**Judicial decision-making in criminal courts: the impact of the UPP**

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Recent legislation has provided Italian legal courts with further administrative staff, the purpose being the expedition of the entire judicial process. Public debate has long emphasised the unacceptable length of time most judicial procedures take in the country, both in civil and criminal courts. The establishment of the Office for the trial (*Ufficio per il Processo*) is designed to make the whole judicial procedure smoother and smoother so that the final verdict is reached in a reasonable length of time.

This paper is designed to place the question within the literature of judicial decision-making and intends to investigate whether this new staff can really make a difference. It is quite clear that judicial decision-making is not a question confined to judges’ behaviour. In fact, judges’ decisions are based upon a number of intermediate decisions taken by administrative staff.

Judicial decision-making theory moves from the assumption that courts are not merely ‘ the mouth that pronounces the words of the law’ and that judges are not robots mechanically applying existing legislation. In fact, judges make decisions depending on their attitudes, on the internal and the external institutional contexts, and quite obviously, on the existing principles. Judicial decision-making is obviously based on some rule of conduct, which could be more or less consistent with public interest. It is important to make sense of such rules of conduct to amend existing administrative procedure.

It’s only in the last few decades that attention has been devoted to judicial decision making as a mechanism allocating rights and resources, just as any other public body does. Although most studies concern Supreme and Constitutional courts an attempt has been made to extend those analyses to lower level courts. See, for example, Dyevre (2010) where a general theory of judicial behaviour is presented. Many factors have been in time tested as having an impact on judicial behaviour. See for example Swalve (2022) where group familiarity within collegiate courts is supposed to affect final verdicts.

As mentioned, the purpose of this paper is extending this approach to the entire administrative process leading up to the final verdict, and in particular to the role of the recently established *Ufficio per il Processo*.

A recent resolution of European Council (2020) has highlighted that Italian Criminal Justice is one of the slowest in Europe. The reasons behind this phenomenon are mostly due to an inefficient organization of judicial offices and a lack of human resources. The main consequence of the inefficiency is that public trust in the judicial system is waning.

A widely accepted principle at the European level is the reasonable duration of the trial. Otherwise the effectiveness of the justice system would be seriously impaired. Moving from this assumption, Italian Parliament in 2012 passed an important act (Law n. 221/2012) establishing the Office for the Trial, which, however, became operational only in February 2022. Recently, in paragraph 26 of art. 1 of delegated Law n. 137/2021 of 21 September 2021, the enabling Law provides for an articulated discipline of the Office for the Trial, conceived as a stable (and not as a transitory) organizational structure, designed to survive even after achievement of the objectives of the P.N.R.R

The Office for the Trial is an organisational structure designed to support the work of judges. It has a twofold purpose: a quantitative one, consisting in ensuring the reasonable duration of the trial and reducing the case backlog in Courts, and a qualitative one consisting in the improvement of the quality of judicial decisions.

The new staffs have not received specific assignments. They are expected to support judges with the entire process of judicial decision-making. Therefore their tasks may change according to the needs of the judicial office they happen to work for. Some tasks are merely mechanical, such as reordering case files or checking the completeness of procedural documents; some other tasks are more demanding requiring some decision-making rule on the part of UPP staff. Good example of more demanding tasks are: checking proofs and the preparation of verdict drafts.

All this goes to show that judicial decision-making cannot be understood by looking exclusively at judges’ behaviour, but must be looked at from a wider perspective, which includes the whole ‘production line’ of each case. In this ‘production line’ the UPP staff may play an important role. Indeed, this was precisely what was expected from this piece of legislation. In the paper an attempt will be made to model the role of this new office and check its effectiveness. It is expected that the final outcome of the judicial process will be beneficially affected by the UPP staff decisions.

This is why such decisions must be investigated. Various factors might emerge as crucial in such decision process. The staff educational history, a poor set of incentives, or a poor working environment may have a serious impact on the final judicial outcome. This is precisely what the paper intends to investigate.

References

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