Italian civil Justice: Recent reforms and achievements

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Content of the presentation

Starting Situation and Progress Achieved
- The “mountain to climb”
- Recent review of the Judicial Map
- Main indicators of the civil justice
- International benchmarks

Ongoing Reforms and Organisational Measures
- Law 132/2014 “dejudicialization” (out-of-court settlement)
- Alternative Dispute Resolution Procedures (ADR)
- Digital Civil Trial (i.e PCT)
- Other organizational actions

In the Pipeline
- Common & Marketplace Project
- Comprehensive Reform of Civil Trials
The starting situation ... 
and progress achieved
The “mountain to climb”

- Old judicial map that counted more than 2,000 offices over the national territory

- Civil justice with the highest number of pending cases in Europe: almost 6M pending civil cases as of end of 2009

- Very high per capita litigation and «crime» rates in international comparison

- Civil justice performance indicators (trial length in particular) places us towards the low end of international benchmarks

- Lack of specialised tribunals for specific subject matters

- IT infrastructures and management systems out of keeping with the times and uneven throughout Italy

- Different levels of the “justice as a service” throughout Italy
Access to justice in terms of court proximity for citizens

Optimal size of courts so as to secure the presence of different skills and functions

Cost saving on the assumption that public sector resources cannot and must not be wasted but rather optimized

Maximize quality and an adequate delivery of the service provided
COURT GEOGRAFY - RESULTS

From 1,398 offices (in the scope of the law) to almost 650, i.e. almost 750 offices have been closed down

(*) Ongoing procedure

Prior to reform

After reform

Justices of the Peace
From 846 to almost 380*

«Local Divisions»
From 220 to 0

First-instance Courts and Public Prosecutors Offices
From 166 to 136

Source:
Historical data on pending civil cases shows a downward trend: from almost 6M at the end of 2009 to less than 5M on 31 December 2014, civil justice has shown some improvement over the past few years.

HISTORICAL DATA ON PENDING CIVIL CASES

CAGR = -3.7%
CAGR = -3.9%
CAGR = -6.7%
CIVIL CASES: CURRENT AVERAGE LENGTH

The downward trend of pending cases has started to positively impact on the disposal times for civil cases:

<table>
<thead>
<tr>
<th>Office</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2013 Vs 2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Court of Cassation</td>
<td>1.105</td>
<td>1.318</td>
<td>1.223</td>
<td>-7.2%</td>
</tr>
<tr>
<td>Court of Appeal</td>
<td>1.060</td>
<td>1.035</td>
<td>1.066</td>
<td>2.9%</td>
</tr>
<tr>
<td>Tribunal</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Litigious cases</td>
<td>885</td>
<td>939</td>
<td>844</td>
<td>-10.1%</td>
</tr>
<tr>
<td>- Non litigious cases</td>
<td>75</td>
<td>86</td>
<td>107</td>
<td>25.0%</td>
</tr>
<tr>
<td>Judge of the peace</td>
<td>376</td>
<td>362</td>
<td>348</td>
<td>-3.9%</td>
</tr>
</tbody>
</table>

Source: [Image]

FEWER PENDING CASES = SHORTER PROCEEDINGS
COMPOSITION OF BACKLOG

NOT ALL LONG-PENDING CASES ARE BACKLOG

About 550,000 enforcement cases

About 750,000 non contentious cases

Out of 5M pending cases only 3.5 million are contentious.

There are proceedings that are long pending per se because they are associated with the status of the party to the proceedings: i.e. guardianship and curatorship of minors and incapacitated.

The percentage of non contentious cases was estimated to be 15%.
... Reduction of disposal times together with simplification of civil law procedures due to the reforms implemented in the past few years have enabled Italy to move up in the “Enforcing contracts” ranking, an indicator measured by the World Bank in the Doing Business 2014 Report.

- From the 140th ranking in DB2013 (reclassified from the 160th!)

- To the 103rd ranking in DB2014

Note: In the Enforcing Contracts indicator of DB2015, Italy slipped some positions; yet it must be highlighted that this is not due the poorer performance of our system but to the changed ranking method used by the World Bank
Ongoing Reforms and Organizational Measures
The Reform of Justice

Out of the 12 points of the Reform of Justice 4 are dedicated to civil justice:

1. Shorter disposal times
2. Halving the backlog
3. Fast track for businesses and families
4. Comprehensive computerisation and organisational innovation of the judicial system
Scope of Action of the Reform Leg. Decree 132/2014
Action for civil backlog: through dejudicialization

With the aim of tackling pending civil cases the recent legislative changes have introduced some instruments that focus on forms of “dejudicialization”, i.e. out-of-court dispute settlement:

1) **Referral to arbitration**: arbitration possible also for pending cases, arbitration award is an enforceable title.

2) **Negotiation assisted by legal counsel**: out-of-court settlement procedure, the agreement reached is an enforceable title. Mandatory in some cases (notably, payment of sums under 50,000 euros), always optional

3) **Mediation**: the Government keeps focusing on this measure together with the newly introduced ones: always possible, the judge may delegate it. In some cases it is mandatory (notably condominium litigation, leases, rights *in rem* and neighbour disputes).
Scope of Action of the Reform Leg. Decree 132/2014  
dejudicialization and «easy» divorce

- Consensual divorces and separations before the Mayor without the assistance of legal counsel: easier and less traumatic
- Cost is 16 euros!

Few months after the reform, consensual «dejudicialised» separations and divorces have already become an outstanding reality! An initial estimate indicates that there may be about 105,000 fewer proceedings every year in courts!
Consensual divorces and separations before the Mayor: March 2015

The data reveal a sustained start of separations and divorces agreements outside the courts.

Separations and divorces (lex 132/2014)

Data of 15 Municipality of the sample

<table>
<thead>
<tr>
<th></th>
<th>2014</th>
<th>2015</th>
<th>Totale</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Ottobre</td>
<td>Novembre</td>
<td>Dicembre</td>
</tr>
<tr>
<td>TOTALE negoziazioni assistite (ex art 6)</td>
<td>9</td>
<td>26</td>
<td>19</td>
</tr>
<tr>
<td>TOTALE registrazioni di fronte Stato civile (ex art. 12)</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>TOTALE negoziazioni assistite</td>
<td>9</td>
<td>26</td>
<td>20</td>
</tr>
<tr>
<td>di cui</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ACCORDI di Separazione</td>
<td>6</td>
<td>15</td>
<td>8</td>
</tr>
<tr>
<td>MODIFICHE di Accordi di Separazione</td>
<td>0</td>
<td>6</td>
<td>2</td>
</tr>
<tr>
<td>ACCORDI di Divorzi</td>
<td>3</td>
<td>4</td>
<td>10</td>
</tr>
<tr>
<td>MODIFICHE di Accordi di Divorzio</td>
<td>0</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Coppie con figli</td>
<td>22%</td>
<td>42%</td>
<td>55%</td>
</tr>
<tr>
<td>di cui casi con figli minorenni</td>
<td>0</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>Coppie senza figli</td>
<td>78%</td>
<td>58%</td>
<td>45%</td>
</tr>
</tbody>
</table>
Scope of Action of the Reform Leg. Decree 132/2014: Enforcement and Summary proceedings

1) **Widespread application of summary proceedings:**
   Judges have the possibility to switch from ordinary to summary proceedings and can thus avail themselves of a simpler instrument for non-complex cases.

2) **Streamlining and speeding up enforcement proceedings:**
   - Mandatory IT entry in the register of cases and speedier filing of claims.
   - Digital search of assets
   - Monitoring enforcement and insolvency procedures
About 1,220,000 cases is the potential for out of court settlement, before being tried.

The estimate of the actual net filter depends on factors that are not easily assessed, however it is advisable to report the final data of the first two years of mandatory mediation which accounts for about 20% of conciliation attempts.

Cooperation with lawyers should lead to an increase in filtering percentages, i.e. between 30% and 40% of new incoming cases, which means the disposal of about 370,000-500,000 pending cases, provided that the other conditions remain unchanged and assuming a constant productivity by judges.
CIVIL MEDIATION

In the assessment of mediation results, data points to two different outcomes: the success rate is very positive when the parties arrange to try and reach an agreement but participation at the negotiating table is still low.

**Parties’ participation**  
1° January – 31 December 2014

A sample analysis shows that the success rate rose to 47% when we exclude mediations in which the parties have attended only the first meeting.
CIVIL MEDIATION

Increasing trend of participation

The Italian Ministry of Justice is one of the few in Europe to collect data on mediation, comprehensive statistics are available on:

- Breakdown of mediations by subject matter
- Value by subject matter and type
- Assistance of counsel
- Success rate for all categories
- Duration

Source:
Actuals of 2014 show that in Italian Tribunals have been filed 180,000 less cases than 2013.

Civil cases into Appeal Courts have decreased by a 10% in the same period.

We expect that in 2014, considering all Offices, the total number of civil incoming cases has decreased by some 300,000 compared to the previous year.
Thanks also to the use of mediation, Italy is improving its per capita litigation rate, as measured by Cepej.
Measures to protect credit

- Changes to the cost compensation system: the losing party pays back the costs of the trial!
- Delayed payments: those who do not pay their debts will have to pay higher interests!
- Digital search of the assets to be attached
- Use of digital summary payment order for faster recovery of claims
The Digital Civil Trial

Benefits…

- **13,743,884** digital notices delivered
- Moving from paper to digital files
- Access to the file with a smart card on the nation justice services portal, [http://pst.giustizia.it/PST/](http://pst.giustizia.it/PST/)
- On line filing by lawyers and professionals
- Better organisation of clerk offices

… Results

- €48M estimated savings
- Savings in terms of costs, paper and time for all the operators
- Information transparency and on line round the clock accessibility to digital files
- Fewer queues at the office for users, clerks more focused on back office work
- Adoption of more efficient work processes
Digital IT Filing for Lawyer and Professionals

May 2015: 390,209 = + 208% vs December 2014
Digital documents with legal value
filed by lawyers and other professionals

May 2015 vs December 2014:
• Documents during the proceedings: + 224%
• Documents to start the proceedings: + 475%

April 2015 vs July 2014:
• Documents during the proceedings: + 492%
• Documents to start the proceedings: + 826%
Digital documents by magistrates

May 2015: 137,399
+ 74% vs December 2014
Digital payment orders

Time of release

Consolidated data for February 2015
Compared to the average of the 12 months before the compulsory
Sample of Districts

<table>
<thead>
<tr>
<th>Distretto</th>
<th>Media giorni emissione Febbraio 2015</th>
<th>Confronto con 12 mesi prec.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ancona</td>
<td>10</td>
<td>-26%</td>
</tr>
<tr>
<td>Catania</td>
<td>29</td>
<td>-32%</td>
</tr>
<tr>
<td>Milano</td>
<td>23</td>
<td>-52%</td>
</tr>
<tr>
<td>Roma</td>
<td>22</td>
<td>-54%</td>
</tr>
<tr>
<td>Napoli</td>
<td>30</td>
<td>-41%</td>
</tr>
</tbody>
</table>
Organization projects

- Review of the judicial map *(illustrated at the onset of the document)*
- Business Court (Tribunale per le imprese)
- Office for Trials
- New datawarehouse system of civil justice and «Strasbourg» Programme
- Regulation on the organisation of the Ministry
- Single Justice Fund
BUSINESS COURT – how many and where

The Specialized Divisions on Business matters, known as Business Courts, were introduced by Law no. 27/2012. The 22 Divisions are distributed throughout the whole national territory. Half of the Divisions have a specific competence for international firms operating in Italy.

1. Ancona
2. L’Aquila
3. Bari
4. Bologna
5. Bolzano
6. Brescia
7. Cagliari
8. Campobasso
9. Catania
10. Catanzaro
11. Firenze
12. Genova
13. Milano
14. Napoli
15. Palermo
16. Perugia
17. Potenza
18. Roma
19. Torino
20. Trento
21. Trieste
22. Venezia

Business courts competent for international firms
The first data on their work shows encouraging signals in terms of performance, both for the average length indicator and the disposal within one year indicator.
Office for Trials

Skilled staff to support the work of judges and prosecutors to:

- Assist them in the drafting of measures
- Support the technology innovation processes

Expected results:

- Increased productivity of the judiciary
- Greater efficiency in the management of hearings
- Improvement of the overall quality of hearings

In the offices where testing is under way, pending cases have decreased by almost 15%

The Minister assured scholarships for skilled staff.
THE NEW DATAWAREHOUSE OF CIVIL JUSTICE AND
THE STRASBOURG PROGRAMME

DATAWAREHOUSE of Civil Justice (DWGC)

- The Ministry of Justice - DG Statistics – has implemented a datawarehouse system that can collect a huge number of data and events pertaining to millions of civil cases heard every year in our courts. The new DWGC system shall support legislative reforms and other decision-making processes.

«STRASBOURG PROGRAMME»

- A revolutionary statistical survey of some of the most important data on civil justice of Italian courts. The functioning of each Court was analysed through «23 Key Performance Indicators» relating to size, structure and performance.
- The so-called Strasbourg 2.0 Programme provides for the expansion of the best practices of the Court of Turin, whose objective is to promote a single method to assess and reduce the backlog in all Italian courts.
Regulation on the Organisation of the Ministry

Expected results:

- 64M euros estimated cost savings
- Greater efficiency of the ministerial machinery
- Better support for the activities of the offices
- Streamlining of work processes
- Increased professionalisation of administrative machineries
The Single Justice Fund

Seized and confiscated assets in trials flow into a state fund aimed at supporting the operational needs of Judicial Offices.

Part of the fund will be used to foster the functioning of Judicial offices (as paying skilled staff to support the Judge’s work and for development and completing information system).
New resources for Organisation Projects

- For the first time the Ministry has been accredited as Intermediate Entity in the NOP Governance for 2014 – 2020 planning.
- Among the projects to be funded: the Digital Civil Trial for the Justice of the Peace, the “Help desk” for issuing certificates to citizens and the Office for trial.

The European funds will be used to support projects on organisational and technological innovation for justice.
In the pipeline
Common & Marketplace Project

The problem | lack of liquidity

- Demand crisis: lack of liquidity and difficulties in accessing credit (*credit crunch*)
- Difficulties in the sale of movable and immovable property especially within bankruptcy procedure
- Lengthening procedures and progressive decrease realizations (actual and expected)
- Insolvencies chain
Com.mon & Marketplace Project – main elements

- The project was developed by a commission of study called “Com.mon”, transformation of problem loans in purchasing power immediately spendable in sales failed, established at the Cabinet Office in August 2014.

- The Common Project intends to optimise supply conditions and support demand in bankruptcy sales.

- On the supply side, a single national digital market of all the assets sold in insolvency procedures is to be set up (Marketplace).

- The Marketplace will also function as a platform for the pricing of assets that can be paid in two ways: in Euros and in Commons, the latter being a targeted currency that is convertible under the rules laid down by the project.
Comprehensive Reform of Civil Trials

- Greater specialisation for family and personal matters
- Increased competence of Business Courts
- Streamlining of proceedings and appeal system
- Introducing approaches to simplify the drafting of measures by judges and prosecutors and of documents by lawyers
Thanks!