



# ESELS

EUROPEAN SOCIETY FOR  
EMPIRICAL LEGAL STUDIES

## Panel Session 1.3 - COURTS AND BEHAVIOUR

## Merit in judicial appointments: an empirical approach

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## Judicial Selection Under Scrutiny (JUDGMERIT) Research Project –[www.judgmerit.si](http://www.judgmerit.si)

- Three year project funded by the national research agency (ARIS J5-4583), currently in the second year
- Work in progress!
- 2 principal outputs planned: **article on methodological approach** and monograph presenting the results



## WHY STUDY MERIT IN JUDICIAL APPOINTMENTS?

- Judicial independence v. politization
- Growing body of case law and soft law (EU, Council of Europe)
- BUT: despite strong commitment to merit - relatively undefined



# HOW DO WE STUDY MERIT IN JUDICIAL APPOINTMENTS?

**EMPIRICALLY!**



## CASE STUDY APPROACH

- Slovenia – bound by European standards
- 2 million inhabitants, 800 judges, 3 law schools
- Judicial Council proposes (selection!), National Assembly appoints
- Judicial Council (*Sodni svet* - 11 members: 6 judges + 5 legal experts)
- transferability of findings!



## CONTEXT

PROCESS	FIELD
ACTORS IN THE PROCESS: MEMBERS OF THE JUDICIAL COUNCIL	ACTORS IN THE "JURIDICAL FIELD"/LEGAL SYSTEM:  Lawyers / legal professionals understood broadly: judges, law clerks, prosecutors, academia, students of law, retired lawyers



INHERENT COMPLEXITY OF THE  
CONTEXT, INEVITABLE METHOD  
TRIANGULATION



Method	Method application	Character of method	Context (who?)
<b>Document analysis</b>	<i>Analysis of shortlisting spreadsheets</i> <i>(Data created by actors)</i>	QUANT	Actors in the process
	<i>Analysis of JC interview recordings</i> <i>(Data gathered from actors)</i>	QUAL + QUANT	
<b>Semi-structured interviews</b>	<i>With 10-15 (former?) Judicial Council members</i>	QUAL	
<b>Conjoint survey experiment</b>	<i>200-400 respondents (legal professionals)</i>	QUANT	Actors in the field

### Conjoint survey experiment – respondent's view

#### Choose the most appropriate local criminal judge

After the state law exam, he worked the longest at a local court. His tasks covered several areas, including civil, criminal and corporate law.

Male, aged 45.

He has lectured at the Judicial Education Centre. He published 12 articles in a weekly professional periodical for lawyers; he co-authored a commentary of a statute.

He graduated from the Faculty of Law in Ljubljana with the average grade of 6.8 out of 10.

He passed the state law exam with the average grade of 6.8 out of 10.

His CV also mentions that he regularly volunteers in a senior citizens' home.

After the state law exam, she worked the longest at the state prosecution. Her tasks covered predominantly criminal law.

Female, aged 36.

She has lectured at the Judicial Education Centre. She published 12 articles in a weekly professional periodical for lawyers; he co-authored a commentary of a statute.

She graduated from the European Faculty of Law of the 'New University' with the average grade of 8.5 out of 10.

She passed the state law exam with the average grade of 6.8 out of 10.

Her CV also mentions that she is married with three children.

## (interim) conclusions

The complexity of context and variety of methods applies leads to the challenges in the interpretation (next phase of the project!)

