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ACCELERATING THE DELIVERY OF JUSTICE VS. BUREAUCRATIC RESISTANCE TO REFORM

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Accelerating the delivery of justice vs. bureaucratic resistance to reform

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1. Introduction

The belief that justice is an integral part of any political system that claims the name of 'democracy' is almost universal, at least in the modern era. Often summarised in popular quotes, such as the commonly attributed to William E. Gladstone maxim 'justice delayed is justice denied', the basic principles of justice are the kind of political legacy that all liberal polities seem to share. Based on and materialising principles and institutions as significant as the rule of law and the separation of powers, justice systems are called upon to play a central role in a liberal democracy. Notwithstanding the significance of the oft-required normative defence of these principles and the importance of well thought out institutional structures, any attempt to study and improve a justice system must be informed by the inevitable fact that the actual tasks that it must carry out are the responsibility of individuals and groups of individuals. This report is the result of such a study that took place in Greece, looking at two reforms in the Greek Criminal Justice System. Our goal is twofold: firstly, to study and analyse the reforms themselves and reach conclusions regarding their success in improving the administration of justice; secondly, to explore the methods employed in the context of these reforms and the reaction of the institutions and individuals influenced. This approach allows us to offer a more holistic view of reform in the justice system and provide policy recommendations for the future.

There are different views about the life of human beings in the so-called 'state of nature', a pre-social condition of human existence in which laws and justice systems are not yet established. Even if human life wouldn't be, in Thomas Hobbes' famous words, 'brutish, nasty and short' in such a state, there is little doubt that many of the basic rights widely protected today would be under constant threat. Even in John Locke's much more optimistic conception of the 'state of nature', where people live freely and as equals, individual rights are not always guaranteed. It is, therefore, reasonable for people to transfer some of their natural rights (by means of a 'social contract') to the government in order to better enjoy their lives, liberty and property. The emergence of modern liberal democracies resulted in a system of 'checks and balances' which promises to keep people safe from arbitrary interference and government oppression.

The separation of powers and the relatively recent institution that we commonly describe as the 'independent judiciary' are powerful safeguards of individual freedom and social welfare. These remarks reinforce the need to constantly reassess the structure and efficiency of the judicial sector in the light of new methodological and interpretative tools. The widespread popularity of the behavioural sciences stems from their ability to serve as powerful tools of this kind, as they offer valuable insight into the ways in which individuals and groups make decisions and act on them. This study makes extensive use of this methodology in order to evaluate the reforms in question and highlight certain important points for the policy-maker of the future.

2. The real problem

2.1 Contract enforcement and economic freedom

The effective protection of rights is one of the main components of the enjoyment of any kind of freedom. Unless we can feel safe from arbitrary arrest, threats to our life and bodily integrity, religious or political persecution etc, we cannot shape our lives as we see fit. In the same sense and context, economic freedom (and, ultimately, prosperity) is unattainable unless the rights of those who exercise their economic freedom are respected and enforced. In general, individuals and groups of individuals can take measures to avoid the infringement of their rights. For example, we often avoid dark alleys for fear of being attacked or robbed; we choose vacation destinations that are not crime-ridden; we do not bring up controversial religious issues in environments that are known to be intolerant of free religious expression; in a heated argument, we prefer to retreat even when we are convinced that we are right in order to spare ourselves a physical assault. Of course, these precautions are regrettable losses of freedom and there are good reasons to conclude that there is a failure in terms of rule of law if people are commonly required to restrain themselves from fully exercising their rights. However, most people would agree that a degree of insecurity is inevitable even in the most established liberal democracies and, all things considered, minimising the risk of a more severe infringement of one's rights is a reasonable approach.

Economic freedom is slightly different. Those who are most active in this area are normally required to assume a certain amount of risk by signing contracts. The very notion of a contractual arrangement embodies the idea that the other party may not fulfil their obligations, due to inability, unwillingness or fraud. However, the enforcement of contracts is a necessary condition for any such arrangement: if people knew that there is a high probability that the contract they signed will not be enforced if not respected, they would not enter any kind of agreement. This is, of course, catastrophic for economic growth, prosperity and personal/social welfare. Countries that have established a more efficient judiciary (i.e. countries in which courts can effectively enforce contractual obligations) have more developed credit markets and a higher level of development overall.[1] An efficient judicial system can improve the business environment, foster innovation, attract foreign direct investment and secure tax revenues.[2] Generally speaking,

1 Dam, Kenneth W. 2006. "The Judiciary and Economic Development." John M. Olin Law & Economics Working Paper 287 (Second Series), University of Chicago Law School, Chicago.

2 Esposito, Gianluca, Sergi Lanau and Sebastiaan Pompe. 2014. "Judicial System Reform in Italy: A Key to Growth." IMF

there is strong evidence that individuals and corporations are much more willing to invest in a country when they are confident that the courts will respond quickly and efficiently if a contract needs to be enforced by the judiciary.[3]

It must be noted that a failure to enforce contracts is not necessarily the result of bad or inadequate legislation. Even where the relevant legislation is in place, an inefficient judicial system can cancel them out in practice. A study of the transitioning economies of Eastern Europe and the former Soviet Union between 1992 and 1998 reveals that reforms in corporate and bankruptcy laws had little effect on the economy and the improvement of the financial institutions of these countries. On the contrary, good results started to emerge when their legal institutions became more efficient.[4] At this point, it must also be clear that, in the context of this study, efficiency is taken in its broad sense. While a well-trained and adequate personnel is essential for the smooth functioning of courts and the swift resolution of conflicts and enforcement of contracts, a swelled-up and expensive judiciary would be a considerable burden on the economy, especially in countries with fiscal problems, as is the case in Greece at this time. Ideally, contract enforcement and litigation must become much more efficient without increasing the cost of the judicial sector.

2.2 Delays in justice

Following up on the preceding discussion of the effect of delays in the administration of justice on contract enforcement and the economy in general, it is important to provide a brief overview of the overall significance of resolving disputes in a timely manner. Nowhere is this significance more evident than in the jurisprudence of the European Court of Human Rights ('the Court'), where the timely response to criminal and civil lawsuits is part of the right to a fair trial as described in article 6 of the European Convention of Human Rights:

Article 6: Right to a Fair Trial

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law. 3. Everyone charged with a criminal offence has the following minimum rights: (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him; (b) to have adequate time and facilities for the preparation of his defence; (c) to defend himself in person or through legal assistance of

Working Paper 14/32, International Monetary Fund, Washington, DC.

3 World Bank. 2004. World Development Report 2005: A Better Investment Climate for Everyone. New York: Oxford University Press.

4 Pistor, Katharina, Martin Raiser and Stanislaw Gelfer. 2000. "Law and Finance in Transition Economies." Economics of Transition 8 (2): 325–68.

his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require; (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him; (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

In a leading case, the Court explained that a holistic approach to this right is required: '*Article 6 ... enunciates rights which are distinct but stem from the same basic idea and which, taken together, make up a single right*'. So, the right to have access to a court is complimented by '*guarantees laid down ... as regards both the organisation and composition of the court, and the conduct of the proceedings. In sum, the whole makes up the right to a fair hearing.*'[5] Avoiding excessive delays in the administration of justice is one of these guarantees: "in requiring cases to be heard within a "reasonable time", the Convention underlines the importance of administering justice without delays which might jeopardise its effectiveness and credibility'.[6]

The excessive length of judicial proceedings is a common phenomenon in Europe. The Court has issued a large number of judgments regarding delays in the administration of justice, which, since 1968 have accounted for almost 30% of its overall case law. These cases reached their highest point in the years prior to 2003, when 'they ... accounted for over half of all judgments delivered', but since 2003 the situation seems to have stabilised again, at approximately 'a third of the total number of judgments'.[7] As will be explained later in this report, Greece has been found in violation of this aspect of Article 6 several times and this did not escape the attention of the government's officials.

2.3 A few remarks on the Greek Justice System

Greece has a judicial system that resembles those of most European countries. However, there are some aspects that require clarification and this is the purpose of this brief section. Courts in Greece are divided into Administrative, Civil and Criminal Courts. First Instance Courts and Courts of Appeal operate in several cities and towns. The Court of Cassation (Areios Pagos) is the Supreme Court for Civil and Criminal Law. It is based in Athens and only hears points of law. The Supreme Administrative Court is the Council of State (Symvoulio tis Epikrateias), which is also based in Athens.

Disputes of civil nature and voluntary jurisdiction are under the jurisdiction of Civil Courts. Criminal offences and the adoption of all measures required by criminal law are under the jurisdiction of Criminal Courts. There are single member, three member and five member First Instance Courts and Courts of Appeal. Only a small number of criminal cases are tried by a jury: it is, in fact, a mixed court that comprises three judges and four Greek citizens. The procedure in criminal courts is mainly oral, while in civil courts most arguments and pieces of evidence are submitted in writing.

Greek judges graduate from the National School of Judges, which is based in Thessaloniki. Admission depends on passing one of the periodic admission examinations in core legal areas

5 Golder v. the United Kingdom, judgment of 21 February 1975, §28 and §36 respectively.

6 Vernillo v. France, 20 Feb. 1991, §38; Moreiro de Azevedo v. Portugal, 23 Oct. 1990; Katte Klitsche de la Grange v. Italy, 27 Oct. 1994, §61.

7 European Court of Human Rights, 2003 Annual Report, Strasbourg, Council of Europe Publishing, 2004, p. 71.

such as Public Law; Civil law and Civil Procedure; Commercial and Corporate Law; and Criminal Law and Criminal Procedure. Examinations vary depending on whether the candidate seeks admission to a specific area of judicial expertise, and thus there are different examinations for administrative and civil courts. The main criteria of eligibility for the exam are having graduated from law school and being at least 27 years of age. Those admitted possess a good understanding of all areas of law. At a later stage, they are selected, following another examination, for a particular specialisation (civil and criminal or administrative courts), depending on their performance on the relevant field.[8]

3. Single and three member panels[9]

3.1 The problem

In March 2012, the Greek Parliament passed law 4055/2012 which established single member judicial panels for both criminal and civil cases. The goal of the lawmakers was to leverage the existing judicial personnel so as to process more cases and increase the efficiency of the judicial system. The way the reform was implemented substantially helps with each evaluation and merits more discussion. Firstly, the cases that had already been assigned to three member panels were to be tried by them, regardless of when the trial was scheduled. In practice, this provision creates the following situation: a defendant accused of a crime on March 29 would be tried by a three member panel. Another, identical to the first one, defendant, accused for the exact same crime on April 2, would be tried by a single member panel. Their trials would take place on the same week. Since postponements in Greek courts are routinely granted, often for reasons beyond the control of the judge or the defendants, the two panels were trying similar cases in parallel for a substantial period. This feature of the way in which the reform was implemented helps us to rule out other factors that could influence our findings, such as the economic conditions in the country at that time. Secondly, judges are allocated to judicial panels randomly. Also, the judges who preside in three member panels are of the same rank and are drawn from the same list as the judges who try the cases in the single member panels. One dimension that is not controlled by design is the quality of the crimes under trial. In our example above, we described the two defendants as being accused for the exact same crime and being otherwise identical. However, in practice this is not necessarily true. In such a case, our results may not reflect the effect of the reform but that of a significant change in the quality of the crimes committed that affect the duration and the outcome of the proceedings. In order to ensure that that is not the case, we focus on data that were collected as close to the institution of the single member panels as possible. One would expect that there is little change in the crimes committed immediately before and immediately after the implementation of the reform.

8 See Panezi, Maria, A Description of the Structure of the Hellenic Republic, the Greek Legal System, and Legal Research, available at http://www.nyulawglobal.org/globalex/Greece1.html

9 In the following sections, we will use the term 'panels' to describe the actual judges that sit on the bench.

3.2 The data

Our evaluation is twofold. First, we use the data published by the Ministry of Justice for 2014 to evaluate the effect of the reform on the efficiency of the judicial system. The data contain information on the number of judges, presiding judges and other personnel affiliated with each court. For both civil and criminal cases the number of cases tried and postponed is recorded. For civil cases, additional information on the stock of the cases at the beginning of the year is given. Following Mitsopoulos and Pelagidis (2007) we focus our attention on the ratio: *Decisions / (Decisions + Postponements).* This essentially gives us a measure of the likelihood of having a case tried, conditional on it reaching the court.[10] We make this choice to maintain comparability between our findings for civil and criminal courts.

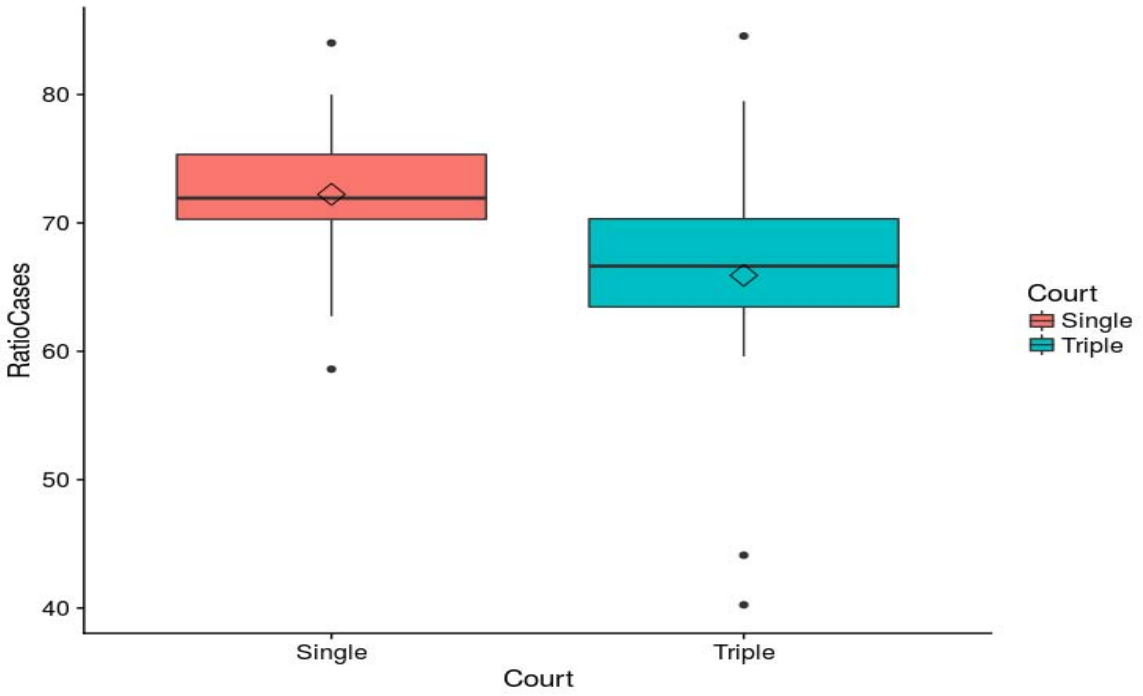
Next, we turn our attention to a more detailed examination of the effect of the reform on the judicial outcomes. To that end we use a unique data set of 1723 observations, collected from the courts of Athens.[11] Our data set contains the date a trial took place, the date the decision was issued, the verdict (guilty or not guilty), the duration of the sentence, whether a fine was imposed and its height if it did, the name and the sex of the presiding judge and the nationality (Greek or not) of the defendant. All our observations refer to drug cases tried between June 2012 and January 2014. Drug cases are particularly important with respect to the strain they impose on the system. In 2012 about 1 in 3 inmates were convicted for drug-related crimes. Our data set contains the universe of cases that were tried during that period. In order to ensure that we are comparing apples to apples, we focus on cases indicted under article 20 of laws 3459/2016 and 4139/2013. Indictments under those articles do not include repeat offenders or aggravated offenses, such as gang members. Given the limitations of our data, we utilise the minimum sentences for aggravated offenses to identify defendants indicted under article 20. More precisely, if the sentence is below 15 years before April 2013, or 10 years from April 2013 onwards, the defendant is certain to have been tried under article 20. It is worth noting that the new law with respect to drugs is applicable to any case tried after April 2013, regardless of when the alleged crime took place.

3.3 Results

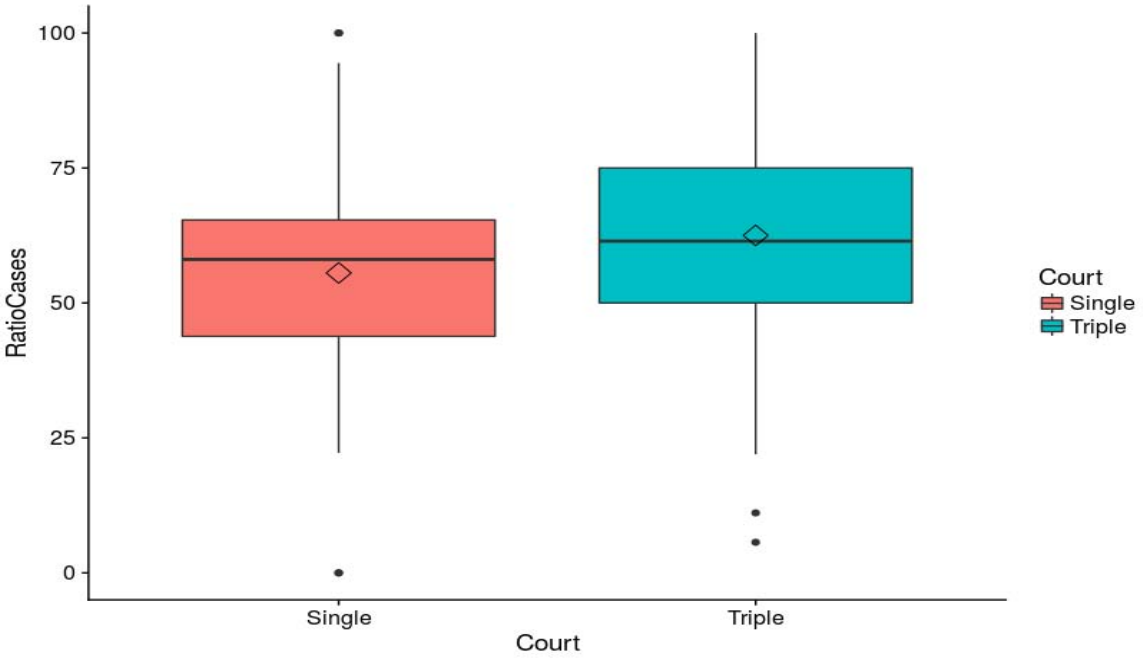
Out of the 19 criminal courts examined, the three member panels are more efficient if four of them (Aegean, Corfu, Lamia, Thrace). For the other 15, single member panels are more efficient. On average, taking into account the vast differences in loads that the courts face, we calculate a weighted average improvement of 7.11%. Most notably two of the busiest courts of the country, the ones in Thessaloniki and Patras, have increased efficiency by 9.85% and 11.97%. Statistical testing shows that the difference in the performance of the two courts is strongly statistically significant (Wilcoxon signed rank test, p-value=0.001).

10 For a more detailed and technical presentation of the results see Alysandratos, T. and Kalliris, K., The effect of size on the efficiency of judicial panels: Evidence from a natural experiment in Greece, working paper.

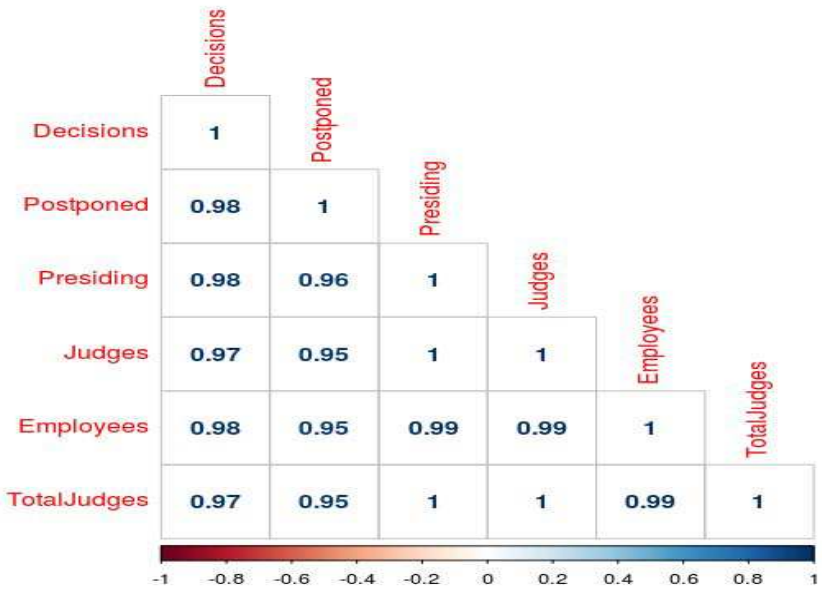
11 For a more detailed and technical presentation of the results see Alysandratos, T. and Kalliris, K., Is one judging head the same as three? Evidence from a natural experiment on individuals vs teams, working paper.



This picture is reversed when we shift our examination to civil courts. Single member panels are more efficient in only three regions (Corfu, Ioannina and Nafplio). The weighted average we calculated shows that three member panels are 3% more efficient than single member ones. More importantly, this difference is statistically significant (Wilcoxon signed rank test, p-value=0.018). It becomes evident that the goal of the reform was only attained with respect to criminal courts.



Next, we turn our attention to factors that may have influenced the differences in efficiency that we observe. To this end, we investigate, using linear regressions, the relationship between the total number of judges (presiding and appeals judges) and the number of decisions/ postponements in each type of court. We also have data regarding the number of paralegal employees in each court, but as is evident from the following correlogram, the number of judges and other employees is very highly correlated and its use would create multicollinearity (VIF=50.25), rendering our estimates uninformative. For civil courts we provide results that use the backlog of cases and the new cases introduced to the courts.



Our regressions for criminal courts reveal two things. Firstly, the number of decisions is directly proportional to the number of judges in each court. There is no statistically significant difference between the two types of panels with respect to this relationship. Secondly, three member panels postpone more cases. Our regression results show that an additional judge adds about 15.5 more decisions, regardless of the court type. With respect to postponements, each judge on average increases their number by approximately 7. However, the single member panels are significantly more efficient, having around 122.7 fewer postponements. This finding indicates that the increased efficiency of single member panels comes from reducing postponements.

OLS regression table Criminal courts			
	Dependent Variable		
Independent Variables	# of Decisions	# of Postponements	Efficiency
Intercept	**131.560****	17.446	**72.304*****
s.e.	(59.778)	(34.934)	(2.063)
Total No of Judges	**15.473*****	**7.035*****	-0.003
s.e.	(0.603)	(0.352)	(0.021)
Three member panel	63.632	**122.6842****	**-6.311****
s.e.	(80.702)	(47.161)	(2.785)
adjusted-R^2	0.947	0.916	0.078
F-statistic	329.4***	202.6***	2.575
No of observations	38	38	38
*p<0.1, **p < .05, ***p<.01			

Our regressions for civil courts show that three member panels do not issue more decisions, nor do they postpone fewer cases relative to single member panels. The only factor that is statistically significant and affects either decisions or postponements is the number of judges in each court. A closer examination shows that more cases are introduced to single member panels. To be precise, in our sample, single member panels have on average 138 new cases, whereas three member panels have about 70 new cases. The difference is statistically significant (Wilcoxon rank sum test, p-value=0.001). It is reasonable to assume that the volume of new cases is the main contributing factor to the decreased efficiency of single member panels in civil cases.

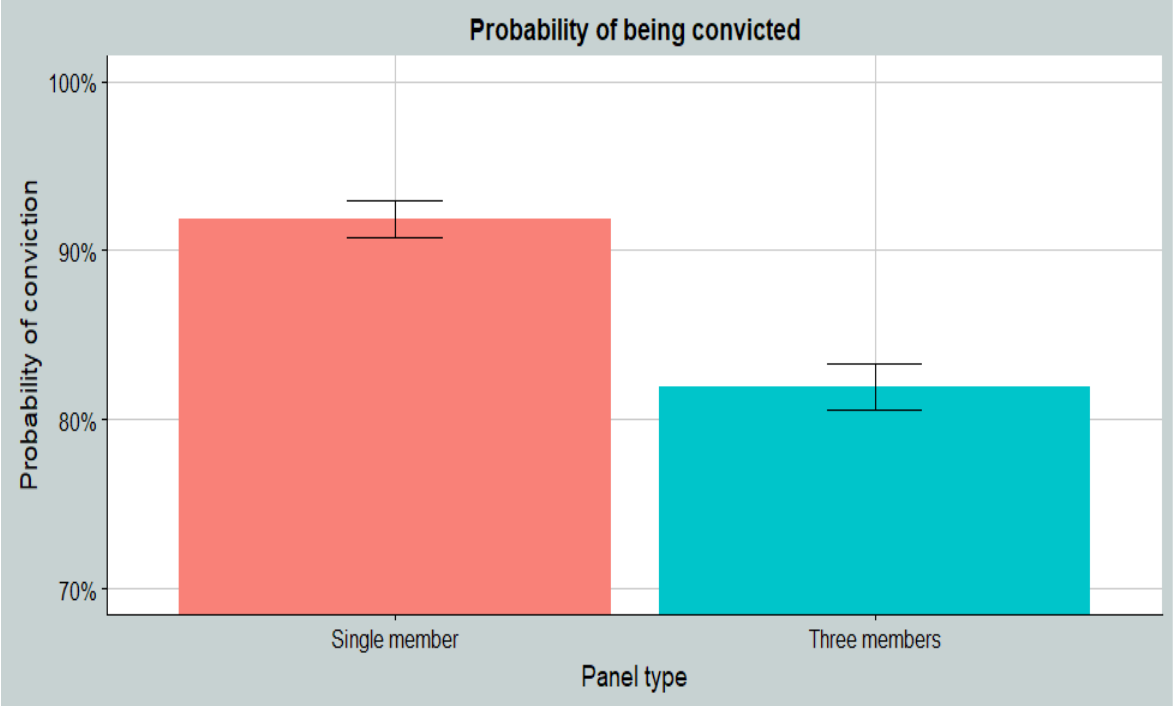
OLS regression table Civil courts			
	Dependent Variable		
Independent Variables	# of Decisions	# of Postponements	Efficiency
Intercept	17.550	**21.629***	**53.940*****
s.e.	(16.084)	(8.521)	(1.972)
Total No of Judges	**1.162*****	**0.508*****	0.038
s.e.	(0.122)	(0.064)	(0.015)
Three member panel	-0.015	-5.291	**6.911***
s.e.	(21.751)	(11.485)	(2.667)
adjusted-R^2	0.305	0.235	0.053
F-statistic	45.17***	31.45***	18.95
No of observations	199	199	199
*p < .05, **p<.01, ***p<.001			

Following the examination regarding the effect of the reform on the efficiency of the panels, we turn our attention to the speed of justice and, more precisely, to the time between trying a case and publishing the decision. The average period for single member panels in cases where the defendant was convicted is 1.5 weeks and for three member panels 1.8 weeks. The difference is not statistically significant (Wilcoxon rank test, p-value=0.902). This finding is supported when we control for other observable characteristics in an OLS regression. The coefficient for the three member panels is not significantly different from zero. This implies that there are no statistical differences in the time that single panel judges take to issue a decision. In the following table, we present OLS results from a sample restricted to cases where the defendant was convicted. The publication of the decisions is of particular importance when the defendant is found guilty because the exercise of a number of legal remedies requires studying the decision of the court. This finding is robust too, including the full sample of comparable cases or different econometric specifications, such as fixed or random presiding judge effects.

	OLS regression Time to publishing decision in weeks
Three member panel	-0.211
	(0.350)
Foreigner	-0.602**
	(0.237)
New Drugs Law	0.614
	(0.378)
Time trend	-0.014
	(0.009)
Female Presiding Judge	-0.087
	(0.313)
Female Presiding Judge*Three member panel	0.537
	(0.438)
Constant	2.375***
	(0.412)
Observations	1,266
R^2	0.011
Adjusted R^2	0.006
Residual Std. Error	3.735 (df = 1259)
F Statistic	2.228** (df = 6; 1259)
Notes:	***Significant at the 1 percent level.
	**Significant at the 5 percent level.
	*Significant at the 10 percent level.

In view of these results, we conclude that single member panels are not slower in their decision-making than three member panels. This conclusion is in line with the results from the analysis of the data from the Ministry of Justice. In addition, the implication is that, at least with respect to criminal courts, single member panels are an economical way to increase the number of cases processed by the courts.

Next, we proceed to examine whether single member panels have an effect on the outcome of the cases under trial. There is a very large literature in economics and psychology that examines differences in decision making between individuals and groups. Most of the studies are either theoretical or they involve lab experiments. Both methodologies, although valuable in their own right, provide little insight in this particular case. It becomes clear that assessing this reform gives us knowledge that has wider applications.



At this point we need to discuss one limitation of our dataset. For each case we know only the verdict of the three member panels. We do not know the vote of each individual judge. However, we know who the presiding judge of each three member panel is. Anecdotal evidence from practicing lawyers indicates that panel decisions tend to be unanimous. These testimonies are in line with the findings in the literature (Fischman, 2011), according to which 95% of the multi-member judicial panels decisions are unanimous. Hence, it is rather unlikely that the presiding judges, whose presence in the panel we observe, have dissented.

First, let us examine the probability of being convicted. The average probability of being convicted by a single member panel is close to 92%, whereas it is about 82% for three member panels. This is a statistically significant difference (Wilcoxon rank sum test, p-value=0.000). Our regressions confirm that the panel type is a statistically significant explanatory variable. In columns (1) and (2) we present the results of random and fixed effects panel regressions respectively using only the subset of cases that we have identified to belong to cases tried under article 20. According to these regressions three member panels are between 14 and 17 percentage points less likely to convict a defendant. This difference is both statistically and economically significant. Since we had to use a subset of our full sample to ensure the comparability of cases, it is possible that our estimates are inflated. In order to deal with these concerns, in columns (3) and (4) we present the results of random and fixed effect panel regressions that include the full sample. The estimated coefficient for the three member panel in these regressions is also statistically significant and only somewhat smaller. According to these estimations, three member panels are between 11 and 15 percentage points less likely to convict a defendant. The coefficients from the regressions (1) and (2) can be seen as the upper bound of the effect, whereas those from regressions (3) and (4) give the lower bound. The effect is robust when we only consider the judges who have tried at least the mean or the median number of case, indicating that the result is not driven by judges with little experience with drug trafficking offences.

	Guilty==1			
	(1)	(2)	(3)	(4)
Three member panel	-0.142***	-0.173***	-0.112***	-0.155***
	(0.035)	(0.043)	(0.030)	(0.037)
Foreigner	0.120***	0.110***	0.133***	0.124***
	(0.019)	(0.020)	(0.017)	(0.017)
New Drugs Law	-0.001	-0.001	-0.001	-0.001
	(0.001)	(0.001)	(0.001)	(0.001)
Time trend	0.001	-0.0004	0.017	0.019
	(0.033)	(0.036)	(0.029)	(0.031)
Female Senior Judge	0.021		0.025	
	(0.040)		(0.035)	
Female Presiding Judge*Three member panel	0.081*	0.078	0.066*	0.073
	(0.046)	(0.061)	(0.040)	(0.052)
Presiding Judge effects	Random	Fixed	Random	Fixed
Constant	0.866***		0.851***	
	(0.043)		(0.038)	
Observations	1,468	1,468	1,723	1,723
R^2	0.114	0.044	0.128	0.051
Adjusted R^2	0.110	-0.028	0.125	-0.012
F Statistic	31.318*** (df = 6; 1461)	12.481*** (df = 5; 1365)	42.094*** (df = 6; 1716)	17.230*** (df = 5; 1616)
Notes:	***Significant at the 1 percent level.			
	**Significant at the 5 percent level.			
	*Significant at the 10 percent level.			

One might wonder whether our results are being driven by cases tried in three member panels towards the end of the sampling period. Perhaps cases tried in three member panels more than 18 months after the introduction of the single member ones are systematically different. To test for that possibility, and as an additional robustness check, we present the results of regressions where we split our subset in cases tried before and after the new drugs law. It is a fortunate coincidence that the new drugs law came into effect almost exactly one year after the institution of the single member panels. Columns (1) and (2) present random and fixed effects panel regressions including only cases that were tried under the old drugs law that was in effect until March 2013. Columns (3) and (4) present random and fixed effects

panel regressions that were tried from April 2013 until January 2014, under the new drugs law. The coefficient of the three member panel is statistically significant and negative in all of those regressions. We interpret the results of these regressions to mean that our findings are not driven by unobserved systematic differences. Our findings are robust to splitting the sample in this way and are therefore more likely to reflect a fundamental difference in the decision making process between three member and single member panels.

	Guilty==1			
	(1)	(2)	(3)	(4)
Three member panel	-0.150***	-0.298***	-0.117***	-0.130**
	(0.052)	(0.110)	(0.043)	(0.051)
Foreigner	0.117***	0.118***	0.122***	0.102***
	(0.027)	(0.030)	(0.027)	(0.028)
Time trend	-0.001	-0.003*	-0.001	-0.001
	(0.001)	(0.001)	(0.001)	(0.002)
Female Presiding Judge	0.046		0.019	
	(0.054)		(0.050)	
Female Presiding Judge*Three member panel	0.082	0.232	0.043	-0.016
	(0.066)	(0.145)	(0.058)	(0.074)
Presiding Judge effects	Random	Fixed	Random	Fixed
Constant	0.846***		0.886***	
	(0.053)		(0.089)	
Observations	684	684	784	784
R^2	0.097	0.047	0.099	0.046
Adjusted R^2	0.090	-0.062	0.094	-0.064
F Statistic	14.371*** (df = 5; 678)	7.594*** (df = 4; 613)	17.148*** (df = 5; 778)	8.399*** (df = 4; 702)
Notes:	***Significant at the 1 percent level.			
	**Significant at the 5 percent level.			
	*Significant at the 10 percent level. Only cases were the defendant was convicted are included in these regressions			

In conclusion, we have presented compelling evidence that single member panels are more likely to convict a defendant. We have shown that the result is robust to controlling for the nationality of the accused and the presiding judge. The finding is driven by cases closer to the date single member panels were instituted and when the old law regarding drugs was in effect. Therefore, it is rather unlikely that the result we uncovered is due to some unobserved factor.

4. 'Early release' reform

4.1 The problem

Having established the effect of the reform that instituted single member panels on both the efficiency of the judicial system and its outcomes, we turn our attention to another reform. In April 2015, law 4322/2015 was passed, with little deliberation and forewarning. That law relaxed the conditions under which convicted offenders could apply for parole. The explicit intention of the lawmaker, as stated in the title of the act, was to reduce the number of inmates. The success of the reform hinges on the assumption that the incentives of the judges are aligned with those of the lawmaker. However, this supposition needs to be empirically verified. It is conceivable for example that judges would sentence defendants to longer sentences so as to ensure that the actual time spent in prison remains constant. Or, it could be the case that the new law acts as a signal to the judges to reduce their sentences.

4.2 The data

In order to test these hypotheses, we collected data from the courts of Athens and Thessaloniki. We have collected data on a set of crimes, going back to 5 quarters before the 2015 reform to 3 quarters after the reform.[12] Our sample includes 1577 cases, from two locations in Greece (Athens and Thessaloniki). The offences were chosen with the following criteria: small variance in the 'size' of the underlying crime, good reporting rates, and a large enough sample per quarter. The offences included in our sample are: fraud, human trafficking, illegal gambling and extortion.

4.3 Results

Our analysis does not find any effect of the reform on the probability of being convicted. Column (1) presents the findings of an OLS regression with the probability of conviction as the dependent variable. We control for the type of crime and the location of the court where the case was tried. 'Post reform' is the coefficient of interest. According to our results, that coefficient is not statistically different from zero. This indicates that judges maintained the same threshold for convictions before and after the reform. Column (2) investigates if there was any effect on the length of the sentences imposed. The coefficient of interest is statistically significant and negative. According to this regression, judges imposed sentences shorter by approximately half a year after the reform. Hence, albeit statistically significant, the size of the effect is modest. We need to caution the reader against overinterpreting these results. Our data exhibit a lot of noise. The F-test, which tests for the overall statistical significance of the model, is just marginally below the 5% threshold. Additionally, our statistical evidence is contrary to anecdotal evidence revealed to us during the presentation of these results. More data and further analyses are required in order to establish the external validity of this result. However, so far our findings point to the direction that judges can be brought on board to implement the reforms that the policy-maker wishes.

12 For a more detailed and technical presentation of the results see: Georganas, S., Kalliris, K. and Michalopoulos, S., Do bureaucracies resist reforms? Evidence from a reform in Greece, working paper

	(1) Probability of conviction	(2) Length of sentence in years conditional on convicting
Post reform	0.018	-0.542**
	(0.029)	(0.262)
Foreigner	0.089***	0.571*
	(0.034)	(0.300)
Gambling	-0.181**	0.383
	(0.062)	(0.629)
Fraud	-0.005	0.269
	(0.036)	(0.320)
Procurement	0.085	-2.12
	(0.091)	(0.747
Athens	0.021	0.483*
	(0.028)	(0.260)
Constant	0.500***	5.166***
	(0.036)	(0.320)
Observations	1577	815
R^2	0.129	0.023
Adjusted R^2	0.009	0.0154
F Statistic	3.41** (df = 7; 1570)	3.12** (df = 7; 808)
Notes:	***Significant at the 1 percent level.	
	**Significant at the 5 percent level.	
	*Significant at the 10 percent level. Only cases were the defendant was convicted are included in column (2)	

5. Discussion

5.1 What the research reveals

5.1.1 Speed and Efficiency

The policy-maker replaced three member panels with single member ones with the explicit intention to tackle delays in the administration of justice. Our research shows that, with respect to criminal cases, the efficiency of the courts was increased. More precisely, single member panels are less likely to postpone a case. Thus, they try more cases. The examination of our

unique dataset also reveals that in criminal cases single member panels do not take more time to publish a decision. However, pronouncing this reform a success would be premature. Our analysis of the data also reveals that single member panels are more likely to convict a defendant, even when we control for all the observable characteristics of the defendant and the presiding judge. We have restricted our analysis to cases tried in both types of panels at the same time, soon after the reform was implemented and accused under the same article of the law. It is, thus, reasonable to assume that the distribution of cases is similar in both types of panels. If this assumption is valid, then our analysis could indicate that single member panels require a slightly different standard of proof in order to convict defendants. This is a point that we cannot pursue further in this report. In addition to criminal courts, we also examined the differences in efficiency of single and three member panels in civil cases. Our analysis shows no differences between the two types of panels. This is in contrast to our findings regarding criminal cases and is perhaps indicative of fundamental differences between civil and criminal cases. A deeper examination of the data shows that single member panels in civil courts were receiving double the number of new cases relative to three member panels. This finding shows that there are limits to the efficiency gains by reforms on the supply side of justice. Overall, the introduction of single member panels achieved its aim of accelerating the delivery of justice in criminal cases. It did so, however, at a cost that needs to be evaluated by policy-makers and legal scholars. With respect to civil cases, we find no differences in the efficiency of single member panels. That is indicative of structural issues that need to be addressed if the delivery of justice in civil courts is to be accelerated.

5.1.2 Resistance to reform by established bureaucracies

The reform of 2015 aimed to tackle the overpopulation of prisons by reducing the time inmates spent in them. The success of that reform depended on the motives of the judges. Since they have constitutionally guaranteed job security and no political affiliation, their motives may not be perfectly aligned with those of the policy-makers. In this particular case, judges may want to ensure the number of years a convict will spend in prison, despite a strong signal by the government and the Parliament that long sentences are causing problems elsewhere in the criminal justice system. As a senior member of the judiciary told us during a private conversation at the presentation of the findings of our research, it is not for the judge to worry about the overpopulation in prisons. It is her job to worry about imposing the right sentence. Contrary to this anecdote, our research reveals that judges in fact do notice and follow the signals sent by the executive and the legislative branches. After the reform the probability of conviction, conditional on the crime for which one was accused, was the same as before the reform. Additionally, and crucially, conditional on convicting a defendant, courts were assigning a shorter sentence post reform. Since the probability of convictions is the same before and after the reform, the threshold for conviction was not affected. Therefore, the lower sentence assigned to convicts is a sign that courts are more lenient post reform. It is very unlikely that the distribution of crimes was substantially changed before or after the reform in such a short amount of time. Therefore, our results, in all likelihood, reflect the effect of the reform on the preferences of the courts. Our findings show that judges are not unlikely to function not as an entrenched bureaucracy, but as implementers of the will of the Parliament. However, this result needs to be interpreted with a grain of salt. Our data are noisy and our sample is not large enough to employ more stringent tests. More data is required in order to strengthen this result.

5.2 Some policy proposals

Before attempting to present and defend policy proposals, we must emphasise the fact that our study was brief and our datasets would benefit enormously from further data collection., As discussed in the preceding sections, some of our findings are open to interpretation but we believe that the following policy proposals make plenty of sense in light of our work:

Single member courts.[13] Single member courts seem to be a good idea for a government that aims to tackle delays in the administration of justice. They do not take more time than three member courts to issue their judgments. Their introduction would mean that more courts could be set up and, therefore, larger numbers of cases could be tried daily, without increasing the number of judicial personnel. In the case of civil courts in particular, it must be noted that the number and complexity of many cases, as well as the large volume of paperwork, are factors that can affect the efficiency of the courts, especially single member courts. Therefore, it seems that oral procedures are preferable, provided that they do not undermine the standard of proof required by the court. When this is not possible, easier access to digital resources and other tools that can help the judge to focus on the legal points of the case rather than process paperwork is essential. In terms of rule of law, the stricter approach that single member criminal courts seem to adopt may be a concern. Generally speaking, consistency in judicial reasoning and judgment is highly desirable. We believe that two policy choices may help in this direction: a) only the most experienced judges should be selected for single member panels; b) specialisation can help judges to sharpen their skills faster – this is especially important in civil courts where many cases are extremely complex and uniformity is rare. Finally, it is important to point out the following: a) if the number of cases that enter the system is extremely high, there are limits to what the current personnel or the proposed reforms can achieve; b) therefore, it is ever-important to resolve as many disputes as possible (especially financial or commercial ones) by means of extrajudicial settlements.

Resistance to reform. As far as resistance to reform is concerned, our findings are not conclusive. More data collection and analysis are required. However, what we can say at this point is that there seems to be no tendency on the part of the judges to act as a bureaucracy that acts with no concern for public policy goals. Some of our informal discussion with senior Greek judges that took place during the ELF-KEFiM event in Athens reveals that judges are mostly focused on serving the principles of justice, which do not include, at least, in the strict sense, concerns like prison overpopulation. However, there is no evidence that the Greek judiciary actively tried to cancel out the reform in practice by altering their sentencing patterns so that the convicted defendants would serve more time in prison than estimated by the policy-makers that designed the reform – quite the contrary is more likely. Our understanding is that lengthy and comprehensive consultation before the introduction of reforms in the justice system can go a long way towards ensuring the cooperation of judges, provided that their institutional role and independence will be adequately respected.

Synergies. Finally, both through our research (especially our effort to understand postponements) and through the constructive debate that took place during the

13 For the purposes of this section the term 'court' has the same meaning as the term 'panel' in previous sections.

aforementioned event, the need for broader synergies became apparent. Policy-makers, politicians, judges and attorneys agreed that delays in the administration of justice are not exclusively the result of poor work on the part of judges. On the contrary, bad and excessive legislation and the tactics of attorneys contribute significantly in this direction. A new culture and understanding of the judicial process is needed.

5.3 Courts, economic freedom and personal autonomy

Let us briefly return to the correlation between efficient courts and economic freedom in order to highlight what we understand to be a broader context that is sometimes overlooked. When academics and policy-makers discuss the significance of the rule of law in general and effective judicial protection in particular (as we did in the introductory sections of this report), they often emphasise how these factors protect and promote economic freedom, growth and prosperity. This is a finding that seems to be firmly grounded in empirical research and we would be well-advised to revisit and reassess it regularly. A reasonable amount of trust in the judicial system and the effective resolution of commercial disputes create a solid framework for more synergies and creative thinking, as well as for commercial acts of a more traditional nature.

The significance of these remarks notwithstanding, the larger case for personal autonomy must be made with equal force. Economic freedom is an important aspect of a broader account of freedom that can be said to describe the right of individuals to shape their own lives as they see fit. The point is much more obvious when rights to life or bodily integrity (which are clearly important for self-determination) are examined: in a world with largely inefficient courts, people will not feel safe to leave their home or meet with their peers. The case for economic freedom and contract enforcement is perhaps less obvious but, after a more careful look, equally compelling. Economic activity is an integral part of self-determination in the modern world. People trade goods and services more than ever before and, of course, their professional life is an increasingly important part of their lives. In light of these observations, it is evident that economic freedom is essential for self-determination, which, in turn, contributes to personal well-being. It is difficult to imagine how a life that lacks self-determination can be good for the person whose life it is.[14] So, just like people need to feel that those who may threaten their life and/or bodily integrity will be punished before venturing outside their homes, they also need to have confidence in the courts before entering into commercial contracts. This kind of safety is important for economic freedom and, ultimately, personal autonomy. Furthermore, we must not downplay the force of the Millian argument, famously articulated in *On Liberty*, in support of free choice and experimentation: the more people exercise free choice in their own affairs and the more they freely engage with others, the more likely it is that good results will follow – for themselves and society in general.

14 For an influential defence of a similar thesis see Raz, Joseph, The Morality of Freedom (Oxford: Clarendon Press, 1986).

6. Conclusions and lessons for the future

Apart from our findings and policy recommendations, we would like to complete this report with some general remarks about the usefulness of this type of research and the way forward. Data analysis from the courts is a very useful policy tool whose use must be encouraged not only by governments and policy-makers but indeed by the judiciary itself. It allows us to have a relatively clear picture of the problems and the outcomes produced by reforms. There is no doubt that there are qualitative aspects and normative elements that cannot be overlooked or examined exclusively through empirical research and data collection. However, there is no reason to suppose that these approaches are antagonistic towards each other. Combined, they can provide a much more complete understanding of how judicial systems work and how they can be efficient and fair. The same applies to behavioural studies, including surveys and interviews. Behavioural economics and psychology can shed much needed light on the way judges and those involved in or affected by justice systems think and act. These tools have not been adequately employed in several European countries, including Greece. It would be greatly beneficial if governments and European political institutions encouraged and supported similar studies.

At the same time, our work and engagement with individuals and groups that play prominent roles in the administration of justice and the reforms we studied reveal that justice systems are complex constructions whose understanding requires the cooperation of the largest possible number of people and institutions. This understanding precedes any effort to reform the courts and make them more efficient or fast. It is particularly important for any government determined to address issues such as the delays in its justice system to secure the cooperation of all the concerned parties – judges, attorneys, academics, the civil service, even private citizens. Our experience from this project indicates that, apart from supporting the proper tools, the most important lesson for the future is that any attempt to reform a justice system must benefit from the broadest possible consultation at all levels.

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The timely and efficient administration of justice is a fundamental aspect of the rule of law and an essential component of any liberal democracy. Delays in the justice system are not uncommon among several EU countries (including Greece), undermining public trust in the rule of law and, through inadequate contract enforcement, economic freedom. Courageous reforms are often needed in order to tackle this important problem, including the introduction of new legislation. This study collected and analysed data (including original data) from two recent reforms in the Greek Criminal Justice System. The first reform was an effort to improve the structure and efficiency of Greek courts and reduce delays. The aim of the second reform was to tackle prison overpopulation by allowing earlier release on parole. More specifically, we compare judgements from both single and three-member courts to examine whether the introduction of the former is an economical and efficient way to address the well-known delays in the Greek Justice System; and whether judges endorse government-initiated reforms or pursue their own independent principles and goals in ways that may cancel out the reform in practice. Our findings suggest that there is room for optimism and a clear need for more studies of this nature.

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