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ACCEPTED MANUSCRIPT

Backlogs and Litigation Rates: Testing Congestion Equilibrium Across European Judiciaries

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Highlights

We empirically test the congestion-equilibrium theory;

We use biennial panel data from 36 European countries over the period 2006–2012;

We use the new method of unconditional quantile regression;

Backlogs negatively impact litigation rates in highly litigious, independent judiciaries.

Abstract

To address the problem of court backlogs, policymakers in many countries have been pursuing reforms to reduce case disposition times and the demand for litigation. Yet Priest's (1989) congestion-equilibrium theory states that reforms aimed at reducing court delays are offset by an increased tendency to litigate. To test the congestion-equilibrium hypothesis, we use biennial panel data from 36 European countries over the period 2006–2012. Specifically, we estimate (i) a repeated cross-section model using conventional (pooled) OLS, (ii) a standard (static) random-effects panel data model, and (iii) a (static) random effects model using the new method of unconditional quantile regression (UQR) to examine the country-level relationship between litigation rates and court backlogs (measured by the number of pending cases per judge in each country). In accordance with the congestion equilibrium hypothesis, the UQR estimates suggest a negative impact of court backlogs on litigation rates but only in highly litigious countries, insofar as the latter experience a high degree of judicial independence. This shows the need for custom-tailored policy approaches to tackling court delay based on countries' existing litigation rates.

Keywords

Congestion equilibrium; court backlog; litigation; judicial independence; unconditional quantile regression.

JEL Classifications

C31; K00, K410.

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