

CERGE-EI/GDN RESEARCH COMPETITION

Principal researcher: Katarina Zajc

Researcher: Peter Gražl

TITLE: *Trials and Settlements in the Post-Socialist World: An Empirical Investigation of Modes of Adjudication and Adjudicatory Outcomes in Slovenian Courts*

NON-TECHNICAL SUMMARY

Shedding light on the functioning of post-socialist legal institutions, this paper empirically examines the patterns in, and court-level determinants of, modes of civil case disposition in Slovenia. The analysis advances the existing empirical literature on court activity, which has thus far offered very little insight into the operation of courts outside of the common-law system and in particular in the post-socialist world-despite the agreed-upon central importance of courts in protecting property and contractual rights in the region.

In contrast to the conclusions drawn on data from common-law jurisdictions, our findings suggest that,

- trial-based judgments constitute a sizeable proportion of civil case dispositions in Slovenian local courts
- trial-based judgments are not 'vanishing'.
- other frequently observed modes of civil case disposition during the period of our study are default judgments, abandonments (adjournments sine die), and in-court settlements. Among these, it is only the proportion of in-court settlements that exhibits a slight increasing trend, a pattern that likely reflects a gradual increase in the availability of court-sponsored mediation.

The article then examines the effect of court resources and the demand for court services on the incidence of trial-based judgments versus in-court settlements—the two most prevalent, and in terms of resource needs diametrically opposite, modes of civil case disposition. Using both a narrow and a broad definition of in-court ‘settlement’, we find that, all else equal, that an increase in the volume of all case filings per judge tilts the balance between in-court settlements versus trial-based judgments toward the former (rather than the latter) mode of civil case disposition. This result implies that court resources and the demand for court services may affect not only total court output (i.e. number of resolved cases), as previously established in the literature (see, e.g., [Beenstock and Haitovsky, 2004](#), [Mitsopoulos and Pelagidis, 2007](#) and [Dimitrova-Grajzl et al., 2012a](#)), but also how cases are disposed of. Specifically, our findings suggest that additional resources made available to resource-starved courts can help limit the extent to which an increase in the incidence of settlements is merely a socially sub-optimal response of disputing parties and adjudicators to an increase in court caseload pressure. Because different modes of civil case disposition entail different social and private costs, our analysis points to a new set of considerations that need to be taken into account when contemplating reform of a country’s judicial system. A useful extension of our research would be to assess whether, and if so to what extent, the results about Slovenian courts apply to courts in other post-socialist countries and beyond.

C. KEYWORDS: Case disposition, Civil disputes, In-court settlements, Trials, Court resources