



## REWARDING JUDICIAL INDEPENDANCE: EVIDENCE FROM THE ITALIAN CONSTITUTIONAL COURT



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ABSTRACT

We use data about the Italian Constitutional Court (1956-2005) to verify an implication of the “revisionist” explanations of judicial independence with respect to judicial appointments, namely that elected politicians reward more independent justices with appointments after the Court tenure. The empirical strategy is two-step. First, we estimate a logit fixed-effect model to evaluate the personal degree of independence for each Italian justice reporter. This “judge-effect” is based on the proneness of a judge to declare the constitutional illegitimacy of a law controlling for the environmental conditional phenomena. Second, we verify to what extent this degree of independence affects the probability of obtaining a politically controlled occupation after the end of the mandate at the Court. Our results, obtained by a variety of estimators to check their robustness, strongly support the revisionist view.

JEL Classification: D72, H1

Keywords: Judicial independence, revisionist view, post Court political appointments.

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## Introduction

There so-called “revisionist view” of judicial independence posits that self-interested politicians find it optimal to delegate decision-making powers to truly independent agencies and political bodies, provided that the expected benefits from such strategy outweigh the expected costs (Landes and Posner, 1975; Salzberger, 1993; Salzberger and Voigt, 2002). Several reasons explain why rational elected politicians find it advantageous to constrain and delegate their own decision making powers to an independent judicial branch: the most relevant are the desire to shift the blame for unpopular decisions (the so-called ‘dustbin’ or ‘scapegoat’ hypothesis); the attempt to protect one’s policies against future reversals; the aim of enhancing a credible commitment to (and thus the durability and the present value of) decisions already taken; the need to base decisions on technical information. Such a rich set of arguments makes the revisionist view relevant for a large variety of institutional settings, which explains why it has received considerable scholarly interest with respect to alternative explanations of judicial independence (Padovano *et al.*, 2003. Jacobi, 2010). The contrast is especially stark with respect to the hypothesis, based on Leviathan models of government, that self-interested politicians wish to minimize the sources of opposition to their discretionary power; hence, they should either not delegate decision-making powers to independent agencies or do so when such independence is merely apparent (Salzberger, 1993)<sup>2</sup>.

In this paper, we verify an empirical restriction of the revisionist view concerning judicial appointments, namely the hypothesis that politicians interested in delegating powers to independent agencies have an incentive to staff them with individuals who have already signaled their independence (Salzberger, 1993; Salzberger and Fenn, 1999). We perform this test on data about the interactions between Italian politicians and constitutional justices. To this end, we have assembled a new dataset on the Italian Constitutional Court that contains information about the decisions taken by each Constitutional justice, their personal characteristics, the characteristics of

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<sup>2</sup> While Salzberger and Voigt (2002) apply their reasoning to political agencies in general, it is true that the judicial branch has always been at the centre of this scientific debate because, beginning with Montesquieu and Madison, it has traditionally been identified as *the* independent and third party political branch.

the cases in which they have participated, as well as their post-tenure career. We verify whether elected politicians, after the expiration of justices' tenure at the Constitutional Court, reward those who have been prone to decide against the constitutionality of laws, and have thus manifested their independence, by promoting them to other political offices, such as presidencies of regulatory bodies, positions of minister, delegates to international agencies and the like. Holding other factors constant, we take a positive correlation between a more independent behaviour and promotions as evidence supporting the revisionist view. A negative correlation is instead consistent with the "Leviathan" view.

There are reasons both for choosing this particular empirical restriction and the Italian testing ground. As for the choice of the hypothesis under test, this is one of the very few empirical analyses of the impact of judges' independence on their subsequent career. It is probably also the closest to the actual conception of the theory: beginning with Montesquieu and the Federalist and ending with Landes and Posner (1975), both the revisionist and the 'Leviathan' view of judicial independence have considered, first and foremost, the relationships between *peak* judicial institutions, i.e., the Supreme and the Constitutional Courts, and the political branches of government. The only three papers that, to the best of our knowledge, provide formal empirical analyses of the relationship between judicial independence and judges' career are Salzberger and Fenn (1999) about the English Court of Appeal; Maitra and Smyth (2005), about the New Zealand High Court; and Schneider (2005), about the German Labour Courts<sup>3</sup>. None of these studies examine peak judicial institutions, the main focus of the theoretical literature. The first two studies, moreover, look at the rather peculiar cases of countries without a written Constitution. The consideration of samples where politicians may, or not, affect judges' promotions to higher Courts, i.e., where judges are still within the judicial branch, creates problems for the empirical analysis. In all countries, judges' promotions

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<sup>3</sup> There are of course also many studies on the United States Supreme Courts, both at the Federal and State levels (Anderson et al. 1989; Toma 1991; Cohen; 1992; Segal and Spaeth, 2002) and the Japanese Courts (Ramseyer and Rasmusen 1997; 1999; 2001a; 2001b) conceived according to the revisionist view. They refer, however, to various aspects and implications of the independent judiciary, different from its consequences on judges' careers, which is the scope of this paper.

follow pre-established procedures, based on seniority, career requirements and other criteria. These rules restrain the politicians' choice of which judge to raise to a higher judicial post (Hayo and Voigt, 2007). Politicians may promote more independent judges because the respect of these procedures *constrain* them to do so, rather than because they *wish* to reward judicial independence. Modelling these procedural constraints in formal empirical analysis is quite difficult, because, given their variety, their explicit consideration generates problems of degrees of freedom. Not even the survival analysis, used by Salzberger and Fenn (1999) and Maitra and Smyth (2004) who aim to verify whether politicians reward more independent judges with a more rapid career, is devoid of these problems, because procedures for judges' career also affect the timing of these promotions. It is therefore quite difficult for existing empirical models to single out the truly discretionary component in politicians' decisions to appoint judges to higher judicial posts. This paper avoids these problems by looking at how the jurisprudence of judges who had belonged to a peak judicial institution, the Italian Constitutional Court, affects their career *outside* the judiciary, in appointments where politicians' discretionary power is genuinely unconstrained. By selecting this sample we obtain, at the same time, a cleaner testing ground for the hypothesis that politicians reward judges who have already signaled their independence and one that is closer to the theory, which is conceived in terms of peak judicial institutions.

As for the testing ground, the Italian Constitutional Court provides an especially interesting venue to verify the explanatory power of the Leviathan vs. revisionist view of judicial independence. First, there is a clear link between justices' jurisprudence and politicians' reactions, in the form of subsequent appointments to "post Court" jobs. After their Court tenure, many Italian Constitutional justices are still "young" enough to aspire to new public offices; that because, contrary to the case of the American Supreme Court, the Italian justices are not granted a lifelong tenure, only a 9 year long mandate. The high average life of the Italian governing elites makes former justices still fit to aspire to other posts. These offices, however, are typically sought outside the rank and files of the judiciary. As the Constitutional Court is the peak institution in the Italian

judicial system, a move to other judicial posts for a former justice is generally not regarded as a career advance (Breton and Fraschini, 2003). Appointments to non judicial public offices are under the control of political forces (parties, politicians, legislators, the government), which had generally been affected by the jurisprudence of the Constitutional justices. This a) establishes a link between the decisions of the justice during his/her Court tenure and his/her appointment (or lack thereof) to a post Court job by the political forces; and b) allows examining how justices' past jurisprudence affect their future career outside the judiciary.

Second, the Italian Constitutional justices come from different career paths; five of them are professional judges and are elected Constitutional justices by the highest Courts; the remaining ten are of political selection, five being voted by the Parliament and five appointed by the President of the Republic. This implies that justices are potentially characterized by varying degrees of independence already during their Court tenure, with the professional judges being potentially more independent than those of political selection and, within this class, the justices of Presidential appointment likely more independent than those elected by the Parliament (Zagrebelski, 1997; Fiorino et al. 2007). Furthermore, justices coming from the magistracy can return to their former judicial post after their tenure with a lifelong pension; they may be less interested in other public offices than those selected by the political branches that do not have this possibility.

Third, the Italian sample is unique among the samples in which theories of judicial independence have been tested in that it is not characterized, for a long stretch of activity of the Italian Constitutional Court, by alternation in government of different parties and coalitions. From 1956, when the Court was established, until the mid 1990s, Italy witnessed a large number of governments, all supported by more or less the same political forces, led by the Christian Democrats. The main force of opposition, the Italian Communist Party, was effectively banned from forming a government because it refused the set of international alliances that Italy had subscribed after World War II. This presents two advantages for the analysis of judicial independence that are absent in other parliamentary regimes, where alternation in government is

common. First, in a parliamentary regime with no alternation of ideologically different majorities, there is no risk that the Constitutional Court strikes down laws that the incumbent government wants to abolish because they had been approved by an earlier government (or parliamentary coalition) of different ideology<sup>4</sup>. In order to get rid of previous legislation, the Italian governments had simply to abolish such laws or replace them by passing new legislation, without running the risk of delegating the task to an independent branch, like the Constitutional Court. Hence, decisions of constitutional illegitimacy by the Court effectively negate previous decisions taken by the legislative branches and can therefore be interpreted as signs of independence of the constitutional justices from the other two political branches. It is no hazard that all previous studies of the independence of the Italian Constitutional Court have interpreted decisions of constitutional illegitimacy as signs of independence (Zagrebelski, 1997; Santoni e Zucchini, 2004, 2006; Fiorino et al., 2008; Breton e Fraschini, 2003). The second advantage is that this situation has evolved in the last part of the sample period (1995-2005), when the alternation of two ideologically different coalitions occurred. Whether and how such a change of the institutional surroundings affected the Court behaviour is another issue that the Italian testing ground allows to study.

Fourth, at the beginning of the 1990s the creation of new independent authorities has considerably expanded the job market for so called “independent technicians”, to which former Constitutional justices may aspire. This positive demand shock offers a test of the stability of whatever result is found in the empirical analysis. All these factors and institutional variety require a more detailed empirical model than those generally used in the “Leviathan vs. revisionist” literature, which further raises the scientific interest in the subject of the present analysis.

The rest of the paper is organized as follows. Section 2 reviews the literature. Section 3 describes the empirical strategy and the data. Section 4 presents and discusses the estimates and verifies their robustness. Section 5 offers some concluding remarks. Appendix A provides some

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<sup>4</sup> What the Italian Constitutional Court did, especially in the early years of its activity, was to purge the Italian legislation of laws approved by the previous Fascist regime that were incompatible with the new Republican Constitution – the so-called “defascistization” of the Italian legislation. As we shall see in section 3, we control for this process in the empirical analysis.

concise information about the functioning of the Italian Constitutional Court and the institutional and political framework where it operates. Appendix B describes the sources of the data, while Appendix C contains the list of the judges of the Italian Constitutional Court.

## *2. Judicial delegation and independence in the literature*

2.1. Theoretical contributions. Under a Leviathan model of government (Brennan and Buchanan, 1980) there should be no room for delegation of power and judicial independence. Inasmuch as politicians maximize revenues and rents from holding office, they try to minimize sources of opposition that citizens-voters may exploit to raise their own welfare (Persson, et al. 1997). Separation of powers and checks and balances *à la* Montesquieu should *de facto* be eliminated, as the institutional structure and political environment of a Leviathan government enhance parties' and politicians' incentives to collude over those to compete for voters' support (Padovano, 1995; Lagona and Padovano, 2007). In a model where the judicial branch is explicitly considered, Padovano et al. (2003) show that the judiciary tends to collude with the other two political branches and to adopt an accommodating behavior whenever collusion between the legislative and the executive branches is a stable equilibrium and the political branches control the career path of judges.

Yet, in a large number of countries, these Leviathan-like institutional environments hardly seem to represent reality. The judicial branch does exist separate from the other two branches of government and is, to various degrees, independent from them (Hayo and Voigt, 2007; Jacobi, 2010). This opens the question of why the political branches find it efficient to grant (various degrees of) independence to the judiciary. The so called "revisionist approach" to judicial independence provides several alternative answers. First, the seminal work of Landes and Posner (1975) argues that an independent judiciary is an institutional mechanism devised to increase the durability of the enacted legislation. Since the present value of legislative contracts between legislators and interest groups is a positive function of their durability, and (at least according to



Landes and Posner) justices tend to interpret legislation according to the interest of the enacting legislators, politicians have an *ex ante* interest to grant independence to judges to protect the legislative contracts from the risk of alteration by future legislators. They may grant independence by extending the length of judges' tenure and/or by insulating their selection and salaries from political interference.

Salzberger (1993) proposes an alternative and more intuitive explanation of judicial independence. In his model vote maximizing politicians need an independent input in the political decision making process that allows them to shift blame for unpopular collective decisions (the so called "political dustbin" or "scapegoat" argument), to decrease the effects of uncertainty from political ramifications of collective decision-making and to reduce social choice problems. Under these circumstances, Salzberger argues that an independent judiciary increases political support for elected politicians.

Moving from industrial organization models of managerial control, Maskin and Tirole (2004) provide a further explanation consistent with the revisionist approach. They suggest that social welfare in a democracy is maximized when the constitution assigns to non accountable officials ("judges" in the jargon of their model) decisions in cases where minority rights are at serious risk of being jeopardized or where the probability that accountable politicians choose actions that are not "right" for society but are nevertheless popular. Alesina and Tabellini (2007, 2008) provide positive models of the assignment of competencies between elected politicians and non-elected, independent officials ("bureaucrats", but judges fit in this theoretical category). Bureaucrats are preferable if time inconsistency and "short-terminism" are an issue in political decision making, or if vested interests have large stakes in the policy outcome, or when technical ability is more important than effort. Conversely, politicians tend not to delegate tasks when redistributive rents are important. These arguments draw on the view that judicial independence enhances the possibilities for political decision-makers to control their bureaucracies (see e.g. McCubbins and Schwartz, 1984; McCubbins, Noll and Weingast, 1987; Ferejohn and Shipan, 1990; Ferejohn and Weingast, 1992).

When a considerable amount of policy making is delegated to unelected agents, elected politicians face high cost in monitoring the activities of these agencies. An independent judiciary helps the government to control the bureaucracy; by giving citizens the right to sue misbehaving bureaucrats through independent tribunals, the government can obtain information about how the bureaucrats are performing, thereby improving the bureaucracy's performance and the government's electoral support.

Other explanations for independent judiciary have been proposed in the revisionist literature. Ramseyer (1994) and Stephenson (2003) suggest that judicial independence allows governments to minimize the risks associated with political competition; what the opposition might have suffered from the government during a legislature could become a source of revenge once elections produce a trading of places. If this game is repeated *ad infinitum*, there is an incentive for a cooperative equilibrium between the two political parties. In the domain of judicial promotions, such equilibrium sees each party promoting judges from the other side in order to smooth their "policy consumption" (and that of their voters). Vanberg (2001) develops a similar game-theoretic model where governments that do not comply with the decisions of courts suffer a voter backlash at the next election, provided that voters place a sufficiently high value on judicial independence. Promoting judges only from your own side of politics is politically unpopular, as the opposition may describe such behavior as a threat to judicial independence, leading to electoral costs<sup>5</sup>.

2.2. Empirical contributions. The implications of the theory of Landes and Posner (1975) offered the starting point to formal empirical analysis of the determinants of judicial independence. Anderson, Shughart and Tollison (1989) verify a "strong version" of the Landes and Posner hypothesis, namely, that the legislature will exercise its powers over the remuneration of the judges in order to motivate them to act independently. A positive and significant correlation between the salary of the chief justice of states and the number of times that the state courts used substantive

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<sup>5</sup> Salzberger and Voigt (2002) review most of these arguments in a wider context of political delegation to independent agencies. Jacobi (2010) instead provides a comprehensive review of positive analyses of judicial independence.

due process reviews in order to overturn legislation is taken as evidence that the government rewards independent behavior. Bodreaux and Pritchard (1994) argue that this “strong version” of Landes and Posner’s (1975) theory does not explain the origins and maintenance of judicial independence because it ignores collective-action problems that plague both the legislature and the judiciary in fostering judicial independence. They re-interpret some empirical findings previously thought to support the Landes and Posner theory, chiefly those of Anderson, Shughart and Tollison (1989) in light of their own analysis, concluding that the United States’ federal judiciary is truly independent of Congress and the President, not because of politicians’ self interest in the durability of legislative contracts, but thanks to the farsightedness of the framers of the Constitution, who devised judicial independence as a means of furthering sound government. Salzberger and Fenn (1999) test a softer version of the Landes and Posner hypothesis, namely, that the government does not use its power to induce judicial loyalty even when these powers are available at no cost. Using data on the English Court of Appeal, they verify that politicians do not punish judges that had more consistently ruled against the government by negating them a promotion to the House of Lords, other things, especially the personal “quality” of the judge, being equal. Maitra and Smyth (2004), using data about the New Zealand High Court, find no evidence that governments have used their powers to punish judges who decided cases against them. On the contrary, they find some support for the strong form of the Landes-Posner thesis that governments positively use their powers to secure judicial independence. Because these are intermediate, rather than peak judicial institutions, procedures and customary behavior discipline promotions to higher Courts; as we have seen, this makes it difficult to single out the truly discretionary component in politicians’ appointment decisions.

Fiorino, Padovano and Sgarra (2007) investigate a related hypothesis, namely that justices coming from relatively more independent environments tend to act more independently. Using data about the Italian Constitutional Court, they verify that a larger share of justices elected by the magistracy in the panels that decide about the constitutional legitimacy of standing legislation

increases the probability of obtaining a decision of constitutional illegitimacy, holding other factors constant. Similar results have subsequently been found for other “Kelsenian Courts”, like the Portuguese (Amaral Garcia et al. 2008), the Taiwanese (Garoupa et al. 2011), the Spanish (Garoupa et al. 2010) and the French one (Franck, 2009). Padovano (2009) applies the same analysis also to the Italian Council of State, again finding that the career pattern influences the relative independence of judges also in the field of administrative law.

The next step of the analysis is therefore to verify how the political branches react to this negation of their previous decisions. It is precisely such a step that this makes.

### *3. Empirical Strategy and Data*

3.1. Judicial independence and constitutional illegitimacy. Judicial independence and decision of constitutional illegitimacy are closely related (Zagrebelski, 1997; Santoni e Zucchini, 2004, 2006; Fiorino et al., 2008; Breton e Frascini, 2003). First, the literature generally exploits this sort of decisions as a proxy for judicial independence because they modify the current legislation in a definitive manner and, consequently, affect the equilibria between interest groups/voters and politicians. Second, the alternative view that takes a higher rate of judicial invalidation as an outcome of either political miscalculation or strategic choices by the disputants (Priest and Klein, 1984) seems altogether inapplicable to the institutional context where the Italian constitutional Court operates. As for political miscalculations, the underlying idea is that rational politicians would not approve statutes that they expect the Court to strike down. This interpretation, however, does not apply to the Italian case because: a) the high rate of variability in the internal composition of the panels of justices cannot be anticipated by policy-makers; b) the time elapsed between the approbation of a law and the (possibly adverse) decision of the Court is generally very long. Politicians would thus prefer to enact a statute that voters demand now, although they suspect that the Court will strike it down in the future; at least, they would gain short run electoral consensus and could shift blame for the long run disappointment onto the Court. As for the strategic

behaviour of disputants, one must bear in mind that the Italian Constitutional Court does not adopt a *certiorari* procedure. It is a local tribunal, not the original disputants, to decide to submit a case of potential illegitimacy to the Court; a justice evaluates whether the submission is not plainly unfounded (*fumus boni juris*); in such a case the Court must take on the case. At this point the president of the Court selects the justice reporter and appoints the panel of justices. This multistage decision process makes it very difficult for the original disputants to form rational expectations about the final decision of the Court. Priest and Klein's (1984) claim that strategic disputants go to the Court when they are almost sure to win plainly does not apply to the Italian context. Third, it must always be kept in mind that the executive and legislative branches have always the lower cost alternative to abolish the law directly or to simply pass another law that resolves differently, rather than having the Court declaring the statute illegitimate. For all these reasons, decisions of constitutional illegitimacy can indeed be viewed as the tool in the hands of the Court to oppose the will of the other government bodies and to enforce the Constitution against the legislative and executive branches of government; in other words, to act *independently* from political interferences.

3.2. Estimating the independence of a judge. To investigate whether the degree of independence of the judges affects their post-Constitutional Court career, a straightforward way would simply be to consider the number of cases declared illegitimate by each reporter and to observe how does it affect the probability to obtain a politically controlled job. This strategy however suffers from a critical shortcoming, as it neglects all the characteristics that may impact the probability for a case to be declared illegitimate, irrespective of the independence of the reporter. Instead, we proceed in two steps<sup>6</sup>. First, we measure to what extent a justice reporting a case is prone to declare a constitutional illegitimacy holding constant the characteristics of the case, by estimating justice fixed-effects. Second, we verify whether this degree of individual

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<sup>6</sup> Results obtained in this simple setting support the results presented in this paper, and are available upon request.

independence plays a role in the probability to obtain a politically controlled job after the term at the Constitutional Court.

To estimate the degree of personal independence of a judge, we use a set of 2254 cases directly opposing the executive power to the Constitutional Court from 1956, the year when the Constitutional Court was established, till 2004. Although we have data for all the cases until 2010, we consider only the judges whose tenure expired five years before the end of the sample period to allow them time to be attributed a post-Court tenure position. During this period, a total of 76 justices served as reporters. Our strategy consists in isolating the personal influence of a justice on the probability that a case he/she is in charge of is declared illegitimate. To do so, in addition to the standard factors that are likely to impact the decision on a case, a set of dummies - each representing a justice - is used to explain the declaration of illegitimacy. These dummies take the value of 1 for all the cases reported by a specific justice, providing a (unbalanced) panel structure to the data since we have multiple observations for the same justice. The estimated idiosyncratic parameter of a justice is then interpreted as his/her personal degree of independence, cleaned from environmental variables. In other words, we aim at isolating the *arbitrary* part of the decision, relying on the identity of the reporter. We focus on the justice reporter because of his agenda setting power in the decisions taken by the Constitutional Court. The literature (Zagrebelski, 1997; Fiorino *et al.*, 2007) recognizes such a power to the justice reporter because he/she instructs the case, presents it before the panel of justices (*Collegio dei Giudici*) that takes the final decision and, finally, actually writes the motivations of the decision. The Italian Constitutional Court formally decides unanimously and does not allow the publication of dissenting opinions, but historians of the Italian Constitutional Court (Rodotà, 1999) have never identified a case where the justice reporter dissented from the decision of the panel he/she chaired.

The endogenous variable *ILLEGITIM* is a binary variable taking the value of 1 when the case treated is declared illegitimate. To take into account the binary nature of the outcome, a logit fixed-effect model is adopted, which can be written as:

$$P(y_{ic} = 1|x_{ic}, J_i) = \Lambda(x_{ic}\beta + J_i),$$

(1)

where  $y_{ic}$  is *ILLEGITIM* decision made by the judge  $i$  in case  $c$ ,  $x_{ic}$  is the set of environmental variables likely to affect the outcome,  $\Lambda$  is the logistic link function and  $J_i$  is the set of individual justice effects. As we are interested in the coefficients of the individual effects, (1) has to be estimated by “brute force” (Greene, 2003), so to say by considering the  $J_i$  as standard parameters to be estimated. A well-known issue with this approach is the incidental parameters problem (see Lancaster, 2000, for a survey): as  $N$  becomes large, the maximum likelihood estimator may yield inconsistent estimates when the number of observation per individual is limited. Katz (2001) provides a Monte Carlo simulation showing that for 16 observations per individual, the bias becomes negligible, a result supported by another Monte Carlo simulation proposed by Greene (2004). In our case, each justice has treated 32 cases on average. We can therefore be confident in the quality of our estimates.

The four first variables composing the set of control variables are taken from Fiorino’s et al. (2007) study of the determinants of judicial independence. Summary statistics are provided in Table 1. *DELAY* is the time elapsed between the date of the promulgation of the law and the date of the sentence. According to Landes and Posner (1975), a higher value of *DELAY* is likely to be associated with a higher degree of independence, and thus to a higher probability of a decision of constitutional illegitimacy. *HGOV* is a Herfindahl index of fragmentation of the parties in the incumbent government coalition. According to the “war of attrition” (Alesina and Drazen, 1991; Padovano and Venturi, 2001) and the legislative veto power (Tsebelis, 2002) models, the power of a coalition increases with the concentration of its parliamentary seats. Therefore, the higher the concentration of the governing coalition, the higher is the probability that the executive can change the legislative *status quo*, even those determined by the ruling of the Constitutional Court. Hence a negative sign is expected. To take into consideration changes in the institutional, political and legislative environment that occurred with the transition from the so-called First Republic to the

Second Republic around 1993, the dummy variable *SECREP* is introduced, taking the value 1 for the years post-1993. The variable *AGE* captures the age of the reporter at the date of the sentence. Relatively older judges are less likely to seek another public office after their service at the Court, and are thereby less prone to be influenced by the executive. The expected coefficient should be positive.

To these four classic variables, we add three additional explanatory variables. First, we control for the political alignment between the reporter and the President of the Court through the dummy *PRESALIGN*. Some justices were notably politically engaged, and having a case treated by a President and a reporter from the same political line might play a role in the decision of the Court. In the same idea, *SAMEWING* is a dummy taking the value 1 when the case treated by a reporter is originating from a government of the same political wing as the one currently in power. Declaring the illegitimacy of such a case can be seen as an even greater independence. Finally, the variable *FASCIST* is introduced to control for the laws approved during the Fascist dictatorial regime. Till the late 60's, an important share of the work of the Court was dedicated to the evaluation of the consistency of these laws with the principles of the new Constitution. This type of laws is much likely to be declared illegitimate without being necessarily related to the independence of the reporter, and thus require a specific control. In addition to those controls, we also introduce a set of dummies capturing the general context of each decade since the 50's, *DECADE*, and a set of dummies indicating the nature of the law (legge, decreto legislativo, regio decreto, D.P.R. and other), *NATURE*. Such a comprehensive set of controlling variables is devised to polish the justices fixed-effects from the environmental phenomena that may condition the justice's decision of constitutional illegitimacy. This legitimizes the interpretation of the justice fixed-effects as the personal independence of the justice.

[Table 1 around here]

3.2. Rewarding judicial independence. The second step consists in relating the measure of independence estimated previously to the probability for a judge to obtain a politically controlled



job after his Constitutional Court mandate. The choice of a peak judicial institution, from where promotions are to public offices outside the judicial branch, makes it inappropriate the use of survival analysis (adopted in Salzberger and Fenn, 1999 and Maitra and Smyth, 2004) to estimate the timing of promotions. The larger variety of post Court public offices to which former justices may be appointed involves matching issues between the characteristics of each justice and those of each office; these in turn may become available at different points in time for reasons unrelated to the will of the politicians. All these factors sever the correlation between the timing of promotions and the preferences of politicians for justices. We therefore choose to analyze the determinants of the realization of the event promotion, regardless of its timing. The event promotion is specified as a discrete binary variable, function of a limited set of covariates suggested by the theoretical literature and adapted to the institutional features of the Italian Constitutional Court.

Our dependent variable, *POSTOCC*, is a dummy equal to 1 when the constitutional justice held a politically controlled position after the end of his Court tenure and 0 otherwise. Data refer to the 68 justices of the Court for whom we obtained a justice-effect in the previous step<sup>7</sup>. The binary nature of the dependent variable is taken into account by estimating successively three model specifications. First, a standard logit model is estimated, using a classic maximum-likelihood estimator. Considering the size of our sample, the maximum-likelihood estimates are however prone to suffer of a small sample bias (Hosmer et al. 2013). We thus estimate a simple linear probability model by OLS, which is less likely to suffer from such a bias (Hart and Clark, 1999). Finally, to both reduce the small sample bias and avoid the usual disadvantages of the linear probability model, we use a Firth-logit model (Firth, 1993). It consists in a standard logit model, which is estimated by a penalized maximum likelihood estimator aiming at reducing the bias due to the small sample size. The penalized maximum likelihood estimator can be written as:

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<sup>7</sup> Over the period under consideration, 76 judges of the Court served as reporters. In the first step, we obtain 68 judge-effects since 7 judges always declared the same sentence in all the cases they treated and are consequently removed; the last judge for which we do not have an estimate is the base judge.

$$\ell(\beta)^* = \ell(\beta) \times |I(\beta)|^{0.5},$$

(2)

where  $\ell(\beta)$  is the usual likelihood function and  $I(\beta)$  is the determinant of the Fisher information matrix. In contrast to the standard maximum-likelihood estimator in this setting, this modification of the likelihood function always leads to unique and finite parameter estimates, more precise than those obtain with the classic estimator (Firth 1993, Hosmer et al. 2013).

For these three approaches, the same set of explanatory variables is introduced. Summary statistics are provided in Table 2. The variable of interest is the measure of independence that we estimated in the previous step, *JFE*. The more prone a judge to declare illegitimacy, the higher is the value of *JFE*. Others things being equal, a positive correlation between *JFE* and *POSTOCC*, the dependent variable, is thus consistent with the revisionist view of judicial independence, as more independent behaviour increases the probability to receive a post Court job. A negative one instead supports the “Leviathan” view.

[Table 2 around here]

The other explanatory variables identify factors that may also affect the probability that he/she be appointed to a politically controlled post Court job. The first set of covariates indicate the source of election/appointment of the justice reporter by means of three dummy variables: *PRES* and *PARL*. Specifically, we use the dummy *PRES* if the justice is elected by the President of the Republic, and the dummy *PARL* if the justice is appointed by the Parliament. Theory and empirical analysis (Fiorino *et al.*, 2007) indicate that justices elected by the highest Courts are relatively more independent from political interferences than those appointed by the President of the Republic and even more so than those elected by the political parties in the Parliament<sup>8</sup>. Whether the justice served as president of the Constitutional Court is another potentially relevant factor for being appointed to a post Court job, because of the greater exposure, reputation and prestige that the

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<sup>8</sup> It was not possible to directly control for these factors in the first step of the analysis, since these variables are constant over time and hence would have been absorbed by the individual effects.

presidency brings about. It is perhaps no accident that, especially in more recent times, the presidencies of the Court have become shorter, to maximize turnover and the number of justices who serve as president. A dummy *PCC* identifies the justices that served as president. Finally, *AGE*, calculated as the years of age of the justice at the beginning of his/her Court tenure, is another factor likely to affect the probability to obtain a post Court job. In the previous step, *AGE* was introduced as a potential factor influencing independence. Here, *AGE* works as a simple control factor: relatively younger justices have a longer work life expectancy when their Court tenure expires and have therefore more time, and a higher probability, to receive a politically controlled post Court job than their older colleagues.

#### 4. Regression results

4.1. First step. We begin by estimating the idiosyncratic degree of independence of justices through the following equation:

$$\begin{aligned} ILLEGITIM_{i,c} = & \delta JFE_i + \beta_1 DELAY_{i,c} + \beta_2 HGOV_{i,c} + \beta_3 SECREP_{i,c} \\ & + \beta_4 AGE_{i,c} + \beta_5 PRESALIGN_{i,c} + \beta_6 SAMEWING_{i,c} + \beta_7 FASCISTA_{i,c} + \gamma DECADE_{i,c} \\ & + \varphi NATURE_i + \varepsilon_{i,c}. \end{aligned} \quad (3)$$

Results are provided in Table 3. Model 1 does not include the set of dummies for each justice; this is done in Model 2. First of all, the estimates appear stable across the two specifications. *DELAY* and *SECREP* remain highly significant in the two models, and with the same sign. Only the political alignment between the reporter and the president of the Court change of sign, but this covariate is far from being significantly different from 0. Also, the results are altogether consistent with the previous results of Fiorino et al. (2007). The introduction of the justice-effects greatly increases the log-likelihood in Model 2. Similarly, the AIC decreases significantly from Model 1 to Model 2. This clearly indicates that the justice-effects are not superfluous and the identity of the justice actually does affect the decision of the Court.

[Table 3 around here]

4.2. Second step. We now relate the measure of independence estimated above to the probability to obtain a politically controlled job after the tenure in the Constitutional Court. First, Table 4 provides the summary statistics of the variable *JFE*, which is the estimated justice-effect. It also provides a comparison of the means of the two sub-groups of judges: those who obtained a politically controlled job and those who did not. A t-test reveals that the average justice fixed-effect of the sub-group of justices who have been rewarded by a job is significantly higher than the average effect of the other sub-group at the 10% level. This is a preliminary indication that the justices who showed greater independence tend to be more rewarded than the others, in line with the revisionist view of judicial independence. This preliminary result however needs to be confirmed by mean of a proper regression analysis to account for the *ceteris paribus* condition.

[Table 4 around here]

To relate the idiosyncratic measure of independence of a judge and the probability to obtain a post after the mandate at the Court, we use three alternative approaches (linear probability, logit and Firth-logit models) to estimate the following equation:

$$POSTOCC = \beta_1 JFE + \beta_2 PARL + \beta_3 PRES + \beta_4 PCC + \beta_5 AGE + \varepsilon_{i,c}. \quad (4)$$

Results are provided in Table 5. The three models clearly yield the same results. All the significant variables keep the same sign across the models. Concerning our variable of interest, *JFE*, the results confirm those obtained via the mean comparison test: the justices the more prone to oppose to the executive power are also more likely to obtain a politically controlled job after their mandate. Data thus land support to the revisionist view of judicial independency in the Italian context. This result is robust across the three different alternative approaches. As expected, younger judges are more likely to obtain a job after their mandate, and former presidents of the Court, probably because of the prestige and visibility associated with this position, are also more rewarded, everything else held equal. Interestingly, there is no difference in the probability of a reward with respect to the type of the former career of the justices. Justices that had been elected to the Constitutional Court by the Parliament or appointed by the President of the Council do not have a higher probability to

obtain a post-Court job than judges elected by the higher Court, who have a higher probability of reporting a decision of constitutional illegitimacy. This confirms that our *JFE* variable does capture the individual independence of justices and it is this characteristic that matters for the post-Court appointments.

To further ascertain the reliability of these result, Table 6 presents a classification table of the standard logit model. It confronts the in-sample predictions of the model to the actual outcomes, i.e. it confronts the justices that the model predicts they should obtain (or not) post-Court job with those that in fact got one. The model performs remarkably well: more than 94% of the actual outcomes are correctly predicted. Out of 68 observations, only 4 are misclassified. The most striking result is the capacity of the model to predict the gain of a post-Court job. This event is fairly rare, as in our sample it occurs only in 18 cases out of 68. Yet, the model is able to correctly predict at such a low frequency quite well, namely in 15 cases out of 18. This strongly reinforces the validity of our estimates. Finally, one might think that justices prone to oppose the executive are rewarded by a post-Court job only because the majority coalition changed right after the end of their mandate. Obtaining a job would thus not be a reward for independence, but a reward for having been opposed to the alternative political wing of the incumbent executive. Out of the 18 judges that have been rewarded with a job, only one gained a position after such a switch. Hence, this alternative explanation can be ruled out.

## *5. Conclusion*

This paper has exploited a dataset about the Italian Constitutional that included the information about the jurisprudence, the personal characteristics and post Court occupations of the 76 justices that served as justice reporter in the time period spanning from 1956 to 2005, as well as some characteristics of the laws they passed under constitutional review. The goal is to verify an empirical restriction of the “revisionist” explanation of judicial independence that regards the judicial appointments, namely, that politicians interested in having an independent judiciary tend to

reward more independent justices with appointments to other positions after their Court tenure. The Italian sample proves to be an especially appropriate testing ground for such a hypothesis, as it provides information about peak judicial institutions, as the theory implies; moreover the absence of alternation of ideologically different majorities in government allows interpreting decisions of constitutional illegitimacy as truly independent behavior. Finally, this is the first paper that examines a sample of appointments of justices to public offices outside the judicial branch, where politicians' discretion is not confounded by career procedures, as the theory implicitly assumes.

A two-step empirical strategy was performed. In a first step, we have estimated a measure of independence for each justice, based on his/her proneness to declare the illegitimacy of a law. In a second step we have verified how this measure of independence influences the probability to obtain a politically controlled job after the end of the mandate at the Court. Our results have split the opposite predictions of the revisionist vs. the Leviathan theory in favor of the former. Justices who are more likely to declare the illegitimacy of a law under review and who had thus signaled their greater independence from the political forces have also a higher probability of being selected for a post Court positions. These results appear robust after controlling for many conditioning phenomena, among them the justice's age, his/her serving as president of the Constitutional Court (another important driver for appointments to post Court jobs) and the type of nomination of the justices.

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Table 1. Determinants of illegitimacy summary statistics

Variable	Observations	Mean	S.D.	Min	Max
<i>ILLEGITIM</i>	2298	0.577	0.494	0	1
<i>DELAY</i>	2298	285.89	245.237	1	1434
<i>HGOV</i>	2298	0.587	0.203	0.231	1
<i>AGE</i>	2298	66.002	8.218	42	85
<i>SECREP</i>	2298	0.274	0.446	0	1
<i>SAMEWING</i>	2298	0.384	0.486	0	1
<i>PRESALIGN</i>	2298	0.140	0.347	0	1
<i>FASCIST</i>	2298	0.295	0.456	0	1

Table 2. Post-Court reward summary statistics

Variable	Observations	Mean	S.D.	Min	Max
<i>JFE</i>	68	-1.098	1.209	-4.284	1.136
<i>POSTOCC</i>	75	0.24	0.429	0	1
<i>AGE</i>	75	61.22	8.088	40	76
<i>PRES</i>	75	0.28	0.452	0	1
<i>PARL</i>	75	0.373	0.486	0	1
<i>PCC</i>	75	0.386	0.490	0	1

	Model 1	Model 2
AGE	0.012 (0.006)	0.004 (0.033)
SAMEWING	-0.179 (0.138)	-0.190 (0.151)
PRESALIGN	0.165 (0.147)	-0.282 (0.225)
DELAY	0.001*** (0.0003)	0.001*** (0.0003)
HGOV	-0.689 (0.275)	-0.344 (0.332)
SECREP	-2.401*** (0.218)	-1.581*** (0.275)
FASCIST	-0.335 (0.170)	-0.156 (0.185)
JUSTICE dummies	NO	YES
Nature dummies	YES	YES
Decade dummies	YES	YES
Observation	2298	2233
AIC	2477.925	2367.943
Log-Likelihood	-1225.962	-1102.971
Log-Likelihood (null model)	-1565.166	-1510.866

Table 3. Panel Logit Regression Results

\*\*\*, \*\* and \* indicate significance at 1%, 5% and 10% level, respectively. Standard errors in parentheses.

Table 4. Mean comparison test

Group	Observations	Mean	S.Err.	S.D.	95% Conf. Interval	
0	50	-1.226	0.176	1.247	-1.580	-0.871
1	18	-0.742	0.246	1.046	-1.263	-0.222
diff		-0.483				
Two-sample t-test. H1: diff<0. Pr(T < t) = 0.0598*						

\*\*\*, \*\* and \* indicate significance at 1%, 5% and 10% level, respectively. Standard errors in parentheses.

Table 5. The determinants of judicial reward

Model :	(3) LPM	(4) logit	(5) Firthlogit
JFE	0.0967*** (0.0269)	1.8433* (0.9092)	1.1380* (0.5650)
PARL	-0.0313 (0.0823)	-1.0461 (1.7266)	-0.6616 (1.3259)
PRES	0.0068 (0.0851)	-0.6391 (1.6664)	-0.4077 (1.3505)
PCC	0.4287*** (0.0700)	6.0100** (2.3081)	3.9880** (1.3605)
AGE	-0.0288*** (0.0044)	-0.4794** (0.1844)	-0.3096** (0.1094)
Observations	68	68	68
R2	0.6743	-	-
F	25.6729	-	-
Log-likelihood	-	-9.0925	-6.3095
Log-likelihood (null model)		-39.298	-40.020
AIC	82.022	30.185	24.618

\*\*\*, \*\* and \* indicate significance at 1%, 5% and 10% level, respectively. Standard errors in parentheses.

Table 6. Classification table

		True Outcome		
Classified		1	0	Total
Estimated	1	15	1	16
Outcome	0	3	49	52
Total		18	50	68

Correctly classified: 94.12%

### *Appendix A. Institutional features of the Italian Constitutional Court*

The textual analysis of the current Italian Constitution suggests that judicial independence is an important feature of the Italian political and institutional system and that the Italian Constitutional Court enjoys a significant degree of independence from the other two branches (Cerri, 2004; Zagrebelski, 1997; Paladin, 1998). The Constitution of 1948 asserts that “...The judiciary constitutes an autonomous and independent branch of government not subject to any other” (art. 104 sec. 1). The main role of the Constitutional Court is to protect citizens from unconstitutional actions and rules by the other bodies (Art 134). To this end, the Constitution provides conditions of structural independence to Constitutional justices, such as: the longest tenure among the Italian public officials (9 years, Art. 135 sec. 3; it used to be 12 years, before a Constitutional amendment enacted in 1967); a constitutional protection for “... conditions, forms, and terms for challenging the constitutionality of a law and [for] the independence of the justice” (art. 137, sec. 1); the unappealability of the Court’s decisions (art. 137 sec. 3); and, last but not least, the general conditions that “...justice is administered in the name of the people” (art 101, sec. 1) and that “... judges are only subject to the law” (art 101, sec. 2).

Fifteen justices compose the Italian Constitutional Court. They must come from the ranks of either active or retired judges, or professors of law or lawyers with at least twenty years of career. One third of the total of 15 is elected with a simple majority by the members of the three highest Courts (the Supreme Court of Cassation, the Council of State and the Court of Audit); another third by the two Houses of Parliament (Chamber of Deputies and Senate) in joint session; the President

of the Republic appoints the remaining third (art. 135 of the Constitution). A qualified majority of two-thirds of the total membership of the two Houses is required for the election of Constitutional justices. After three ballots this qualified majority is reduced to three-fifths. During the so-called First Republic (1948-1992 *circa*), the presence of such a high *quorum* induced the main parties to reach an informal agreement for the election. On the basis of such an agreement two candidates were usually chosen by the Christian Democratic Party (DC), one by the Communist party (PCI), one by the Socialist party (PSI) and another one by the smallest parties (Rodotà, 1999). In 1993 the introduction of the majoritarian system and a wave of scandals overturned the Italian political framework. The result was the creation of two coalitions and, as regards to the election of constitutional judges, the disappearance of the informal agreement. Yet, an agreement between the governing and the opposing coalition is still needed, as the majority usually finds it difficult to elect five judges without the support of the opposition.

As for the five justices appointed by the President of the Republic, constitutional theorists (Zagrebelsky, 1997) maintain that the procedure that the Constituent Assembly established in 1946 ensures the autonomy of the decision of the President. Differently from the usual decrees of the President of the Republic (the D.P.R.), which are proposed by the government or by single members thereof and then signed by the President, the decree that appoints the constitutional judges is of Presidential initiative and signature; it only needs to be countersigned by the Prime Minister. However, the autonomy of the President of the Republic to select the justices may in fact be more limited than what constitutional theorists assert. One must bear in mind that both Chambers (as well as representatives of the Regional Councils) elect the President of the Republic by absolute majority after three ballots. He may thus be seen as the agent of the parliamentary majority, even as regards to the appointment of justices. Informal consultations with the political parties and the government in fact precede the appointment of the five “Presidential” justices.

In order to guarantee the independence of the Court, the Italian law establishes a number of requirements, in addition to the procedures that regulate their election and appointment. Constitutional justices cannot be members either of the Parliament, or of the Regional Councils;

they cannot exercise professional, commercial or industrial activities or be managers or auditors of for-profit corporations. Neither they can work as prosecutors or as university professors or participate to the activities of political parties. Once their term expires, justices on leave from a public sector job (chiefly those coming from the judiciary and the university professors of law) are reinstated in their previous positions; they are also given a lifetime pension in addition to the regular salary, unchanged in real terms. Even though most justices leave the Court in old age, many of them are called to other “prestigious” positions after their service in the Constitutional Court (Breton and Fraschini, 2003).

The details of the procedures through which the Court in fact reaches its decisions allow understanding the changing degrees and the actual sources of structural independence of the Constitutional Court. First, the 15 justices elect a president among themselves who holds office for a renewable 3-year term. This term may in fact be shorter in case the Court tenure of the president expires before the third year of presidency. The president holds a significant agenda setting power: he/she sets the agenda of the cases to be reviewed, selects the justice reporter (*Giudice Relatore*) whose task is to prepare the first draft of each decision and holds a double voting weight in case of ties. Another important driving feature of the Court’s decision-making process is the so-called “panel of justices” (*Collegio di Giudici*). Although the Court formally decides as one acting body – dissenting opinions are not published – a panel of justices does in fact take each decision. The panel is appointed anew by the president of the Court for every case, is composed by at least 11 justices, and decides by simple majority on the draft decision submitted by the judge reporter. The minimum size of 11 ensures that a coalition of 5 judges of the same extraction (presidential, parliamentary or judicial) may never hold the absolute majority. This is a first evidence that the appointment process is considered relevant for the type of decisions that the Court makes; in other words, it is expected to influence the sort of jurisprudence and the degree of independence of the Court. The structural independence of the Court thus varies for every decision according to the composition of the panel; it is not a constant characteristic. Absences may affect the independence of the Court too; they may cause the effective composition of the Panel at the moment of the decision to differ from the one



originally selected by the president; hence they may affect the relative weights of each type of justice within the panel and, by that, the relative independence of the Court. Vacancies play a similar role to absences, but on a somewhat greater scale. Justices who end their tenure are not always promptly substituted. This is more often the case for parliamentary or presidential justices than for “judicial” ones. During its history, the Court has gone through times, often much longer than a year, when less than 15 justices stood. This thwarted the equal weights of each type of justices within the Court, thus affecting its expected independence. Within the panel of justices the literature (Zagrebelski, 1997) recognizes an agenda setting power to the justice reporter because he/she instructs the case, presents it before the panel that takes the final decision and, finally, actually writes down the motivations of the decision.

#### *Appendix B: Description of data sources*

Data on *POSTOCC*, *POLAF* and *POLUNC* come from Breton and Fraschini (2003) and from the websites of the Corte Costituzionale, [www.cortecostituzionale.it](http://www.cortecostituzionale.it), Wikipedia, [www.wikipedia.it](http://www.wikipedia.it) and *Who's Who Sutter International Red Series*, [http://www.whoswho.eu/w\\_italy.php](http://www.whoswho.eu/w_italy.php) (for the years up to 2005). *PARL*, *PRES*, *MAG*, *PCC* and *SECREP* have been calculated on data available from Rodotà (1999) and from the website of the Corte Costituzionale (for the years up to 2005); both sources indicate whether the president of the Court is nominated by the Parliament, the President of the Republic or elected by the magistracy and when he/she has been appointed justice. Data on the Court decisions, on the laws that reviewed by the Constitutional Court and on the judge reporter who presides over each Panel of Judges are available on the website of the Constitutional Court. This information serves as basis for the variable *ILLDEC*.

Breton and Fraschini (2003) and the web site of the Italian Constitutional Court (for the years up to 2005) are the source also for the variable *AGE*. *ALIGN* has been calculated based on data coming from Breton and Fraschini (2003), the website of the Corte Costituzionale, as well as the websites of the Camera dei Deputati ([www.camera.it](http://www.camera.it)) and of the Italian government ([www.governo.it](http://www.governo.it)) for

the composition (and the ideology) of the coalitions supporting each Italian government from 1956 to 2005.

Data for the controls *SENTCIT*, *FASC* and *SPECIAL* all come from the website of the Corte Costituzionale. They have been constructed as follows: *SENTCIT* takes the value of 1 if the decision of the Court is mentioned in two standard textbooks of Constitutional Law that we have consulted (Cerri, 2004; Zagrebelski, 1997) and/or in the front page of the *Corriere della Sera* (the most important Italian newspaper) the day when the decision was published, and 0 otherwise. *FASC* takes the value of 1 if the law under constitutional review was enacted between 1923 and 1943, i.e., during the 20 years of effective Fascist rule in Italy. *SPECIAL* equals 1 when the decision regarded, to our personal opinions, issues of narrow special interests, 0 when referred to issues of general interests (definition of property or civil rights, broad issues that command the interest of the public opinion etc.).

*Appendix C: List of the justice reporters and their post Court job profile*

Justice	Tenure	Code	<i>POSTOCC</i>
Amadei L.	1972-1981	1	No
Ambrosini G.	1955-1967	2	No
Andreoli V.	1978-1987	3	No
Astuti G.	1973-1980	4	No
Baldassarre A.	1986-1995	5	Yes
Battaglini E.	1955-1960	6	No
Bile F.	1999-2008	7	No
Benedetti G. B.	1963-1975	8	No
Bonifacio F. P.	1963-1975	9	Yes
Borsellino G.	1984-1993	10	No
Bracci M.	1955-1959	11	No
Branca G.	1959-1971	12	Yes
Bucciarelli Ducci B.	1977-1986	13	No
Caianiello V.	1986-	14	Yes

Justice	Tenure	Code	<i>POSTOCC</i>
	1995		
Capalozza E.	1968-1977	15	No
Capotosti P. A.	1996-2005	16	No
Cappi G.	1955-1963	17	No
Casavola F. P.	1986-1995	18	Yes
Cassandro G.	1955-1967	19	Yes
Castelli Avolio G.	1955-1966	20	No
Cheli E.	1987-1996	21	Yes
Chiarelli G.	1961-1973	22	Yes
Chieppa R.	1995-2004	23	No
Conso G.	1982-1991	24	Yes
Contri F.	1996-2005	25	No
Corasaniti A.	1983-1992	26	Yes
Cosatti M.	1955-1963	27	No

Justice	Tenure	Code	<i>POSTOCC</i>
Crisafulli V.	1968-1979	28	No
De Marco A.	1968-1977	29	No
De Stefano A.	1975-1984	30	No
Dell'Andro R.	1985-1990	31	No
Elia L.	1976-1985	32	Yes
Ferrari G.	1980-1987	33	No
Ferri M.	1987-1996	34	No
Fragali M.	1960-1972	35	No
Gabrieli Pantaleo F.	1955-1962	36	No
Gallo E.	1982-1991	37	Yes
Gionfrida G.	1972-1981	38	No
Granata R.	1990-1999	39	No
Greco F.	1984-1993	40	No
Guizzi F.	1991-2000	41	No
Jaeger N.	1955-1967	42	No
La Pergola A.	1978-1987	43	Yes
Maccarone A.	1977-1984	44	No
Malagugini A.	1977-1986	45	No
Manca A.	1956-1968	46	No
Marini A.	1997-2006	47	No
Mengoni L.	1987-1996	48	No
Mezzanotte C.	1996-2005	49	No
Mirabelli C.	1991-2000	50	Yes
Mortati C.	1960-1972	51	No
Neppi Modona G.	1996-2005	52	No
Oggioni L.	1966-1978	53	No
Onida V.	1996-2005	54	No
Paladin L.	1977-1986	55	Yes

Justice	Tenure	Code	<i>POSTOCC</i>
Papaldo A.	1955-1967	56	No
Pescatore G.	1986-1995	57	No
Petrocelli B.	1956-1968	58	No
Reale N.	1968-1979	58	No
Reale O.	1977-1986	60	No
Rocchetti E.	1968-1977	61	No
Roehssen G.	1977-1986	62	No
Rossano M.	1974-1983	63	No
Rossi P.	1969-1979	64	No
Ruperto C.	1993-2002	65	No
Saia F.	1981-1990	66	Yes
Sandulli A.	1957-1968	67	Yes
Santuoso F.	1992-2001	68	No
Spagnoli U.	1986-1995	69	No
Trimarchi V.	1968-1977	70	No
Vaccarella R.	2002-2007	71	No
Vari M.	1993-2002	72	No
Vassalli G.	1991-2000	73	No
Verzì G.	1962-1974	74	No
Volterra E.	1973-1982	75	No
Zagrebelski G.	1995-2004	76	Yes