

## ***Project Proposal II***

### ***AN EMPIRICAL INVESTIGATION OF JUDICIAL INDEPENDENCE IN TURKEY***

In this project, I measure judicial independence in Turkey. The aim is to empirically investigate the behavioral characteristics of judicial independence. To this aim, I include political variables to my machine learning model to assess the extent to which these factors influence judicial behavior. Using a unique data at the level of both judges and the court, I estimate a series of logistic regression models under different scenarios. Thus, I aim to reveal if the Turkish Constitutional Court (TCC) and judges are politicized, if constitutional review has an ideological bias, and if the judiciary is not independent.

#### ***Data***

I use two different datasets including 419 annulment actions between 1984 and 2014. An action can include more than one decision. This is because each petition might challenge more than one article of the same law and each article has to be reviewed according to the constitution. The first dataset (*dataset1*) includes the vote of each judge at every voting for articles and consists of 31.556 votes. The second dataset (*dataset2*) consists of 2.439 rulings of the court. Variables in Table 1, which are extracted from *dataset1*, allow us to investigate the judicial decision-making process at the level of judge, whereas the ones in Table 2, which are obtained from *dataset2*, enable an analysis of constitutional review at the level of the TCC. Also, note that I use the number of judges appointed by the President in *dataset2* because I analyze decisions at the level of the court by this dataset, while the characterization of each judge appointed by the President is used in *dataset1*. As a matter of fact, I expect to obtain more significant results using those variables in Model 1 instead of using the form of these variables as in Model 2. Data regarding all the variables were gathered from the website of the TCC.

#### ***Estimation Strategy and Logistic Regression***

In order to test the political behavioral determinants of judicial independence, I regress the judges' vote and the ruling of the TCC on the political variables in Tables 2 and 3. The characterization of dependent variables enables us to empirically investigate which political variables influence the vote of judges and the court's ruling. Accordingly, in both analyses, the dependent variable takes the value of 1 if law is rescinded by judges or the court, and 0 otherwise. In other words, if the dependent variable is 1, the law under review is declared unconstitutional by judge and/or the court. If the dependent variable takes the value 0, the law under review is compatible with the Constitution of 1982. Taking into consideration the main components of political structure in Turkey, I constitute 11 explanatory variables in both models. The characterization of those variables is summarized in Tables 2 and 3. Note that I examine the effect of those variables in two groups: Polity and Presidency. As I clarified above, two main components of the political institutional setting or executive branch in Turkey are governments and the Presidents. The variables under Polity in Tables 2 and 3 represent the effect of governmental factors on the dependent variables, whereas the variables under Presidency refer to the relationship between the Presidents and constitutional review. I also use this classification as a specification strategy to estimate models under different scenarios below.

Because I have a binary output in the form of the judges' vote or the ruling of the TCC, I model the conditional probability  $\Pr(\text{vote/ruling} = 1|x) = p(x)$  as a function of  $x$ . Since the unknown parameters in the function can be estimated by maximum likelihood, I estimate the appropriate logit models. I interpret the signs of coefficients estimated in these models to explain the relationships among

variables.

Table 1. List of variables in Model 1 (*dataset1*)

Dependent variable	
Vote_of_judge	=1, if law/article is rescinded by judge; = 0 otherwise
Explanatory variables	
Polity	
Gov_structure	=1, if government consists of one party at the time of decision; = 0 otherwise
Gov_right	=1, if government is right-wing at the time of decision; = 0 otherwise
Oppos_assembly	percentage of opposition in the Assembly at the time of decision
Leg_right	=1, if law was legislated by right-wing party; = 0 otherwise
Presidency	
Petit_president	=1, if the petitioner is the President; = 0 otherwise
President_right	=1, if the President is right-wing at the time of decision; = 0 otherwise
President_ag	=1, if judge was appointed by the President Abdullah Gul; = 0 otherwise
President_ans	=1, if judge was appointed by the President Ahmet Necdet Sezer; = 0 otherwise
President_sd	=1, if judge was appointed by the President Suleyman Demirel; = 0 otherwise
President_to	=1, if judge was appointed by the President Turgut Ozal; = 0 otherwise
President_ke	=1, if judge was appointed by the President Kenan Evren; = 0 otherwise

Table 2. List of variables in Model 2 (*dataset2*)

Dependent variable	
The_ruling_of_the_TCC	=1, if law/article is rescinded by the TCC; = 0 otherwise
Explanatory variables	
Polity	
Gov_structure	=1, if government consists of one party at the time of decision; = 0 otherwise
Gov_right	=1, if government is right-wing at the time of decision; = 0 otherwise
Oppos_assembly	percentage of opposition in the Assembly at the time of decision
Leg_right	=1, if law was legislated by right-wing party; = 0 otherwise
Presidency	
Petit_president	=1, if the petitioner is the President; = 0 otherwise
President_right	=1, if the President is right-wing at the time of decision; = 0 otherwise
President_gul	number of judges appointed by the President Abdullah Gul
President_sezer	number of judges appointed by the President Ahmet Necdet Sezer
President_demirel	number of judges appointed by the President Suleyman Demirel

President\_ozal  
President\_evren

number of judges appointed by the President Turgut Ozal  
number of judges appointed by the President Kenan Evren

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