

## HABILITATION THESIS REVIEWER'S REPORT

### Masaryk University

<b>Faculty</b>	Faculty of Social Studies
<b>Applicant</b>	Mgr. et Mgr. Katarína Šipulová, Ph.D.
<b>Habilitation thesis</b>	Judges as Actors of Democratic Resilience
<b>Reviewer</b>	Prof. Dr. Silvia von Steinsdorff
<b>Reviewer's home unit, institution</b>	Humboldt-Universität zu Berlin, Institute of Social Sciences, Comparative Democracy Research and the Political Systems of Eastern Europe

### 1. The Candidate

I highly esteem Dr. Katarína Šipulová as a well-established, internationally renowned colleague in the field of political-legal studies. Her academic oeuvre is extremely impressive, both in its thematic breadth and analytical depth. It speaks for itself, that the six published contributions submitted for her habilitation thesis cover only one aspect of her abundant publications on courts and judges in CEE countries and beyond. Against this background, I had high expectations when reading the thesis – and they were not disappointed.

### 2. Conceptual Framework

The thesis starts with a very substantial “Introduction” (30 pages), in which the candidate explains the conceptual framework comprising the six individual publications. At the very beginning, she formulates the guiding question which informs all parts of the thesis: “What role do courts and judges play in the resilience and protection of democratic regimes?” (p.5). The answer to this broad question is developed over the following 200 pages. It focuses on three consecutive stages of the ‘lifecycle’ of democracy, highlighting the role of the judiciary during democratic transition (publications I and II), during the fight against democratic backsliding (III and IV), and finally in cases of (potential) democratic recovery. At the same time, Katarína Šipulová offers at least two additional conceptual dimensions recurring in her work: She distinguishes “between the roles of judges as individual and judiciaries as collective actors and (...) the interaction between systemic and relational perspectives, looking at the interplay and congruency between formal and informal institutions” (p. 15). Particularly the latter dimension can easily be further broken down into different aspects, such as the ‘classical’ debate between attitudinal, institutional and normative explanations of judicial behaviour, or the complex relation between formality and informality in any public arena, stretching from (supportive) complementarity between both principles to (detrimental) undermining of formality by concurring informal institutions and/or practices.

While it is a general strength of the thesis that it engages with these multiple approaches and levels of analysis, the simultaneous and not always clearly specified use of different concepts

makes it sometimes difficult to pinpoint the core theoretical argument(s) of the single articles, let alone of the thesis as a whole. The author convincingly claims, that a combination of different conceptional positions sometimes offers a better explanation than a mono-dimensional approach. One example for this multi-perspective approach is the attempt to bridge the gap between the “relational and ideational sources of judicial behaviour” (p. 17) on the one hand and strategic or attitudinal explanations on the other. It is less clear, though, how this conceptual synthesis would contribute to a better understanding of the described and analysed phenomena of judicial protest.

The introduction clearly defines the gap(s) in the research literature the thesis is supposed to fill. Katarína Šipulová states that “almost no attention has been paid to judges’ agency, legitimacy, or the effectiveness of judicial resistance (...), nor to the long-term effect of the resistance on the quality of democratic norms and the resilience of democratic institutions” (pp. 7-8). The well reflected (and explained) selection of the six single publications assembled in the thesis is perfectly fitted to address this shortcoming with a particular focus on the situation of judiciaries and individual judges in Central Eastern Europe. It is an extremely valuable and competent contribution to a better understanding of the complicated situation and the – partly unintended – consequences of a judiciary pro-actively engaging in politics, be it for the sake of transition to democracy, protest against democratic decay, or the re-establishment of democracy after episodes of autocratisation. Katarína Šipulová can convincingly show that activist judges may easily find themselves “between a rock and a hard place” (as the title of article II stipulates) in all phases of the ‘lifecyle’ of democracy.

### **3. Single Contributions**

All six ‘chapters’ of the thesis have been published in high-quality outlets between 2021 and 2025, mostly in peer-reviewed international journals, ranging from Europe-Asia Studies to Law&Policy and the German Law Journal. The huge academic productivity of the candidate is remarkable: She succeeded in publishing six comprehensive articles/chapters on the topic of her thesis, each based on genuine empirical work, in less than five years. In addition, the impressive quality *and* range of publication outlets are an achievement in itself which only few scholars can claim. They also show the broad and interdisciplinary audience Katarína Šipulová is able to address with her work. She is the single author of two publications and has co-authored the other four. In the introduction to the thesis, she meticulously documents her individual contribution to each of the co-authored papers.

The research focus of each single contribution is quite specific, but they all share an overarching theme: the importance of the judiciary in any democratic regime, and the various ways in which courts as well as (individual) judges can (or cannot) impact the trajectory of (de)democratisation in different contexts and at different stages of the process. All publications share the same differentiated understanding of the complex logic behind judicial decision-making and professional self-perceptions of judges. While Katarína Šipulová clearly defines judges (and/or courts) as political actors and consequently focuses on the extra-legal factors which inform their actions, she nevertheless acknowledges that they function within a particular setting shaped by legal norms and a specific professional context. This approach, which is still not universally accepted in the social sciences, results in multi-faceted and nuanced findings. All in all, the main part of the thesis meets the proclaimed aim of filling the research gap identified in the introduction in a very comprehensive and convincing way.

The main contribution of the work presented in this habilitation thesis lies in a substantial enhancement of empirical knowledge about the complex relation between the judiciary and (de-)democratic transitions at different stages and in different forms. As the candidate aptly sums up at the end of her thesis, “(t)he judicial approaches to the transitional agenda (...) depend, aside from institutional design, on broader models of judges’ selection, governance structure, historical contingencies and personal experience with nondemocratic regimes” (p. 222). It is the huge empirical value added of this thesis that it consecutively analyses all these factors in six independent studies. The level of generalisability of the findings varies, from broader comparative designs (studies III, IV and V) to more case-specific in-depth studies (I, II and VI).

All studies are based on sound qualitative empirical research methods, mainly focusing on document and content analysis and/or semi-structured interviews. Some of them (particularly study I) apply demanding mixed-method designs. As the candidate suggests herself in the concluding remarks of her thesis (p. 225), in her future work, an even broader range of empirical methods, such as survey studies or quantitative content analysis based on language learning models, might even further enhance the scope of the empirical outcomes.

#### **4. Overall Assessment**

In the “Concluding remarks” of her thesis, Katarína Šipulová offers a concise and straightforward synthesis of the presented studies. It once more underlines her focus on the empirical importance of her work, finally establishing the often overlooked judiciary as a key institution in the context of transition and (de-)democratisation studies. In this regard, the author definitively succeeded in “changing the perspective” and in explaining “why judiciaries (i.e. courts as whole and judges as individuals) are, in fact, crucial first-order actors of democratic resilience”, whose role “in democratic political systems far transcends their traditional decision-making role” (p. 220).

The candidate also briefly reflects on the “theoretical takeaways” (p. 225) of her thesis. She mentions the preconditions under which judges can act as “democratic guardians” (p. 223) – and, even more importantly, the limitations to this role. She also hints at the theoretical dimension of the “phenomenon of judicial resistance” (p. 222), and she claims the need for “a reconceptualisation of the limitations of judicial independence and its repercussions on the theory of separation of powers, judicial independence and its legitimacy” (p. 223). While one can certainly find some fruitful attempts at conceptualising these aspects throughout the individual studies, they do not result in a thorough and systematic theoretical reflection. Perhaps Katarína Šipulová could put more emphasis on this side of her tremendously productive empirical work in the future.

Notwithstanding these minor critical remarks, which are mainly meant as constructive suggestions for further projects, Katarína Šipulová’s habilitation thesis is a highly impressive academic work which merits highest recognition and praise. I do congratulate the candidate for this brilliant thesis and urge the committee to unconditionally accept it.

**Reviewer's questions for the habilitation thesis defence** (number of questions up to the reviewer)

1. Most of the empirical work of your thesis focuses on one or several Central Eastern European countries. To which extent are these findings generalisable beyond this region with its particular post-socialist heritage and other shared experiences, such as similar trajectories of democratic transition in the early 1990s or the dominant influence of the European Union?
2. Studies III and IV of your thesis highlight the extra-judicial activities of judges protesting against and trying to resist democratic backsliding. How do you assess the possible impact of adjudication, i.e., the 'classical' form of judicial activity, in resisting executive overreach and other forms of autocratisation? How could this be analysed and assessed?
3. In your concluding remarks, you mention – among other factors – the possible impact of the institutional design of the judiciary on its resilience in times of democratic backsliding. What do you mean by this – and how could it be studied?

**Conclusion**

The habilitation thesis entitled “Judges as Actors of Democratic Resilience” by Mgr. et Mgr. Katarína Šípulová, Ph.D., **fulfils** requirements expected of a habilitation thesis in the field of Political Science.

Date: 15.11.2025

Signature:

