

# **Capturing the Courts – Politicization of the Judiciary across European Democracies**

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Research Master Thesis

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Word count: 8588

16 July 2017



**Universiteit Leiden**

## **Abstract**

Politicization has largely been studied in the field of civil service. Party influence on the judiciary, however, has widely been neglected, even though patronage appointments to the courts fundamentally challenge the independence of the judiciary and raise questions about the separation of powers in modern democracies. What factors explain the variation in the politicization of the judiciary in European democracies? A set of explanatory factors including the presence of robust political competition, the nature of the executive, the level of judicial activism, the presence of an independent body for judicial review, and the legal regulation of parties are tested in a comparative study of 16 European countries. The study draws on literature of political science, public administration, and law and provides an empirical contribution to the study of party patronage and its prevalence in European judiciaries. The results suggest that countries with less government alternation and a tradition of coalition governments tend to have a less politicized judiciary. In contrast, countries with more active courts, an independent body for judicial review, and a party law regulating the organization, behavior, and activities of political parties were found to have more politicized judiciaries.

*Key words: politicization, judiciary, party patronage, judicial activism.*

## **Introduction**

One of the central concerns in the 2016 United States (US) presidential election was the appointment of judges to the Supreme Court. Power to appoint a member to the highest federal court in the US means power to influence future court rulings on strongly contentious issues such as abortion or gay marriage. While the appointment of Supreme Court judges is probably the example of politicization of the judiciary receiving the most attention by the public and academia, this phenomenon is by far not limited to the US. In contrast, party control in this area is equally prevalent in the European context (Kopecký et al. 2012, 2016), preceded by an increase in politicization of the public administration (Page and Wright 1999; Peters and Pierre 2004). The politicization of the judiciary is an area deserving particular attention as it raises important questions about how the relationship between the branches of power in modern democracies should be balanced (Domingo 2004) and how politicization affects judicial independence (Uelmen 1997). Patronage appointments to the courts fundamentally challenge the independence of the judiciary from the executive branch.

Moreover, political appointments to the judiciary shed light on motivations and strategic choices of political parties. In an area of decreasing links between the society and parties on one hand and growing state-party linkages on the other (Katz and Mair 1995; van Biezen 2004; van Biezen and Kopecký 2014), the courts may be just another organizational resource for political parties to ensure their power and position.

So far, empirical studies have covered party patronage on a wide spectrum of state institutions, providing an aggregate picture of the patronage practices in a number of European states (Kopecký et al. 2012; Meyer-Sahling and Veen 2012; Volintiru 2015). Empirical evidence collected by Kopecký et al. (2012) indicates that the level of politicization of the judiciary varies greatly across European countries. However, little has been done to explore the factors explaining the variation across European democracies in a comparative framework. This project aims to address this gap in knowledge by providing a systematic analysis of the phenomenon and giving answer to the following research question: *What factors explain the variation in the politicization of the judiciary in European democracies?*

The study addresses this question by testing the explanatory power of factors regarding the nature of the party system and the executive as well as the status of the judiciary and judicial behavior. More specifically, the effect of robust political competition, the tradition of government, the level of judicial activism, the presence of an independent body for judicial review, and the legal regulation of political parties on the level of politicization of the judiciary is explored. This study thus contributes to the theoretical work on the role of parties in contemporary democracies and links literature of political science, public administration, and law. It enriches the empirical research on party patronage and state-party linkages as well as the role, status, and behavior of courts by systematically exploring which factors explain the variation in the politicization of the judiciary in European democracies. The results of the bivariate analysis indicate that countries with less government alternation and a tradition of coalition governments tend to have a less politicized judiciary. In contrast, countries with more active courts, an independent body for judicial review, and a party law regulating the organization, behavior, and activities of political parties were found to have more politicized judiciaries.

## **Conceptual and theoretical background**

Considering the various conceptualizations of politicization offered by the political science and public administration literature, an important starting point is to identify the meaning of the term in this study and to outline how it differs from other related concepts in the field

(Kopecký and Mair 2012; Kopecký and Scherlis 2008). Politicization is here understood as an outcome of parties “capturing” the state by party patronage. Party patronage is defined as “the allocation of jobs in the public and semi-public sectors at the discretion of political parties” (van Biezen and Kopecký 2014: 176). The concept is to be distinguished from another understanding of patronage as an electoral resource, i.e. “an exchange of public goods for electoral support” (Kopecký and Mair 2012: 4), closely related to the term clientelism. Clientelism is the exchange of benefits for political support between a patron and a client, i.e. individuals or clearly defined groups (Hopkin 2006). In contrast to clientelism, party patronage is less motivated by rewards and benefits but by gaining control (Kopecký and Scherlis 2008: 358). It is thus an organizational resource, i.e. “a form of institutional [...] exploitation that operates to the benefit of the party organization” (Kopecký and Mair 2012: 7). Parties exert control over the allocation of positions in various branches of the bureaucracy, across all sorts of policy areas, and in a wide range of institutions (Kopecký et al. 2012). By controlling the recruitment to public and semi-public positions, political parties enhance their information status, ensure their control of policy-making and implementation, and improve their reputation (Kopecký and Mair 2012: 10).

As the process and outcomes of policy-making may become subject to judicial scrutinizing, political parties may attempt “to control the judicial watchmen” by influencing who gets appointed to central positions in the judicial system, resulting in the politicization of the judiciary (Domingo 2004: 111). A judiciary is considered highly politicized when judges are appointed by the executive based on partisan and ideological factors instead of qualifications and merit (Weiden 2011: 336). Although it is rather unlikely in the context of European democracies that judges are appointed without fulfilling the requirements concerning their qualification, party influence may take a more subtle form. Party patronage occurs when other factors in addition to and beyond professional qualifications have played a role in the appointment such as personal loyalty and trust (John and Poguntke 2012: 126; Meyer-Sahling 2006; Meyer-Sahling and Jáger 2012).

Case studies exploring the politicization of the civil service as well as literature in the legal field have identified a range of factors potentially causing the phenomenon. This research will draw on these insights and test the explanatory power of the factors for the politicization of the judiciary. One set of arguments deals with the party system and the role of the opposition within it. Grzymala-Busse (2007) and O’Dwyer (2006) argue that political competition reduces not only corruption but also patronage appointments. Competition will, however, only constrain patronage when it involves fairly stable and institutionalized political

parties (Kopecký 2011). Moreover, robust competition involves critical oppositions monitoring the government and thus providing incentives for the government to refrain from exploiting the state (Grzymala-Busse 2007; O'Dwyer 2006). As for patronage appointments in general, robust political competition is also expected to moderate the politicization of the judiciary. Being monitored by a critical and coherent opposition, government parties may engage less in patronage appointments to the courts to avoid getting pointed out in public for undermining the independence of the judiciary for their interests.

*H1:* Politicization of the judiciary is lower in countries with robust political competition.

Moreover, the nature of the executive may influence how much control parties exert over the appointments of judges. Analyzing the strategic considerations in hiring and firing cabinet ministers, Dowding and Dumont (2009) argue that party political constraints differ greatly for single-party majority in contrast to coalition governments. In single-party majority governments, the power to allocate positions in the state apparatus is not shared among several parties. The party in office is thus not bound to another party's approval when recruiting personnel. In coalition governments, on the other hand, personnel decisions are subject to negotiations between coalition partners. Coalition parties can hold each other accountable and possibly veto personnel decisions of their coalition partners, whether it is a decision regarding an appointment to a ministerial position or to a job in the civil service. Moreover, parties in coalition governments may appoint "watchdog" junior ministers to monitor each other's cabinet ministers (Lipsmeyer and Pierce 2011; Martin and Vanberg 2011; Thies 2001; Verzichelli 2008), rendering it difficult for top-level politicians to hide patronage practices from their coalition partners and to make political appointments solely based on ideological preferences. Similarly, van den Berg (2011) suggests that bureaucracies in countries with a tradition of majoritarian governments tend to be more politicized than those in countries with a tradition of coalition or consensus governments.

Following this line of reasoning, in countries in which coalition governments dominate, the opportunity for judicial appointments based on partisan or ideological factors should also be reduced. This, in turn, should be reflected in the level of politicization of the judiciary. In other words, judiciaries in countries with a tradition of single-party majority governments are expected to be more politicized than those in countries with a tradition of coalition governments.

*H2*: Politicization of the judiciary is higher in countries with a tradition of single-party majority governments than in those with a tradition of coalition governments.

The next set of arguments shifts the focus towards characteristics of the judiciary and deals with differences in the legal culture and the status of the judiciary across European democracies. Following Blankenburg (1998: 39), legal cultures “are characterized by indicators of institutions as well as behavior”. A key concept when examining the institutional status of the judiciary and judicial behavior in a country is judicial activism. The term was originally coined by Arthur M. Schlesinger Jr. (1947) who divided the US Supreme Court Justices at that time in “judicial activists” and “advocates of judicial self-restraint” (quoted in Kmiec 2004: 1446). Although the concept has been widely used in the legal discourse, it often remains poorly defined (Kmiec 2004: 1443). As Cross and Lindquist (2007: 1755) note, “[i]n many cases, complaints about judicial activism only reflect an amorphous lament about disfavored Court decisions.” In an extensive review of the historical and contemporary usage of the term, Kmiec (2004: 1444) identifies five core meanings of judicial activism, i.e. “(1) invalidation of the arguably constitutional actions of other branches, (2) failure to adhere to precedent, (3) judicial ‘legislation,’ (4) departures from accepted interpretive methodology, and (5) result-oriented judging.”

The focus of this study lies on the first core meaning of the term, i.e. overturning the acts and decisions of the executive and legislative branch. Invalidation of legislative enactments is considered the “conventional standard” of examining judicial activism (Cross and Lindquist 2007: 1759). For a court to be “active” in this sense, it has to be granted the formal right to judicial review by the constitution and then to also act on it. Lijphart (2012: 214) argues that the “impact of judicial review depends only partly on its formal existence and much more vitally on the vigor and frequency of its use by the courts”. Courts may also engage in judicial self-restraint instead of activism although provided with the formal power to do so (Herron and Randazzo 2003). The more the courts interfere with political decision-making and engage in judicial review as “watchmen”, the greater the motivation for political parties to influence who is holding positions in the judiciary and the higher the level of politicization.

*H3a*: The higher the level of judicial activism in a country, the higher the level of politicization of the judiciary.

If an independent body instead of the ordinary courts has the authority over judicial review, one speaks of centralized systems of judicial review (Lijphart 2012: 213). Such institutions are highly involved with political decision-making as they rule on whether laws challenged by political or non-political actors are in conflict with the constitution. They have the power to overrule legislation by the governing parties and have thus become major political players (Domingo 2004: 108). In some instances, they are even considered policy-makers themselves (Dahl 1957; Lhotta 2003). Governments in countries that have an independent body for judicial review may therefore have greater incentives to exert influence over the appointments of judges to ensure court rulings in their favor.

*H3b:* Politicization of the judiciary is higher when an independent body for judicial review is present in the country.

In some countries, judicial interference with political parties does not only take the form of evaluating the constitutionality of legislative decisions but touches the very nature of party organization and political competition by interpreting party law, i.e. “legal regulation specifically directed at political parties as organizations [...] which make a textual reference to political parties in their title (e.g. Law on Political Parties, Party Law)” (Casal-Bértoa et al. 2012: 3). Such laws consist of rules concerning several dimensions of parties, including how they are defined, structured, and financed as well as regulations of their program and activities (Piccio 2012; van Biezen and Rashkova 2014). Party laws may also create a “monitoring and sanctioning regime to supervise party activity and impose penalties for violations of the law” (Van Biezen and Kopecký 20014: 176). By interpreting party law, courts shape political competition and the nature of the party system as they may allow or prohibit parties from entering the political arena (Gauja 2014). In a comparative study of 33 post-war European countries, van Biezen and Rashkova (2014) find that legal regulation of political parties has a negative effect on the number of new entries to the party system. Judicial regulation of political parties is thus likely to affect the strategic choices of political parties. Parties are expected to react to legal interference with their organization, behavior, and activities by trying to exerting greater control over the selection of judges who interpret party law.

*H4:* Politicization of the judiciary is higher in countries which have a party law than in those without such legal regulation of party organizations.

The next section outlines the research design of this study, briefly discussing the case selection, explaining the operationalization of the explanatory factors and the methodology and data used to test them.

## **Research design**

To answer the question what factors explain the variation in the politicization of the judiciary in European democracies, the following 16 countries will be included in this study: Austria, Bulgaria, the Czech Republic, Denmark, Germany, Greece, Hungary, Iceland, Ireland, Italy, the Netherlands, Norway, Portugal, Romania, Spain, and the United Kingdom. The countries are selected due to availability of comparable data on the dependent variable.

### *Dependent variable*

To operationalize the dependent variable, i.e. the level of politicization of the judiciary, data collected for the book *Party Patronage and Party Government in European Democracies* edited by Kopecký, Mair, and Spirova (2012) are used and complemented with data collected by Volintiru (2015) for Romania. The authors measured the level of politicization in each country with the Index of Party Patronage (IPP) which is calculated by using the median values for the range and depth of patronage in nine policy areas (i.e. Economy, Finance, Judiciary, Media, Military and Police, Foreign Service, Culture and Education, Health Care, and Regional and Local Administration) and three institutional types (i.e. ministerial departments, non-departmental agencies and commissions, and executing institutions). For the purpose of this study, the IPP is disaggregated to single out the level of politicization in the area of interest, i.e. the judiciary. The IPP ranges from 0, corresponding to complete absence of patronage practices, to 1 which indicates a full overlap of party and the state. Intermediate values are interpreted as follows. In general, a score of around 0.65 indicates that parties exert control over appointments in most institutions at all levels of the administration, a score of approximately 0.4 corresponds to partisan appointments in most institutions but only at top and middle levels, whereas a score of 0.1 means that party patronage occurs in a limited number of institutions and only at the top level. In the context of this study, a value of 0.4 thus translates to political appointments to top-level positions in the judiciary such as the chairman of court or senior judges, as well as middle positions in most of the national courts and the national ministry of justice. Scores on the bottom of the scale indicate that political parties are mostly uninvolved in the appointments to the judiciary.



### *Independent variables*

Robust political competition is operationalized with the Government Turnover Index (GTI) by Ieraci (2012). Alternation of government is considered a “fundamental component of any efficient democracy” and “an ideal pattern of competition” (Ieraci 2012: 530). The GTI is calculated by dividing the net party changes in the governments by the total number of governments. The score for Iceland was computed by the author using the same method. The variable is continuous, ranging from 0 to 1. Higher levels of government turnover indicate more robust political competition. A value of 1 would mean that the composition of government fully changed in every new government. Scores represent patterns of political competition as they are average levels of government turnover scores over a time span of 15 years (1996-2010).

The nature of the executive is coded as a binary variable with 0 corresponding to a tradition of coalition governments and 1 corresponding to a tradition of single-party majority governments. The *Comparative Political Data Set* compiled by Armingeon et al. (2016) at the University of Berne provides data on the types of government from 1960 to 2014. When the majority of governments were coalition governments or single-party minority governments, the variable has a value of 0. Single-party minority governments are included in this category as they depend on the support of other parties represented in parliament and thus technically govern as coalition governments. Thus, for example, Denmark has a score of 0. When the majority of governments were single-party majority governments, the variable obtains a score of 1. Pre-electoral alliances gaining the majority of votes by running on one party ticket and subsequently governing alone were also classified as single-party governments (this is mostly the case in Bulgaria). The scores are checked for consistency with classifications in the political science literature. Spain represents a unique case of having a mix of single-party majority and very strong single-party minority governments but was classified as majoritarian after consulting a country expert.

To operationalize the level of judicial activism, the Index of Judicial Review by Lijphart (2012) is used. The index is a “fourfold classification of the strength of judicial review based, first, on the distinction between the presence and absence of judicial review, and, second, on three degrees of activism in the assertion of this power by the courts” (Lijphart 2012: 214). The original index ranging from 1 to 4 was recoded to range from 0 to 3 with higher values indicating higher levels of judicial activism to make the interpretation clearer. More specifically, a score of 0 corresponds to lack of the right of judicial review and thus complete absence of judicial activism, whereas scores of 1, 2, and 3 correspond to weak,

medium-strength, and strong judicial activism. The scores of the Eastern European countries were retrieved from Bernauer and Vatter (2009) who collected the data to complement Lijphart's index. Presence of an independent body of judicial review is measured with a binary variable with 0 corresponding to absence and 1 corresponding to presence thereof. Data on each country is retrieved from the *Comparative Political Data Set*. Legal regulation of political parties is represented by a binary variable with the absence of a party law being coded as 0 and presence thereof as 1. All party laws are available online on the website of the *Party Law in Modern Europe* research project by van Biezen (2013).

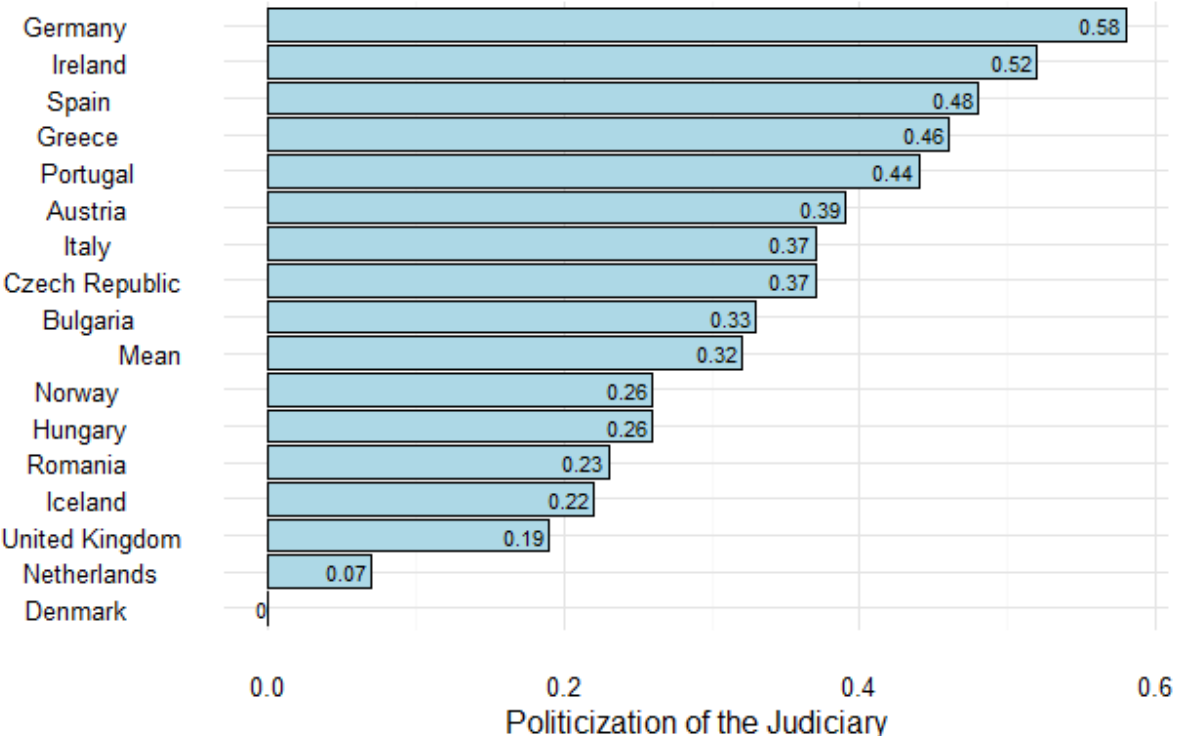
### **Method of analysis**

To explore which factors explain the variation in the level of politicization of European judiciaries, the bivariate relationships between the dependent variable and each of the independent variables will be examined. Unit of analysis is the country. For all categorical variables, mean levels of politicization of the judiciary will be compared and contrasted between groups using independent-samples t-tests or one-way ANOVA when appropriate. For the continuous variables, correlations will be computed. Moreover, effect sizes will be calculated to assess the substantive importance of each independent variable and to allow for a comparison of magnitudes of effects. As Feinn and Sullivan (2012: 279-280) correctly point out, “a statistical test [with a sufficiently large sample] will almost always demonstrate a significant difference”; thus, “both the substantive significance (effect size) and statistical significance (*P* value) are essential results to be reported.” Finally, the statistical analysis will be complemented with country-specific contextual background.

### **Analysis and results**

In a first step, some descriptive statistics were computed to get a general picture of the sample in this study. The starting point of this study was the empirical observation of a great variation in the level of politicization of the judiciary across European democracies. Figure 1 displays the distribution of the dependent variable in a bar chart. Overall, the IPP scores for the judiciaries in this sample range between 0.00 and 0.58 with an average score of 0.32 (*SD* = 0.16). Five countries in this sample, i.e. Germany, Ireland, Spain, Greece, and Portugal, have an IPP score of 0.4 or higher, thus being characterized by a relatively highly politicized judiciary. Notably, three of four Southern European countries in the sample are included in this group of countries at the top of the ranking; only Italy has a slightly less politicized judiciary (0.37). The Netherlands and Denmark, in contrast, rank very low in their respective

level of politicization of the judiciary, with the latter even obtaining the lowest possible score, indicating complete absence of party influence from the judiciary at all levels. The four Central and Eastern European countries in this sample, i.e. Bulgaria, the Czech Republic, Hungary, and Romania, all rank very closely to each other, ranging in their absolute IPP values only between 0.23 (Romania) and 0.37 (Czech Republic) with a mean score of 0.30. In contrast, the average score of the Western European countries in this sample is 0.33. Thus, the level of politicization in both regions is quite similar, albeit judiciaries in Western Europe seem to be slightly more politicized.



**Figure 1:** Bar chart of the level of politicization of the judiciary by country.  
*Note:* Scores are IPP values for the judiciary. Mean = 0.32; standard deviation = 0.16.

In terms of robust political competition, the countries in this sample cover a slightly larger range. The average level of political competition measured with the Government Turnover Index in this sample is 0.41 ( $SD = 0.19$ ). Bulgaria has the highest government turnover with a score of 0.89, meaning that, on average, 89% of the party composition in government changed with a new government being formed. Denmark has the lowest government turnover with a score of 0.14, indicating that an average of only 14% of the governing parties was replaced in new governments. Twelve of the countries in this sample have a tradition of coalition governments whereas four cases, i.e. Bulgaria, Greece, Spain, and the United Kingdom, have

a tradition of majoritarian governments, meaning that governments are typically of the single-party majority type.

The median level of judicial activism is “weak” with seven out of 16 countries obtaining a score of 1 on the scale. Five countries fall in the category of medium-strength activism of the courts while two are characterized by a strong degree of judicial activism. In the remaining two countries, i.e. the Netherlands and the United Kingdom, judicial activism is completely absent, indicated by a score of 0. The Dutch constitution directly precludes the right to judicial review of parliamentary acts and treaties (Lijphart 2012: 213). Judges may only rule parliamentary acts to be incompatible with international treaties (Blankenburg 1998: 39). The United Kingdom has an “unwritten” or uncodified constitution and the British parliament enjoys uncontested sovereignty, with the only exception of being bound by EU law or the European Convention on Human Rights (Delaney 2014).

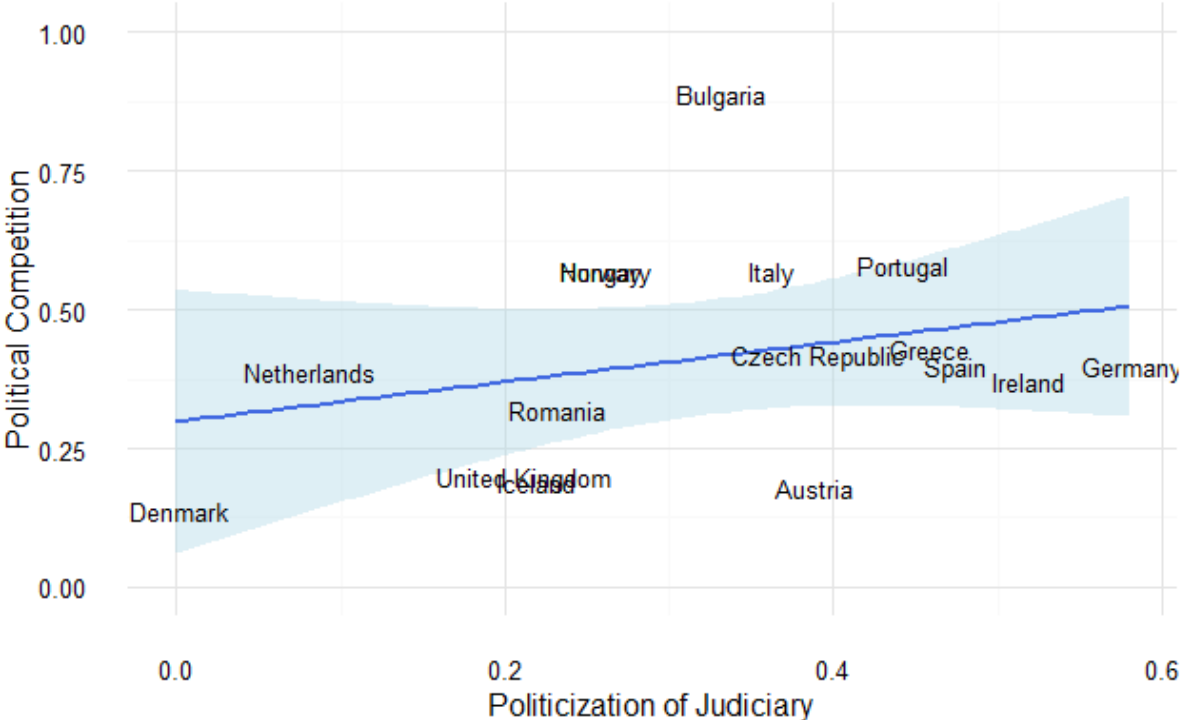
Exactly half of the countries included in this study have an independent body for judicial review, i.e. Austria, Bulgaria, Germany, Hungary, Italy, Portugal, Romania, and Spain. Establishing its constitutional court in 1920, Austria was the first country worldwide to develop a centralized judicial review system (Paulson 2003). The Federal Constitutional Court of Germany, however, is considered one of the most powerful constitutional courts in the world (Kommers 1994: 47; Vanberg 2005: 17) and said to have “profoundly changed the perception of law and politics as being two separate arenas of decision-making” (Blankenburg 1998: 39). The remaining eight countries in which no independent body for judicial review is present classify as decentralized judicial review systems according to Lijphart (2012).

About two-thirds of the countries in this sample have a party law which legally regulates the organization, activity, and behavior of political parties (62.5%), whereas six out of 16 countries do not. In this sample, Germany, Portugal, Austria, and Spain were the first countries to legally regulate political parties, adopting a party law in 1967, 1974, 1975, and 1978 respectively. After the end of the communist regime, all of the Eastern European countries in this sample adopted a party law, modeling the legal documents on the German *Parteiengesetz* (Casal-Bértoa et al. 2012: 6).

### **The role of party system and type of government**

The first set of factors expected to influence the level of politicization of the judiciary is related to the party system and the tradition of government. Hypothesis 1 stated that judiciaries in countries with more robust political competition are expected to be less politicized than those in countries with low political competition. To visualize the relationship

between robust political competition and politicization of the judiciary, a scatterplot was created (see Figure 2). The plot indicates a positive relationship between the two variables. A Pearson correlation coefficient was computed to further assess the relationship. The result suggest a weak, positive correlation between the two variables,  $r = .30$ ,  $p = .27$ . Thus, the relationship does not go in the expected direction of Hypothesis 1. In contrast, more robust political competition correlates with higher levels of politicization of the judiciary. However, the results have to be interpreted with caution as the effect is not statistically significant.



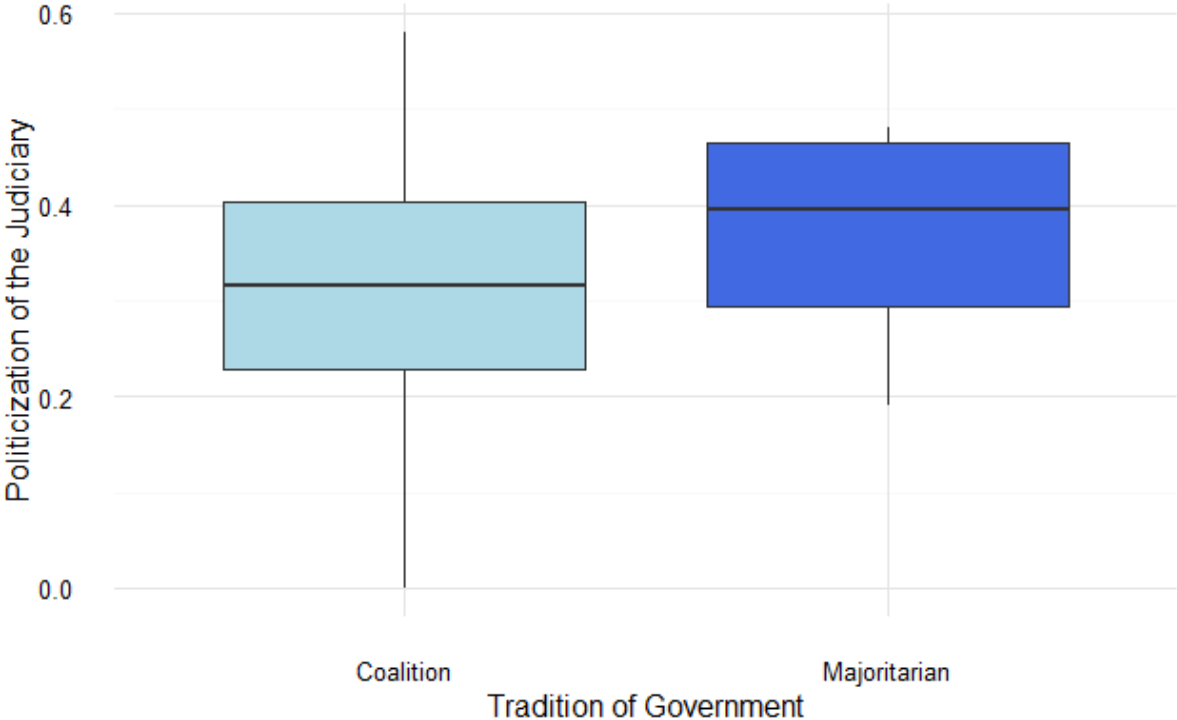
**Figure 2:** Scatterplot of the relationship between politicization of the judiciary and robust political competition measured with the Government Turnover Index.

One reason for the unexpected results could be that the measurement may have not fully captured the concept of robust political competition. A score of 0.5, for example, could mean that half of the party composition changed in every new government or complete alternation in half of all governments. The GTI thus only gives an aggregate picture which may be slightly misleading. Another possible reason may be that the theoretical consideration underlying the relationship between robust political competition and politicization has to be reversed. Instead of limiting politicization by ensuring mutual control of government and opposition, robust political competition may lead political parties to seek greater influence on the judiciary to establish some form of institutional power which continues after exiting the

government. Each governing party may thus aim to maximize its use of the judiciary as an organizational resource during the time in office.

*The nature of the executive*

The second hypothesis expected the level of politicization of the judiciary to be higher in countries with a tradition of single-party majority governments than in those with a tradition of coalition governments. Figure 3 visualizes the mean level of politicization of the judiciary for both groups of countries in a box plot. Countries with a tradition of coalition governments have an average IPP score of 0.31 ( $SD = 0.17, n = 12$ ). The mean level of politicization of the judiciary increases to 0.37 ( $SD = 0.13, n = 4$ ) for countries with a tradition of single-party majority governments. After establishing that heteroscedasticity was very unlikely in the data using a Levene’s test,  $F(1) = 0.37, p = .56$ , an independent-samples t-test was conducted to compare the level of politicization in countries with a tradition of coalition governments and those with a tradition of majoritarian governments (equal variances assumed). There was no significant difference between the two groups,  $t(14) = -0.59, p = .56$ . Moreover, the effect size calculated using the raw mean scores, standard deviations, and group sizes was also rather small in substantial terms,  $d = -0.37, r = -.16$ . Nevertheless, the effect goes in the expected direction of Hypothesis 2.

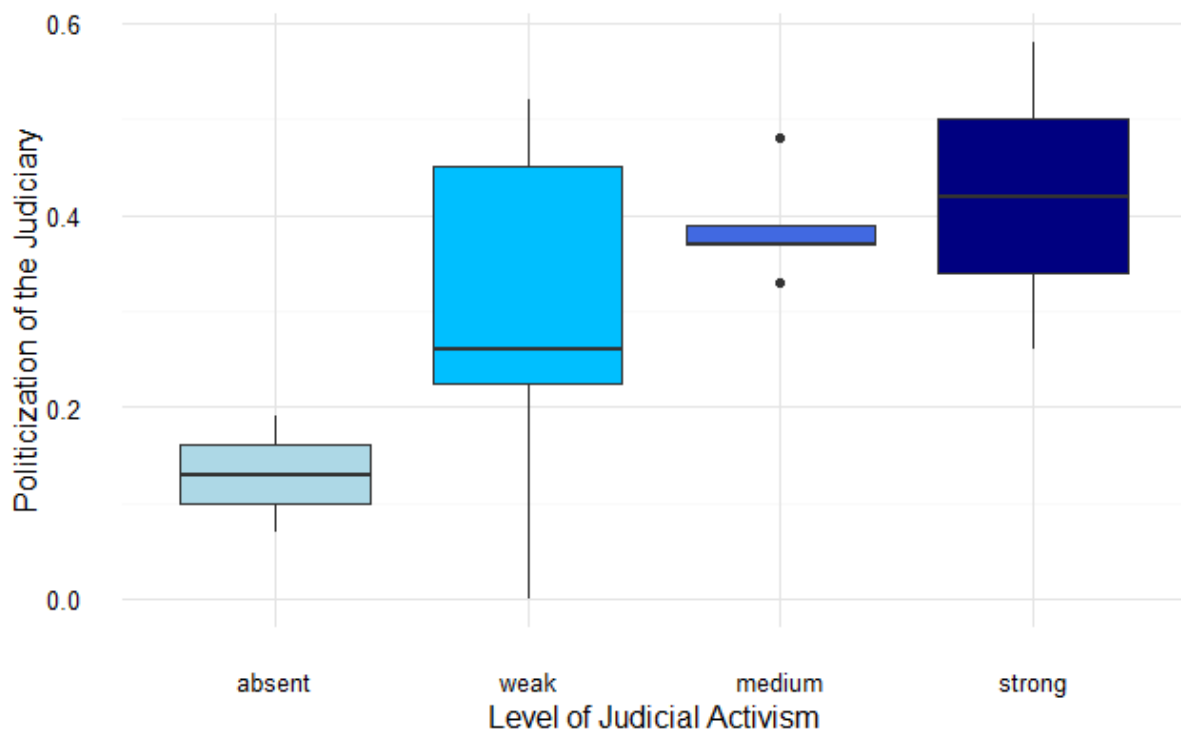


**Figure 3:** Box plot of the mean level of politicization of the judiciary grouped by the tradition of government.

Taken together, these results suggest that the nature of the party system as well as the type of government may play a role in explaining variation in the politicization of European judiciaries, albeit likely a small one. Although conventional levels of significance were not met, the effect of the tradition of government goes in the hypothesized direction, whereas the effect of political competition does not. Comparing the magnitude of the correlation coefficient of robust political competition and the effect size of governmental tradition, the former factor seems to have a more important influence than the latter.

### The impact of judicial activism and legal regulation of parties

The second set of expectations deals with the status and strength of the judiciary. In countries in which judicial activism is strong, the level of politicization of the courts was hypothesized to be higher than in countries with lower levels of judicial activism. Figure 4 displays the relationship between the two variables in a box plot. The plot shows the mean levels of politicization for each category of judicial activism to allow a comparison between the groups.



**Figure 4:** Box plot of the mean level of politicization of the judiciary grouped by the level of judicial activism.

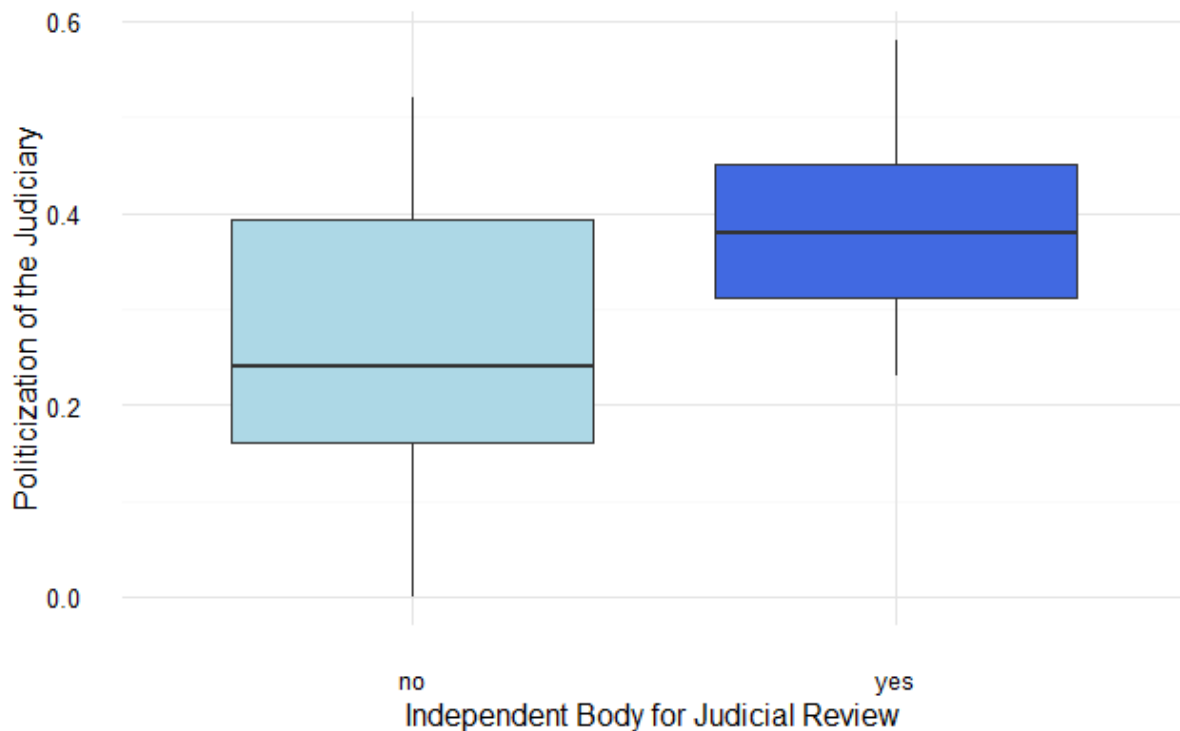
Countries in which judicial activism is completely absent have an average IPP score of 0.13 ( $SD = 0.08$ ,  $n = 2$ ). The mean level of politicization of the judiciary increases for countries with courts that have a weak level of activism,  $M = 0.30$ ,  $SD = 0.18$ ,  $n = 7$ . Countries in the third category, i.e. the medium-strength judicial activism, have an even higher mean IPP score of 0.39 ( $SD = 0.06$ ,  $n = 5$ ). Finally, those countries with very strongly active courts are also those with the highest average level of politicization of the judiciary,  $M = 0.42$ ,  $SD = 0.23$ ,  $n = 2$ . After testing for homogeneity of variance ( $F(3) = 3.20$ ,  $p = .06$ ), a one-way independent ANOVA was carried out to check whether the differences between the categories of judicial activism are significant,  $F(3) = 1.75$ ,  $p = .21$ . The results do not reach conventional standards of significance, indicating that the groups do not differ significantly. This is most likely due to methodological reasons; the number of observations in each category is very low and thus makes it difficult to achieve robust results. However, there seems to be a trend in the data considering two observations. First, the mean level of politicization of the judiciary increases with the level of judicial activism. Second, the differences between the groups are substantial effects: The difference between absence of judicial activism and weak activism is a medium-sized to large effect,  $d = -1.00$ ,  $r = -.39$ , and the difference between the category weak and medium-strength activism is a slightly weaker but still moderate effect,  $d = -0.62$ ,  $r = -.29$ , whereas the difference between the medium-strength and strongly activist courts is a small effect,  $d = -0.23$ ,  $r = -.10$ . This trend is confirmed after splitting the countries in only two categories of judicial activism, i.e. assigning those with a score of 0 or 1 to “low” activism and those with a score of 2 or 3 to “high” activism. Again, the average level of politicization of the judiciary is higher in countries with more active courts,  $M = 0.40$ ,  $SD = 0.10$ ,  $n = 7$ , than in those with less or non-active courts,  $M = 0.27$ ,  $SD = 0.18$ ,  $n = 9$ . The difference between the two groups is a quite substantial medium-sized to large effect,  $d = -0.93$ ,  $r = -.42$ .

Thus, although the results have to be interpreted cautiously, the effect of judicial activism on the level of politicization of the judiciary goes in the expected direction of Hypothesis 3a. A more active role of the judiciary indeed seems to correlate with greater influence of political parties on the appointment of judges. The results also indicate that courts with a medium and large activist role show similar levels of politicization. It is thus plausible that there is some form of ceiling effect; after reaching a medium level of judicial activism, courts may be considered a potential organizational resource and become subject to increased party patronage. It may then be of less importance whether courts take up a moderate or very active role since they are already perceived as a source of institutional power.



### *Presence of an independent body for judicial review*

Hypothesis 3b suggested that countries with a centralized system of judicial review, i.e. those in which interpreting the constitutionality of acts and decisions of the governments are delegated to an independent body, have a more politicized judiciary than those without such an institution. On average, the data indicate that judiciaries in countries which have an independent body for judicial review indeed are more politicized than judiciaries in decentralized systems of judicial review. Figure 5 displays the results in a boxplot. In countries with no independent body for judicial review, the average IPP score is 0.26 ( $SD = 0.18, n = 8$ ). In countries with such an institution, the mean IPP score is 0.39 ( $SD = 0.11, n = 8$ ). The results support Hypothesis 3b which expected the level of politicization of the judiciary to be higher in countries with an independent body for judicial review.



**Figure 5:** Box plot of the mean level of politicization of the judiciary grouped by presence of an independent body for judicial review.

As a Levene's test found that heteroscedasticity was unlikely within the data,  $F(1) = 1.62, p = .22$ , an independent-samples t-test assuming equal variances was conducted to test for differences between countries with an independent body for judicial review and those without such an institution,  $t(14) = -1.63, p = .13$ . The results suggest that the two groups of countries do not differ significantly from each other. In substantial terms, however, the difference between the two groups is a considerable moderate to large effect,  $d = -0.85, r = -.39$ . Thus,

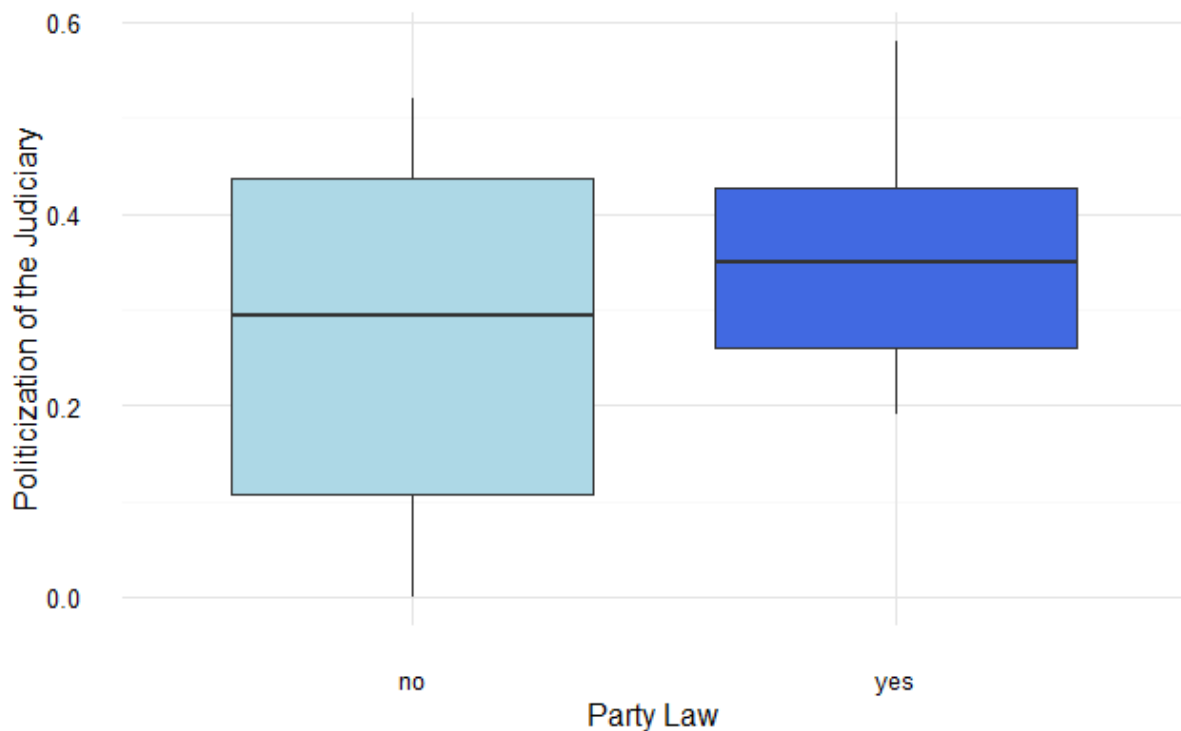
although the difference in the level of politicization of the judiciary between the centralized and decentralized systems of judicial review does not reach statistical significance, the effect size indicates that the factor is not to be disregarded.

A brief look at Table 1 shows that the three countries with an IPP score below 0.20, i.e. Denmark, the Netherlands, and the UK, do not have an independent body for judicial review. Those with a score above 0.4, however, do not all have such an institution. In contrast, two out of the five countries with highly politicized judiciaries, i.e. Ireland and Greece, have a decentralized system of judicial review. Taking into consideration that the judiciaries of those two countries are also classified as weak in terms of judicial activism, it appears as that the variables capturing the status and behavior of the courts in this study fall short of explaining the magnitude of political influence on the appointments of judges in Ireland and Greece.

#### *Legal regulation of political parties by party law*

The presence of party law explicitly regulating the endeavor of political parties was chosen as another indicator for a high level of judicial interference. A box plot was created to compare means of politicization of the judiciary between the group of countries having a party law and those that do not (see Figure 6). Countries in which parties are not regulated by a party law have an average IPP score of 0.27 ( $SD = 0.21$ ,  $n = 6$ ), whereas the mean for those countries with a party law is 0.35 ( $SD = 0.12$ ,  $n = 10$ ). This indicates that, overall, judiciaries in countries with legal party regulation tend to be more politicized than those with no such legal constraints on party behavior, providing support for Hypothesis 4.

A Levene's test found that the assumption of homogeneity of variance between groups was not violated,  $F(1) = 4.22$ ,  $p = .06$ ; therefore, an independent-samples t-test assuming equal variances was carried out to test whether mean levels of politicization of the judiciary between countries with a party law and those without differ significantly,  $t(14) = -0.96$ ,  $p = .35$ . The results indicate that the groups differed not significantly from each other. The magnitude of the effect was weak to moderate,  $d = -0.51$ ,  $r = -.24$ . A closer look at the ranking of the countries displayed in Table 1 reveals the ambiguous role of party law. On one hand, Iceland, Denmark, and the Netherlands, taking up the lowest ranks of politicization of the judiciary in this sample besides the UK, have no party law interfering with the organization of political parties. The country with the highest level of politicization of the judiciary, i.e. Germany, is also considered "the heartland of party law", surpassing all other democracies in the extent to which "political parties are subjected to [...] detailed explicit regulation" (Müller



**Figure 6:** Box plot of the mean level of politicization of the judiciary grouped by presence of a party law.

and Sieberer 2005: 435). Moreover, all four countries which adopted party laws the earliest, i.e. Germany, Portugal, Austria, and Spain, have highly politicized judiciaries with an IPP score of close to 0.4 or higher. On the other hand, Greece and Ireland also do not regulate parties by the means of party laws but also have an IPP score of 0.4 or higher, thus ranking amongst the countries with the highest politicized judiciaries. Furthermore, the UK with a very low score of 0.19 has adopted its first party law in 1998. As the name already gives away, the Registration of Political Parties Act, however, only deals with the registration of parties and is very limited in its regulative character (Piccio 2012: 87). Legal regulation of political parties only expanded later with the 2000 Political Parties, Elections and Referendum Act and the 2009 Political Parties and Elections Act (Piccio 2012: 87-88). This evidence indicates that one possible reason for the inconclusive results is that the variable capturing party law in this study may have been too simplistic. A binary coding likely misses the more complex effect of judicial regulation of political parties. As studies on the role of party law have noted, legal regulation may also benefit the parties in power as they keep out new entrants to the system (Gauja 2014; van Biezen and Rashkova 2014). Thus, just as the formal right to judicial review may not be as important as the actual level of judicial activism, the simple presence of a party law may be less important than the magnitude of judicial influence

on its formation or, even more essential, the frequency of courts interfering with party organization on the grounds of party law.

Taken all factors relating to the status and behavior of the judiciary and judicial interference in party organization together and comparing magnitudes of effects, the results suggest judicial activism to play the most important role in explaining differences in the level of politicization of European judiciaries. Although the findings have to be interpreted carefully considering the significance levels, all three effects go in the hypothesized direction, providing support for Hypotheses 3a, 3b, and 4.

## **Conclusion**

This study has been an attempt to explain the variation in the politicization of the judiciary across a set of European countries. To this end, it has investigated the relationship between five explanatory factors and the level of politicization of the courts. The empirical results can be summarized as follows. The first two factors dealt with the nature of the party system and the tradition of government. Countries with less government alternation and a tradition of coalition governments were found to have a less politicized judiciary than those with more government alternation and a tradition of single-party majority governments. The other three explanatory variables dealt with the status and behavior of the judiciary. Applying Lijphart's Index of Judicial Review to the data, the results showed that the more active the courts were, the higher the judiciary was found to be politicized. Moreover, countries with an independent body for judicial review, i.e. with a centralized system of judicial review, had a more politicized judiciary than those without such an institution, i.e. decentralized systems of judicial review. Finally, the data showed that the level of politicization of the judiciary was higher in countries in which the organization, behavior, and activities of political parties are regulated by party law than in those lacking this form of legal regulation. A comparison of effect sizes revealed that judicial activism, robust political competition, and the presence of an independent body for judicial review seem to play a more important role than the nature of the executive and the presence of party law in a country.

Overall, the empirical results indicate that the opportunity to engage in patronage practices in the judiciary and the actual level of political involvement in the appointments of judges seem to be related to the behavior and the status of the judiciary in a country. The greater the power of the courts and the more active they are in influencing decisions of the other branches of government, the more political parties seem to have the incentive to use the

judiciary as an organizational resource. Weak judiciaries, in contrast, appear to be less attractive for parties in their pursuit of institutional power.

Although all results except for political competition followed the expected direction of the hypotheses, none of the effects of the variables reached a conventional level of statistical significance. This has clear methodological reasons. The study has included only 16 European countries; thus, the number of observations is very low. Case selection was highly constrained by the availability of comparable data on the dependent variable. Politicization is not only conceptualized in a number of different ways but also its measurement differs greatly in the literature. The Index of Party Patronage is thus an excellent source for comparative studies in the field, as it is a collection of individual studies using the same operationalization of the variable and the same methods of data collection. Nevertheless, the IPP only covers 16 European democracies so far, thus limiting the possibilities of statistical analysis and posing a challenge to finding significant results.

In general, therefore, data on the level of politicization of the judiciary in more European countries is very desirable. Future scholars may extend the IPP data set of Kopecký et al. (2012) by using the same methods to collect data on Belgium, France, Finland, Sweden, etc. A larger data set would enable a more robust, multivariate and multilevel statistical analysis of the phenomenon including more explanatory factors such as the legal system which was excluded from this study due to lack of sufficient variation in the data. Some scholars aiming to explain politicization of the bureaucracy include administrative tradition as an explanatory factor in their framework (Painter and Peters 2010). Hence, it seems plausible that legal traditions, i.e. common vs. civil law systems, may play a role in explaining varying levels of politicization of the judiciary.

Future research may also consider an alternative operationalization of judicial activism. Although the Index of Judicial Review by Lijphart (2012) provides an excellent indicator of judicial activism, a quantitative data set of actual counts of judicial overturning of legislative acts in European countries would complement the picture. So far, such data sets only exist for decisions of the US Supreme Court. Moreover, studies may develop a more complex and nuanced measurement of the effect of party law. This study has used a binary variable representing the presence of a party law or lack thereof. More quantitative data on the magnitude of judicial regulation of party organization, e.g. measured by the frequency of court decisions related to party law, may shed light on the influence of such legal regulation.

Finally, longitudinal data may also greatly improve research in the field. Time series analysis would be the appropriate technique to make inferences about the causal direction of

the relationships and possible lags in the effects of e.g. the adoption of party laws or the establishment of constitutional courts. Increasing the number of cross-national and longitudinal observations as well as using different measurements of the variables will not only help to overcome the methodological limits of this study, but would allow for a closer examination of the substantive findings of this analysis and thus for a deeper understanding of politicization of the judiciary in general.

## References

- Armingeon, K., C. Isler, L. Knöpfel, D. Weisstanner, and S. Engler. 2016. *Comparative Political Data Set 1960-2014*. Bern: Institute of Political Science, University of Berne.
- Bernauer, J. and A. Vatter. 2009. The Missing Dimension of Democracy. *European Union Politics*, 10(3), pp. 335–359.
- Blankenburg, E. 1998. Patterns of Legal Culture: The Netherlands Compared to Neighboring Germany. *The American Journal of Comparative Law*, 46(1), pp. 1-41.
- Casal-Bértoa, F., D.R. Piccio, and E. Rashkova 2012. Party Law in Comparative Perspective, Working Paper Series on the Legal Regulation of Political Parties, No. 16. Available at: <http://www.partylaw.leidenuniv.nl/uploads/wp1612.pdf>.
- Cross, F.B. and S.A. Lindquist. 2007. The Scientific Study of Judicial Activism. *Minnesota Law Review*, 91(6), pp. 1752-1784.
- Dahl, R. 1957. Decision-Making in a Democracy. The Supreme Court as a National Policy-Maker. *Journal of Public Law*, 6(2), pp. 279-295.
- Delaney, E.F. 2014. Judiciary Rising: Constitutional Change in the United Kingdom. *Northwestern University Law Review*, 108(2), pp. 543-606.
- Domingo, P. 2004. Judicialization of Politics or Politicization of the Judiciary? Recent Trends in Latin America. *Democratization*, 11(1), pp. 104-126.
- Dowding, K. and P. Dumont. 2009. Structural and Strategic Factors Affecting the Hiring and Firing of Ministers. In: K. Dowding and P. Dumont (eds.) *The Selection of Ministers in Europe*. London: Routledge, pp. 1-20.
- Feinn, R. and G.M. Sullivan. 2012. Using Effect Size - or Why the P Value Is Not Enough. *Journal of Graduate Medical Education*, 4(3), pp. 279-282.
- Gauja, A. 2014. Building Competition and Breaking Cartels? The Legislative and Judicial Regulation of Political Parties in Common Law Democracies. *International Political Science Review*, 35(3), pp. 339-354.
- Grzymala-Busse, A. 2007. *Rebuilding Leviathan: Party Competition and State Exploitation in Post-communist Democracies*. Cambridge: Cambridge University Press.
- Herron, E.S. and K.A. Randazzo. 2003. The Relationship Between Independence and Judicial Review in Post-Communist Courts. *Journal of Politics*, 65(2), pp. 422-438.
- Hopkin, J. 2006. Clientelism and Party Politics. In: R.S. Katz and W. Crotty (eds.) *Handbook of Party Politics*. London: Sage, pp. 406–412.
- Ieraci, G. 2012. Government Alternation and Patterns of Competition in Europe: Comparative Data in Search of Explanations. *West European Politics*, 35(3), pp. 530-550.

- John, S. and T. Poguntke. 2012. Party Patronage in Germany: The Strategic Use of Appointments. In: P. Kopecký, P. Mair, and M. Spirova (eds.) *Party Patronage and Party Government in European Democracies*. Oxford: Oxford University Press, pp. 121-143.
- Katz, R.S. and P. Mair. 1995. Changing Models of Party Organization and Party Democracy: The Emergence of the Cartel Party. *Party Politics*, 1(1), pp. 5-28.
- Kmiec, K.D. 2004. The Origin and Current Meanings of Judicial Activism. *California Law Review*, 92(5), pp. 1441-1478.
- Kommers, D.P. 1994. The Federal Constitutional Court in the German Political System. *Comparative Political Studies*, 26(4), pp. 470-491.
- Kopecký, P. 2011. Political Competition and Party Patronage: Public Appointments in Ghana and South Africa. *Political Studies*, 59(3), pp. 713–732.
- Kopecký, P. and P. Mair. 2012. Party Patronage as an Organizational Resource. In: P. Kopecký, P. Mair, and M. Spirova (eds.) *Party Patronage and Party Government in European Democracies*. Oxford: Oxford University Press, pp. 3-16.
- Kopecký, P., P. Mair, and M. Spirova (eds.). 2012. *Party Patronage and Party Government in European Democracies*. Oxford: Oxford University Press.
- Kopecký, P., J.H. Meyer-Sahling, F. Panizza, G. Scherlis, C. Schuster, and M. Spirova. 2016. Party Patronage in Contemporary Democracies: Results from an Expert Survey in 22 Countries from Five Regions. *European Journal of Political Research*, 55(2), pp. 416-431.
- Kopecký, P. and G. Scherlis. 2008. Party Patronage in Contemporary Europe. *European Review*, 16(3), pp. 355-371.
- Lipsmeyer, C.S. and H.N. Pierce. 2011. The Eyes that Bind. Junior Ministers as Oversight Mechanisms in Coalition Government. *Journal of Politics*, 73, pp. 1152-1164.
- Lhotta, R. Das Bundesverfassungsgericht als Politischer Akteur. *Swiss Political Science Review*, 9(3), pp. 142-153.
- Lijphart, A. 2012. *Patterns of Democracy*. 2<sup>nd</sup> edition, New Haven/London: Yale University Press.
- Martin, L.W. and G. Vanberg. 2011. *Parliaments and Coalitions: The Role of Legislative Institutions in Multiparty Governance*. Oxford: Oxford University Press.
- Meyer-Sahling, J-H. 2006. The Rise of the Partisan State? Parties, Patronage and the Ministerial Bureaucracy in Hungary. *Journal of Communist Studies and Transition Politics*, 22(3), pp. 274-297.



- Meyer-Sahling, J.-H. and K. Jäger. 2012. Party Patronage in Hungary: Capturing the State. In: P. Kopecký, P. Mair, and M. Spirova (eds.) *Party Patronage and Party Government in European Democracies*. Oxford: Oxford University Press, pp.163-185.
- Meyer-Sahling, J.-H. and T. Veen. 2012. Governing the Post-Communist State: Government Alternation and Senior Civil Service Politicization in Central and Eastern Europe. *East European Politics*, 28(1), pp. 4-22.
- Müller, W.C. and U. Sieberer. 2006. Party Law. In R.S. Katz and W. Crotty (eds.) *Handbook of Party Politics*. London: Sage, pp. 435-445.
- O'Dwyer, C. 2006. *Runaway State Building: Patronage Politics and Democratic Development*. Baltimore MD: John Hopkins University Press.
- Page, E.C. and V. Wright. 1999. Conclusion: Senior Officials in Western Europe. In: E.C. Page and V. Wright (eds.) *Bureaucratic Elites in Western European States. A Comparative Analysis of Top Officials*. Oxford: Oxford University Press, pp. 266–79.
- Painter, M. and B.G. Peters (eds.). 2010. *Tradition and Public Administration*. Basingstoke: Palgrave/Macmillan.
- Paulson, S.L. 2003. Constitutional Review in the United States and Austria: Notes on the Beginnings. *Ratio Juris*, 16(2), pp. 223-239.
- Peters, B.G. and J. Pierre. 2004. Politicization of the Civil Service: Concepts, Causes, Consequences. In: B.G. Peters and J. Pierre (eds.) *Politicization of the Civil Service in Comparative Perspective*. London: Routledge, pp. 1–13.
- Piccio, D.R. 2012. Party Regulation in Europe: Country Reports, Working Paper Series on the Legal Regulation of Political Parties, No. 18. Available at: <http://www.partylaw.leidenuniv.nl/uploads/wp1812.pdf>.
- Schlesinger, A.M. Jr. 1947. The Supreme Court: 1947. *Fortune*, 73.
- Thies, M.F. 2001. Keeping Tabs on Partners: The Logic of Delegation in Coalition Governments. *American Journal of Political Science*, 45(3), pp. 580-598.
- Uelmen, G. 1997. Crocodiles in the Bathtub: Maintaining the Independence of State Supreme Courts in an Era of Judicial Politicization. *The Notre Dame Law Review*, 72(4), pp. 1133-1153.
- Vanberg, G. 2005. *The Politics of Constitutional Review in Germany*. Cambridge: Cambridge University Press.
- Van den Berg, C.F. 2011. *Transforming for Europe: The Reshaping of National Bureaucracies in a System of Multi-Level Governance*. Leiden: Leiden University Press.

- Van Biezen, I. 2004. Political Parties as Public Utilities. *Party Politics*, 10(6), pp. 701-722.
- Van Biezen, I. 2013. *Party Law in Modern Europe*. Database available at <http://www.partylaw.leidenuniv.nl/>.
- Van Biezen, I. and P. Kopecký. 2014. The Cartel Party and the State: Party–State Linkages in European Democracies. *Party Politics*, 20(2), pp. 170–182.
- Van Biezen, I. and E.R. Rashkova. 2014. Deterring New Party Entry? The Impact of State Regulation on the Permeability of Party Systems. *Party Politics*, 20(6), pp. 890-903.
- Verzichelli, L. 2008. Portfolio Allocation. In: T. Bergman, W.C. Müller, and K. Strøm (eds.) *Cabinets and Coalition Bargaining; The Democratic Life Cycle in Western Europe*. Oxford: Oxford University Press, pp. 237-265.
- Volintiru, C. 2015. The Exploitative Function of Party Patronage: Does It Serve the Party's Interest?. *East European Politics*, 31(1), pp. 39-55.
- Weiden, D.L. 2011. Judicial Politicization, Ideology, and Activism at the High Courts of the United States, Canada, and Australia. *Political Research Quarterly*, 64(2), pp. 335-347.

## Appendix: R Script

```
getwd()

library(foreign)
Thesis <- read.spss("Thesis.sav", to.data.frame = TRUE)
attach(Thesis)

library(ggplot2)
library(car)
library(pastecs)
library(psych)
library(Hmisc)
library(compute.es)

round(stat.desc(IPP_Judiciary), 2)
round(stat.desc(GovAlterIndex), 2)
table(Nature_Ex)
table(IndexJudRev)
table(Party_law)
table(Const_Court)

#create new dataframe including IPP mean
mean <- data.frame(CountryNo = NA, Country = "Mean", IPP_Judiciary = 0.32,
GovAlterIndex = NA, Fractionalization = NA, Nature_Ex = NA, IndexJudRev =
NA, Party_law = NA, Const_Court = NA, Legal_Cult = NA)

Thesis_new <- rbind(Thesis, mean)

#bar chart of politicization of judiciary by country
IPP_plot <- ggplot(Thesis_new, aes(x=reorder(Country, IPP_Judiciary),
y=IPP_Judiciary))
IPP_plot + geom_bar(stat = "identity", fill = "lightblue", color="black") +
coord_flip() + labs(x= "", y="Politicization of the Judiciary") +
theme_minimal() + geom_text(aes(label = IPP_Judiciary), size = 3, position
= position_dodge(width = 1), hjust = 1.1)

##Role of robust political competition
#check relationship with scatterplot
ScatterComp<-ggplot(Thesis, aes(IPP_Judiciary, GovAlterIndex))
ScatterComp + geom_smooth(method=lm, color="royalblue", fill="lightblue") +
labs(x = "Politicization of Judiciary", y = "Political Competition") +
geom_text(aes(label=Country), size=3.5, hjust = 0.3) + ylim(0.00, 1.0) +
theme_minimal()

#correlation
cor.test(IPP_Judiciary, GovAlterIndex, method = "pearson")

##Role of the nature of the executive
#calculate means by group
by(IPP_Judiciary, Nature_Ex, stat.desc, basic = FALSE, norm = FALSE)

#create boxplot
NatureExPlot <- ggplot(Thesis, aes(Nature_Ex, IPP_Judiciary))
NatureExPlot + geom_boxplot(fill=c("lightblue", "royalblue"))+
labs(x="Tradition of Government", y="Politicization of the Judiciary") +
theme_minimal()

#test for homogeneity of variance
leveneTest(IPP_Judiciary ~ Nature_Ex, center=mean, data=Thesis) #p>0.05 ->
assumption met
```

```

#t test and effect size
ind.t.test <- t.test(IPP_Judiciary ~ Nature_Ex, var.equal = TRUE)
ind.t.test

mes(0.31, 0.37, 0.17, 0.13, 12, 4) #converts raw mean scores into effect
sizes

###Role of judicial activism
#calculate means by group
by(IPP_Judiciary, IndexJudRev, stat.desc, basic = FALSE, norm = FALSE)

#create boxplot
JudRevPlot <- ggplot(Thesis, aes(IndexJudRev, IPP_Judiciary))
JudRevPlot + geom_boxplot(fill=c("lightblue", "deepskyblue", "royalblue",
"navy"))+ labs(x="Level of Judicial Activism", y="Politicization of the
Judiciary") + theme_minimal()

#test for homogeneity of variance
leveneTest(IPP_Judiciary ~ IndexJudRev, center=mean, data=Thesis) #p>0.05 -
> assumption met

#anova
fit <- aov(IPP_Judiciary ~ IndexJudRev, data=Thesis)
summary.lm(fit) #p>0.05 -> not significant

#effect sizes
#absent and weak
mes(0.13, 0.30, 0.08, 0.18, 2, 7)
#weak and medium
mes(0.30, 0.39, 0.18, 0.06, 7, 5)
#medium and strong
mes(0.39, 0.42, 0.06, 0.27, 5, 2)
#absent and strong
mes(0.13, 0.42, 0.08, 0.27, 2, 2)

## split into only two categories ("low": absent+weak / "high":
medium+strong)
Thesis$IndexJudRev_new <- IndexJudRev
Thesis$IndexJudRev_new[Thesis$IndexJudRev_new== "absent"] <- "low"
Thesis$IndexJudRev_new[Thesis$IndexJudRev_new== "medium"] <- "high"

#calculate means
by(IPP_Judiciary, Thesis$IndexJudRev_new, stat.desc, basic = FALSE, norm =
TRUE)

#t-test and effect size
leveneTest(IPP_Judiciary ~ Thesis$IndexJudRev_new, center=mean,
data=Thesis)
ind.t.test <- t.test(IPP_Judiciary ~ Thesis$IndexJudRev_new, var.equal=
TRUE)
ind.t.test

mes(0.27, 0.40, 0.18, 0.10, 7, 9)

###Role of presence of an independent body for judicial review
#calculate means by groups
by(IPP_Judiciary, Const_Court, stat.desc, basic = FALSE, norm = TRUE)

#create boxplot
ConstCourtPlot <- ggplot(Thesis, aes(Const_Court, IPP_Judiciary))

```

```

ConstCourtPlot + geom_boxplot(fill=c("lightblue", "royalblue"))+
labs(x="Independent Body for Judicial Review", y="Politicization of the
Judiciary") + theme_minimal()

#test for homogeneity of variance
leveneTest(IPP_Judiciary ~ Const_Court, center=mean, data=Thesis) #p>0.05 -
> assumption met

#t test and effect size
ind.t.test <- t.test(IPP_Judiciary ~ Const_Court, var.equal = TRUE)
ind.t.test

table(Const_Court)
mes(0.26, 0.39, 0.18, 0.12, 8, 8, dig=3)

###Role of party law
#calculate mean + standard error per group
by(IPP_Judiciary, Party_law, stat.desc, basic = FALSE, norm = TRUE)

#create boxplot
PartyLawPlot <- ggplot(Thesis, aes(Party_law, IPP_Judiciary))
PartyLawPlot + geom_boxplot(fill=c("lightblue", "royalblue"))+
labs(x="Party Law", y="Politicization of the Judiciary") + theme_minimal()

#test for homogeneity of variance
leveneTest(IPP_Judiciary ~ Party_law, center=mean, data=Thesis) #p>0.05 ->
assumption met

#t test and effect size
ind.t.test <- t.test(IPP_Judiciary ~ Party_law, var.equal = TRUE)
ind.t.test

mes(0.27, 0.35, 0.21, 0.12, 6, 10)

```