

Confidence in Judicial Institutions in Europe

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Abstract

Numerous studies draw attention to the decline of public trust in the political system. In general, however, the literature emphasizes the erosion of citizens' consensus towards political authorities, lending less weight to attitudes towards political institutions; the underlying principles of the democratic system also seem to be subject to higher levels of support. The ESS study has addressed the perception of democracy among citizens of European countries and their assessments of their political systems. This paper intends to examine the properties of the political and judicial systems and their relationship with the level of trust in judicial institutions. Drawing information from different sources, the paper examines respondent characteristics and distinctive features of political and judicial systems, including judges' independence, the efficiency of the legal framework in settling disputes, the degree of prevalence of the rule of law, the political systems' polarization, and public trust in parliamentary institutions.

1. Introduction

A recent study has highlighted the centrality of the judicial function and its institutions in the perception of democracy among European citizens, as well in the assessments that those citizens make of their political systems (Ferrín and Kriesi, 2016). On analysing the view of democracy held by the respondents involved in that research,¹ Hernandez notes that “two democratic elements stand out as the ones systematically considered the most

¹ The reference is to the European Social Survey. ESS Round 6. The data were collected between 2012 and 2013.

important in a majority of European countries: free and fair elections and the rule of law”.² However, Hernandez specifies that “in all countries the rule of law is considered as one of the three most important features of democracy, and only in three countries it is not considered the most important one” (2016, 54). Whilst respect for the “rule of law” occupies an important place in the view of democracy of European citizens, in the opinion of the interviewees in the ESS Round 6 survey it is not adequately achieved (Gómez and Palacios 2016,162). In the conclusions of that study, Kriesi and Morlino observe that “even in the most established democracies, the rule of law is far from being guaranteed. Europeans consider it the cornerstone of the liberal component of liberal democracies, but measured against this yardstick, European liberal democracies are far less liberal than they ought to be in the eyes of their citizens” (2016, 316).

This paper will analyse citizens’ trust in the judicial institutions. It first considers certain factors that may influence trust in those judicial institutions. It then describes the results of analysis conducted at aggregate level to illustrate the relationship between those factors and trust in the national judicial institutions. Finally, the paper carries out individual-level analysis using data from the European Social Survey Round 6 supplemented with some contextual data.

2. Trust in the political institutions: some theoretical considerations

The theme of trust in the political institutions has aroused the interest of numerous scholars.³ In general, the research carried out in recent decades indicates that citizens in democratic countries have for some time grown increasingly critical of the levels of the political system (Norris 1999; Pharr and Putnam 2000; Dalton 2004; Norris, 2011; Dalton and Welzel 2014).

Dalton (2004, 7) considers the various levels of the political system highlighted by Easton (1965) and notes that, in democratic systems since the Second World War, trust in the political authorities has generally declined, whilst levels of trust in the democratic regime and the political community have remained high. Comparative studies find in particular

² The indicator used in the research in question asked respondents to state how important it was for them “that courts treat everyone the same” (European Social Survey 2013).

³ Easton 1965; Easton 1975; Hibbing and Theiss-Morse 1995; Norris 1999; Pharr and Putnam 2000; Dalton 2004; Norris 2011; Dalton and Welzel 2014.

that a still large proportion of citizens are in favour of the democratic regime; however, many of them express “dissatisfaction with how the democratic system performs in reality” (Klingemann, 2014, 139).

Among the factors that Dalton (2004, 63-71) identifies as associated with trust in political institutions in the industrial democracies are the performance of democratic systems,⁴ value changes,⁵ and the erosion of social capital⁶. Norris notes that “public support for the political system has not consistently eroded in established democracies, not across a wide range of countries around the world” (2011, 241). She adds, however, that “in many states today, satisfaction with the performance of democracy continues to diverge from public aspirations” (Norris 2011, 242). Norris concludes that “education levels, self-expression values, social trust and associational activism all help to predict higher democratic aspirations” (Norris 2011, 243).

Torcal and Trechsel (2016, 208-232) study the influence of trust in the legal institutions⁷ (the police and the judicial system) on assessment by European citizens of their democratic systems.⁸ The results of their analysis suggest that “with regards to evaluation of liberal democracy [...] every variable related to the trust in political actors and institutions significantly impacts, and in the hypothesized direction, on this dimension. This is especially true for the legal institutions, confirming at the individual level some of the conclusions in the comparative literature on SWD, such as the importance of state legal fairness and the rule of law”(Torcal and Trechsel 2016, 213).⁹ Torcal and Trechsel’s study then highlights the influence of trust in judicial institutions on the evaluation by citizens of the democratic system.

The aim of this paper is to expand knowledge about the trust of European citizens in the judicial system. The theme of citizens’ trust in judicial institutions has received less attention than the more general one of trust in the political institutions. However, as noted by Gibson, “since courts are typically thought to be weak institutions – having neither

⁴ The author refers to both the economic and political sides of the government’s performance.

⁵ Dalton (2004, 67-69) sets trust in political institutions in relation to the post-materialism index proposed by Inglehart (1990, 1997).

⁶ Putnam (1995; 2000).

⁷ Included in the analysis are trust in the police and the judicial system.

⁸ The analysis is conducted separately for the different dimensions of democracy identified in the research: liberal democracy, social democracy, direct democracy (Ferrín and Kriesi 2016).

⁹ Wagner et al. (2009); Dahlberg and Holmberg (2014); Torcal and Trechsel (2016).

control of the ‘purse’ (control of the treasury) nor the ‘sword’ (control over agents of state coercion) – their principal political capital is institutional legitimacy” (2008, 525-525). On the basis of thorough analysis of the literature on the topic,¹⁰ Gibson summarizes the properties apparently connected with trust in judicial institutions (ibid., 526-527). He emphasises the importance of knowledge about the law and the functioning of justice: the more of such knowledge that a person possesses, the more s/he tends to have trust in judicial institutions (Casey 1974; Hibbing and Theiss-Morse 1995; Kritzer and Voelker 1998). Other studies show that exposure to symbols of justice (robes, decorum, media deference) can contribute to legitimation of the courts by individuals (Gibson, Caldeira and Spence 2003). Gibson then points out that citizens who do not have sufficient knowledge of judicial processes and institutions tend not to differentiate their assessment of the judicial system from the other political institutions (2008, 527). Therefore exposure to the symbols which legitimate the courts reinforces the process by which individuals draw a distinction between judicial institutions and the other components of the political system (ibid.).

The judicial institutions have some specific characteristics which can be associated with citizens’ trust in them. The first of them is the triadic structure of the dispute resolution process performed by the judge. Dispute resolution through the intervention of a third party may take different forms (Shapiro 1981, 8). The role assumed by the third party – the mediator, arbitrator or judge – differs principally in the different degrees of freedom that the parties in dispute have in choosing that third actor: the mediator and arbitrator are chosen by the parties, while the judge is imposed by the state. Moreover, the decisions of the third party called upon to resolve the dispute are not binding in the case of the mediator, while the decisions of the arbitrator and the judge are so (ibid.). Intervention by a judge “may have, compared with other procedures, considerable advantages in terms of the rapidity and efficacy of the dispute resolution process. But this greater efficacy is off-set, from the point of view of the parties, by the much greater risks that they incur because of the decision by a third party over whom they cannot exercise, at least legitimately, any direct influence” (Guarnieri, 2003, 14).¹¹ The judge must therefore settle the dispute

¹⁰ For a complete survey of the literature cited here, see Gibson (2008). Among the most important works on these issues are the following: G. A. Caldeira and J. L. Gibson (1992); Caldeira G. A. and J. L. Gibson (1995); Gibson, J. L., G. A. Caldeira and V. A. Baird (1998); Gibson, J. L., G. A. Caldeira and Spence L. K. (2003).

¹¹ Guarnieri also points out (2003, 14) that often the judicial procedure is initiated by decision of one of the two parties; the agreement of both is not necessary.

without being able to benefit from the direct accord of the parties in regard to the rules to be applied¹² and the third party called upon to resolve the dispute. The impartiality of the judge and his/her professionalism thus acquire great importance for acceptance of his/her decisions (Shapiro, 1981, 8).

Guarnieri observes (1981, 26) that the consent of the parties to the decisions of the judge appears to be important for the proper functioning of the dispute resolution process; but it is also important because, in the modern liberal-democratic systems, the judge, together with the judicial institution of which s/he is part, is embedded in the wider system of the state apparatus.

The foregoing considerations have two main consequences. Firstly, the action of the judge and the trust that it inspires in society impacts on trust in, and the legitimation of, the judicial institutions and, in a broader sense, the political ones. It is for this reason that trust in the judicial institutions is analysed in relation to broader assessment by citizens of the functioning of the political institutions of the liberal democratic systems.

Secondly, the fact that judges belong to an institution pertaining to the state requires that, in order to be and appear impartial, they must have guaranteed independence also from political power.¹³ This feature of judges and the judicial institutions explains the decision to include, in this study, the independence of the judiciary among the factors that may induce citizens to trust the judicial system. In fact, citizens can deem the independence of judges a factor which strengthens their impartiality and, through the latter, contributes to increasing their trust in judicial institutions.¹⁴

This study considers other factors that may influence trust in judicial systems. First it takes into account the efficacy of judicial systems in dispute resolution. Study of the relations between trust in the legal system and these measures of output by judicial institutions is in line with the literature on political institutions in general that emphasises the influence of institutional performance in determining the judgements of citizens in their regard (Dalton 2004; Norris 2011).

¹² In cases of arbitration, the parties often define the legal framework within which the arbitrator is called upon to decide.

¹³ See Echoff (1967); Shapiro (1975, 321-71); Guarnieri (1981, 69-90). For more thorough analysis of these issues see the book by Guarnieri and Pederzoli (2002).

¹⁴ The independence of the judiciary is cited as a factor which fosters public trust in the judicial system also by Buhlmann and Kunz (2011), who analyse data collected as part of the World Values Survey.

Also considered is a further feature of the judicial function. When adjudicating disputes, the judge is required to apply the legal rules in force. As Martin Shapiro observes, “courts are courts of law. We expect them to make decisions according to law. We do not expect them to be independent of law. And most of the law is made by other political actors. The courts are supposed to be not independent but servants of the lawmakers” (Shapiro 2001, 280). Since laws result from decisions by parliamentary majorities, their contents may not be accepted by citizens with ideological beliefs located at the extremes of the political spectrum: such citizens may then develop distrust in the courts called upon to adjudicate on the basis of laws that they do not accept. For this reason, this study will include a measure of ideological distance among the voters of each country in order to determine whether the political systems whose electorates are more distant on the left/right continuum exhibit levels of trust lower than those of countries whose electorates are less ideologically distant.¹⁵

3. Data, variables and method

The data analysed in this study are of diverse nature and origin. First, the individual data have been drawn from the European Social Survey Round 6. Analysed in particular will be the replies of the respondents to the question concerning trust in the judicial system. The text of the question was as follows:

¹⁵ The research reported by this study did not include measures estimating the polarization of the political system and, specifically, of the parties. There is a very large body of literature on this subject: by way of example, see Indridason (2011, 689-718).

Using this card, please tell me on a score of 0-10 how much you personally trust each of the institutions I read out. 0 means you do not trust an institution at all, and 10 means you have complete trust.

	No trust at all	00	01	02	03	04	05	06	07	08	09	10	Complete trust	(Don't know)
The legal system														88

As will be seen, interviewees could assign a score from 0 (indicating no trust in the judicial system) to 10 (indicating complete trust in the institution evaluated). In the same item battery, and therefore with the same score assignment scheme, interviewees were asked to state their trust in some of the country's political institutions – the parliament, the police, the political authorities, the political parties.

Together with trust in the judicial system – which is treated as the dependent variable – this paper will analyse the data on other variables, both individual and contextual. Among the individual data considered are the scores given by the interviewees in the ESS Round 6 survey on trust in the national parliament. These data will be used to check the association between trust in the judicial institutions and that in the institutions of political representation. Also included in the analysis will be the replies to the question, included in the ESS Round 6 questionnaire, asking the interviewees to locate themselves on the Left/Right continuum. These replies will form the basis of an index of ideological distance among voters which will be correlated with trust in the judicial institutions.¹⁶

The principal contextual factor included in this study is the estimate of judicial independence. The data are those collected in the Global Competitiveness Report edited by the World Economic Forum (2013). A further indicator of the independence of the judiciary used in this study is the one proposed by Guarnieri (2015) to evaluate the external independence of the European judiciary.¹⁷

This study then includes several variables measured at the country level and intended to provide information on the performance of the judicial systems included in the

¹⁶ On this see section 4.1 below

¹⁷ The information with which Guarnieri assesses the level of independence of the European judiciary refers to 2011 (Guarnieri 2015, 396).

comparison. The efficiency of the judicial system in settling disputes in the private sector is the subject of the above-mentioned survey by the World Economic Forum (World Economic Forum 2013). Then considered are the scores with which the World Justice Project constructs the “rule of law” index. In the present study, the values of trust in the national judicial system expressed by the citizens of the countries included in the ESS Round 6 project will be correlated with the scores obtained by the World Justice Project for the assessment of civil and criminal justice.¹⁸ A further indicator that can contribute to evaluation of the output by the judicial systems of the countries included in ESS Round 6 survey, and which is included in this study, is the “rule of law” index developed by the Worldwide Governance Indicators (WGI) Project of the World Bank.¹⁹

This study includes two further items of information concerning the performance of the judicial systems of European countries. These are data collected and published by the European Commission for the Efficiency of Justice (CEPEJ) of the Committee of Ministers of the Council of Europe: a) the clearance rate²⁰ “obtained by dividing the number of cases resolved with the number of incoming cases, expressed as a percentage”²¹; b) the disposition time²² “obtained by dividing the number of pending cases at the end of the period observed by the number of resolved cases within the same period multiplied by 365 (days in a year)”²³.

4. The relation between trust in the judicial institutions and the factors considered in this study

¹⁸ These are the scores that the countries included in the ESS Round 6 survey recorded on Factor 7, Civil Justice, and Factor 8, Criminal Justice; factors that contribute to determining the Rule of Law Index of the World Justice Project (Agrast, M. et al. 2013).

¹⁹ See the website: <http://info.worldbank.org/governance/wgi/index.aspx#home>. However, it should be borne in mind that the “rule of law” index drawn up by the World Bank as part of the study entitled “Worldwide Governance Indicators” includes information which takes into account, besides the effectiveness and efficiency of the courts, also the structure and functioning of institutions different from the courts (among them, for example, the police). Consequently, this indicator should be used with some caution if the purpose of the research is to evaluate the specific performance of the courts.

²⁰ European Commission for the Efficiency of Justice (2016, Table 5.6).

²¹ Clearance Rate (%) = $\frac{\text{Resolved cases in a period}}{\text{Incoming cases in a period}} * 100$ (European Commission for the Efficiency of Justice (2016, 185).

²² European Commission for the Efficiency of Justice (2016, Table 5.7).

²³ *Calculated Disposition Time* = $\frac{\text{Number of pending cases at the end of a period}}{\text{Number of resolved cases in a period}} * 365$ (European Commission for the Efficiency of Justice (2016, 185).

This section illustrates the results on the relation between European citizens' trust in the national judicial system and some of the variables presented in the previous section. First, the analysis will be conducted at the aggregate level by examining the joint distribution of the average trust in the judicial system, calculated among interviewees in each country included in the ESS Round 6 project, and the values that the respective countries present on the performance indicators described in the previous section (paragraph 4.1). Second, the relations among the same variables will be examined at the individual level (see paragraph 4.2).

4.1. The relation between trust in the European judicial systems and some causal factors at the aggregate level

The level of trust in the judicial system appears to be associated with the level of trust in the national parliament (see Fig. 1): this consideration has a certain importance because it may suggest that countries where citizens express high trust in the judicial system are also those in which there is a generally high level of trust in the political institutions.²⁴

Instead, the ideological distance of citizens on the Left/Right continuum existing in the various political systems does not seem related to the level of trust in the judicial systems. The ideological distance was operationalized through the quartile deviance of each country; the data were taken directly from those collected as part of the ESS Round 6. The research questionnaire, in fact, contained a question that asked the interviewees to locate themselves on the Left-Right continuum using an eleven-point scale. The level of trust in the courts of the countries in which the quartile deviance of this variable is greater – so that there is a larger distance between the 25% of citizens that locate themselves more to the left and the 25% of citizens who locate themselves more to the right – does not seem to be necessarily different from that of the systems in which the ideological distance of voters is less (see Fig. 2).²⁵

²⁴ This association may, at least in part, be interpreted in light of the observation by Gibson (2008, 527) that people who do not have sufficient knowledge of the judicial system tend not to distinguish their opinion on the judicial system from that on the parliamentary and political institutions in general.

²⁵ In the countries included in the ESS 6 research design, when the quartile deviance took value 2 (11 cases), average trust of citizens was equal to 4.8 with respect to a maximum of 10; that in the 12 countries where the same variable assumed value 3 was equal to 5.1. In the five countries with quartile deviance values equal to or greater than 4, the average of trust in the courts tended to diminish to an extremely limited extent (it halted at 4.4 in the

A variable measured by the World Economic Forum (World Economic Forum 2013) asked a sample of experts to assess the independence of judges in each of the countries covered by the research.²⁶ The data showed a strong association, at the aggregate level, of this variable with the level of trust recorded among the citizens of the European countries included in the ESS 6 project (see Fig. 3). The countries in which the experts interviewed by the World Economic Forum reported a high level of independence of judges were also those in which citizens showed greater trust in the judicial institutions.

The same organization surveyed (World Economic Forum 2013) the opinion of experts concerning the efficiency of the judicial system in settling disputes in the private sector.²⁷ The replies by the World Economic Forum experts in each country seemingly correlated closely with the averages recorded by citizens of the respective countries interviewed as part of the ESS Round 6 project (see Fig. 4). The relationship was positive, and high values on the variable gathering the opinions of the experts of the World Economic Forum on the efficiency of judicial system were accompanied by high values for the average level of trust of citizens of European countries in the judicial system.

The results of surveys conducted on experts asked by the World Justice Project²⁸ to assess the civil and criminal justice systems of their countries suggest that the opinions of people whose profession brings them into contact with the everyday administration of justice are consistent with those of the citizens surveyed during ESS Round 6: the judicial systems receiving a better evaluation from the experts were also those that enjoyed a higher level of public trust (see Figs. 6 and 7).

Analysis of external independence²⁹ based on normative and institutional factors (Guarnieri 2015) makes it possible to construct a variable that returns a score³⁰ for the level

three countries with quartile deviances equal to 4), or it fell to lower values in the remaining two countries. Overall, the value of the Eta squared coefficient of the relation between (average) trust in the judicial system calculated in the country and ideological distance was generally low (equal to .148) and not significant.

²⁶ The question put to the experts was as follows: “In your country to what extent is the judiciary independent from influences of members of government, citizens or firms?” (1 = heavily influenced; 7 = entirely independent) (World Economic Forum 2013).

²⁷ The question put to the experts was as follows: “In your country, how efficient is the legal framework for private business in settling disputes?” (1 = extremely inefficient; 7 = extremely efficient) (World Economic Forum 2013).

²⁸ Agrast et al. 2013.

²⁹ By ‘external independence’ is meant the judge’s independence from individuals external to the judicial system, e.g. political authorities or the government.

of external independence of the judiciary of the various countries analysed. However, this variable does not appear to be associated with the average level of trust in the judicial system recorded by the citizens of the respective states (Fig. 7)³¹.

Nor do the variables relative to the efficiency of judicial systems constructed by the European Commission for the Efficiency of Justice (2016) appear to be associated with the opinions of the European citizens asked to express their trust in national judicial systems (see Figs. 8 and 9). Although the efficiency of European judicial systems is certainly appreciated by citizens, it does not seem necessarily linked to a higher level of trust in those systems in which lawsuits are briefer in duration.

This brief discussion at aggregate level of the relation between trust in the justice system among the citizens of a large number of European countries and certain factors that may help explain the different degrees of trust recorded in those countries suggests the following preliminary considerations.

Firstly, trust in the judicial system does not appear to be associated with certain variables that describe the output of the judicial system in terms of efficiency (see Figs. 8 and 9). Even a variable that records the level of institutional independence of the judiciary does not seem to be associated with European citizens' trust in the justice system (Fig. 7).

Instead, features of a different kind prove to be correlated with citizens' trust in justice. The first is the association between citizens' trust in the parliamentary institutions and that in the judicial system (Fig. 1). This joint distribution may suggest that trust in the judicial system is not, in the eyes of many citizens, a property separate from trust in the other institutions of the state (Gibson 2008). The countries in which the political institutions have been able to gain or maintain public trust are also those in which citizens generally have more trust in the justice system. Secondly, trust in the judicial institutions seems to be strongly associated with opinions on the functioning of the courts expressed by experts who, probably because their professional work brings them into contact with the courts with a certain frequency, are able to deliver a judgement which takes account both of the elements of judicial efficiency and those related to the quality of the services rendered by the judicial institutions to citizens (including the impartiality of the courts and the

³⁰ The scores assigned by the experts to each country on the basis of the level of judicial independence from external influences ranged from 0 (minimum independence) to 3 (maximum independence) (Guarnieri 2015); data are referred to year 2011.

³¹ The value of the Eta-squared coefficient of the relation between level of trust of citizens and the level of independence of the judiciary was equal to .50 and does not appear statistically significant.

efficiency of the judicial system in settling disputes and protecting rights). I examined also the relation between trust in judicial institutions and the assessment of the rule of law made by the World Bank (see Fig. 10 and the note 19 in this paper).

In the next section, the analysis will shift from the aggregate level to the individual one.

4.2. The relation between trust in European judicial systems and some individual-level causal factors

Research on trust in political institutions, and judicial institutions in particular, suggests that some properties of individuals, besides certain features of the political system as a whole, may influence trust in the institutions. Emphasised in Section 2 of this study was the importance of knowledge by citizens of the law and the functioning of the judicial institutions (Gibson 2008): those who have sufficiently detailed information about the judicial system and the laws applied by judges tend to show higher levels of trust in the courts. Moreover, at the level of single countries, the independence of judges and the efficiency of the legal system in settling disputes are associated with higher levels of trust (see Section 3 above). Finally, trust in the judicial institutions appears to be linked with trust in other political institutions, including parliamentary ones (ibid.).³²

The foregoing considerations suggest that the following hypotheses can be formulated:

H1: The higher the degree of efficiency of the legal system in settling disputes in a given country, the higher the trust of subjects in the justice system

³² In the analysis reported here, it was decided to consider only trust in Parliament as an indicator of trust in the political institutions. The decision was taken because it was deemed appropriate to prioritize the use of variables drawn from the same survey, the ESS Round 6, from which derived the dependent variable “trust in the legal system”. The ESS includes questions on trust in certain institutions: Parliament, the police, the political authorities, political parties, the European Parliament and the United Nations. In order to identify an indicator of trust in the political institutions, the nature of the research question investigated by the study counselled against the use of trust in international institutions (the European Parliament and the United Nations). But also the use of data on trust in the other above-mentioned institutions did not seem advisable, for the following reasons: some of them are excessively connoted as institutions of law and order (the police); others (political parties and the political authorities), although they are institutions pertaining to the political system, fall outside the confines of the national state, which makes them less suitable for use as variables indicative of the trust of citizens in public institutions like the courts.

H2: The higher the degree of judicial independence in a given country, the higher the trust of subjects in the justice system

H3: The higher the trust in Parliament in a given country, the higher the trust in the justice system

H4: Subjects that have greater awareness of judicial institutions, other conditions mentioned in the previous hypotheses being equal, tend to have a greater trust in courts.

In order to test the above hypotheses empirically, the multivariate analysis described in this section was developed.

The dependent variable was the variable ‘trust in the legal system’ measured on the subjects included in the ESS Round 6 sample.³³

The variables ‘degree of efficiency of the legal system’, ‘degree of independence of the legal system’ and ‘trust in Parliament’, considered independent variables, were relative to the countries included in the research design, i.e. those included in the ESS Round 6 survey (Kosovo was excluded because there were no data on the independence of judges and the efficiency of the judicial system³⁴).

Individual ‘awareness of judicial institutions’ was operationalized through use of an indicator. The data collected in the ESS Round 6 survey comprise the professions of the subjects included in the sample. Created on the basis of this variable was a new one called ‘occupation level’. Subjects who were managers, professionals,³⁵ or technicians were classified among the subjects with medium-high or high level occupations³⁶. Subjects with occupations different from those mentioned were classified as those with medium-low or low level occupations³⁷. The variable ‘occupation level’ of respondents in the ESS Round

³³ See Section 1 above.

³⁴ See World Economic Forum 2013.

³⁵ Among these professionals were the judges and lawyers interviewed in the ESS Round 6 survey.

³⁶ These are the occupations classified with values between 110 and 3522 by the ISCO08 (International Standard Classification of Occupations) of the International Labour Organization; see <http://www.ilo.org/public/english/bureau/stat/isco/isco08/>.

³⁷ These are the occupations classified with values equal or superior to 4000 by the ISCO08 (International Standard Classification of Occupations) of the International Labour Organization; <http://www.ilo.org/public/english/bureau/stat/isco/isco08/>.

6 survey was then considered, in the analysis reported here, to be an indicator of the level of knowledge about the institutions and judicial procedures, as well as the laws in force, in the country of residence. In fact, people with certain higher-level occupations are more likely than others to have frequent contacts with the legal system and to have greater knowledge of the laws in force in their countries. This variable was considered one of the independent variables.

The data analysed in this paper were therefore nested in nature: the research cases, in fact, were divided among countries. Some data were collected (and related) at the individual level (e.g. the occupational level, the degree of trust in the national judicial system); this level will be also referred to as 'level 1'. Other variables analysed were instead relative to values attributable to the country of residence (for example, the 'degree of efficiency of the legal system'); These variables obviously have the same value for all interviewees in the same country; this level will be indicated in what follows as 'level 2'. Multilevel analysis was used so that correct estimation could be made of the influence of variables relative to the individual level, together with that of variables relative to the country level.³⁸

Table 1 shows the values of the coefficients calculated by the multilevel analysis; as suggested by the logic of multilevel modeling, different models will be presented in sequence in order to document the influence of the individual independent variables (level 1) and contextual variables (level 2) on the dependent variable, i.e. trust in the national judicial system of the individuals interviewed during the ESS Round 6 survey. Model 1 was an empty model; the average of trust by the interviewees in the national judicial system (intercept) was 4 and the standard error of this measure was 0.33.³⁹ The proportion of variance lying between countries was 0.201, equal to about 20%; this value suggested that a multilevel model should be constructed.

Model 2 was the next step in the analysis and included the individual variable 'occupation level'. The F-ratio value associated with this variable suggested that the level of the occupation is significantly related with trust in the legal system. The fixed effect estimation is shown in Table 1 (Model 2). The intercept, adjusted for occupation level, is slightly lower (diminishing from 4.0 to 3.9) and also the standard error of this value does not vary greatly. Interesting instead is the estimate of the effect of occupation level of individuals on the dependent variable 'trust in the judicial system'; the variable 'occupation level' is a

³⁸ There is a huge body of literature on these topics; see e.g. Hox 2002; Snijders and Bosker 2012; Heck, Thomas and Tabata 2014.

³⁹ Recall that the variable has a range from 0 (no trust) to 10 (complete trust).

dichotomous variable presenting two values: 0 (low or medium-low occupation level) and 1 (medium-high or high occupation level). As the occupation level increases, so does the level of trust in the judicial system, by 0.4 points. This coefficient is significant even if the intensity of the effect does not seem to be very marked. Gibson's arguments (2008), which suggest that the knowledge of citizens about the structure and procedures of the judicial institutions fosters their trust in the courts, therefore seem to be supported by the data used in this analysis. Subjects with occupations that presumably bring them into contact with the system of justice and law have levels of trust higher than those of subjects who, again because of their occupations, have no special reasons for contact with the judicial system. However, introduction of the independent variable 'occupation level' leaves a significant variability to be explained both within countries (Wald $Z = 152.9$) and between countries (Wald $Z 2.6$).⁴⁰ For this reason, introduced into the analysis were some further variables measured at the individual level in the ESS Round 6 survey: gender, age, years of completed full-time education, and the household's total net income. As can be seen in Table 1 (Model 3), however, these variables seemingly exert a very small, albeit significant, effect on the dependent variable 'trust in the judicial system'; moreover the introduction of these variables decreases the effect exerted by variable 'occupation level' on the dependent variable.

Model 4 in Table 1 comprises three variables measured at country level: average trust in the national parliament (taken from the ESS Round 6 research data);⁴¹ the level of judicial independence (as assessed by the World Economic Forum);⁴² the efficiency of the legal framework in settling disputes (as assessed by the World Economic Forum)⁴³. As shown by the coefficients in Table 1 (Model 4), the average level of trust in Parliament and, to a lesser extent, judges' independence (as assessed by the experts) seem to have a positive significant effect on people's trust in the judicial system. Contrary to what is suggested by the theoretical premises outlined in Section 2 of this paper, as well as by the data presented in Section 3, the efficiency of the legal framework in settling disputes, as evaluated by the experts, seems to produce the opposite effect: as efficiency increases, the trust of

⁴⁰ Both these values are significant.

⁴¹ This variable ranges from 0 (no trust) to 10 (complete trust).

⁴² The variable is the result of an expert survey and ranges from a value of 1 (judges are heavily influenced) to a value of 7 (judges are entirely independent).

⁴³ The variable is the result of an expert survey and ranges from a value of 1 (extremely inefficient) to a value of 7 (extremely efficient).

individuals in justice diminishes (albeit to a limited extent)⁴⁴. Instead, the effects of individual variables (with the exception of occupation level) remain extremely weak.

5. Conclusions

The analytical work presented in this paper is still in its preliminary stages. However, it seems appropriate to draw some conclusions.

Firstly, the analysis of the data at aggregate level (subsection 4.1) suggests that certain features of the judicial system are positively associated with citizens' trust in that system. Among them are those relative to trust in other institutions of the political system (this study has considered trust in Parliament). Moreover, characteristics of the judicial system, such as the efficiency and independence of judges, seem to be positively linked with citizens' trust in the courts. Indicators of the efficiency of courts, such as the length of proceedings and the efficiency of judges in dealing with cases brought before them, do not show connection with different levels of trust in the judicial system.

At the individual level, citizens with occupations that presumably bring them into contact with the courts tend to show levels of trust higher than those of subjects who have an occupation more distant from the courts. Other variables included in the analysis, such as age, gender, level of education, and income do not seem to exert a significant effect on public trust in the judicial system.

Finally, the factors that can be attributed to the country of residence of the interviewees in the ESS Round 6 survey seem to exert a more complex effect on trust in the judicial system: on the one hand, consistently with the findings of the literature on the subject, trust in other political institutions fosters a climate of trust in the judicial system. Moreover, the independence of judges seem to impact positively on the trust of citizens in this subsystem of the broader political system⁴⁵. Finally, a feature that the literature identifies as relevant for legitimation of judges the administration of justice – efficiency – seems to exert a negative effect on the trust of individual citizens in justice. This indubitably counter-intuitive finding also appears to contradict the literature. For this reason it seems important to conduct more thorough analyses for the following two purposes: to gain better

⁴⁴ If we include in the multilevel model the variable efficiency of legal framework as the only variable measured at country level we find a positive effect (.089), but controlling for trust in national parliament and judicial independence, the effect turn negative.

⁴⁵ On this see the discussion by Bulman and Kunz (2011).

understanding of the causal mechanism linking the efficiency of courts to public trust in the judicial system; to understand how to operationalize efficiency of the legal system in a national judicial system in order to develop indicators capable of grasping more precisely the institutional characteristics.

Fig. 1. *Trust in the legal system and Trust in national Parliament (ESS6)*

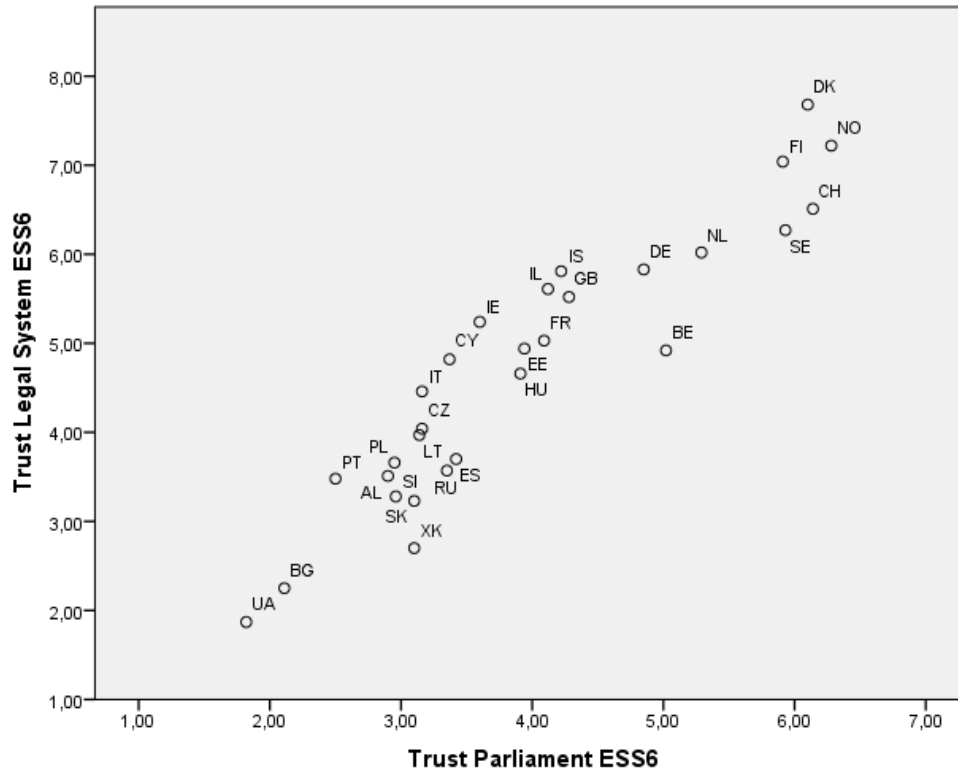


Fig. 2. Fig. 1. *Trust in the legal system and Left-right quartile deviance (ESS6)*

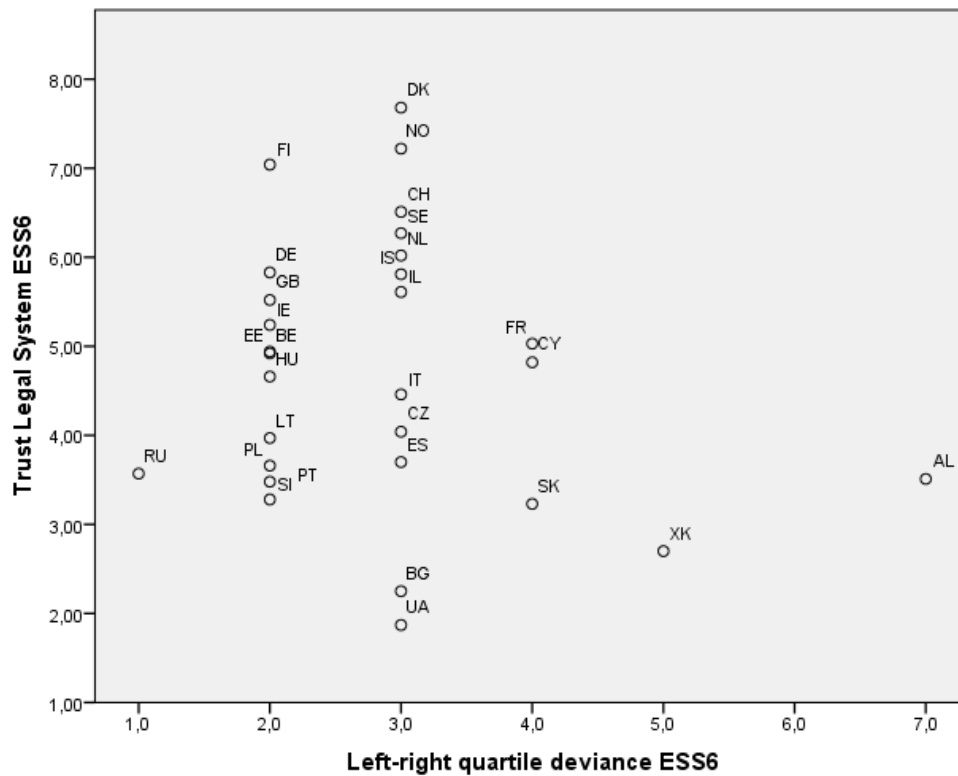


Fig. 3. *Trust in the legal system (ESS6) and Judicial independence (WEF)*

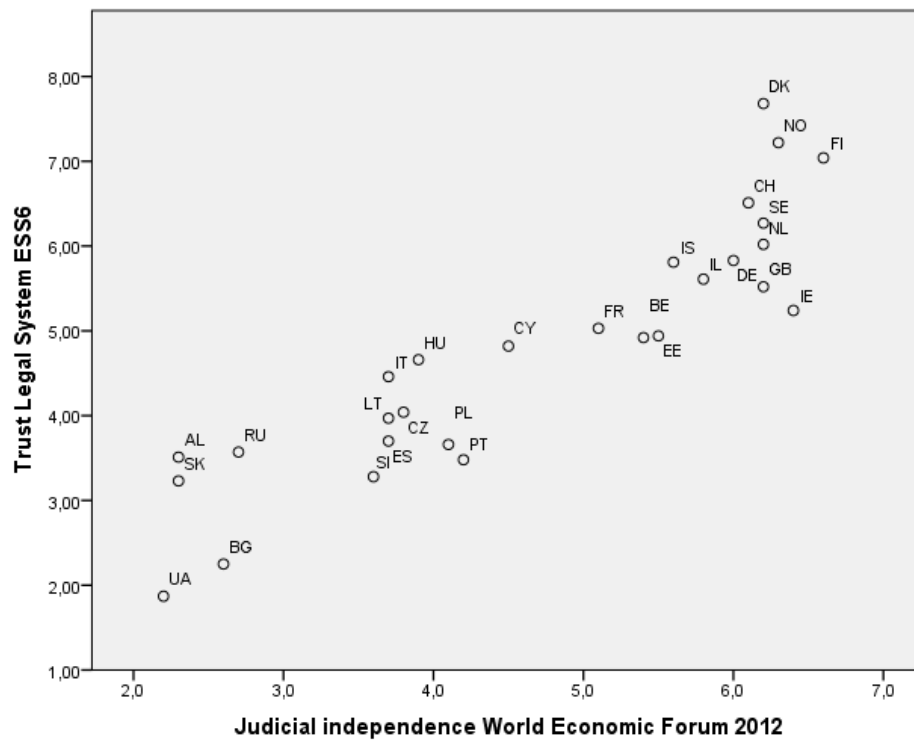


Fig. 4. *Trust in the legal system and Efficiency of legal framework in settling disputes (WEF)*

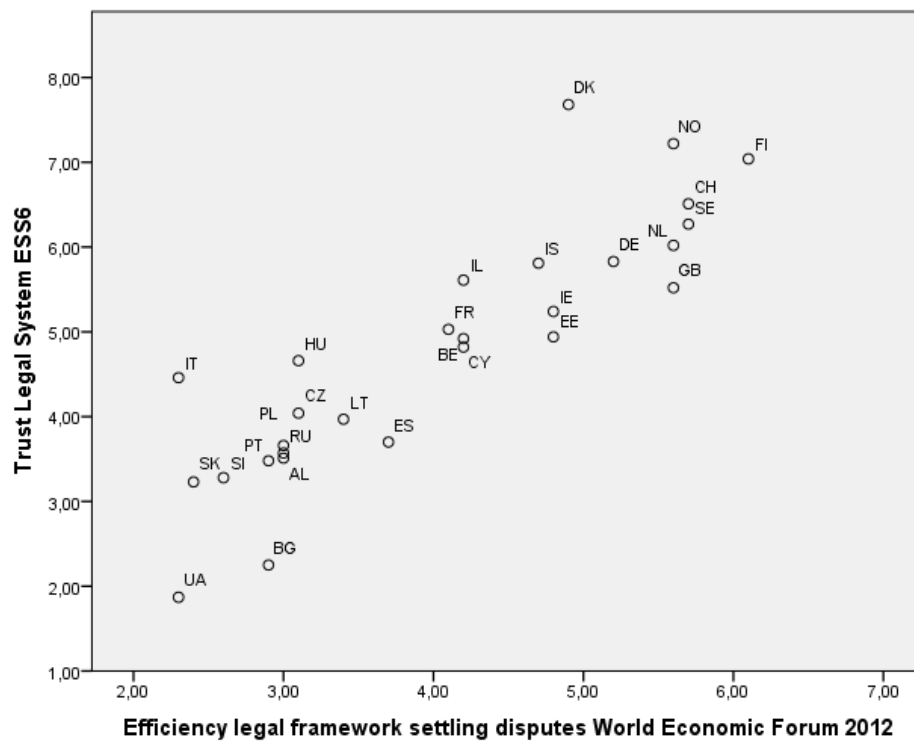


Fig. 5. *Trust in the legal system and Civil justice evaluation (WJP)*

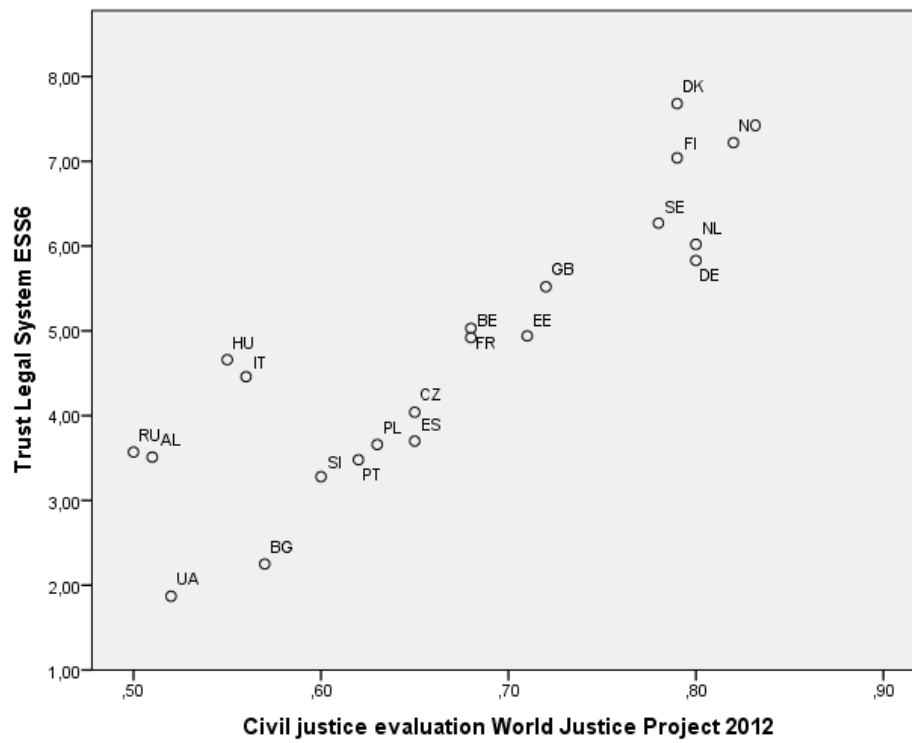


Fig. 6. *Trust in the legal system and Criminal justice evaluation (WJP)*

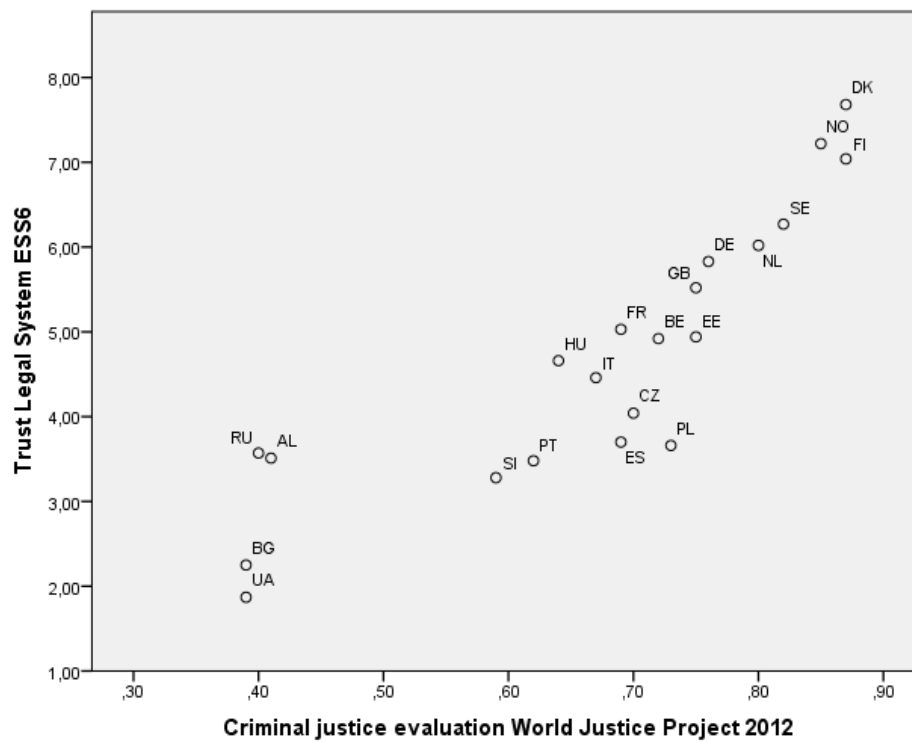


Fig. 7. *Trust in the legal system and External judicial independence*

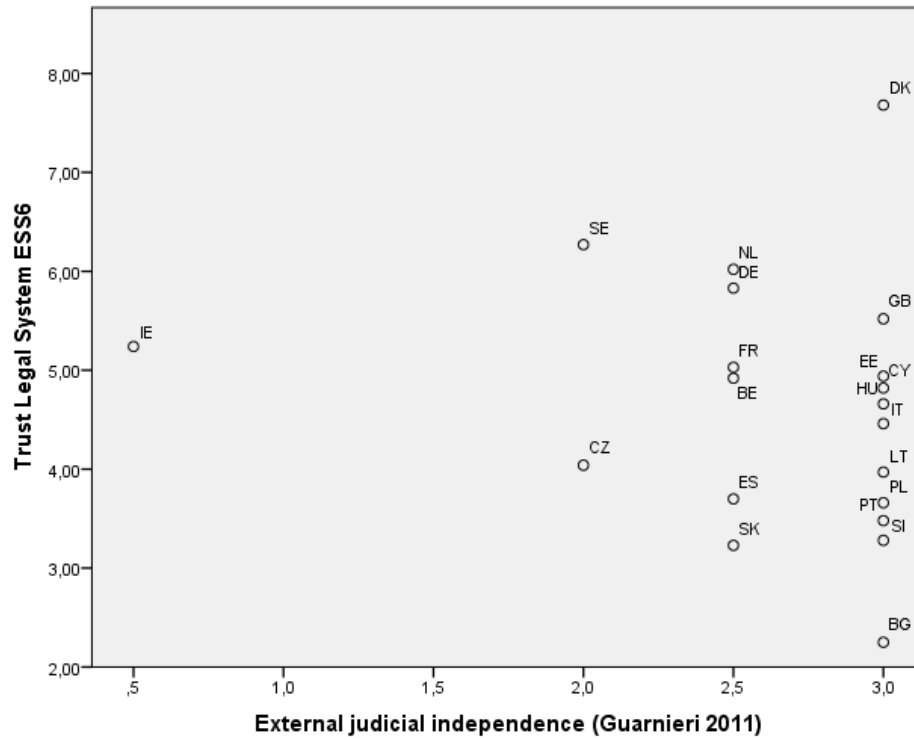


Fig. 8. *Trust in the legal system and Clearance rate (CEPEJ)*

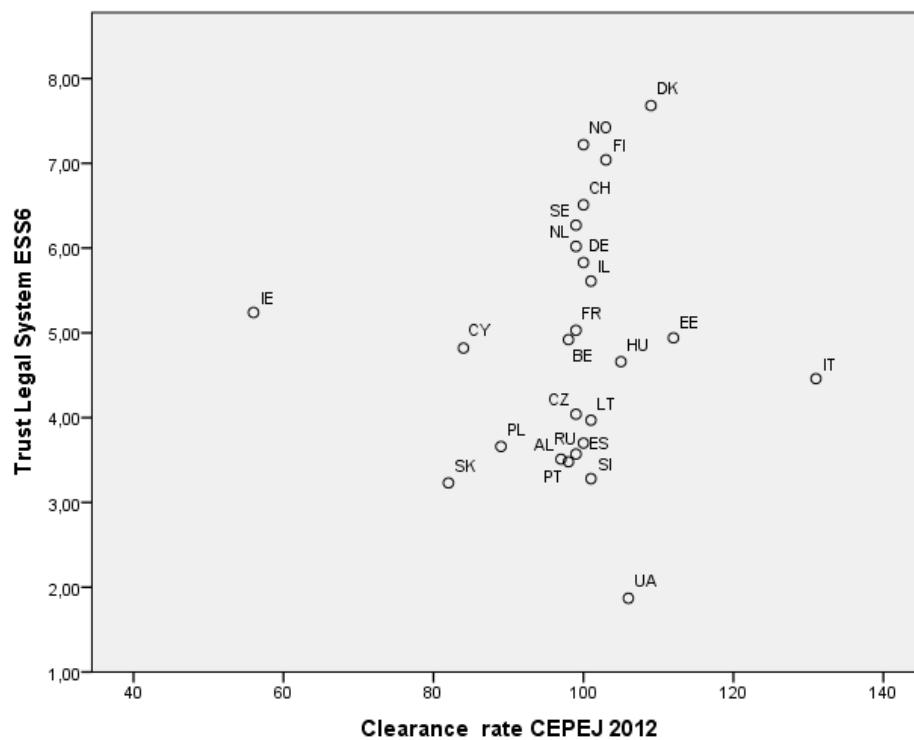


Fig. 9. Trust in the legal system and Disposition time (CEPEJ)

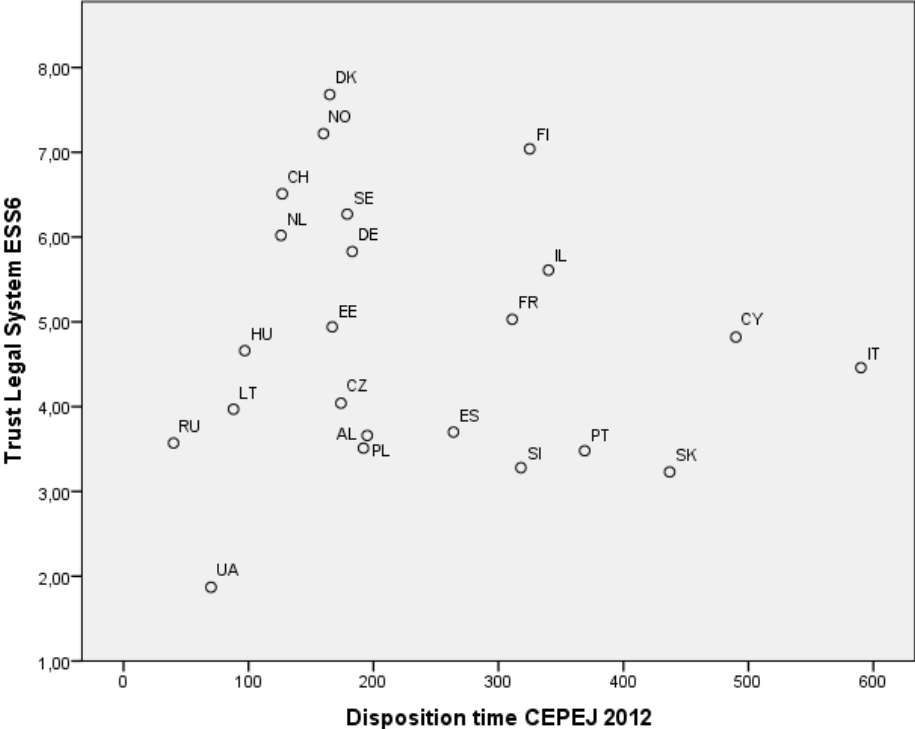
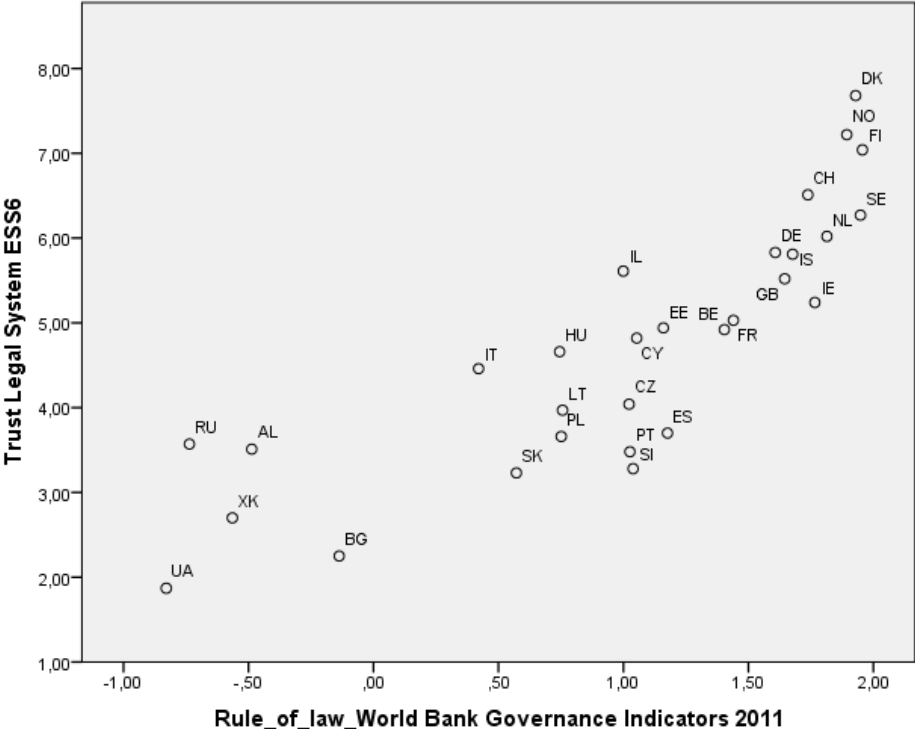


Fig. 10. Trust in the legal system and rule of law (World Bank Governance Indicators)



Tab. 1. *Determinants of trust in the legal system (multilevel analysis)*

	Model 1	Model 2	Model 3	Model 4
<i>Individual level</i>				
Occupation level		,378***	,252***	,252***
Gender			,057**	,057**
Age			-,005***	-,005***
Education			,03***	,029***
Household total income			,036***	,036***
<i>Contextual level</i>				
Trust in Parliament				,971***
Judicial independence				,626***
Judicial efficiency				-,506***
Constant	4,04***	3,92***	3,59***	-,40
$\sigma^2_{\text{level 1 individual}}$	6.102	6,070	5,872	5,872
$\sigma^2_{\text{level 2 country}}$	1,543	1,509	1,523	0,049
ICC	,201	,199	,205	,0008
Wald Z	2,616***	2,615***	2,598***	2,02**

*p<.1 **p<.05 ***p<.01

References

Agrast, M. *et al.* (2013) *World Justice Project Rule of Law Index 2012-2013*, Washington D.C., The World Justice Project.

Buhlmann, M. and R. Kunz (2011), “Confidence in the Judiciary: comparing the Independence and Legitimacy of Judicial Systems”, in *West European Politics*, 34:2, 317-345.

Caldeira, G. A. and J. L. Gibson (1992) The Etiology of Public Support for the Supreme Court, in “*American Journal of Political Science*, 36, 3, 635-664.

Caldeira, G. A. and J. L. Gibson (1995) *The Legitimacy of the Court of Justice in the European Union: Models of Institutional Support*, in “*American Political Science Review*, 89, 2, 356-376.

Dahlberg, S. and S. Holmberg (2014) *Democracy and Bureaucracy: How Their Quality Matters for Popular Satisfaction*, *West European Politics*, 37, 3, 515-537.

Dalton, R. (2004), *Democratic Challenges, Democratic Choices: The Erosion of Political Support in Advanced Industrial Democracies*, Oxford: Oxford University Press.

Dalton, R.J. and C. Welzel (eds.) (2014) *The Civic Culture Transformed. From Allegiant to Assertive Citizens*, New York, Cambridge University Press.

Echoff, T. (1967) *The Mediator, the Judge and the Administrator in Conflict Resolution*, in “*Acta Sociologica*”, X, 161

Ferrín M. and H. Kriesi (eds.) (2016) *How Europeans View and Evaluate Democracy*, Oxford, Oxford University Press.

Easton, David (1965), *A System Analysis of Political Life*, New York: Wiley.

Easton, David (1975), "A Re-Assessment of the Concept of Political Support", *British Journal of Political Science*, 5(4), 435-457.

European Commission for the Efficiency of Justice (2016) *European Judicial System. Efficiency and Quality of Justice. CEPEJ Studies No. 23*, Strasbourg, Council of Europe.

Gibson, J. G. (2008) Judicial Institutions, in R. A. W. Rhodes, S. A. Binder and B. A. Rockman (eds.) *Political Institutions*, Oxford, Oxford University Press, 514-534.

Gibson, J. G. and G.A. Caldeira, (1998) *Changes in the Legitimacy of the European Court of Justice: A Post-Maastricht Analysis*, in "British Journal of Political Science", 28, 1, 63-91.

Gibson, J. L., G. A. Caldeira and V. A. Baird (1998) *On the Legitimacy of National High Courts*, "American Political Science Review", 92, 2, 343-358.

Gibson, J. L., G. A. Caldeira and L. K. Spence (2003) *Measuring Attitudes toward the United States Supreme Court*, "American Journal of Political Science", 47, 2, 354-367.

Gómez, B. and I. Palacios (2016) *Citizens' Evaluations of Democracy: A Microscope with Quality Seal*, in Ferrín M. and H. Kriesi (eds.) *How Europeans View and Evaluate Democracy*, Oxford, Oxford University Press, 155-177.

Guarnieri, C. (1981) *L'indipendenza della magistratura*, Padova CEDAM.

Guarnieri, C. (2003) *Giustizia e politica*, Bologna, Il Mulino.

Guarnieri, Carlo (2015) *L'indipendenza della magistratura in Europa: un'analisi delle riforme in corso*, in "Atti dell'accademia delle Scienze di Bologna", 383-401.

Guarnieri, C. and P. Pederzoli (2002) *The Power of Judges: a Comparative Study of Courts and Democracy*, Oxford, Oxford University Press.

Heck, R.H., S. L. Thomas and L. Tabata (2014) *Multilevel and Longitudinal Modeling with IBM SPSS*, New York, Routledge.

Hernández, E. (2016) *Europeans' Views of Democracy: The Core Elements of Democracy*, in Ferrín M. and H. Kriesi (eds.) *How Europeans View and Evaluate Democracy*, Oxford, Oxford University Press, 43-63.

Hibbing, I. and E. Theiss-Morse (1995), *Congress as Public Enemy: Public Attitudes toward American Political Institutions*, New York, Cambridge University Press.

Hoox, J. (2002) *Multilevel Analysis. Techniques and Applications*, Lawrence Erlbaum Associates Inc. Publishers, Mahwah, New Jersey.

Indridason, I. (2011) *Coalition Formation and Polarisation*, in "European Journal of Political Research", 50, 5, 689-718.

Inglehart, R. (1990) *Culture Shift*, Princeton, Princeton University Press.

Inglehart, R. (1997) *Modernization and Postmodernization*, Princeton, Princeton University Press.

Klingeman, H. (2014) *Dissatisfied Democrats: Democratic Maturation and Old and New Democracies*, in Dalton, R.J. and C. Welzel (eds.) (2014) *The Civic Culture Transformed. From Allegiant to Assertive Citizens*, New York, Cambridge University Press, 116-157.

Kriesi, H. and L. Morlino (2016) Conclusion – What We Have Learnt, and Where Do We Go from Here?, in Ferrín M. and H. Kriesi (eds.) *How Europeans View and Evaluate Democracy*, Oxford, Oxford University Press, 307-325.

Norris, P. (ed.) (1999) *Critical Citizens*, Oxford: Oxford University Press.

Norris, P. (2011), *Democratic Deficit. Critical Citizens Revisited*, Cambridge: Cambridge University Press.

Pharr, Susan J. and Robert D. Putnam (eds.) (2000), *Disaffected Democracies. What's Troubling the Trilateral Countries?*, Princeton: Princeton University Press.

Putnam, R. (1995) *Bowling Alone: America's Declining Social Capital*, "Journal of Democracy", 6, 65-78.

Putnam, R. (2000) *Bowling Alone: The Collapse and Renewal of American Community*, New York, Simon and Shuster.

Shapiro, M. (1981) *Courts*, in F. I. Greenstein and N. W. Polsby (eds.) *Handbook of Political Science*, vol. V: *Governmental Institutions and Processes*, Reading (Mass.) Addison-Wesley.

Shapiro, M. (2001) *The European Court of Justice*, P. H. Russell and D. M. O'Brian (eds.) *Judicial Independence in the Age of Democracy*, Charlottesville, The University Press of Virginia.

Snijders, T.A.B. and R. J. Bosker (2012) *Multilevel Analysis. An Introduction to Basic and Advanced Multilevel Modelling*, London, Sage.

Torcal, M. and A. h. Trechsel (2016) *Explaining Citizens' Evaluation of Democracy*, in Ferrín M. and H. Kriesi (eds.) *How Europeans View and Evaluate Democracy*, Oxford, Oxford University Press, 206-232.

Wagner, A. *et al.* (2009) The Quality of Institutions and Satisfaction with Democracy in Western Europe – A Panel Analysis, "European Journal of Political Economy", 25, 3, 30-41.

World Economic Forum (2013) *The Global Competitiveness Report 2013-2014*, Geneva, World Economic Forum.