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**NINA PERŠAK<sup>1</sup>**

## **MANAGING INSECURITIES AND EXPECTATIONS: SOCIAL TRUST AND JUDICIARY IN TRANSITION**

### **INTRODUCTION**

It has been noted that social trust in the legal system and legal authorities (e.g. the judiciary) has been steadily declining in the last decade in many European countries.<sup>2</sup> As regards criminal courts and prisons, Nicholas has similarly observed that these ‘low-visibility areas’ of the criminal justice system ‘receive the lowest confidence and satisfaction ratings’.<sup>3</sup> In Slovenia, a public opinion survey conducted in July 2008 revealed that only 33 % of respondents trusted the courts, while 58 % explicitly said they distrusted them. How did this happen? Is the situation regarding social trust in post-communist, ‘transitional’ countries better or worse than in other parts of Europe? What did the Communist past and the ‘transition’ contribute to this phenomenon? What is meant by ‘social trust’? How is social trust structured? What can be done to improve it? These and other similar questions will be addressed in our study, with particular emphasis on Slovenia and the contents (and evolution) of social trust regarding the judicial system.

In the first part of my research, I will elaborate on theoretical concepts, the historical origins and social dimensions of the existing (low) social trust and stress various factors that influence social trust in the judicial system in post-communist Slovenia. In the second part, results of the content analysis of social representations of judiciary (as reflected in the virtual media) will be presented and discussed, as well their implications for future research and policy making.

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2 See, for example, the European Values Study and World Values Survey.

3 Nicholas *et al.*, in Almond (2008), 449.

## I. PART

### **SOCIAL TRUST**

Social trust is commonly understood as the belief that others are on average trustworthy. It is hence often measured by surveys asking people whether they agree or disagree with the statement that ‘people can (mostly) be trusted’. Trust is a mental attitude as well as a social attitude and a relation.<sup>4</sup> It is the belief that others will not free ride and that they can be trusted in day-to-day situations as well.<sup>5</sup> Some distinguish ‘trust’ from ‘confidence’,<sup>6</sup> while others talk about the horizontal and vertical dimensions of trust, the latter being confidence in institutions.<sup>7</sup> Trust has further been linked to esteem and expectation: ‘In trusting *y*, *x* believes that *y* has the right qualities, power, ability, competence and disposition for *g*’.<sup>8</sup> It has also a lot to do with reliability and decision-making; one makes a decision to rely on somebody.<sup>9</sup> All these decisions and beliefs are, however, based on the existing social representations of that ‘somebody’, one’s personal experience as well as general insecurities, be they of a personal or social/contextual nature.

Why is social or public trust (or positive public opinion) so important anyway? From the viewpoint of the society (and democracy, in particular), at least minimal social trust in political institutions is required to enable their functioning. No government enjoys, nor should it enjoy, the absolute trust of its citizens, as governments – as centres of state power – by default represent a possible threat to the individual’s freedom.<sup>10</sup> Nevertheless, ‘for government to operate effectively it must enjoy a minimum of public confidence’.<sup>11</sup> Trust, it is further argued, serves as a ‘creator of collective power’<sup>12</sup> and as such enables governments to function properly without having to seek approval from citizens for every decision or resort to coercion. In this respect it is, of course, particularly important for democratic governments, as they cannot rely on coercion at all if they want to maintain the image of democratic representativeness.<sup>13</sup> Within the theory of social capital, social trust is said to provide the social context ‘for the emergence and maintenance of stable, liberal democratic polities and effective economies’.<sup>14</sup>

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4 Castelfranchi and Falcone (2001), 1.

5 Letki, 2005: 5.

6 Trust is said to be based on value similarity or upon perception that salient values are held in common, whereas confidence is based on performance. See Siegrist *et al.*, in Breakwell (2007), 142.

7 Letki (2005), 6.

8 Castelfranchi and Falcone (2001), 4.

9 *Idem*, 2.

10 Mishler and Rose (1997), 418.

11 *Ibidem*.

12 Gamson, in Mishler and Rose (1997), 418.

13 Mishler and Rose (1997), 419.

14 Letki and Evans (2005), 515.

It is also crucial for the establishment of civil society, the creation of the sense of community and successful political participation of individuals in the public life. In Mishler and Rose's words, 'trust is necessary so that individuals may participate voluntarily in collective institutions, whether in political institutions, such as political parties, or in economic and social institutions, such as labour unions, business associations, and churches'.<sup>15</sup> Moreover, if individuals cannot efficiently participate in the public life, the very foundation of their human dignity is, according to Mill, being undermined and social justice jeopardised.<sup>16</sup> A positive public opinion or social trust is therefore not only crucial for the legitimacy of the political, legal (including judicial) system but also for the full participation of citizens in the public life, for the social justice and the individual himself.

In this respect, social trust facilitates coordination, cooperation and the working of institutions, as envisaged in Putnam's bottom-up concept. However, a pre-Putnam (or Coleman's) theory focused on the reverse direction of causal link – where trust is a result, not a source, of institutional setting. This 'top-down approach' is, according to Letki and Evans, particularly relevant when explaining the state of trust in democratising CEE countries:

'Social trust is more important as a resource in the absence of formal rules and rule-makers' accountability, such as was the case under Communist rule, than in more predictable and regulated liberal democratic systems. Lack of a stable and reliable legal system made the norms of social interaction the major framework for contact enforcement, while the state's hostility and repressive attitude towards its citizens resulted in the emergence of strong interpersonal relations of trust and reciprocity between them, thus making interpersonal trust a *substitute* for institutional trust'.<sup>17</sup>

Regardless of the type of trust, it has to be remembered that the trust itself – be it interpersonal or institutional – need not be necessarily a 'good thing'. If others conduct themselves dishonestly, trust may turn into gullibility,<sup>18</sup> and gullibility is certainly not considered a desirable personal trait. For the institutional success, we therefore need more than mere interpersonal trust; what is additionally required is honesty and civic morality.<sup>19</sup> The latter is, however, mostly influenced by the confidence in political institutions and their objective quality. Letki's multi-level analysis has shown that the creation of stable and transparent institutions and their consequent trustworthiness is of utmost importance for the emergence of a culture of civic morality and hon-

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15 Mishler and Rose (1997), 419.

16 In Held (1989), 91.

17 Letki and Evans (2005), 518. Emphasis in the original.

18 Letki (2005), 1.

19 *Ibidem*. Letki also emphasises (p. 3) that researchers often neglect civic morality in favour of interpersonal trust, although it is the former that most interpretations of the positive consequences of interpersonal trust rely upon.

esty among people and since trust is an effective strategy only if others are trustworthy, it follows *a contrario* that trusting institutions is not an effective strategy (i.e. equals gullibility) if those institutions are not trustworthy (i.e. not transparent or stable).<sup>20</sup> Rose-Ackerman similarly does not regard trust as something valuable in itself but considers it as an input in the process of economic growth and state-building that may bring along negative as well as positive consequences.<sup>21</sup>

### *SOCIAL TRUST IN POST-COMMUNIST SOCIETIES*

There is no doubt that institutional trust was significantly reduced under the Communist regime. The new democratic governments are said to have inherited a citizenry with low levels of trust<sup>22</sup> and this has, in turn, impeded subsequent transitions. Offe goes so far to note that the rapid and successful transition of these societies into liberal democracies is seen to be ‘greatly hindered by the absence of trust’.<sup>23</sup> Distrust and cynicism have been labelled as ‘the predictable legacy of Communist rule’ and overcoming this legacy designated an ‘immediate problem’ for the post-communist systems of Eastern and Central Europe.<sup>24</sup> Many find distrust as a consequence of living under the Communist regime natural, arguing that ‘[m]ost have lived their entire lives under authoritarian regimes, some more totalitarian than others but all inclined to subjugate individual interests to those of the Communist Party’.<sup>25</sup> The various civil institutions, created during the Communist regime, were in fact ‘parts of the state apparatus’<sup>26</sup> and so people were not participating voluntarily in them, but complied for the sake of staying out of trouble. According to Mishler and Rose, this gap between the institutions that individuals actually trusted and the state-recognised political and civil institutions resulted in a ‘massive alienation and distrust of the Communist regime and a lingering cynicism towards both political and civil institutions’.<sup>27</sup> However, they also note (in 1997) that paradoxically this ultimate collapse and distrust in the Communist system may encourage public trust in the institutions of the new regimes. In their empirical research in the mid-1990s they in general observed ‘scepticism’ rather than active ‘distrust’ as pervading popular evaluation of civil and political institutions in these countries. Yet, as we know a decade later, the ‘scepticism’ did not move towards the ‘trust’ end of spectrum.

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20 Letki (2005), 25.

21 Rose-Ackerman (2001), 417.

22 Rose-Ackerman (2001), 415.

23 Offe, in Letki and Evans (2005), 517.

24 Mishler and Rose (1993), 419.

25 *Idem*, 420.

26 Shlapentokh, in Mishler and Rose (1993), 419.

27 *Ibidem*.

One reason for this development could be attributed to the often neglected or missing link in this story from bad past to the good future, namely the role and influence of the transition itself.

### *TRANSITION*

The leaving behind of oppressive Communism and stepping into a brighter future of economic prosperity and respect for human rights and individual freedoms – the process dubbed as ‘transition’ – did not bring along only positive, uplifting prospects, which would generate social trust, but also raised several problems and insecurities (most notably, economic and social insecurities). Gosztonyi, comparing several post-communist CEE countries, noted that the social security has deteriorated in each and every country, as previously free services became payable and benefits were reduced or made more difficult to obtain. Respondents kept reporting the loss of safety as the most shocking experience. His comparative survey, carried out in the Czech Republic, the former German Democratic Republic, Poland, Slovakia and Hungary, ‘has shown that the ratio of those who believe that their situation is worse today than it was before the transition, has grown everywhere: 61% of the Hungarian population felt safe before 1989 and only 29% after 1989. People valued the 1980s the most’.<sup>28</sup> Gosztonyi claims that immediately after the ‘semi-velvet revolutions’ of 1989 in the CEE countries, it seemed that everybody would benefit from the political changes. ‘People strived after political freedom and a market economy that would solve the inconveniences of the previous ‘shortage economy’ without the disadvantages of the unrestricted market. They believed that the responsibility of the state would remain untouched. However, this turned out to be an illusion’.<sup>29</sup>

In Slovenia, the sometimes-shady denationalisation processes enriched some granddaughters and grandsons (of those whose property has been nationalised after the WWII) practically overnight and, together with the privatisation process (later occasionally dubbed as ‘the theft of the century’), significantly widened the gap between the rich and the poor. Additionally, while everything suddenly became available and everything could be bought, not everybody could afford to buy even elementary things. As promises for, and expectations of, better lives, better governments, etc. began to fade, while social differentiation increased and insecurities of the majority regarding the better, more just, more prosperous future intensified, public attitudes towards traditional authorities must have reflected these shifts.

It is unsurprising then that an analysis by Letki and Evans revealed that the process of democratisation – which is one type of transition these countries

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28 Gosztonyi (2005), 265.

29 *Idem*, 264.

went through<sup>30</sup> – in East-Central Europe appeared to have actually ‘negatively influenced levels of trust in the region, while the level of trust was irrelevant for the success of democratisation’.<sup>31</sup> They, too, link reduced trust to political and economic reforms, noting that where market democracy has progressed,<sup>32</sup> it has brought along a more equal access to institutions and resources to citizens, which in turn made them less dependent on interpersonal networks. The authors interestingly note that ‘societies living under the least “modified” and thus most politically and economically inefficient transitional regimes have retained more of their “pre-1989” stocks of social trust compared with those in the forefront of democratisation and marketization’.<sup>33</sup> Comparing levels of trust in the old democracies with the new ones, their conclusion is that in the new democracies democratisation impacts negatively on trust.<sup>34</sup>

A terminological, relating to epistemological, note is worth mentioning here as well: although by ‘transition’ we mostly refer to the period following the ‘turn’ (i.e. the fall of Berlin wall, the turn from socialist to democratic, post-communist states), the singular form, suggesting a hegemonic concept, is somewhat misleading. What we had, in fact, would be better termed ‘transitions’, as there were several, distinguished by kind (political, economic, etc.) as well as by place and time. On the latter note, one could say that we have just entered into a new ‘transition’, one triggered by the world-wide economic recession, which seems to have taken us all by surprise. This new ‘transition’ is generating several (new) economic and social insecurities, which are being mirrored in the social trust in state institutions.

#### *THE INPUT OF THE INTERNATIONAL COMMUNITY*

One should also consider the ‘external’ or global(-ising and -ised) influences. Some, for example, emphasise that one of the differences between post-communist transitions and previous transitions should be attributed to the different influence of the international environment on the outcomes of these transitions. In 1993, Meiklejohn Terry noted that ‘today’s environment is more uncertain, even more unfavourable, than it was for the southern European

30 What makes these post-communist transitions different from other post-authoritarian transitions in the past is, according to Meiklejohn Terry, precisely the fact that we simultaneously had two concurring transitions happening: one being liberal/political (into pluralist democracy), the other being capitalistic (into market economy). She sees this ‘dual-track nature’ of the recent transitions as ‘historically unprecedented’ and ‘fraught with internal contradictions’. Meiklejohn Terry (1993), 334.

31 Letki and Evans (2005), 523. Looking at the relationship between trust and democratisation over time, they found a strong negative impact of democratisation between 1989 and 1993 on trust, as measured in 1993. No relationship was found, however, between trust and subsequent democratisation.

32 They specifically mention the Czech Republic, Hungary and Poland, but they could have easily included Slovenia, as well.

33 Letki and Evans (2005), 525.

34 *Ibidem*.

countries [and their transitions – N.P.] in the 1970s'.<sup>35</sup> Due to economic recession in the western countries, it is difficult for the latter to support adequate economic assistance to the former countries.<sup>36</sup>

On the international plane, the influence of the EU (particularly on the 'new' member states) should not be underestimated either. The EU has placed a lot of extraordinary conditions upon new member states while they have remained in the 'accession' phase – conditions that were not placed to the same extent on the old member states at the time of their accession to the European Community. During the accession period in 2004 many new laws were rushed through in the relevant countries, many amendments were made to laws that were traditionally considered as poor candidates for rush legislation (e.g. criminal law and constitutional law). And yet, even after all the necessary goals have been met, all entry conditions satisfied, the impression that they were still not the 'full members' remained for quite awhile. 'Free movement of workers', for one, turned out not to be so free moving. The majority of the old member states (EU-15) in 2004 blocked this freedom in the name of self-protection, expecting a flood of 'new Europeans' once the gates opened. Even within the same category, some of 'us' were therefore more free-moving than others, who seemed to continue to be perceived as a 'threat' even after becoming 'us', i.e. the EU. In addition to this, it is worth noting that the EU external migration policy has been the policy of limitation and restriction from the 1980s onwards,<sup>37</sup> which presupposes an external risk or threat from 'the Other'. In time this threat is socialised, resulting in the acquired perception that 'being a European' or 'Europeanness' implicitly includes or presupposes this distinction-from-the-Other, from the non-European, who is a source of fear, a threat (often unspecified or not completely understood) – a risk that is bigger, the closer 'the Other' is. And every new round of accession elicits new insecurities (insecurities about one's own social and economic/financial prospects, insecurities regarding the value system, etc.) and beliefs that the existing homogeneity of Europe (despite her proclaimed plurality) is at risk of being destroyed. The paradox that every new accession may make the EU stronger (provide new markets, new workers, etc.) as well as weaken it (as new member states may prove to be bigger recipients of, than contributors to, the budget, 'new hungry mouths to feed') is in itself a source of frustration.<sup>38</sup>

35 Meiklejohn Terry (1993), 336.

36 *Ibidem*.

37 'In the past five years, therefore, the EU has shaped fundamental migration strategy primarily through a policy of migration restrictions and restrictive control of its external borders (visas). In the 1980s, the EU reduced options for economic migration; in the early 1990s it narrowed the asylum channel, and in the past five years it has focused primarily on illegal refugees (illegal migration)'. Kovač (2003), 71.

38 In the most recent Eurobarometer survey, close to half of Europeans (48%) feel that the enlargements in 2004 and 2007 have strengthened the European Union, while just over one-third (36%) feel that the enlargement from the EU15 to the EU27 has weakened the EU. The rest 'don't know'. When the numbers are broken down nationally, however, the gap widens in the new member states, i.e. they see it more as a process that strengthened the EU, and narrows in the old member

The EU therefore has the power to instil the sense of insecurity (and threat from ‘the other’) in its member states and their citizens, and to make them act accordingly. However, its relevance does not end there. Joining the EU in 2004, some argue, triggered several other negative social phenomena for the new member states – phenomena that affected the political process and democratic stability of Central-Eastern Europe. Gosztonyi claims that joining the EU had ambivalent consequences for the countries in question, for ‘while it helped to provide an anchor of stability, it, at the same time, accelerated not only the transformation process but also an even broader social differentiation and political polarisation’.<sup>39</sup>

EU membership, however, includes participating in the EU project and sharing its destiny. No longer being an island whose economy is not determined by the West, every new member state now participates in the EU’s economic growth as well as in its recessions. Insecurities relating to the market, employment or banking system felt, for example, in the UK, Belgium, and elsewhere are similarly and acutely felt in Slovenia. According to the most recent findings of Eurobarometer, only 41% in Slovenia believe that ‘the EU helps to protect us from the negative effects of globalisation’ – a 2-point drop since spring 2008 – and only 40% believe that ‘the EU enables European citizens to better benefit from the positive effects of globalisation’ – a 1-point drop since spring 2008.<sup>40</sup> Although subjective beliefs need not necessarily correspond to reality, of course, they go a long way in generating economic and social insecurities, and affect people’s behaviour.

#### *INSECURITIES AND THE PSYCHOLOGICAL DIMENSION*

The above analysis has mostly addressed the sociological and historical aspect of the existing low social trust, only briefly touching on of the psychological and criminological (security-related) dimensions of the phenomenon. However, in trying to understand holistically the complexities of the issue of reduced trust in the new democracies, the social psychological dimension of the problem should not be neglected. In the context of criminal law, the blood-thirsty appeals for criminalisation of *x* or punishment of *y* can sometimes be better understood in terms of ‘displacement’, where an unacceptable feeling or thought about a person, place or thing is redirected towards a

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states. Eurobarometer 70 (autumn 2008), 68.

39 Gosztonyi (2005), 265.

40 Eurobarometer 70 (autumn 2008), 59. Moreover, when asked for their opinion on what *should* be the main objective of the building of Europe (as opposed to what they think is currently the main objective), 23% mention ‘improving the standard of living of all EU citizens’, while ‘economic development’ and ‘maintaining peace and stability’ get only 17% each. The national analysis of these numbers shows that the biggest majority of those who think ‘high standard of living’ should be the main objective is recorded in Bulgaria (43%), followed by Slovakia (40%) and Slovenia (38%). *Idem*, 77–78.

safer target. In our case this would mean that every-day, ontological insecurities (be they economic, social or urban anomie and alienation) that have no single, clearly distinguishable 'cause' or enemy to pinpoint, channel into fear of crime and, consequently – as a means of regaining control – into appeals for punishment of some suspected *y* (who plays here the 'safer target'). In 'scapegoating', a hostile discrediting routine, people displace their aggression onto a target person or a group, whom they inappropriately accuse or blame for various problems. It is a widespread phenomenon, from which not even judges escape (as will be shown below).

While it is a well-known fact that the trust in political and economic institutions is very much affected by the lack of economic growth, the link between the economic situation and social trust in other state actors, such as the judiciary, is less apparent. Even if the courts are not directly blamed for economic recession, the fear and insecurities the latter generates clearly surface and seem to be significant in discussions about the judiciary (as can be seen from the empirical study, presented in Part II). However, it is not only economic insecurities that affect public trust in the judiciary (and the administration of justice in general) but also the general public's perceptions of safety and security.<sup>41</sup>

The psychological mechanisms behind the 'social' phenomena are of course intimately connected with those behind the 'individual'. To put it differently, the intricate psychological processes behind the 'social' phenomena, such as social trust, are essentially individual, albeit multiplied and somewhat transformed through communication.<sup>42</sup> Moreover, they interact on many levels. Even within the individual himself, the trust one feels towards a fellow man is habitually transferred onto the institutions around them. Conversely, the individual's lack of trust in other people, exacerbated, for example, by the widening of the rich-poor gap, employment uncertainties,<sup>43</sup> lack of transparency and efficient legal recourse, etc. is thus often reflected in his reduced trust in wider social institutions. The current, however, flows both ways: low or diminished trust in institutions affects the trust one feels towards their fellow citizens and the sense of responsibility towards them, i.e. the civic morality. In other words, 'civic morality and civically responsible behaviour

41 The EU-funded JUSTIS project (ongoing) even starts from the assumption that 'the effectiveness of justice systems depends significantly on the legitimacy that they command from the public, and that the drivers of institutional legitimacy include public beliefs about the quality of justice and public perceptions of safety and security'. See JUSTIS (2008).

42 The 'social' or society is namely more than just the 'collective', i.e. the sum of its parts. Transformation stems from the society's dynamic character. For one, the information – which forms the basis of (the stimuli for) psychological processes – is in society (as in a network) constantly re-evaluated, reinvented. Moreover, groups and masses have their own psychology, which is why an individual, when in a group, may act differently as he or she would when alone.

43 These uncertainties seem to be particularly pronounced in Slovenia, which currently leads among member states in the percentage of the EU budget that it wants to be spent on 'employment and social affairs' (56%), followed by Spain (51%) which has currently the highest unemployment rate in the EU. See Eurobarometer 70 (autumn 2008), 75.

are contingent on the quality of the system within which individuals operate: institutional agents' trustworthiness and efficiency encourage civic morality and trustworthiness among citizens'.<sup>44</sup>

### **THE JUSTICE SYSTEM AND JUDICIARY**

Before elaborating on the how and why of low trust in the judiciary, we should first briefly examine the role and functions of the judiciary in the liberal democratic system. An independent judiciary is central to the process of democratisation; it plays an important role in the development of the rule of law.<sup>45</sup> Particularly in the context of post-communist systems, it has helped to develop and consolidate democratic governments, even if there are considerable differences among countries in the amount of power and independence they grant their judges. The limitations on judicial power can partly be explained by authoritarian history and the differences among countries, specifically the differences in the willingness of policy makers to limit their own powers.<sup>46</sup>

The importance of the justice system (and consequently of trust therein) thus, firstly, flows from the importance of the (trust in the) legal system, of which it forms part. Law participates in the creation of normative culture, which is considered given and stable, and thus contributes to the balance of the social system. If law and, consequently, the legal system, are perceived as not functioning properly, this not only causes significant imbalances within the social system but also destabilises the normative culture by shaking the public's belief in, and social representation of, its stability and immutability. This may cause great distress among the public and become a source of fears and insecurities, which consequently can fuel various negative social phenomena – from crime and xenophobia to a further decrease of social trust in the legal system and disrespect towards authorities, and so forth. The (non-) functioning of the legal system thereby impinges on social trust in the 'order of things' and on the trust in those who were entrusted with maintaining this order. Levels of trust thereby reflect the effectiveness of political and economic institutions.<sup>47</sup> However, an interesting, albeit counter-intuitive, observation regarding social trust and the legal system observed by researchers is also that '[t]he worst legal regime is not one in which contracts cannot be enforced but

44 Letki (2005), 4. Civic morality can be described as individuals' psychological dispositions towards others and norm-breaking. It refers also to people's moral standards, which are, in turn, connected to people's values and perceptions. See *idem*, 4.

45 Ishiyama Smithey and Ishiyama (2000), 165.

46 *Ibidem*.

47 Letki and Evans (2005), 515.

one with an intermediate level of enforceability'.<sup>48</sup> Both, high levels and low levels of law enforcement encourage trustworthiness as the best strategy, the most 'rational and efficient gamble', for in the former dishonesty is likely to be prosecuted, while in the latter trustworthiness between people is the only available framework for regulating contracts. At the intermediate levels, however, these conditions do not hold. So, in the complete absence of a credible state, trust among people is higher and forms a foundation for their contractual relationships, while in the states experiencing higher levels of democratisation (and consequent enforceability), this is not the case. This observation is particularly relevant for post-communist states, as it helps explain why the effects of the better (clearer, more democratic or certain) procedures and workings of some parts of law (the one dealing with the enforceability of contracts), acquired post-1989, need not 'spill over' onto other parts of the legal system – why, in fact, the 'working better' can in some contexts, including the context of trust, be worse than 'not working at all'.

Secondly, the trust or distrust in the judiciary has important repercussions for human rights. The more people distrust their own judicial system, the more they feel the violations of human rights abound. A study by Doise found that those respondents who distrusted their own judicial systems 'consistently broadened the domain of situations that were considered to be violations of human rights and were more often certain in their judgements about what is a violation of human rights and what is not'.<sup>49</sup> This can mean that the representation of the judiciary acts as a catalyst for the representation of the state of human rights.

Thirdly and more narrowly, from the perspective of judges (and other court officials) themselves, a good public opinion about their work is important for the self-image and work efficiency (including efficiency or probability of success when claiming benefits or demanding a higher salary). The public opinion as an opinion of the 'Significant Other' significantly influences the self-image of the judiciary and consequently the work motivation of the court personnel. Being a judge used to be a respectful profession, a profession which is in this day and age often marred by the negative representation thereof in the eyes of the public and media. Even though people often unjustly criticise judges – e.g. for delivering a verdict of 'not guilty', when sufficient evidence of guilt is lacking – or unjustly perceive not-guilty verdicts as mistakes of the court, the recurring theme of judicial backlogs probably does not help the (already tarnished) image of a judge.<sup>50</sup> The circle becomes vicious when the constant

48 Bohnet, Frey and Huck, in Letki and Evans (2005), 524.

49 Doise (2001), 101.

50 In this light more emphasis should be given on the public communication of the accurate portrayal of the judges' work. This 'opening' to the public, so to speak – either through the more active, visible role of the public-relations office(r) or through the institution of 'open doors' or a through greater willingness to participate in research projects (within the limits of the law, of course) – could add to a greater transparency and consequently better knowledge of, and higher

vexation and negative labelling of the judiciary negatively influences judges' self-image and consequently decreases their motivation to work, which in the long run cannot help decrease the backlogs.<sup>51</sup> That the courts' negative image is detrimental to the very work courts do has recently been publicly acknowledged by the President of the Supreme Court himself on the Day of the Justice System in his address to the audience prior to presenting awards to selected judges for their successful work. While the awards were clearly meant as a motivation for future work and, implicitly, as a counterweight to negative public opinion, the latter was, interestingly, more or less attributed to the very 'nature of things':

'Courts address the public through Grounds for their decisions. It is in the *nature of things* for this communication to be dull, hermetic, and often cryptic, for the public difficult to understand. [...] It is also in the *nature of things* that the appearance of the judiciary in the media is predominantly put in a negative context. Most information regarding the judiciary stems primarily from conflicting situations. Neutral or positive information concerning the actual role of the justice system or judges therefore barely exist or are strongly overshadowed by negative information'.<sup>52</sup>

Furthermore, not only does the productivity suffer, the negative opinion may indirectly (or even unconsciously) affect the decision-making process. Sentencing as one type of decision-making in the context of courts can be affected by legal and extra-legal factors.<sup>53</sup> The reduced trust in members of the judiciary can act as an extra-legal factor that can influence judicial decision-making. No man, including a judge, is an island, isolated from the rest of society. Being human, judges are affected by how others view them. If the public, stimulated by media, cries for harsher penalties, judges may thus be tempted (unconsciously perhaps) to give them what they want – jeopardising the principle of proportionality, perhaps even the culpability principle and standards of proof along the way. The problem thus becomes a larger social and legal problem, surpassing the issue of the judiciary's self-image. It affects the rule of law itself.

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trust in, the judiciary. Unwillingness to talk or to give any information (not even the explanation that no further information can be given at this point, as the case is still pending) often casts an additional dark shadow over the institution, which is – inadvertently, perhaps – then projected onto its employees.

- 51 Peršak (2005), 248–249. The empirical study, presented in the second part of this paper, has similarly shown that in the situation where there exists low trust or less benevolent public opinion of the judiciary, it is in vain for judges to expect public support when asking for higher salaries. See *infra*.
- 52 From the speech by Franc Testen, President of the Supreme Court of the Republic of Slovenia. See Testen (2008). Emphases added.
- 53 This is even acknowledged by law: the Criminal Procedure Code, for example, lists grounds for the judge's mandatory disqualification (recusal), e.g. due to being a close relative of the accused.

## II. PART

### **SOCIAL TRUST RELATING TO JUDICIARY: THE CASE OF SLOVENIA**

*(an empirical study)*

In our empirical–qualitative part of the study, Internet forum discussions have been content-analysed. As Internet forums contain people’s views and thoughts – perhaps even more ‘pure’, i.e. less restrained thoughts – on a subject, studying forum posts informs us of the opinions people (who participated) have on certain issues. Looking deeper into the posts, we can find (snippets of) values, emotions, indications of the dynamics between forum members (indicating how representations are changed in light of the influence by others or by communication), some information on the type of people who participate in them, as well as common insecurities (economic/social, personal) attached to the issues of judging, punishment, the legal system, etc.

By inspecting Internet forums we will not of course find whether or not the courts actually are trustworthy, i.e. are they fair, efficient, expedient etc., but we can learn about people’s social representations<sup>54</sup> of those characteristics – which is, after all, what counts in the process of establishing trust or distrust. In fact, ‘[w]hether citizens’ perceptions of institutions’ trustworthiness are entirely accurate is irrelevant. What matters is whether the citizens believe that, on average, institutions will prove to be trustworthy, i.e. will be fair, competent and bring about desirable outcomes’.<sup>55</sup> Citizens who believe that institutions fulfil their obligations are significantly less likely to break the rules or cheat.<sup>56</sup> Good public opinion of a state institution (or a good image thereof) therefore affects citizens’ (law-abiding) behaviour,<sup>57</sup> which is certainly something desirable.

However, it is worth bearing in mind that not all democratic institutions are equally dependent on popular support. Democratic political leaders are, for example, much higher on the ladder of dependence, while the judiciary follows a different set of goals and values (pleasing the public not being one of

54 Theory on social representations claims that social representations are a sort of images of social objects that communities hold for the purpose of behaving and communicating (Moscovici (1961, 1973, 1984, 1998, 2000); Duveen and Lloyd (1990); Jodelet (1991); Bauer and Gaskell (1999); Jovchelovitch (2007), etc.). They are considered ‘a system of values, ideas and practices with a twofold function; first, to establish an order which will enable individuals to orientate themselves in their material and social world and to master it; and secondly to enable communication to take place among the members of a community by providing them with a code for social exchange and a code for naming and classifying unambiguously the various aspects of their world and their individual and group history’ (Moscovici (1973), xiii.). They are dynamic – as opposed to Durkheim’s ‘collective representations’ – and form through everyday processes of communication, which ‘never happens without some transformation’. Moscovici (1998), 239.

55 Letki (2005), 7, referring to Levi (1998).

56 In Letki (2005), 7.

57 ‘Institutions that perform well are likely to elicit support, confidence and therefore compliance from citizens (Newton and Norris, 2002): Letki (2005), 8.

them) and is therefore much less dependent on public support. Having said this, it is by no means irrelevant whether their image in the eyes of the public is a good one or a bad one. Social trust – albeit not directly controlling the work of judiciary – is relevant on many levels, as has been explained above. A good public opinion of one's work is stimulating, while the negative opinion of others negatively affects one's self-image and hinders effectiveness. Unfavourable public opinion also stimulates political leaders (who are much more dependent on people's views) to put pressure on the courts to change their ways. Last but not least, as social trust affects compliance, it is in the court's (and society's) best interest for the courts to enjoy the people's trust.

This last dimension is particularly related to the question of legitimacy of the judiciary,<sup>58</sup> if it is defined (solely) on normative grounds, i.e. as being morally justified through producing morally justified judgements in a way (time and place) that respects basic human rights as guaranteed in numerous international and constitutional documents. Fairness of trial within a reasonable time is, for example, a human right (see Art. 6 of the ECHR) and a measure, according to which people judge the courts' performance and find them trustworthy or not. Fairness and reasonable speed are not, however, the sole criteria according to which people form their views on courts. In fact, social trust is often portrayed as a result of socialisation and/or performance. However, in the context of courts, performance could mean or depend on one, several or all of the following: (a) procedural fairness;<sup>59</sup> (b) expeditiousness or rapidness of trial; (c) good production/results; (d) good PR, communication, transparency.<sup>60</sup> Furthermore, trust may be affected by other extra-judicial criteria, such as personal experience, media reporting, personal traits and outlook on life. However, these factors are not necessarily equally worthy of consideration, i.e. they should not be given equal weight when pondering about what to do or how to improve the judicial system. This is why it is important to break down what people say about the judiciary into elements, from which it is possible to distinguish the trust-generating criteria people employ and to establish whether, and to what extent, the judiciary needs changing.

Last but not least, let us mention that studying people's representations of the judiciary as conveyed online (in our case through Internet forums) is important not only because it gives us insight into people's beliefs (including trust) regarding the justice system and its protagonists, but also because Internet forums are a special public medium which also (as a medium) influences other people's thoughts and beliefs. As such, it not only encompasses forum

58 And consequently to the issue of reliable and effective legal system. See Letki (2005), 9.

59 An experimental study by Van den Bos, Wilke and Lind (1998) has indicated that procedural fairness is especially needed in the absence of information about an authority's trustworthiness.

60 In their last report on European judicial systems, CEPEJ (The European Commission for the Efficiency of Justice) introduced two performance indicators to measure the court performance: the clearance rate and the calculated disposition time. CEPEJ (2008), 250.

posters' beliefs but also conveys a message to others, mere readers, as to what is publicly thought on the subject, which may, in turn, transform their representations on the subject. As research has shown,<sup>61</sup> opinions about the courts are often received and mediated through others, which is why forum discussions can be an important source of information for others who merely visit the webpage. Its importance may, indeed, turn out to be greater than the importance of the regular media, which many consider politicised, biased, as having their own agenda or else controlled by some interests of the powerful.

#### *THE METHOD, CODES AND HYPOTHESES*

Twenty-two online forums dealing with the topic of judges, courts or the justice system were selected for the content analysis. These forums were hosted by the website of the Slovenian national radio and television station (RTV) and accessible on 27 February 2009. They have been found by keywords through a search engine available on the RTV's website. In order not to have anything relevant escape our analysis, the search word used was 'sod' as all the possibly relevant words, such as courts (*sodišča*), judges (*sodniki*), judiciary (*sodstvo*) and justice system (*sodni sistem, pravosodje*), in Slovenian contain the word 'sod'. The search word 'sod' revealed 144 forums, only 22 of which, however, were relevant, that is, pertaining to the national judicial system (as opposed to e.g. judging in football) in the widest sense. These 22 forums together encompass over 772 posts from 307 or 157<sup>62</sup> different authors. Our unit of analysis were posts from the same author under the same forum (i.e. all posts from the same author in the same forum counted as 1 unit). Incidentally, RTV's forums have over 64,000 registered users. It also had over 26,000 thematic forums and approximately 1.5 million posts at the time of our selection.

Having in mind the purpose of this qualitative study, i.e. to find out how trust is formed, what additional elements/factors are important in forming (dis)trust, what is seen as a solution to the problem etc., I have (after a small pilot) chosen the following codes for the content analysis of forums: (i) (procedural) fairness; (ii) speed (expeditiousness, backlogs); (iii) results (good results/judgements, performance); (iv) external factors (resentments concerning judges' salaries, national history (reds-blacks division), politics, mistrust by association, and other); (v) personal factors (personal experience (or experience of close friends and relatives) and personal resentments and

61 See Dimitrijević (2006). The author is specifically discussing the PR problems of international criminal courts, which in his opinion particularly suffer from this predicament, which throws a shadow on their legitimacy.

62 307 is the number of authors if we calculate the sum of different authors/forum posters as they appear in 22 forums. However, as some posters appear in several of these forums, the actual number of people who participated on the whole is 157 (100 only once and 57 several times).

insecurities). Such coded answers revealed what people considered the *problem* to be. Additionally coded were the subjects/agents considered responsible for the problem (code *who*), and the proposed solutions to the problem (code *solution*).

Although this was primarily an exploratory study, there were some hypotheses to be tested. It was thus hypothesised that (a) social trust in judiciary is an emotional topic (where many emotions will be displayed); (b) the question of money/salary will be prominent; (c) the lack of (legal) knowledge about how things procedurally and legally work is a basis for many a wrong assumption and belief; (d) polarisation/bifurcation between supporters of reds/communists/leftists and blacks/home guard/political right may come to the fore; (e) mistrust may be, at least in part, derived from the general mistrust or negative image of lawyers (mistrust by association); (f) a lot of argumentation might be of *ad hominem* type – argumentation which is not addressing the subject-matter or the substance of fellow poster’s claim but is instead directed towards that person. Some of these hypotheses required additional codes, namely, *Emo* (denoting very or extreme emotional reaction displayed), *Victim* (the victimological terminology used), *IgI* (*ignorantia iuris*, lack of legal knowledge) and *Ad hominem*.

## RESULTS AND DISCUSSION

### Trust

First of all, let us note that almost nobody talks about ‘trust’ or trusting, i.e. the word trust (in any form, as a noun, adjective or verb with various prefixes and/or suffixes)<sup>63</sup> is rarely mentioned. In fact, it is mentioned only five times. In one case the commentator simply affirms that people trust the courts the least.<sup>64</sup> In another case, the trust seems to be linked to the absence of judgements, which people consider unjust or unfavourable to them. The author is specifically (rhetorically) asking ‘how people can trust judges, who judge in their name, when they are themselves victims of those judgements, delivered in the Balkan way of judging ‘the Cadi prosecutes, the Cadi sentences!’<sup>65</sup> The absence of trust is in the third case linked to the politicised courts.<sup>66</sup> Trust is further implied in the work that is ‘entrusted’ to judges to perform impartially and within a reasonable time, which is something judges should be made

63 The search word employed was ‘*zau*’, which is the common core to all words, relating to trust (e.g. trust (noun) – *zaupanje*; trust (verb) – *zaupati*; trusting – *zauopen*, *poln zaupanja*, *zaupljiv*; entrusted – *zaupano*; trustworthy – *zaupanja vreden*, etc.).

64 Decoy, forum 7 (8.3.2006).

65 Martin Krpan, forum 1 (9.6.2008).

66 ‘How can we still trust this judiciary, if they side with a certain political option? This flies in the face of all logic. The mess in the legal field cannot amaze me anymore. All other interests are stronger than the truth.’ Wild Hors, forum 3 (12.10.2006).

aware of.<sup>67</sup> However, trust is also mentioned in the context of the litigious nature of the (Slovenian) politicians. As they tended to very quickly turn to courts to sue someone (especially in the pre-election time), the author notices that despite the oft-claimed judicial incompetence and the courts' low esteem, there seems to be some kind of trust manifesting itself if politicians are so quick to run to the courts for justice to be served.<sup>68</sup>

From the absence of the word 'trust' in the debates, however, it also follows that trust is often conveyed through other words. People who in general hold negative opinion of courts or bash them on forums are those who distrust courts, and those who praise them are, inversely, those who trust them. What we should be looking for, therefore, are the opinions people hold of the judiciary and its work. Trust as a belief is based on people's thoughts and opinions on a certain subject; trust can thus be inferred from utterances expressing people's general opinions of courts.

The assertions of corruption, for one, could be such relevant utterances. Indeed, the topic of trust is in research often linked to the studies on corruption. However, in our case studies, corruption is rarely mentioned. In the six cases, when corruption is mentioned,<sup>69</sup> three out of six claim judges are corrupt, two question the link (asserted a few times by judges on TV debates in support of their claims for higher salary) between sufficiently high salary and reduced risk of judicial corruption, and one (persuaded by a TV debate) believes that the solution to the contemporary judicial crisis lies in raising the salaries.

### ***Responsible agents***

Those who are being blamed for the current situation are mostly judges – sometimes specifically women judges (as the predominant sentiment is that the judges in the first instance are mostly women).<sup>70</sup> Judges are said to be lazy (arriving late, spending their time in nearby cafes), to be incompetent or

67 Krokodil (posting the Petition for the abolishment of permanent judicial office), forum 18 (20.5.2008).

68 Atomsk, forum 1 (22.9.2008).

69 The search word used was 'korup', which – as in the case of 'zaup' – represents the core of all derivatives.

70 The perception of the feminisation of the judicial profession may, at least to a certain extent and within a paradigm of patriarchal upbringing, help explain the phenomenon of diminishing trust in judiciary: similarly, some people (both, male and female) still prefer to have a male surgeon operating on them, and some people may prefer to see a man occupying other important, authoritative positions, such as that of a judge, as well. For them, low trust in courts could be explained by low trust in (the capabilities of) women. This of course has policy consequences, as 'fighting' low trust in courts should – for this segment of population – involve fighting prejudices, stereotypes and other fixed ideas, often acquired through early socialisation, making them more resistant to change. Consequently, this could mean that for this segment of population there is nothing that can be done to change their negative views – nothing in the sense of improving the quality or performance of the trial – as their opinion is based on other, extra-judicial, illegitimate and rather predetermined grounds.

politically biased (towards the left). The exact word ‘corrupt’, as already mentioned, is rarely used. The mere existence of judicial backlogs is, for some, a proof that the judges are lazy, not doing their work.

Sometimes judges as culprits are joined by prosecutors and sometimes (and without much sense or explanation) by other legal professions as well. Although it is hard to distil the direction of this ‘mistrust by association’, it certainly manifests itself on several forums: do people mistrust judges, and as judges are lawyers, does this mistrust spill over to other legal professions? Or is it rather that people do not particularly like lawyers (no shock there), and as judges are lawyers, it makes it easier (no further proof needed) to dislike and distrust them as well? Sometimes the ‘guilt’ is expanded into the public sector as a whole, while other times it looks as if it is associated with all prestigious professions (judges are often compared to doctors). As in these economically challenging times more and more critical voices are directed towards the public sector in general, the main resentment being that the latter is funded from the state budget (i.e. from ‘our’ tax-payers’ pockets) and is thus economically secure (unlike the rest of ‘us’), it is conceivable that judges in this respect mainly serve as convenient scapegoats.

Those who believe the politicians or the media bear responsibility, usually hold a good opinion of the judiciary and want them to maintain their independence, and therefore support their strike for higher salaries. They criticise the opponents for being ‘manipulated by the populist politicians and media’.<sup>71</sup> Politicians are criticised for making policy decisions whose sole purpose is to mislead the public and discipline judges.<sup>72</sup> The attitude of the government (executive branch) towards the judicial branch is said to be unfair and even ‘underestimating’, which transpires ‘in the way they comment on the judgments, in the way they attack the courts, in the way they pass bad and impossible legislation and, last but not least, in not respecting the decisions of the Constitutional Court’.<sup>73</sup> In their view, backlogs are mostly due to the politicians who left the problem unsolved for 10 years, or else due to the lack of political will to change the organisational and administrative side of judging.

Both sides often point to the law or the legal system, as it stands. Those who are sympathetic with the judges sometimes avert attention to statutes and the fact that judges only follow the law; hence, if the laws are bad, the decisions can be nothing but. Bad legislation is to blame as it allows the accused to stall proceedings by not showing up, as are unreasonable procedures, which the judges are required to follow.<sup>74</sup> On the other hand, laws (and those who wrote them, i.e. lawyers, but, interestingly, not MPs who passed them) are also to

71 Kok, forum1 (11.6.2008).

72 Atomsk, forum 1 (16.6.2008); evil dickens, forum 3 (5.1.2008); Cinik, forum 14 (14.5.2007): their intention is to ‘politically subjugate judiciary’; evil dickens, forum 19 (2.6.2008).

73 Evil dickens, forum 1 (30.9.2008). The last bit is referring to the case of ‘izbrisani’ (erased).

74 Xenofob Che, forum 10 (12.11.2006).

blame by people who chastise judges. Their argumentation often reveals the lack of legal knowledge or of knowledge about the functioning of the judicial system. For example, one author believes that the statutory principle of free weighing of evidence is a ‘disaster and a proof of the depravity of people who wrote this stupid wording into the law’<sup>75</sup> as it allows the judge to accept or reject a certain proof into his or her decision. Others agree with those who claim that the law is the law, yet point out that there are different interpretations of the law; and as the interpretation depends on the interpreting judge, on the one who ‘carries out’ the law, the buck finally stops there. Judges ‘exploit the existing legislature, giving them the opportunity to stall cases’.<sup>76</sup> In both cases (and similar a story repeats itself when one looks at ‘problems’ and ‘solutions’), we could therefore see a certain reliance, overreliance even, on the law as the almighty one who can make everything alright or mess things up.

Furthermore, media are often exposed as the one responsible for the situation with its populist, scandalous discourse, everyday portrayal of stories of backlogs and scandals that filter the information they finally serve to the public.

Those who look outside the courts for culprits often point to the lay public itself, for example, to the litigious nature of (Slovenian) people, while others ridicule the idea that judges should produce only likeable decisions is ridiculed.<sup>77</sup> Also, people often decide to seize upon their legal right to represent themselves in the court of law, but if they then happen to be unsuccessful, then they tend to blame the system or the ‘leftist judge’.

### **Problems**

To find answers to our question regarding what is it that people base their trust on (or base their trust on the most), the three main codes reflected different dimensions of the judging process. Do people, when bestowing trust on the judiciary, focus mostly on procedure, i.e. being treated fairly (code *fair*), or do they focus mostly on expeditiousness, on the justice quickly served (code *speed*), or perhaps on the end-results of judging (code *res* for results)? Finding out what makes the trust ‘tick’, as it were, is of course crucial for policy purposes. The situation where most people find the Slovenian judiciary functioning unfairly and hence not to be trusted is something completely different to the situation of a few Internet posters who distrust courts because they have, in their own opinion, delivered a wrong judgement. The difference

75 Martin Krpan 1, forum 1 (25.12.2008).

76 Cairns, forum 7 (1.10.2006).

77 ‘And Slovenian judges should mostly be ashamed of the fact that they don’t judge the way people would want them to, but instead they follow the letter of the law. Yuck!’, writes Atomsk (forum 1, 23.9.2008), jokingly.

is in the seriousness of the ‘judicial error’ and, in fact, in the very existence of the reason to act. Personal stake in a case makes the participants rather biased and hence their ‘observations’ and ‘findings’ should to be taken with a pinch of salt. This, in turn, made us construe the additional code of ‘personal’, which captured utterances that were based entirely on personal experience of the author or hearsay (from friends, colleagues, etc.) and purely personal remarks, revealing resentment towards the judges, lawyers, etc., as main grounds for argumentation. Last but not least, sometimes and surprisingly often, other external factors seemed to play a greater role in people’s views regarding the problem with the judiciary, which is why they were additionally coded.

### *i) Procedural fairness*

Regarding procedural fairness, 22 authors (20 different) in 22 forums remarked on the issue as being the problem. Often mentioned are clientelism, bias and politics, linked to the communist past. Judgements based on friendship, connections and the judge’s ‘colour’ are believed to be either determined well in advance or else leave people perplexed and unable to rely on anything. This of course chimes well with those who claim that if one is ‘a big fish’, someone with money, who can bribe judges, then they can – quite literally – get away with murder.

The ‘procedural mistakes’ judges make during the trial, which sometimes lead to judgements being overturned or remanded for instance, often resurface in the context of whether the judges’ plea for higher salaries is justified. Forums abound with claims that judges should pay for their mistakes. People demand to know why the judges are not held responsible, who is going to be held responsible and if/why they themselves (‘we’) will be the ones paying for someone else’s mistake (e.g. fines imposed by the ECtHR in Strasbourg). This indicates certain popular punitiveness,<sup>78</sup> as well as economic insecurities – in particular, many posters emphasise today’s recession and the need for judges to descend from their ivory towers and get in touch with the reality.

While sometimes the handling of concrete cases is described, mostly the comments are general impressions.

78 One must not forget though that the processes of ‘de-individuation’ – a situation where the individual’s internal controls disappear, which arises when ‘individuals do not see each other or they are not being paid attention to as individuals’ (Festinger *et al.* (1997), 382) – triggered *inter alia* by the anonymity or perceived anonymity of the Internet, can result in people ‘letting loose’ to a greater extent than they would in ‘real life’. This means they can be more selfish, more aggressive and punitive, less altruistic than they would have been without the safety of relative anonymity. Demetriou and Silke (2003), 214. The question remains, however, whether this aggression (or punitiveness, in our case) is to some extent co-construed by the medium – the Internet – or whether it is in fact ‘real’ and people merely disguise it or pretend to be ‘milder’ when in public, when visible and non-anonymous?

*ii) Expeditiousness*

With respect to the swiftness with which the cases are being dealt with, the arguments mostly focus on backlogs or the laziness of judges or their lack of, or inability for, timely work. They are said to do nothing, barely spending a few hours a day sitting in their offices and courtrooms, hanging around pubs during work hours, shopping and chitchatting in the corridors of the court palace.<sup>79</sup> However, in one case the ‘speediness’, rather than the lack of it, is mentioned as the problem: judges, wanting to deal with the case as soon as possible, may not necessarily establish all the relevant facts or else violate procedural rights.<sup>80</sup>

Backlogs are, in fact, a legitimately exposed problem of Slovenian judiciary – even if they are misguidedly linked to the current perceived slowness of courts. In 2004, a so-called *Lukenda Project*, consisting of different tasks, including proposals of new laws and amendments of the existing laws, was proposed (and later implemented), whose aim was to increase the courts’ efficiency and reduce substantial judicial backlogs by the end of 2010, and thereby increase the public trust in courts. The project was named after Franjo Lukenda, a Slovenian citizen who successfully appealed to the European Court of Human Rights in Strasbourg for violation of his right to be tried within a reasonable time.<sup>81</sup> Upon the occasion of the celebration of the second year of this project, the Ministry of Justice issued (and posted on its website) an overview report, explicitly recognising the connection between the proposed new amendments to the Courts Act (*Zakon o sodiščih*) and the trust in judiciary: ‘With the purpose of encouraging citizen consciousness, which would emphasise trust in and respect for the judicial bodies and their employees, changes and amendments have been made to the Courts Act, which set 4 November as the Day of Slovenian Judiciary’.<sup>82</sup>

*iii) Results*

By far the largest group of posts from different authors, and in almost all of the forums selected, is concerning the end result of a judging process, i.e. the judgement itself. Thirty-four authors (25 different) on 15 forums argue that

79 aaa, forum 1 (14.5.2008), kačon, forum1 (9.6.2008) and Petrasa, forum 1 (12.1.2009), respectively.

80 iluzionistka, forum 22 (24.6.2008).

81 The Court imposed a fine of 3,200 EUR as well as the cost of 965 EUR to be paid by the Republic of Slovenia. In light of this judgement (echoed in a later judgement by the Slovenian Constitutional Court) and the finding that there were 567,000 backlogged cases (310,000 of which were said to be of substantive nature) at the end of 2004, the Ministry of Justice (under the Minister of Justice, Lovro Šturm), the Supreme Court and the State Prosecutor’s Office prepared a plan to reduce backlogs. The main ideas behind it were ensuring appropriate work stations, additional employment in the judiciary on a fixed-term basis during 2007–2010, considering the possibility of ‘stimulating remuneration’ (*stimulativno nagrajevanje*) of judges and other judicial staff in 2006, as well as 26 other measures. See 24ur.

82 See Ministry of Justice (2007).

the good or (mostly) bad results are the measure of the quality and, consequently, of trustworthiness of the judiciary.

This is an interesting finding in itself, as it may suggest that trust in the judiciary (in Slovenia at least) seems to be primarily based on the result, i.e. that it is content-based. This would suggest caution when making policies aimed at increasing social trust in the judiciary, as it may lead in the direction of populist decision-making. In other words, if the main condition to be fulfilled for gaining trust requires passing judgements that are pleasing for the greatest number of people, then we may get widely trusted but also grossly unfair, inappropriate and unjust decision-making. As the legitimacy of the judiciary is surely not to be derived solely (if at all) from the 'pleasing factor', it follows that attempts to increase the trust through such measures should therefore be resisted. However, as the gap between other two categories (fairness and expeditiousness)<sup>83</sup> is not overwhelmingly great, it is possible that with a bigger sample the differences would completely disappear or that the balance would shift in favour of some other category.

Out of these 34 (25), 14 (10) authors quickly connect the bad results to the law – these are the people who in general hold good opinion of the courts. The results were considered bad because the law (on which they are based) or because the legal system is bad. Judges are here mostly seen as mouthpieces of the law, as simply following the law, and so unable to 'fix' the situation if the law is bad.

The rest mostly fall into three groups: the personally affected ones (due to unfavourable judgement), the morally indignant ones (commenting on scandalous, mostly criminal cases) and the general-impression ones. Some go as far as to suggest that the judge is only as good (productive, successful, efficient) as the 'solidity' of his judgements, i.e. as much as his judgements are resistant to overturning on appeal. Even worse, some go as far as to exclaim (all in capital letters and without any further explanation) that '[e]verything but the guilty verdict is defeat for the court of law'.<sup>84</sup>

#### *iv) External factors*

Although the above three categories deserve priority among the 'problems' or reasons why someone would trust or distrust the courts, they are not the largest categories. During our analysis it transpired that the second largest group of grievances lies in the *ext-P&H* group, which focused on the political and historical roots of the perceived problem, rather than on the 'traditional' suspects (fairness, expeditiousness, good results). The codes *ext-P* (political

83 Each containing posts from 24 authors.

84 Decoy, forum 7 (9.3.2006).

reasons) and *ext-H* (historical reasons) first started independently as two separate codes but were subsequently collapsed together as it soon became clear that for most authors it was all the same thing. For everyone, 'history' implied political history, and respondents on both sides seemed to see a certain recurring motif or continuation of the past regime and their opponents. People freely commented on the current political party and then jumped to the communist past and tracked down the current leaders and their opponents or their predecessors in the historical map before them.

Occasionally, there are comments on how judges should not get involved in politics, not publicly support any political candidate;<sup>85</sup> on how the Roman Catholic Church is trying to influence judges by performing so-called red masses every now and then, the purpose of which is to 'listen to the only correct guidelines',<sup>86</sup> delivered by a bishop; and on how the executive branch is influencing or exerting pressure on the judicial branch.<sup>87</sup>

This 'political' line of arguing was the one most frequently followed by a torrent of *ad hominem* arguments and personal abuse (pages of it, in fact) towards those who disagree with the author. This reflected not only the emotionality of the topic but, and more importantly perhaps, the still deep-seated divisions and lack of reconciliation and other unresolved issues concerning the WWII and post-war period among Slovenians. It also seems to suggest that 'socialisation' (the communist or anti-communist past of the speaker or his ancestors), at least in Slovenia, still plays a big part in trusting the current judiciary (who is believed to be 'liberal' and therefore 'left').

Other mentioned reasons, external to the judging process, included the organisation of labour, inefficient oversight and lack of accountability.

#### *v) Personal*

This code selected parts of the text that portrayed either personal resentment (linked to insecurities regarding the economy or one's social status) or else the evidence derived from personal experience or hearsay from friends or close relatives. This factor sometimes overlapped with other existing codes (when, for example, someone was complaining about the results yet the sole proof of bad results was her own negative experience or hearsay). Interestingly enough, this only happened with respect to the code 'result', not for example in the case of complaining about the fairness or rapidness of the procedure.

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85 Barbar, forum 3 (3.10.2006); Evil Dick, forum 3 (6.10.2006); evil dick, forum 7 (1.10.2006).

86 Pek, forum 3 (9.10.2006).

87 Cinik, forum 12 (12.4.2006).

Through our analysis we came to the conclusion that personal experience plays a major role in one's perception and opinion of the institution. For some, personal experience is in fact all that matters.<sup>88</sup>

### **Solutions**

#### *i) Quantity*

As for solutions, there is not much ingenuity. One of the first things one notices scrolling through these forums is that suggested 'solutions' are not nearly as numerous as the located 'problems'. In fact, solutions are even rarer than responsible agents, making them the thinnest group of them all. This may reflect a certain characteristic of a 'forum man' or Internet posting, namely that the Internet forum is mostly providing a vent to grumpy people who are not really interested in providing solutions, being constructive or having anything solved, but mostly need to let off steam and to channel social frustrations from home or work. On the other hand, it may tell us something about the nature of the object or topic, namely that repairing the justice system is a complex issue wherein problems are much more easily recognised than solutions. Last but not least – and this is also one of the most striking differences between (analysing) newspaper articles and free-flowing speech-acts of this sort – forum writings do not follow any rules of structure but very much resemble a live discussion, and so utterances often end where a journalist's story, presenting a case, definitely would not.

#### *ii) Contents*

After a pilot coding, we distilled three major categories plus one encompassing all the rest; those three main solutions being: the abolishment of a judge's permanent office, dismissal, and sanctioning or penalising of the judge (by reducing his salary or imposing a fine).

As to the abolishment of the judicial permanent office: this is not really the posters' innovation, as the Slovenian National Party (SNS) has had recurring dreams of this sort for quite awhile, but the idea resonates with the general public whenever it is voiced. One member even posted the entire petition to abolish the permanent judicial office, claiming that this is needed 'to ensure the functioning of the rule of law in the area of judiciary; to guarantee a just and fair trial, that by exerting influence on the work they perform, an equal treatment of all parties is acquired; and to prevent discrimination, nepotism,

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88 'only a person who experiences the non-functioning of our judiciary on his back can know what is going on [in there and how it is going – N.P.]' Martin Krpan, forum 1 (28.9.2008).

clientelism and all types of corruption'.<sup>89</sup> Many believe this is *the* solution to the current problem of the judiciary. They believe, for example, it will accomplish one the following: (a) teach them a lesson, make them less arrogant, or (b) stimulate the judges to work more (as they can lose their job otherwise), or (c) clear the judiciary of rotten apples (bad judges). Those advocating this solution are always the one holding the most negative views of the current judiciary.

Although this is the most radical (and systemic) solution proposed, it takes second place to the sanctioning solution, i.e. the idea that judges should be sanctioned or penalised for their 'bad' work,<sup>90</sup> which could be considered as another example of the above mentioned popular punitiveness. However, it must be noted that the two solutions are not mutually exclusive: sometimes the same authors who propose the abolishment of the permanent office advocate some type of penalising as well. The proposed sanctions or penalties focused on the reduction of salary, on fining judges, and on reducing or cutting their holidays completely.

Dismissal of 'bad' judges is another solution, which is supposed to improve the overall situation. It is sometimes proposed as an automatic response to the judge who does not show certain qualities or results within a designated time period.<sup>91</sup> Some others seem to believe that dismissal should be particularly demoting, as the judges should be made 'to sweep the streets' after being 'thrown out' of the judiciary.<sup>92</sup>

Among other ideas, one finds (from the most to the least frequent) the idea that judges be paid according to their effectiveness; the idea that additional education or training might help; that changes of law might be the answer or else changes in people's litigious mentality; salary increases; working in shifts; vigilantism or taking the matters into one's own hands; and throwing them into the open market (to market forces), where they will have to prove themselves or perish.

## CONCLUSION

Public opinion is said to be a very important object of social control.<sup>93</sup> In democratic societies this control is (has to be) admittedly subtler – freedom

89 marjan\_1, forum 1 (20.5.2008).

90 This 'solution' is often voiced with regards to the Strasbourg court's rulings, demanding the state pay the plaintiff damages for (usually in our case) unreasonable delay in his trial before the national courts.

91 Kačon, forum 1 (9.6.2008).

92 Martin Krpan, forum 1 (11.6.2008).

93 Kanduč (2004), 12; cf. Chomsky (2003), 85–112; Melossi (1990), 172–83.

of speech and opinion is, after all, one of the pillars of modern democracies – yet a social control nonetheless. On the other hand, through mechanisms of formal and informal social control, the less popular opinions are silenced, ignored or punished. Social representations comprising ‘public opinion’ are thus not only manipulated in the sense of being ‘manufactured’ or produced by endorsing the popular views and silencing the unpopular ones, but also manipulated in the sense of being used, instrumentally, to achieve certain goals. As such, they are a favourite tool of populist politicians who follow their own agenda and use ‘public opinion’ to legitimise their own interests. Although it is important, for various reasons already stated, for the judiciary itself to be aware of the social representations of judiciary, nowhere in this study is the populist stance that such representations or public opinion ought to be the only or even the most important yardstick, according to which the value of the judiciary should be measured and advocated.

Our analysis of Internet forums revealed two major groups and their forms of representing: one, holding a fairly good opinion of (or trust in) the courts, and the other, mistrusting the courts profoundly. Those who seem to hold good opinions of the courts tend to emphasise the illegitimate pressures of politicians on the justice system, to stress judicial independence and to view mostly politics and politicians as ‘the problem’, not the courts or judges themselves. In response to the critics, they resort to citing the law, asserting that what the courts do is determined and constrained by law, and so, if anything, laws need changing and amending. They also use a *tu quoque* argument, saying that if the judges are to be paid according to their successful performance then the other side – the MPs, too, should be paid according to their successful performance (presence at the parliamentary sessions, number of successful interpellations, etc.). Moreover, they claim that the idea of being paid on the basis of successful work (either in quantity of cases solved or quality of judgements, if this is understood as judgements which are not overturned on appeal) acts against the objectivity of the trial, as some trials are easy while others are more complex and difficult. Faced with the very real problem of backlogs, they emphasise that the backlogs have been significantly diminishing in the last few years (citing the official statement of the then Minister of Justice), which they interpret as the fact that the majority of judges regularly had to supersede ‘the norm’<sup>94</sup> without being paid extra. Some expose the negative/manipulative influence of the media and populist politicians, which are set against the judiciary. They often see a large part of the problem in the litigious nature of people who file lawsuits against each other for the tiniest things, such as 10 cm of land.

94 The so-called norm is roughly a certain amount of cases each judge has to solve monthly to satisfy the basic requirements of productivity.

Those who distrust judiciary, on the other hand, convey their negative representations of the court in one or several of the following ways: by *ad hominem* arguments, i.e. by calling judges names (communist, Balkan gang); by critically describing the judgements (unjust, predetermined by politics, wrong); or by describing their judging in a derogatory way (lazy, sloppy, without knowledge, unprofessional, biased, Balkan<sup>95</sup>). Arguments to support their assertion or ‘proofs’ are rarely offered outside the personal (negative) experience – which is, in fact, according to some the only valid criterion for argumentation – or hearsay from one’s friends and relatives. When confronted with legally substantiated arguments from their fellow forum posters, which disprove what they were saying, they quickly resorted to *ad hominem* arguments against the posters themselves. Needless to say that in these cases the possibility of persuading or changing one’s view seems futile. Often, even in cases where there is no mention of any personal experience with the court, the views cannot be pinned down to anything but the general resentment towards judges, a further support for their cause not being offered nor deemed necessary purely because the judges are ‘arrogant’, ‘consider themselves better than the rest’,<sup>96</sup> above ‘regular folk and untouchable’,<sup>97</sup> a ‘special class within Slovenian society, privileged class, aristocracy’,<sup>98</sup> wanting to become an ‘elite among professions’,<sup>99</sup> ‘serious and deeply tired masks’,<sup>100</sup> ‘semi-gods’,<sup>101</sup> etc. Often this perception of arrogance and superiority is extended to other legal professions, which are mistrusted ‘by association’.

What is also interesting is that when people ‘abstractly’ discuss a case, i.e. they have no personal experience or stake in it, it is usually a criminal-law case; when they discuss some concrete civil-law case, however, it often has something to do with them. The more general or widespread fascination with criminal-law cases can be understood in terms of a special appeal that criminal law holds in the sense of its inherent morality, engagement of emotions and the promise of blood and punishment. Criminal law displays and operates with a

95 The term ‘Balkans’ originally denoted no more than a mountain range (ancient Haemus). In the late nineteenth century a handful of geographers, according to Mazower (2000, xxvi), stretched the word to refer to the entire region, ‘mostly on the erroneous assumption that the Balkan range ran right across the peninsula of southeastern Europe, much as the Pyrenees demarcated the top of Iberian’. In the eighteenth century the term ‘Turkey in Europe’ was more commonly used for this region; this term, however, became obsolete with the fall of Ottoman Empire and the emergence of many new states in its lieu. The term ‘Balkans’ was popularised and became common after 1912. Apparently the term was loaded with negative connotations of violence, savagery and primitivism from the very beginning (*idem*, at xxvii) – unflattering images that persist to this day. In Slovenia, the term ‘Balkan’ (*balkanski*) as an adjective seems these days to be more commonly used either pejoratively – to denote something primitive, sloppy – or else more benevolently – to describe something that is done with a slow pace yet without pedantic, strict compliance with the rules, perhaps a bit off the mark but still in the vicinity of what one wanted.

96 Focker, forum 7 (8.3.2006); jakec taprvi, forum 21 (15.11.2008).

97 Marjan\_1, forum 10 (20.2.2007).

98 Marjan\_1, forum 1 (9.6.2008).

99 Krempeljcek, forum 1 (8.4.2008).

100 VG, forum 7 (10.3.2006).

101 Kornilov, forum 5 (2.3.2006).

certain symbolism and rhetoric that captures people's imagination. As criminalisation is often seen as a tool for the 'correction' of some social anomaly,<sup>102</sup> the criminal law as such provides a great litmus test of societal values, tolerances and insecurities. More than other types of law, it addresses our values and emotions, which is also why the perceived 'wrong' criminal-law judgements cause a much bigger stir than the perceived 'wrong' civil-law judgements. Criminal courts are for this reason often subjected to additional scrutiny and criticism, which the judges dealing with civil cases could avoid.

Legal knowledge seems to increase confidence in the judiciary and their work,<sup>103</sup> while those who suffer from the lack of legal knowledge or miscomprehension of certain legal procedures and legal concepts (and the rationale behind them) tend to negatively evaluate judicial work. The study also revealed the emotionality of the topic of judging, justice and judiciary, which is seen not only from emotive words, *ad hominem* argumentation and victimisation language used but also from the punctuation (exclamation marks, often used in conjunction with question marks) and selected graphics (smileys). Personal experience, if negative, significantly decreases trust. Moreover, the 'knowledge' gained through personal experience seems to be quite unshakeable, as are the prejudices, such as the one against female judges. It is perhaps surprising that red-black division is still going strong, even two decades after the 'turn'.<sup>104</sup> The analysis further revealed that several other extra-judicial factors – such as social and economic insecurities, personal resentments, etc. – are also not to be neglected in the process of shaping the image of the courts.

The study analysed Internet forum discussion, which has a particular characteristic. It is an unstructured text, much like spoken dialogues, and, as such, more difficult to process than a text that is structured, such as a newspaper article. One of the common frustrations of researchers of Internet forums is that 'on-line discussions often tend to become repetitive' as 'people frequently do not seem to take the trouble to properly read what has already been discussed'.<sup>105</sup> They are also wrought with grammatical and spelling mistakes, which made the literal translation somewhat difficult. With the chosen method and database also come certain limitations of the study. Due to some already mentioned peculiarities of the people, conversing more or less

102 People widely perceive crime (despite being a very 'normal' social phenomenon) as an anomaly, a deviation from 'normality'.

103 As revealed by the code *IgI*.

104 This may be due to the fact that a lot of forum writers do not seem to believe there is any discontinuity with the past regime in the judicial system. However, this belief may have been brought about (or deepened) by the situation in Slovenia at the time. During this time some post-war mass graves (*povojna grobišča*) were discovered and became a 'hot topic' that stirred a lot of emotion, touching upon the nation's history and national identity (or self-image) as well as current politics. It could be that these debates and public polarisation spilled over into the debates on the judiciary much more than it was explicitly acknowledged, particularly as there were at this time a few high-profile cases pertaining to the issue of post-war murders and collaboration pending.

105 Tigelaar (2008), iii.

anonymously on Internet forums, one could perhaps argue that they are not a representative segment of the overall population or that their thoughts are exaggerated due to the medium and perceived anonymity. Although living, participating and observing this culture for years, I believe that these representations are reflecting the reality quite well; a mixed method would probably be best to get the truest of social representations. Moreover, as the forums are not more than 3 years old (the older forums seem to have been removed or archived), the analysis could not be a longitudinal one, which consequently means that the obtained results can tell us something about the social representations of Slovenian judiciary as they stand (or rather flow – considering their dynamic character) now, and something about their structure; they do not and cannot, however, explain how this (mis)trust came about or how it developed through time.

It is clear that the Communist past and transition period(s), including the accession to the EU and recent economic performance, did leave their mark. Regardless of how small a country may be, no account of contemporary trust in post-communist countries can neglect the impact and legacy of Communism.<sup>106</sup> And regardless of the size of a country, no one lives in isolation. Economic recession is felt in Slovenia as it is in the rest of Europe, Strasbourg cases that fine Slovenia for its judicial (in)activity do make waves at home and do have an impact on the domestic image of Slovenian judiciary. The re-evaluation of collective memory of WWII and the subsequent political regime, as well as past and present expectations (of a freer, richer, better future), are all channelled through and into the representation of the work of judges. This is not to say, however, that nothing can be done on the part of judiciary to improve its image. For one, the enhanced communication between the court and the public could help restore some faith in the courts and their personnel. By opening channels of communication, the judiciary may be perceived as less standoffish and less arrogant. Along the way, this can improve people's knowledge about the functioning of the legal (particularly, the justice) system, which – as we have seen – is very likely to tilt the scale in favour of the judiciary. Last but not least it has to be emphasised that, although the public perception of the courts as functioning well – which fuels social trust therein – is of course important, what is more important is that they do, in fact, function well. The well-functioning of the courts, however, does not mean merely the efficiency of the judicial system but also the upholding of the rule-of-law requirements of the independence of the judiciary and the impartiality of judges. It is only within this framework, as CEPEJ concludes, 'that policy makers and judicial practitioners have the duty to work towards always more efficiency and quality of their judicial systems'.<sup>107</sup> And it is only within this framework, we could add, that the judiciary has the duty to work towards improving its image and its social representation.

106 A view that is shared with Mishler and Rose (1997), 435.

107 CEPEJ (2008), 252.

## Bibliography

- Almond, Paul, 'Public perceptions of work-related fatality cases: Reaching the outer limits of "populist punitiveness"', *British Journal of Criminology*, 48, 2008, 448–67.
- Bauer, Martin W. and Gaskell, George, 'Towards a Paradigm for Research on Social Representations', *Journal for the Theory of Social Behaviour*, 29 (2), 1999, 163–86.
- Breakwell, Glynis M., *The Psychology of Risk*, Cambridge: CUP, 2007.
- Castelfranchi, Christiano and Falcone, Rino, 'Social Trust: A Cognitive Approach'. Istituto di Scienze e Technologie della Cognizione (Roma-Padova-Trento, 2001), 11 Nov. 2008 <[http://www.istc.cnr.it/doc/61a\\_360p\\_Trust-libroKluwer.pdf](http://www.istc.cnr.it/doc/61a_360p_Trust-libroKluwer.pdf)>
- CEPEJ (The European Commission for the Efficiency of Justice). (2008). *European judicial systems. Edition 2008 (data 2006): Efficiency and quality of justice*. Belgium: Council of Europe.
- Chomsky, Noam, *Le profit avant l'homme*, Paris: Fayard, 2003.
- Demetriou, Christina and Silke, Andrew, 'A Criminological Internet "Sting"', *British Journal of Criminology*, 43, 2003, 213–22.
- Dimitrijević, Vojin, 'The "Public Relations" Problems of International Criminal Courts', *Justice in Transition*, special edition, Belgrade: Center for Transitional Processes, 2006, 67–74.
- Doise, Willem, 'Human Rights Studied as Normative Social Representations'. In K. Deaux and G. Philogène, eds, *Representations of the Social*, Oxford: Blackwell Publishers, 2001, 96–112.
- Duveen, Gerard and Lloyd, Barbara, eds, *Social Representations and the Development of Knowledge*, Cambridge: CUP, 1990.
- Eurobarometer 70* (autumn 2008). European Commission. 15 Jan. 2009. <<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/2031&format=HTML&aged=0&language=EN&guiLanguage=en>>
- Festinger, L., Pepitone, A. and Newcomb, T., 'Some Consequences of Deindividuation in a Group', *Journal of Social Behaviour and Personality*, 10, 1952, 265–72.
- Gosztonyi, Geza, 'Crime as the cost of transition – a social policy perspective'. In Z. Kanduč, ed., *Kriminaliteta, družbeno nadzorstvo in postmodernizacijski procesi*, Ljubljana: Inštitut za kriminologijo pri Pravni fakulteti, 2005, 263–76.
- Held, David, *Modeli demokracije*, Ljubljana: KRT, 1989.
- Ishiyama Smithey, Shannon and Ishiyama, John, 'Judicious choices: designing courts in post-communist politics', *Communist and Post-Communist Studies*, 33, 2000, 163–82.
- Jodelet, Denise, *Madness and Social Representations*, London: Harvester, 1991.
- Jovchelovitch, Sandra, *Knowledge in Context: Representations, Community and Culture*, London: Routledge, 2007.
- JUSTIS (2008). *Newsletter*, no. 1. 30 March 2009 <[www.eujustis.eu](http://www.eujustis.eu)>.
- Kanduč, Zoran, 'Postmoderno stanje in družbeno nadzorstvo', *Revija za kriminalistiko in kriminologijo*, 55 (1), 2004, 3–21.
- Kovač, Bogomir, 'Globalizacija, migracijski tokovi in ekonomski razvoj na obrobju slovenskih migracijskih dilem'. In M. Pajnik and S. Zavratnik Zimic, eds., *Migracije – Globalizacija – Evropska Unija*, Ljubljana: Mirovni inštitut, 2003, 213–55.
- Letki, Natalia, 'Investigating the Roots of Civic Morality: Trust, Social Capital, and Institutional Performance' (conference paper), 2005. 2 Feb. 2009. <<http://www.qog.pol.gu.se/conferences/november2005/papers/Letki.pdf>>.
- Letki, Natalia and Evans, Geoffrey, 'Endogenizing Social Trust: Democratisation in East-Central Europe', *B.J.Pol. S.* 35 (2005): 515–29.
- Mazower, Mark, *The Balkans: A Short History* (New York: The Modern Library, 2000).
- Meiklejohn Terry, Sarah, 'Thinking About Post-Communist Transitions: How Different Are They?', *Slavic Review* 52 (2) (1993): 333–37.
- Melossi, Dario, 'State and social control à la fin de siècle' in R. Bergalli and C. Sumner (eds), *Social Control and Political Order* (London: Sage, 1997), 52–74.

- Ministry of Justice, 'Pregled dela ob drugi obletnici projekta Lukenda', 2007. 2 Feb. 2009 <<http://www.mp.gov.si/nc/si/splosno/cns/novica/article/11999/5601/?type=98>>.
- Mishler, William and Rose, Richard, 'Trust, Distrust and Scepticism: Popular Evaluations of Civil and Political Institutions in Post-Communist Societies', *The Journal of Politics*, 59 (2) (1997): 418–51.
- Moscovici, Serge, *La psychanalyse: son image et son public* (Paris: Presses Universitaires de France, 1961).
- Moscovici, Serge, 'Foreword' in C. Herzlich (ed.), *Health and illness: A social psychological analysis* (London/New York: Academic Press, 1973), ix-xiv.
- Moscovici, Serge, 'The phenomenon of social representations', in R.M. Farr and S. Moscovici (eds.), *Social Representations* (Cambridge University Press, 1984), 3–69.
- Moscovici, Serge, 'The history and actuality of social representations' in U. Flick (ed.), *The Psychology of the Social* (Cambridge University Press, 1998), 209–47.
- Moscovici, Serge, *Social Representations: Explorations in Social Psychology* (ed. by G. Duveen), (Cambridge: Polity Press, 2000).
- Peršak, Nina, 'Učinkovitost sodišča v luči strukturnih in subjektivnih določilnic posameznikove delovne uspešnosti' in M. Bošnjak (ed.), *Potek kazenskih postopkov v Sloveniji* (Ljubljana: Pravna praksa, 2005) 241–51).
- Rose-Ackerman, Susan, 'Trust and Honesty in Post-Socialist Societies' *Kyklos* 54 (2–3) (2001): 415–44.
- Testen, Franc, 'Govor of dnevu pravosodja', 2008. 30 Nov. 2008 <[http://www.sodisce.si/vsrs/default.asp?k=sporocila\\_za\\_javnost&sgroup=1&spid=767](http://www.sodisce.si/vsrs/default.asp?k=sporocila_za_javnost&sgroup=1&spid=767)>.
- Tigelaar, Almer S, *Automatic Discussion Summarization: A Study of Internet Fora* (Master's Thesis), The Netherlands, University of Twente (2008). 18 June 2009. <<http://essay.utwente.nl/58128/1/AST-2008-07-27-Thesis-Final.pdf>>.
- Van den Bos, Kees, Wilke, Henk A.M. and Lind, E.Allan, 'When do we need procedural fairness? The role of trust in authority', *Journal of Personality and Social Psychology* 75 (6) (1998): 1449–58.
- 24ur, 'Zaostanke bo odpravil Lukenda' (2008). 25 January 2009. <<http://24ur.com/novice/slovenija/zaostanke-bo-odpravil-lukenda.html>>.