

Title: “The right to be heard: an RCT on economizing procedural justice”

Abstract: The right to be heard – Audi Alteram Partem – is a fundamental principle underlying most legal systems and constitutes a basic human right. Legal scholars argue that the right to be heard is essential for the rule of law because it helps achieving truth and legitimizes judicial sentencing. On the other hand, hearings are labor and time intensive, leading to an overloaded criminal justice system, particularly for mass crimes. We evaluate the importance of hearings in the context of a large-scale reform of the Swiss Criminal Procedure Code, which delegated sentencing power from courts to the prosecutors through the means of penal orders. As a consequence of the reform, prosecutors sentence offenders by sending them a penal order letter that is solely based on police reports in roughly 90% of all criminal proceedings, de facto removing the defendants’ right of being heard. We conducted a field experiment in collaboration with a public prosecution office in Switzerland and randomly invited defendants to participate in a prosecutorial hearing, allowing us to investigate the causal effect of hearings on prosecutorial sentencing, perceptions of procedural fairness, and recidivism.