

Spyridon Flogaitis: 'Greece: A State With Weak Institutions, in Crisis'

Wolfson Law Society Lecture
31 October 2013

VALIA BABIS: So, good evening everyone and thank you very, very much for coming. My name is Valia Babis and on behalf of the Wolfson Law Society I would like to welcome tonight our speaker, Professor Flogaitis. It is a big honour that you have accepted to speak to us. Professor Flogaitis is a very eminent scholar, academic and legal practitioner. He studied in Athens and France. He did his PhD in the University of Paris II and he is currently director of the European Public Law Organisation, EPLO. He is a professor at the law school at the University of Athens and he is visiting professor at the law school here as well and at Wolfson, and he is going to be speaking to us tonight about an issue that he knows very, very well which is "Greece: a state with weak institutions in crisis". So, Professor Flogaitis, thank you very much for coming.

PROFESSOR FLOGAITIS: Thank you very much, Valia, for inviting me. I am truly honoured to be here today with all of you. Thank you, president, and members of the college who have come. I see some Greek colleagues here. Perhaps I don't recognise them all. How much time do we have?

VALIA BABIS: As much as you want.

PROFESSOR FLOGAITIS: As much as I want. It depends on the patience of the audience. Actually, I was asked by Valia to see if we could organise a lecture in the frame of the Wolfson Law Society discussions and the idea came to me to propose this theme: "Greece, a state with weak institutions in crisis". I wanted to go into this theme only because I have the feeling that our leadership, the leadership of Greece, fails to talk to the friendly nations in terms of truth, at least the way I understand the truth, and remind them who we are, where we come from, what we are trying to do in our part of the world and why the crisis and what the crisis is leading us to? I divided my work in two parts, honouring my French education. The first part will deal with Greece, a state with weak institutions. We have to understand that Greece is not a state like everyone else on the European continent and this is why history has made of Greece a state with weak institutions. And after having explained that, I will go into my second part and I will talk more in particular about the crisis; the crisis we are undergoing today.

So, please allow me to start with my first part: Greece as a state with weak institutions.

All the states in Europe, especially in Western Europe, they are the institutional and societal evolution from the times of the late feudalism up to today. Around the 14th century, Europe's societies started developing institutions which gradually led to the concept of state. In this evolution, England, France, Portugal, Spain, Germany – Germany in those days did not exist, but the German states – participated and contributed to this development, but Greece was not there. Greece was one of the provinces of the Ottoman Empire. We lived without political



independence, self-determination, practically since the crusades; this started in the 11th century but it was concluded, at least symbolically, with the fall of Constantinople in 1453 and when Europe's societies were evolving, as I said, we were not there.

In 1814, which is about four centuries later, in Odessa, on Russian soil – I hope there are no Ukrainians around – three merchants established the so-called Society of the Friends and their idea was to prepare a national revolution in the name of the Greeks, bringing together the enlightened Greek diaspora of those days and the local Greek populations. The idea did not come just like that. We, the Greeks, do not forget that in those 400 years we made many revolutions and we participated in all the Christian battles against the Ottomans, trying to come back to history in independence but all of those attempts had failed and now it was 1814.

1814 is a very important date because it is just one year before the conclusions of the Congress of Vienna and you remember that the Congress of Vienna put a straightforward principle: no change of monarchies, no change of borders of the states, and just one year before, when the Congress of Vienna was taking place and going up to decisions, three Greeks, and behind them all of us, were fool enough to believe that we can go against the dogma and the doctrine of Vienna.

It is not by coincidence that this is happening in Odessa, because the truth is that this national dream to have an independent Greek state for the Greeks crossed in the last more or less two centuries, from the 17th to the 18th/19th century, a very specific Russian project. You remember that the Russians had developed since the early days the idea that they were the successors of the Roman Empire of Constantinople. They, in Moscow, would be the third Rome. They had the dream to go down to the South and they had developed this ideology of protecting the Greek Orthodox populations along with other populations of the region. So, there was a Russian project and the Greeks who constituted the Society of the Friends were hoping that the Tsar would back this struggle. As a matter of fact, they were whispering among the Greek populations that there is a superior authority behind this project, letting everybody understand that the superior authority was the Tsar.

Now, the Greeks, in 1821, they make a revolution in the name of the Greeks and the Tsar does not appear. As a matter of fact, his foreign minister was a Greek, Ioannis Capodistrias; Graf Ioannis Capodistrias, was asked by the Tsar, what to do. He was bound by the Vienna doctrine and Capodistrias, who was the true head of this movement behind the scene, advises him, "Go to war Majesty," but he did not go to war; so the Greeks were left alone. In this war of independence, the societies of Western Europe were excited with the desperate Greek struggle; it seems that it was the first time ever that the European societies came up and said, "Look, we exist as societies and we want to support this," and they started helping and they started pouring people into Greece. Lord Byron was the most famous of them who came to fight and died for the Greek cause.

The Greeks made a declaration, the Declaration of Independence, and I always say that it is good for every schoolboy to read the first paragraph of this Declaration of Independence.



Unfortunately, we, the Greeks, we don't do it, but that first paragraph is our mandate. It is what they wanted to do and what brings people like Valia, me and other Greeks around in this room today. They say we are the descendants of the wise, ancient, Greek people, the descendants of the ancient and wise Greeks; we are ashamed of the situation of barbarism and the tyranny which we live with today and we want to create a state similar to the one of our Christian, friendly, civilised European nations. That's the mandate of the revolution. The problem is that when we made this revolution, Greeks that we are, as soon as we started existing politically, we went into civil wars; one, two, three civil wars because the Greeks are political animals. They want to know who is going to lead. They don't want to be behind the leader. They want to be the leader. So, they started killing each other and the revolution was in great danger, and this great danger was avoided because of an international intervention. Now, we should not forget this word "intervention", because it is useful in order to understand the weakness of the Greek state. As I said, one of the reasons of the weakness of the Greek state is that before we established the State we started killing each other.

The second truth is that at the end of the day, the heroic people of Greece needed a foreign intervention in order to come back into history again, and this intervention was the naval battle of Navarino in 1827. The British, the French and the Russians came together and with the responsibility of the British Admiral Codrington, they sunk the Turkish-Egyptian fleet, and Greece started hoping for independence. A French army came to clean the territory from enemy troops and started liberating the land for us. Actually just to say that, it is one of the mysteries of history why Codrington did that, because Codrington had very specific order to follow the situation but not to intervene and he did intervene and that's why one of the main streets in downtown Athens is under his name. He was punished by the British later, but we still need not to forget that we owe our independence to the nation of this country and to Admiral Codrington who did that for us, and then in 1830 we had a new state borne on ancestral Greek soil, thanks to the Protocol of London.

In this Protocol of London, the three powers which intervened in Navarino declared themselves "protectors" of Greece. Now, this was not a protectorate; it was a very original form of protection, but I can tell you that it lasted for more than a century and it had specific political importance because the three nations which intervened in Navarino, of course, they intervened in Navarino because their societies wanted them to intervene but also they intervened for specific strategic reasons, and every one of them wanted the place to be under the influence of them. So, in Greece, we had the three political parties: the British, the French and the Russian, and it's not that the Greeks were not patriots but there were three ways of thinking as to whom we should ally to in order to bring the country ahead.

Anyway, in 1832, the first king came to Greece; he was the second son of Ludwig von Wittelsbach, King of Bavaria. The revolution was republican but the three powers wanted the state to be a kingdom and the more I think of that, the more I believe that it is true that what they wanted, they wanted someone to have the possibility to liaise with in a country of unpredictable people and we have seen this to work in many moments of the modern Greek history.



A dream was coming true. We had the possibility to have a state like the ones of every civilised, nation of Europe and a state building, very original for those days state building started, because the Greeks and the Bavarians who came started transplanting the Napoleonic state in Greece. It is a transplantation. It's not the result of an evolution in centuries as it was in this country. Nothing of this was heard of on Greek soil for four centuries. Nobody knew what a Prime Minister is. Nobody was accustomed to obey a public administration; there was no public administration. There were no true courts. There was nothing of the kind in the memory of the population. Actually, at a certain moment, Ludwig gave to his son Rudhardt – Rudhardt was a high official of the public administration of Bavaria – to serve as prime minister in Greece and Rudhardt wrote memories, and he writes in his memories how disappointed he was by his service in Greece because, (my words) “in my country I was director general of a ministry and everybody respected me, and now in Greece everybody comes to my office whenever they want, they shout at me, I am in continuous danger. What country is this?” Because the people did not know anything of those things. They were living everyone with himself or with their little village or with the people who run the village, nothing that you know of, but the Greeks wanted to create a state, and so they did. They transplanted state institutions, together with the Bavarians. We owe a lot to Georg Ludwig von Maurer, a professor of French public law in the University of Munich, who came to Greece with King Otto and transplanted the Napoleonic state in Greece. However, as I said, those institutions had no memory, had no past. They were very weak since their conception, and then there was the famous west/east issue. What is Greece? We belong to the west or we belong to the east? The revolution was giving the answer. We belong to Europe, meaning to the west, this way of doing things, but there was in the society a great distrust for the west, a distrust which, perhaps you would laugh, starts with the crusades.

We lost our political autonomy for many reasons. One of them is, however, the infiltration of our region by the Franks, which starts in the 11th century and which brings the Greeks in 1453 to prefer the Turks than your societies, and then you have the church working on it because the church had to explain why it was better to be with the Turks. They said that we did it to save our souls, because the Pope wanted us to change the credo; we did it because they were robbing our properties. The looting of Constantinople was never forgotten. So, perhaps it seems crazy to talk about that in 2013, but the Greeks are a historic nation and whenever you start talking of anything, they start with Homer and then they come to date. Whether they have the right to do that or not, that's who we are, and this distrust towards the west influences the perception of the institutions brought from the west. Are those institutions better, or perhaps we could have developed our own institutions? We could have developed the local government, which we had under the Turks, according to all sorts of political theories. I have never understood those theories because I have always thought that they were unrealistic. But also, because they are not for the modernisation, and finally because I believe we have a specific mandate by the revolution; but if you ask any Greek today who was the leader of the Greek revolution, they will tell you Kolokotronis. He was not. He was not. He was one of the leaders of the revolution. He was perhaps the one whom all the enemies were afraid of, because he was still in the mountains when Ibrahim was devastating Peloponnese and just before Navarino he was still fighting and he's our glory. However, the leader of the revolution was Demetrios Ypsilantis, a prince from Russia, a Greek prince of the Russian order; he was appointed by the secret Society of the



Friends as the leader of the revolution. Did the Greeks pay attention to him during the revolution? No. Do the Greeks always recognise that he was the most valiant, the most virtuous of the Greeks? Yes. But at the end of the day, he, the one who symbolised the modernity was left aside by the others who were the brave people but they were not symbolising modernity. Yet, what I am saying is not very honest for Kolokotronis because Kolokotronis too was the product of the west, he was exposed to the British traditions because he was lieutenant of the British army in the Ionian Islands and this helped him a lot to understand the tactics and the war.

This is Greece in terms of institutions, and the institutions evolved. Now, the Greece which we created in 1830 was just that small. The state was meant to be small and weak. The state was meant to be small for international reasons, but the dream of the Greeks was to liberate all of the ancestral land and from 1830 up to 1947, every generation made wars to produce what you see now as Greek territory. I belong to the first generation which did not go to war at least up until now and I believe it is now too late for me to go to war, but this is the result of a country, this is a result of a nation which did not spare money, effort and did not hesitate to go to wars in order to create Greece.

In 1897, we went bankrupt for similar reasons as today, because there was then a prime minister called Trikoupis. He found very low interest rates. In those days the world was having the first kind of globalisation, and with low interest rates he made many infrastructure works in Greece but then the interest rates went up and he got bankrupt. So, we will never forget that he got bankrupt, but if he had not taken the loans, Greece would have been even more retrograde than it is now, and in 1909 comes to power Eleftherios Venizelos, the man who takes Greece, just small like this, and makes of it five times bigger. How? Because from 1910 to 1912 he takes a destroyed country, because of the bankruptcy, he brings a French mission and reorganises the public administration and the state. He allies himself to the British and he goes to the Balkan Wars and then to the First World War. This goes up to 1919 and then we start the adventure of Asia Minor, bringing us to the destruction of the Greek populations of Asia Minor in 1922.

About two million Greeks came to have a new life in Greece and, again, you have a state and institutions which now need to work in a bigger space with parts of Greece which had forgotten what political autonomy is for five centuries, and then you have two million people coming here. That's Greece. It's not like England. It's not like France. None of Europe's societies has been exposed to a situation like that, and then we have the Second World War. We have the honour to be in the position to remind you that we never surrendered. We are a small state which never surrendered to the Italians with whom we fought in Albania; then the Germans came through Yugoslavia. Our government went along with the British to the Battle of Crete and then to the Battle of El Alamein. We were in Normandy. We went to Berlin. We were one of the winning powers, but we were bare feet and actually the only possibility we had not to be bare feet was thanks to the shoes which you sent to our army or to our soldiers, but then when every other nation started restructuring its economy, we did not forget that we are the best in civil wars. So, we had our civil war from 1946 to 1949 and we destroyed what was not destroyed already by the Germans. Talking about the Germans, please never forget that we are the only nation among the occupied nations which lent money to the Germans. We lent money to the Germans



because the Germans wanted our gold and the Quisling government, despite the fact that it was a Quisling government, did not accept to do it and they went to Rome and signed a contract and the Germans took the gold on the promise to give it back with interest after the pacification. This is one of the biggest traumas in the memory of modern Greeks, because we know that we owe a lot to Germany today, but we don't forget that they never paid back that money and it is important that they never paid that contracted money, because that winter the Athenians died in the streets by thousands as there was not a penny to support them in difficult times.

In 1947, with the peace process with the Italians, we take the Dodecanese. You have here among us today one student who comes from Dodecanese; so his father was born Italian. My father in law was born Italian. Italian means Italian passport but they were Greeks; therefore, the Greek territory that you know today only dates since 1947. Then, in 1967 we had a dictatorship, which brought Greece even more backwards, and in 1974 we had the Cyprus crisis and this completes, in a few words, who we are. That's who we are. We are a state with weak institutions, because we never had the time to develop better and stronger institutions. Never, almost never, because we live in a normal political life only in the last 40 years and I will go now to my second part.

I will look into the crisis which is the result of what happened in the last 40 years in Greece, 40 years since 1974, almost 40 years. The dictatorship of 1967 took place in Greece in order to stop the democratisation process of the society which was leading to a homogenisation of the Greek society and so the dictatorship brought a very severe coup to the weak institutions of the country. As a matter of fact, from 1952 up to 1967 a very important restructuring process had started. We had a public administration which was not bad; the only problem was that it belonged exclusively to the winners of the civil war, not to the others, but the structure existed and could be democratised; the dictatorship stopped that and then again the dictatorship collapsed in the crisis of Cyprus. I remember the day when nobody knew where the ministers were. When the dictatorship provoked the Turkish invasion, because they gave the pretext to the Turks to intervene in Cyprus and occupy it, since then, the one third of the island. When this happened, the ministers were introuvable; you couldn't find them. They did not go to the ministries, there was no government in the country; nothing. So the need for reform came up.

We had, at least as late as 1974, we had to reorganise, to create through reform a modern state. A new political class comes into existence after 1974. The old political class disappears. New people come up and they are the new society; they represent the new society. This is very important, especially when in Greece now they create this dichotomy between the politicians and the people. The political class which was born during the dictatorship and governed the country after the dictatorship came from the core of the ordinary people, middle classes, poorer middle classes, so in a certain sense the new society was coming to power.

And then in 1981, we came into the European Communities. It was a big achievement. In order to understand the importance for the Greeks of getting into the European Communities, you have to remember that since the division of the Roman Empire in eastern and western, Greece, what is Greece today, had never been, for all this time, with the west, ever. It is the first time since the 4th century that Greece goes with the other part of the empire, and if you remember what I said



in my first part about the issue west/east, it was a revolution for us; a happy revolution, however, because we were again within the mandate of the declaration of the independence of Greece. That's what our ancestors wanted. They wanted us there.

However, the entrance into the European communities created a very original inertia in our political class because now everything was decided in Brussels. Greece was meant to be part of this decision process. I don't know how good our political class was into truly participating in this decision making process, but little by little they started being the local administrators of policies decided elsewhere. Money was coming in. Everybody was happy, but Greek policies, you could not see. Greek platforms for reform, you could not see; only whatever was coming from the European communities.

In 1981, the socialists come to power. It's a new party born after 1974 and they represent all this new society which was born during the dictatorship, before the dictatorship, after the dictatorship, and the years 1982-1984 were reform years. However, the reforms which took place in 1982-1984 were delayed reforms, were reforms which should have taken place in the sixties or the seventies. Now it was too late. To give you an example, the new forms of participation into local government, when they were brought to Greece from Italy, because many of our expatriates during the dictatorship had found refuge in Italy, but when they were brought in Greece, in Italy they had already finished working because the society had changed. They were delayed reforms, not always of excellent quality after all, and they were reforms which were on the traditional pattern. What was the traditional pattern? That the state does everything. The state has the means to do everything.

Those are the years when the Greeks start borrowing more and more money. The balance was more or less in good shape in 1980 but after 1981 we start borrowing money, more perhaps than we could afford to, and one day the new policy for the Euro comes from Brussels. Shall we be there? Of course we shall be there. Our political class wanted to be in the Euro for many reasons and I can tell you that for me, personally, when we went into the Euro, it was the most unheard of, so to say, it was something which I had never thought would ever happen in my life, i.e. having the same currency with the Germans. This I had never believed it would happen, because I know that when I was a young boy in my little province, most of the people did not know what shoes were and now we were in a community where we had the same currency with the Germans. And in this unfounded euphoria, we forgot that the Euro was a currency created on a specific platform. Europe wanted us to have specific prerequisites and in order to have specific prerequisites you needed to do the appropriate reforms.

Two things: they say we lied to Europe. We did not lie to Europe. This is not true. Europe knew very well what we did. We did a swap and we sent a part of our deficit 20 years later. It was legal. It was announced. It was done by a well-known international company, and, when I said the same thing one day in a conference in France I was attacked by the French, "Oh, you lied." I said, "Who were the first ones not to observe the prerequisites of Euro? If I remember well," I said, "it was France. Did you observe the rule of the three percent? No, you did not. How can you tell me that it was my country, which did not observe the rules? Altogether, your



nations, can buy the Greek economy and stop the problem overnight.” But I read yesterday in *Le Monde* about the incapacity of France to get reformed.

France is a big country but France is not the problem of Greece. The problem of Greece is that we did not read the document when we signed. It's not that we did not tell the truth. It's like going to the bank, they have small letters, you see. You sign because you need the money, but it's something there, and I believe that none of the nations of Europe read those little letters, that's what I believe. It's not just a Greek problem, but it is Greece a problem for Euro, and it is a problem for Greece, because, as I said in my first part, we are the only state among the states of Europe, which has truly weak institutions. Portugal was there with you in the 14th century. Spain was there with you in the 14th century; they almost invaded your country, but Greece was nothing in those days, just a dream it was, and so the question is: what reform? My answer is, when I discuss those issues with my compatriots, any reform. Let us do something. We need to create the state from scratch, because the state we have created cannot go.

Now, if we want to choose among many solutions, we are an independent nation, we have elections and political parties to propose solutions, which one is good for the country, on one condition: if we want to stay with the Euro, we have to read the little letters. Nobody will ask us to stay in the Euro, if we don't want to and, if we don't like the little letters, we have to have some kind of negotiation and do something for it. I'm afraid to say that practically today in Europe, continental Europe, there is a fight between more or less new public management and traditional state structures, French style state structures, and this is the reason why I have always said in Greece, and I said, when all of this was starting and even before it started, I have always said that the Greeks should have gone to Paris to discuss with the French what kind of state we're going to create, because we are a miniature of the state of France, just the same thing. And when I saw French politicians accusing Greece, I said, “All right, the crisis will come to you and I want to see your solutions, because you are saying that we are not good enough for our solutions,” and as a matter of fact, I very rarely give interviews because it's not my job to give interviews, but I was in Slovakia and they had a governmental crisis because of us. They had the government fell, because they did not want to give their part for saving Greece, and I was asked about that and I said, “Look, the revolutions in Europe started always in Paris and eventually in Berlin, not in Greece, so unless we become very honest about the issues and what kind of state we want, there will be a revolution and so I'm following with great interest the newspapers in France to see how the situation is evolving there”.

My conclusion: Greece, a state with weak institutions with, a young state, needs once again an adaptation of its structures to new realities and this adaptation needs to put together the best practices coming from other countries, mobilise the national forces which are very important. The Greeks are a very well educated nation. I feel truly offended when I see that they sent us experts from Europe to explain to us this or that. I will give you an example. I was called once to give an advice. They needed an expert from England to explain an institution, an English institution. I said, “Why do you want an expert? I can give you a couple of names but why do you want to bring somebody from England?” “Because I need to learn that.” I said, “Give me five minutes, I will explain it to you because I have written a book on that,” and it happened that



I had written a book on that, but I know many others who could have known the issue; we have the forces to reform the country, but we need the platform. We need somebody to start reforming in any way. What we have, cannot go. What we have is a state, which was created in 1910/1912 with adaptations. As I keep saying, after 80 years with no reforms, even the Soviet Union collapsed. The structures need to get continuous reform and we, the Greeks, we can reform our country, but we need a strategy and a strategy can only be given by the political class and I'm confident that our political class will bring Greece to better days. Perhaps I am the only Greek who says that, but I keep saying that those are the politicians we have. Are we and the others politicians? No. Are we doing the job? No. Do we want to do the job for them? No. All right, that's the people we have. Let us help them. Anyone who is in government through elections, let us help them to do the job. I'm afraid to say that four years after the crisis started, the job has not started yet. If you know of any reform, of any reform of any colour, of any direction, which took place in Greece in the last four years, then perhaps I have missed something, and this is my conclusion. We the Greeks, we have the forces and we can reform the country, but we need a platform. Perhaps the platform is given by Europe, by the little letters. This will be decided by the politicians, but let them do whatever they want very quickly. The time is gone. Thank you so much.

