
Systemic Or Incremental Path Of Reform? The Modernization Of The Judicial System In Italy

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Abstract:

The paper presents the first results of the monitoring of the national program “Diffusion of best practices within the Italian judicial offices”. The program represents the first large scale attempt at modernization of the judicial offices and focuses on the organization and quality of work processes, ICT use, and the relations with the users. The paper analyses the program design, which is based on a mix of top-down actions of the central state administrations and bottom-up interventions proposed by the local judicial offices.

The hypothesis at the basis of the paper supports the view that the design is justified as it enhances the experimentation capacities at local level and values the partnerships with local stakeholders. This aspect is also underlined by the specific literature (in particular by the literature on professional organizations).

In the Italian case, which is characterized by strong regional imbalances in terms of social and economic development, strong program coordination is needed. However, this is not guaranteed either by central administrations or by partnerships among local offices.

1. Introduction

The weak organizational performance of the Italian judicial system is well known. The inefficiency of civil justice is one of the main issues of the current political and institutional debate due to its links with the social and economic development policies and, therefore, with the current economic crisis situation.

The main indicators of this inefficiency are:

- a) slowness in the solution of disputes;
- b) increase in the backlog of work.

The vice-president of the CSM-Consiglio Superiore della Magistratura (Council for the Judiciary, the body responsible for ensuring the self-government and independence of the judiciary) has recently underlined this situation in a book which states: “...the Italian courts and law courts are confronted with more than 5.6 million pending civil lawsuits and almost 3.3 million pending criminal trials; a staggering trial length corresponds to these numbers: on average 845 days for first instance civil lawsuits and 1,509 days for the appeals and 7 years overall for both trials. As to the criminal trials, the average is 1,400 days for both first instance and appeal trials.” (Vietti 2011: 52).

There is also another relevant aspect that has to be underlined: the great difference between the performance of the courts and law courts in the different parts of Italy. For instance, the length of civil lawsuits is higher in the Southern regions than in the Northern ones.

According to the Italian Institute of Statistics (ISTAT), the length of Italian first instance civil cases reached 904 days in 2007. This length includes performances that vary from the 423 days of the Law Court of Turin to the 2,352 days of the Law Court of Cosenza. The same differences as mentioned above are also to be found when looking at the cases that concern work, social insurance or social assistance (Carmignani e Giacomelli 2009).

The length of delays in civil justice cases exceeds the boundaries of justice sector and has become an issue of economic policy, as is the case of all public services. For instance, the ex-president of the Bank of Italy underlined in his 2011 Report on the Italian economy that the length of civil cases had brought about a loss of 1 point of the Italian GDP. Furthermore, currently, the length of civil justice cases is one of the main intervention priorities in the Italian Southern regions (Ministero per la coesione territoriale/Ministry for territorial cohesion 2012).

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Moreover, numerous international studies underline that in Italy the length of civil justice is much higher than in other countries similar to Italy in terms of dimension (population and enterprises) and economic development. For instance, the 2012 'Doing Business Report ' shows that the length for the recovery of a credit due to a commercial dispute is 1,210 days in Italy, compared to an average of 518,03 days in the OECD countries with the highest income.

There are various reasons for this situation. In particular, despite a high productivity of the system in terms of outputs, magistrates underline the following weak points of the justice system:

- high level of conflicts and lack of filters when entering the justice system (especially in the civil justice case). The level of cases is much higher than in other countries similar to Italy and this causes a workload that overcomes the capacity of the judicial system to get through the backlog. This situation could be overcome through the introduction of alternative ways of solving the cases;
- the excess of trial guarantees (three levels of trials) and the high number of magistrates involved (especially in the criminal trial case); a simplification of the procedures in place currently and a change in the trial models are proposed in order to overcome this situation;
- weaknesses in terms of human resources:
 - a) the need to increase the number of magistrates and of administrative functionaries;
 - b) balanced distribution of staff between the various judicial offices;
- organizational weaknesses: the need to reform the distribution of judicial offices within the judicial district, closing the smallest ones.

Magistrates also emphasize that improvements in the justice system may also be derived from interventions regarding the organization of the judicial offices both within and among the different offices.

However, economists from the Bank of Italy and scholars of organizational disciplines have focused more on the organizational issue than the magistrates have, underlying the following issues:

- a. the relevance of introducing control and planning systems within the judicial offices, so as to base decisions on precise data;
- b. the possibility of using new organizational processes such as: repeated (serial) decisions when dealing with cases regarding the same issue (for instance cases regarding pensions); introduction of the "first-in – first out" rule of managing cases; management of one case at time and not of more cases at the same time;
- c. the obvious need to diffuse the use of ICT within all judicial offices.²

The proposals for addressing the problems of the Italian justice are, therefore, divided into two types of action. On the one side those that regard changes in the legal norms, such as, for instance, the desire to limit the justice demand by introducing alternative ways of solving issues that before required the judge's intervention; on the other, those that are in favor of the introduction of tools and processes of organizational modernization.

This paper deals with the second type of actions by presenting and analyzing a relevant national program for the modernization of the judicial offices, started in 2008 which continues at present. The national program is called: "*Diffusion of best practices within the Italian judicial offices*" and is financed with ESF resources.

The main research questions are:

- a) What are the characteristics of the program design and how are they justified? What are the links between the program and the international debate on the modernization of the public administration? Who are the actors that have sustained the program design?
- b) What are the main results obtained so far?
- c) What are the critical aspects that have emerged up till now?

The hypothesis proposed here refers to the fact that an incremental intervention design, based on pilot experiences of local offices is a justified reform model, in particular in the Italian case.

The first reason that should justify the adoption of such a model considers the peculiarity of the justice sector that is based on professional organizations. In the case of such organizations, it is preferable that the modernization proposals are tested in different types of organizations so as to identify the most relevant solutions to diffuse elsewhere, taking into account context differences (for instance the differences between small, medium and large judicial offices, etc.).

² For the difficulties of the organizational reforms of the judicial system in Italy see Zan 2003, Zan ed. 2005, Morisi 1999, Fabri 2009, Carnevali 2010.

Furthermore, another reason that justifies the adoption of this model is the strong social and economic differences between Central – North (more affluent) and South Italy. This situation allows the local central and northern public administrations to have and utilize more local resources, and to receive more pressure and stimulus for improving their performances than the southern public administrations.

The paper is organized as follows:

- the next chapter presents the characteristics of the national program for the Diffusion of Best Practices in the Italian Judicial Offices.
- the chapter is preceded by an introduction to the literature on the modernization of public administrations;
- the third chapter presents a brief chronology of the program design and implementation; the monitoring data of the first two years of implementation of the program; and it presents in depth the case of the Law Court of Milan;
- the fourth chapter discusses the results obtained taking into account the hypothesis formulated at the beginning of the paper.

2. The Characteristics of the Italian National Program: “*Diffusion of best practices within the Italian judicial offices*”. An incremental model of administrative reform

2.1 Systemic or Incremental Model of Administrative Reform?

In the last 20 years, various sectors of the Italian public administrations modernization reforms have been adopted. These have been largely inspired by the international debates on the reform of the public sector (New Public Management, post-NPM reform-style, governance, etc.). Only recently, analogue reforms have been adopted in the Italian justice sector, often commenced at the level of the single local judicial office.

The national program “*Diffusion of best practices within the Italian judicial offices*” is the first large program that aims to reorganize the working processes in the judicial offices through the adoption of specific organizational tools and processes.

The program does not derive from a specific general normative intervention and does not include all the Italian judicial offices. The program is based mostly on local initiatives, as it can only count on limited national coordination, at least for the moment.

It is, therefore, a program based on the incremental logic and on a mix of top-down directions and implementations with bottom-up objectives.

Due to these characteristics, it is worth looking in depth at the literature on administrative reforms to see how arguments sustaining the systematic and (top-down) intervention designs or the incremental ones have developed.

Besides research on sectorial cases, there are only a few works within the policy analysis literature that discuss the design models of the administrative reforms. One can refer to the Brunsson and Olsen model (1993 cited by Peters 2008, and Brunsson 2009) that maintains that a reform has to be structured according to a top-down model in order to be successful. One can also refer to Peters’ paper (1998), where he describes the program ‘Reinventing Government’ which was promoted by the ex-vice-president of the USA Al Gore in 1993.

In this analysis, he underlines the characteristics of the program design based on bottom-up actions and on the role of “change agents” operating at decentralized levels.

Furthermore, one of the arguments sustaining the incremental and bottom-up designs consists in the fact that local institutions can act as policy and projects laboratories; they can experimenting with various alternatives to problems, maintaining the good practices, abandoning the failures, and adopting successful solutions found elsewhere, using a strategy of lesson-drawing (see Volden et al. 2008:319).³

Bouckaert and Pollit (2011) also analyze the implementation of reforms based on the New Public Management principles. The purpose of the two authors is to compare reforms in the ‘core’ NPM countries with the ones in the so called ‘neo-Weberian’ countries (mainly European/continental), in order to see if differences between the two types of countries are reflected in the reforms design and implementation ways.

³ In this case, the role of the “center” has to be redesigned in order to act as a stimulus for innovation and diffusion of best practices and lesson-drawing.

The conclusion reached by the two authors is that there is no correspondence between the types of reform coordination and their contents; generally, they notice a prevalence of the top-down coordination (see Pollitt and Boukaert 2011:114). The literature on the reforms of the 'professional' public administrations offers some relevant information useful for analyzing the reform of the Italian justice sector, which is a public sector based on a professional organization.

Various studies on public organizations that employ professionals (health, higher education and scientific centers, justice and lawyers in general) have emphasized the central role of professional groups in the change process, due not only to their expertise, but also to the strong control exerted on the other functionaries and on the users.

In particular, the literature underlines the opposition of such groups to the introduction of managerial processes within the public administration. The introduction of managerial roles, or of internal controls and accountability rules, has been seen to be a measure to weaken the power of professional groups and their control over the organizations.

In synthesis, the literature does not offer unambiguous indications on the success of various strategies used by governments for implementing administrative reforms in public administrations, based on professional organizations.

Countries such as the UK and New Zealand have adopted a top-down model in line with the so-called hard NPM, based on the introduction of strong managerial roles within the PA and external regulation.

However, the literature underlines also the adverse effects and the ambiguous results of such a model. Continental European countries, with a *Rechtstaat*/Napoleonic tradition, and Northern European ones, have adopted models based on the introduction of indirect managerial processes within the public administration, based on professionals' and managers' involvement in processes of organizational learning, cultural change and continuous improvement in the quality of services offered. This also included processes of audit and external regulation.

They have also adopted models of bottom-up "self-reforms", based on the development of professionals' managerial competences and on the change in the role of some of them (those placed in the executive positions), avoiding to the need to employ (or to increase the power of) managers who do not belong to the professionals' group.

In particular, it is underlined how "governments which adopt this [last] strategy may be motivated by three possible considerations: (i) they decide that modest rather than radical strategies of public service reform are more likely to produce a political payoff; (ii) they have respect for alternative and legitimate power centers such as the liberal professions; (iii) earlier strategies of hard or soft NPM reforming have been tried and have foundered on the rocks of professional resistance" (Ferlie and Geraghty 2005: 439).⁴

Finally, one can refer to a recent Italian study, which has analyzed the Italian administrative reforms, and in particular the ones implemented within the central state administrations. The authors maintain that:

1. Italian public administrations have improved over the last 20 years;
2. This has been the result of initiatives, often isolated, implemented by "illuminated" public managers and local politicians;
3. Furthermore, these initiatives have been possible due to the '90s legislative reforms;
4. No policy sustaining a real change in the functioning of the Italian PA has been implemented;
5. There has been no supporting policy, mainly due to the fact that the paradigms characterizing the administrative reform policy community were often inadequate (Butera e Dente 2009:17-18).

In this work, Butera and Dente maintain that one of the causes of the unsatisfactory results resides in the fact that most of the interventions have been implemented in an horizontal way, which has referred to almost all Italian public administrations without adapting them to the different contexts of the Italian public administration.

Furthermore, Butera and Dente state that even though "... these interventions have been necessary for removing obstacles and providing directions on the reform processes, they have not been sufficient and most of all they have not dealt with an essential issue. Changes in the way public administrations work cannot occur by imposing them from a central level, but have to be internalized by each public institution" (Butera e Dente 2009:22).

The two authors propose to adopt a mix of top-down and bottom-up interventions: "the proposal we make consists in the adoption of a national program of promotion, animation, support and diffusion of exemplar projects regarding the reorganization of single 'parts' of the central state administrations, namely the adoption of Change Plans, which could

⁴ See, also, Dent and Whitehead 2002; Kirkpatrick et al. 2007; Evetts 2010.

obtain quick and simultaneous non incremental improvements in terms of efficiency (reduction of costs and increased productivity), effectiveness (improvement of the service offered) and quality (users' satisfaction)" (Butera e Dente 2009:43).

To conclude, the few indications on the design of reform interventions provided by the literature suggest the adoption of a mix of top-down and bottom-up measures/ processes. This flexibility is underlined also by theoreticians of the governance approach (Sørensen 2012, Pierre 2012).⁵

2.2 Administrative Reforms in Italy and the International Debate about NPM and Post-NPM Reforms

Until recently, the analyses of the Italian administrative reforms have mainly underlined the failure of national interventions.

These analyses have concluded that the main cause has to be looked for in the prevalence of a paradigm based on the administrative law and the related epistemic community.

This paradigm is characterized by:

- relevance of the central normative regulation as a way of administrative action; increased attention to the legislative drafting rather than to the implementation design;
- focus on the overall coherence of the system through generalized interventions regarding all the administrations of the respective field. Several times, analysts have used the term "reforms implemented through decrees" to underline that failure was unavoidable as the lack of an implementation design brought about only a formal fulfilment of the law provisions and an imitative isomorphism without triggering the necessary organizational or behavioural changes to support the implementation of reforms (see Dente 1989; Panozzo 2000; Capano 2006; Ongaro 2006). These considerations made Peters to develop the idea of continuity in the Napoleonic tradition (Peters 2008).

On the contrary, some recent comparative researches on Italian administrative reforms (Barzelay and Gallego 2010a and 2010b; Mele 2010; Ongaro 2008; Ongaro and Valotti 2008; Gualmini 2008) have shown a more complex reality, where the administrative law paradigm continues to be relevant but no more dominant.

Furthermore, local institutions are given a relevant role in the network of actors. For example, when comparing the administrative reforms in different countries, Pollitt and Boukaert include Italy in the neo-Weberian country group, together with Spain, France and Germany, a group that presents a specific trajectory of reforms (Pollitt and Boukaert 2011). And Gualmini underlines that "...In Italy a number of major innovations marked a break with the past... Italy also witnessed full-scale changes in inner managerial techniques during the 1990s" (Gualmini 2008: 81-84).⁶

In our view, the case of the national program 'Diffusion of best practices' seems to sustain this second thesis.

2.3. The National Program Diffusion of Best Practices

The program "Interregional/transnational program for the diffusion of best practices within the Italian judicial offices"⁷ was approved in April 2008.

It was created subsequent to the agreement between the European Commission (DG Employment, Social Affairs and Inclusion), the Ministry of Justice, the Ministry of Labor, the Ministry of Public Administration, 19 regions and 2 autonomous provinces.

The extended partnership is explained by the fact that the program is funded by the ESF (one of the structural funds of the EU regional policy). This also explains the presence of both DG Employment and the Italian Ministry of Labor, as well as the presence of the 19 regions and the 2 provinces. In Italy, in fact, the European funds are managed mostly by regional

⁵ "... Innovation relies on the presence of autonomous spaces in which decentered entrepreneurs can develop and pursue innovative ideas. However, in order to be effective this bottom-up interaction is in need of skillful top-down meta-governance that frames the interaction in ways that motivate the involved actors to innovate ... This firm meta-governance helps to activate the knowledge, ideas, commitment, and energies of street-level bureaucrats, users of public services, employee, and private stakeholders in formulating, implementing, and disseminating new, innovative, ideas." Sørensen 2012.

⁶ In her analysis, covered the formulation phase of the policy cycle, Gualmini continued: "... In terms of the number of laws approved by the Italian Parliament, the modernization process can be said to have been extensive compared with the changes made during previous decades. Moreover, it covered all three dimensions in question [(1) central bureaucracies' formal structure; (2) civil service organization and careers; (3) internal administrative procedures and processes]".

⁷ The official name, using the UE terminology, is: "Interregional/Transnational Project for the diffusion of good practices within the Italian judicial offices. Reorganization of the working processes and optimization of the resources of the judicial offices".

governments. The Ministry of Public Administration also takes part. Its involvement is explained by its experience in sustaining and managing innovation programs in the public sector.

The program is based on the specific experience developed autonomously by the Prosecutors' Office of Bolzano between 2004 and 2007 and funded with ESF (the next chapter presents a brief reconstruction of this intervention).

The objectives and contents of the program are described in a document attached to the Agreement Protocol signed by the partners (see http://www.giustizia.it/giustizia/it/mg_2_9_4.wp).

The program anticipates the funding will be of approximately two years of technical assistance activities (and therefore of external consultants' intervention) to be realized within a defined number of judicial offices (not in all judicial offices), mostly Prosecutors' Offices, ordinary Law Courts and Courts of Appeal.

The main objectives of the program are:

- to increase the quality of civil and penal justice;
- to reduce the organizational costs;
- to improve the information and communication capacity of judicial offices;
- to improve the processes of external accountability with regards to the results of their actions and use of public resources.

These objectives have been articulated in six activity lines to be implemented in each of the selected judicial office:

1. the analysis of the key working processes and the introduction of a reorganization plan; the implementation of the project with the aim to:
 - improve the internal operational efficiency;
 - create a performance monitoring system;
 - improve the quality and the effectiveness of the services offered to users (professionals users such as lawyers and general users such as members of the public or court users), with solutions such as a one-stop-shop;
2. analysis of the ICT technologies used in judicial offices, aimed at optimization of use and the development of services managed and delivered electronically; (this action does not foresee the acquisition of hardware and software);
3. drafting of an annual Social Budget Report (Social responsibility report) of judicial offices involved in the program;
4. drafting of the Citizen's Charter and of the Guide to the services offered by the judicial offices;
5. support for obtaining ISO 9001:2000 quality certification;
6. creation or improvement of the website of judicial offices involved, with the aim to support online communication and the exchange of documents.

(See http://www.giustizia.it/giustizia/it/mg_2_9_4.wp).

The procedure for identifying the offices to be included in the program is based on the following steps.

Each of the participating regions and autonomous provinces defines the budget to be allocated to the programme based on the availability of ESF funds.

At the same time, the Ministry of Justice asks all the judicial offices to send their candidatures that have to contain a draft of the project ideas proposed by the presidents of the judicial offices. Initially, the Ministry of Justice managed a selection based on the quality of the project proposals, on their coherence with the program and on the availability of resources decided by each region. The Ministry defined the funds to be allocated to the technical assistance activities based on the size of the judicial office (number of magistrates and number of staff) and of the population residing in the territory under the jurisdiction of the judicial office. Successively, the increase in the funds available for the program in some regions (such as Lombardia, Sicilia and Campania, etc.) brought about an increase in the number of judicial offices taking part to the program. At the end of 2012, there were 182 judicial offices taking part to the Program.

The implementation design of the program is less defined. While the other activity lines (3,4,5,6) foresee the realization of specific products, the first two activity lines – which are considered to be the most difficult- contain only some indications on the outputs, as it is considered that the choice of solutions to be implemented depend on the intervention context.

In this way, the program chooses to be rather flexible. The regions are responsible for organizing the tenders for the selection of consultants for the technical activities. The consultants are selected based on the quality of their proposals and the economic offer.

The individual offices have to decide together with the consultants the operational projects to be implemented within activity lines 1 and 2, and how to adapt the outputs predicted within the other activity lines to the needs of the offices. In line with the 2007-2013 European programming period, the program has to end by 2014.

The main aspect to be underlined is that, for the first time in the recent history of the Italian justice sector, a vast intervention program aimed specifically at the organizational development of judicial offices is developed. Furthermore, it is a program that does not derive from normative regulation⁸. In particular, the program is based on conceiving the judicial activity as a public service and emphasizes the role of the users, not only of professional groups (lawyers), but especially of citizens.

Many characteristics of the international debate on public administration reforms (New Public Management approach/Governance) can be found in the design of this program. Attention to the quality of the working processes (ISO quality certification), to the accountability of the offices (Social responsibility report), the commitment towards standard, quality and time frame of service delivery (Citizens' Charter), the commitment towards e-government innovations and the attention to the efficient use of public resources.

In the next chapter, a brief reconstruction of the program design and the first implementation period is presented, in order to analyze the key actors and, in particular, the relations between the top-down and bottom-up orientations.

3. Brief Reconstruction of the First Two Implementation Years of the National Program “Diffusion of Best Practices in the Italian Judicial Offices

3.1. The Conception Phase

The national program, as mentioned, is based on the experience of the Prosecutor's Office of Bolzano.

In 2004 the Prosecutor decided to implement some interventions of reorganization in his office. He followed some courses on organizational issues with the aim to introduce new tools and processes for improving the performance of the administrative office and its communication with court or office users. The Prosecutor managed to obtain ESF funds from the Province of Bolzano.⁹ On this basis, between 2004 and 2007, the following projects were implemented:

- elaboration of an annual Social Responsibility Report aimed at communicating the main results of the activities carried out by the Prosecutor's Office to its external stakeholders;
- definition of a Citizens' Charter aimed at providing guidance on the services offered by the Prosecutor's Office and at indicating their minimum levels of quality;
- implementation of a customer satisfaction survey and complaints' registration;
- obtainment of the ISO 9001:2000 quality certification;
- redefinition of a series of work processes;
- creation of a website;
- elaboration of a self-assessment based on the Common Assessment Framework-CAF, in order to identify critical areas of intervention through projects concerning the organizational improvement of the Prosecutor's Office and of the services offered;
- participation in national initiatives regarding quality and continuous improvement within public administration.

The success of these local initiatives was appreciated by the Italian Council for the Judiciary (CSM) and covered by the media, also, in part, due to some results obtained in the fields of interest in the political debate in Italy (i.e. reduction in the costs of wire-tapping, maintaining, however, the same quality and efficiency level).

⁸ The proposals aimed at the organizational innovation were included in the various reform projects presented by the governments between 2000 and 2010. However, the debate focused on the relation between the state powers (see Paciotti 2006), while the organizational issues were secondary. In 2012, Monti government approved the reduction of the small judicial offices (62 offices) within the spending review policy. Since 2000, thanks to the action of some local judicial offices, an important project of innovation of the civil justice sector has been implemented: the OCT – Online civil trial. The OCT foresees the electronic communication between the various subjects involved (mainly magistrates and lawyers). The OCT project is mainly implemented in the law courts (at the end of 2012, there were around 67 law courts that had implemented the OCT) and the implementation level varies from one judicial office to another (see <http://www.processotelematico.giustizia.it>). Only in 2009, the Ministry of Justice funded its extension to all law courts.

⁹ In Italy the European Union Structural Funds are in great part managed by the regional governments. The Autonomous Province of Bolzano and the Autonomous Province of Trento have the same governmental functions as the regional governments.

The Bolzano case revealed some aspects that were considered an opportunity for starting a national program for the modernization of judicial offices:

- a) reforms of the justice system that have been traditionally carried out by the center (CSM and the Ministry of Justice), are now implemented at a local level;
- b) initiatives aimed at reforming the justice system could be financed by the European Social Fund and be a part of the regional cohesion policies.¹⁰ The experience of the Prosecutor's Office of Bolzano represents, therefore, the reference point for a national program of administrative modernization of the Italian justice system.¹¹

Thus, the organizational reform of the justice system has become one of the objectives of the new 2007-2013 ESF program negotiated by the EU Commission and the Italian Government (represented by the Ministry of Economy and Finance).

In 2007, the Minister of Justice asked the chief of the Organization Department to confirm the possibility of using ESF resources for extending the Bolzano experience to other Italian judicial offices as well. The chief of the Organization Department was a magistrate from the Law Court of Milan and in that period had been already known for his activity in the field of administrative modernization. In fact, in that period he was involved in the implementation of the Online Civil Process, one of the main innovation interventions underway at that time.

The chief of the Organization Department promoted the constitution of a working group made up of representatives from the Ministry of Justice, the Ministry of Public Administration (Dipartimento della funzione pubblica), the Ministry of Labor, representatives of the Italian regions, the representative of the European Commission in charge of the European Social Fund, and the chief Prosecutor of Bolzano.

In April 2008, an agreement was signed between the above mentioned actors, with the contents described in the paragraph 2.3.

Afterwards, two bodies were created for directing the program: a) the Steering Committee, made of representatives of all the institutions involved; b) a Strategic Unit, made of the Ministry of Justice, the Department of Public Administration and a team of experts (Task team). This was aimed at grouping the ideas and agreements developed during the previous year in a national program for the administrative reform of the Italian judicial offices.

As to the actors involved in the program, two other aspects have to be underlined.

Firstly, as there was no internal technical structure that could be involved in the project implementation within the Ministry of Justice, the chief of the Organization Department asked for the support of a consultant that had already been involved in the implementation of the Online Civil Trial. These consultants were well known experts in the 'judicial world' as they cooperated with the Ministry of justice, with judiciary offices and with the University of Bologna, which had carried out numerous studies and projects in the justice field.¹²

Secondly, it is important to emphasize the involvement of the Ministry of Public Administration, who was invited to take part in this initiative due to its experience in promoting and sustaining innovations developed by the local Italian public administrations (municipalities, regions and provinces).

Between 2000 and 2006, the Ministry of Public Administration managed the "Cantieri" (*'Building sites'*) program, a relevant project of modernization of the Italian public administration, and especially of local public institutions. The "Cantieri" program was drafted after the introduction of the central state reform based on a federal direction. Moreover, the "Cantieri" program was highly influenced by the international debate on public sector reforms (i.e. the researches of international organizations like OECD) as well as the Italian debate on the economic role of public services.

¹⁰ The efficiency of civil and criminal justice is one of the objectives included in the 2007-2013 National Strategic Reference Framework approved by the European Commission (see pp. 117-118). It is the main document for the programming of structural funds in Italy.

¹¹ The case of the Prosecutor's Office of Bolzano is not the only case where innovations have been implemented firstly at local level. Media publicised different interventions among which the one (management of civil trials) implemented by the Turin Law Court and some interventions of the Milan Law Court (the so-called Online Civil Trial – PCT).

¹² It has to be underlined that, in the last decades, the main groups of researchers in the field of organization of the Justice system worked within the Faculty of Political Sciences of the University of Bologna. In 1992 this group created the Institute for Research on Judicial systems – IRSIG/CNR, located also to Bologna. And within the same university operates the Centre for the organization, the management and the digitalization of the Judicial Offices (COMIUG), which publishes the review *Quaderni di Giustizia e Organizzazione* (Journal of Justice and Organization).

The main initiatives foreseen by the program were focused on innovations aimed at improving the institutional and administrative capacity of the public administrations involved; the introduction of strategic planning and management systems; evaluation of the outcomes and quality of policies and services implemented by public administrations, besides the evaluation of their inputs and outputs; development of pay-for-performance systems; use of ICT technology to improve communication with citizens (websites that could be used also for delivering services, web delivery, *disintermediation* through one-stop shops and one-stop windows, e-democracy activities, etc). As well, the “Cantieri” program was based on the valorization of local experiences, therefore, on a bottom-up model. At that time, many local Northern and Central Italian administrations had already implemented relevant interventions focused on organizational change (i.e. introduction of the general manager figure, of performance management systems and of management systems based on Total Quality Management principles) as well as on public services management (public-private partnerships, ICT based delivery, participation of citizens to towns urban planning and architectural projects, involvement of consumers in services design, etc). However, some public institutions in the Mezzogiorno area (Southern part of Italy) also implemented relevant initiatives in this field.¹³

Through this program, the Ministry of Public Administration played the role of director on the one side by funding the creation of communities of practices and the diffusion of knowledge aimed at the transfer of tested innovations, and on the other by incentivizing the implementation of new organizational modernization projects.

The new program for the modernization of the justice system largely follows the “Cantieri” model, acknowledging, thus, the reputation acquired by that Ministry.

3.2. The Implementation Phase: The First Period (2008-2012)

The implementation phase of the program started in 2008 with training activities aimed at creating the cultural bases necessary for the program implementation.

Meetings with all the presidents of the judicial offices (courts of law and prosecutors’ offices) were organized at the CSM (Council for the Judiciary). The following issues were discussed during these meetings: performance management, inter-organizational processes; communication with the press and the general public.

Between 2008 and 2009, the Ministry of Justice organized a series of meetings with the presidents and administrative directors of the judicial offices involved in the program.

Between 2008 and 2009, the Ministry of Justice and the Ministry of Public Administration drafted a version of the Common Assessment Framework adapted or customized to the justice field.

Additionally, in 2008, the Strategic Unit defined the criteria for regions to follow for the drafting of tenders for the technical assistance activities.

In the last months of 2008, Lombardia region published the first tender; other 13 regions published the tenders in 2009. The other regions published the tenders between 2010 and 2011. It has to be underlined that during the years some of the regions increased the resources allocated to the program and other tenders were published in 2012, while more still have to be published in 2013. The length of the tender procedures brought about delays in the start of the activities to be implemented. The first interventions were implemented after the first half of 2009.

At the end of 2010, the Ministry of public administration began the Monitoring of the justice performance project (MPG – Monitoraggio performance giustizia), with the aim of supporting the offices involved by monitoring the progress of the national program and evaluating the first results. At the same time, the regions involved elaborated more formal reporting to check the financial issues related to the national program.

The reports provided the following data.

In mid-2012 there were 182 judicial offices involved in the program. 55 of the involved offices have already concluded the activities; 30 of them have still ongoing projects; 31 are only in the start-up phase, while another 66 offices have actuated the procedures for the funding of the interventions. Furthermore, Lombardia Region funded for another year the activities of 11 offices that completed the first two years of technical assistance.

¹³ See Vecchi 2009; Mele 2010.

If we consider 133 of the 182 offices involved, in January 2012, the funding provided for implementation of the program amounted to approximately 30 million euro (the amount is meant to increase during 2012).

The following table presents the number of the judicial offices involved in the program divided on the basis of type of office.

Table 1 – Number of judicial offices per type

Type of offices	Offices Part Of The Program (June 2012)	Total Judiciary Offices In Italy (June 2012)*
Prosecutor Offices, 1st instance (Procura della Repubblica)	66	165
1st instance Law Courts (Tribunali ordinari)	54	385
General Prosecutor Offices (second instance) (Procure generali della Repubblica)	15	29
Courts of Appeal (Corti d'Appello)	21	29
Juvenile Prosecutor's Offices (Procure della Repubblica per i minorenni)	6	29
Juvenile Courts (Tribunali per i minorenni)	7	29
Surveillance Courts (Tribunali di sorveglianza)	6	29
Total 1	176	695
Justice of the peace Offices - Non-professional judges for minor (of less relevance) cases (Uffici del giudice di pace)	7	844
Total 2	182	1,539

Source: Ministry of Public Administration. 2012. *Secondo rapporto di monitoraggio sulla diffusione delle best practices negli uffici giudiziari italiani (Second Monitoring Report on the diffusion on best practices in the Italian judiciary offices)*

(*) Number of judicial offices before the September 2012 reform that eliminated a number of small offices: 31 Law Courts (First instance) and 31 Prosecutor Offices. Moreover, it eliminated more than 600 Giudici di pace (Justice of the peace offices).

Considering the most relevant offices, the program covers 25% of the overall offices, including all prosecutor's offices and law courts of big cities. The following table shows the territorial distribution of the judicial offices involved and the resources allocated by the regions.

Some regions adopted an extensive policy consisting in the financing of most of the law courts and prosecutor's offices as well as other judicial offices. This is the case of Lombardia, Campania, Sicilia and Puglia regions. The Southern Italy regional governments allocated significant resources to the program and the offices involved represent almost half of all the judicial offices involved in the program at a national level. Some of the regions facing economic problems allocates limited resources to the program and used the ESF funds for solving problems related to the labor market.

Table 2 – Number of judicial offices per region and related budget

Regions and Autonomous Provinces	N. Judiciary Offices Involved (June 2012)*	Budget (***) For tenders until January 2012 (**)	N. Judiciary Offices Financed January 2012 (**)	Budget: Average per office	Inhabitants (2011)
North					
Valle d'Aosta	3	-	-	-	128,230

Piemonte	5	959,167	5	191,833	4,457,335
Lombardia	31	6,177,400	31	199,271	9,917,714
Veneto	3	664,500	3	221,500	4,937,854
Friuli VG	3	575,000	3	191,667	1,235,808
Liguria	2	600,000	2	300,000	1,616,788
A.P. Bolzano	2	200,000	1	200,000	507,657
A.P. Trento	4	456,789	4	114,197	529,457
Emilia-Romagna	7	1,466,000	7	209,429	4,432,418
TOT NORTH	60	11,098,856	56	198,194	
Center					
Tuscany	3	791,667	3	263,889	3,749,813
Marche	2	300,000	2	150,000	1,565,335
Umbria	6	500,000	6	83,333	906,486
Lazio	1	560,000	1	560,000	5,728,688
TOT CENTER	12	3,026,667	12	179,305	
South					
Abruzzo	7	625,000	5	125,000	1,342,366
Molise	3	250,000	3	83,333	319,780
Campania	24	6,975,000	24	290,625	5,834,056
Basilicata	1	300,000	1	300,000	587,517
Puglia	21	2,670,000	9	296,666	4,091,259
Calabria	8	2,025,000	8	253,125	2,011,395
Sicilia	33	2,875,000	15	191,666	5,051,075
Sardegna	13	825,000	3	275,000	1,675,411
TOT SOUTH	110	10,695,000	68	254,538	
TOTAL	182	29,795,523	136	224,026	60,626,442

Sources:

(*)Ministry of Public Administration. 2012. *Secondo rapporto di monitoraggio sulla diffusione delle best practices negli uffici giudiziari italiani (Second Monitoring Report on the diffusion of good practices within the Italian judiciary offices)*

(**) elaboration on data provided by the Province of Bolzano. 2012. *Progetto interregionale/transnazionale Diffusione di Best Practices negli uffici giudiziari italiani. IV Rapporto di Monitoraggio. Stato di avanzamento delle gare e dei progetti regionali.* Roma: Tecnostruttura, p. 14.

(***) Budget Budget al netto dei ribassi di gara, che sono stati una media del 16%.

The monitoring reports drafted by the Ministry of Public Administration contain information on the projects realized within the program. The monitoring is based on an online questionnaire filled out by the chiefs of the judicial offices with the support of the technical assistance (from January 2013 on site visits are foreseen to check information provided).

The second report drafted in July 2012¹⁴ provides information on the activity of 65 judicial offices that answered the questionnaire. The report shows that the offices have implemented a large amount of projects. The number of the interventions monitored amounts to 706, as articulated in the following intervention lines:

Table 3 – Areas of intervention and number of projects developed by 65 local offices monitored

Areas of intervention	Number of projects
Line 1 – Analysis and reorganization of the judicial offices in order to improve their operational efficiency and the effectiveness of the services offered to users	241
Line 2 – Analysis of the ICT technologies use and their use for the organizational improvement	173
Line 3 – Drafting and adoption of Citizen’s Charters	64

¹⁴ See <http://www.qualitapa.gov.it/iniziativa-in-corso/miglioramento-giustizia>

Line 4 – Support to the obtainment of the ISO 9001:2000 certification	53
Line 5 – Drafting and publication of the Social Budget Report	67
Line 6 – Communication with the citizens and institutional communication: creation of Websites, etc.	108
Total	706

Source: Our elaboration from: Ministry of Public Administration. 2012. *Secondo rapporto di monitoraggio sulla diffusione delle best practices negli uffici giudiziari italiani*. Roma, luglio 2012 (Second Monitoring Report on the diffusion on best practices in the Italian judiciary office, July 2012) – See <http://www.qualitapa.gov.it/iniziativa-in-corso/miglioramento-giustizia>

While one expects similar outputs in each of the offices implementing the activities foreseen by intervention lines 2, 3,4,5 and 6 (even though the outcomes may be different), it is worth taking a closer look to the interventions included in the first activity line.

As mentioned above, the first intervention line includes activities focusing on organizational analyses (generally mapping of working processes, self-assessments through the Common Assessment Framework model and the construction of performance assessment systems), at the basis of the re-engineering and re-organization activities to be implemented. Therefore, the first intervention line is a wide framework allowing for the design of different projects on the basis of the priorities and opportunities perceived in the various contexts.

The following table presents the main issues dealt with by the line 1 projects. Most of the projects regard the re-engineering of the work processes on the one hand between the administrative offices and on the other between the magistrates and the offices. This emphasizes the fact that in most judicial offices the chiefs' attention focuses on improving the internal working processes. However, some projects also focus on procedure simplification so as to improve the service offered to the users (both citizens in general and professional users such as lawyers, consultants supporting the magistrates in the trials, etc.). A rather small number of projects refer to the implementation of performance monitoring systems. One of the main objectives of the program is still weakly taken into consideration by the implemented projects. An important number of projects are focused on the optimization of working processes between the offices (for instance between prosecutor offices and law courts of 1st instance; or between law courts and courts of appeal). It is obvious that there is an increasing attention to the overall cycle of the working processes. It has to be emphasized, also, the implementation of some projects that have the objective to create citizens' offices, with the aim to manage issues that are dealt with by different judicial offices within the same city.

**Table 4a - Themes covered by the projects of Line 1 (65 judicial offices monitored)
– Intra-organizational objectives**

Intra-Organizational Themes	Number of Projects
Reengineering of the back office procedures	63
Reengineering of the workflow between magistrates and administrative staff	29
Reengineering of front-office services for non-professional users	20
Creation of information offices for non-professional users	20
Reengineering of services which involve specific categories of professional users	16
Reengineering of services for all types of users	14
Reengineering of staff services	14
Implementation of data banks and information systems	11
Analysis of magistrates' and administrative staff's workloads	11
Reengineering of front-office services for specific nonprofessional users	8
Design and implementation of performance measurement systems	3

Source: Our elaboration from: Ministry of Public Administration. 2012. *Secondo rapporto di monitoraggio sulla diffusione delle best practices negli uffici giudiziari italiani*. Roma, luglio 2012 (Second Monitoring Report on the diffusion on best practices in the Italian judiciary office, July 2012) – See <http://www.qualitapa.gov.it/iniziativa-in-corso/miglioramento-giustizia>

Table 4b - Themes covered by the projects of Line 1 (65 judicial offices monitored) – Number of projects with inter-organizational objectives (*)

Inter-Organizational Themes	Number of Projects
Reengineering, optimization and simplification of procedural flows between offices	38
Reengineering and optimization of human resources services common to different judicial offices	13
Creation of inter-departmental information/orientation/and assistance offices for professional and nonprofessional users	12
Design and implementation of electronic procedure to exchange information with other local public administrations	3

Note: the same project can have intra- and inter-organizational objectives

Source: Elaboration from: Ministry of Public Administration. 2012. *Secondo rapporto di monitoraggio sulla diffusione delle best practices negli uffici giudiziari italiani. Roma, luglio 2012 (Second Monitoring Report on the diffusion on best practices in the Italian judiciary office, july 2012)* – See <http://www.qualitapa.gov.it/iniziativa-in-corso/miglioramento-giustizia>

3.3. An in-depth look at the implementation of the program concerning the Law Court of Milan

In order to better present the activities realized within the program “Diffusion of good practices within the Italian judicial offices” it is useful to describe the interventions implemented in a single judicial office.

The Law Court of Milan is one of the most active judicial offices in the implementation of modernization interventions. In addition, there are numerous information sources related to the interventions implemented within the Law Court of Milan which are available. Although this case is not representative of the average of Italian judicial offices (the Law Court of Milan is one of the biggest three Italian judicial offices, together with Rome and Naples),¹⁵ it is interesting for two reasons:

- a) because it shows a relevant number of areas covered by the interventions; and
- b) because the implementation process is characterized by strong relations with local actors (public institutions and economic subjects).

The Law Court of Milan could count on technical assistance activities of approximately 300,000 euro during the first two years of the program and 150,000 euro for the last year. The activities started at the beginning of 2010 and will end halfway through 2013.

Table 5 – Law Court of Milan: Projects Implemented Through the National Program

Line	Project	Contents
Linea 1	Reorganization of the civil and penal records offices	Reorganization of the front-offices providing information to professional users
	The Project “Customers’ office”	Feasibility study and project for the creation in 2013 of a Public Relations Office aimed at providing indications to the users of the “Justice Palace” (the place where almost all the judicial offices of Milan are grouped) and managing documents; a unique information point for the Law Court and the Court of Appeal of Milan. The project is realized in collaboration with the Municipality of Milan.
	Management of the file	A project for the electronic mark of the trial folders (by using the bar code technology). Drafting of the feasibility study.
	Improvement of the management of the	A project for the reorganization of the

¹⁵ The Law Court of Milan together with those of Rome and Napoli is one of the three big Italian judicial offices. Milan territorial area has 2.6 million inhabitants, of which 300,000 foreigners. To the resident population, tourists and business tourists have to be added. In 2010, the number of tourists in the Milan area reached 5.7 million visitors of which 2.8 foreign tourists. As to the organizational structure of the Law Court of Milan, in June 2012, it included 259 ordinary magistrates (among which the President of the Law Court), 556 administrative functionaries and 71 titular (honorary) judges.

	penal sector	procedures of the justice expenses(?) and executions carried out within the penal sector
	Witnesses' project	establishment of a welcoming orientation service for witnesses and simplification of procedures related to witnesses
	Management of external consultants	Intervention aimed at increasing the transparency of the management of the Consultants' record and of the assignments offered to external consultants
	Accounting and staff management	Reengineering of the working processes and optimization of management software regarding: magistrates' and administrative staff management; efficiency of the maintenance works of the Justice Palace
	Common Assessment Framework	Carrying out of a self-evaluation assessment of the organization of the willful jurisdiction sector based on the CAF model.
	Planning and control processes	Support for the elaboration of programming documents; support for the activation of performance measurement system within the civil sector, called "magistrates' console" (financed with other funds); project for the constitution of an Evaluation Committee for the performance assessment of the Court
	Reorganization of the Willful Jurisdiction Sector	The project developed together with the Court of Law of Monza foresees: a) the creation of external information points in collaboration with the Municipalities and the Volunteering Associations; b) ICT connections with the lawyers, municipalities and rendering communications paperless; internal reorganization through the transferring of some activities to the Public Relations Office
	Strengthening of the activities carried out by the Innovation Office	Agreement with the universities for students' internships and training sessions for the better management of innovation projects
Line 2	Census of the hardware and software equipment	Analysis and proposals for the optimization of systems and the definition of improvement priorities
	Monitoring of information systems	Implementation of the monitoring system of information solutions (sw and hw) used within the Court of Law
	Implementation of new software	Implementation of software for the digitalization of folders and assignment procedures of trials to magistrates
	Intranet	Creation of an intranet project connecting the judicial offices located within the "Justice Palace" of Milan
	Website of penal sentences	Development of a data bank of penal sentences
Line 3	Drafting and publication of Services Chart for the Willful Jurisdiction Sector	a services chart was already drafted which all the modules for acceding to these services are attached. It was not possible to include quality standards within the Chart. The Court of Law drafted autonomously the Services Chart of the GIP/GUP offices.
Line 4	Support to obtaining the quality certification	It was implemented only for the service

		concerning the Witnesses' Management
Line 5	Drafting of the Social Budget Report	Three editions of the Social Budget Report. The 2012 edition involved also external stakeholders (local institutions and social and economic actors). The Social Budget Report is published on the website of the Law Court of Milan.
Line 6	Communication and development of the website	Organization of national seminars for presenting the programme results. Development of a website managed by the Court of Law within another project.
	Interactive services provided through the website	Development of on-line certificates and assistance to acceding to the online services.

Sources: Elaboration from Politecnico di Milano. 2011. "Tribunale di Milano. Attività e risultati al 31 dicembre 2012"; Politecnico di Milano. 2012. "Tribunale di Milano: piano operativo 2012-2013." and "Il Report di monitoraggio di secondo livello. Gennaio 2012." (see: http://www.innovazioneperarea.it/best_practices_milano/best_practices_milano.html)

This list of projects emphasizes at least four relevant directions:

- attention to the users and external stakeholders through interventions such as the Public Relations Office, the Social Budget Report, the Citizens' Charter, the Witnesses' project and the realization of online services. Therefore, one could say that a clear attention to judicial action as a 'service' and to the relevance of users' opinions in the design and planning of activities emerge¹⁶;
- attention to the performance measurement systems, aimed at making magistrates and the administrative staff feel part of the organization "Law Court of Milan" and not only of the national judicial system (and at making them consider and "correct" their behavior based on the conclusions of the performance measurement). These aspects are dealt with within the projects, referred to the performance measurement systems in the civil sector ('Magistrates' console'), the constitution of an Evaluation Committee with the presence of external experts and stakeholders, with the aim of a periodic assessment of the Court and of the reliability of performance data; the use of the CAF model for self-evaluations;
- development of ICT based systems aimed at: reducing the justice time, at increasing the efficiency in the use of resources, reorganizing workflow, simplifying the access of professional users and general users to services and increasing the effectiveness of the magistrates' work (see projects implemented within line 2 and 6);
- development of inter-organizational projects with other judicial offices (the Prosecutor's Office, the Court of Appeal, etc.) aimed at improving the efficiency and quality of services offered (i.e. Customers' Office Project, Intranet of the Justice Palace of Milan) and at creating partnerships for a better quality of service offered by the Law Court (see the project for the reorganization of the Willful Jurisdiction Sector, etc).

The objective to create partnerships with various actors is, indeed, one of the peculiarities characterizing the project of the Law Court of Milan as well as other projects implemented in particular in Central and Northern Italy.

It is useful to analyze this aspect in order to have a complete description of this implementation framework.

Distinctly different from the Italian judicial tradition, the Law Court of Milan is testing a close interaction with local public administrations and other external stakeholders, among which the Lawyers' Association is the most relevant. This collaboration has been formalized through the creation of the *Milan Justice Table*, where they take part both as financial partners and/or direct participants to the implementation of on-going projects. Since 2010, the Law Court of Milan has adopted a Strategic Plan and built up a specific Innovation Office led by a magistrate in order to better manage the projects developed together with other partners.¹⁷

The table below presents the main partners and the related projects.

Table 6 - Strategic Plan of the Law Court of Milan: partners and projects (2012)

Partners	Projects
Ministry of justice	<ul style="list-style-type: none"> ▪ Online Civil Trial (PCT) ▪ Management Control ▪ Special Plan of Digitalization

¹⁶ See Pomodoro 2012.

¹⁷ See: Castelli e Xilo 2010; Tribunale di Milano 2011.

Ministry of public administration	<ul style="list-style-type: none"> ▪ Special Plan of Digitalization
Ministry of economy and finance	<ul style="list-style-type: none"> ▪ 2015 EXPO funds: 4 millions of euro, year 2010; and 4.4 millions euro year 2011; for the improvement of ICT software and hardware (on-line civil trial, performance monitoring system, etc.) and the implementation of the Customers' Office
Regione Lombardia	<ul style="list-style-type: none"> ▪ Project testing a system for vocal recognition during hearings; ▪ Best Practices project (in coordination with: EU/DG Employment; Ministry of Justice; Ministry of Labor; Ministry of public administration) ▪ Project: SemplificaMI (Simplify Milan), in partnership with Milan Municipality
The Province of Milan	<ul style="list-style-type: none"> ▪ Agreement for the employment of people receiving redundancy funds ("cassa integrati") within the Court of Law of Milan ▪ Plan for the staff's competences update and requalification ▪ Realization of the Wi-Fi connection of the "Justice Palace"
The Chamber of Commerce of Milan	<ul style="list-style-type: none"> ▪ Creation of the website of the Court of Law of Milan; ▪ Digitalization of the documents regarding the execution of one or more parties involved ▪ Online system for the booking of hearings regarding forcible evictions ▪ Project: SemplificaMI (Simplify Milan), in partnership with Milan Municipality
Milan Municipality	<ul style="list-style-type: none"> ▪ Requalification of the physical spaces used for trials processed immediately ("direttissime") ▪ New building office on Pace street ▪ Management of the Expo funds ▪ Project: SemplificaMI (Simplify Milan), in partnership with Milan Municipality
Lawyers' Order	<ul style="list-style-type: none"> ▪ Agreement for the reduction in the time period of trials ▪ Online Civil Trial ▪ Judge's Office Project
Prospera Italian Banking Association	<ul style="list-style-type: none"> ▪ Judge's Office Project ▪ Online trial for executions and bankruptcy
Politecnico di Milano	<ul style="list-style-type: none"> ▪ Subscription of a Convention for internships with the judicial offices
Cittadinanza Attiva	<ul style="list-style-type: none"> ▪ 2011 Civic Evaluation (an external evaluation of some of the services offered by the Law Court carried out by a National Association representing citizens).¹⁸

Source: Milan Law Court, Bilancio sociale 2012 (2012 Social Budget Report), p. 30 (www.tribunale.milano.it)

This table describes how the Court of Law of Milan can count on financial and technical support from multiple subjects and not only on the one offered by the Ministry of Justice, in charge of the organizational needs of the judicial offices in Italy. As can be seen from the table, some of the partners are central state administrations (Ministry of economy and finance, Ministry of public administration, Ministry of justice), and many others are local partners: local government institutions (Regional, Provincial and Municipal governments, Chamber of commerce), the Milan Lawyers' Association, etc.

Another relevant aspect regards the creation of an *Innovation Office* within the Court of Law of Milan, which is in charge of coordinating the internal staff's activities (magistrates, administrative staff and also consultants) within the project implementation and guarantee's the quality of the accountability processes (the Performance Plan, the performance evaluation, the social budget report, etc.). By implementing these activities, the Law Court of Milan can count on the support of some of the universities of Milan and consulting firms.

¹⁸ See <http://www.cittadinanzattiva.it/> and Cittadinanza Attiva 2012.

Coming back to the “Diffusion of Best Practices” program, it has to be emphasized that the case of the Law Court of Milan is not an isolated case, in terms of projects implemented and development of territorial partnerships. Due to the dimensions of this paper, I will recall only some of the projects presented during seminars/conferences such as the annual fair of the Italian public administration (called ForumPa - see http://www.giustizia.it/giustizia/it/mg_16_1.wp?contentId=NEW749714) or signaled by the Ministry of Public Administration in the program website (see <http://www.qualitapa.gov.it/iniziativa-in-corso/miglioramento-giustizia/risorse/materiali/>).

An interesting case is one regarding the Law Court of Monza, which is a city near Milan. The Law Court of Monza developed an interesting project in the field of willful jurisdiction, a law field that deals with social issues strongly linked to the action of the welfare services, such as: minors’ protection, divorces, etc., together with different municipalities, lawyers’ and volunteering associations. Decentralized offices were created for reducing the queues at the offices of the Monza Court of Law, for diffusing documents and providing necessary information. As well, specific software was designed to allow users to trace the progress of their requests to the Court. (see Di Guardo e Verzelloni 2011). Other interesting experiences are: the Prosecutor’s Office of Monza; the Law Court of Brescia; the Prosecutor’s Office of Ravenna; the Law Court of Reggio Emilia; the Law Court of Modena; the Prosecutor’s Office and Law Court of Torino;¹⁹ the Minors’ Courts of Law of Salerno and Napoli; to name a few.

Even if they are limited to few cases, these examples show that the program has been considered an opportunity for developing ideas and projects from the bottom and for activating local resources for the justice systems: a mobilization not experienced in the past.

3.4. The Role of Central Administrations in the Implementation of the National Program

The objective of this paragraph is to analyze the role of central administration in the national program implementation, as the program design foresees a central coordination and the diffusion of good practices implemented within the overall program.

As mentioned earlier (3.1.) in the conception phase, the Ministry of justice and its Organization Department, supported by a task team of internal officials and external consultants had a strong management role.

After the end of the second Prodi government and the appointment of the new Prime Minister in May 2008, the chief of the Organization Department of the Ministry of Justice was replaced and returned to the Law Court of Milan where he started to direct the innovation projects of this office.

The new responsible person, however, had not had the same experience as the previous position holder and he lacked a reference network on modernization policies outside the judiciary system. This resulted in a weaker role of the Organization Department in a relevant phase of implementation process. In fact, in mid-2010 the taskforce team of the Ministry of justice changed and a new team was made up of magistrates and internal functionaries with little experience in sustaining innovation policies. Only at the end of 2012 did the Ministry of Justice decided to involve the responsible person from the Department of the information system, thus strengthening the coordination action, but only for the ICT projects.

In mid-2011, the Ministry of public administration started monitoring the program (one report was published in May 2012 and another one in July 2012) through the organization of a specific project (MPG – Monitoring of the Justice Performance) and the constitution of a working group made of external consultants (five at the beginning, now ten).

The aim was to produce information on the physical progress of the national program and a good practices’ analysis and diffusion, as well as the evaluation of the whole national program. In mid-2012, the Ministry of public administration organized, in cooperation with the Ministry of Justice, a meeting with all the judicial offices involved in the national program at the annual Public Administration Exhibition – called Forum PA 2012. Some of the local projects, considered as positive implementations, were presented at this exhibition.

Summing up, the Ministry of Public Administration is the only central administration that has currently invested financial resources and which created a technical structure for playing an indirect coordination function through the diffusion of information and knowledge acquired during the program.

¹⁹ See the experiences of partnership with local actors, too; in particular, through the construction of specific organizations in Modena and Turin: Modena Giustizia Foundation and Torino Giustizia Association. See www.innovazioneperarea.it/ and <http://www.comune.torino.it/giunta/enti/enti-citta/associazione-torino-giustizia.shtml>.

At the same time, the Council for the Judiciary played a weak role. However, within the Council there is no technical structure that could have technical competences to follow the national program. The Council was constantly informed about the program evolution and supported it, in some way, but without specific commitment.

The Italian regions and the European Commission are other actors that played a role at the central level. The Italian regions, through their national coordination structure, ensured the accountability of the program by taking into consideration the respect of the European rules (through the monitoring of the interventions and the program advancement).

The European Commission, represented by DG Employment, participated in the Monitoring Committees and made various presentations of the program advancement reports, requesting detailed information and participation. It has to be underlined that the positive image of the program transmitted by the Italian regions and ministries convinced the European Commission to include the modernization of the Italian judicial system within the 2014-2020 structural funds programming strategy.²⁰

The central state administrations did not play, until now, a strong top-down coordination role within the program implementation. This was due on the one hand to the weakness of the technical structure and the lack of experience in European programs (in particular of the Ministry of Justice) and on the other the ESF financing of the national program, which assigned a relevant role to the regions, which limited the information and knowledge diffusion activities. There is the risk that the characteristics and the effectiveness of the technical assistance financed by the national program be very different from one place to another. In particular, there is the risk that:

- The specificities of the local requests will reduce the achievement of the program objectives;
- In the judicial offices characterized by a less prepared leadership, the quality of the program could be limited and less innovative;
- The learning and diffusion processes may be effective only in the more developed regions.

Currently, there are no detailed evaluations of the program. However, during seminars and meetings some weaknesses were emphasized.

One of these regards the tenders published for selecting consultants. The selection of consultants and funds dedicated to consultancy activities are managed by the Regional offices through public tenders. The ESF regional offices have no experience in the justice field, and, in some cases the pressure exerted by the local context has led to variations against to the original guidelines. Furthermore, in some cases the regional coordination proved to be quite limited. While some Regions (Lombardia and Campania) created monitoring teams made up of experts charged to verify the compliance of the outputs produced with the requests of the national program, others did not.

Another difficulty refers to the capacities of the consultancy itself. Until the program creation, there were few experts in the organization of judicial offices, but it requires an extensive use of technical assistance. In most of the cases the tenders are won by groupings made of national or multinational societies (Universities are involved in a few places).

The fact that some of the groupings selected have won more tenders in different regions fosters a replication of outputs. However, the serial replication of the same schemes in different places has on the one hand some positive aspects (such as the fact of dealing with similar problems in the same way, favoring dialogue between different realities) and on the other some negative results (such as not paying attention to the local context and its needs).

In fact, some unsatisfactory results are emerging. For instance, one of the tenders published by a region has been blocked due to the fact that the winning society has been shown to be unable to ensure the realization of the services requested. The relations between offices and consultancies were one of the arguments dealt with during recent conferences (in part because of the lack of magistrates' experience in managing the relations with consultants).

²⁰ See European Commission 2012. It is important to underline that the issue of administrative capacity and organizational modernization have been central in the development policies financed by structural funds due to the action of the Department for Development and Economic Cohesion (now a branch of the Minister of territorial cohesion). Tools such as monitoring, ex ante, intermediary and ex post evaluation, administrative and financial auditing, the use of the European legislation for contracting the production of goods and services to private companies have been diffused within the Italian public administration also due to the action of structural funds. In this context, the action of the Department and of the current minister Barca have contributed to putting the issue of the administrative modernization (central and local) as a key component of the cohesion policies on the political agenda (see Melloni e Pasqui 2009).

Furthermore, some of the public managers of judicial offices in Southern Italy underline the difficulty of realizing partnerships with local public and private institutions, in contexts characterized by criminal infiltrations.

There remain some doubts about the sustainability of the innovations in some of the judicial offices involved, as with the end of the program the consultants' services will cease as well.

Consequently, the risk is that the program does not change the fact that in Italy the diffusion of innovations within the public administration presents high levels of territorial differences. This situation is even more relevant in Southern Italy. An undesired and adverse result lies in the increasing gap between areas where internal organizational factors (leadership, staff's competences, etc.) and external factors (institutional thickness,²¹ social capital²² and social-economic wealth) can sustain the implementation of innovation processes and those where the resources are not sufficient (as Southern Italy, even though in Southern Italy structural funds financing development and cohesion policy are consistent).

Nevertheless, the implementation of policy learning practices has to be emphasized. Some of the offices are adopting projects already implemented elsewhere. This is the case of the Willful Jurisdiction project implemented first within the Monza project and currently in the Law Court of Milan, in collaboration with the Law Court of Monza; the case of the Public Relations Office implemented first at Genua and afterwards considered as the background for the construction of Public Relations Offices within other judicial offices; the Social Budget reports of the Law Court of Milan and Brescia. One interesting aspect is relevant in the fact that these experiences are usually the result of the collaboration between local judicial offices, belonging to different regions (for example, the cooperation between the Law Court of Milan and the Law Court of Catania).

4. Conclusions

This reconstruction of the national program design and implementation process emphasizes some positive aspects, which allow justifying the choice of the program design, as well as some relevant weaknesses.

The interest and activism of judicial offices is underlined not only by the projects implemented, but also by the increase in the number of judicial offices involved in the program with respect to the initial number.

The project's design is significant both in terms of the projects designed and issues covered by these projects, which has brought about the implementation of some innovative solutions (even though the evaluation of their effectiveness is still rather limited).

Another positive factor is the implementation of learning practices developed at local level. In many regions the involvement of local stakeholders is rather important as: on the one side resources (funds, know-how, organizational ones) allocated to the projects increase; on the other many of the stakeholders involved (first of all lawyers, etc.) play an important role in the co-production of services, and therefore, in influencing the justice sector performance.

This result seems to justify the position sustained within the literature on professional organizations with regards to the relevance of both local actions for the testing and adaptation of more general solutions and the long implementation duration of such processes.

As to the critics to the 1993-2008 Italian reforms, and in particular to the design and organization of the reforms processes, sustained by Butera and Dente, the observations to be made are much more complex. Data on the evaluation of the program effectiveness is not yet available and, therefore, no conclusions can be presented. Butera and Dente sustain the need to adopt reforms characterized by a mixed strategy, top-down and bottom-up, but with a strong direction of central state administrations, a selection of the public organizations to be reformed, and a defined time period of the reforming interventions. This should allow the implementation of actions that are adapted to the specific contexts of the organizations to be reformed as well as profound innovation of the organizations involved.

If looking at the program features, it can be noticed that the implementation seems to be rather distant from these indications (as well as from those sustained by the post-NPM debate). The central state direction is weak and limited only to the monitoring aspect and the evaluation of the program conducted by an outsider, the Ministry of Public Administration.

²¹ See Amin and Thrift 1995.

²² See Cartocci 2007.

The selection criterion is limited as well, but the number of the judicial offices involved is high. The available data and the present implementation state show that the program choice of focusing on local initiatives is successful. However, the problem of geographical gaps continues to be relevant.

Finally, one of the conclusions consists in contesting the affirmation according to which the Italian administrative reforms fail due to the hegemony of a formalistic administrative culture, focused on the idea that reforms are to be implemented through laws.

In fact, the program is not the result of a legislative process, but of a junction between the innovation experiences developed by local judicial offices, the activism of some magistrates that have acted as policy entrepreneurs and the professional and epistemic communities that have already taken part in the design of administrative reforms and have been part of the international debate on administrative reforms.

The 'Diffusion of best practice' program presents some characteristics that are very close to the international debate on administrative reforms, both from a content and design point of view. The attention paid to performance monitoring, partnership development, quality of services, customer satisfaction and bottom-up initiatives are all issues specific to interventions associated with the New Public Management movement. Furthermore, the focus put on the development of ICT, outcomes, creation of a local leadership, which should be a warrantor of the performance and professional ethic of the programme towards local collectivities, are features more close to the post-NPM and good governance debates (see Lodge and Gill 2011; Christensen and Læg Reid 2007; Christensen and Læg Reid 2011 and 2012; Dunleavy et al. 2006; Osborne, ed., 2010; Kljin 2012;).

In this sense, the analysis on the Italian public sector reforms (cfr. Pollitt and Boukaert 2011; see also Gualmini 2008) confirm the inclusion of Italy on the Neo-Weberian countries list, even though it belongs to the sub-group of "modernizers (managerial way)" countries. In fact, in some areas of the country there is a tendency towards the "modernizers (participatory way)" sub-group.

However, the difference between the levels of modernization of the various sectors of the public administration and the need to specify the advancement of reforms in the various territories justifies – at least in the Italian case- a theoretical research question. It is, in fact, a need that puts into discussion the choice of the "country" as a unit of analysis within comparative researches on the convergence/divergence in the introduction and implementation of administrative reform models, and in particular within those analyses that are based on the historic institutionalism approach.

This unit of analysis does not allow taking into consideration the relevant differences between the social and economic characteristics and institutional capacity within a country. Moreover, it also does not manage to provide an in-depth explanation of the different characteristics and directions of the modernization of different sectors of the public institutions in the respective country.²³

This is why the adoption of the Vincent Ostrom's proposal (Ostrom and Ostrom 1991) of conceptualizing the different public services as different "industries" seems more convincing.²⁴ Moreover, it seems useful to articulate the program interventions on a sub-national level (different geographical areas), when the different geographical areas of a country are characterized by strong social, economic, cultural and institutional differences.

²³ See, for example, the papers of Kickert 2011, Sotiropoulos 2004a and 2004b about the modernization of public administrations in the Southern Europe states. The analysis developed in these papers risk to be weak – considering the Italian case – because they generalize situations that are specific of certain areas of the nation. For example, the failure of some administrative reforms is explained as caused by a low level of civic culture and the aversion to the state. Studies on social capital show, on the contrary, that many Italian regions presents high levels of civic culture, high level of public services' quality (see, as an example, the paradigmatic case of the nursery schools in Emilia-Romagna region, that is considered in Usa and Northern Europe as a case-study of excellence). See Cartocci 2007 and the classic Putnam 1993.

²⁴ "We can then think of the public sector ... which many units and agencies of government as being composed of many public service industries ... The governmental component in some industries, such as the police industry, will be proportionately larger than others, such the health services or the transportation industry. But most public service industries will have important private components. Each industry, moreover, will be characterized by distinctive production technologies and types of service rendered. These facilitate coordination of operational arrangements within an industry and allow for substantial independence between industries", Ostrom and Ostrom, 1991: 182.

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