

INTRODUCTORY REMARKS

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During Prime Minister Mario Draghi's twenty-month administration,¹ Italy carried out a comprehensive reform of its judicial system with one main purpose: reducing the excessive duration of legal proceedings.

A reasonable timeframe for judicial proceedings is a fundamental right recognized in the majority of constitutional systems. The Sixth Amendment to the U.S. Constitution guarantees the right to a speedy trial for the accused.² In the same vein, the Italian Constitution (Art. 111), as well as the European Convention of Human Rights (Art. 6) and the European Union Charter of Fundamental Rights (Art. 47), require that all judicial proceedings come to an end within a *reasonable time*.³

Nevertheless, this fundamental right is far from being fully realized.

At the beginning of 2021, when the Draghi Administration took office, the average duration of a civil proceeding in Italy stood at approximately seven and a half years, while the average duration of a criminal trial was about five years.⁴

This was much too long. It was *unreasonably* long.

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1. Mario Draghi served as Prime Minister of Italy from February 13, 2021 until October 22, 2022. He previously served as President of the European Central Bank from 2011 through 2019.

2. U.S. CONST. amend. VI; *see also* Speedy Trial Act of 1974, 18 U.S.C §§ 3161-74 (setting time limits for the completion of each phase of criminal prosecution at the federal level).

3. Art. 111 COSTITUZIONE [COST.] (It.); Y.B. EUR. CONV. ON H.R. art. 6; 2012 O.J. (C 326/2) 405.

4. *See Judiciary at a Glance in Italy (2021 Data)*, COUNCIL OF EUR., <https://rm.coe.int/italy-2021-data/1680ab89bc> (providing data on Italian court efficiency). More information can be found in European Commission, 2021 Rule of Law Report: Country Situation on the rule of law in Italy (July 7, 2021), <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021SC0716>.

It became evident that thorough judicial reform was needed in order to address this systemic problem. Such reforms had been long-awaited by citizens and businesses alike.

The urgency of reform was an implicit recognition that the effective functioning of the justice system is not only an individual constitutional right, but also benefits social and economic life. A well-functioning justice system helps create a favorable environment for investment and, in the medium-long term, contributes significantly to GDP growth.⁵

This is the background of the reform of the Civil Procedure Act that is discussed in this issue. It represents one of the chapters of a more comprehensive set of legislative reforms, encompassing many other sectors of the justice system, all meant to address systemic inefficiencies.⁶

Indeed, the Draghi Administration viewed swifter judicial procedures as necessary but insufficient to resolve the severe problems that impeded access to justice in Italy. Changes to Italy's civil procedure code thus have been accompanied by massive investments in the nation's judicial infrastructure, such as recruiting additional human resources, digitization, and improved organization of judicial offices. For example, looking to the model of some foreign countries,⁷ the reforms called for the establishment of the "office for trial," composed of junior law officers who support judges across all courts in Italy. This ensures that judges no longer work alone but are supported by a team of legal clerks. Tens of thousands of personnel have been hired to assist Italy's judiciary, thanks to funds made available by the EU Recovery Fund.⁸

5. BANK OF ITALY, 2020 ANNUAL REPORT, at 154-57 (2021), https://www.bancaditalia.it/pubblicazioni/relazione-annuale/2020/en_rel_2020.pdf?language_id=1.

6. See Marco Fabri, *The Italian National Recovery and Resilience Plan to Decrease the Length of Judicial Proceedings*, 184 REVUE FRANÇAISE D'ADMINISTRATION PUBLIQUE 1015, 1021 (2022) (observing that the Court of Cassation seeks to decrease the backlog of civil cases by 90% by June 2026 relative to the December 2019 baseline).

7. See Anne Sanders, *Judicial Assistants in Europe – A Comparative Analysis*, 11(3) INT'L. J. CT. ADMINISTRATION 12.

8. On May 5, 2021, Italy presented the National Recovery and Resilience Plan (NRRP) as part of the Next Generation EU (NGEU) program. The NRRP details Italy's response to economic concerns and the pandemic crisis. The official document is on the website "Italia Domani" created by the Italian government to provide news regarding its implementation, available

Procedural reforms and the overall modernization of the courts are thus the two pillars of the government's reforms aimed at improving the performance of the judiciary. However, these measures do not reduce the demand for justice, and courts continue to be overburdened with requests for relief and redress.⁹

Italy, like other Western nations, has become a society dominated by a law-dependent culture where disagreements are immediately framed in legal terms and brought to the bench. It is a time of extreme judicialization of social relations. As a result, courts' dockets are congested by all sorts of conflicts and controversies. And courts with a burdensome backlog of cases are inevitably slow.

The excessive duration of legal proceedings is thus the tip of the iceberg and is exemplary of more profound problems of civil justice in Italy. In order to remove the root causes of the excessive length of the justice machine, the Draghi Administration recognized that improving the output was not enough. It was equally necessary to reduce the input.

This is not to say that requests for redress should not be heard and addressed. But social conflicts do not necessarily need to be resolved solely by the court system. There are various alternative settings, both judicial and non-judicial, where these conflicts can be addressed.

That is why the reform of the Civil Procedure Act encourages and supports all forms of consensual resolution of conflicts, starting with traditional ADR—alternative dispute resolution—such as mediation, arbitration, and assisted negotiation. The reform also encompasses other conciliatory instruments like the negotiated settlement for businesses in crisis and

at *Italia Domani*, ITALIAN GOVERNMENT, PRESIDENCY OF THE COUNCIL OF MINISTERS, <https://www.italiadomani.gov.it/content/sogei-ng/it/en/home.html> (hereinafter, the “Official NRRP”); for an English summary, available on the Italian Ministry of Economy and Finance official website see *The National Recovery and Resilience Plan (NRRP)*, MINISTRY OF ECONOMY AND FINANCE (May 26, 2021), <https://www.mef.gov.it/en/focus/The-National-Recovery-and-Resilience-Plan-NRRP/1>. For more information about law clerk recruitment, see Fabri, *supra* note 6 at 1023 (“The Ministry of Justice will recruit more than 21,000 employees to support the court and the judges,” primarily on a “temporary basis until June 2026.”).

9. See Helen Hershkoff, *An American's View of “The Americanization of the Italian Civil Proceeding”*: *Procedural Convergence, Strategic Signaling, and Democratic Process*, 57 N.Y.U. J. INTL. L. & POL. 53 (2025).

the renegotiation of contracts.¹⁰ Other legislative acts approved in the same period also envisage the implementation of restorative justice in criminal matters, as suggested by several international documents.¹¹

We live in an era characterized by conflict, anger, fragmentation, and polarization. A priority in our societies is to learn how to defuse the potential for social conflicts, whatever their nature, before they erupt. Alternatively, if conflicts do arise, they should be “handled with care” with the goal of reaching consensual resolutions and preventing future recurrences.

Judicial systems can contribute significantly to fostering a culture of reconciliation.

Embracing new approaches to justice and redesigning the judicial system to focus on repairing divisions, healing conflicts, and reconciling relationships will be the most impactful legacy of the modernization of the machinery of justice that we can hand over to future generations.

10. See Cesare Cavallini & Stefania Cirillo, *The Americanization of the Italian Civil Proceedings?*, 57 N.Y.U. J. INTL. L. & POL. 7 (2025).

11. See, e.g., Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA Directive 2012/29/EU, 2012 O.J. (L 315) 57 (establishing minimum standards on the rights, support and protection of victims of crime and the Venice Declaration adopted by the Conference of Ministers of Justice of the Council of Europe on December 13, 2021).