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(Dis)trust into the rule of law in Slovenia

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(DIS)TRUST INTO THE RULE OF LAW IN SLOVENIA

Abstract:

After the collapse of the non-democratic regime in the early 1990s, public opinion surveys became important factor in the process of democratic decision-making. Author is analysing the results of public opinion surveys, which bring together data on the attitude of the general public towards democracy, (dis)satisfaction with the political situation and (dis)satisfaction with most important political and administrative institutions with special emphasis given to the public's (dis)trust toward the rule of law. Based on the data obtained article allocates Slovenia's position compared to other established European democracies as well as post-communist countries from Central and Eastern Europe (CEE) on the scale of the relationship of the dimensions of societal (dis)trust in political power.

Key words:

democratisation, trust, rule of law, politics, institution, Slovenia

Introduction

In all post-socialist countries, democratisation was a process that resulted in the establishment of a democratic political system similar to that of Western European countries. It is a process of changing the regime from the beginning to the end and includes the concepts of transition and consolidation. The consolidation of democracy is a process that encompasses the complete establishment of new democratic institutions, the adoption of democratic rules and procedures, and the general acceptance of democratic values. Political changes that stem from the top can also play an important role in accelerating

democratic processes, yet they can also repress the political socialisation of citizens. For countries in transition, transforming the political and administrative institutions is particularly important, because the positive outcome of the whole democratisation effort largely depends on how these institutions are seen to be successful in the eyes of the public. The transition itself is a unique process. For a successful transition towards a more effective society, every country first has to define two elements and then define a third one. Since every country has its own tradition, the realisation of its success lies, on the one hand, on the starting point of its development and the development of its surroundings and, on the other hand, on the capacity to understand the development of the society. The understanding and steering of these 'society flows' lies within the competence of public administration systems that are, in comparison to the established systems, under greater stress, since they have to adapt and reorganise the public administration institutions [Brezovšek 2000: 239].

When thinking of the legitimacy of democratic systems, we cannot avoid a discussion regarding the trust in political and administrative institutions. Since they focus on the institutionalisation of society's actions – which become more efficient, stable, and predictable under their influence – they represent the core foundations of society. Institutions act as mediators that, within the legal framework, force all citizens to respect certain legal and ethical norms, which consequently results in a higher level of trust. The greatest threat to the trust established between institutions and citizens is the systematic misuse of democratic principles. According to Sztompka [1999], citizens who live in a democracy develop trust in democracy that is the highest form possible for the system. When this basic trust is misused, the level of trust in all other ideals connected to democracy decreases. Our standpoint is that trust in politico-administrative institutions and the legitimacy of the democratic system are closely dependent on each other. Gasiorowski and Power [1998] offer three basic criteria of successful democratic consolidation: successful execution of second parliamentary elections, successful swap of the executive branch with the usage of constitutional means, and successful survival of the democratic system for twelve straight years. Additional criteria are frequently added: for instance, the relationship of citizens with democratic institutions, wide concordance on the rules of the political game, trust in the political institutions and trust into the rule of law [Fink Hafner 2000: 13-14]. In our paper we will a) emphasize the latter two criteria, locating Slovenia among other comparable democratic European countries according to public opinion surveys concerning public (dis)trust into the political institutions and the rule of law in the last decade and b) analyse the impacts of global economic crisis concerning the (dis)trust into both political institutions and rule of law.

(Dis)trust in political and administrative institutions

No government in the world enjoys the absolute trust of its citizens. Since the power of every government dwarfs that of any individual citizen, even the most benevolent government represents a threat to individual freedom and welfare. Still, for a government to operate effectively, it must enjoy a minimum of public confidence [Mishler, Rose 1997: 418-419]. Gamson [1968: 42] argues that trust in political and administrative institutions is important, because it serves as the ‘creator of collective power’, enabling government to make decisions and commit resources without having to resort to coercion or obtain the specific approval of citizens for every decision. When trust is extensive, governments “are able to make new commitments on the basis of it and, if successful, increase support even more” [Gamson 1968: 45-46], creating, in effect, a virtuous spiral. Muller and Jukan [1977] state, that when trust is low, governments cannot govern effectively, trust is further undermined, and a vicious cycle is created. Trust is especially important for democratic governments because they cannot rely on coercion to the same extent as other regimes and because trust is essential to the representative relationship. In modern democracies, where citizens exercise control over government through representative institutions, it is trust that gives representatives the leeway to postpone short-term constituency concerns while pursuing long-term national interests [Mishler, Rose 1997: 419]. Trust is necessary so that individuals may participate voluntarily in collective institutions, whether in political institutions or in civil society’s institutions. Trust in civil institutions does not diminish democracy but completes it, enhancing the effectiveness of political institutions, creating what Dahl [1956: 83] refers to as the “social separation of powers,” which checks the emergence of an overly strong state. Trust, however, is double-edged sword. Democracy requires trust but also presupposes an active and vigilant citizenry with a healthy scepticism of government and a willingness, should the need arise, to suspend trust and assert control over government by replacing the government of the day [Mishler, Rose 1997: 419].

In the CEE post-communist countries, excessive trust was never a real concern. The immediate problem is overcoming the abiding cynicism and distrust that are the legacies of the half-century long non-democratic rule. Citizens in CEE have good reason to distrust political and social institutions. Most have lived their entire lives under authoritarian regimes, some more totalitarian than others, but all inclined to subjugate individual interests to those of the ruling party. The Communist system created a variety of civil institutions, but as Shlapentokh [1989: 9] has emphasized, ‘such organizations as the trade unions, the Young Communists’ League could be regarded as pertaining to

civil society, but in fact they are parts of the state apparatus'. Instead of voluntary participation, citizens in CEE were forced to make a hypocritical show of involvement or at least compliance [Mishler, Rose 1997: 420]. The consequence was massive alienation and distrust of the Communist regime and a lingering cynicism toward both political and civil institutions. The new democratic regimes of CEE have not existed long, but they have existed long enough for many citizens to differentiate contemporary institutions from those of the past and to form at least preliminary judgments about the differences. This, by itself, can create a measure of trust or, at least, a tempering of distrust. In the short term, popular trust in government may be inherited. In the longer term, however, trust must be earned; it must be performance-based. The extent of public trust in the post-Communist regimes of CEE is clearly important for democratic consolidation. It also is an empirical question, about which the supply of speculation greatly exceeds that of systematic research. Even less is known about the sources of trust and distrust in post-Communist societies, although an understanding of underlying causes is vital for assessing the prospects for establishing civil society and consolidating stable democratic rule [Mishler, Rose 1997: 420]. This paper draws upon survey data from the European Social Survey and Politbarometer survey to examine the structure and determinants of public trust predominately in Slovenia, but also in over twenty European countries, with some from CEE.

In Slovenia, one periodical public opinion survey is the Politbarometer, which has been conducted by the Public Opinion and Mass Communication Research Centre and by the Institute for Social Science at the Faculty of Social Sciences in Ljubljana since 1995. The survey obtains the opinions of 900 to 1,000 randomly selected citizens of Slovenia aged over 18 years. The research focuses on opinions on the work of different institutions in Slovenia as well as on general assessments of the quality of life in the country. In connection to this, the main goal of the Politbarometer is to present average assessments of the satisfaction of citizens with democratic institutions, personal finances, and economic conditions in the country. If we compare the surveys over the years, then, some changes in satisfaction can be detected. In general, one of the most common observations is that in all new democratic systems there is a high level of dissatisfaction with democracy itself. Similarly, in Slovenia, more than half the citizens are not satisfied with democracy in the country (Table 1). The question remains as to how much of such dissatisfaction fragile post-socialist regime can withstand before this dissatisfaction changes into a denial of the legitimacy of the whole political system and legitimacy of various political and administrative institutions. Nevertheless, this dissatisfaction could also be connected to the outcomes of the democratic transition

and consolidation processes and not democracy as a type of social-political relations itself¹. In this case, dissatisfaction can also be expressed through the existing mechanisms like elections, referendums and so forth.

Table 1. Satisfaction with democracy (in percent).

Year	SATISFIED	UNSATISFIED	N.A.
1998	31	58	11
1999	39	49	12
2000	40	48	12
2001	42	46	12
2002	44	46	10
2003	38	55	7
2004	41	51	8
2005	34	59	7
2006	39	51	11
2007	36	58	6
2008	39	55	6
2009	32	62	6
2010	11	86	3
2011	12	84	4
2012	12	85	3

Source: [Politbarometer: http://www.cjm.si/PB_rezultati (April 2013)]. We used the last survey conducted in each stated calendar year. The question was as follows: “Are you generally satisfied or unsatisfied with the development of democracy in Slovenia?”

As we see in Table 1 from 1998, when we can already speak of the normalisation of conditions in the country and of the establishment of democratic values, the trust in democracy was on the rise up to 2002 when it reached its historical peak of 44 percent. After 2002 it slowly started to decrease, while dissatisfaction slowly has been growing, peaking in 2010 to 2012 period. Sometimes, the distrust does not apply solely to the democratic system but the personification of democracy—the political institutions (parliament, government, and political parties). Besides dissatisfaction with political institutions, another very important factor is the economic climate in the country. After the end of socialism, the safety net of social care has more or less been deteriorating, leaving many marginalised. However, in Slovenia, economic stability prevented any greater dissatisfaction with democracy all the way until 2009, when consequences of the global economic crisis hit the country and the safety net of social care started to crack.

¹ This emphasis is supported by a number of public opinion polls. For instance “Democracy in Slovenia” survey, carried out in March 2011 among 907 respondents across the country, asked whether democracy is the best possible form of governance and whether democracy in spite of its imperfections, is still better than other types of social-political relations. Respondents strongly agreed with both statements; on the scale from 0 to 4, where 0 represents “strongly disagree” and 4 “strongly agree”, first statement got estimation 3.49 and the second one 3.38.

General trust in the country is also reflected in the trust in major political institutions (Table 2). There is some minor deviation in the measurements between the years, but it is not very significant all the way until 2010, when the level of trust in all five major political institutions in the country drops quite significantly. However, if we observe a longer time period of this survey, we can detect some differences in the level of expressed trust. In 2000, we can see the peak of trust in government, political parties, and the prime minister, as this was the year of parliamentary elections that followed the publicly noted unsuccessful reign of the right-wing government that took over when the previous left-wing government broke apart in spring 2000. The drop of trust we can see from 2008 to 2012 is significant and visible in all five institutions stated in table 2, and also in total accordance with the dissatisfaction with democracy observed earlier in the same period.

Table 2. Trust in political institutions in Slovenia.

Year	GOVERNMENT	PRIME-MINISTER	GENERAL ASSEMBLY	PRESIDENT OF THE REPUBLIC	POLITICAL PARTIES	STATE ADMINISTRATION
1998	2.7	3.2	2.6	3.6	2.3	n.a.
1999	2.9	3.4	2.8	3.8	2.4	n.a.
2000	3.3	3.7	3.1	3.9	2.7	n.a.
2001	3.1	3.5	2.9	3.9	2.6	n.a.
2002	3.1	3.4	3.2	3.7	2.7	n.a.
2003	2.9	3.2	2.9	3.3	2.5	n.a.
2004	3.1	3.4	3.1	3.6	2.6	3.0
2005	2.8	3.0	2.8	3.5	2.5	2.9
2006	2.9	3.2	2.8	3.2	2.6	n.a.
2007	2.8	2.7	2.9	4.0	2.6	3.1
2008	3.0	3.2	3.0	3.4	2.5	3.0
2009	2.7	2.9	2.7	3.5	2.4	2.9
2010	2.1	2.1	2.1	3.1	2.0	2.7
2011	2.0	2.2	2.1	3.1	1.9	2.6
2012	2.1	2.0	2.2	3.0	2.0	2.7

Source: [Politbarometer: http://www.cjm.si/PB_rezultati (April 2013)]. We used the last survey conducted in each stated calendar year. Shaded windows indicate change in office. The question was as follows: “How much do you trust the listed institutions? Assess your trust on a scale from 1 to 5, with 1 meaning no trust and 5 absolute trust.”

The same survey also occasionally measures trust in the state administration (Table 2). The results of the survey indicate that it is obvious that trust in the state administration in Slovenia is more stable than trust in mainstream political institutions and that the drop in trust, which we observed in 2010 to 2012 period, is not so dramatic regarding the state administration. The reason for this is almost certainly the meritocratic nature of the state administration,

which is seen as professional and non-partisan, although sometimes unpopular due to the protected status of civil servants, especially over the last years of the economic crisis. We can also observe that in the middle of the first decade of the twenty-first century, the state administration scored lower grades than the Slovenian government, prime minister, and president. One can perhaps link such low levels of trust with two factors: (1) the inheritance of the administrative system of the former regime, making it very rigid, or (2) the slow and unproductive reform of the public administration system in general.

If we compare public trust in institutions measured in other European countries in 1995 and 2010, the conclusion is that the level of trust is much lower in new democracies of CEE than the level of trust in established democracies of Western Europe. The survey covered a range of questions, and in Table 3 we can see the level of trust in national parliaments, political parties, and politicians in all of the observed countries. Even among CEE countries, there is a significant difference in levels of trust. In Slovenia, for example, the level of trust is among the lowest in the region. This indicates that the variations in levels of trust show how different the political systems are and that the level of trust in the region is much lower than in other Western European countries, probably because of the change in the regime [Kasse, Newton, Toš 1999: 322].

If we compare trust levels in the national parliament from data sets of 1995 and 2010, we can clearly ascertain that levels of trust have fallen quite significantly, except in Norway, Sweden, and the Netherlands, where trust in the national parliament was actually higher in 2010 than in 1995. The average level of trust was 4.63 in 1995 and 4.32 in 2010; the level of trust was measured on a scale from 1 to 10. Only two of the observed countries' parliaments scored a lower level of trust in 1995 than in Slovenia (Poland and the Czech Republic), with two such examples again in 2010 (Bulgaria and Portugal). Besides that, we can see that the Scandinavian countries, on average, have a much higher level of trust, which could also be linked to their high levels of social capital that could play some role in their relatively high trust levels in general.

Table 3. Trust in politicians, political parties, and national parliaments in Europe (1995 and 2010).

Country	Trust in politicians (2010)	Trust in political parties (2010)	Trust in the national parliament (2010)	Trust in the national parliament (1995)
BELGIUM	3,86	3,85	4,46	5,0
DENMARK	5,04	5,17	5,83	6,2
FINLAND	4,43	4,54	5,38	5,8
FRANCE	3,19	3,07	4,15	4,5
GERMANY	3,29	3,26	4,18	4,5
GREAT BRITAIN	3,40	3,50	4,05	4,7

Country	Trust in politicians (2010)	Trust in political parties (2010)	Trust in the national parliament (2010)	Trust in the national parliament (1995)
ISRAEL	2,95	2,95	3,64	4,7
NEDERLANDS	5,22	5,23	5,34	5,2
NORWAY	4,96	4,93	6,03	5,7
PORTUGAL	2,01	2,02	2,91	4,4
SPAIN	2,72	2,70	4,30	4,8
SWEDEN	5,04	5,11	6,28	5,9
SWITZERLAND	5,01	4,81	5,81	5,8
BULGARIA	1,99	2,01	2,38	-
CZECH REPUBLIC	2,63	2,69	3,27	3,6
ESTONIA	3,62	3,43	4,24	4,4
HUNGARY	3,12	3,14	4,22	5,0
POLAND	2,66	2,55	3,44	3,5
RUSSIA	3,09	3,11	3,58	-
SLOVENIA	2,25	2,24	2,98	4,0

Source: European Social Survey; <http://www.europeansocialsurvey.org> (April 2013). The question was as follows: "Tell me on a scale from 0 to 10 how much you personally trust each of the institutions. 0 means you do not trust institution at all, and 10 means you have complete trust."

Public opinion surveys can sometimes be used to lend political decisions some legitimacy. Politicians and the media can use them to influence the policy-making process, strategic decisions, or the outcome of elections. In connection to our paper, the question still remains whether the publishing of public opinion surveys that show relatively low levels of trust in administrative and political institutions itself influences a further drop in trust levels among citizens.

(Dis)trust into the rule of law

In democracy, the confidence of citizens in repressive institutions such as the police and the judiciary (that is, legal courts) is of paramount importance. In a democratic political system, these institutions not only have the function of deterrence and forced submission, but also are important for the maintenance of the rule of law and the defence of a democratic regime against its advertisers. The police and the judiciary, which Linde and Ekman [2005] label as the fundamental institutions of the rule of law, refer in this case to the processes of informed consent, which is tied to trust in the political system rather than in the legal system alone. Namely, it is equally important that citizens embrace these institutions as those with a legitimate right to exercise authority. Confidence in these institutions obviously bears significance for the legitimacy of a political system. Citizens expect these institutions to be just, impartial, efficient, and effective, and their operation has to be based on professionalism, procedural justice, and the provision of equal justice and protection to all of society.

From a wider comparative aspect, Europeans trust the police (42 percent) and the judiciary (41 percent) more than political representatives (six percent) and EU institutions (five percent), as far as fighting corruption is concerned [Special Eurobarometer 374 2011]. Compared to 2009, the police gained an additional eight percent, whereas the judiciary lost two percent. Of all the bodies, the police enjoy the highest confidence in 14 EU member states, with the greatest level of trust in Denmark (65 percent) and the lowest one in Slovenia (27 percent). Apart from Denmark, only in Ireland do a majority of survey respondents claim the police to be the most trustworthy institution (61 percent). The percentage of respondents who mention the judiciary system as the body they trust the most regarding problem solving varies from 62 percent in Denmark to 20 percent in the Czech Republic, with Slovenia being just ahead of the latter with 21 percent [Special Eurobarometer 374 2011: 103]. Other than Denmark, there are seven other EU Member States where a majority of survey respondents mentioned the judiciary, namely Germany (59 percent), Austria (57 percent), Sweden (53 percent), Luxembourg (53 percent), France (52 percent), and Finland (51 percent). The judiciary enjoys the highest levels of confidence in 13 EU member states, with the highest one recorded in Germany (59 percent) and the lowest one in Latvia and Lithuania (34 percent). As a rule, the degree of confidence in the aforementioned institutions of the rule of law is lower in the Central and Eastern European states than in the consolidated Western democracies within the EU. Slovenia, however, has recently been among the states with the lowest levels of trust in these institutions.

It has already been mentioned that the percentage of respondents in the EU who trust the police has increased (by eight percent) since 2009 and in this manner has left behind the judiciary, albeit only by one per cent. In all but two EU member states, the percentage of respondents who say the police are the trustworthiest institution has increased. The greatest increase has been recorded in Great Britain (plus 21 percent), Ireland (plus 17 percent), Austria (plus one percent), Bulgaria, Italy, Spain and Malta (plus two percent), and in the Czech Republic (plus three percent). The two states that have witnessed a decline in confidence in the police are Portugal (minus nine percent) and Slovenia (minus six percent) [Eurobarometer 374 2011: 104].

The differences in the degrees of trust in the police are to a great extent related to the differences between states, historical roles of the police, social orientation of the states, financial resources available for the police, the performance of other state institutions, the stratification of societies, and so forth. The degree of confidence in the police is to a great extent influenced by levels of corruption in state institutions and the status of institutions in charge of citizen security within the system of public services as a whole. Additionally, the comparison of

the average values of the estimated confidence in the police on a scale of 0–10² shows significant differences between individual parts of Europe. At the top, there are predominantly northern European countries (Finland 7.9, Denmark 7.58, Norway 7.04), followed by western and central European countries (Germany 6.58, Netherlands 6.34, Great Britain 6.24). The other half of the scale generally contains Mediterranean countries and new EU member states (Spain 6.1, Estonia 6.05, Cyprus 5.94; France 5.78) and at the lowest end of the scale, there are eastern European countries (Russia 3.7, Bulgaria 3.29). With an average value of 5.05, Slovenia does not significantly diverge from comparable states (Poland 5.12; Slovakia 4.8), as far as trust in the police is concerned.

According to the results of Slovenian public opinion polls [Political Barometer Survey 2011], the police is ranked among those institutions where trust prevails over distrust, namely 34 percent versus 28 percent (the army enjoys an even greater level of confidence—52 percent—and is not trusted by 12 percent of survey respondents). According to the public opinion poll performed in 2009 by the School of Advanced Social Studies, trust in the police is fairly high, as the average value of response for this survey was 3.50 and the police was trusted or completely trusted by 51.7 percent of all the respondents. Later on, the Political Barometer Survey (May 2011) showed an even greater percentage of distrust (31 percent) than trust (30 percent) in the police. The average values of responses concerning trust in the police were calculated as follows: May 2010 (3.05), October 2010 (3.13), December 2010 (2.96), and March and May 2011 (in both cases 2.92, respectively), which showed a negative trend [Political Barometer Survey 2011].

Compared to the police, the judiciary ranks much lower, and its trust percentages are lower than the percentages of distrust (54 versus 15 percent). However, from among all three branches of power, the legal courts still enjoy the highest level of trust³. Considering the fact that there is usually no formal connection between judges and citizens, this is somewhat surprising. Contrary to the executive and legislative, the judiciary has no institutionalised mechanisms that would guarantee the accountability of judges. Thus, the legitimacy of the judiciary is not ensured through institutionalised procedures, but is based on individual trust [Buhlmann, Kuntz 2011: 317]. In any case, these data show that the legitimacy of all three branches of power is exceptionally low, including the judiciary. The bodies of all three branches of power are at the bottom of the (public opinion) scale of confidence, as are the (Catholic) Church and political parties; therefore, political institutions have undergone an extremely

² Zero stands for “don’t trust at all”; ten stands for “trust completely.”

³ Legal courts 18 percent in 2010, 15 percent in 2011; National Government 12 percent in 2010, 8 percent in 2011; National Assembly 11 percent in 2010, 5 percent in 2011 [Political Barometer Survey 2010, 2011].

deep plunge in Slovenia. However, this is not to say that there is ubiquitous distrust or that this is a general atmosphere in the society, as people are nevertheless able to express their trust, even their utmost trust in, say, fire-fighters, who were ascribed average marks of 4.60 (of the maximum 5.00) in December 2010 [Political Barometer Survey 2010]. Additionally, oversight institutions of the state, the educational system, the military, the police, and its head also enjoy high levels of trust. “This nevertheless has something to do with the question of a predominant political culture and its proponents who are embedded in political institutions,” [Political Barometer Survey 2010: 23].

In a majority of counties, of all the three branches of power, the highest level of trust is usually associated with the judiciary. Before 2000, this was characteristic of Slovenia, too. However, the confidence in the courts began its decline afterwards and by the end of 2003. Public opinion surveys showed that trust in the courts was lower than trust in the government and the National Assembly [Political Barometer Survey 2007]. Confidence in the courts began its rise only in 2005 (to just over 32 percent) and 2006 (just over 37 percent); hence, the average level of trust in the courts for the entire post-independence period was 32.6 percent [Slovenian Public Opinion Survey 1996–2006], which is just a little more than the trust in the government and over 50 percent more than the trust in National Assembly. A marked decline of trust in both the judiciary and the remaining two branches of power began after 2007, which allows us to speak of the “emptying” of this space, of the contempt for political institutions, and, in general, of the “crisis of democracy” [Political Barometer Survey 2010: 23]. In 2006, trust in the courts was still at a good 37 percent, whereas in 2007, it already dropped to 24 percent; afterwards, it went down further to 15 percent in 2008 and bounced back slightly to 18 percent in 2009. Even though confidence in the work of the courts decreased by that much—from the 1991–2006 average of 32.6 percent to 18 percent in 2010 and a mere 15 percent in 2011—the Slovenian judicial system still enjoys higher levels of trust than the National Government (8 percent) and the National Assembly (5 percent). The reasons for this may rather be found in the peculiarities of the decrease of trust in political institutions than in the courts themselves.

In spite of all this, the paradox remains that the number of new cases before the courts is inversely proportional to the rates of decline of trust in Slovenian courts. There were “only” 530,056 new cases in 2001, whereas 824,562 new cases were submitted to courts in 2009 and 969,955 in 2010 (The Ministry of Justice of the Republic of Slovenia, 2010). Together with judicial backlogs and delays accumulated over the preceding years, Slovenian courts had to deal with 1.45 million cases in 2010 alone. In the past, courts were unsuccessful in regular and timely resolution of cases, and the number of

unsolved cases increased especially during the 1991–1998 period; the number of new cases, solved and unsolved alike, did not significantly change from 1998 to 2005; since 2005, the number of new and solved cases has been increasing, and the number of unsolved cases has been increasing somewhat faster, yet the total number of unsolved cases has been declining [Audit Report 2011: 16]. Actually, the projects for the elimination of judicial arrears have been fairly successful in providing better conditions for the work of the courts, but they have not solved the problems of arrears as such. With the implementation of the projects for the elimination of judicial backlogs and the results they produce, the so-called systemic reasons for judicial backlogs have been diminishing and the subjective liability of the chairs of legal courts, judges, and judicial personnel has been coming to the forefront.

The number of unsolved cases and the associated scope of judicial arrears are primarily affected by two factors: the inflow of new cases and the efficiency of case resolution. The average performance rate of judges and all employees in the judicial system somewhat decreased in the period of 1990–2009. The total number of solved cases per every employed person in the judiciary declined from 274 in 1990 to 173 in 2002 and in 2009, it amounted to 216 solved cases per every employee [Audit Report 2011: 18]. Slovenia is among the EU member states that have the highest number of judges and other personnel employed at legal courts relative to the number of inhabitants. In 2009, the total number of judges employed at Slovenian legal courts was 1076, and in 2010, this figure was 1024. Therefore, Slovenia, having just over 50 judges per 100,000 inhabitants (in 2009, there were 52.6 and in 2008, 53.5 judges), grossly exceeds the EU average (17.4 judges per 100,000 inhabitants). However, it must be mentioned that Slovenia is the second most burdened EU member state as regards matters of land register and their execution. Furthermore, in terms of matters belonging to the scope of criminal law, it is ranked seventh [Audit Report 2011: 12]. According to the evaluation performed by the International Institute for Management Development of Lausanne, Slovenia is ranked 45th in the judiciary category worldwide (mark 3.55 on a scale of 0–10). For the purpose of comparison, we list some other cases: Germany is 11th (mark 7.94), Estonia is 24th (6.22), and Romania is 51st (2.32) [Commission for the Prevention of Corruption of the Republic of Slovenia, Regular Annual Report 2011: 7].

The mission of the judicial system—which should guarantee versatile, just, public, and timely legal services; the resolution of interests, obstacles, discord, or disputes; whose services would be accessible to everyone, performed by a due process of law, efficiently and within reasonable deadlines, protecting people’s rights and freedoms, keeping and interpreting the law—is hence not implemented in the manner envisioned. The causes behind this are multiple;

from judicial backlogs to unpredictability of judicial decisions, bad legislation featuring unclear procedures, and absence of practical measurement of the effects, negative images of the judiciary in the media, a lack of understanding of the roles of the courts on the part of the public, the strike of the judges, poor management, and mechanisms too weak to enforce accountability within certain sub-systems of the judiciary, and so forth. The fundamental long-term objectives of Slovenia as regards the judicial system, hence, include a maximum possible level of legal safety (reliability and predictability based on lawfulness and impartiality) and the assurance of the right to be judged within a reasonable period of time, plus the achievement of greater confidence in the judicial system through increased openness and transparency of operation and enhanced orientation towards service users.

Concluding remarks

The degree of confidence into the rule of law institutions in Slovenia has undergone a drastic decline after 2007 and poses serious problems from the aspect of political and legal culture. A low level of trust in the judicial system can cause great problems for the democratic regime. The judiciary needs a high degree of legitimacy, that is, public trust, as this is its main political capital. The support of the rule of law is a presumption of any democratic regime, whereas confidence in the judiciary is essential for the implementation of the rule of law. Hence, it is no coincidence that the doctrine and the practice of the rule of law place trust in the institutions of the latter among the very top legal values. However, the rule of law does not exist solely by itself, since it is connected to society, and so the values of the former have to be as present as possible in the latter; merely referring to them on the part of legal experts is thus insufficient. The degree of the judiciary's independence influences its legitimacy and the public trust it enjoys. The confidence in the judicial branch of power is based on its independence, that is, on the impartiality, autonomy, and power of judicial institutions to assure their own independence.

The definite answer to the question of why trust in political, judiciary, and administrative institutions is decreasing in modern democratic systems remains elusive, although we can search for at least partial answers in recent drops of trust in political, judiciary, and administrative institutions in the global economic crisis. One can also wonder if this means that trust in democratic values, in general, is not seen as important as it once used to be. Instead of an answer, we can offer the opinion of Ronald Inglehart, who claims on the basis of empirical research that societies that are increasingly critical of hierarchical authorities are at the same time more participative and claim a more active role

in the policy-making process. Political leaders and senior civil servants are interacting with ever more active and more informed and educated citizens, who are simultaneously more critical of their actions. An alternative approach reveals that sympathy does not necessarily mean trust, but it can also be interpreted as some sort of obvious predictability, meaning that citizens do not *a priori* trust the institution but, since we can foresee its reactions and behaviour in the future, which should be consistent with those in the past, we trust the bureaucratic processes instead. The dimensions of trust between citizens and administrative and political institutions cannot be measured only through the parameter of trust–mistrust, but at best as a relationship of “inductive anticipation” (Warren, 1999). We can conclude that the legitimacy of the system increases with the level of trust in politico-administrative institutions. However, is complete trust in favour of democracy, or could it be that a constant ongoing critique and sober judgment of the everyday actions of administrative and political bodies is, in fact, in the best interests of a consolidated democracy?

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