



European Network of Councils
for the Judiciary (ENCJ)

Réseau européen des Conseils
de la Justice (RECJ)

Reduction of backlog: The experience of the Strasbourg Program and the census of Italian civil justice system

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ENCJ South-Western Seminar on Timeliness

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REDUCTION OF BACKLOG

**The Experience of the Strasbourg Program
and the Census of Italian Civil Justice System**

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FCT

Fundação para a Ciência e a Tecnologia
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UNIVERSIDADE DE COIMBRA

INTRODUCTION (I)

THE STARTING POINT

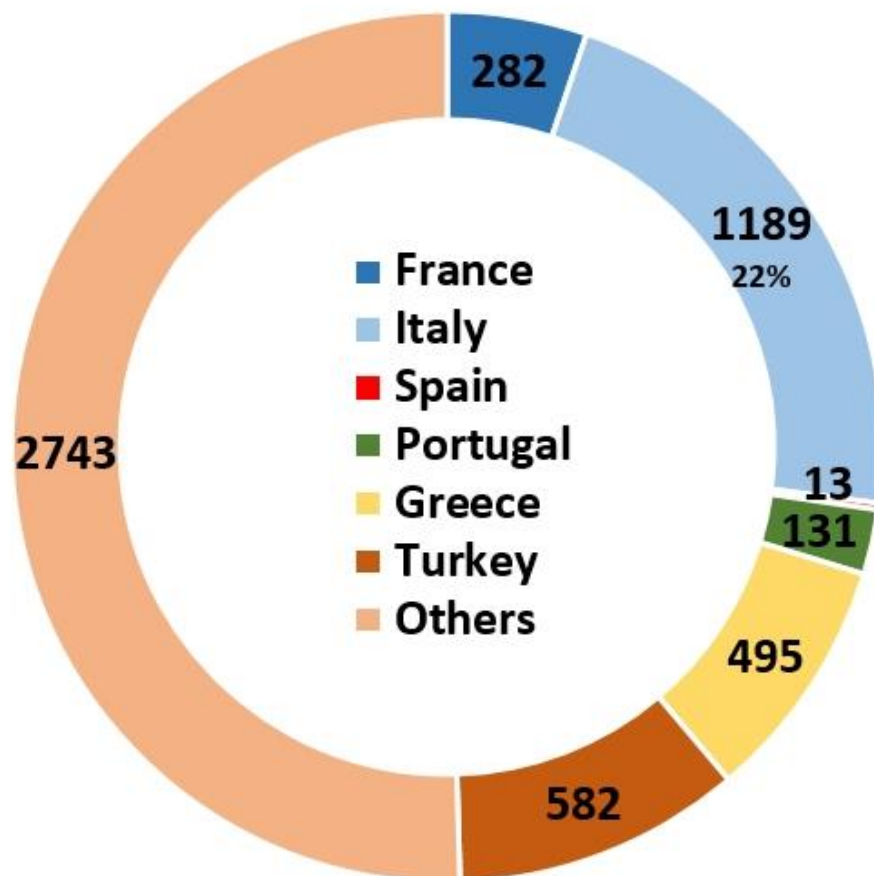
Article **111** of the Italian Constitution
(Constitutional Law no. 2 of 23.11.1999)

“**Fair Trial**” Principle (“giusto processo”)

*«Jurisdiction is implemented through due process regulated by law. All court trials are conducted with adversary proceedings and the parties are entitled to equal conditions before an impartial judge in third party position. The law provides for the **reasonable duration of trials**»*

Article **6-1**. Convention for the Protection of Human Rights
and Fundamental Freedoms (Rome, 4 November 1950)

INTRODUCTION (II)



EUROPEAN COURT OF HUMAN RIGHTS

VIOLATIONS BY STATES
Overview 1959-2015

LENGTH OF PROCEEDINGS

Article 6-1 of the Convention for
the Protection of Human Rights
and Fundamental Freedoms

Total 5.435

THE “PINTO LAW”

Compensation for violation of the right to a “**reasonable length**” of the judicial proceeding (Law 89/2001)

Budgetary costs: from € 4 mln. (2002) to € 205 mln. (2011)
Total: more than € 400 mln. (Source: Ministry of Justice 2011)

A NEVER-ENDING SEASON OF REFORMS

In the last 20 years, **22 major reforms** of the Code of Civil Procedures have been introduced by the 13 Governments, which have followed each other in Italy

“*tsunami of civil justice reforms*” (Costantino 2005: 1167)

INTRODUCTION (IV)

	2005	2013	Δ
SUPREME COURT OF CASSATION	1.082 days	1.222 days (40 months)	+140 days
APPEAL COURTS	846 days	1.061 days (35 months)	+215 days
JUVENILE COURTS	641 days	668 days (22 months)	+27 days
ORDINARY TRIBUNALS	485 days	423 days (14 months)	-62 days
JUSTICE OF THE PEACE OFFICES	240 days	345 days (11 months)	+105 days

Average length of the civil proceedings (in days).

(Source: Ministry of Justice 2015. Our elaboration)

STRASBOURG PROGRAMME (I)



PROFESSIONAL JUDGES: **147**
LAY JUDGES: **31**
CLERKS: **370**
JURISDICTION AREA: **big**
RATIO P-JUD/RESIDENTS: **10.246**

(Source: Ministry of Justice and
Council for the Judiciary)

THE CASE OF THE COURT OF FIRST INSTANCE OF TURIN

*“The Strasbourg Programme is
Italy’s first attempt to manage
court cases in such a way as to bring
about a substantial reduction in the
backlog of cases and speed up the
processing of civil cases”*

(Mario Barbuto, former President)

Crystal Scales of Justice Prize (2006)

Best practice of CEPEJ

Pilot court of Saturn-CEPEJ

Best practices Database of the Italian CSM

STRASBOURG PROGRAMME (II)

THE IDEA BEHIND THE PROGRAMME

The proceedings lasting for longer than 3 years could be considered as in violation of “**reasonable time**” under art. 6-1 of the ECHR

THE STEPS OF THE PROGRAMME

- ✓ Monitoring of **court’s backlog** (regular 6-months analysis)
- ✓ Introduction of specific **judicial files’ tags** (more than 6 months; between 6 months and 2,5 years; more than 2,5 years)
- ✓ Definition of a “**Decalogue**”, addressed to civil judges, with the aim of reducing the so-called “Pinto risk” (“living document”: 17 editions)
- ✓ Involvement of the local **Bar Association**

STRASBOURG PROGRAMME (III)

THE “DECALOGUE”

A radical change: from “**LIFO**” (*last in, last out*)
to “**FIFO**” (*first in, first out*) model

Absolute priority of cases pending for **over 3-years**

General idea (at unchanged legislation): every single judge plays an
“**active role**” in ensuring the rapid progress of the proceedings

- ❖ Active case management
- ❖ Timing agreement with parties and lawyers
- ❖ Co-operation and monitoring of other actors (experts, witnesses, etc.)
- ❖ Suppression of procedural abuses

(Source: Oberto 2011 “*Study on measures adopted in Turin’s Court along the lines of Saturn Guidelines for Judicial Time Management*”)

THE RESULTS OF THE PROGRAMME

Although not formally binding, the Decalogue is become a sort of “**accountability tool**”, even if informal, to evaluate and, potentially, to sanction, under the aspect of reputation, the judges who do not follow its provisions and suggestions (Source: interviews)

- ❖ Reduction of the backlog in the period 2001-2006: **26,6%**
- ❖ Number of Pinto claims in the period 2003-2006: **66**
(vs 3000 of the Court of Rome)
- ❖ Percentage of cases pending for less than 3-years: **93,33%**
(At 30.11.2007. Source: Barbuto 2007)
- ❖ Average length of the civil proceedings: **184** days
(vs 423: national average) (Year: 2013. Source: Ministry of Justice)

STRASBOURG 2.0 PROGRAMME (I)

FROM TURIN TO THE NATIONAL LEVEL

On January 2015, the Italian Ministry of Justice presented the so-called “**Strasbourg 2.0 Programme**”. The project aims to fight the backlog pendency and to speed up civil proceedings

- ❖ In-depth analysis of pending civil proceedings (Census of Italian Civil Justice System: 2014-2015)
- ❖ Definition of a list of **performance indicators**
- ❖ Publication of regular statistical reports
- ❖ Definition of **incentives** for “virtuous” judicial offices
- ❖ Encouraging (not forcing) the dissemination of the “**Decalogue**”

(Source: Ministry of Justice 2015)

STRASBOURG 2.0 PROGRAMME (II)



La **Direzione Generale di Statistica e analisi organizzativa** (DG-Stat) è stata istituita presso il Ministero della giustizia con decreto del Presidente della Repubblica nel 2001. È collocata presso il Dipartimento dell'organizzazione giudiziaria, del personale e dei servizi (DOG) e fa parte del Sistema Statistico Nazionale (SISTAN).

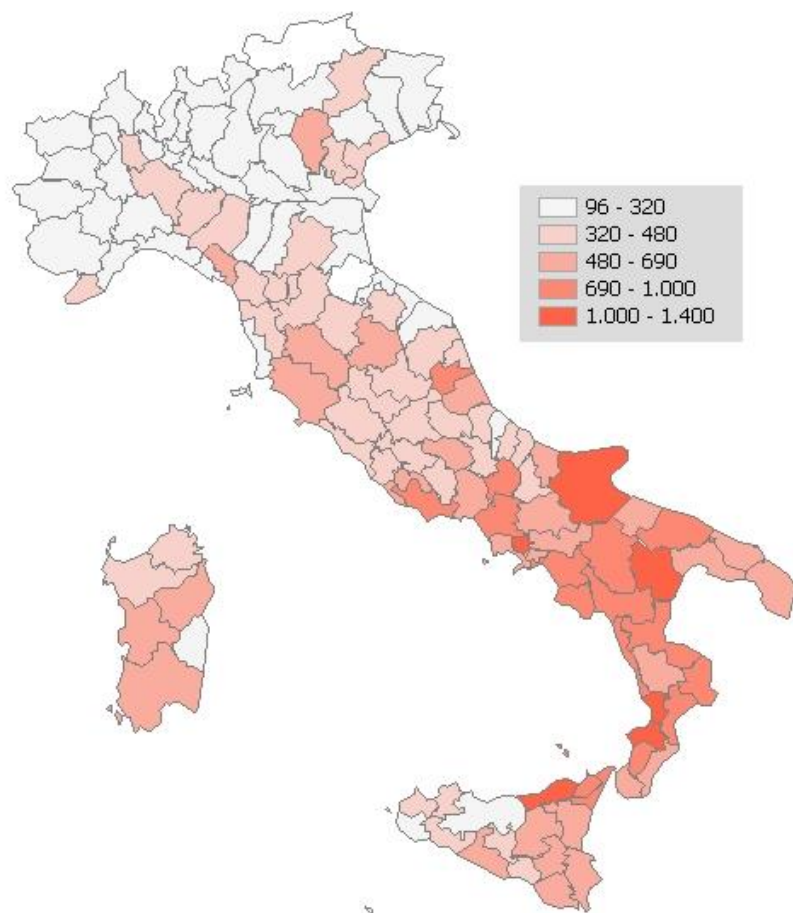
In evidenza - Censimento speciale giustizia civile



Introduction of the Data Warehouse System of Civil Justice (DWGC)

<https://webstat.giustizia.it>

PERSPECTIVES



Average length of the civil proceedings

(Source: Ministry of Justice 2016. Interactive map)

*What is the “room of manoeuvre” for presidents of courts and chief prosecutors?
How they can promote efficiency and quality of justice?*

This debate has clear implications in terms of **selection, evaluation and training** of these figures

→ Consolidated Act on Judicial Executives (Resolution 28.07.2015) introduced by the **Italian Council for the Judiciary (CSM)**

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