Since the late twentieth century high courts worldwide have frequently been asked to settle important policymaking issues. The empowerment of courts – regarded as “arguably one of the most significant phenomena of late twentieth and early twenty-first century” (Hirschl 2008) – has constrained the authority of elected power holders and often led to an increased political interest at controlling them. My presentation will be based on the project “Judicial (In)dependence in New Democracies. Courts, Presidents and Legislatures in Latin America and Sub-Saharan Africa” that I have been coordinating for almost three years. This is a cross-regional project that involves three countries in Africa (Benin, Madagascar and Senegal) and three in Latin America (Argentina, Chile and Paraguay). The project addresses the highest courts of these countries, those that have been empowered with constitutional review powers. The goal of the project is to assess the importance of these courts in the political system as well as their independence from the elected branches of government.

In the presentation I’ll show the advantages and the challenges of conducting cross-regional research. I’ll comment on how addressing two regions affects our research questions, and how much we learn from seeing our region with the eyes of another one. I will also refer to the challenges of doing fieldwork in two different regions with similar research questions. With these purposes I’ll present the progress that the project has done until now by concentrating on two topics: first, the measurement of formal judicial independence (that is, how judicial independence is foreseen in the constitutional rules); second, the prevalence of informal rules in the practice of the relations between courts and elected branches. I shall comment on the extent to which informal rules play a role in new, consolidating democracies, sometimes complementing but very often also undermining the meaning of new and ambitious constitutional designs.