



JUDICIAL STUDIES INSTITUTE

MASARYK UNIVERSITY BRNO

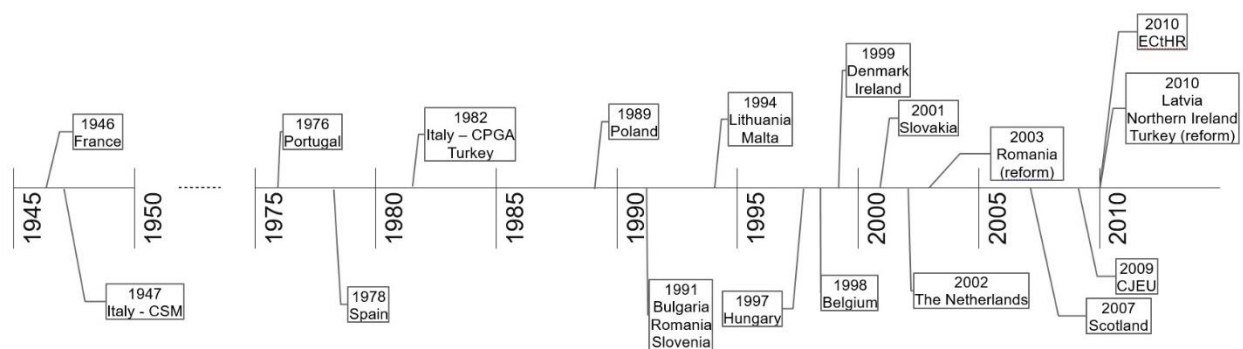
SYNTHESIS REPORT OF JUDI-ARCH
2021

A. Introduction: Aims of the project

The aim of the project “The Rise of Judicial Self-Government: Changing the Architecture of Separation of Powers without an Architect” (hereinafter “JUDI-ARCH”) was to understand the process of empowerment (and, more recently, disempowerment) of judges in judicial governance and to analyse its impact on domestic and supranational judiciaries as well as on societies in general.

After WWII, many European states transferred decision-making powers regarding court administration and judges’ careers from political bodies to special organs in which judges have had a major say. Judicial councils and other bodies of judicial self-governance (JSG) spread particularly quickly during the accession of Central and Eastern European countries to the European Union, in the wake of guidelines and good practices issued by the Venice Commission, the European Network of Councils for the Judiciary, the Consultative Council of European Judges and the European Commission (Figure 1). The idea behind the establishment of judicial councils typically followed four motives a need to strengthen judicial independence, to insulate judges from potential political interferences, to achieve a more efficient judiciary, or to increase public confidence in the courts ([Urbániková – Šípulová \(2018\) Failed Expectations: Does the Establishment of Judicial Councils Enhance Confidence in Courts? *German Law Journal*, Vol. 19, No. 7.](#)). The architects of judicial councils believed that judicial governance should be entrusted to experts – i.e. judges who are better suited to understanding the internal needs of courts and who are independent of partisan interests and policies.

Figure 1: Rise of Judicial Self-Government in Europe



Source: JUDI-ARCH.

However, while the unprecedented rise of the decision-making power of courts has stirred vibrant and comprehensive academic discussion, the rise (and fall) of JSG and its resulting effects remain under-researched, as the traditional descriptive and normative scholarship is not able to capture them.

JUDI-ARCH filled this gap and addressed the implications of this phenomenon for the “new” as well as “old” EU member states. JUDI-ARCH’s central research question was: **how has the rise of JSG affected the functioning of judiciaries in Europe and what implications has it for the concept of separation of powers?**

More specifically, the JUDI-ARCH project consisted of the following interrelated research aims. The first was to provide a richer understanding of judicial self-governance in Europe. The JUDI-ARCH team went beyond the usually examined institution of the judicial council and explored a higher number of the main JSG actors and practices, providing a complex understanding of the phenomenon of JSG. The second aim was to find out what the actors involved in the daily business of judicial (self-)governance – judges, politicians and lawyers across Europe – think about the JSG institutions, their strengths and weaknesses, and ways to improve them. The third aim was to explore the competences held by judges from the institutional perspective, comparing the share of judges involved in judicial governance across individual models (ministerial, judicial councils, court service etc.), in order to enable empirical



measurements of causal relationships between the outcomes of judicial decision-making (judicial independence, accountability, legitimacy, transparency, and confidence in courts) and the participation of judges in the regulation and governance of the field. Finally, the fourth aim was to account for how JSG affected the separation of power.

B. Theoretical contribution to the field

Although the question of judicial (self-)governance attracted some scholarly attention in the past, the understanding of the effects of JSG on the functioning of the judiciary and on the separation of powers remained critically underdeveloped. The JUDI-ARCH team pushed the boundaries of the existing scholarship in several ways and impacted on the legal-political practice too. Overall, thanks to an innovative interdisciplinary approach, the JUDI-ARCH project successfully challenged some of the long-held assumptions in the field and provided for a thorough and complex understanding of JSG and its real-world effects, based on solid theoretical foundations and new empirical evidence.

First, the JUDI-ARCH project significantly contributed to the field by providing a novel complex conceptualization of JSG. Previously, scholars had predominantly focused on judicial councils as major JSG actors. Based on an extensive comparative inquiry, however, the JUDI-ARCH project found that JSG is a much broader phenomenon, encompassing a number of other bodies besides judicial councils (such as court presidents, judicial appointments commissions and disciplinary panels) with varying degrees of participation of judges that have received very limited scholarly attention. Moreover, we decided to focus not only on the *de jure*, but also on the *de facto* dimension of judicial self-governance. This means ascertaining not only whether judges have formally been empowered to govern themselves, for example, by being allocated the majority of seats in a governing body, but also whether they can actually influence the decision-making of that body. Such an approach allows the identification of gaps between the role assigned to judges on paper and the role performed by them in practice. As a result, the JUDI-ARCH team thus **identified a major gap in the literature and filled it with a novel conceptualization which linked the previously fragmented and sometimes contradictory debates** in the research field, broadened the scope of the JSG debate, and allowed for a more comprehensible comparative debate to emerge.

Second, the JUDI-ARCH project contributed to existing scholarship with crucial **exploratory work, new qualitative and quantitative data, and new theoretical findings**. The project's findings are built on a solid empirical grounding, going beyond earlier unsubstantiated assumptions about JSG. In particular, the project probed into what the actors involved in daily JSG practice actually think about their respective JSG systems, conducting over a hundred qualitative interviews with judges, politicians and lawyers who participate in JSG practice. Based on this rich empirical material, the JUDI-ARCH project shed light on what formal and informal factors affect the varying perceptions of JSG across countries and professions. Moreover, the input gained from qualitative interviews allowed for the construction of a novel typology of judicial councils that breaks apart the idea of a unitary concept of a judicial council and connects the JSG debate with the broader theme of separation of powers. Besides this qualitative material, the JUDI-ARCH project focused on quantitative aspects as well. Building on the aforementioned broad conceptualization of JSG, the research team constructed **the JSG index**, which traces the actual power of judges across various JSG dimensions. This is an important breakthrough in the field as the index allows for more fine-grained and less formalistic comparisons of JSG systems. Over and above the general JSG index, the research team devised **The Court President Power Index**: a specific quantitative metric for assessing the power of court presidents – crucial actors of European judiciaries hitherto largely neglected in the existing scholarship.

Third, JUDI-ARCH made a **theoretical contribution** to the understanding of the placement of judicial councils in the system of separation of powers. Discussing the role of judges and politicians in the governance of the judiciary and their respective impacts on judicial independence, accountability and legitimacy, the project demonstrates that judiciaries that are too autonomous are prone to internal politicization. Judges hold significant powers and competences in ministerial, as well as judicial council, models. In contrast to the usual expectations of institution-building, the effectiveness of various models

of judicial governance rests primarily on the commitment of stakeholders to values underlying particular models of judicial governance. While judicial councils, if well designed, can eliminate some political interferences and pressures, they seem to freeze informal cultural patterns present within the judiciary. If these pre-existing patterns are problematic, they actually make judicial governance worse. Judicial councils then become major highways along which factions and politicized interests within the judiciaries travel to the top tiers of judicial (self-)governance. These findings brought us to the need to reconceptualize judicial councils and their position within the separation of powers. While many existing theories of the separation of powers still build on the classical 17th and 18th century writings, JUDI-ARCH aimed to provide a novel understanding, taking into account the relatively recent phenomenon of JSG. The project argues that in order to secure sufficient checks and balances, if established, judicial councils should be institutionalized as a fourth branch, independent of all three branches of governmental power, and adhering to principles of functional, institutional and personal incompatibility. The composition of judicial councils (both members and the actors who select them) should be more open and provide sufficient plurality and representation of society: judges, politicians, as well as experts and the wider public.

C. Project results summary

A major innovation in our approach was the integration of comparative legal perspectives with sociological and political science approaches. We conducted in-depth conceptual, qualitative and quantitative case studies based on collection of empirical data and in-depth elite interviews, on the impact of different models of JSG in both “new” and “old” EU Member States. Moreover, our approach to JSG is novel in another respect – we study not only “traditional” policies and competences related to selection, disciplining, judicial careers, and the administration and budgeting of courts, but also digital, ethical and informational self-governance. The JUDI-ARCH project was divided into four interrelated work packages (WPs), which focused on conceptual (WP1), qualitative socio-legal (WP2), quantitative (WP3) and theoretical issues (WP4). All four WPs were successfully completed, with results that significantly contributed to the field and advanced the understanding of JSG in Europe.

1. Conceptualizing Judicial Self-Governance

WP 1 resulted in a **special issue of the *German Law Journal* entitled “Judicial Self-Government in Europe”** ([vol. 19, no. 7, 2018](#)), which provided a comprehensive and up-to-date comparative account of major JSG models and issues across Europe. The special issue covered 12 national jurisdictions (featuring both old and new EU member states) and 2 supranational courts, and addressed a number of crucial cross-cutting issues, such as judicial selection, the role of court presidents and a pioneering article analysing JSG at international courts. The jurisdictions were chosen to represent all existing models of judicial self-governance: a strong judicial council model (France, Italy, Romania, Slovakia), a moderate judicial council model (Spain, the Netherlands, Poland, Slovenia), a Court service model (Ireland) and a Ministry of Justice model (Germany, the Czech Republic). While not envisaged initially, Turkey was included, given the unique constitutional and political challenges faced in this jurisdiction after the 2016 failed coup d’état. As previously stated, the special issue also analyses two European supranational courts, the ECtHR and the CJEU. Apart from in the *German Law Journal*, team members published various articles in established high-impact journals reflecting on the roles of supranational courts or various national JSG bodies. The special issue made a great impact in terms of readership, both within the research field and in practice (see the CJEU AG’s reference to Kosar’s work (C-619/18 R *Commission v Poland*; and Opinion of Tanchev AG, Joined Cases C-585/18, C-624/18 and C-625/18 *A.K. v Krajowa Rada Sądownictwa and CP, DO v Sąd Najwyższy* – for a reference to the whole Special Issue).

WP1 therefore created a **novel conceptualization of JSG**, which set the foundation for a qualitative analysis of elites’ perceptions of JSG (WP2) and a quantitative assessment of the impact of various models of JSG (WP3). It adopted a new definition of judicial governance as “**a broad understanding of judicial governance as a structured model of social coordination which produces and**

implements a set of institutions, rules and practices which are collectively binding and which regulate how the judicial branch exercises its functions. Judicial self-governance (JSG) then captures the extent to which judges and courts participate in judicial governance.”

A judicial self-governance body is then “a body with at least one judge that has some judicial governance competence. Its role, entrenched in a legal norm, is to (a) decide about issues regarding court administration and/or the career of a judge, and/or (b) advise those who decide about such issues. This definition thus includes not only judicial councils, but also court presidents, the Court Service, specialized domestic judicial appointment commissions, as well as the Article 255 TFEU Panel for the selection of Court of Justice judges and the Committee of Ministers (CM) Advisory Panel of Experts on Candidates for Election as Judge to the ECtHR ([Kosař, David \(2018\). Beyond Judicial Councils: Forms, Rationales and Impact of Judicial Self-Governance in Europe. German Law Journal. Vol. 19, No. 7.](#)).

As a field, judicial governance consists of eight separate dimensions: regulatory, administrative, personal, financial, educational, informational, digital and ethical (Table 1).

Table 1: Dimensions of judicial governance

I. Regulatory	Competences related to establishment, abolition, or changes in the jurisdiction and procedural rules of a court
II. Administrative	Composition of a court (setting the number of judges, panels and their composition), work schedules, case assignment
III. Personal	Selection and (re)appointment of judges, promotions, removals and transfers of judges (permanent and temporary), disciplining of judges, civil and criminal prosecution, evaluations of judges
IV. Financial	Size of a court's budget, salaries of judges
V. Educational	Compulsory education (plan and structure) and further training and education of judges
VI. Informational	Publication of rulings, recordings of trials, annual reports, case assignment, disclosure of judges' property, political affiliation and some personal information
VII. Digital	Placement of servers with online data
VIII. Ethical	Preparation and interpretation of the code of conduct, off-bench activities of judges, communication with media

Source: JUDI-ARCH.

(I) The regulatory dimension (5 competences) covers all decisions on the establishment, abolition, merger, division and jurisdiction of courts. These competences are typically regulated by the legislative power (parliament), but we are interested in whether judges take any part in the subsequent adoption of changes to these regulatory competences. The ability to comment on legislation related to courts and judges is one of the most typical results of judicial empowerment and offers judges an important voice in the legislative process ([Kosař and Šipulová 2017, The Strasbourg Court Meets Abusive Constitutionalism: Baka v. Hungary and the Rule of Law. The Hague Journal on the Rule of Law. Vol. 10, No. 1, pp. 83-110.](#)).

(II) The administrative dimension (9 competences) targets administrative decisions on the courts' functioning, such as the overall number of judges assigned to a given court, the structure (number and composition) of panels, the overall number of assigned administrative personnel and law clerks, but also questions of case assignment and reassignment (sometimes referred to as case allocation) and the evaluation of courts (in terms of the quality of their decision-making, finances, budget, etc.).

(III) The personal dimension (19 competences) groups together all decisions on the career and accountability of a judge. It covers the broadest range of competences from selection and appointment,

transfer and removal (including temporary), and disciplining of judges to judicial performance evaluation, financial bonuses, and the criminal liability of judges.

(IV) The financial dimension (4 competences) addresses decisions on the size and allocation of a court's budget and the salaries of judges.

(V) The educational dimension (5 competences) deals with decisions on the compulsory and further education of judges and the training of judicial candidates, asking who decides and creates the structure and content of education, including the certification of a judge who can then apply for a vacant position.

(VI) The informational dimension (9 competences) covers competence to determine which judgments are published, to decide on recordings of trials, the obligation to disclose judges' property and their political affiliation, statistics related to caseload, annual reports on individual courts and on the whole of the judiciary.

(VII) The digital dimension (1 competence) relates to the physical placement of servers, asking whether judges or the executive manage the online servers. This seemingly technical question gained in importance with the digitalization of justice, as the ability of courts to manage their own clouds and servers allows them great flexibility in terms of internal management (introduction of new search engines, case management systems, etc.) and transparency towards the public.

(VIII) The ethical dimension (8 competences) captures decisions on the preparation and interpretation of the code of judicial conduct, communication by judges with media, and the regulation of their off-bench activities. It is worth mentioning that the list of ethical competences includes several which might also be covered by the ethical code (listed as an individual ethical competence). We decided to list the most important of those separately in order to cover information on jurisdictions which do not enact formal ethical codes.

This eight-dimensional conceptualization of judicial governance allows us to explore the extent of the participation of judges in various areas of the regulatory field, taking into account different political salience or novelty of individual policies of judicial governance.

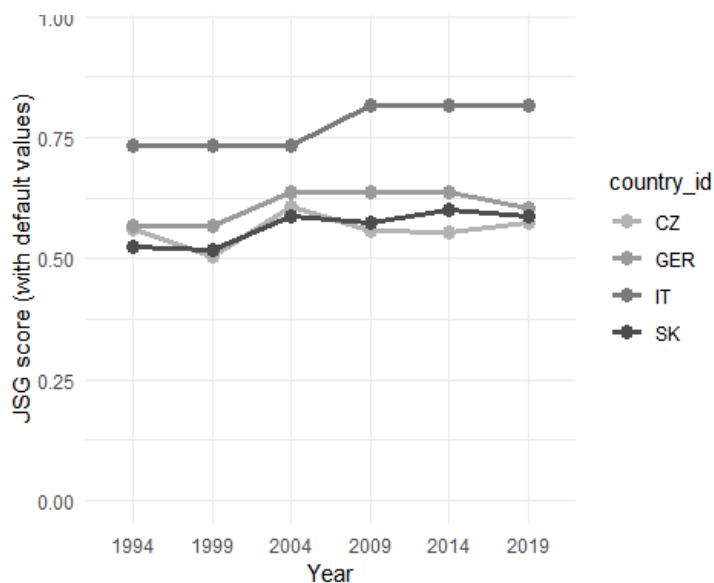
2. JSG Index and quantitative measurement of effects of judicial councils

As a result, we realized that JSG is a highly complex phenomenon contours of which go far beyond the selected model of court administration, since even judges in the Ministry of Justice model can have significant JSG powers. Moreover, similarly to the most recent scholarly works, we have noticed the increasing importance and agencification of other actors of judicial governance, such as court presidents ([Kosař and Spáč \(2021\) Post-communist Chief Justices in Slovakia: From Transmission Belts to Semi-autonomous Actors? *Hague Journal on the Rule of Law*, Vol. 1, No. 13, pp. 1-36](#); or [Kosař, David and Adam Blisa \(2018\). *Court Presidents: The Missing Piece in the Puzzle of Judicial Governance. *German Law Journal*. Vol. 19, No. 7*](#)), but also directors of courts, judicial associations and other regulatory bodies. Accordingly, in WP3 we refocused our attention from institutional models of judicial governance to understanding the JSG as a complex set of competences shared by judges and other political actors. The set of these competences is reflected in the de jure **JSG index**, which has been constructed by the JUDI-ARCH team under WP3. The index seeks to capture the amount of power held by judges in various constitutional setups and models of JSG. In other words, the JSG Index looks beyond the judicial councils and studies the role of judges in the governance of courts more generally. The index, composed of 60 competences, was constructed on the basis of extensive literature and data view, and subsequently tested in several European jurisdiction, observing what share of competences judges hold in different institutional models (i.e. governance dominated by the judicial council, court service, ministry of justice, etc.).

The application of the JSG Index to longitudinal data from Czechia, Germany, Italy and Slovakia, two pairs of old and new EU member states with ministerial and strong judicial council models, demonstrated that while it is true that judicial councils empower judges with considerable amount of competences, strong elements of self-governance are present also in other institutional designs (Figure 2).

The JSG Index demonstrated three inter-related trends: 1) an overall increase of judicial self-governance in all institutional models. 2) The loose connection between the existence of judicial councils and empowerment process might suggest that questions of empowerment and institutional insulation should be analysed separately. 3) Finally, we also observed a trend of increasing regulation of the field. Judicial governance is becoming more complex, with new competences appearing (particularly in areas of digital, informational or ethical dimensions) and these new competences are dominantly delegated to judges.

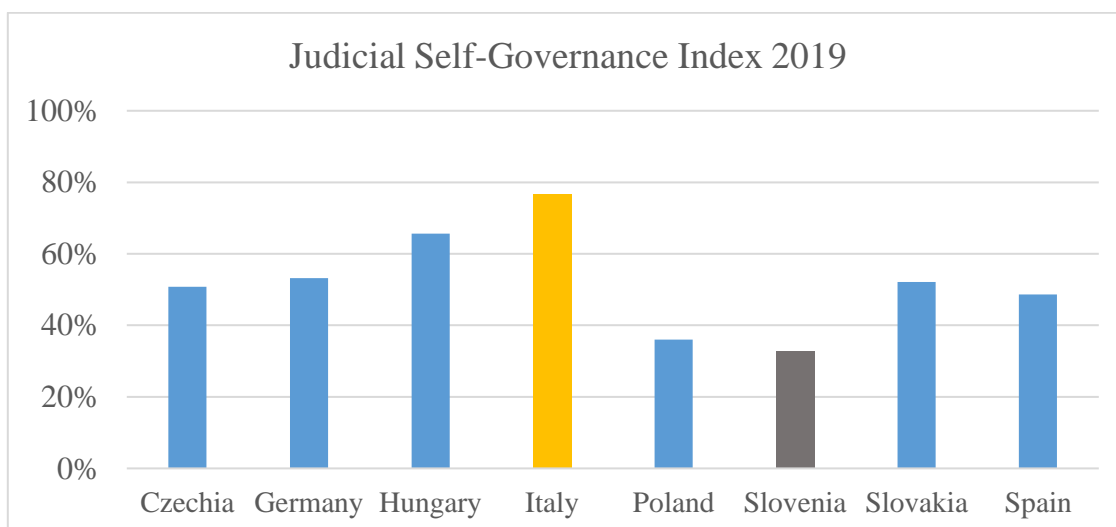
Figure 2: JSG Index: results for Czechia, Germany, Italy and Slovakia, from 1.1.1994 until 1.1.2019



Source: JUDI-ARCH

The application of the JSG Index to more European jurisdictions (Figure 3) further strengthened these findings. There are more models which allow for significant judicial empowerment and self-governance, while also providing more balanced interaction of judges and actors outside of the judiciary (politicians, but also outsiders – lawyers, university professors, NGOs, etc.).

Figure 3: JSG Index results – % participation of judges on judicial governance as of 1.1.2019



Source: JUDI-ARCH.

Combined with other results of our research, suggesting that too autonomous judiciaries are prone to corporativism and internal politicisation ([Kosař, David \(2017\) Politics of Judicial Independence and Judicial Accountability in Czechia: Bargaining in the Shadow of the Law between Court Presidents and the Ministry of Justice. *European Constitutional Law Review*, Vol. 13, No. 1, pp. 96-123](#) or [Spáč, Samuel \(2020\) The Illusion of Merit-Based Judicial Selection in Post-Communist Judiciary: Evidence from Slovakia. *Problems of Post-Communism*](#)), the JSG Index has important policy implications. These implications apply particularly for young transitioning democracies and highly polarised societies, where judicial councils historically proved to be problematic, because they attracted too much politicization and decreased internal independence of rank-and-file judges on their court presidents. Several separate case studies published under the JUDI-ARCH project problematized concepts of judicial independence and deformation of judicial independence by processes of judicial selection dominated by judicial oligarchies using judicial councils to channel their power and influence ([Tsereteli, Nino \(2020\) Judicial recruitment in post-communist context: informal dynamics and façade reforms. *International Journal of the Legal Profession*](#)).

We argue that refocusing our attention on judicial governance competences, instead of judicial councils, allows us to identify the politically most salient areas of judicial governance. More decentralized and well-balanced institutional models, which allow to spread salient competences among more actors, make the judicial governance field less susceptible to easy capture from outside (political interferences) or inside (judicial oligarchies). We revisit the question of judicial councils from the perspective of the separation of powers in the following section.

3. *Perceptions of judicial governance in Europe*

A significant part of JUDI-ARCH project revolved around socio-legal qualitative research of elites' perceptions and experience with different institutional models of judicial governance. WP2 focused on another important aspect of the effects of JSG – the **question of how the insiders involved in daily JSG practice in the given jurisdiction perceive its functioning, positives and negatives, and how they envisage the JSG system being improved**. The JUDI-ARCH project explored the perceived effects of transferring powers and competences to judges through in-depth qualitative elite interviews with judges, politicians and lawyers, searching for their views on the rationales, effectiveness and results of implemented models, as well as their views on the more general questions of separation of powers and distribution of JSG competences. The research team first completed a pilot study exploring the expectations and preferences of Czech elites. Establishment of the judicial council has been debated for decades in Czechia, however, to no avail. The article ([Šipulová, Urbániková, Kosař \(2021\) Nekonečný příběh Nejvyšší rady soudnictví“ Kdo ji chce a proč ji nemáme. *Časopis pro právní vědu a praxi*, Vol. 29, No.1](#)) mapped positions of key stakeholders involved in judicial governance: judges, politicians and lawyers. It inquired which elites supported the establishment of a judicial council, what their expectations were and what form of judicial governance they perceived as ideal. The analysis of Czech position showed that all three groups of elite insiders identified the same two core challenges of the current ministry-dominated system: The ministry of justice lacks the vision and capacity to govern the courts, and thus it informally delegates majority of its competences on court presidents. Too strong court presidents in turn make the system fragmented and endanger internal independence of rank-and-file judges. Elites however disagreed whether the establishment of a judicial council can solve these issues. Majority of judges supported the judicial council and hoped for the unification of judicial governance across the country. Politicians, on the other hand, pointed out that the fragmented system of judicial governance might be more resistant against the capture of the judiciary. Lawyers mostly identified judicial council as a risky model which might encapsulate the judiciary.

The comparative results on the back of approximately 150 interviews conducted in six European jurisdictions (representing the ministerial model in Germany and the Czech Republic, strong judicial council model in Italy and Slovakia, and moderate judicial council model in France and Poland) problematized expectations vested in judicial councils even more. The monograph *European Visions*

of Judicial Self-Governance (forthcoming) similarly analyses first-hand experience of domestic elites with the functioning and effects of their respective models of judicial governance, asking how domestic elites perceive and evaluate these values, what distribution of power they find legitimate, what expectations they have from different models of judicial governance and whether these are met by actual institutional arrangements.

Table 2. Case selection of jurisdictions in joint WP2&WP4 monograph

	Western Europe	Eastern Europe
Ministerial model	Germany	Czechia
Weak judicial council model	France	Poland
Strong judicial council model	Italy	Slovakia

Source: JUDI-ARCH.

The monograph puts forward a three-fold argument. First, similarly to our own empirical quantitative research (WP3), it suggested that judicial empowerment is not exclusive to jurisdictions with strong judicial councils. On the contrary, interviews with German and Czech elites demonstrated that ministerial models in fact do delegate considerable competences to judges and other decentralised JSG bodies (court presidents, judicial boards, judicial academies, etc.). German and Czech interviewees, for example, jointly agreed that judges hold sufficient powers and praised the system stability thanks to decentralization and existence of many checks and balances. Second, the experience of elites suggested that too autonomous judiciaries are simply problematic, irrespective of the presence or absence of a judicial council, although elites also pointed out that strong judicial councils attract even more politicisation and accumulation of interests. Elites voiced worries that too much power in the hands of over-autonomous judiciaries makes the courts prone to internal politicisation and decreasing internal independence of rank-and-file judges from their court presidents. Moreover, it also decreases their transparency and reduces public confidence in the courts. According to the interviewees, the effectiveness of judicial governance rests also on the commitment of stakeholders to values underlying particular institutional models. Third, the analysis of elites' experience with various models of judicial councils also revealed the lack of proper theoretical background behind the position of judicial councils in the system of traditional separation of powers. While the dominant research and policy recommendation of supranational bodies skew the balance towards more autonomy and independence of the judicial power, the monograph shows that the role of judicial councils is much more complex. Drawing on the perceptions of elites on how judicial councils should work, what their composition should be and whose interest they ought to protect, we found that elites in individual European jurisdictions work with at least three different understandings of judicial councils: a judicial council as a representative of the judicial branch, a judicial council as a coordinating institution representing all three traditional branches of power, and a judicial council as a fourth branch of government body.

The monograph here incorporates the results of the final work package (WP4) which synthesized the whole project and, by unpacking the notion of JSG, WP4 provided a **more differentiated understanding of JSG's impact on the system of separation of powers** ([Kosař, David, Pavel Dufek and Jiří Baroš \(2019\) The Twin Challenges to Separation of Powers in Central Europe: Technocratic Governance and Populism. European Constitutional Law Review. Vol. 15, No. 3, pp. 427-461](#)). While each of the three understandings carries a certain risk, the judge-centred judicial council, which stands closest to models promoted by supranational European actors, distorts the interaction between the three powers in the most significant way: it allows a substantial overlap with the judicial power and underestimates conflicts of interest inherently entwined in judge-dominated judicial councils, and it insulates the judiciary by allowing it too much independence unbalanced by sufficient checks. The judicial branch model is therefore troubled by a high risk of the judiciary being captured by strong interest groups inside the judicial power.

The coordinating model of judicial council affects the separation of powers to a much lesser degree. It is designed as a platform for negotiation between the three branches of government and as such should be ideally balanced. Nevertheless, the combination of imperative mandates (i.e. expectations that

members of a judicial council will follow the interests of their principals), lack of expertise and openness to members outside the three powers of state imbue the coordinating model with political and partisan partiality and a tendency eventually to be captured by one of the state powers or to be a victim of harsh political conflict.

In contrast to these two models, the design of judicial council as a fourth branch institution exhibits the greatest potential and safeguard that the judicial council will not lean too far towards one of the three governmental powers. However, it also imposes the most stringent conditions on the council's composition, requires the existence of a diversity of opinions, a guarantee of individual mandates and checks and balances in the processes of the selection and removal of its members.

Based on this analysis, we showed that the third understanding and conceptualisation of judicial councils as fourth branch institutions meets all the features typically assigned to the fourth branch and erodes the separation of powers principle in the least (harmful) way.

4. JSG, populism, court-packing and Covid-19

Finally, the JUDI-ARCH project significantly contributed to the field by **integrating critical up-to-date challenges such as the rise of populism, abusive constitutionalism, court-packing and the COVID-19 pandemic through the prism of JSG and the separation of powers**. Some of these phenomena were unforeseen in the project proposal, as no one could predict the COVID-19 pandemic or such realistic debates on packing the apex courts in Europe and in the U.S. in 2015. We believe that the analysis of the rise and fall of JSG was crucial for understanding recent democratic backsliding in Central and Eastern Europe (especially, but not exclusively, in Hungary and Poland), as well as for promoting good governance in established democracies. In this respect, JUDI-ARCH research provided important explanations of how rising populism challenges the authority of both domestic and supranational courts in Europe ([Petrov, Jan \(2020\) The populist challenge to the European Court of Human Rights. International Journal of Constitutional Law, Vol. 18, No. 2, pp. 476-508](#) & [Petrov, Jan \(2021\) \(De-\)judicialization of politics in the era of populism: lessons from Central and Eastern Europe. International Journal of Human Rights](#)). Next, JUDI-ARCH research mapped the global practice of court-packing, including the highly debated proposal to increase the number of justices on the U.S. Supreme Court, conceptualized court packing (understood as various strategies to stack courts with loyal judges) and proposed institutional, legal and non-legal strategies how to fight it ([Kosař, David and Katarína Šipulová \(2020\) How to Fight Court-Packing. Constitutional Studies. Vol. 6, No. 1, pp. 133-164](#)). Moreover, research team also explored patterns in which judges react to interferences in their independence, searching for mobilization and resistance strategies ([Šipulová, Katarína \(2021\) Under Pressure: Building Judicial Resistance to Political Inference. In DJ Galligan. The Courts and the People: Friend or Foe? The Putney Debates 2019. 1st. Oxford: Hart Publishing, pp. 153-170](#)).

Another JUDI-ARCH publication reacted to the great challenge of Covid-19 emergency governance and provided a first-ever theory of how the other branches should react, introducing the effectiveness-enhancing theory of legislative and judicial checks ([Petrov, Jan \(2020\) The COVID-19 emergency in the age of executive aggrandizement: what role for legislative and judicial checks? The Theory and Practice of Legislation. Vol. 8, 1-2, pp. 71-92](#)).