



Activity Report

2022

JUDICIAL STUDIES INSTITUTE

Masaryk University
Brno



Foreword



Dear friends and colleagues,

It has been more than a year since we started our new research project – INFINITY – and as we embark on another academic term, we are thrilled to share with you our 2022 Annual Report. This past year has been an exciting one, marked by many accomplishments and milestones.

One of the most significant achievements was the [*Informal Institutions and Democratic Decay*](#) workshop we organised in October 2022 in Prague. It brought together experts from across 13 European jurisdictions, and we are delighted to announce that the results of its work will be published as a Special Issue on informal institutions of the prestigious German Law Journal in late 2023.

We also welcomed to our team a new member, Michal Kovalčík, a bright young legal scholar who specialises in constitutional and supranational courts. We are excited to see what new spark he will bring to the team. However, we also have more bittersweet news to share. At the end of 2022, our very dear colleague, Adam Blisa, exchanged the sharp pen of an academic for an even sharper voice to be heard inside the judiciary and joined the ranks of the Supreme Administrative Court as a law clerk. Adam has been an irreplaceable part of JUSTIN, shaping its work and our vision from the very start in 2016. While the friendship formed throughout these years will certainly last, we would like to use this opportunity to thank him for his hard work and wish him the very best in his future career.

After numerous covid-related challenges, we also finally got a chance to travel abroad more freely and discuss our work with colleagues at various research fora and conferences. With our project in a full swing, we are now focusing on finishing the writing of the Special Issue and moving to the second stage of the research. We have started conducting interviews for its sociological branch and we cannot wait to see what new insights this will bring.

Thank you all for following us on this journey.

Warmest wishes for spring 2023,

David Kosař & Katarína Šipulová

Co-Directors of JUSTIN

May 2023

2022 Highlights

OCTOBER: Workshop on 'Informal Judicial Institutions', Prague

The INFINITY team organised a workshop from 20 to 22 October 2022. Over 20 academics assembled in the magnificent rooms of the [CEELI institute](#), the Villa Grébovka, in the heart of Prague.



The workshop was a key event of David Kosař's ERC Consolidator Grant on '[Informal Judicial Institutions: Invisible Determinants of Democratic Decay](#)' (2021–2026). The participants engaged with conceptual challenges as well as specific informal judicial institutions in 13 jurisdictions. The drafts of the articles presented at the workshop will be used as building blocks for a special issue of the [German Law Journal](#) later this year. Stay tuned!



JUSTIN Working Papers & Commentaries

In 2022 we published four **JUSTIN Working Papers**. The topics covered include [Comparative Court-Packing](#) (David Kosař & Katarína Šipulová, both Masaryk University), [Constitutional Dynamics of Multi-Level Governance in Hungary](#) (Attila Vincze, Masaryk University), [\(De\)Judicialization of Politics in the Era of Populism](#) (Jan Petrov, The Queen's College, University of Oxford) and [Judicial Independence](#) (David Kosař, Masaryk University, & Samuel Spáč, Masaryk University & Comenius University Bratislava).

In September we also launched a new type of online publication. In **JUSTIN Commentaries**, we aim to publish short reflections on various topics concerning judiciaries worldwide. We had the honour to begin the new series with a commentary on the [\(In\)dependence of judges in Romania](#) penned by Judge Dragos Călin. Judge Călin discussed a new category of dependent judges within an independent judiciary as a result of recent legislative changes in Romania.

Those intending to submit their papers for inclusion in the series are invited to send their text to justin@law.muni.cz.

JUSTIN events

JUSTIN research seminars create a platform to exchange and disseminate knowledge and to meet colleagues involved in judicial studies research from all over the world. In 2022 we organised several of them.

In May we welcomed **Michal Ovádek**, currently a researcher at University College London. Michal presented a paper on adopting machine learning techniques to assess whether it is possible correctly to attribute the authorship of individual paragraphs of judicial decisions and opinions to their respective authors (judges) of the Court of Justice of the European Union.

In May, **Michal Bobek**, judge of the Czech Supreme Administrative Court and former Advocate General at the European Court of Justice, examined the ECJ's and ECtHR's recent case law and discussed the rule of law crisis in Poland, Hungary and Romania.

Patrick Leisure, our colleague from the Department of Constitutional Law and Political Science of Faculty of Law from Masaryk University, presented his piece on the ECtHR's cases involving schools and education. His paper explored the impact of this line of Strasbourg case law on human rights, arguing that case law targeting schools and education should be treated as a distinct category.

In October, we welcomed **Jacopo Mazzuri**, a PhD student in Public Law from the University of Florence. He presented his research on the role of the judiciary in the Italian constitutional system, with a specific focus on the special reference judicial self-governance and position of the public prosecutor, including the historic, comparative and supranational perspectives. Jacopo stayed at the Institute for two months as [visiting researcher](#).

In November, **Puleo Leonardo**, a postdoctoral researcher from Université libre de Bruxelles, presented to JUSTIN his paper (co-authored with Ramona Coman) on judges' opposition to attacks on judicial independence in Hungary, Poland and Romania.

Finally, in December Max Steuer and Darina Malova (both from the Department of Political Science, Comenius University in Bratislava) presented their paper on "Illiberalism and Constitutional Design: The Slovak Case".

The webinar on the Integration of Ukraine into the EU: Challenges & Opportunities

In June, Katarína Šipulová co-organised and co-moderated the [online roundtable on the integration of Ukraine into the EU](#). The event was co-organised by the Judicial Studies Institute and Oxford Global Society, with the support of the European Consortium for Political Science and the International Society of Public Law – CEE



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Chapter. Six leading analysts and experts from around the world (Timothy Garton Ash, Maria Popova, Milada Vachudova, Catherine Barnard, Roman Petrov and Daniel Bilak) discussed the

challenges and opportunities arising from Ukraine's potential accession to the EU. Participants examined a legal and political assessment of Ukraine's preparedness to join the EU, the repercussions which candidacy status could have for the future development of the European integration project, the EU defence policy and the ongoing war.



International Workshop on European Law: ‘The independence of the judiciary in Europe’

In November, Attila Vincze organised an **international workshop on judicial independence**. Under the supervision of Professor Thomas Jaeger and Associate Prof. Filip Křepelka, the participants explored and discussed the role of judicial independence in European law in different contexts, attacks on judicial independence and the mechanisms for defending it. The international students' workshop took place in Čejkovice, in co-operation with Masaryk University Brno and the University of Vienna and thanks to the financial assistance provided by AKTION Czech Republic – Austria.

New members and team achievements



At the end of the year we welcomed a new team member, **Michal Kovalčík**. Michal is finishing his master's studies at the Faculty of Law, Masaryk University, and he focuses on the role of courts at the domestic as well as the European level, populism and democracy backsliding. He holds a bachelor's degree in political science at the Faculty of Social Studies, Masaryk University. During his studies, he worked as a student research assistant at the Department of Constitutional Law and also at JUSTIN (supervised by David Kosař and Zuzana Vikarská). Besides that, he completed for a long-term internship at the Czech Constitutional Court (for Judge Kateřina Šimáčková) and the Supreme Administrative Court (for Judge Michal Bobek).

David Kosař received the [2022 MUNI Scientist Award](#) for his outstanding research results and significant achievements in the field of research. He won the award with Ladislav Vyhnánek for the publication, ['The Constitution of Czechia. A Contextual Analysis'](#) (Hart, 2021).



JUSTIN and media visibility

JUSTIN team members actively present their work in the media and they are often invited to contribute to television, radio and newspapers as professional commentators.

Samuel Spáč was one of the guests of the Slovak talk show, ['Večera s Havranom'](#), where he spoke about justice in the Slovak judiciary. He also appeared as a guest on a [podcast](#) by the judicial initiative 'For Open Justice (ZOJ)', where he spoke about Slovak judges and their options for expressing their opinions on social and political issues. **Marína Urbániková** commented several times on issues related to media studies and journalism. She participated in one of the [Prague debates](#) focused on the future of Czech Television. In the ['Rozpravy o](#)

[médiích' podcast](#) she discussed whether the Czech media are free and how they have changed since the Velvet Revolution. And at a '[Multimedia Day event](#)' of the Department of Media Studies and Journalism she spoke about political journalism, its development, its similarities to and differences from that in the Czech Republic and Slovakia. Marína also commented on the system of financing Czech television as a public service medium in the print issue of [Marketing & Media](#). She also joined the [debate](#) about Slovak public service media and the election of the new general director of the public-service broadcaster, RTVS. She spoke on this topic again as a guest on the [podcast](#) of Slovak newspaper SME. **Attila Vincze** [commented](#) in the Brazilian online magazine, Revista Crusoé, on the influence of court-packing in Hungary and how it affected democracy and human rights. **David Kosař** gave an interview to [ČTK – Czech News Agency](#) about President Zeman's appointment of a new head of the Constitutional Court before his presidential mandate expired.



2022 in Focus

December 16-17: A Research Symposium on the Authoritarian Populism Courts, and Democratic Erosion, Occidental College, Los Angeles, California, USA.

- David Kosař – '*Comparative Court-Packing*'
- Katarína Šipulová – '*Judicial Resistance and Democratic Decay*'

November 14: Rosa Parks Memorial Lecture, Common Law Society, Faculty of Law - Charles University, Prague, Czechia.

- David Kosař – '*Právo na nezávislý soud 'under pressure'' [The right to an independent court 'under pressure']*

October 17: Conference on 'The Systemic and the Particular in European Law', Leuven, Belgium.

- Mathieu Leloup – '*The Systemic Criterion in the Field of the Right to a Fair Trial and Judicial Independence*'

September 5-8: 'UACES Annual Conference 2022', Lille, France.

- Lukáš Hamřík – '*The Personalization of Politics in Council of the European Union and the European Council*'

**September 1: ‘Constitutional Conventions Workshop’, Deakin University, Melbourne.
(Virtual presence)**

- David Kosař and Attila Vincze – *‘Conceptualization of Constitutional Conventions in Central Europe: When Four Are Doing the Same It is Not the Same’*

August 22-26: ‘ECPR General Conference’, University of Innsbruck, Austria.

Papers presented:

- Samuel Spáč – *‘Resisting Democratic Backsliding: Tentative Lessons from Slovakia’* (co-author Darina Malova)
- Katarína Šipulová – *‘Triple understanding of judicial councils’* (co-author David Kosař)

Session chair:

- Katarína Šipulová – *‘The Supranational Protection of Democracy and Rule of Law in Europe’*

July 21-22: Workshop on ‘Informality and Judicial Institutions: Comparative Perspectives’, Oñati, Spain.

- David Kosař – *‘Gender, Informality, and Judicial Institutions’*
- Katarína Šipulová – *‘The Shield and the Sword of Informality’*

July 13-16: Global Meeting of the Law & Society Association on ‘Rage, Reckoning, & Remedy’, Lisbon, Portugal.

Session chair:

- David Kosař – *‘Court-packing, Judicial Resistance Strategies and Democratic Decay’*

Roundtable Participants:

- Etienne Hanelt and Katarína Šipulová

Papers presented:

- David Kosař and Marína Urbániková – *‘Explaining Vertical Gender Segregation in the Czech Judiciary’*

July 4-6: ICON-S Annual Conference on ‘Global Problems and Prospects in Public Law’, Wrocław, Poland.

- Lukáš Hamřík – *‘Judicial Leadership and Judicial Governance: The Meta-roles of Court Presidents’* (co-authored with Katarína Šipulová, Samuel Spáč and David Kosař)
- David Kosař – co-organised a meeting entitled *‘Separation of Powers interest group’* and online meeting on *‘Informal Judicial Institutions interest group’* and discussed the forthcoming monograph, *‘The Collaborative Constitution’* by Aileen Kavanaugh (CUP, 2023)
- Samuel Spáč – *‘Judicial Independence in Developing Democracies: A Theoretical Framework’*
- Katarína Šipulová – co-organised an online meeting on *‘Informal Judicial Institutions interest group’*
- David Kosař – discussed the forthcoming monograph by Aileen Kavanaugh and co-convened the meeting of the *‘Separation of Powers Interest Group’*

June 10: Ceremonial conference entitled ‘20 years of the establishment of the Judicial Council of the Slovak Republic’, Bratislava, Slovakia.

- Katarína Šipulová and Samuel Spáč – *‘Soudní rada v systému dělby moci’ [Judicial Council in the system of separation of powers]*

June 8-10: Conference entitled ‘Biennial Conference of the ECPR Standing Group on the European Union’, Rome, Italy.

- Katarína Šipulová – *‘Rule of Law Under Pressure: How is Judicial Resilience Created?’*

May 13: Symposium on ‘Aktuelle Fragen zur Justiz und Justizreform’ [Current issues concerning the judiciary and judicial reform], Universität Wien, Vienna, Austria.

- David Kosař – *‘Selection of Judges and Prosecutors in Europe: Empirical findings’*

May 10: TRIAL Final Conference - ‘Challenges to judicial independence and rule of law in the European Union’, Maastricht University Campus Brussel, Faculty of Law, Brussels, Belgium.

- David Kosař – panellist at the Round table – *‘Independence, Impartiality & Accountability of Judges – Future Challenges*

May 6: 27. Maiforum ‘Die Verwaltungsgerichte im Spannungsfeld zwischen Unabhängigkeit und Effizienz’ [Independence, Efficiency and Responsibilities], Klagenfurt, Austria.

- David Kosař – Keynote lecture: *‘Strukturelle Unabhängigkeit - Europäische Standards der Gerichtsorganisation’ [Structural Independence - European Standards of Court Organization]*

May 5: Sjezd českých právníků ‘Právníci – odpovědnost nejenom profesní, ale i společenská, a institucionální pojistky jejich nezávislosti’ [Lawyers - not only their professional but also social responsibility and institutional safeguards for their independence], Jednota českých právníků, Prague, Czechia.

- David Kosař – *‘Koreferát Odpovědnost soudců’ [Responsibility of Judges]*

April 26-27: Conference entitled ‘European Constitutionalism and the Virus of Distrust’, Charles University, Prague, Czechia.

Presenter of the panels:

- David Kosař – *‘Normalisation of illiberal democracy’* and *‘Legitimacy and European Union’*

April 22: Workshop on ‘The Constitutional Dynamics of Multi-Level Governance’, University of Antwerp, Belgium.

- Attila Vincze – *‘Hungary: from Friend to a Foe?’*

March 4: Workshop on ‘Česká ústavní imaginace a její místo v Evropě’ [The Czech constitutional imagination and its place in Europe], Prague, Czechia. (Virtual presence)

- Katarína Šipulová – '*Jak ústavní soudy ovlivňují tranzitivní narativ*' [*How constitutional courts influence the transitive narrative*]

February 21: 'Constitutional Conventions Workshop', Deakin University, Melbourne. (Virtual presence)

- David Kosař – discussant at the '*Session of Comparative Perspectives on Conventions*'

January 28: Conference 'on Trinational conversations on the rule of law 2022'. (Virtual presence)

- Katarína Šipulová – '*Do we need a Judicial Council? Judicial Governance as a Fourth Power*'

2022 Publications by JUSTIN members:

Benák, Jaroslav, Monika Hanych, Hubert Smekal and Ladislav Vyhnánek. 2022. 'Náš model ob stojí, ale bílých míst je stále mnoho: odpověď autorů [Our Model Stood the Debate, but there is still a lot to Uncover: Authors' Reaction]. *Časopis pro právní vědu a praxi [Journal of Jurisprudence and Legal Practice]*, Vol. 30, No. 2, pp. 451–461, <https://doi.org/10.5817/CPVP2022-2-12>.

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Cornelisse, Galina, and Madalina Bianca Moraru. 2022. 'Judicial interactions on the European Return Directive: shifting borders and the constitutionalisation of irregular migration governance'. *European Papers*, Vol. 7, No. 1, pp. 127–149, <https://www.europeanpapers.eu/en/e-journal/judicial-interactions-on-european-return-directive>.

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Kadlec, Ondřej, and David Kosař. 2022. 'Romanian version of the rule of law crisis comes to the ECJ: The AFJR case is not just about the Cooperation and Verification Mechanism'. *Common Market Law Review*, Vol. 59, No. 6, pp. 1823–1852, <https://doi.org/10.54648/cola2022120>.

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Kosař, David, and Mathieu Leloup. 2022. 'Saying Less is Sometimes More (even in Rule-of-Law Cases): Grzęda v Poland'. *EULawLive*, 31 March 2022, available at: https://eulawlive.com/grzeda-v-poland-by-david-kosar-and-mathieu-leloup/?fbclid=IwAR3_8n61lcZLq0X5gxCBwnCHV2ccQmZgIIAjGtF7zSKQtj5MFaaOY-Oh_A#.

Kosař, David, and Katarína Šipulová. 2022. 'The *Ius ad Bellum* and *Ius in Bello* of Court-Packing'. *IACL-AIDC Blog*, 24 March 2022, available at: <https://blog-iacl-aidc.org/can-good-courtpacking-repair-democracy/2022/3/24/the-ius-ad-bellum-and-ius-in-bello-of-court-packing>.

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Vincze, Attila. 2023. Hungary: from a friend to a foe?, in Popelier, Patricia, and Alberto Nicotina (eds): *EU Law and National Constitutions: The Constitutional Dynamics of Multi-Level Governance*, Routledge

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