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Evaluation of Italian Judicial System

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Abstract

Italy is frequently reprimanded by the European Court of Human Rights (ECtHR) over the amount of time it takes Italian courts to reach verdicts. As stated by President Giorgio Napolitano, European Court decisions have led to calls for an urgent intervention in order to save time and costs in Italian judicial system. Efficiency and effectiveness are key targets for managing justice in Italy. Nevertheless they are not easy to achieve. In this paper, using a Stochastic Frontier Model (SFM) we compare the Italian courts efficiency to identify strong and weak points.

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1. The justice efficiency

Since the late 1990s, the increased role of judiciaries in society and the increasing demand from taxpayers and voters, for the state to be operated more efficiently and at less of an expense (both emotional and financial) to the people, started to affect the traditional ideas and impressions of the judicial administration, its organization and its founding values. Before then, we had not given much thought as to how access to justice was organized, because it was taken for granted, that if judicial independence were guaranteed, then access to justice would also be guaranteed. Bureaucracies in general, and judicial administrations in particular, were increasingly seen as an old and monstrous machine, with much red tape and in need of much repair. Furthermore, it was often impossible for people to know who was responsible for what, which made having to go to the state with their issues time-consuming and frustrating.

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Evidence-based programming requires that programme outcomes be monitored and evaluated, in order to determine whether the programme's objectives have been achieved. It also requires that evaluation findings be reviewed and integrated into future programming and that good practices and lessons learned through the conduct of previous programmes be identified and taken into account in designing future interventions. In order to carry out all those steps, sound measuring techniques and processes and clear criteria for measuring programme outcomes are required.

The main objective of the present publication is to provide some statistical techniques useful for evaluating the efficiency of the Italian Judicial System.

Experts consider the Italian Judicial System chaotic and rather poorly managed: busy, too many transactions and high costs. According to the Bank of Italy, the inefficiency of the Italian Justice System, in economic terms, accounts for 1% of GDP. The compensation for the sluggish justice, rose from 5 million euro in 2003, to 40 million in 2008, reaching 84 million in 2011.

Italy is frequently reprimanded by the European Court of Human Rights (ECtHR) over the amount of time it takes Italian courts to reach verdicts. Furthermore, in May 2013, the ECtHR set Rome a one-year deadline to find a solution to chronic overcrowding in Italy's jails. Italian prisons are more than 15% over capacity and overcrowding is a factor in high suicide rates.

The Justice Minister Cancellieri said in the Lower House in January 2014:

"The system is struggling despite the response of the Italian judiciary, which came first in terms of productivity in the latest EU report on justice efficiency. Higher workloads (in terms of criminal and civil cases) and greater scope of action for the magistrates are at the origins of the slowness of the verdicts and fears that the overexposure of the judiciary can alter the delicate balance between powers of the State".

The minister said that Italy's courts were faced with over eight million outstanding cases in June 2013, 5.2 million civil ones and almost 3.5 million criminal ones.

As for overcrowding, she said moves to grant early release for less serious crimes and the use of alternative punishments to jail had helped reduce the prison population. She said there were 62,326 inmates on January 9, 2014 compared to 64,056 on December 4, 2013. President Giorgio Napolitano has repeatedly called for amnesties to help improve conditions in Italy's jails.

The experts agree that judicial system ought to be efficient, effective and fair, but they do not agree about the suggested way to improve it.

The Italian government is planning to cut expenses and to measure justice efficiency, according to the best practices performed by some other courts (Cook, 1982, Sciacca, 2007).

The Public Administration and Innovation Minister with the CSM Vice President signed a document to change justice governance and to evaluate magistrates observing the Best Practices Project according to CAF (Common Assessment Framework) for Justice.

In this paper we compare the 26 Italian appellate Courts using a Stochastic frontier Model in order to estimate their efficiency and to analyze the causes of deviations from the maximum efficiency.

The data (exhausted civil and criminal judgments in a year, for each of the 26 Appellate Courts) comes from Ministry of Justice official website (www.giustizia.it). The number of exhausted cases is a proxy of the output of the judicial system and it can be used to produce an annual ranking of the courts' productivity.

We compare inhomogeneous entities, therefore joining civil and criminal processes in the same analysis and using the costs for each court as a dimensional indicator could be dangerous or inappropriate. Nevertheless it is a first step in analyzing a complex phenomenon.

Another weak aspect lies in the poor consideration of contextual factors for the different courts, for which the number of occurring cases is an exogenous factor. Unfortunately, the available data only allows us to make just a summary analysis of the phenomenon and can generate misleading conclusions.

For this reason the results presented below should be interpreted as a first stage of a more complex analysis.

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