

“Law or Policy? The Role of Authority in Criminal Sentencing”

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To what extent can non-binding recommendations by penal authorities shape sentencing policy within the limits of existing legislation? We study the probability of imposing a fine in criminal cases in the Czech Republic, where legislation allows their broad use yet the actual use had been historically low. In 2016 and 2017, the President of the Supreme Court and the Supreme Prosecutor ran a campaign aimed at increasing the use of fines, which consisted of seminars for judges and prosecutors and of policy meetings of chief district prosecutors. Using a full universe of criminal cases over a 5-years period, we estimate the effects of these soft interventions on the probability to impose a fine and investigate for spillover and substitution effects.

We find that the meetings of the chief prosecutors increased the probability of imposing a fine by 7 percentage points. Participation by a judge at a seminar increased the probability to impose a fine by that judge by 6 percentage points. The effect of the seminars is strongest if both the prosecutor and the judge participated. The authority of penal elites, albeit non-binding, can thus be highly effective in changing the sentencing policy in the absence of any legislative changes.