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THE GREEK JUSTICE SYSTEM: COLLAPSE AND REFORM

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Abstract

This paper discusses the key structural deficiencies of the Greek justice system and proposes some concrete policy reforms. In the first part, we provide an anatomy of the Greek legal system using cross-country indicators reflecting the formalism, quality, and speed of the resolution mechanisms. The analysis shows that the Greek justice system is failing to protect citizens, as delays in all types of courts exceed five years and in some instances reach a decade. At the same the quality of laws protecting investors, even property, is low. Using comparative data from other EU jurisdictions, we show that the key reasons behind these failures are the absence of information technology, the lack of supporting to judges staff, the absence of specialized courts and tribunals, and a hugely dysfunctional administration. At the same time, there are minimal checks and balances. In the second part, we detail a set of policy proposals. Our proposals consist of immediate measures for clearing the large backlog and a set of more ambitious medium-term reforms (many of which require a constitutional amendment). Our proposals aim to make the Greek justice system professionally administered, less formalistic, suitably flexible, more responsive and more accountable to society at large. Given the strong link between legal institutions and development, justice reform is an absolute priority of the reform agenda and a sine qua non-condition for the much-needed sustainable recovery of the Greek economy.

JEL Classification: K00, K40, O1, O43, O52, O57, P16

Keywords: law and economics, contractual institutions, investor protection, bankruptcy

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The Greek Justice System: Collapse and Reform[1]

Elias Papaioannou (London Business School and CEPR) **and Stavroula Karatza**

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1. Introduction

When the Greek crisis started unfolding in 2009 the focus of international media, investors, and policy makers was on the huge stock of government debt and the rising fiscal deficit. Most policy-makers and commentators viewed the Greek crisis as the outcome of fiscal profligacy that started when Greece joined the eurozone and accelerated after the 2004 Athens Olympic Games. In line with this view, the emergency program of financial assistance that was agreed between Greece and its lenders, the International Monetary Fund, the European Union, and the European Central Bank, the so-called Troika, considered the Greek problem primarily as fiscal in nature. While fiscal adjustment clearly had to be a part of the economic stabilization program, structural reforms were equally urgent. The Greek crisis had its roots in deep institutional failures[2]. In this chapter we focus on a key institution, the justice system.

The Greek justice system has been a drag to the business environment and to sustainable growth. Not only has legal inefficiency been a contributing factor to the loss of competitiveness that preceded the crisis, but the formalism and rigidity of the system are major contributing factors to the severity and duration of the crisis[3]. The prevalent injustice is a major reason for the loss of legitimacy of Greek institutions and the public's feeling that the political-economic system is unfair, favoring a small oligarchy.

[2] Another dimension of the Greek crisis that has received little attention is the role of distrust and of the low levels of civicness and social capital. In this chapter we focus on an institutional aspect, the judiciary, courts, and legal institutions; yet institutional performance is clearly linked to cultural issues, related to values, norms and beliefs. On the effect of civic-social capital and trust on institutional and economic performance, see Alesina and Giuliano (2013), Algan and Cahuc (2014), and Guiso, Sapienza, and Zingales (2013). Papaioannou (2011, 2013) discusses the role of distrust and low levels of civic-social capital on the Greek and the European crisis.

[3] The IMF has acknowledged that that it under-estimated the weakness of the Greek public administration and the Greek state's inability to enforce laws, and that this has been an important problem with the design of the adjustment program (IMF 2013).

There is no settled definition of what counts as the "justice system" or a "legal system." In this chapter we focus on the set of institutions directly entrusted with administering civil and administrative justice and the laws protecting property, shareholders, and creditors.

As of end-2015 there were 253,325 cases pending in administrative courts. For 157,783 of those cases, the date for the first hearing had not been set. And hearings for cases filed at the First-Instance Administrative Courts of Athens were being listed for 2020. The situation in civil courts was not much better. If a claim were filed in December 2015 at the First-Instance Civil Court in Athens, it would be heard in September 2018 at the earliest (for claims between 20,000 to 250,000 euros) and in January 2018 (for claims exceeded 250,000 euros). The conditions on penal courts are no better, as important felonies have been pending in courts for a decade. It is common for a trial to start after the maximum (18-month) period of custody has elapsed. Suspects for serious crimes and felonies, including terrorism, murder, and drug trafficking, have been released from custody if their trials have not been completed in 18 months.

Figure 1 illustrates one of the key points in this chapter. The graphs plot an index of legal quality capturing the strength of investors' rights (data sourced from the World Bank) against the typical proxy of development, the (log) of real per capita gross national income (GNI). The data are plotted for 2008, just before the crisis started, 2012, and 2015. There is a clear-cut positive correlation between legal institutions and development across the world in all three periods. Economically successful countries offer, on average, superior protection to investors and have more efficient legal systems.

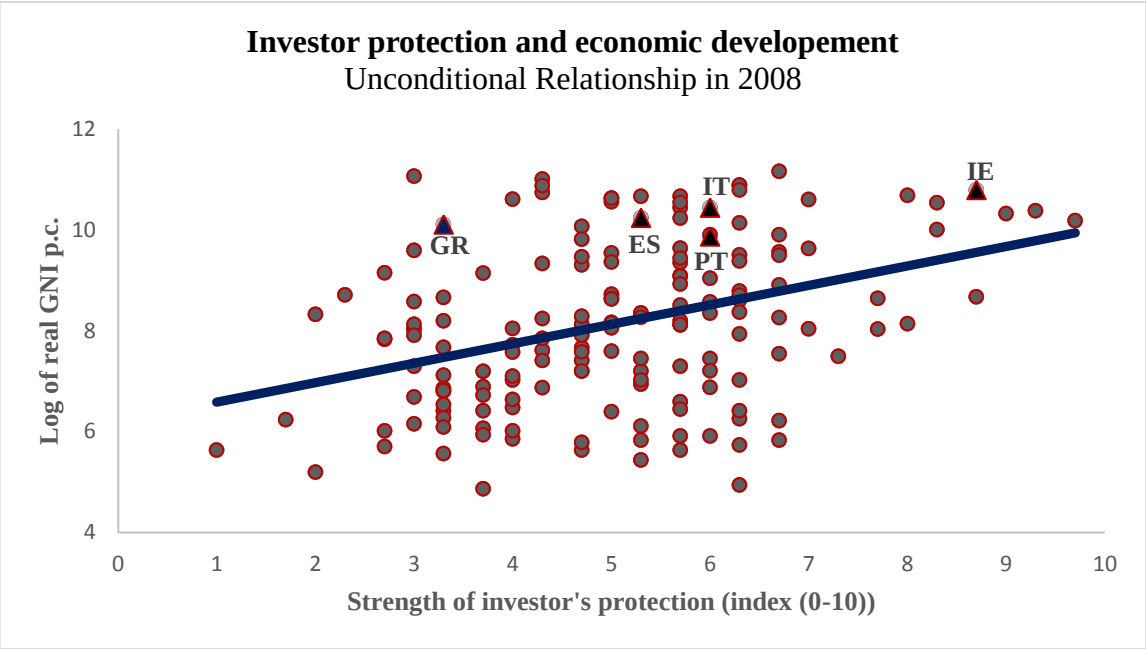

Figure 1a. **Investor Protection and Economic Development. Unconditional Relationship in 2008**

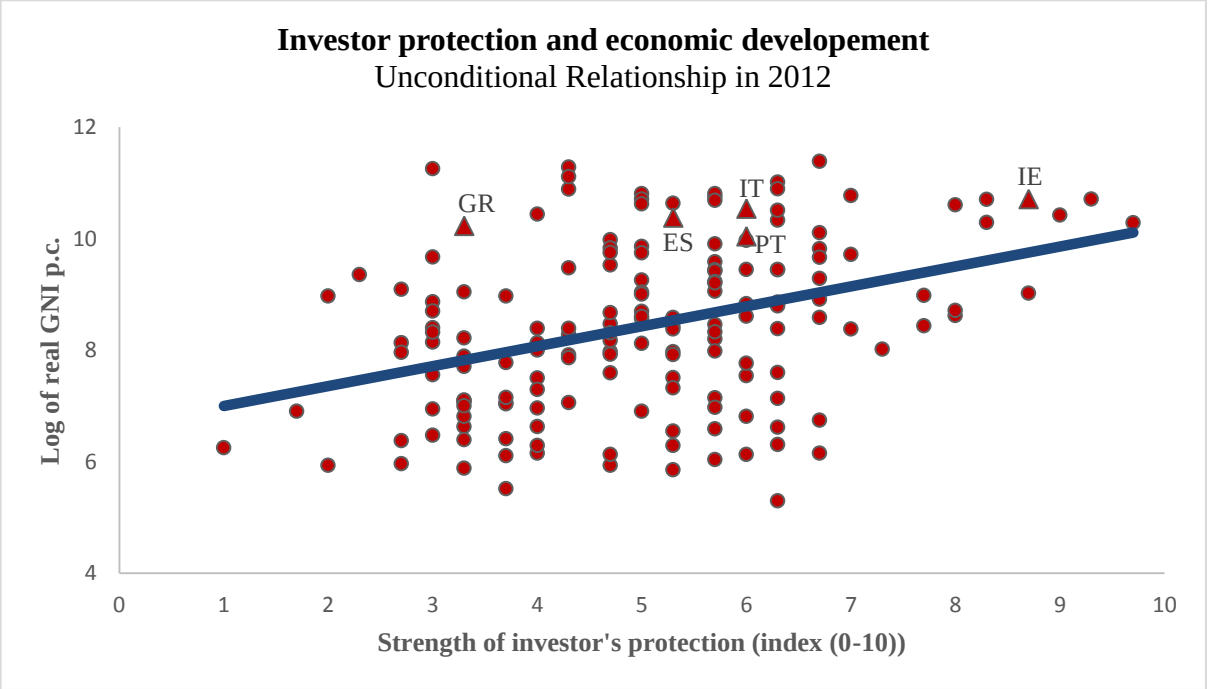

Figure 1b. **Investor Protection and Economic Development. Unconditional Relationship in 2010**

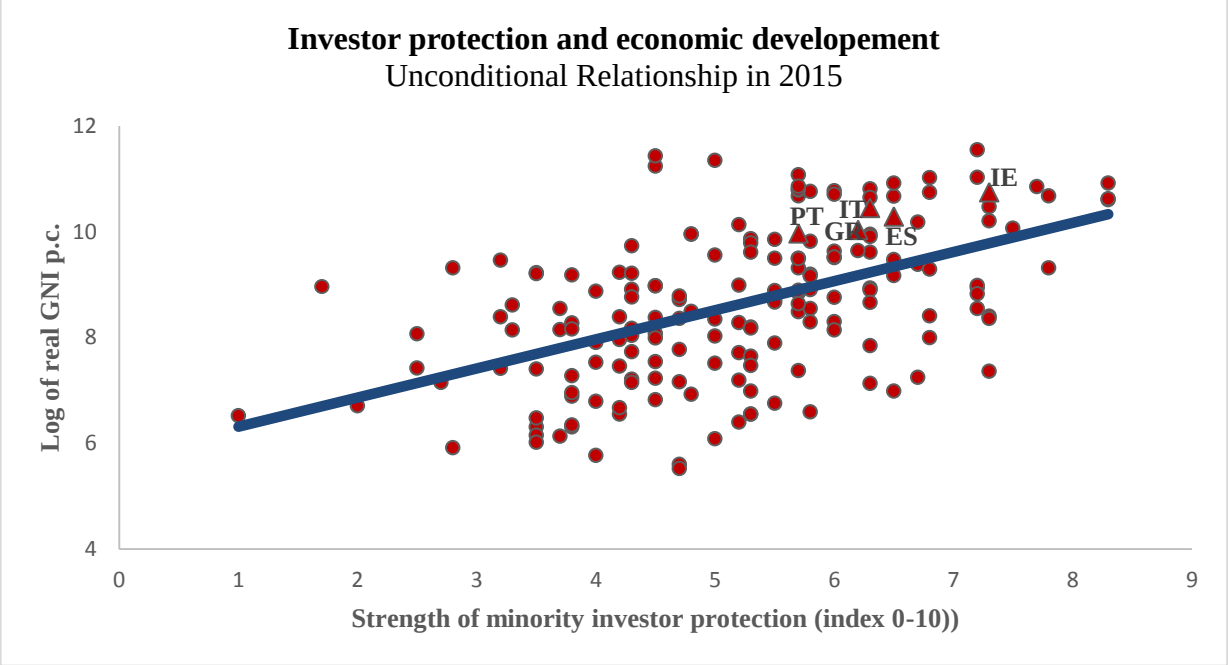

Figure 1c. Investor Protection and Economic Development. Unconditional Relationship in 2015

Greece is an outlier, especially in 2008: the Greek legal system was offering investors poor protection against expropriation from firm insiders (managers and key shareholders, who often tunnel firm assets to personal firms and accounts), compared to its (relatively) high level of income per capita. Investor protection in Greece was comparable to that in Costa Rica, Gabon, and Jordan, while Greece's level of development was similar to that in South Korea, Israel, and New Zealand, countries with sound property rights protection and well-functioning judiciaries. And while the gap between economic and legal development was present also in other crisis-hit EZ countries (Italy, Spain, Portugal), it was the highest in Greece. (Using various proxy measures of rule of law, bureaucratic efficiency, graft, and state capacity, Papaioannou 2015 shows that institutional quality deteriorated in all countries of the EZ periphery since the inception of the euro.) The gap was still present in Greece in 2012 and it only narrowed in 2015.

Sadly this happened mostly because of the sizable drop of output (between 2008 and 2015 output per capita fell by more than 25 percent) rather than institutional advancement.

A major deficiency of the economic adjustment program that was followed in Greece during the crisis has been its narrow focus on fiscal stabilization and the relative neglect of wider institutional reforms. And while reforming labor and product markets and social security has been part of both the initial (in spring 2010) and the subsequent (in 2012 and in 2015) Memorandum of Understanding (MoU), little attention was paid to the rule of law, the legal system and the judiciary (e.g., see Eleftheriadis 2014). In fact many of the reforms in the judiciary (implemented mostly over 2010 to 2013) were initiated by local authorities rather than foreign experts and advisers. And Greece's foreign partners did not push Greek authorities to stay on the reform path, when the latter abandoned reforming efforts (in 2014 and especially after 2015). At the same time the economic crisis has made things worse, as the demand for judicial/legal services has increased (due to rising bankruptcies, nonperforming loans, and higher litigation) and judges and attorneys have been on back-to-back strikes that have further slowed down judicial process. Despite some progress and reforms (discussed below), delays have increased, and steadily Greece is becoming a lawless society. To make things worse, over the past years there have been many accusations in the media of political and big-business interference in courts and corruption. Trust in the system has plummeted.

Greece needs a multidimensional, massive redesign of the legal system that includes abolishing unnecessary formalism by drastically reforming civil, penal, and administrative procedures, legislating and implementing efficient management practices in courts, investing in information technology (at the beginning of the crisis most judges did not use personal computers and even today the penetration of IT is small to moderate), and dealing decisively

with the large case backlog. The strong evidence of a link between the quality of legal institutions and economic development suggests that this institutional reform is one of the most essential (Acemoglu, Johnson, and Robinson 2005; La Porta et al. 1997, 1998; Acemoglu and Robinson 2012).

This paper is organized as follows: In section 2, we place our analysis in the broader context of institutional economics. In section 3, we use various international measures of legal efficiency to provide an empirical account of the Greek justice and legal system. In section 4, we present a radical and innovative proposal to deal with case backlog and discuss its financing. In section 5, we detail reforms in ten areas; these reforms can have an impact if implemented *jointly* with our radical proposal for dealing with the backlog. In section 6, we list additional reforms and discuss some successful interventions that should be strengthened. Section 7 summarizes.

2. Legal Institutions and Development

In its 2014 EU Justice Scoreboard the European Commission stated that "*high quality institutions are a determinant of economic performance* ..." and that "predictable, timely and enforceable justice decisions are important structural components of an attractive business environment" (European Commission 2014, p. 4). This statement summarizes much recent research. La Porta et al. (1997, 1998), Djankov et al. (2003), and Djankov, McLeish, and Shliefer (2007) constructed quantitative proxies of shareholder and creditor protection, bankruptcy procedures, and other legal system features for a large number of countries (see also Dakolias 1999 for an early attempt) and studied the interconnection between legal institutions and economic well-being. The academic literature has focused on two aspects of legal institutions: legislative quality (*de jure)* and court efficiency and delays (*de facto).* Besides compiling

quantitative proxies of the above-mentioned literature has tried (1) moving beyond correlations and establishing causal relationships, (2) detecting the channels of influence, and (3) identifying the factors shaping legal institutions (e.g., related to social features, trust, family ties, religion, legal origin).[4] The first set of studies showed that the quality of legal and property rights institutions correlate strongly with various aspects of economic efficiency, such as access to bank credit, investment, and entrepreneurial activity (e.g., La Porta et al. 1997; Djankov et al. 2003).

Figure 2 summarizes the main channels linking legal institutions with economic well-being.

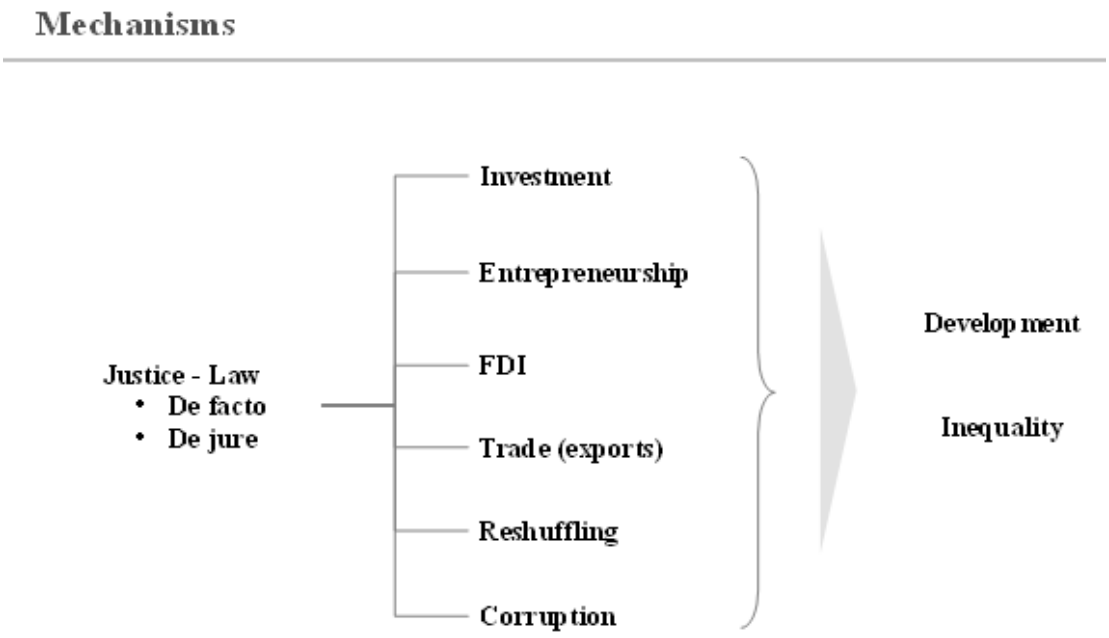

Figure 2. Legal Institutions and Economic Development

[4] Legal quality and court efficiency differ considerably across legal families. Common law countries offer on average superior protection to investors and have relatively fast court systems, whereas countries with a French civil law tradition offer relatively poor protection to investors and have formalistic procedures. Countries with a Germanic civil code tradition and Scandinavian nations are standing in the middle (La Porta et al. 1997, 1998).

2.1. Domestic and Foreign Private Investment

A direct negative consequence of a dysfunctional judicial process is to lower external finance. In countries with poor investor protection and slow judicial practices, stock markets are, on average, less developed and less liquid, bank credit is constrained, and loans come with shorter maturities and higher interest rates.[5] Firm size is also inversely related to the quality of the legal system, as inefficient legislation and court delays impede firms form growing (Demirgüç-Kunt and Maksimovic 1998; Laeven and Woodruff 2007). As finance is a "nexus of incomplete contracts" (Shleifer and Vishny 1997) a well-functioning legal and court system is needed to quickly and efficiently resolve disputes that may emerge. High interest costs and frictions in external finance are particularly harmful for young entrepreneurs who usually lack the necessary capital or collateral to obtain a loan.[6] Research shows that venture capital investment is low in countries with slow and inefficient courts.[7] In line with this evidence, there are few private equity and venture capital firms in Greece.

Poor investor protection and slow judicial practices are key impediments to foreign investors, who usually lack the necessary connections to bypass the hurdles. Empirical work shows that the quality of legal institutions is more important for attracting foreign capital, than education, infrastructure, and market size (e.g., Alfaro, Kalemli-Ozcan, and Volosovyc 2008; Papaioannou 2009). In line with this body of research, there has been little foreign direct

[5] See Bae and Vidhan (2009) and Laeven and Majinoni (2005). Jappeli, Pagano, and Bianco (2005) show that in Italian provinces with longer trials and large backlogs, bank credit is less widely available than elsewhere. International evidence shows that the depth of mortgage markets is inversely related to costs of mortgage foreclosures and other proxies for judicial inefficiency. Lilienfeld-Toal, Mookherjee and Visaria (2012) show theoretically that if credit supply is inelastic, then improving creditor protection will expand bank credit disproportionally in large firms (as their collateral has higher value) as compared to small firms. Using firm level panel data, they show that an Indian judicial reform that increased banks' ability to recover nonperforming loans had such an impact.

[6] See Claessens and Laeven (2003), Ardagna and Lusardi (2008), and Ciccone and Papaioannou (2007).

[7] See, among others, Lerner and Schoar (2005) and Desai, Gombers, and Lerner (2007).

investment in Greece over the past years, and in the few instances of large foreign investment deals, there were local middlemen who facilitated the process, helping foreign investors bypass red tape and deal with the necessary permits and licenses.

2.2. Entrepreneurship, Trade, and Creative Destruction

The high cost of capital is particularly harmful for entrepreneurship and employment in high-tech skill-intensive sectors that usually lack collateral and thus depend strongly on external sources of finance (Rajan and Zingales 1998). It is also harmful for productivity growth because it prevents the economy from re-allocating quickly productive resources toward sectors with high potential (Ciccone and Papaioannou 2006, 2007; Fisman and Love 2007). Ciccone and Papaioannou (2006, 2007) develop a multi-sector multi-country general equilibrium model in which legal inefficiency and other frictions to financial intermediation impede new investment in sectors with globally expanding demand, such as biotechnology, information technology, and energy. Thus the economy is stuck in traditional sectors that face increasing global competition from low-labor cost producers. Moreover the limited reallocation that takes place— is driven by incumbents who, via connections, bypass legal barriers and obtain cheaper finance. This in turn leads to less innovation, higher prices (inflation), and lower quality goods. Both features seem to apply to Greece. Greek banks during the booming years financed traditional sectors, such as real estate, government agencies (and parties), and utilities and there was little—if any—financing of high-tech sectors. Most lending was directed to incumbents, and usually in the oligopolistic sectors.

The frictions that emerge from the inefficient legal system are especially harmful for exports (e.g., Nunn 2007; Levchenko 2007). In line with the established link between legal

efficiency and success on global export markets, Greek exports have been a small percent of GDP. And during the boom years (1995 to 2007) Greek banks allocated few funds to export-oriented firms.

2.3. Corruption

Legal inefficiency goes in tandem with corruption. Obscure legislation allows bureaucrats, administrators, and even judges to accept illegal payments. Only a small fraction of allegations end up in courts, and when this happens, loopholes and never-ending procedures allow corrupt officials to escape imprisonment. This fuels people's perception of injustice, destroys civic capital, and lowers trust. Conflicting laws and numerous entry barriers fuel a decentralized system of corruption, where entrepreneurs have to bribe numerous bureaucrats, and administrators. Decentralized corruption is more harmful than centralized corruption systems (Shleifer and Vishny 1993). Greece fits this paradigm well.

2.4. Inequality

The negative effects of injustice go well beyond economic efficiency. Theoretical work and case studies reveal that legal inefficiency is associated with increased inequality. Loopholes, legal uncertainty, and a slow judicial process allow the elite and their political cronies to escape the law (by buying judges and politicians). A Greek prosecutor eloquently summarized the situation: "*Who is in jail in Greece? The poor and those who lack connections*."[8] Moreover the numerous legal and civil procedure formalities impede entrepreneurial activity, magnifying income

[8] This expression is attributed to Mr. Vasilios Floridis. "Στην Ελλάδα ποιος είναι φυλακή; Οι φτωχοί και όσοι δεν έχουν ισχυρές διασυνδέσεις" (Kathimerini, March 6, 2011).

inequality. Therefore legal inefficiency leads to the worst type of inequality, the one emerging from lack of opportunity (e.g., Glaeser, Scheinkman, and Shleifer 2003).

3 The Greek Legal System: A Comparative Assessment

In this section we provide an analysis of the Greek legal system using comparative indicators reflecting the formalism, quality, and speed of the resolution mechanisms using cross-country data from World Bank's *Doing Business Project* and the 2014 and 2016 European Justice Scoreboard (European Commission 2014, 2016).[9].

3.1 Investor Protection

In table 1 we report Greece's score on (*de jure*) indexes measuring how well the legal system protects investors. We report these indexes for 2008 (in panel a), just before the crisis started, 2012 (panel b), and 2015 (panel c). The indexes for 2008 and 2012 are not fully comparable to the 2015 one as the World Bank has changed is methodology for measuring investor protection. For comparability the table reports the mean values across the world (excluding Greece), the eurozone (excluding Greece), and the four World Bank income groups.

[9] The 2016 European Justice Scoreboard was released in April 2016, when this chapter was being completed. Thus our analysis of the available data is preliminary.

Table 1 Investor Protection

		Shareholders rights				Creditors rights
	Obs.	Composite index (1)	Disclosure index (2)	Anti-director (3)	Suits rights (4)	Legal rights (5)
			Panel a: 2008			
Greece		3	1	3	5	4
World (excl. GRC)	211	4.86	4.89	4.17	5.54	5.22
Euro area	18	5.65	5.88	4.75	6.31	6.13
High income	66	5.80	5.78	5.35	6.27	6.33
Upper mid. income	55	4.94	4.83	4.44	5.58	5.29
Lower mid. income	61	4.23	4.16	3.33	5.22	4.69
Low income	29	3.91	4.54	2.75	4.43	3.64
			Panel b: 2012			
Greece		3.3	1	4	5	4
World (excl. GRC)	211	5.11	5.22	4.49	5.63	5.846
Euro area	18	5.75	5.94	4.83	6.44	6.056
High income	66	5.85	5.88	5.34	6.33	6.500
Upper mid. income	55	5.38	5.27	5.19	5.67	5.542
Lower mid. income	61	4.51	4.57	3.54	5.43	5.542
Low income	29	4.18	4.96	3.18	4.39	5.571
			Panel c: 2015			
Greece		6.2	7	4	5	3
World (excl. GRC)	211	5.28	5.72	4.70	6.09	5.262
Euro area	18	6.10	6.06	4.89	6.72	4.944
High income	66	5.98	6.11	5.49	6.92	5.446
Upper mid. income	55	5.36	5.75	5.13	5.87	5.145
Lower mid. income	61	5.02	5.44	4.18	5.84	5.145
Low income	29	4.07	5.38	3.17	5.10	5.310

Source: World Bank Doing Business Project

Shareholder Protection

The shareholder protection index (column 1 in table 12.1) measures the "strength of minority shareholder protection against directors' misuse of corporate assets for personal gain." It captures three characteristics:

1. Transparency of related-party transactions (disclosure rights, column 2).
2. Liability of managers, directors, and dominant shareholders for self-dealing transactions (director liability, column 3).
3. Ability of non-controlling shareholders to sue officers and directors for misconduct (shareholder suits, column 4).

All measures range from 0 to 10, where higher values indicate a better legal environment protecting shareholders.

In 2008 Greece scored 3.0 on the composite index of shareholder protection, ranking 170 out of 211 countries (world average was 4.86). Greece had the lowest score among all EZ countries and scored considerably lower than the other crisis-hit countries in the European periphery. Greece's score was lower than even that of the low-income group of countries (consisting mainly of young democracies and autocracies in Africa and Asia). Greece's score was particularly low on disclosure requirements for related-party transactions. That problem became more apparent during the crisis, as reflected by the charges filed by criminal prosecutors against many influential business people and bank managers for related-party transactions and tunneling activities. An example is the collapse of Proton Bank. According to the reports by the bank regulator (Bank of Greece) and the prosecution, close to 700 million euros were lent to

firms related to the bank's main shareholder without any disclosure and without any internal controls. The government had to bail out Proton Bank at a cost exceeding one billion euros.

Greece's ranking improved considerably during the crisis thanks to a series of reforms in the period 2010 to 2014. In 2015 Greece ranked 47 on the revised index of shareholder protection, a noteworthy improvement. The improvement was limited during the initial crisis years (table 1, panel b) but more rapid in later years (table 1, panel c). Greece has improved the legal tools that shareholders can employ to defend themselves against expropriation by directors and managers. At the same time, no major reform has taken place on raising disclosure requirements from company insiders regarding self-dealing transactions.

Creditors' Rights and Bankruptcy

The creditor protection index (column 5 in table 1) measures the "degree to which collateral and bankruptcy laws protect the rights of borrowers and lenders." In 2008 Greece's score on the creditor rights index was 4. This placed the country at the 97th position.

Greece's poor performance on protecting creditors can be seen more directly by looking at measures related to insolvency. As figure 3a shows, a typical insolvency in Greece in 2008 was expected to take two years, the highest across EZ member counties at the time (Latvia, Lithuania, and Slovakia had not joined the eurozone). As figure 3b shows, the recovery rate for creditors was less than 50 cents on the euro, again the lowest (with Luxembourg) across the eurozone at the time.[10]

Potamitis (2014) eloquently summarizes the Greek public's perception of Greek insolvency laws: "insolvency and recovery proceedings betray a stunning lack of purpose

[10] Djankov, Hart, McLiesh, and Shleifer (2008) analyze bankruptcy practices in 88 countries. They find a strong association between best practices and income per capita.

combined with excessive formalism: Bankruptcy is so complex and involves so many players (many of whom lack valuable claims) that it ends up as a black hole where whatever goes in nearly never comes out. The procedural complexity of pre-insolvency proceedings entails tremendous delays. Procedural protections are easily abused by holdouts thereby frustrating the statutory goal of encouraging pre-insolvency turnarounds" (see also Potamitis and Psaltis 2013; Potamitis and Rokas 2012).

Despite various amendments to the insolvency code over the past few years, the situation remains unsatisfactory. In 2015 a typical insolvency in Greece was expected to take 3.5 years, almost double the time in 2008. Moreover the process has become less efficient, as the estimated recovery rates have fallen to 34.9 cents on the euro, the lowest among all 19 EZ countries. The combination of "zombie" firms with undercapitalized banks impedes creative destruction and the reshuffling of capital and labor to young, innovative firms.

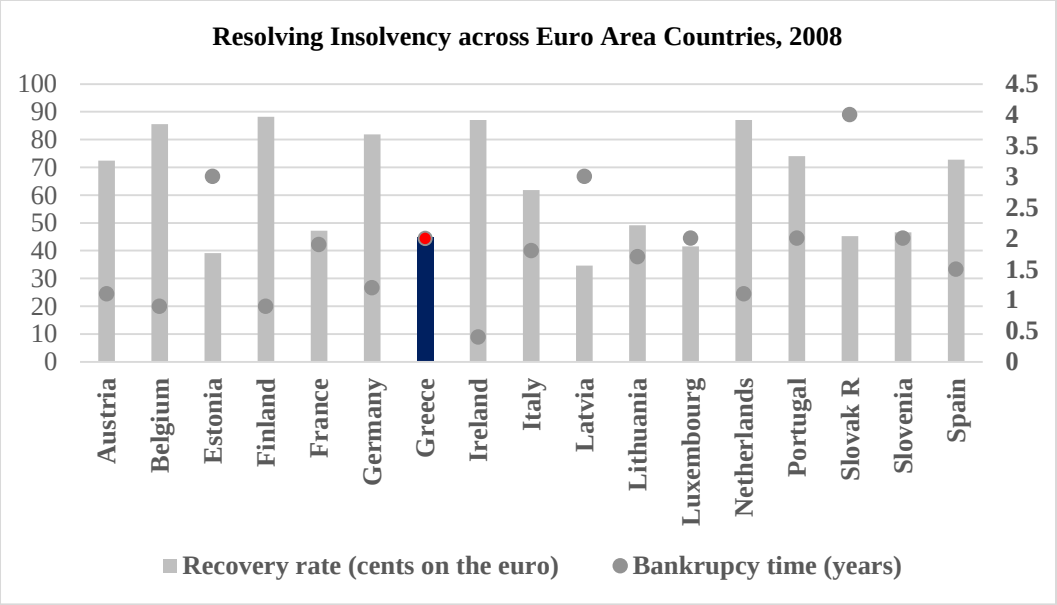

Figure 3a. Insolvency across Euroarea Member Countries in 2008

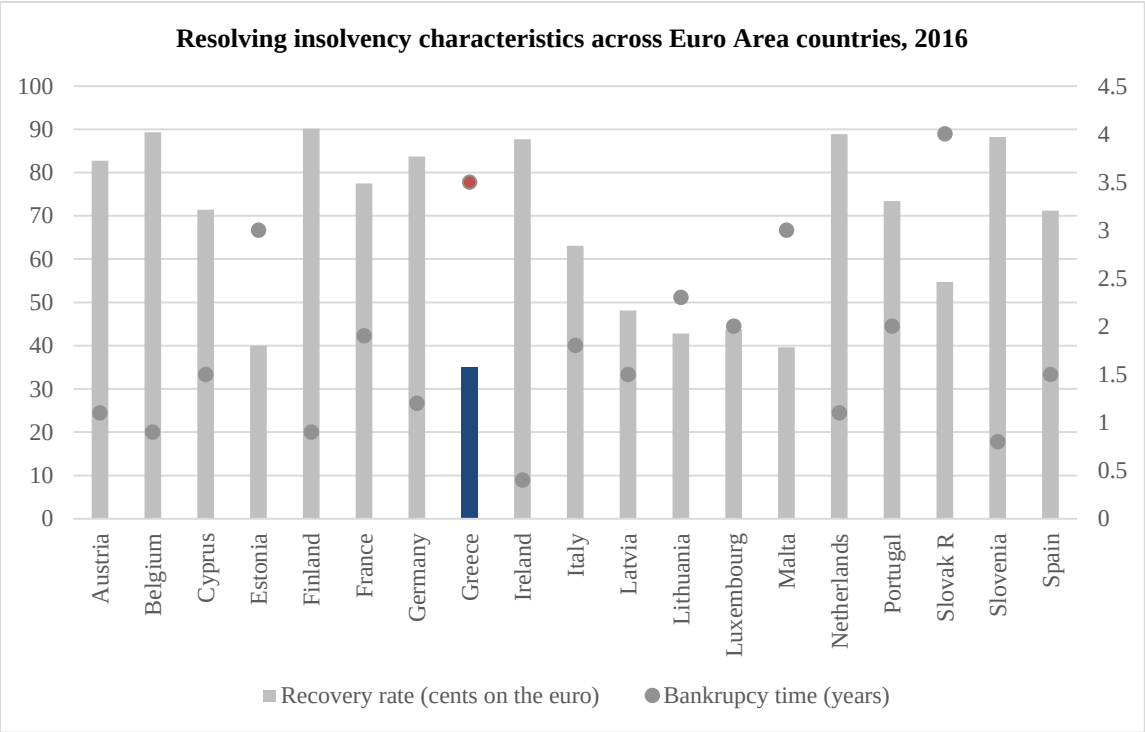

Figure 3b. Insolvency across Euroarea Member Countries in 2016

3.2. Legal Enforcement

A further key feature of legal systems is court efficiency.[11] In table 2 we compare Greece to other countries on three aspects of contract enforcement: the number of days it takes to file a claim, obtain judgment, and enforce it (column 1), the number of steps that are required (column 2), and the attorney, court and enforcement costs as a share of the claim value (column 3) for a dispute regarding a commercial claim that equals 200 percent of per capita GDP (approximately 40,000 to 50,000 euros for Greece). As before, we report data for 2008, 2012, and 2015.

[11] Using firm-level data from 27 European countries in 2002 and 2005, Safavian and Sharma (2007) find that creditor-friendly laws increase firms' bank financing only in countries with efficient courts. Likewise Ponticelli (2013) finds that in Brazil bankruptcy reform increased access to finance only in areas with efficient courts.

Table 2 Court Efficiency

		Contract enforcement		
	Obs.	Calendar days	Procedures	Cost (% claim)
		Panel a: 2008		
Greece		819	39	14.40
World (exc. GRC)	211	619.64	37.48	34.59
Euro area (excl. GRC)	18	525.13	31.19	18.61
High income (excl. GRC)	66	512.15	34.78	20.97
Upper middle income	55	626.46	37.96	29.90
Lower middle income	61	697.59	38.98	40.45
Low income	29	687.39	39.57	62.19
		Panel b: 2012		
Greece		1,100	39	14.4
World (exc. GRC)	211	621.86	37.47	34.95
Euro area (excl. GRC)	18	555.94	31.72	20.46
High income (excl. GRC)	66	539.71	34.75	21.71
Upper middle income	55	617.81	37.73	29.80
Lower middle income	61	687.70	39.31	40.88
Low income	29	678.04	39.29	62.41
		Panel c: 2016		
Greece		1,580		14.4
World (exc. GRC)	211	631.13		34.44
Euro area (excl. GRC)	18	579.28		20.21
High income (excl. GRC)	66	532.89		22.19
Upper middle income	55	609.92		29.36
Lower middle income	61	742.84		43.79
Low income	29	659.97		52.27

Source: World Bank Doing Business Project

In 2008 it took more than two years to resolve a relatively straightforward dispute (819 days) that, on average, the rest of the world resolved in 620 days. The comparison with other EZ countries was even starker, as there plaintiffs needed 507 days. Court delays were sizable in other European crisis-hit countries (around 500 days in Ireland, Spain, and Portugal) and especially in Italy (1,000 days). Legal formalism, as reflected in the number of steps required to enforce a simple contract, was similar in Greece as in other countries (39) though somewhat higher than the EZ average (31.5).

Sadly and despite some incremental steps in speeding the process, things have become worse during the crisis (table 2, panels b and c). The latest World Bank data suggest that the resolution time for a simple dispute was approximately 1,580 days at the end of 2015, more than twice the world average (631 days) and almost three times more than in the high-income group of countries (532 days).

We can further explore how Greece compares with other countries on the disposition time of court cases using information from the European Justice Scoreboard (EJS 2013), which reports various statistics on the functioning and resources of court systems across Europe.[12] Table 3, panel a, presents the case disposition time in 2009 to 2010 for various types of disputes. On average, it took roughly 500 days to complete a legal dispute in Greece, while the median value for EU27 was around 150 days. While we lack data for Greece for 2014 and 2015, things seem to have been worsening over time, since in 2012, the time needed to resolve disputes increased to 700. The differences are especially pronounced on administrative courts, as it takes years to resolve cases.

[12] The European Commission has released the 2014 edition of the European Justice Scoreboard. There are no major differences relative to the 2013 edition. Where there are differences, we note them.

Table 3, panel b, sheds some light on this increase. The clearance rate in Greek courts is low (around 0.8 and in some cases even lower), thus over time the workload of Greek courts gets higher as new cases add to the stock of former pending cases.

Table 3 Case Disposition Time

	First instance			Second instance		
	Total	Civil and commercial litigation	Administ. law	Total	Civil and commercial litigation	Administ. law
			Panel A: Case disposition time (in days)			
Greece	510	190	2003	520	298	1048
EU27 (median)	147	216	205	156	206	362
			Panel B: Case clearance rate (in days)			
Greece	0.79	0.79	0.80	0.74	0.78	0.66
EU27 (median)	1.00	1.00	1.00	1.00	1.00	1.00

Source: European Justice Scoreboard (2013)

In figure 4a and b we tabulate incoming and pending litigation cases in civil courts and administrative courts in the early crisis years. The numbers are significantly larger than the EZ average. The big difference is in the number of pending cases in administrative courts, which is four to five times larger than in other EZ countries. The various reports of the EJS suggest that across the European Union the conditions in administrative courts are the worst in Greece, alongside Malta and Cyprus. According to the latest (2016) EJS, the backlog in Greece's administrative courts is the highest among all EZ countries. EJS (2016) reports that 3.1 cases per

100 inhabitants were pending in Greek administrative courts in the end of 2014, compared to approximately 1 in Cyprus, 0.4 in Spain, Netherlands, and Finland, and 0.8 in Germany.

There are many factors behind the severe delays in administrative courts. First, there is no alternative to litigation. Second, until very recently, similar tax disputes (of the same individual/firm) occurring in different fiscal years had to be the subject of separate claims requiring separate hearings. Third, legislation, especially regarding taxation, keeps changing and often tax authorities are uncertain about the law that applies to each case. Fourth, the constant change of ministers and key administrators makes executive orders problematic, either because of inconsistencies (e.g., contradicting legislation) or because of improper staffing. Fifth, as the law on public contracts is complex, formalistic, and without clear guidelines, firms often challenge the decisions of the contracting authority (Bernitsas 2014). Sixth, public authorities often push firms and individuals to the administrative court system in order to delay payment. Finally, negotiated settlements between state agencies and firms are not allowed, and the interest cost for state agencies (*τόκος υπερημερίας*) is smaller than the actual time value for money.

The problem in administrative courts is so severe that the Council of Europe and the European Court of Human Rights have roundly condemned Greek authorities for the massive delays. The Committee of Ministers of the Council of Europe argued in 2007 that there has been a persistent violation of human rights on account of court delays and the absence of any remedy against them. In unusually undiplomatic language the Committee spoke of the "gravity of the systemic problem at the basis of the violations" of the right to a fair trial. Three years later the European Court of Human Rights issued another resounding condemnation.[13] The problem is even more general, as Greece has been found by international judicial bodies to violate human

[13] Vassilios Athanasiou et Autres c. Grèce, Requête no 50973/08, Judgment of 21.12.2010.

rights in other areas such as asylum and abuses of immigrants. Things became worse with the crisis as the constant strikes of lawyers, attorneys, and notaries contributed to the delays. There have even been rumors that opposing salary cuts, judges were also on a "silent strike."

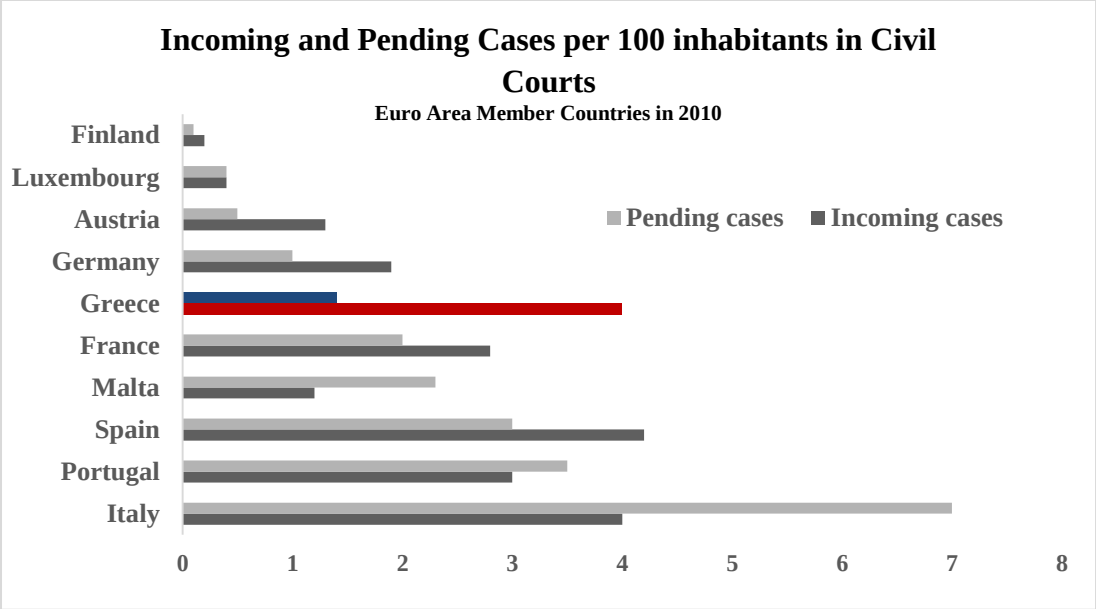

Figure 4a. Conditions in Civil Courts, 2010

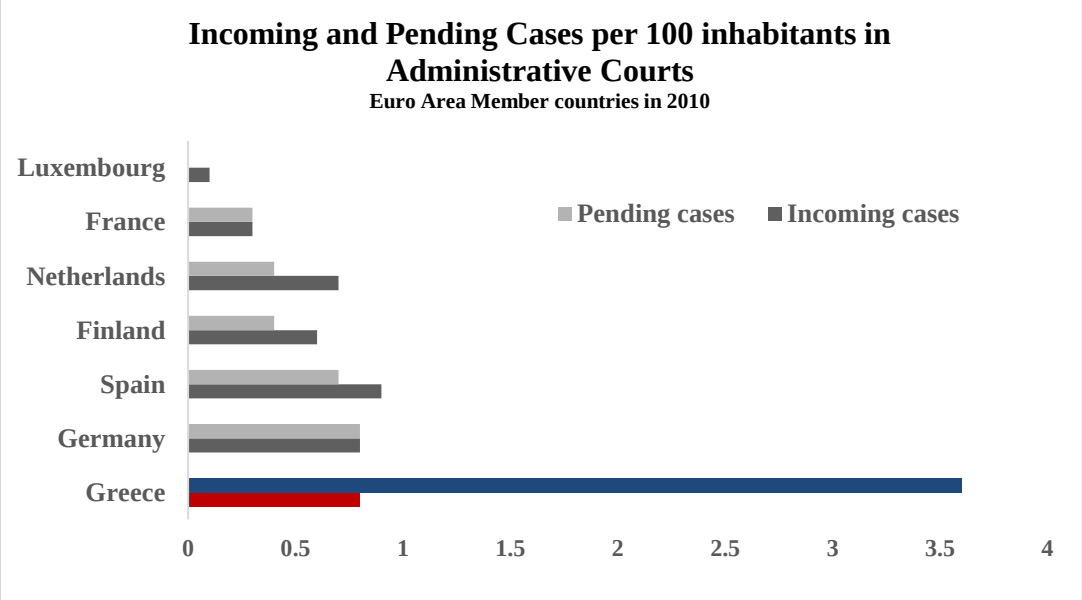

Figure 4b. Conditions in Administrative Courts, 2010

The inefficiency and delays of the Greek justice system are also manifest on issues related to competition, antitrust, dominant position, and market power abuse. The latest EJS (2016) suggests that average delays over 2012, 2013, and 2014 have exceeded 1,000 days, double the time in other EU jurisdictions. The 2016 statistics further suggest that the average length of judicial review cases against decisions of national competition authorities is the highest in Greece, Denmark, and the Czech Republic, among all EU jurisdictions.

3.3 Resources and Efficiency

We next review the resources made available to Greek courts to understand whether the long delays reflect lack of financing and personnel or whether the problem stems from low productivity, arising from the misallocation of resources, mismanagement, lack of incentives, and so on.

Expenditure

Figure 5a and b plots the total budgeted amounts allocated to all courts in Greece and other EU countries in 2010 in per capita terms and as a share of total public expenditure, respectively. Greece spent 454,066,828 euros. (This amount does not include the cost of public prosecutions or legal aid.) The average expenditure per capita in Greece is 40.1 euros, similar to the EU27 average (median) of 41.7 euros (39.6 euros).

However, an independent report of the European Commission for the Efficiency of Justice (CEPEJ), commissioned by the Council of Europe, which employs a broader definition of expenditures that includes expenses on public prosecution, legal aid, and the costs of the Court of Auditors (*Ελεγκτικό Συνέδριο*), suggests that the Greek justice system was relatively

underfinanced. According to their 2010 estimates, the total annual approved public budget for the Greek justice system that year was 632,472,911 euros. This amount is somewhat smaller than that of Portugal (700 million euros) and significantly smaller than that of Belgium (935million euros), countries with populations similar to Greece. If one was to include the budget allocated to the prison system, the total budget increases to 715 million euros for Greece—but Belgium's budget doubles to 1.8 billion euros and Portugal's budget more than doubles to 1.7 billion euros.[14]

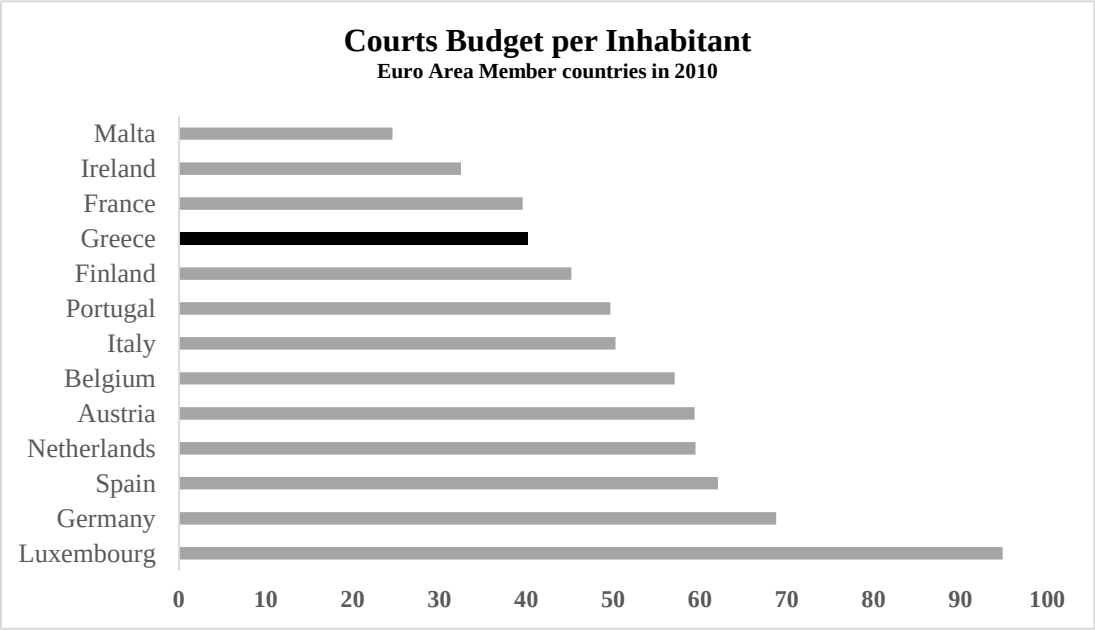

Figure 6a. Courts Budget per Inhabitant, 2010

[14] Those comparisons should be interpreted with caution, as data for Greece are missing for various categories.

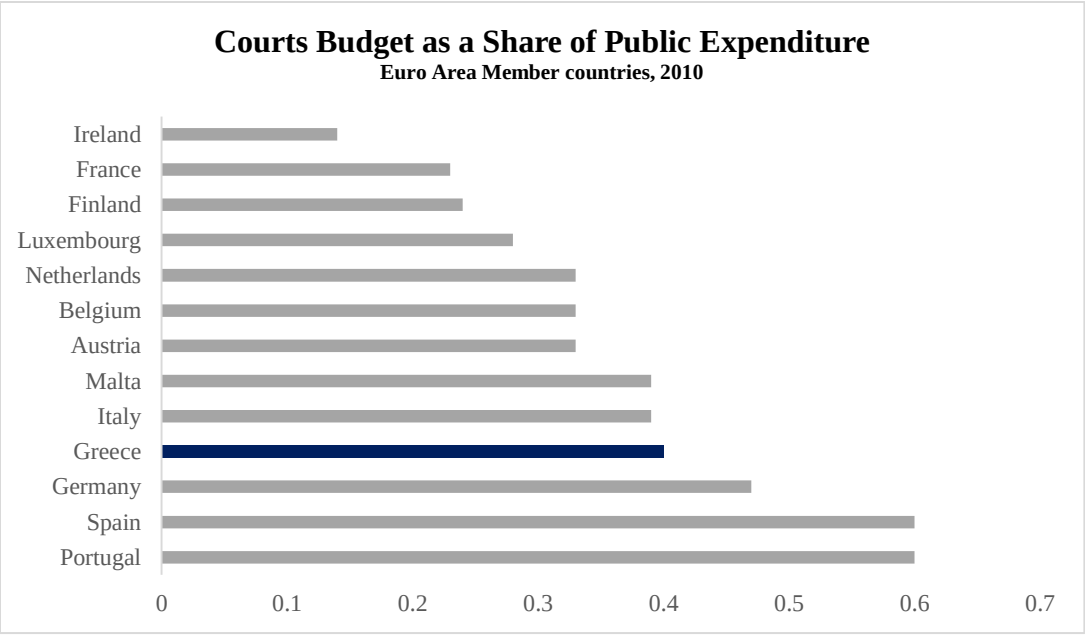

Figure 6b. Courts Budget (Public Expenditure Share), 2010

The two sources above point out that relative to the other countries, courts in Greece may be moderately underfinanced. While the extent of underfinancing is not severe, it is the allocation of funds that is particularly problematic. The Greek budget is almost exclusively spent on salaries, and there are minimal funds for maintenance, new infrastructure, investment in information technology, and so on. According to the CEPEJ report, the ratio of salaries to overall expenditure of the court system across 29 European states is 66.1 percent, but this ratio in Greece is 95.9.

Employment

There are three types of court personnel across most jurisdictions: full-time professional judges as well as magistrate judges, other judge-like personnel who perform judicial duties, and judicial clerks and assistants (paralegals, interns, secretaries, etc.). We now examine how the Greek justice system compares to other EU systems on these three categories.

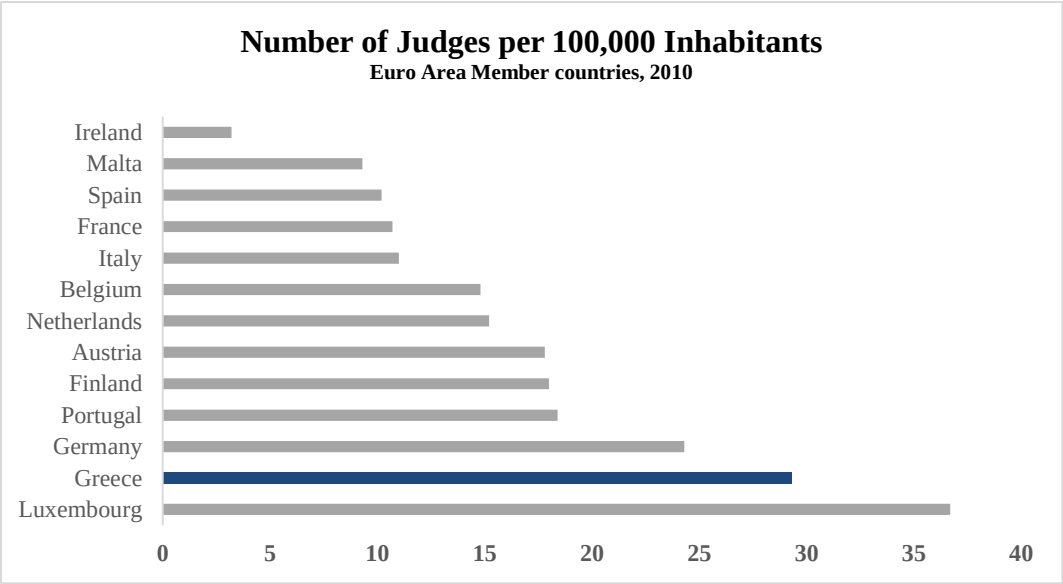

Figure 6a. Judges, 2010

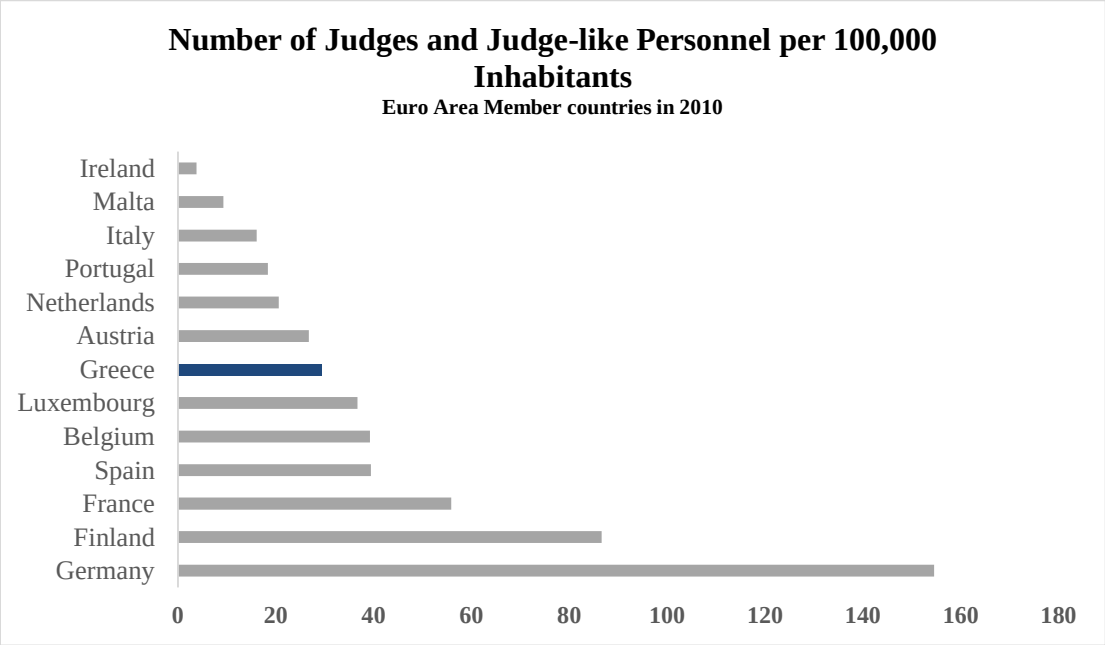

Figure 6b. Judges and Judge-Like Personnel, 2010

Figure 6a illustrates that in 2010 Greece had 29.3 full-time professional judges per 100,000 inhabitants. With the exception of Luxembourg, this was the highest number across the

European Union, where the average (median) was 18.9 (17.9).[15] Greece's ranking reverses when other judge-like personnel such as "professional judges sitting in courts on an occasional basis, non-professional judges, and Rechtspfleger for countries (such as Germany and Austria) which have such a category" are added.[16] Because Greece has only full-time judges, it falls below the EU average, as shown in figure 6b. In 2010 Greece had 29.3 judges and judge-like personnel per 100,000 inhabitants (same as the number of full-time professional judges), while the mean (median) for the European Union was 45.6 (29.8)

In 2010 Greece had 89 judicial clerks per 100,000 inhabitants in Greece. This is similar to the EU mean and median. Greece appears to be significantly under-resourced in the personnel assisting judges (paralegals, interns, secretaries).

Salaries

In figure 7 we examine the pay of Greek judges as compared to their colleagues in the European Union. Both plots show the ratio of first instance professional judges' salary to the average gross annual salary (across all occupations) Greek judges are among the lowest paid in the European Union. A similar picture emerges from the CEPEJ report that compares entry-level salaries and salaries at the Supreme Court. The 2010 report puts the gross pay of first-instance Greek judges at 33,000 euros. For comparison, the pay of first-instance judges in Belgium is 62,367 euros, in Austria 47,713 euros, in Cyprus 71,000 euros, in France 41,000 euros, in Italy 50,290 euros, in Portugal 36,000 euros, and in Spain 47,500 euros (see Appendix Table 1).

[15] The number of judges has declined over the last few years, as there have not been new appointments. The 2016 European Justice Scoreboard reports that in Greece the number of judges per 100,000 inhabitants was 20, which is close to the EU average.
[16] Fifteen European countries have a Rechtspfleger system (or a system operating with staff having powers and status close to the Rechtspfleger): Andorra, Austria, Bosnia and Herzegovina, Croatia, Czech Republic, Denmark, Estonia, Germany, Hungary, Ireland, Poland, Slovakia, Slovenia, and Spain.

Figure 7a. Judges' Relative Wages, 2010

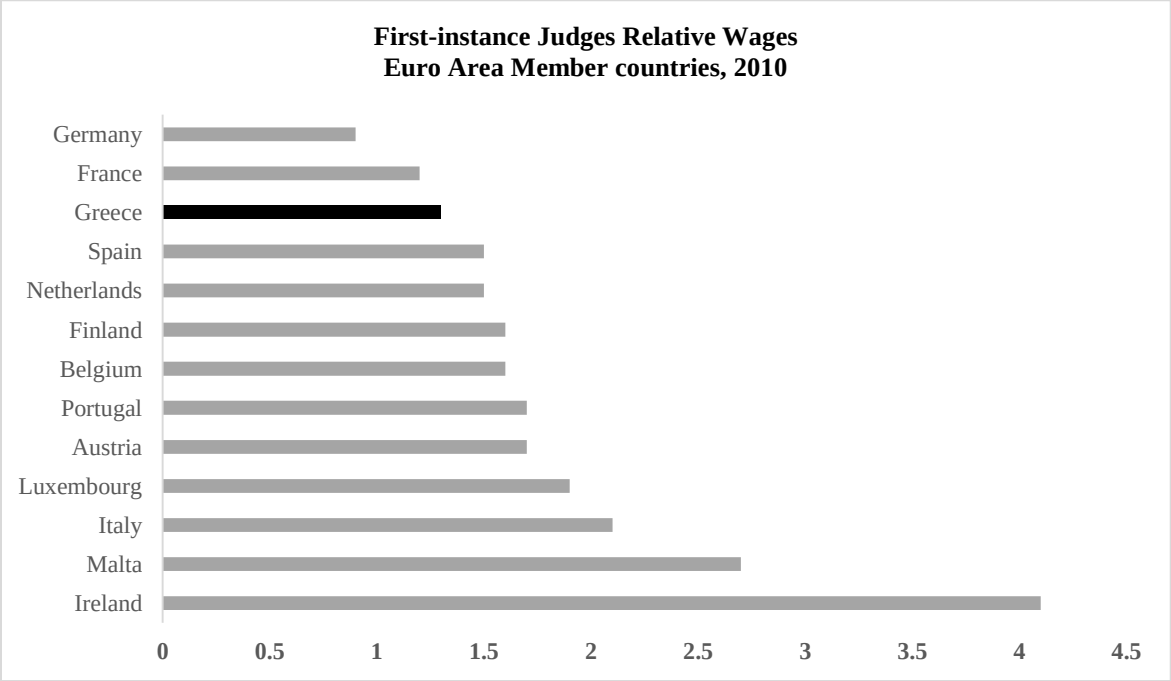

Figure 6b. Judges Relative Wages, 2010

Since salaries (and special allowances) were cut considerably in 2011 and 2012, Greek judges were still among the lowest paid across the European Union. In particular the base monthly salary for a newly appointed judge was reduced from 2,067 euros in 2008 to 1,778 in 2013.[17] The two main supplementary allowances (library allowance, *επίδομα βιβλιοθήκης*, and allowance for presiding, *παραμονής στην έδρα*) fell from approximately by 500 and 650 euros to 420 and 460 euros, respectively, lowering the overall compensation by 10 percent (from approximately 3,200–3,300 to 2,600 euros). The annual pay cut was larger as the special allowance for Christmas, Easter, and vacation was almost eliminated for all public sector employees. As appendix table 1shows, the salary cuts for senior judges were even more pronounced. The base salary for judges sitting in the three supreme courts dropped by 1,000 euros, while allowances fell by 500 euros.[18]

Infrastructure

While the European Justice Scoreboard does not provide information on infrastructure expenses, there are estimates of such expenses in the CEPEJ report. The budget allocated to the maintenance of court buildings in 2010 in Greece was 10,416,000 euros, much smaller than in Belgium where expenses on existing court infrastructure was six times larger at 68,767,000 euros, and Portugal where they were more than three times larger, 38,762,543 euros. The 2010 Greek budget allocated close to 9.4 million euros for new building infrastructure, exactly as much as in Belgium (no data available for Portugal).

[17] This was part of a broader pattern of salary and pension cuts that took place between 2010 and 2015. Contrary to what many believe, the cuts were significantly larger for public sector workers and for pensioners collecting higher benefits.

[18] In 2013 Greek courts (απόφαση 88/2013 του Μισθοδικείου) ruled that the salary cuts of judges during 2011 and 2012 were at odds with the constitutional provision of judicial independence and the parity of the judiciary with the legislature and the executive. The administration passed legislation (4270/2014) returning judges' salaries to the 2008 levels.

ICT (Information, Communications, and Technology)

The European Justice Scoreboard (EJS) reports statistics for ICT infrastructure of courts across the EU, distinguishing between three types:

1. Computer facilities for the work of judges and other legal personnel (word processing, electronic database of jurisprudence, email and Internet connection).
2. Case registration and management systems, such as the case tracking system, court management information system, and financial information system.
3. Systems of electronic communications and information exchange.

For each of these dimensions, the EJS produces a 0–4 index, where higher values indicate a higher degree of computerization. Figure 8a plots the values for Greece in each ICT index and the average values for the eurozone. Greece scores very low across all three dimensions.

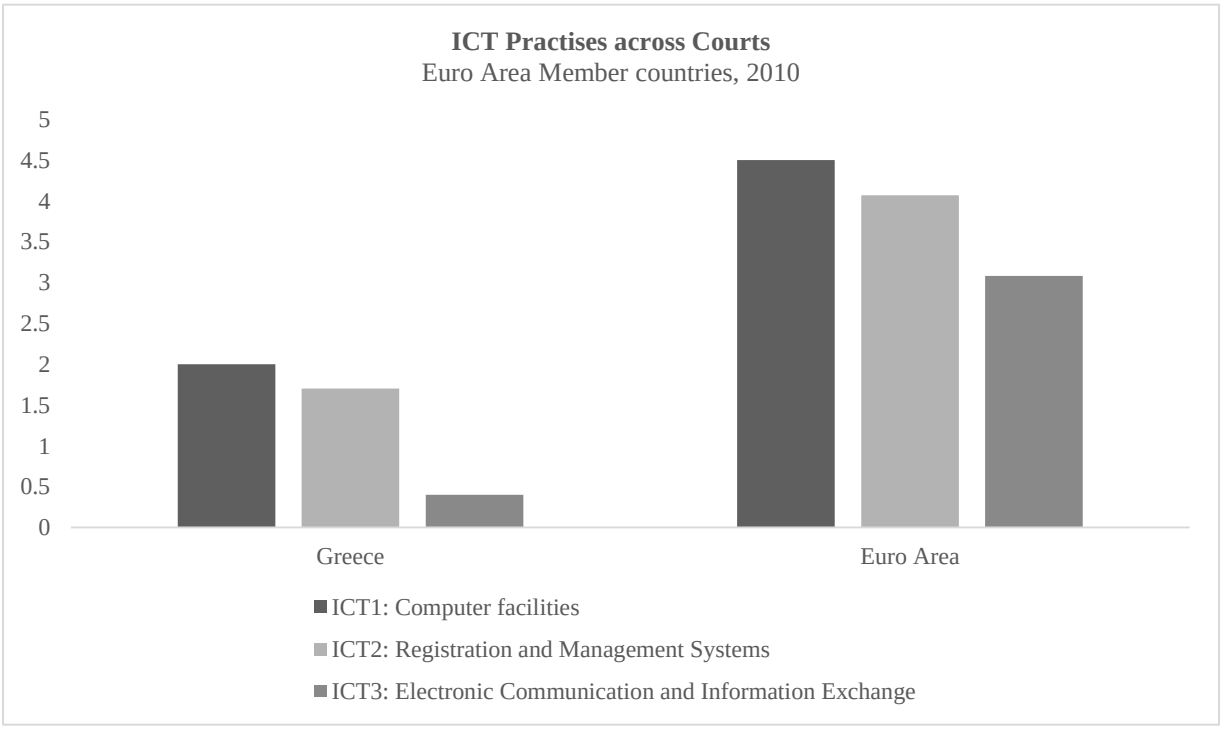

Figure 8a. ICT Practices in Courts, 2010

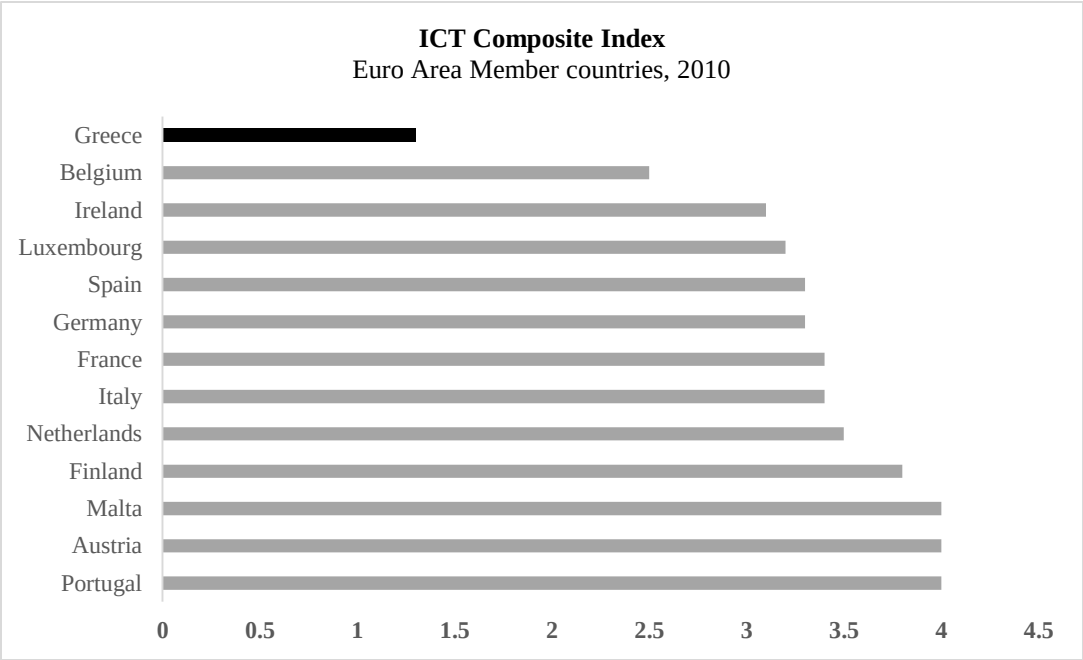

Figure 8b. ICT Composite Index, 2010

Let us start with the computer facilities index. The average score for EZ countries is 4, indicating that in all EZ countries *all* judges have basic computer facilities, such as word processing systems, email, and Internet. The score for Greece is 2, reflecting the fact that in many courts judges do not have basic computer facilities. Greece scores poorly on ICT index for case registration and management (1.7), while the EU27 mean (median), excluding Greece, is 3.6 (4). Whereas the electronic filing, registration, and management of cases is a common practice across all EU countries, it is almost absent in Greece. For example in the Second-Instance Administrative Court of Piraeus records and case registration are kept in handwritten catalogs. Although five years have passed since the initiation of the e-Justice system, Greece still scores the lowest (with Belgium) across all EU countries on an index of electronic submission of claims (European Justice Scoreboard 2016). Greece scores very low (0.4 as compared to a mean value

of 2.8 for the EU27) also on the third dimension of computerization that captures electronic communications and information exchange between the courts and related agencies.

Figure 8b illustrates the aggregate picture emerging from a composite index of ICT in the court system that averages the three (sub) indicators. Greece was by far the worst performer across the eurozone. The ICT index for Greece is 1.3, compared with 2.5 for Belgium (where ICT penetration is, relatively speaking, low compared to the other countries).

The poor state of ICT provision in Greece is also revealed by the CEPEJ report that measures computerization in three related areas. As of 2009, Greece had the lowest score across 29 European countries, which included both advanced and developed countries such as Albania, Ukraine, and Turkey. The European average and median was 50, and Greece's score was 20. Greece also scored the lowest among all EU countries in terms of the two European Commission indicators that measure people's electronic online access to judicial decisions as of December 2015. First-instance and appellate courts decisions are not publicly and easily available, while in almost all other countries at least some decisions of the lower courts are available online.

At the beginning of the crisis the political system had not realized the severity of the problem. This is best illustrated by the annual public budget allocated to court computerization, which in 2010 (according the CEPEJ report) was just 330,000 euros. By comparison Belgium allocated 37.5 million euros and Portugal 10.5 million euros. CEPEJ estimates that across 29 European countries in 2010, around 3 percent of the court budget was allocated to computerization. In Greece it was less than 0.1 percent. In 2010 to 2011 the Ministry of Justice initiated the e-Justice system that aimed to bring ICT in courts, speed up the process, and raise accountability. The 2016 EJS suggests that there was a modest improvement, as the supreme courts and the Ministry of Justice did not proceed with the initial reforms.

3.4. Other Features

Specialized Courts and Tribunals

The EJS gives some information on the organizational structure of the justice system. Figure 9a plots the number of first-instance courts per 100,000 inhabitants for Greece (in black bars) and other EZ countries (in gray bars). These statistics reveal that there are more first-instance courts in Greece than in other EU countries: approximately 4 such courts for 100,000 inhabitants in Greece compared with a median of 2 in the European Union.

However, as figure 9b illustrates, Greece scores the lowest in the number of specialized courts. This suggests that a structural deficiency of the Greek court system is the lack of specialized courts, where experienced judges settle similar disputes in a timely fashion.

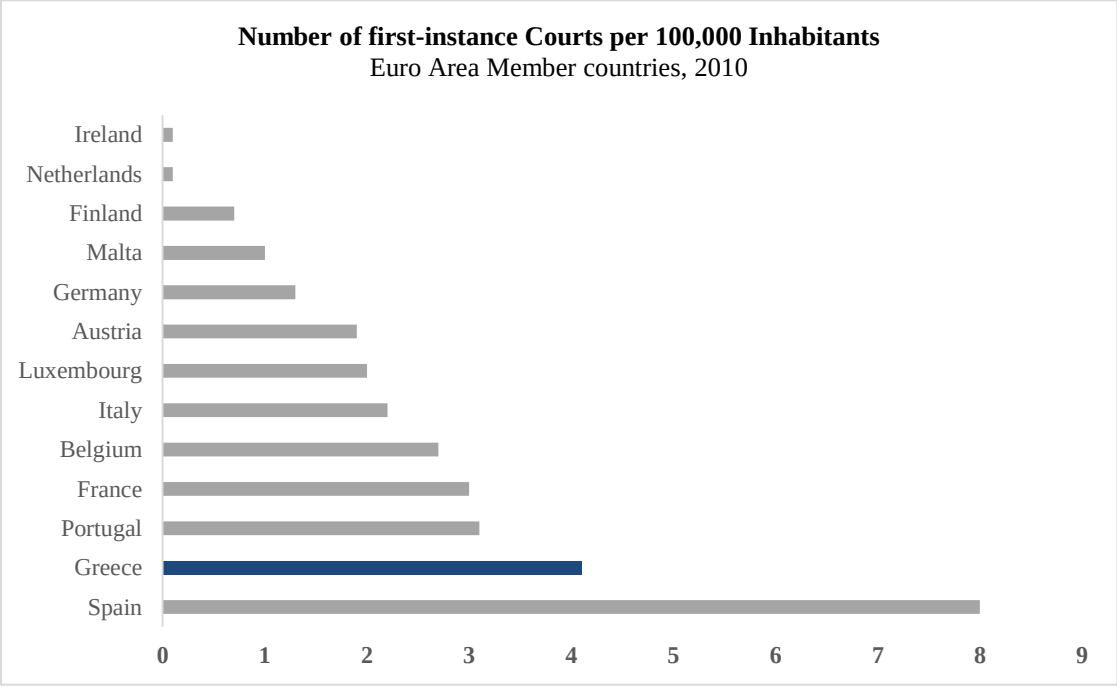

Figure 9a. First-Instance Courts, 2010

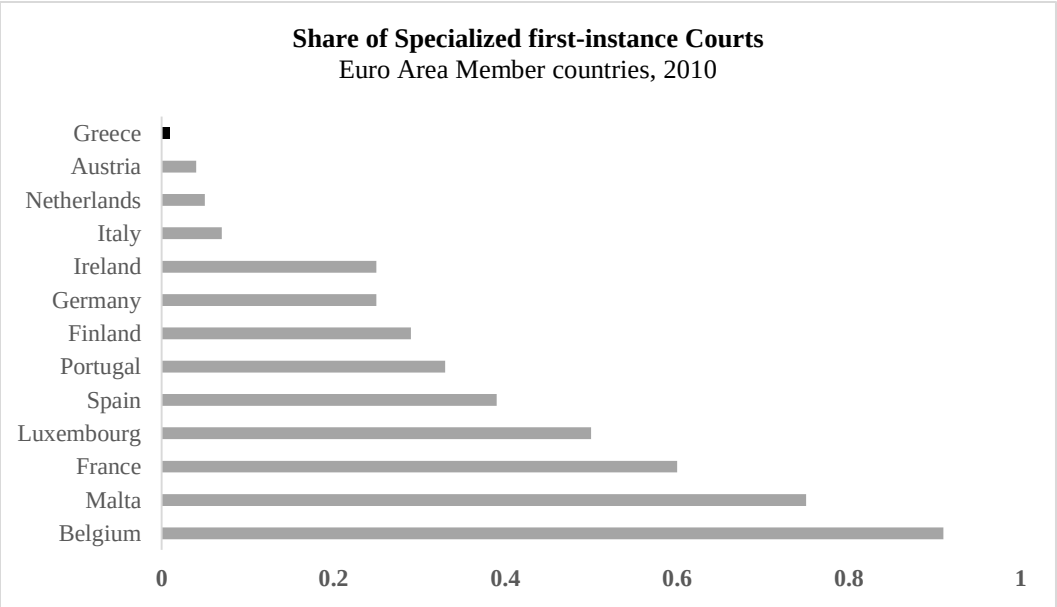

Figure 9b. Share of Specialized First-Instance Courts, 2010

Lawyers

The highly inefficient legal system helps sustain and is sustained by an extremely high number of practicing lawyers (attorneys). According to Pagliero and Timmons (2012) there were 3.389 lawyers per 1000 inhabitants in Greece in 2008, and this was the second-highest ratio in the European Union after Italy (3.574). The EU average was 1.935. Greece also had the highest ratio of legal professionals (3.761) in the European Union, followed by Luxembourg and Italy.[19] The estimates of the EJS are similar (figure 12.10). As of 2010 (2014), Greece had 370 (388) lawyers per 100,000 inhabitants, compared to the EU average/median of around 230 to 250. See Figure 10.

[19] Pagliero and Timmons (2012) estimate that there were 38,000 lawyers and 42,179 legal professionals in Greece in 2008. For comparison, in Belgium, the Czech Republic, and Portugal (countries with populations similar to that of Greece), the numbers were less than half, 18,686, 12,506, and 14,134, respectively.

The high number of lawyers is sustained partly because of the highly formalistic nature of the legal system. The complexity and obscurity of laws, the constantly changing legislation, the conflicting rulings on similar cases, the lack of bundling of even identical cases, and the court delays, fuel the demand for lawyers.

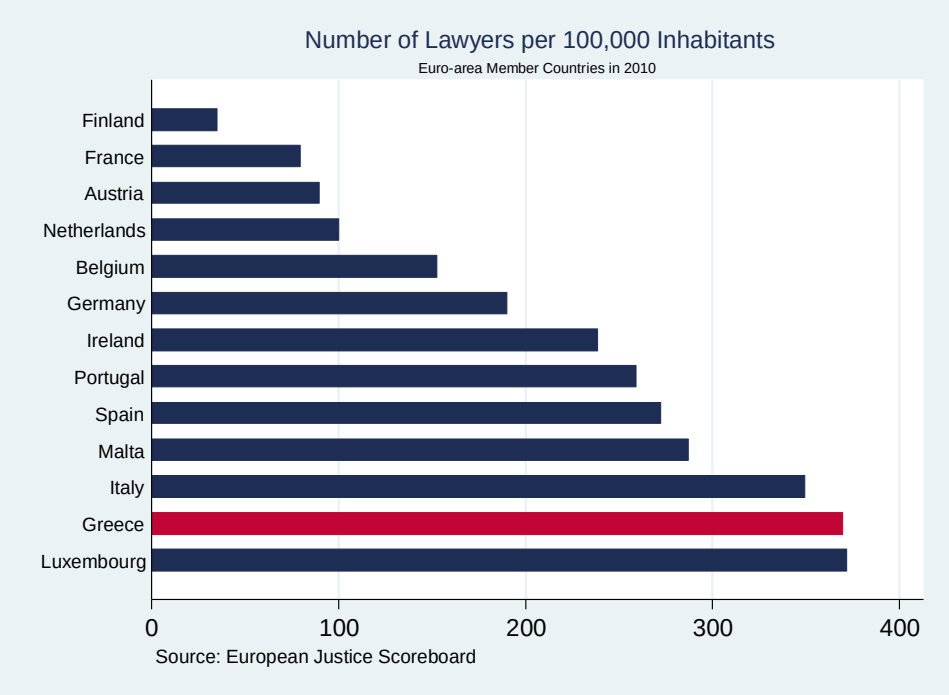

Figure 10. Lawyers per 100,000 Inhabitants, 2010

3.5 Political Economy

One may wonder how such a dysfunctional, inefficient, and unjust system continues to exist in a developed democracy. Why does the political system tolerate such an inefficient branch of government? Why does it not respond with proposals and actions of reform? And don't the people protest against such a dysfunctional system? Unfortunately, the political economy is

unfavorable, as most stakeholders gain from the status quo. The huge case backlog and the absurd formalism help sustain the large number of lawyers. At the same time the complexity of procedures, the labyrinth of constantly changing legislation, and the partial application of precedent allow connected individuals and firms to get around the system (sometimes with the help of connected lawyers and corrupt judicial personnel).

The lack of computerization is beneficial both to judges and prosecutors, as it prevents monitoring, and helps judicial officials conceal misconduct or incompetence. The system is designed in such a way that not even the evaluation and promotion panels, the Supreme Court, or the Ministry of Justice have information on how many times a judge has allowed for adjournments, how many times his/her verdict on first-instance has been overruled by appellate courts, and how long it takes to complete a case. At the same time lawyers gain from the massive delays and lack of computerization by charging for the extra time needed in dealing with paper work and procedure. While there have been a couple of noteworthy efforts to reform, these policies have had moderate (at best) effects. Most important, the key stakeholders (lawyers, judges, clerks) oppose most reforming steps. For example, many opposed even the "model trial" (that helped considerably deal with backlog), and most insiders opposed the small/moderate increase in the cost of appeals. In 2013 to 2014 the whole of the legal profession was on strike, protesting proposed amendments to the Code of Civil Procedure that were aimed at shortening and simplifying civil justice.[20]

[20] The protests were justified, however. Although the proposals were reasonable overall, the one that generated the protests concerned witnesses in standard civil trials being not examined in chief, or cross-examined, unless the judge gave specific directions to that effect. It is questionable if this proposal complies with the right to a free trial and article 6 of the ECHR.

3.6. Summary

First and foremost, the Greek justice system offers poor protection to shareholders and creditors against managerial entrenchment, tunneling, and even outright theft. Second, Greece has steadily become a state without legal protection, and a regime has begun that can be characterized as "institutionalized injustice." The average time to resolve even simple disputes exceeds four years, while many cases have been pending in courts for more than a decade. And despite some incremental reforms, things have worsened as the crisis has further stressed the already dysfunctional system. Third, the Greek justice system is underfinanced, especially when one nets salaries. Fourth, while the number of full-time professional judges per capita is higher than in other European countries, the number of assisting personnel (paralegals, interns, secretaries) appears to be much lower. Fifth, the composition of the body of judges is itself inefficient. For example, there are is large (and growing) number of Supreme Court judges and high-ranked appellate court judges compared to first-instance judges.[21] There are also few specialized courts. Sixth, the use of information technology is by far the lowest in Europe, lowering productivity and accountability. The inefficiencies of the Greek legal system are partly driven from the malfunctioning of public administration. These conditions have led to a sharp reduction in trust. While before the crisis the Greek people trusted the judiciary (compared to the general level of distrust towards the Parliament, political parties, and Europe), trust has plummeted during the crisis. The issue of distrust towards the legal system and other major institutions (e.g., political parties, members of parliament, European Parliament) is crucial, as it relates both to the intensity

[21] See appendix table 2 for the estimates from the 2010 CEPEJ report. With the exception of Monaco, Greece has the highest ratio of Supreme Court judges to total number of judges (13 percent). And in late 2016 the Greek government announced that the number of Supreme Court judges would further increase.

of the economic downturn (e.g., Papaioannou 2011, 2013; Algan et al. 2016) and to the reforming process.

4. Dealing with Case Backlog

Given the crisis, the squeeze on public finances, and the huge backlog of Greek courts, any reform effort must take place under the strain of exceptional fiscal pressures, low morale, and distrust. For these reasons it is unlikely that moderate reforms, such as the ones implemented as of the writing of this chapter, will have significant impact. Only a radical overhaul with long-term strategic aims is likely to have an effect. We believe that the first priority of reform ought to be to clear the case backlog—without compromising the safeguards of a fair trial. In this section we discuss some commonsense proposals to accomplish this. We outline a plan that consists of four steps, and we present an idea for its financing. Our proposals seek to overcome the rigid organization of courts set out by the Greek Constitution—which heavily regulates judges, judicial personnel, and the organization of courts. We try to respect these restrictions, though some may argue that our ideas may fall foul of the highly prescriptive and detailed constitutional provisions on justice. In next section, where we present our proposals for the next Amendment of the Constitution, we argue that particular emphasis should be given to the articles of the Constitution that pertain to the courts, judges, and prosecutors. We need to stress that neither the current nor the previous Greek administrations, and not even the Troika, have dealt with the case backlog. So while our proposal is far from perfect and complete, no alternatives have been offered.

4.1 Recruiting Temporary Magistrates

We believe that the Ministry of Justice should recruit for a three-to-five year period suitably qualified lawyers as temporary magistrates ("justices of the peace," *ειρηνοδίκες*). Recent legislation transferred a sizable portion of cases from first-instance courts to magistrate courts (4055/2012) and anecdotal evidence suggests that this has been beneficial at least in some cases. While the Greek Constitution allows only for full-time permanent judges at higher levels of jurisdiction (article 87 of the Constitution), one could argue that magistrates, who are not trained by the National School of Judges and Prosecutors (Σχολή Δικαστών και Εισαγγελέων), could be exempt from these restrictions. The additional magistrates would be able to process much of the current backlog. After completing their term of office (of 3 to 5 years), these magistrates could either return to private practice or join the judiciary through examinations. (There could be a special procedure/examination for these magistrates entering the School.) Some experts express concerns that such a policy would be deemed "unconstitutional." An alternative option would be to recruit, for a five-year period, lawyers as "judicial assistants." These newly appointed assistants would help judges, by gathering the necessary documents for a case, drafting memos, reviewing legislation, and analyzing precedent.

4.2. Recruiting Retired Judges

Retired appeal judges could be recruited for a fixed term of office to deal with the backlog in appellate courts.[22] Since senior judges retire at age 65 to 67, and since the Constitution explicitly

[22] Senior judges (close to retirement) often perform administrative duties; thus postponing retirement may not be as beneficial as recruiting young lawyers to serve as magistrates or judicial assistants.

recognizes that judges are "*for-life*" (article 88.1), we believe that this proposal does not defile the constitutional prohibition.[23] Retired judges could choose to work on either a full-time or part-time basis; since pensions have fallen considerably, and judges will get paid for their employment (see below for the financing), we believe that a sizable number of retired judges will decide to work at least part-time for some years to complement their income.[24]

If it proves cumbersome to recall retired judges, a (potentially complementary) approach may be to entice judges and prosecutors to continuing their service on a full-time basis for two or more years after their retirement age, with a salary that is significantly higher than the current pension.[25]

4.3. Judicial Overtime

The Ministry of Justice could offer monetary incentives to judges and to assisting personnel for overtime, so that the courts could remain open in the evenings, Saturdays (and even Sunday mornings), or during the summer recess. During these periods, cases that are currently scheduled for 2018 to 2022 could be brought forward.[26]

[23] The MoJ considered this option but the administration decided not to proceed, on the basis that the policy would be ruled unconstitutional.

[24] According to recent legislation, if a retiree gains income from any kind of work, his/her pension is automatically reduced to a sum that is equal to the base salary. Moreover he/she has to pay social security contributions. This provision is a disincentive for judges (and prosecutors) to continue working, and should be changed

[25] The Council of Europe statistics indicate that judges' retirement ages range from 63 years (in Cyprus) to 72 years (in Ireland).

[26] Recently a vocal minority opposed the opening of retail shops on Sundays, so we are aware that this proposal is polemical. Yet we believe that this can be a win-win situation, as judicial clerks and judges can supplement their incomes and many firms and individuals will be helped by their disputes finally reaching settlement.

4.4. Assisting Personnel

It may be necessary to recruit additional assisting personnel. Greek courts are presently understaffed; so judges are in dire need of assisting staff. Given the fiscal constraints and that the Constitution allows only for permanent full-time judicial personnel in courts, it may be possible, in collaboration with the Troika, to recruit a small number of judicial clerks (a similar exemption was wisely granted for personnel for the Supreme Court of Auditors in 2011).

4.5. Financing

To finance these four proposals, we suggest that for a moderate fee an "expedited case process" be created that would offer to plaintiffs the option of moving forward the hearing of their dispute. The fee would be used to cover the pay of court personnel and the recruitment of temporary magistrates (or judicial assistants) and retired judges. A plaintiff, whose case may be currently listed for hearing at a first-instance civil court in mid-2020 could therefore opt to pay a fee of 500 euros (and 1,000 or even more for cases with significant financial stake), so as to bring the hearing forward to some date in a weekend of 2017/8. An alternative plan would be for all parties to share the fee, perhaps agreeing that the losing party will cover it in the end. Since legal costs in Greece are much lower than the average in other EU jurisdictions (see table 2), we think that this special fee will be a reasonable burden.

A constitutional issue may arise here, since the Greek Constitution (rightly) says that justice is free and open to all citizens. It might be argued that the introduction of a fast-track process creates unacceptable inequalities. We disagree. This is an urgent response to a crisis. At the moment justice is unavailable to everyone, so the fundamental constitutional right on access

to justice is actually void. Our proposal would benefit everyone. It would not take away resources from the justice system nor would it delay any individual access to justice. It instead would create additional resources and free up time for ordinary cases as well. The scheme entails also a positive externality; even parties that will not pay the fee to expedite the hearings will gain as the early resolution of the cases where plaintiffs pay the fee, will allow for all cases to be handled faster.

There is also an alternative, complementary, way to finance these reforms. In a draft of this chapter we proposed to finance this scheme using leftover funds from the Hellenic Financial Stability Fund (HFSF) that were earmarked for the banks' recapitalizations in 2012 to 2013. This made sense as many pending cases in civil courts involve the banks and in administrative courts involve state agencies. Unfortunately, this buffer is no longer available (due to actions by the Greek Ministry of Finance in the first semester of 2015). Nevertheless, the government could negotiate with the Troika for special funding.

4.6. A Complementary Proposal

The delays in administrative courts are largely driven by the nonpayment of certain debts by the government, state agencies, and municipalities. By some estimates, state's verified outstanding liabilities to construction firms and pharmaceutical firms were close to 5 billion euros as of 2016. Yet the state forces firms to seek payment by getting orders from courts and then utilizes the slow and formalistic legal procedures to delay payment.

The government has the capacity to stop this absurd and costly practice (which has been employed by many Greek administrations). This will be beneficial for all concerned, including the government. Paying up front saves money on court procedures and on the interest that

accumulates to the plaintiff at the end of the process. If the government were to pay the verified liabilities in an out-of-court settlement, it could ask plaintiffs to forgo part of their claim (a haircut of 10 to 20 percent seems reasonable, and in the case of pharmaceutical firms this could be higher given the extent of overcharging). This policy would also act as a direct liquidity injection into the market and would be beneficial to all sectors of the economy. The banking system would benefit as well, since firms usually pass their future claims from litigation to banks in exchange for financing. If the state were to immediately reimburse firms, this would also lower illegal side payments and corruption (in the current regime, firms often bribe state officials so as to get priority treatment and be reimbursed first).

5. Medium-Run Reforms

One important reason why past reforms had limited impact was their partial and incremental nature. In this section we consider reforms in ten broad areas, and our proposals are complementary.[27] We believe that reforms have to be multi-faceted because it is hard to predict which policies will have the most impact. The Greek government needs to learn from past failures and focus on those policies that seem to be working. Judges, prosecutors, judicial clerks, and lawyers need to be open to reforms, embrace them, and work with the administration. Moreover the public needs to engage and participate in this process.

Presently, the Greek Constitution is rigid and prescriptive. It regulates heavily every aspect of the justice system, including court structure and organization, and the professional

[27] After we completed a first draft of this chapter, the Hellenic Federation of Enterprises (ΣΕΒ) released a report on the Greek justice system detailing a comprehensive set of reforms (October 2014). Many of reforms that we suggest in this chapter are similar to those put forward in that report. Unfortunately, only a few of the reforms were tendered by the Greek government, and in many instances the MoJ has either abandoned or reversed them.

status of judges, prosecutors, and clerks. Hence many of our proposals require a constitutional amendment. (Given the sharp deterioration of the parliamentary process during the crisis and the rising populism, the success of a constitutional amendment at this stage may be uncertain.)

5.1. Monitoring and Evaluation

An ongoing problem with the Greek justice system is its lack of accountability. Just like many other professional bodies in the public sector, judges are largely immune to external assessment. The monitoring and evaluation process in place for judges is incomplete, anachronistic, and wholly inadequate.[28] Although there have been three amendments in the period 2010 to 2014 to address the lack of accountability, the justice system remains unacceptably ineffective and unaccountable.[29]

The Current System

The process of evaluation and monitoring is entirely internal to the judiciary. This is, in part, mandated by the Constitution, which provides detailed rules about the evaluation of judges and prosecutors. Any comprehensive reform in this area requires therefore a constitutional amendment.[30]

[28] According to a report by the Society for Judicial Studies (Εταιρεία Δικαστικών Μελετών; ETDIM 2005), the process of evaluation is ineffective largely due to the large number of evaluations that each evaluator has to oversee.
[29] The relevant articles of the Code for Court Organization (Κώδικας Οργανισμού Δικαστηρίων, Law 1756/1988) were amended with acts 3904/2010, 4055/2012, and 4139/2013.
[30] According to article 91 of the Constitution, the disciplinary power of judges with a rank of Areopagite (Supreme Court judge) or deputy prosecutor of the Supreme Civil and Penal Court and above, or with equivalent ranks at administrative courts (Council of the State), is exercised by the Supreme Disciplinary Judicial Council (Ανώτατο Δικαστικό Συμβούλιο). The president of the Council of State serves as the council president; the Supreme Disciplinary Council also comprises two vice presidents or councilors from the State Council, two deputy Supreme Court judges or Supreme Court judges, two deputies or councilors from the Court of Audit, and two full-time law professors teaching in one of the country's law schools. For the rest of the judiciary (magistrates, first-instance and appellate court judges and prosecutors), disciplinary power is exercised by councils composed exclusively of judges.

In practice, a judge's inspection works as follows: the inspector (who is *not* randomly matched to the inspected judge) asks the judge to *freely* submit some (usually five) judgments issued either when the judge served in a single-member judicial body (e.g., single-member first-instance court, Μονομελές Πρωτοδικείο) or as a reporting judge (*εισηγητής*) in a three- or five-member court. The same happens in the case of judges and prosecutors involved in issuing orders (*διαταγές*); the inspector asks judges to provide five ordinances and proposals of their choice. Out of hundreds of cases that each judge presides over in a year, evaluation is based only on a handful of decisions, all chosen by the inspected judge, rather than by the inspector or at random. Although the law specifies that the inspector should take into account the opinion of the head of the court (*προϊστάμενος πρωτοδικείου*) and conduct a thorough interview, these are formalities that do not carry much weight. The supervisor then submits an *ad hoc* evaluation (not based on a template or/and a pre-arranged method) to the Supreme Judicial Council (Ανώτατο Δικαστικό Συμβούλιο), which is almost always approved without much discussion or further consultation.

Three key features stand out. First, the roles of judicial supervisory and inspector councils are diminished. While in the past, the evaluation process was conducted in a professional manner, today it is just a formality. In very few cases are there any penalties for inappropriate behavior, delays, poor justification of decisions, and the like. And even in these cases, penalties are trivial. The gradual decline of the Greek justice system to its current state of collapse was not accompanied by any disciplinary or other measures focusing on underperforming judges. Such steps have been attempted only recently.

Second, the current system does not provide incentives for good performance. Almost all junior (first-instance) judges will follow a career path with promotions up to the level of

president of the Appeal Court (Πρόεδρος Εφετών), whatever they do. With few exceptions the system of promotions is based simply on seniority, meaning the number of years served at each level (first-instance courts, appellate courts, and supreme courts) and the grades in the entrance exams. Even when performance is poor and this is mentioned in the evaluation report, the judge will still get promoted and moved to a provincial court as an appellate judge. There is no performance-based pay for judges and overtime pay is minimal.[31] There is no way to reward efficient judges, or those particularly gifted, other than by accelerating somewhat their eventually certain promotions. Moreover, as for other types of public sector employees (e.g., in the army or the national health system), promotions after ages 60 to 62 are done in order for the retired judges to receive higher pensions (until recently, pensions were based on the last year's salary rather than on the average salary over one's career).

With the exception of the appointment of presidents and vice presidents of the Supreme Courts, neither the Ministry of Justice nor the Parliament nor the president of the Hellenic Republic has any role on the evaluation of judges. In contrast to the models followed in other countries, where professionals, university professors, and other stakeholders are part of the evaluation process, there is no lay representation or any input from outsiders. And while there is some representation of university professors on the Supreme Disciplinary Council, their role has proved ineffectual. They are the minority and always follow the recommendation of the judges. While the principle of the independence of the judiciary is an essential requirement of the rule of

[31] The Report of the Council of Europe shows that in approximately half of the jurisdictions there are no bonuses for judges. Bonus schemes for judges are present in the United Kingdom, Switzerland, and Belgium, among others.

law, this is surely compatible with some external input into the monitoring and accountability of individual judges, as shown by practice elsewhere.[32]

Recommendations

We believe that reform regarding the monitoring and evaluation of judges (and prosecutors) should include at least the following measures:

1. A constitutional amendment on evaluating judges. The structure, role, and conduct of the Supreme Judicial Council should be redesigned and this Council should not be solely staffed by judges. Members of the Supreme Judicial Council should include both judges and laymen. We propose the following membership rules:
    a. A third of the Supreme Judicial Council's members should be senior judges. The presidents of the Three Supreme Courts and the most senior vice presidents could participate *ex officio*.
    b. Another third of the Supreme Judicial Council's members should be appointed by the president of the Hellenic Republic, following the recommendation of a council of experts. He/she could appoint university professors (in the fields of law, economics, sociology, criminology, etc.), Greek legal scholars from the diaspora, former judges and prosecutors, and other people of similar standing.
    c. The Parliament should appoint the remaining third of the Supreme Judicial Council's members.

[32] For example, the Judicial Appointments Commission in the United Kingdom is an independent body that selects candidates for judicial office in courts and tribunals in England and Wales, and for some tribunals in Scotland or Northern Ireland. It consists of fifteen commissioners, only three of whom are appointed by the Judiciary

2. The Supreme Courts should be required to submit annual reports to Parliament with details on performance (adjournments, clearance rates, delays) for all courts under their supervision, including themselves.[33] Moreover the Supreme Court presidents should present this report before the Parliamentary Committee for Justice.

3. A highly debated issue (even among us) is whether the presidents and vice presidents of the Supreme Courts should be appointed exclusively by the Council of Ministers (the cabinet). Some argue that the cabinet should have no role; yet the problem of the current system is the lack of external checks and balances. A modest feasible reform would endorse the model of the United States on the appointment of federal appellate courts and Supreme Court judges. The government would still put forward the names of the heads of the Supreme Courts, but only after securing broad parliamentary approval (e.g., requiring three-fifths of the members of the relevant parliamentary committee).[34] An alternative mechanism would be to give the role of selecting the chief justices to the president of the Republic, who would appoint on the recommendation of a super majority of the Parliamentary Committee and the government. Other mechanisms could be conceived along these lines.

4. The framework of disciplinary proceedings against Supreme Court judges (*πειθαρχικός έλεγχος*), which is currently conducted by the Minister of Justice (article 91.1 of the Constitution), should be modified so as to prevent the direct involvement of the executive. The Minister of Justice should not be able to pursue disciplinary action against Supreme Court judges.

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[33] A similar process applies to Greek independent authorities (Ανεξάρτητες Αρχές).

[34] However, given the recent radicalization of Parliament and the evident sharp deterioration in the quality of elected politicians, it is questionable whether this process will improve the current system of appointments or worsen it!

5. The e-Justice program should record the number of adjournments and why they adjourned, the time that a judge takes to release a verdict, as this often exceeds six months (and in some cases a year).[35] Likewise the e-Justice system should record, for each judge, the number of judgments in the first-instance that were overruled in appellate courts. This information should be taken into account in the evaluation of that judge.
6. Currently checks for corruption and bribery involving judges and prosecutors are weak. While judges and prosecutors are required by law to declare their assets, and the means by which they have acquired them (*ποθεν έσχες*), this is not a genuine check. Indeed, these requirements apply to thousands of public sector employees, and because the relevant inspection bodies are understaffed, the checks are impossible to perform. We think that a process of *random audits* every year would allow for thorough checks on a small randomly chosen number of judges and prosecutors. For example, 1 percent of first-instance judges, 2 percent of appellate judges, and 5 percent of Supreme Court judges could be randomly subjected to a thorough investigation of their financial affairs by professional auditing firms.
7. The evaluation reports of inspectors should be standardized and modernized with an electronic template, so that it would be possible to reach solid statistical conclusions. In fact such a measure has already been legislated (in 2010), but has not been applied because judges are vehemently opposed to it. The inputs used for the evaluation (judgments, decrees, delays) should be selected at random or at the initiative of the inspector and not the inspected judge. The inspector should be assigned to the supervised judge (or prosecutor) via a lottery. Supervisors should come from different jurisdictions, so as to avoid conflicts of interest.

[35] The time that a judge takes to release a decision is an essential and important evaluation criterion in the administration of justice internationally. In Greece it was only partially introduced in 2012.

8. To deal with grade inflation, the inspector should evaluate judge's effectiveness both in absolute and in relative terms.
9. The Council of Europe Report on the Judiciary shows that backlogs are smaller and clearance rates higher in jurisdictions where Supreme Court judges have explicit administrative duties on monitoring and promotions.[36] Thus a proposal that should be further developed is to have a division in the Council of State and the Supreme Civil and Penal Court dealing solely with evaluation, promotions, inspections, and supervision. The division's head will be one of the vice presidents, but most important, this individual could recruit HR specialists to assist the judicial councils by tabulating statistics, organizing the interviews, and so on.
10. While the law allows for filing suit against a judge for erroneous judgment (*αγωγή κακοδικίας*), be it due to incompetence, lack of impartiality, or bribery, there are few known such cases because the law is arcane, complex, and puts a high burden on the plaintiff. After a serious consultation with experts, the Ministry of Justice should put forth a new regime for such trials based on best-practices from other jurisdictions.

5.2. Training and Professional Development

Currently all professional judges, except magistrates, receive formal training for eighteen months at the National School of Judges and Prosecutors. The curriculum is narrow and includes various legal subjects. As a result a judge's knowledge of corporate finance, auditing, and accounting is limited. After assuming their duties, their training is minimal. Many (older) judges are not computer literate. These problems are magnified because the curriculum of the local Law

[36] We should stress here that contrary to conventional wisdom, the presidents of the Supreme Courts have little power of monitoring, as their role is limited to their participation in the (eleven member) Supreme Judicial Council.

Schools is devoted exclusively to legal doctrine and selections of literature in history, politics, and philosophy.[37]

Curriculum

We believe that the curriculum of the National School of Judges and Prosecutors should be amended so as to include lectures on the following subjects:

1. *Accounting* Judges should be able to read financial statements and understand balance sheets. The auditing course should include lectures on transfer pricing, as this is a common practice. The School could get guest part-time lectures from local universities and invite practitioners to deliver short customized courses.
2. *Basic principles of auditing* Judges often have to take decisions based on reports by auditing firms; it is vital that they understand the key principles and toolkit of auditing. Since the Institute of Certified Public Accountants of Greece (SOEL) runs training programs (for interns and members of the affiliated firms), judges could attend these courses or alternatively SOEL could develop customized courses for judges.
3. *Fundamentals of corporate finance* At least some judges have to be able to understand the basics of net present value (NPV) and grasp the difference between book-based valuation and mark to market. Adding a mini-course in corporate finance should not be difficult.
4. *Management principles* Judges would benefit from management courses covering human resource management, information technology, organizational structure, and negotiation. The

[37] Philosophy, history, and ethnics constitute elective courses, so it is common for legal professionals to ignore basic issues in legal philosophy and the historical evolution of legal thinking. Another evident deficiency of the curriculum of the Greek Law Schools is the lack of professional training (e.g., students are not required to attend court sessions).

school should also seek collaboration with judges performing managerial tasks in foreign jurisdictions, so that Greek judges get some hands-on knowledge of best practices.

The National School of Judges and Prosecutors is understaffed and underfinanced. It is a matter of the highest priority that the work of the National School is supported and its resources strengthened. In addition the School should be allowed to seek assistance from large trade unions and employer groups that may be willing to finance some training programs on economic, financial, and labor issues.

Continuing Professional Development

The second area involves continuing professional development and the development of specialized skills, at least for some judges. Greece scores low relative to other EU countries on the number of judges participating in continuous training activities (European Justice Scoreboard 2016). The National School of Judges and Prosecutors should develop mini-courses for experienced judges on some key economic issues that have become increasingly important.[38]

Building on recent legislation (article 92, Law 4055/2012)[39], the Ministry of Justice and the Supreme Courts could also arrange for short-term visits to European courts, so as judges dealing with court administration (*προϊστάμενοι πρωτοδικείων και εφετείων*) familiarize themselves with best practices.[40] Moreover judges who get appointed as court administrators should pass a master class on basic human resource and IT management principles.

[38] The Code for the Organization of Courts (article 74) includes a provision for the establishment of a Center for Judicial Studies that would organize the professional development of judges, prosecutors, and judicial employees. Such an institute has not been created. Rather than setting up a new institution, we believe that the National School of Judges and Prosecutors should handle the continuing education of court personnel.

[39] This legislation allowed judges to get a special leave of absence (for a maximum of five months) to visit foreign national courts, the European Court of Justice, and the European Court of Human Rights. However, this perk has not been widely used (likely due to the huge workload.

[40] Chemin (2009b) analyzed the impact of a training program in Pakistan (in 2002) on case management; his analysis reveals large positive effects. He estimates that judges who attended the training disposed 25 percent more cases in the year following their training, as compared to judges who did not attend the training. See also Chemin (2009b, 2012).

IT Training

The third area concerns training in information technology**.** Since many judges and judicial clerks do not use personal computers, the administration should organize short courses on the use of basic software. For example, the Ministry of Justice or the National School of Judges and Prosecutors could team with an IT training company, whose instructors would visit all first- and second-instance courts four times per year (for two to three years) and offer seminars. After the lectures the judges could be evaluated by taking an online test.

5.3. Management and Organizational Issues

An area where there is room for drastic improvement is management. There is ample empirical evidence showing that higher quality management (human resources, incentives, and targets) leads to better performance, not only among manufacturing firms but also in areas with significant state involvement, such as hospitals and schools.[41]. The court system would benefit from a significant administrative-management reshuffling and reorganization. Besides accountability and human resources, discussed in the previous sections, we believe that the following policies should be part of a reform agenda:

1. The government and the Supreme Courts should redraw the map of courts' jurisdiction, which dates from the era of King Otto in the mid-nineteenth century. In 2012 a successful reorganization program reduced the number of magistrate courts from 301 to 154. A similar reorganization program should take place for other types of courts.

[41] See Bloom et al. (2014a, 2014) for recent reviews. On the role of management quality on school performance and hospitals, see Bloom et al. (2012, 2014b).

2. Greece has the highest ratio of Supreme Court judges to the total number of judges. Over the past two decades the positions of the vice presidents of the three Supreme Courts have increased. (Currently there are ten vice presidents at the Supreme Civil and Penal Court and ten vice presidents at the Council of State). While it used to be the case that the number of vice presidents was equal to the number of each Court's divisions (*τμήματα*), the number has increased, allegedly because the government wanted to appoint politically friendly judges in the most senior positions (entailing higher status as well as salary and pension increases). After consultation—and ideally with wide consensus in Parliament there should be a redesign of the structure and organization of the three Supreme Courts.
3. Court management should be devolved. Court administrators should be given an annual budget, and at the end of each fiscal year they should submit financial reports (which should be checked by the Council of Auditors). It is impossible for the Ministry of Justice to know the exact needs of each court. Each court should have some discretion over how to spend its budget (net of salaries and major infrastructure).
4. In many European court jurisdictions, there are judicial administrators who oversee management, ICT, personnel, and so on. Introducing managers in courts would be beneficial, especially for the large courts in Athens, Thessaloniki, and Piraeus. This reform will require a Constitutional Amendment as the Constitution and the Code for the Organization of Courts explicitly states that only full-time professional judges should administer courts. So a less radical proposal would be that judges whose duties include court administration should be required to pass a customized program at the National School of Judges and Prosecutors. Such a program would cover IT, human resource management, and best practices from foreign jurisdictions.

5. There should be specialized management offices at the highest courts with the responsibility of monitoring the management and the administration of lower courts. These offices could be overseen by a senior judge who should not have any other duties. The new senior managers should be adequately supported by IT staff, management, and human resource specialists, as these are the areas where judges lack expertise. This proposal also requires a Constitutional Amendment, as each court has to be self-managed and no intervention from senior judges (and officials) is allowed.[42]
6. The management offices should set specific targets, taking into account courts' resources (infrastructure, degree of computerization, number of judges, and assisting staff) and the needs of each jurisdiction. Based on standardized templates, the chief administrators (or currently, the court chairmen) should produce progress reports, detailing on- and off-target areas. These reports should form the basis for the annual comprehensive report that the three Supreme Courts should submit to the Parliament. These court-specific reports should be available to the public via the web, as this would raise pressure for reform and help identify courts/areas where interventions are needed.

5.4. Information and Communications Technology (ICT)

The Greek court system lags considerably in deploying information and communications technology. Introducing information technology should be a top priority. This does not require constitutional amendments, since the government could adopt best practices from abroad. Use of ICT by courts will free up judicial time that is currently spent on manually printing and archiving

[42] Again, the origin of this restrictive constitutional provision is the abuse of power from 1936 to 1974, when there was interference of senior judges in lower court rulings (e.g., Lambrakis case).

documents. It will speed the work of judges in providing access to the Internet and specialized online resources on legislation, case law, and academic commentary. Information technology will also allow the productivity of judges to be monitored.

Ongoing Developments

The Ministry of Justice initiated in 2011 and 2012 an integrated e-Justice program.[43] This much-needed program had the following key objectives:

1. Install a centralized electronic system for filing, monitoring, and managing cases in all courts to enable electronic submission of lawsuits and the necessary documentation. Pilot programs have been started at first-instance civil courts in Athens, Piraeus, and Thessaloniki, and the electronic submission of lawsuits and the necessary documentation was due to be implemented soon (as of April 2016) at the Council of State and the Court of Auditors. A program for electronic filing of case documents is being expanded in all administrative courts.
2. Develop a public-private partnership to help digitize all transcripts of public hearings, documentation, and verdicts for a comprehensive database of all cases. This program is still in a design phase although many years have passed since its legislation.
3. Create an electronic national criminal record. This project has already entered a pilot implementation stage. The New Criminal Record will be connected with the Ministry of the Interior and the citizen service centers (KEP).

[43] In contrast to widespread belief that the e-Justice system was initiated by the Troika, it was the MoJ and the Greek government that incorporated this project in the Memorandum of Understanding. The Greek administration in place since 2015 has put the completion of this program high on its agenda.

4. Install a centralized electronic system for prisons. No progress has yet been made, as in many prisons there is not even an electronic registry.
5. Create electronic support for numerous small-scale projects, such as in establishing an online system listing all cases (ηλεκτρονικό πινάκιο).
6. Install a state-of-the-art IT program so that there is electronic management of cases at all stages, and require electronic submission of all documentation (Integrated Case Management System, OSDDY). This project was initiated in 2012, but it was not expected to be implemented in some courts until 2016 (at best).

Moving Forward

The e-Justice program has been initiated and some of its components are now under way. Yet, despite an ambitious start and some immediate successful steps, progress has been moderate, likely due to the chaotic conditions in courts. Some additional steps are necessary:

1. Provide all judges with personal computers (with Internet and electronic libraries access).
2. Hasten the pace of extending the program to all courts, based on the paradigm of first-instance civil courts in Athens, Piraeus, and Thessaloniki, where plaintiffs have already started to submit electronically the case documentation.
3. Assign the archiving and the digitization of outstanding cases to the private sector for a transitional period of five years.

5.5. Specialized Courts and Tribunals

Specialized courts and tribunals are set up in many jurisdictions worldwide to concentrate resources in areas where expertise is crucial and where the nature of the case requires the participation of specialists. For example, in England and Wales a system of tribunals provides for a more flexible, quicker, and cheaper procedure, and a less adversarial process on a variety of issues (e.g., immigration, property tax, social security appeals, child custody). Tribunals are judicial bodies and their membership includes judges and laymen. A tribunal's judgment can be challenged before ordinary courts, so there are increased safeguards of fairness. Yet tribunals provide an expedient and cheaper alternative to mainstream litigation. Specialization and division of labor among judges enables the court system to deal with cases more efficiently and achieve higher consistency and predictability.

Current System

Greece has the lowest number of specialized courts and tribunals in the European Union. This reflects the highly formalistic nature of the Greek justice system, where justice is only provided by full-time professional judges. While nowadays there is some de facto specialization at civil courts, it is far from being sufficient.

Recommendations

We believe that the system requires fundamental reform after due consultation and a comprehensive technical preparation. The Constitution should not prohibit the participation of laymen in tribunals, since this is established practice in many European jurisdictions. And a robust national system of flexible specialized tribunals should be created as follows:

1. An Act of Parliament would enable the Ministry of Justice to set up specialized tribunals, on the basis of a general framework that would guarantee independence and provide a stable system of appeal to the ordinary courts after one or two levels of jurisdiction at tribunal level (e.g., in England there are first-tier tribunals and an upper tribunal).
2. The tribunals would be supported by an independent authority that would report annually to the Parliament and the president of the Hellenic Republic. This agency could get a constitutional recognition (Συνταγματικά κατοχυρωμένη Ανεξάρτητη Αρχή).
3. Tribunals should be set up for tax, social security, insolvency, and banking disputes. Tribunals could also be set up in family law and immigration-asylum seeking. The ongoing plans of the Ministry of Justice to establish special family courts staffed with specialized judges and supported by professionals such as psychologists and social workers should be brought forward (and should not be opposed by lawyers and judges).
4. The tribunals could meet in one- or three-member panels. Members could be recruited among retired judges, practicing lawyers, and in some cases lay professionals with expertise in the field. They would be hired by a specialist administrative service serving all tribunals with long-term contracts.
5. Procedure before tribunals would be simpler and more flexible than in the ordinary courts. Tribunals would not normally meet in court buildings. They would be housed in town halls and other public venues.
6. Applicants would be allowed to directly appeal to a civil or an administrative appellate court. The fee for such appeals, which should be considerable, would be deposited to a special account (e.g., at TPD, Ταμείο Παρακαταθηκών και Δανείων), and if the appeal is successful, it would be returned (with interest) to the plaintiff.

5.6. Drafting of New Legislation

A key problem with the Greek legal system is that legislation constantly changes, often in unpredictable ways.

Current Practice

The drafting of legislation is a complex process. However, many important pieces of legislation are introduced in irrelevant parliamentary acts in the form of amendments or modifications (*τροπολογίες*). These amendments/modifications are usually introduced at the very last minute (just before the parliamentary vote on the bill), without previous consultation, and then their validity is decided in a quick and unprofessional manner. And while all political parties argue that once in government, they will stop this process, this practice keeps on going and, if anything, has increased in the past three years. Then there is the problem that legislation keeps changing. For example, the New Construction Regulation (Νέος Οικοδομικός Κανονισμός) that was legislated in 2012 was altered four more times in 2013 and 2014 (see Androulakis 2015). Much of this reflects the brief tenure of ministers. For example, over the past five years, in most Ministries the leadership has changed more than five times. Yet another problem is that the drafting of new legislation is done by (usually inexperienced) staff at Ministerial offices rather than by professional law-making committees of experts. Discussion in Parliament does not improve legislation, and if anything, the populist comments and inaccurate media coverage of parliamentary acts are often even more obscure and esoteric compared to the initial draft.

These practices are particularly problematic (though in a milder form) for the legislative preparation committees at the MoJ, which has sought to modernize civil, penal, and

administrative procedures, the penal code, and family law, among other things. Currently the drafting of new legislation starts with the MoJ. The MoJ sets up a committee of experts to draft the new legislation. The committee is almost always composed of university professors, current and former judges, representatives of attorney bar associations, and some practitioners. Next the committee submits its draft to the Minister, who after some consultation with the Chairman of the Committee submits the draft to his colleagues at the Council of Ministers and subsequently submits the law to Parliament. But there are at least three problems with the current process. First, membership in drafting committees (*προπαρασκευαστικές νομοθετικές επιτροπές*) is still unpaid even though it involves onerous duties. While usually the committee members work hard under tight deadlines, professionalism dictates that they receive a decent honorarium and have their expenses covered. Second, while in most cases the Minister does not get directly involved in a committee's work, various pressure groups infiltrate and exert significant influence. Third, quite often the draft changes considerably during the discussion in the Cabinet Council or/and the Parliament, and in most cases these changes are not intended to improve the law but rather to nullify its provisions, make it more obscure, and so on.

Proposals

Dealing with the legislation problem requires not only formal interventions but also a change of attitude of the political class. Even the best-intentioned policies will have minimal impact if the people in key administrative positions (Ministries, key state agencies) change every year. We believe that the appointment of members in legislation drafting committees should stay with the MoJ, but has to be accompanied by a consultation with relevant stakeholders and the Parliament. Committees should not be overstaffed with any of the key stakeholders (e.g., judges,

representatives of bar associations) so as to avoid conflicts of interest. Committees should include some legal scholars (or other specialists) from the Greek diaspora who can contribute to the adoption of best practices. It may also be useful to include non-legal professionals, such as economists or sociologists, who can bring fresh insights.

Committee members should be paid and their expenses should be covered. This will increase accountability and raise the quality of the legal drafts. Since the drafts will be based on a thorough analysis of a well-paid committee of experts (where no key stakeholder will have a disproportionate voice) it will become harder for the political class to make significant modifications.

5.7. Penal System

The Greek MoJ acknowledges openly that the criminal trial system is characterized by "impunity," as some trials of serious felonies take as much as ten years.[44] The Greek penal philosophy is based on severe punishment, almost exclusively imprisonment. There are few provisions on alternatives to imprisonment (e.g., community work), damage restoration, and assisting convicts to integrate again with the society. This problem is especially pronounced for juvenile or young drug addicts.[45] While comparative data are lacking, it seems that the Greek penal system has sentencing laws that are significantly harsher than in other EU jurisdictions. Yet it frequently allows a convicted criminal at first instance to walk free until his or her appeal is heard.

[44] This comes from the introductory paragraph of the draft legislation on the new penal code.
[45] Though in 2011 and 2012 the Ministry of Justice had prepared a reform whereby drug-related sentences would treat drug addicts not as criminals but as humans in need of medical help, subsequent legislation did not go as far.

Though this topic deserves more extensive discussion, reform should include at least the following measures:[46]

1. Sentences should be redesigned based on international best practices. For example, punishments for minor crimes (as currently dealt by single-member misdemeanor penal courts) should not be prison sentences but fines and community work. In this regard we endorse the recent steps of the Ministry of Justice to de-criminalize a wide range of minor offenses.
2. Even for serious crimes (*κακουργήματα*), for which prison sentences should be retained, the emphasis should be on restoring damages and compensating victims. For example, in cases of serious tax fraud or embezzlement of state funds, it is more constructive to seize bank accounts and compensate victims rather than impose absurdly high prison sentences.
3. An interesting proposal is establishing a "criminal conciliation" process for criminal offenses that are prosecuted after a complaint (e.g., media, slander, damage to property). This way there would be the possibility of withdrawing the lawsuit after compensation has been granted.
4. All prisons should be computerized with a centralized IT system. This is vital for the monitoring of inmates and personnel, and to help prosecutors and judges deal with prisoners' "leaves of absence."
5. Greek prisons are overpopulated, understaffed, and lack medical support (as the state cannot even pay visiting doctors), and the infrastructure is on the verge of collapse. The Greek society and political establishment have ignored this issue. These conditions persist despite the harsh and well-justified rulings of the European Court of Human Rights that conditions

[46] The recent drafts of the penal code and the code for penal procedure include some of these provisions.

on Greek prisons violate basic human rights. The MoJ should come up with a comprehensive system of reform that, besides investing on infrastructure (new prison facilities) and recruitment of guards[47], will promote the electronic monitoring of convicts and review cases where probation orders rather than imprisonments might apply.

6. As has recently been learned, shameful practices persist whereby prisoners convicted for multiple assassinations and terrorism escape by violating rules for temporary "leaves of absence." Hence the MoJ should re-think this practice of allowing prisoners to visit their families for short periods of time. While we do not suggest altogether prohibiting this practice, the safeguards could be enhanced by applying common rules and discretion.
7. The Ministry of Justice should also re-think the current system for custody and detentions by which, for similar disputes and criminal charges, some judicial panels deem that the defendant should remain in custody while other panels deem that he/she can walk free until the case is heard. Given the massive delays in court hearings, it is not uncommon for defendant to stay in custody for 12 or even 18 months (the maximum period). Our proposal here is mostly to standardize cases and detail in the penal code the cases where custody is mandatory, cases where it should not be, and perhaps some cases where a decision by a council is needed. In this regard it is vital that the MoJ proceed with the electronic monitoring of detainees (via an electronic bracelet).

[47] It is unfortunate that the government and the Troika have been unable to agree on the recruitment of guards for the new prison facilities.

5.8. Legal Uncertainty: Constitutional Review of Statutes

Current System

Another deficiency of the Greek legal system is that it is not uncommon for Greek courts to issue different rulings in almost identical disputes. As in the Greek civil law system, precedent is not mandatory and given the low-quality legislation, judges usually apply different statutory provisions in similar cases. Moreover, since the Greek legal system is formalistic and (until recently) did not allow for case bundling, in many circumstances different courts have been issuing different decisions for similar cases. This was especially a problem in tax courts where an individual's dispute with tax authorities occurring in a different tax year was evaluated by different judges. Then there is the issue of constitutionality. Greece follows a diffuse approach, where every judge evaluates the constitutional basis of every act, statue, or decree that he/she has to apply (article 93, paragraph 4, of the Constitution). This system is old (its origins date back to first Greek Constitutions of 1844 and 1867) and the diffuse check is a key part of the Greek legal culture.[48] While the system worked effectively for many years, and is deemed by many scholars as an important check on potential abuses from the executive, in the past few years it has proved to be dysfunctional. Many policies—that clearly are in the spheres of the executive and the legislature—have been deemed by some judges as un-constitutional. For example, the 200 euros fee for appeals—that was introduced in 2012 in an effort to reduce congestion at appellate courts—has been deemed by a few judges as "un-constitutional." In September 2014, the Council of State ruled that the executive decree that allowed retail shops to be open for six

[48] Greece adopted this system in 1871 and further strengthened it by adding explicit constitutional provisions in 1927 and 1952. Other countries with a diffuse constitutionality check model include Switzerland, Sweden, and Japan. Many other countries follow a polar opposite system, where a Constitutional Court evaluates the constitutional basis of all legal acts. Examples include Germany, Austria, and Belgium.

Sundays a year was “unconstitutional,” as it prevented people from exercising their “religious rights.” Many salary and pension cuts have also been deemed as “unconstitutional,” while clearly the domain of fiscal policy lies with the executive.

Recommendations

Dealing with the issue of coordinating the Greek legal system is tricky. One idea may be to establish a Constitutional Court that—like the German example—that would decide on the constitutionality of laws. Yet the diffuse check of constitutionality is part of the Greek legal culture. It symbolizes a democratic ethos that the judiciary should not enforce legal acts going against the core values and principles of the Constitution. Thus our proposals are to strengthen the doctrine of precedent in Greek law. A constitutional amendment could make explicit, what academic lawyers assume already to be the case, that in public law matters, the decisions of higher courts bind the decisions of lower courts. A binding doctrine of precedent in public law will contribute more to legal certainty than any creation of a new, largely politically appointed, Constitutional court. The reasoning and written explanation should be part of the evaluation process of all judges.

1. When a lower court judge deems a law as unconstitutional, then the Councilor of the State (Επίτροπος Επικρατείας) or the Chief Prosecutor of the Supreme Civil and Penal Court (Εισαγγελέας του Αρείου Πάγου) should immediately file an appeal (*αναίρεση υπέρ του νόμου*), so as any of the Supreme Courts make a ruling in plenary sessions.
2. If any of the three Supreme Courts deem a law as unconstitutional, then the issue should be immediately moved to the Supreme Special Court (Ανώτατο Ειδικό Δικαστήριο) of article

100 of the Hellenic Constitution (where the presidents of all Supreme Courts participate alongside senior civil, penal, and administrative judges).

3. To deal with legal uncertainty—unrelated to constitutionality—we believe that the administrative procedure should make it easier to "bundle cases" as with a model trial.

5.9. Adjournments and Case Management

Current System

Adjournments waste court time and can cause delays and unfairness. Adjournments can also lead to inefficiencies and to inequities, whereby a delay benefits the wrongdoer. The procedural rules and practices of Greek courts have been remarkably tolerant toward adjournments. For example, civil courts award an adjournment when the claimant's legal team "has not had time to prepare" (something for which in Anglo courts the case would be dismissed). The situation in administrative courts is even worse. Often administrative courts adjourn on their own motion, without giving a reason. It is not uncommon for hearings before the Council of State to be postponed five times. Although after some recent reform, civil procedure rules provide for imposing a fee against the party responsible for the adjournment, judges rarely impose this penalty.

Recent legislation (in 2010, 2011, 2012, and 2013) has placed many statuary restrictions on adjournments (the restrictions have been growing at least since the mid-1990s). The problem is systemic and hence needs a comprehensive overhaul rather than incremental statutory restrictions.[49]

[49] Here are two examples. Act 4055/2012 includes a provision that in the event of a lawyer's abstention, the hearing of the adjourned civil proceeding has to be set within a period of ninety days. However, this is not enforced in practice because of overcrowding. Likewise the provision of the same Act that adjourned penal cases are to be presided over by the same judge has

Before we describe our proposals, a caveat is in order. Key to dealing with this problem is to find a solution that induces a change of attitude (mentality) among judges and lawyers. To be sure, it is impossible for any law to make provisions for every possible scenario, as there is always going to be some leeway taken by the judge for granting an adjournment. Nevertheless, when judges abuse their discretion in this regard, their colleagues, based on the internal norms and annual assessments, should impose penalties.

Recommendations

We believe that some rudimentary procedural legislation could be used to compel the court to conform to a set of rules:

1. Pre-hearing "case management conversations" between the judge and legal representatives could be used, whereby the judge issues instructions on the exchange of documents, outlines the phases of the trial, and is apprised of the witnesses to be called. The judge should warn interested parties that their case would be rejected if they disregard their procedural duties.
2. Failure to comply with court orders and deadlines for serving documents should entail penalties and costs for the guilty party, including in the most serious cases, the rejection of a claim.[50]
3. Reasons for adjournment should be documented in court records.

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remained void because of the lack of IT infrastructure. Both provisions were removed with Act 4139/2013 (paragraph 4, article 93). Provisions targeting plaintiffs have been more successful. For example, Act 3904/2010 has had some success with the provision that plaintiffs requesting adjournment for serious health conditions should submit a medical record from a hospital. Also Act 4055/2012 has been successful with the provision that in interim measure cases (υποθέσεις ασφαλιστικών μέτρων) the granted interim injunction (προσωρινή διαταγή) is automatically lifted if a plaintiff requests an adjournment of the hearing. The latter Act has been effective in removing the incentive for plaintiffs to postpone hearings.

[50] For example, quite often a plaintiff will request an adjournment, despite not having submitted a written proposal twenty days before the hearing, as the Code for Civil Procedure mandates.

4. Adjourned cases should be returned to the same judge (if he/she is still in the same court). This will save time since the judge will be already familiar with the pleadings, but it could also remove the incentive to adjourn complicated cases. While such a provision was legislated for criminal cases in 2012, for various technical reasons, it was not enforced and then was removed with subsequent legislation (in 2013). Such a provision should be re-introduced for civil, administrative, and penal courts, once the e-Justice project is complemented.
5. Adjournments should be recorded in a judge's file for promotions.
6. Likewise a court's record on adjournments should be made available to the public through the court's website. This will enable the public to compare the efficiency of each court.
7. Penalties should be imposed to plaintiffs who do not submit necessary documentation or are absent for hearings. The Code of Civil Procedure provides that the court may award legal costs up to 400 euros at the expense of the postponement-requesting party, and this provision should receive mandatory and not optional application. For cases with large financial stakes, the fines could be higher. In any case, the fine should be mandatory and payable immediately.
8. Adjournments (with the sole exception of serious medical reasons) could be suspended for two to three years. The plaintiffs would then be petitioned to either prepare for a hearing or delay indefinitely the case. In the latter instance—which could carry a fine—the hearing should be set at a distant time, so as for plaintiffs to bear the consequences of the cancellation.

5.10. Insolvency Law and Bankruptcy

Current System

Numerous deficiencies exist in the current bankruptcy process. As identified by Potamitis and Psaltis (2013) and Potamitis (2014), these are as follows:

1. The process gives significant power to shareholders, even when the value of equity is zero. Creditors lacking collateral also have a strong say, even if the firm's assets are barely sufficient to compensate workers, pension funds, and senior creditors.
2. The legislation is extremely formalistic and stakeholders have numerous procedural tools for delaying the process.
3. Judges who lack expertise allow plaintiffs to delay the process by abusing all procedures.
4. The seniority of the state (and social security funds) and the rigidity of state agencies to re-profile their claims (even where secured creditors and workers are willing to lower them) prevents restructuring.
5. The process is very slow, and it is quite common for bankruptcies to last more than ten years.
6. The process is handled by an insolvency administrator (*σύνδικος*), who often lacks credentials and special knowledge. And though the administrator is supposed to be chosen at random, quite often judges (and bar associations) put in charge "friends" and loyalists. While there have been many allegations of corruption, very few have been reviewed.

Recommendations[51]

The crisis has created many "zombie" firms. This has put Greece in desperate need for a modern, business-friendly bankruptcy regime. Given space constraints, we cannot detail here a comprehensive reform of the Greek insolvency law. We outline below, however, some principles on which future legislation should be based. More in-depth discussions of Greek insolvency law and reform proposals can be found in chapter 7 (on the financial system), as well as in Potamitis and Rokas (2012) and Potamitis (2014).

1. Bankruptcy should be moved to specialized courts. Research by Visaria (2009) shows that in India, the introduction of special insolvency tribunals reduced considerably the delinquency and interest rates.
2. Specialized courts could be established for cases involving small financial interests (e.g., annual firm turnover of less than 1 million), separate from those of medium and large corporations. Some such small cases could be dealt by a specialist, and then verified by a judge, provided that an agreement has been reached with the key stakeholders.
3. Specialist practitioners (accountants, consultants, engineers) could be asked to assist judges.
4. The Hellenic Federation of Enterprises (SEV) proposed (in September 2014) the establishment of certified specialized insolvency practitioners (*επαγγελματίες εκκαθαριστές*).
5. Equity could be sourced for debt. Special reorganization funds could be set up for the converted equity. Re-profiling of social security liabilities and taxes could be a consideration where senior creditors are willing to forgo some portion of their claims.

[51] The October 2014 report of the Hellenic Federation of Enterprises (SEV 2014) also discusses proposals concerning the insolvency law.

6. The Household Bankruptcy act (1869/2010) needs to change as there are many loopholes (many debts are excluded) and the process is complex (hearing dates for household debt settlement before Magistrates' Courts in the region of Attica have already reached 2028!).
7. As the current auction system is not transparent, an electronic auction platform is urgently needed. So far this simple solution has been opposed.

6. Additional Proposals

Many other areas are in need of reform and policy interventions. In this section we turn to policies in other areas, without going into much detail. We then discuss recent reforms that seem to be working and that should be strengthened.

6.1 Other Areas of Reform

Public Prosecution

The comparative data from the Council of Europe's Report on Justice shows that the Greek public prosecution system is severely understaffed. There were 4.8 public prosecutors per 100,000 citizens in Greece in 2010, while the average (median) across 40 European jurisdictions was 10 (11). The public prosecution system shares many of the deficiencies of the court system. Prosecutors have few assistants and clerks. There is little (if any) ICT infrastructure. There is no specialization. And there are few checks and monitoring of judicial procedures. Reform should include the following measures:

1. Recruit sufficient numbers of assistants, paralegals, and experts for prosecutors who deal with complex cases (e.g., economic crime, tax evasion, fuel smuggling). The current effort of the MoJ to create a special body of experts assisting prosecutors goes in the right direction.
2. Strengthen administrative departments that support prosecutors, such as the branch of the police that deals with electronic crime.
3. Re-organize the public prosecution system by centralizing it nation-wide.
4. Set up offices for special prosecution. In 2010, a prosecutor's office was created for economic crime, and in 2012, an anti-corruption office was set up. While both offices are still understaffed, they could prove to be quite useful, especially if some deficiencies are addressed. For example, the deputy-prosecutor of the Supreme Civil and Penal Court could chair the economic crime office, and local offices could be established in other cities besides Athens.

Court of Auditors

The Court of Auditors could be strengthened to become the central supervisory institution of the state. Apart from investigating the legality of state contracts and public tenders, the Court of Auditors could conduct thorough checks of the financial statements of all state agencies (municipalities, Ministries, etc.) and political parties. Since the Court of Auditors is an institution with a dual purpose, as both a court agency and a state supervisory agency, it should have the power to impose penalties as it conducts its annual checks. The Court of Auditors could also collaborate with private auditing and consulting firms on an ad hoc basis so as to increase its reach and influence.

Appeals

The Greek justice system is open to appeals, meritorious or not. Practically all trials end up on appeal or even on a second appeal. A more reasonable procedure would create filters. For example, an appeal on matters of law could be assessed first by a single Appeal Court judge. If he/she thinks that an appeal is without merit, it ought not to reach the court. A similar system is adopted in many jurisdictions.[52] Here we should stress that the state agencies are frequent abusers of the appeals system. This reflects the (erroneous) view that the public interest is best served when the state appeals. Dealing with this requires redrafting the code of conduct for public sector employees.

Legal Costs

Greek costs orders are fixed and among the lowest in Europe (and much smaller when compared to other developed countries). They are not an effective deterrent of unnecessary litigation. An important reform would create a new system of costs orders, where cost awards would reflect the true costs and would force the loser to cover them in full. Costs work well as a deterrent of frivolous or vexatious actions and would strengthen alternative dispute resolution mechanisms. Yet, the system does need protection against aggressive parties that seek to intimidate an opponent with exorbitant costs. And likewise a system of costs could be created for administrative cases. These should be a priority in revising the anachronistic provisions of the Code of Civil Procedure (article 189) that severely underestimates legal costs. We believe that the revised article should mandate plaintiffs to submit a detailed table with actual legal costs, along with the relevant receipts and itinerary outlays. The Lawyers Bar Associations could

[52] Recently the administration added appeal filters in tax disputes.

provide tables with a range of legal costs by type of case, so as to avoid abuses and benchmark costs.

Codification and Procedure Simplification

Adding to the complexity of Greek legislation are the adjustments due to Acts of Parliament. These often include lists of entirely unrelated provisions amending the provisions of earlier laws, without the original text being listed. It is essential that such incoherent process of legislation be stopped. An independent body should be formed along the lines of a dedicated Law Commission to advise and plan the codification and legislation. In addition the process of consultation for new legislative proposals, which is currently short (e.g., the consultation process for the new Code of Civil Procedure lasted 21 days, from Friday March 7 to Friday March 28, 2014), should become an essential part of the legislative process.[53]

Standardization

Currently there is very little standardization of lawsuits: lawyers file cases without following a template or some basic norm. In fact, until 2012, it was at the discretion of lawyers to submit an abstract or extended summary of the dispute. In this regard we propose the following:

1. The European Court of Human Rights issues detailed instructions and provides templates to assist persons wishing to make an individual application. It would be useful if Greek courts would standardize their application forms as well. Moreover judges could standardize the way they frame their decisions. Other areas where case filings and court decisions could be standardized include summary judgments (*αιτήσεις για την έκδοση διαταγής πληρωμής και*

[53] According to article 76, paragraph 6, of the Constitution, judicial and administrative codes are to be prepared by specialized committees (set up by specific Acts). The committee's proposals for the code are introduced in the Parliament, which in a plenary session can either approve or reject the code (without being able to make any amendments).

απόδοσης μισθίου), rental disputes, child custodies, and parent-child communications, cases involving indebted households, labor disputes, social allowances, and so on.

2. Judges could compel attorneys to submit standardized synopses of their lawsuits, as this will help categorize cases and allow courts to deal with them in an effective manner. Though Law 4055/2012 (article 41) requires submitting an executive summary, this mandate is not enforced. Even though, by law, the Supreme Courts are required to issue templates and provide guidance, none of this happens. Following the example of foreign courts, the Supreme Courts could provide (via their websites) information materials, specific guidelines, and examples for various cases, as this will minimize instances where a case will be put on file because of the claim being unacceptably vague. Likewise, to lower the number of appeals rejected on grounds of inadequate reasoning, the Supreme Courts could issue manuals to assist judges on drafting judgments.
3. Providing a framework to follow for different administrative documents would help reduce cases of infringement of essential procedural acts (*περιπτώσεις παραβάσεως του ουσιώδους τύπου της διαδικασίας*) and questioning of the assembly and composition of administrative bodies (*συγκρότησης και σύνθεσης διοικητικών οργάνων*), for example. While such standardization may seem to be of minor importance, administrative courts are often beseeched by citizens who challenge the validity of administrative decisions due to improper justification, infringement of procedures, and illegal composition of administrative committees.

6.2. Enhance Recent Reforms

Over the past five years, the various Greek administrations passed many legislative acts in an effort to improve the system's performance. We believe that all of these steps were in the right direction—though the interaction of increased litigation, reduced funding, and a large backlog has not brought tangible improvements.[54]

Single-Member Courts

A way to deal with the large backlog may be to move cases from multi-member panel courts (Πολυμελές Πρωτοδικεία και Εφετεία) to single-judge courts (Μονομελή Πρωτοδικεία και Ειρηνοδικεία). While there is risk of error when court decisions are based on the judgment of a single individual, it may be worth that risk for cases involving small sums of money.[55] However, the large workload of judges and the lack of clerical support often causes the single-judge court to agree with the recommendation of the judge from the multi-panel court who wrote the "report" (*εισηγητής*). In 2010 and 2012 legislation moved many disputes from multi-panel courts to single-member courts to free up judicial resources. While we acknowledge the need for impartiality and a fair trial, given the current conditions and the lack of financing, the Greek system cannot afford having three, five, and even seven-member court panels to decide on many cases. It is clearly a good outcome that the MoJ, at the end of 2014, rejected pressure from

[54] Androulakis (2015) finds that case backlogs and new filings fell somewhat after 2012 across most administrative courts. This suggests that the numerous reforms between 2010 and 2012 may have been beneficial.

[55] This is a risk that many legal systems are willing to take even for the most important cases. The English legal system relies mostly on single-member courts. The County Courts (for smaller claims) and the High Court (for all other cases) of England and Wales almost always meet as single-member courts.

judges and attorneys and that the Code of Civil Procedure retained the increased competence of single-member courts (for claims up to 250,000 euros) and single-member Courts of Appeal.

Model Trial

The introduction of model trial into the Greek legal order (with Acts 3900/2010 and 4055/2012) has been a success. Thousands of cases regarding pensions, social security benefits, and allowances have been resolved. The wide application of model trials has the potential to eliminate unnecessary procedural steps and foster party cooperation and dispute resolution outside courts. This new procedure could be strengthened by expanding its application to civil cases. It could also be institutionalized through a constitutional amendment.

Training Lawyers and Paralegals

With recent legislation (Law 4055/2012), courts are allowed for the first time to hire recent law school graduates as interns, so that they do (part of) their training in courts. Anecdotal evidence suggests that this program has been successful, and we thus support expanding this internship training program, as is explicitly encouraged by the new Code of Lawyers (Law 4194/2013). Judges now have the opportunity to get help from law school graduates, and the interns gain much-needed experience. These interns can further work as judicial assistants for one to two years after passing their bar examinations. This is often done in other jurisdictions.

Mediation (Διαμεσολάβηση)

At the end of 2014 the MoJ launched an electronic platform for mediation, in accord with Act 3898/2010. This process is cheap, fast, and maintains confidentiality, and it has generated public

interest as a way to settle private and commercial disputes. While it is premature to evaluate its effectiveness, we believe that this is a step in the right direction, moving cases outside courts so that lay judges can handle them in a casual (nonformalistic) manner.

7. Conclusion

The Greek justice system has been going through an unprecedented crisis. We draw on our experience, anecdotal evidence, and the voluminous literature on law and economics to address its failures. The massive inefficiencies of the justice system have contributed to the severity of the economic downturn, the prolonged recession, and the weak recovery. The justice system's failures are further related to deep structural deficiencies of the political and institutional environment: political interference, cronyism, absurd legal formalism, administrative weaknesses, lack of forward planning, absence of checks and balances, and lack of accountability. These failures provide an inhospitable environment for business, as there is poor protection of investors. Court delays render judicial protection practically nonexistent. Laws are complex, obscure, and constantly changing, especially in regard to taxes. The judiciary has shown little urgency to respond to this crisis. Despite some small reforms over the last few years, the economic crisis has increased massively the volume of incoming cases, and these are brought to courts receiving minimal outlays of public funds. The only working procedures as of the time that this chapter was being completed (April 2016) are interim injunctions and interim orders, while in criminal cases, custody has become a substitute of punishment. In our view Greece has been entering a regime of "institutionalized injustice."

The need for change at all levels is obvious. There is an urgent need to distinguish between, first, an emergency short-term plan to clear the backlog of hundreds of thousands of

cases and restore the normal operation of justice, and, second, a larger long-term plan to reform the justice system. Such long-term reform must encompass every aspect of the justice system: the hiring and training of judges, the administration of courts, the infrastructure, the provision of information systems, the accountability of judges to the community, and many more.

The Greek economy will not recover, unless a way is found to reform radically the justice system. The political system's own legitimacy will not be restored until it manages to reform the current system of institutionalized injustice, the most corrosive of its many failures.

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Appendix Table.1 Gross and net annual salaries of first-instance professional judges and prosecutors at the start of their careers (in euros)

Jurisdiction	Judge's gross salary	Gross salary/ national salary	Judge's net salary	Prosecutor's gross salary	Gross salary /national salary	Prosecutor's net salary
Albania	7,350	1.9	6,231	7,285	1.9	6,323
Andorra	73,877	3.1	69,814	73,877	3.1	69,814
Armenia				5,637	2.2	4,701
Austria	47,713	1.7	30,499	50,653	1.8	31,999
Azerbaijan	11,364	3.0	9,338	5,398	1.4	4,368
Belgium	62,367	1.6	33,925	62,367	1.6	33,925
Bosnia	22,936	3.1	14,946	22,936	3.1	14,946
Bulgaria	10,230	3.2	9,651	10,230	3.2	9,651
Croatia	30,396	2.4	16,416	30,396	2.4	16,416
Cyprus	71,020	3.0	52,026	32,942	1.4	20,540
Czech Rep.	24,324	2.1		19,632	1.7	
Denmark	104,098	2.1		50,540	1.0	
Estonia	31,992	3.4	25,632	15,108	1.6	11,845
Finland	57,250	1.6	40,250	45,048	1.2	33,200
France	40,660	1.2	31,599	40,660	1.2	31,939
Georgia	11,642	3.8	9,313	8,976	3.0	7,188
Germany	41,127	0.9		41,127	0.9	
Greece	**32,704**	**1.3**	**24,300**	**32,704**	**1.3**	**24,300**
Hungary	18,252	2.0	10,647	16,852	1.8	9,828
Iceland	56 ,885	1.7		51,769	1.5	
Ireland	147,961	4.1		33,576	0.9	
Italy	50,290	2.1	31,729	50,290	2.1	31,729
Latvia	13,798	1.8	9,292	13,524	1.8	9,180
Lithuania	18,072	2.6	13,728	12,529	1.8	9,522
Luxembourg	78,383	1.9		78,483	1.9	
Malta	38,487	2.7				
Moldova	3,220	1.5	2,572	2,707	1.2	2,122
Monaco	43,271	1.3	41,020	43,271	1.3	41,020
Montenegro	24,142	2.8	14,500	19,947	2.3	13,364
Netherlands	74,000	1.5	43,000	54,036	1.1	32,604

Norway	113,940	2.1	62,035	62,400	1.1	40,000
Poland	20,736	2.1	16,711	20,736	2.1	16,492
Portugal	35,699	1.7		35,699	1.7	
Romania	25,750	4.8	18,062	25,750	4.8	18,062
Russia	15,988	2.6	13,098	9,594	1.5	8,347
Serbia	13,595	2.5	9,600	13,595	2.5	9,600
Slovakia	28,148	3.1		26,585	2.9	
Slovenia	28,968	1.6	17,521	34,858	1.9	19,901
Spain	47,494	1.5		47,494	1.5	
Sweden	52,587	1.4		52,290	1.4	
Switzerland	126,206	2.2	100,965	106,718	1.9	85,375
FYROM	17,219	2.9	11,451	14,147	2.4	9,535
Turkey	21,137	1.8	16,390	21,137	1.8	16,390
Ukraine	6,120	2.6	4,872	5,232	2.2	4,116
UK-England and Wales	120,998	3.8		33,515	1.1	
UK-Scotland	150,106	5.2		35,154	1.2	26,009

Source: Council of Europe, 2012 Report on the Justice System.

Appendix Table 2. Distribution of professional judges

Jurisdiction	First instance (%)	Second instance (%)	Supreme Court (%)
Bulgaria	36	56	8
Monaco	44	14	42
Romania	46	51	3
Hungary	58	39	3
Greece	**58**	**29**	**13**
Czech Republic	61	32	8
Latvia	63	26	10
Slovakia	67	27	6
Norway	67	29	4
Sweden	68	28	4
Poland	68	30	2
Spain	68	30	2
Bosnia and Herzegovina	69	21	10
Ireland	69	25	5
Georgia	70	22	8
Switzerland	70	27	3
France	70	25	5
Ukraine	70	27	3
Azerbaijan	71	23	7
Moldova	72	18	11
Croatia	72	26	2
Estonia	73	19	8
Denmark	73	23	4
Portugal	74	22	4
Germany	75	20	5
Armenia	75	17	8
Serbia	75	24	1
Finland	76	20	4
Netherlands	77	22	2
Slovenia	77	19	4
Albania	77	18	4

Belgium	79	19	2
Montenegro	80	13	7
Italy	81	15	4
The FYR Macedonia	81	16	4
Lithuania	83	12	5
Austria	85	12	4
Cyprus	88	13	4

Source: Council of Europe, 2012 Report on the Justice System. Note: In Cyprus, the Court of Appeals is also the Supreme Court.

Appendix Table 3. Numbers of lawyers and legal professionals in 2008

	Total population	Legal professionals	Legal professionals per 1,000 persons	Lawyers and attorneys	Lawyers per 1,000 persons
Austria	8,318,592	9,901	1.19	5,129	0.617
Belgium	10,666,866	18,686	1.752	15,363	1.44
Cyprus	4,436,401	2,133	0.481	1,781	0.401
Czech Rep.	10,381,130	10,204	0.983	8,020	0.773
Denmark	5,475,791	4,786	0.874	5,246	0.958
Estonia	1,340,935	732	0.546	676	0.504
Finland	5,300,484	3,332	0.629	1,810	0.341
France	64,007,193	66,364	1.037	47,765	0.746
Germany	82,217,837	127,781	1.554	146,910	1.787
Greece	**11,213,785**	**42,179**	**3.761**	**38,000**	**3.389**
Hungary	10,045,401	12,506	1.245	9,934	0.989
Ireland	4,401,335	9,386	2.133		
Italy	59,619,290	179,479	3.01	213,081	3.574
Latvia	2,270,894	1,949	0.858	1,091	0.48
Lithuania	3,366,357	3,155	0.937	1,590	0.472
Luxemburg	483,799	1,629	3.367	1,318	2.724
Netherlands	16,405,399	27,800	1.695	14,882	0.907
Portugal	10,617,575	14,113	1.329	25,695	2.42
Romania	21,528,627	18,539	0.861	16,998	0.79
Slovakia	5,400,998	4,825	0.893	4,595	0.851
Spain	45,283,259	123,114	2.719	154,953	3.422
Sweden	9,182,927	9,186	1	4,503	0.49
UK	61,191,951	105,380	1.722	155,323	2.538
European Union	453,156,826	797,160	1.759	876,671	1.935

Source: Pagliero and Timmons (2012)