Constitution through the ratification of international treaties*, in contrast to the formal and inflexible procedure for constitutional reform. The ratification by the Greek parliament of European treaties that provide for or entail the delegation of sovereign powers to the EU, or restrictions on national sovereignty, as has happened in the case of the European mechanisms for preserving fiscal stability, has brought about *imperceptible amendments to the regulatory content of the Constitution and the exercise of national sovereignty, with the blessings of the Constitution itself*.

The constitutional provisions mentioned above have created *a broad and welcoming gateway for the incorporation of European and international law* into the Greek legal order, and at the same time have equipped the latter with all those mechanisms that are necessary for it to adapt easily and comfortably to the demands of

[6] See for the constitutional change and the adaptation of the constitutions, X. Contiades (ed.), "Engineering Constitutional Change. A Comparative Perspective on Europe, Canada and the USA", Routledge, 2013 and M. Altwegg-Boussac, "Les changements constitutionnels informels", Institut Universitaire Varenne, 2013, D. Oliver-C.Fusaro, "How Constitutions change: A comparative study", Hart Publishing, 2011.

the current international situation and the changes occurring in international society.

The provisions have thus endowed the Greek constitutional order with a great degree of flexibility in respect of its constitutional procedures. They have enabled it to participate, directly and actively, in the European integration processes and, through simple decisions by Parliament, to *automatically adapt itself* to every decision or act of the EU bodies, even those of intergovernmental character, such as the acts and decisions of the European Council of Heads of State and Government. And all this has been achieved without engaging in the arduous and time-consuming process of reforming a rigid Constitution.

In this way the Constitution has gradually been changing in texture, and, *in terms of its relations with the international and European legal order, has become less rigid and more flexible.*

The flexibility of the Constitution has a bearing on sensitive and key areas of the state as it concerns the international relations of the Greek state as well as its ongoing participation in the European integration process. It therefore has a direct bearing on national and state sovereignty, which in turn is changing, shedding its *egocentric, undivided and indivisible* character in favour of a *collective, shared and joint* type of sovereignty[7].

The Greek state's recent painful experience of implementing the programme of fiscal adjustment and stability has shown that Greece does indeed possess all the necessary constitutional mechanisms to enable it to participate in the European project in a smooth and orderly way, without legal obstacles, both in times of crisis and periods of normality. Neither the exceptional and urgent circumstances of the excessive public debt nor the threat of bankruptcy or even Grexit have necessitated recourse to emergency procedures or the suspension of constitutional legality[8].

These crises have been dealt with by implementing the relevant constitutional procedures for enacting emergency laws and taking the fiscal and economic measures imposed by EU law in order to combat the debt crisis, provided that these measures are justified, and not merely occasioned, by clear grounds of public interest[9].

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[7] For the impact of EU integration on state sovereignty see C. Beaudoin, "La démocratie à l'épreuve de l'intégration européenne", L.G.D.J., Paris, 2014, p. 108 ff.

[8] For the judicial consideration on the exceptional and urgent circumstances see P. Pikrammenos, "Public Law in extraordinary circumstances from the viewpoint of the procedure of judicial review in Studies on the Memorandum" (in Greek), Athens Bar Association, Athens, 2013, pp.11-21.

[9] For the concept of public interest V. Kapsali, "Public interest and judicial review on the ground of economic freedom", Revue Hellénique des Droits de l'Homme, 38/2008, p. 511 ff. (in Greek), C. Yannakopoulos, "The public interest from the scope of the financial crisis", Journal of Administrative Law, 1/2012, p.100 ff. (in

The extraordinary legislative measures that have been taken to deal with the economic crisis and secure a permanent and steady fiscal balance have been based on established constitutional provisions and procedures and have been carried out within the framework of the *existing constitutional legality and normality*, which they have confirmed without there being any need for it to be suspended. These measures, therefore, have not been of a temporary or transitional character, nor of course have they lain somewhere between '*droit*' and '*non-droit*', as some Greek legal theorists have claimed[JF3].[10] They have been enacted in order to last, they have come to stay, they have been carried out within the framework of the existing constitutional legality and now form part of 'normal' constitutionality.[11]

Even when the extraordinary legislative procedure provided for by Article 44 (1) of the Constitution has been activated ('Under extraordinary circumstances of an urgent and unforeseeable need, the President of the Republic may, upon the proposal of the Cabinet, issue acts of legislative content') – and it is true that this has happened quite often, so often in fact that on some occasions it has unfortunately come to appear normal[12] – even in this case, the 'enactment of extraordinary laws' has taken place within the framework of the existing constitutional legality.

B. Resilience through an informal change in the Constitution via jurisprudence: the privileged judicial techniques of

Greek), I. Mathioudakis, "Transformations of the cash public interest in periods of severe economic crisis", Journal of Administrative Law, 4/2011, p.478 ff. (in Greek).

[10]. The opposite view is held by C. Yannakopoulos, "Un État Devant la Faillite: entre Droit et Non-Droit" and "Between National and European Legal Order as Reproduction of the Crisis of the Rule of Law", www.constitutionalism.gr (in Greek).

[11] See G. Karavokyris, "The Constitution and the Crisis", Kritiki, Athens, 2014, p. 38 ff. (in Greek). This view is also held by E. Venizelos, "State Transformation and the European Integration Project: Lessons from the financial crisis and the Greek paradigm" www.ceps.eu/system/files/SR%20No%20130%20State%20Transformation%20and%20European%20Integration.pdf.

[12] G. Gerapetritis, "Economic Crisis as element of deregulation of the hierarchy of sources of law: Inevitability or alibi?" in Studies on the Memorandum (in Greek), Athens Bar Association, pp.230-243. See also for other legal orders affected by the financial crisis A. Ruiz Robledo, "The spanish constitution in the turmoil of the global financial crisis", in X. Contiades (ed.), Constitutions in the Global Financial Crisis. A comparative analysis, op.cit, p. 145, C. Piccardi, "The economic crisis and the national parliaments: the Italian experience",http://www.parlamento.it/documenti/repository/affariinternazionali/ecprd2012/4_Piccardi_EN.pdf , X. Contiades-A. Fotiadou, "How constitutions reacted to the financial crisis" in X. Contiades (ed.), "Constitutions in the Global Financial Crisis. A comparative analysis", op.cit, p.16.

resorting to the vague concept of 'the public interest' and the criterion of 'proportionality'.

However, it is not merely the *procedural flexibility* that it has gained in the speedy enactment of laws and the incorporation of international agreements into the Greek legal order that has helped to give the Constitution its resilience and adaptability. It is also the informal change that has occurred in its regulatory function *through the way it has been interpreted by the constitutional justice system*. The latter, through its interpretations of the Constitution in the course of trying cases that have questioned the constitutionality of laws implementing '*crucial*' fiscal, tax and insurance policies, has fashioned, refashioned and shaped *constitutional arguments and jurisprudential constants or criteria* of a kind that enable and prompt the legislator and the government to deal in a balanced and measured way with violations of constitutional rights, *particularly those of a social nature*, when public interest aims defined by the government are *truly* served.

Having as a guide and justification for the rights violation that may have been caused, the *serving of public interest aims*, and with the *principle of proportionality as a weighting criterion*, the judge of constitutionality has measured and weighed up in the cases placed before him – always on the basis of their specific legal and factual circumstances – the magnitude of the rights violation in the light of the public interest aim or public policy that was being served. And this is clear in all the jurisprudence that has been produced during the crisis.

The *protective, and therefore regulatory, content or the meaning of constitutional rights is neither certain nor unvarying.* Their 'real meaning' is neither discovered or revealed by the judge as something fixed and unchanging. He shapes and fashions it, not in a general or abstract way, nor in an arbitrary fashion or out of nothing, but basing his interpretation on the previous relevant jurisprudence, which he supplements or amends, following well-established and tested methods and constraints and always providing a detailed statement of reasons for his decision.

More specifically, when the judge is called upon to assess a legislative measure that implements a public policy in the light of the public interest aim that is being served and the possible violation of a right, he proceeds to weigh things up and make legal assessments or characterisations and appraisals of the constitutionality of public policies. He *judges* and *assesses* public policies from a constitutional perspective, with reasoning and arguments centred around two related and close syllogisms: *the means-end syllogism (examination of the rationality of the measure)* and the '*balancing' syllogism,* when he finds that there is a conflict of constitutional goods or interests.

In the last few years the jurisprudence of the Council of State, which in practice performs the function of a Constitutional Court, has consistently judged the legitimacy or illegitimacy, the constitutional justifiability or unjustifiability of a violation or restriction of an individual or social right on the criteria of 'proportionality' and 'the public interest'.[13] This judicial practice is an indication of an advanced form of judicial constitutional review. Although formally this form of review is advanced in comparison to the review of formal constitutionality, since the judge reviews the aim of the law, in the cases that have been tried during the period of the crisis, judges have *restricted themselves* to carrying out a legal evaluation and assessment of the 'factual circumstances' that came under the concept of the public interest and they have confined themselves to ascertaining whether public interest grounds have played an 'actual' role or not in each case, without assessing or weighing up further the suitability, the expediency, or the equivalence and balance between the violation of a right and the pursued aim. They have believed that such a substantive assessment should be made exclusively by the governing majority and they have restricted themselves to attempting to ascertain the necessity of each measure[14].

III. Towards a malleable or flexible constitutional normality. The 'crisis' as a momentary yet decisive 'discontinuity' in a long constitutional continuity.

[13] For the role of proportionality in the Greek jurisprudence produced during the crisis see especially the study by X. Contiades/A. Fotiadou, "Social Rights in the Age of Proportionality: Global Economic Crisis and Constitutional Litigation", International Journal of Constitutional Law, 3 / 2012, pp. 660-686. For the proportionality principle see also M. Cohen-Eliya-I. Porat, "Proportionality and Constitutional Culture, Cambridge Studies in Constitutional Law", Cambridge University Press, 2013, A. Barak, "Proportionality: Constitutional Rights and their Limitations", Cambridge Studies in Constitutional Law, Cambridge University Press, 2012 and for a critical point of view S. Tsakyrakis, "Proportionality: An assault on human rights?", International Journal of Constitutional Law, 2009, pp. 468-493.

[14] See E. Venizelos, "State Transformation and the European Integration Project Lessons from the financial crisis and the Greek paradigm", op.cit, p.22 ff. and the contribution of G. Karavokyris in the current volume, "The role of judges and legislators in the Greek financial crisis. A matter of competence". Also, M. Perakis, "The passive form of Judicial Activism: Judicial self-restraint while balancing fundamental rights and public interest in the age of economic crisis" and T. Ziamou, "Controlling the legislator's intent in the «crisis jurisprudence» of the Greek Council of State", in European Politeia, 2/2015, pp. 289-321, 429-449.

The practice of Greek judges of making very frequent recourse to the constitutionality of the concepts of 'the public interest' and 'proportionality' is not, however, a jurisprudential practice that has appeared during the recent crisis. *It does not constitute an 'exceptional' and 'irregular' judicial outlet for jurisprudence that has arisen as a result of the country's exceptional economic circumstances*. It is the same, well-established form of jurisprudence that has been followed for years, both in periods of normality and in times of paradigm change like the present one. The economic crisis has not led to a change in judicial methods, nor to the invention or application of new ones. *In Greece no crisis jurisprudence exists or has developed*. The judicial constitutional review of laws basically still is and has remained, since the time it was established, an investigation of limits, a review of unconstitutionality and not constitutionality.

Moreover, the judge who reviews the constitutionality of laws in Greece, even when he makes an advanced and thorough review of the constitutionality of a law, takes care to place judicial restrictions on himself, imposing, of his own accord, limits and self-restrictions on the judicial review that he is undertaking. What is more, he has long recognised the fact that *the political power has a broad freedom to freely determine public policy*, on the basis of the government policy that has been approved by Parliament. So long as this public policy, as expressed in the law, does not exceed the limits of the Constitution and does not infringe upon constitutional freedoms (negative articulation). [JF4]

And this is precisely what the judge of constitutionality did both in the era of state interventionism and the era of privatisations. And this is just what he is doing today, in this period of crisis. The individual criticisms that jurisprudential commentators have made of individual judicial decisions, noting contradictions, tergiversations, lacunas or excesses, even when the decisions have been justified, do not disprove the general findings stated above, nor do they refute the general long-standing tendency in our constitutional jurisprudence.

Therefore, the radical developments that may be observed in Greek jurisprudence during the period of crisis cannot be regarded as an exception to normality, nor as a refutation – and of an exceptional kind at that – of established jurisprudence. *They form part of the existing constitutional normality, as a momentary 'discontinuity' in the country's constitutional continuity, in a long constitutional parliamentary tradition that stretches back over two centuries.*

Nevertheless, in a gradual, informal and inconspicuous manner, they have been shaping *a new normality*. A constitutional normality that, compared with the past, is characterised by a more pronounced regulatory (or semantic) 'plasticity or flexibility', thanks

mainly to the malleable use of judicial tools like proportionality and the public interest[15].

A constitutional normality which, in any case, appears to be abandoning its one-sided and monolithic rule-of-law orientation, the orientation that has characterised the 1990's and 2010's, that is to say, the unilateral insistence on the part of the judge of constitutionality to protect, at all costs and above all else, the rights and freedoms of litigants, individuals and groups. In this period of crisis, judges appear to be becoming increasingly aware of the need to protect not only the constitutional legality of rights but also the legality that promotes and guarantees public policies that do indeed serve the aims of the general public, social and economic interest.

This change of perspective is evident not only in jurisprudential practices but also in legislative and administrative practices. It appears that there is a desperate search for *a balanced and measured form of protection* – one that varies with the prevailing conditions and circumstances – *for the rights of individuals and groups which, however, is combined with the simultaneous protection of public interest aims and goods* in the implementation of public policies.

In conclusion, in this paper I have sought to show simply, through the examples of jurisprudence and legislation, that, on the one hand, Greece is indeed going through a terrible structural crisis of adjustment to the new economic reality, which looks as if it is not going to be a passing phenomenon but a long and drawn-out one. And this is because its structures are rusty and antiquated, as are its administrative practices and political culture, which dates from the last century.

However, beyond the crisis, and in spite of the crisis and the gloomy economic and political outlook that has taken shape, our constitutional reality is – unlike the political and economic realities – displaying signs of an *impressive resilience and adaptation to the new European and globalised reality*.

[15] See above note 11 and in particular for the concept of normality and its relation with standards also S. Rials, "Le juge administratif et la technique du standard. (Essai sur le traitement juridictionnel de l'idée de normalité)", LGDJ, Paris, 1980.