

# **The Injustice of the Justice System**

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## **Abstract**

A key missing element of the ongoing fiscal adjustment and reform program in Greece is the re-engineering of the anachronistic, slow, and unfair legal system. Drawing from a large body of research, I argue that improving the institutional environment protecting investors and speeding the judicial process are necessary conditions for restoring competitiveness and growth. Correcting the injustices of the legal environment is also needed to raise opportunities for young entrepreneurs, lower inequality, and restore civic capital. First, I go over international indicators measuring de jure and de facto legal quality so as to put the devastating situation that one observes in Greek courts into a global perspective. Second, I discuss the main channels linking legal institutions to economic efficiency and inequality. Third, drawing on recent policy reforms in other countries, I lay down some proposals to improve the efficiency of the legal system.

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## **1. Introduction**

The economy has been everyone's focus in Greece over the last months and rightly so. With the assistance of the EU, the ECB, and the IMF, the government has undertaken an ambitious fiscal adjustment program and a multi-dimensional reforms package. Despite back and forths, delays and hesitations, fiscal adjustment is under way and major reforms, mainly in labor markets and social security, have been legislated. Moreover, the government is currently implementing some (unfortunately moderate) product market liberalization policies, by relaxing geographic and other entry barriers for many occupations, such as truck drivers, lawyers, notaries. These measures, though crucial and long needed, are not enough. A critical element for the re-organization of the economy is still missing: reforming the anachronistic and inefficient legal system. Short of such reform, I argue, the fiscal adjustment program is doomed to fail. Paraphrasing Bill Clinton's famous slogan from the 1992 US presidential campaign "*it's the justice (rather than the economy), stupid!*"

## **2. Measuring Legal Inefficiency**

### **2.1. A first look**

Legal inefficiency and injustice in Greece are pervasive. It takes years to resolve even simple disputes, while it is not uncommon for important cases to linger in courts for years. The first hearing of a commercial dispute in Athens is currently set for 2013; add (conservatively) one-two postponements and then you realize that the judge will hear plaintiffs' argument after 3-4 years. The situation is dramatically worse in criminal cases, which can get postponed 4-5 times and even more so in administrative courts where postponements are endless. For instance, the hearing of a single case before the Council State has been postponed thirty six times within nine years. Due to the lack of supportive legal staff (judge assistants, court administrative personnel), the verdict will be released at least 6 months later. Add appeal time and then you realize that a case might be pending in courts for a decade. And these are no outliers. Examples abound. The doping case of two famous athletes that dates back to the 2004 Olympic Games is still unresolved! So are cases involving illegal payments to senior officials in drachmas (before the adoption of the euro in 2001) as well as many disputes between construction firms and the state regarding projects of the Olympic Games of 2004 (and before that). Similarly it has been reported that 5,500 criminal cases are pending only in the Athens' courts. Likewise the Thessaloniki Lawyers Bar Association recently announced that first hearing has not been set for 53,000 filed disputes. And even when a verdict is reached, the decision is usually not enforced, as the state and public-affiliated agencies use legal tricks to further delay the process. While the European Court of Justice has ruled many times against these practices of endless delays and de

facto lawlessness, nobody seems to care. Speaking about economic development and designing reforming policies in such a rotten legal environment seems weird-to say the least.

## **2.2. Measuring legal quality**

In the past decade economists have done what legal scholars regarded as inconceivable: they have compiled cross-country data measuring the quality of laws in many areas of social interactions (stock market, bankruptcy, labor market disputes). Moreover economists have compiled data-bases reflecting court's efficiency and the time it takes to enforce the law.<sup>2</sup> The first-set of evidence showed that the quality of legal and property rights institutions correlates strongly with various aspects of economic development. Subsequent studies provided evidence that these correlations fundamentally reflect a causal relationship.

Before discussing the main evidence and going over the channels linking legal institutions and court efficiency with economic well-being, it is useful to go over the latest cross-country data. Going over the various indicators on legal formalism, court inefficiency, and investor protection rights (allows comparing Greece with other countries and) puts the situation of Greece into a global perspective. Table 1 below reports the score that Greece gets into two measures of contract enforcement that proxy de-facto legal quality and the score into four indicators that reflect the quality of laws protecting investors (de jure). For comparability I also list the scores of the indicators across the main regional groups (following World Bank's classification).

**Table 1**

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<sup>2</sup> This research was initiated with the pioneering work of La Porta, Lopez-de-Silanes, Shleifer, and Vishny (1997, 1998) who measured shareholders' and creditors' rights across a large number of countries. Given the strong effect of legal institutions on financial development, subsequent works by these authors and the World Bank have provided quantitative assessments of both de jure and de facto legal and court efficiency (e.g. Djankov, La Porta, Lopez-de-Silanes, and Shleifer (2003); Djankov, McLiesh, and Shleifer (2007)). Nowadays in its Doing Business project the World Bank constructs indicators of legal formalism in various fields (e.g. bankruptcy, shareholder's rights, registering property, collecting bounced checks, anti-tunneling activities) at an annual frequency since 2005. All data used in this article are available at: <http://doingbusiness.org/> and from Andrei Shleifer's web-site at: <http://www.economics.harvard.edu/faculty/shleifer>. See Acemoglu, Johnson, and Robinson (2005) for a review.

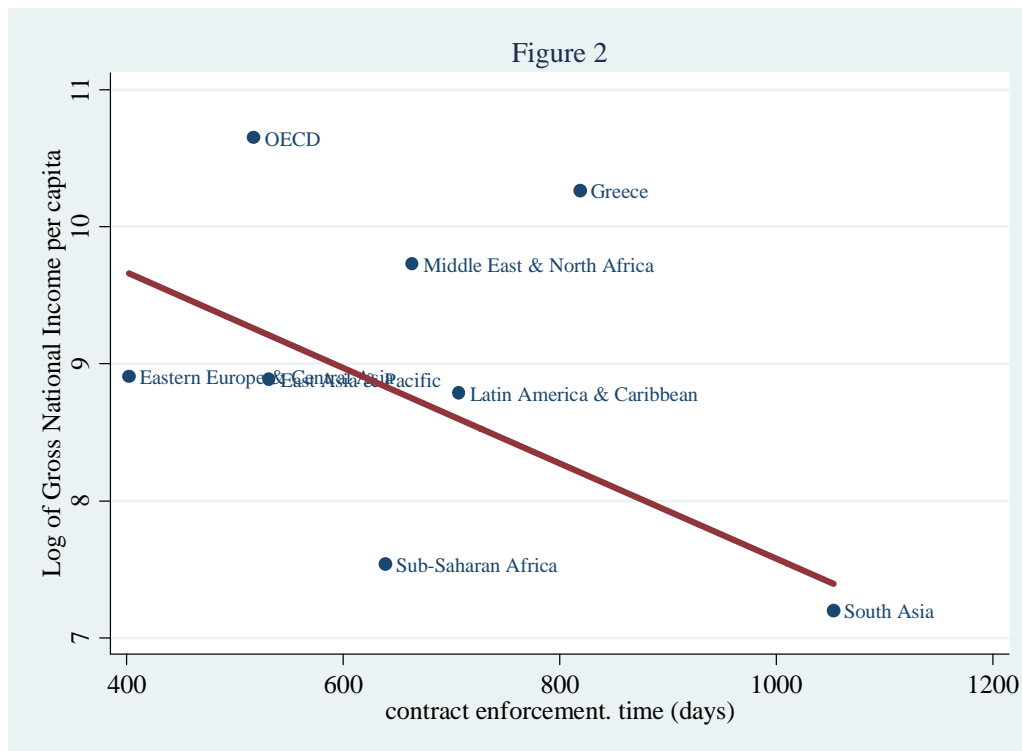
	Investor Protection (de jure)				Contract Enforcement	
	Disclosure Index	Anti-director Rights	Shareholders Rights	Composite Index	Number Procedures	Time-Days
Greece	1	4	5	3.3	39	819
OECD	6	5.2	6.8	6	31.2	517.5
World	5.3	4.4	5.7	5.1	38.1	605.1
Sub-Saharan Africa	4.8	3.4	5	4.4	39.1	639
East Asia & Pacific	5.2	4.5	6.3	5.3	37.3	531.8
Eastern Europe & Central Asia	6.3	4	6.2	5.5	37.3	402.2
Latin America & Caribbean	4.1	5.3	6	5.1	39.8	707
Middle East & North Africa	6.3	4.6	3.4	4.8	43.9	664.1
South Asia	4.4	4.4	6.3	5	43.5	1,052.90

### 2.2.1. De jure indicators

Let's start with the quality of the laws shaping investor's rights, a prerequisite for private investment and entrepreneurial activity. As of 2010, Greece ranks 154 (out of 183) economies in the overall de jure quality of the institutional framework protecting investors. On a 0-10 scale composite investor protection index reflecting the extent of disclosure, easiness of shareholders' suits, and anti-tunneling provisions Greece gets a score of 3.3 (see Table 1). As a comparison the mean value of the index across all countries in the world is 5. Greece has the lowest score among all European Union countries and ranks below many developing and Third World countries, such as Uganda, Iraq, and Jordan. Greece also scores low in similar-in-spirit measures capturing other aspects of the legal environment, such as registering property, dealing with construction permits, and getting the necessary administrative licenses to start a business. Figure 1 below plots GNI (gross national income) per capita (as a proxy of development) against this composite index of legal efficiency. As it can be seen there is a clear positive association between the quality of the legal system and development. While this correlation does not necessarily imply a causal relationship, research shows that there is a positive one-way effect of legal quality on economic development. Greece appears an outlier, as conditional on its income level, it scores quite low in de jure legal quality.<sup>3</sup>

<sup>3</sup> All institutional quality indicators, and the legal formalism measures have been criticized on various grounds (see among others Sparman (2009)); yet the World Bank is constantly try to address the valid critiques raised in the academic community. The sad thing for Greece is its consistently low rating among all NGO's and international database of institutional quality.





### 2.2.3. Dynamics

The picture becomes even gloomier when one examines trends over time. World Bank's Doing Business project lists more than 150 countries that to a lesser or greater extent made some effort in improving the institutional environment in protecting investors via more efficient legislation and a quicker enforcement in the past five years; unfortunately Greece is in the list of 20 countries that had made it actually worse for investors to conduct business.<sup>4</sup> Indicators of legal formalism suggest a considerable deterioration since 2005 when data start becoming available. Data from other Non-Governmental-Organization(s) further illustrate the depressing conditions in the Greek legal system. For example, according to the Economic Freedom of the World Project, Greece scores below the mean value of 200 countries even in aspects of the legal system that are constitutionally guaranteed, such as judicial independence and court impartiality.<sup>5</sup>

While one could always question the quality of the data (and conspiracy theories abound in our country...), the fact that Greece scores low in several dimensions across all international surveys paints a consistently negative picture.<sup>6</sup> For anyone who has experienced the chaos in the courts

<sup>4</sup> Note for nationalists: Neighboring Albania and FYROM have been at the top-10 reformers.

<sup>5</sup> The data are available at: <http://www.freetheworld.com/release.html>

<sup>6</sup> The usual critique of all institutional quality indicators is that they are driven by the growth and development. Since these indicators are usually based on surveys, respondents are more likely to assign a good rating if the economy performs well. Yet since Greece has experienced steady growth till 2007 of around 3.5%, according to this

in Evelpidon Street, the numbers from international surveys, if anything, appear underestimates. On top of the delays and the imprecise (and usually contradictory) laws, the judicial system creates uncertainty because the courts do not follow precedent and often produce conflicting rulings. Moreover these indicators don't account for the unfortunate tendency of many organized groups in Greece that choose not to obey court decisions.<sup>7</sup>

### 2.3. The unjust state

Unfortunately, the government, so far at least, has been part of the problem rather than the solution.<sup>8</sup> Rather than trying to speed the judicial process and improve investor protection, the state is using procedural laws and loopholes so as to delay paying its financial obligations. And in spite of some recent small steps, the state and its myriad agencies are at the core of the problem. Tax and administrative courts are loaded with thousands of cases involving private firms and state affiliated agencies (municipalities, public organization, ministries, etc). In the overwhelming majority the government tries delaying the payment of verified debts to private firms. Moreover the legal representatives of the State do not provide the judge with the necessary documentation asking for deferrals. And when a final verdict is reached, even then the state uses legal loopholes and procedural tricks, so as to delay payments. What's the outcome? Many otherwise financially healthy companies are forced to stop their operations, lay off workers, and under-invest. The cost for the Greek economy from state's de facto repudiation of contracts is undoubtedly large.<sup>9</sup> The liquidity squeeze has additional negative repercussions since firms are impeded from investing in new projects, banks that finance firms' working capital are loaded with non-performing loans, employment is staggered, and the economy enters a vicious circle.

### 3. Legal Efficiency and Development

The main contribution of academic research on the effect of legal efficiency, investor protection, and court delays is not so merely empirically showing that these institutional features matter for

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argument the rankings for Greece should be inflated, rather than conservative. For a critique of these indicators see Sparman (2009) and Roe (2001); yet the World Bank is constantly try to address the valid critiques raised in the academic community. The sad thing for Greece is its consistently low rating among all NGO's and international database of institutional quality.

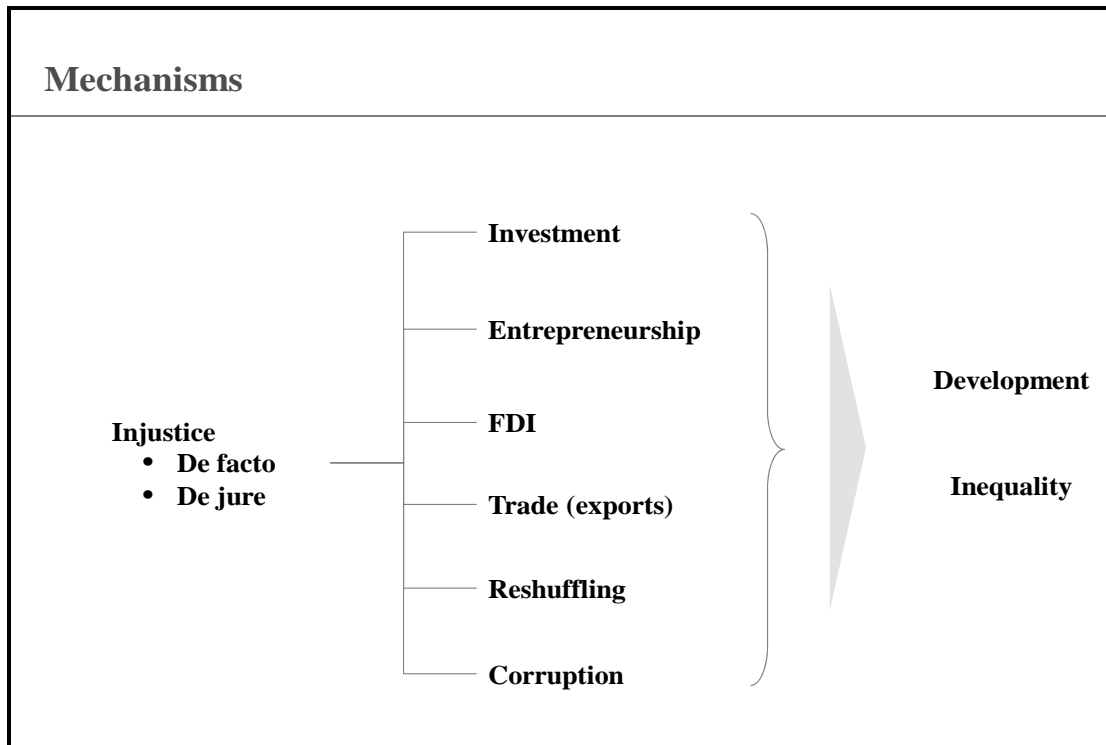
<sup>7</sup> The recent anti-smoking legislation or the case of the metro union workers complete disregard of court's decision that found their strike unlawful serve illustrate the lawlessness that has gradually emerged. Likewise it is sad for a modern state to allow drivers refusing paying tolls or allow activists muffling subway ticket validadors in order to prevent passengers from paying for their ride. And it is pathetic to say the least that the Minister of Justice publicly said that he "understands" such unlawful activities.

<sup>8</sup> Court delays and the inconsistency of the law (as judges do not follow precedent) allows for the large number of attorneys. According to a recent New York Times column ("*What's Broken in Greece? Ask an Entrepreneur*"; 30 January 2011), Greece has one lawyer for 250 citizens, while the lawyer to citizen ratio for the US is 272.

<sup>9</sup> Actually the cost is even higher because firms dealing with the state (such as construction and pharmaceutical firms) overcharge because they internalize the legal costs and the delays.

economic development, but indicating how they are relevant and by how much. Figure 3 summarizes the main channels linking legal inefficiency, as expressed in low quality laws (de jure) and court delays (de facto), with economic well-being.

**Figure 3**



**Private Investment.** Probably the most direct negative consequence of a dysfunctional judicial process is by lowering the degree of external finance. Countries with poor investor protection and slow judicial practices have less developed and less liquid stock markets; moreover bank credit is lower, loans come with shorter maturities, and at higher interest.<sup>10</sup> This is not surprising as finance is a nexus of incomplete contracts and a well-functioning legal environment is needed to quickly and efficiently resolve disputes that naturally emerge. The lower degree of external finance and its higher cost in turn hamper investment. High interest costs and frictions in external finance are particularly harmful for innovation by young entrepreneurs, who despite their potentially bright ideas, usually lack the necessary capital or collateral to obtain a loan.<sup>11</sup> Research further shows that not only bank credit, but also venture capital and private equity investment is low in countries with slow and inefficient courts.<sup>12</sup> In line with this evidence, there are very few private equity and venture capital firms operating in Greece; and those present

<sup>10</sup> See among others Bae and Goyal (2009).

<sup>11</sup> See among others Claessens and Laeven (2003), Ardagna and Lusardi (2008), and Ciccone and Papaioannou (2007, 2008).

<sup>12</sup> See among others Lerner and Schoar (2005) and Desai, Gomers, and Lerner (2007).



appear unwilling to invest, even nowadays when undoubtedly there are many distressed firms that can be purchased at a significant discount.

**Foreign Direct Investment.** The lack of well-protected investors' rights, the slow judicial process, and the instability of court rulings are key impediments to foreign investors, who usually lack the necessary political or other connections to bypass legal system's hurdles. Empirical works show that legal quality is much more important for attracting foreign capital, as compared to education, infrastructure, and market size.<sup>13</sup> The efforts of the Greek government to attract large-scale foreign direct investment via a fast-track process while clearly in the right direction will not yield much if it is not accompanied by a major reshuffling of the legal environment. The unwillingness of Chinese and Arab funds to invest in large projects in spite of the concessions of the Greek government comes at no surprise, since these investments face significant legal costs and uncertainty.

**Entrepreneurship.** The high cost of capital and the absence of "smart money" (private equity, venture capital, syndicated loans) are particularly harmful for entrepreneurial activity and employment in high-tech and R&D intensive sectors that usually lack collateral. As such legal inefficiency and the associated financial frictions are behind the high unemployment among the skilled and the educated.

**International Trade.** The financial frictions that emerge from the inefficient legal system are harmful for exports.<sup>14</sup> Legal inefficiency is particularly harmful for exporting firms because the associated financial frictions affect at the margin these firms that are about to enter international markets. Moreover, globally only the most productive firms engage in international trade and as legal inefficiency lowers total-factor-productivity, it affects at the margin those competent firms and entrepreneurs that are just about to export.

**Reshuffling.** Research shows that legal formalism and poor investor protection are particularly harmful for productivity growth, because they prevent the economy to reallocate quickly productive resources towards sectors with good potential. For example, legal inefficiency prevents new investment in sectors with globally expanding demand, such as biotechnology, information technology, and energy. Thus the economy is stuck in traditional sectors that face increasing global competition from low-labor cost producers. Moreover, the (partial) reallocation -that inevitably takes place- is driven by incumbents, who via connections bypass legal barriers and obtain cheaper finance. This in turn leads to less innovation, higher prices (inflation), and lower quality goods.<sup>15</sup>

**Corruption.** Across (and also within) countries legal inefficiency goes in tandem with corruption; conflicting laws, limited law enforcement, and a slow judicial process, all fuel

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<sup>13</sup> See among others Alfaro, Kalemli-Ozcan, and Volosovyc (2008) and Papaioannou (2009).

<sup>14</sup> See among others Nunn (2008) and Levchenko (2007).

<sup>15</sup> See for example Ciccone and Papaioannou (2006, 2010).

corruption. Obscure legislation allows bureaucrats, administrators, and judges to accept illegal payments. The inability of politicians to produce a homogeneous set of legislation that does not change with the political cycle also spurs corruption.<sup>16</sup> Unfortunately only a small fraction of corruption allegations end up in courts; and when this happens legal loopholes and never-ending procedures allow corrupt officials to escape imprisonment. This fuels people's perception of injustice, destroys civic capital, and lowers trust. Moreover state officials, administrators, politicians, and public sector employees continue to accept bribes. Sadly a kleptocratic (de facto) regime has steadily emerged.<sup>17</sup> All empirical studies estimate an extremely large negative effect of corruption on economic development. Yet in contemporary Greece the biggest cost of corruption and legal inefficiency is on the perceived fairness of the people. Unless this trust gets restored, the success of the fiscal adjustment and reform program seem hard to imagine.

**Inequality.** But the negative effects of injustice go well beyond economic efficiency. Theoretical work and case studies reveal that legal inefficiency is associated with increased inequality. Loopholes, legal uncertainty, and a slow judicial process allow the elite and their political cronies to escape the law (or buy judges and influential politicians); in contrast the numerous legal and civil procedure formalities impede entrepreneurial activity and as such magnify income inequality. Therefore legal formalism and court inefficiency don't only magnify inequality, but also lead to the worst type of inequality, the one emerging from lack of opportunity.<sup>18</sup> A prominent Greek prosecutor recently put the condition eloquently: "*Who is in prison in in Greece? The poor and those who lack connections.*"<sup>19</sup>

#### 4. What can be done?

Apathy and inaction is not an option. The government needs to put legal reform at the center of its agenda and quickly take measures to improve the institutional environment. Incremental solutions are available at low (financial and political) cost; yet I believe that we should not miss the window of opportunity that the crisis offers and as such the government needs to totally reengineer the legal and court environment. Case studies from other countries show that simple

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<sup>16</sup> Conflicting laws and the numerous entry barriers fuel a decentralized system of corruption, where firms and entrepreneurs have to bribe numerous state agencies, bureaucrats, and administrators. Research on the "industrial organization/structure" of corruption shows that decentralized corruption is much more harmful for growth than centralized systems (e.g. such as in East Asia or in China). See Shleifer and Vishny (1993) for a theoretical exposition and case-study evidence comparing communist regimes (with decentralized corruption systems) with East Asian countries (where a single payment was sufficient to bypass legal and administrative hurdles).

<sup>17</sup> The main difference from the kleptocratic regimes of Third World countries seems to be the decentralized nature of corruption in Greece. Yet even this spurs economic inefficiency, as investors need to bribe numerous administrators and bypass dozens of administrative hurdles. Rumor has it that it took more than 10,000 signatures to complete the first-stage of a large hotel investment in the Peloponnese.

<sup>18</sup> See Glaeser, Scheinkman, and Shleifer (2003).

<sup>19</sup> This statement has been made by prosecutor Vasilis Floridis (see Kathimerini, March 6<sup>th</sup> 2011).

and relative low cost policies improve significantly investor protection rights and fasten the judicial process.

#### **4.1. Specific Proposals**

Here are some concrete ideas:

1. A major problem in the Greek court system is the easiness of judges to allow the postponement of cases. It is not uncommon for cases in administrative and tax courts to get 6 or even 7 postponements. Legislation can speed the judicial process by putting an upper limit on the number of postponements. Yet such legislation by itself is not sufficient.<sup>20</sup> The new law should require from judges to write a formal letter explaining why they grant a postponement (right now the postponement entails no cost for the judge). Most importantly the new law should specify that the same judge who grants the postponement should handle the case in the future (right now many judges grant postponements to avoid handling complex cases outside their expertise). Mexico, which had a similar regime managed to speed up the judicial process, simply by imposing an upper limit to the number of allowed postponements.
2. It is vital that the state enforces judicial decisions. State's legal counselors need to stop asking for postponements and stop finding procedural tricks so as to delay the judicial process. Judges need to be extremely hesitant to grant postponements. Moreover they need to apply penalties in cases where state's counselors intentionally use civil and administrative procedure to delay the process. Likewise judges need to exercise their right and sue public sector officials who refuse submitting the necessary material for the progress of the trial.
3. Computerization of courts and the quick adoption of IT is desperately needed. The slow judicial process is partly driven by the lack of associated personnel in the courts. But nowadays information technology allows the decoding of the public hearings and the submission of associated documents at a low cost. Over the past three years, countries, such as Algeria, Botswana, and the FYROM have managed to computerize their courts and allow for electronic decoding. At the same time, Austria and Portugal have introduced technology that allows the electronic filing of cases and the electronic submission of most documents.<sup>21</sup> Significant resources are wasted because the plaintiffs and their attorneys do not know the

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<sup>20</sup> Actually such a law is in place for civil and commercial disputes. According to Act 241 section 1 of Greek Civil Procedure Code (as amended in year 2001 and in force since January 2002) the hearing of a civil case can be postponed only once. Due to strict guidelines given by the courts' administration during the last six-seven years, judges indeed do not grant a second deferral no matter what reasons are invoked. The Ministry of Justice has recently argued that such an upper limit will be placed for criminal cases, but still no law has been passed in parliament.

<sup>21</sup> The Ministry of Justice announced in March 2011 that it plans to implement an ambitious computerization program. It remains to be seen how quickly this will be done.

exact starting time of the public hearing. This can be easily solved by developing court specific web-sites where information on the evolution of each hearing is released in real-time.

4. Corruption in courts is fueled by the lack of following the rules in place for setting the date of the public hearing. This allows influential plaintiffs to either speed up or delay the hearings.<sup>22</sup> This problem could be resolved if courts release on-line information about the progress of all trials. And it is not only most courts in other EU countries that have such technology in place— since last year all courts in the FYROM post this information on-line.
5. The supreme courts could also set performance measures on the efficiency of courts at the local level. This will allow for better monitoring; it will also raise public awareness, since litigants, attorneys, judges, and political supervisors will have a picture of the discrepancies in judicial timing. Again it makes monitoring easy and at low cost.
6. The judicial process in Greece is delayed because most first-instance verdicts are appealed. While in the overwhelming majority the appeals courts rule is in line with the first-instance courts, the cost of appeal is close to zero. This is a common problem in many countries and is usually hard to address because it relates to the constitutional guarantees for a trial. Yet numerous reforms in other countries show that there are ways to speed the process. Bulgaria recently passed legislation that empowers chief judges to rule against an appeal if there is strong precedent or if it is clear that one of the plaintiffs appeals just to delay the process. Other countries have raised the financial cost of appeals. Research shows that adding even a small cost to the appeal process can significantly speed the judicial process by creating space for the courts to deal with important cases.
7. More generally the Greek legal system needs to be reformed to align the incentives of plaintiffs, judges, attorneys, and the state. For example state agencies such as the Competition Authority or the Securities and Exchange Committee could offer firms the option to pay a fine immediately with a discount if they do not appeal the decision in the appellate courts. In the latter case fined firms should pay half of the fine up front.<sup>23</sup>
8. After many delays and hesitations the new government recently institutionalized model trials;<sup>24</sup> in this case the courts could decide a high number of cases based on a single one. Yet the applicability of model trials is currently quite narrow. The government needs to show true political will; taking marginal steps when bold measures are needed is far from

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<sup>22</sup> For example a notorious case involving corruption and bribes among attorneys, prosecutors, court administrators and judges that was revealed a couple of years ago showed that indeed bribes were paid to delay the hearings and allocate cases to “friendly judges”. Since then the situation has improved but the system still lacks transparency.

<sup>23</sup> Actually the Securities and Exchange Committee is considering adopting such a paradigm.

<sup>24</sup> Germany has recently initiated model trials have already been initiated in Germany. According to this institution, an employee, for example, can sue her employer for wrongful curtail of some benefits; if she succeeds then her comrades benefit from the award released without having to start over a new trial themselves.

satisfactory.<sup>25</sup> The wide application of model trials has the potential to eliminate unnecessary procedural steps and force party cooperation and dispute resolution outside courts. While not exactly the same, academic studies show that the use of precedent speeds-up the time of litigation, lowers the cost of justice, and quite importantly reduces uncertainty about court rulings.<sup>26</sup> The latter in particular is fundamental for investment and entrepreneurship.<sup>27</sup>

9. The government and the supreme courts need to redraw the map of courts' jurisdiction, which dates in the era of King Otto immediately after Greek independence from the Ottoman Empire.
10. The example of other countries suggests that judge-training programs can be quite efficient.<sup>28</sup> In Greece, as in many other countries, judges usually lack expertise in modern corporate finance and accounting practices, competition issues, and stock-market fraud. Consequently important cases are delayed because of the lack of experience. The government needs to redesign the academic curriculum of the School for Judges and Prosecutors and add courses in competition law, corporate finance, accounting, capital markets regulation. Moreover the state could co-operate with the universities and establish specialized (executive-education) programs for judges.

## 4.2. A radical proposal

The chaotic conditions in the administrative and tax courts are driven to a great extent by long-standing cases between outstanding obligations of the government, state-agencies, and municipalities towards firms. In the overwhelming majority of these cases, state's liabilities are unambiguous and explicitly acknowledged. For example state's verified outstanding liabilities to construction firms are around 1.8 billion euros. Yet the state lets, or actually forces, firms to go to courts and then utilizes the slow procedures to delay payments. As argued above, this entails significant costs for the economy and is costly even for the state in the medium-run, as when the case is resolved it is forced to pay high interests to the plaintiff. After discussing this issue with our creditors, the IMF and other EU countries, the government should quickly pay its

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<sup>25</sup> Unfortunately the government is taking small steps rather than radical reengineering policies in other fields of the structural adjustment program, such as the opening of "closed occupations". What Greece needs is however bold reforms.

<sup>26</sup> See for example Gennaioli and Shleifer (2007a, 2007b).

<sup>27</sup> Precedent is usually associated with the common law tradition. Yet precedent is a source of law in many countries that have civil code originated legal systems. One could argue that for a country like Greece the key issue is if judges follow the codes and statutes. One way or another a fundamental problem of the Greek legal system is the lack of predictability and legal certainty. This could be achieved if chief judges and court administrators provide specific and well-defined guidelines.

<sup>28</sup> For example research studying the impact of a major judge training program in Pakistan shows that the cost of the program (around 0.1 of GDP) was more than got compensated by the speeding of the judicial process and an increase in productivity of approximately 0.5% of GDP (Chemin (2009)).

outstanding liabilities and stop this absurd and costly method of forcing its counterparties to court. This policy will be beneficial for everyone including the national government. By paying today it saves money on the court procedures, and on the high interest that it would have to pay to the plaintiff at the end of the process. Moreover, if the government was to pay the verified liabilities out of court today, it could ask from the plaintiffs to forego part of their claim (a haircut of 10%-20% seems reasonable). This policy would also act as a direct liquidity injection in the market and would be beneficial to all sectors of the economy. It would also be helpful to the banking system, since firms have passed their future claims from the litigation to banks in exchange for financing. If the state was to immediately reimburse firms (mostly in pharmaceuticals and construction sector), this would also lower illegal side payments and corruption (with the current regime firms try to bribe state officials so as to get priority and get reimbursed first).

## **5. Conclusion**

All the evidence suggests that one of the deep structural impediments to growth in Greece has been the absurdly slow judicial process, inefficient courts, and lack of actual investor protection. Research further reveals that legal inefficiency increases inequality, by lowering the opportunities for young talented entrepreneurs, protecting rents to well-connected incumbents, and by allowing the rich and the political elite to capture the courts.

Unfortunately, court reform and the speeding of the judicial process are low, at best, in the agenda of both the Greek government and its lenders of last resort (IMF, ECB, EU countries). The experience of many countries that adopted policies to improve the legal environment by computerization, judge training programs, and by cutting down on deferments, suggest that such simple policies yield significant benefits. Equally important by helping to restore the rule of law, a serious legal reform will foster civic capital and help restoring the perception of fairness, both of which are necessary condition for the success of the economic adjustment program and for just society. Legal reform has to be high in the agenda of the government; if the current state of illegality and lawlessness prevails, then the “legality” of the government will be quickly lost. *It's the justice, stupid!*

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