

Giulio Borsari

e-Justice in Italy: The «on-line civil Trial»

The «processo civile telematico» (which in English can be translated into «On-line Civil Trial»), developed by the Italian Ministry of Justice, is right now the most important e-Justice project and one of the most important Italian e-Government plans. It aims to increase the availability of on-line services building a two-way data and document interchange and application interoperability between external users (lawyers, expert witnesses, ...), Courts» internal users (clerks, judges, ...) and all the public administrations and private parties involved in civil cases, implementing a high-security PKI architecture and adopting state-of-the-art technical standards, according to the Italian technical regulations.

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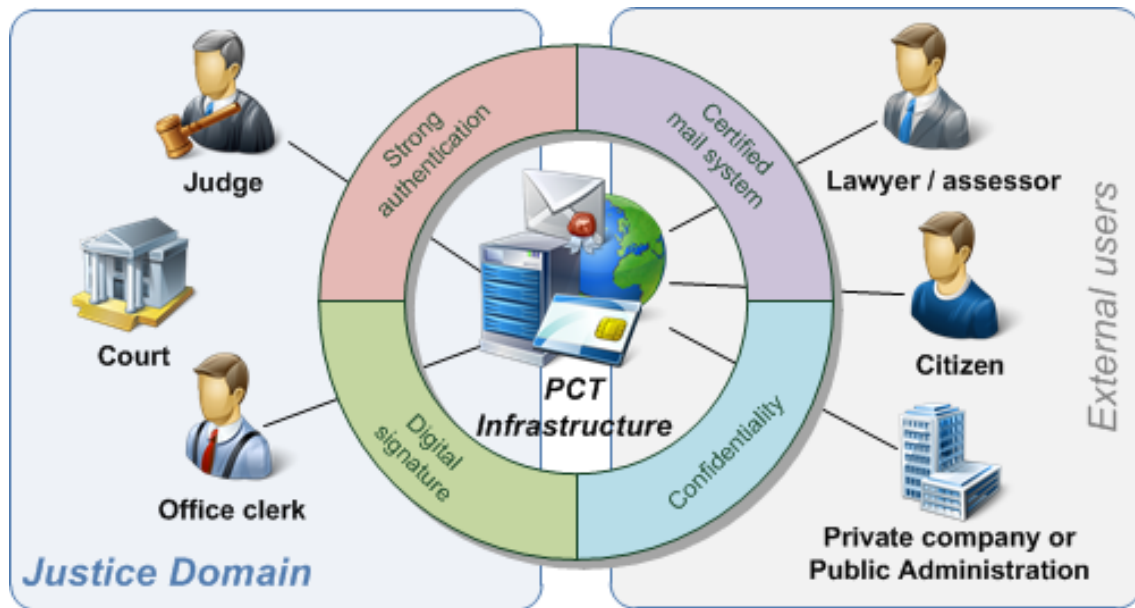
1. Introduction

[Rz 1] The «processo civile telematico» (acronym PCT, which in English can be translated into «on-line civil trial»), is a project developed by the IT Department of the Italian Ministry of Justice, started in 2003.

[Rz 2] Until now it's for use the most important e-Justice project and one of the most important Italian e-Government plans.

[Rz 3] All services and features are covered by specific technical regulations and basically enable interoperability between authorized users outside the Courts (e.g. lawyers, assessors, Public Administrations, citizens, private companies, etc.) and authorized users inside the Courts (judges and clerks), through a high-secure infrastructure which ensures reliability of transmissions, authenticity, integrity, non-repudiation and confidentiality.

[Rz 4] The following picture illustrates the main abstract view of the actors involved and the main features of the infrastructure:



[Rz 5] In recent years, the Italian legislation has intervened several times to regulate and modify the «on-line civil trial» in an attempt to facilitate its dissemination; a recent decree introduces mandatory electronic transmission of all communications (to lawyers, professionals and parties) and electronic filing in some phases and functions of the proceedings.

[Rz 6] The «on-line civil trial» can therefore no longer be seen as mere computer representation of the procedural codes as now in force, but a «living process» itself, preparing to become a unique opportunity to simplify civil proceedings and some of its institutes.

2. On-line services available

[Rz 7] Generally speaking, the «PCT Infrastructure» provides two kinds of services:

- **Asynchronous communications:** transmission of electronic legal acts and official communications and notifications. For this kind of services, «certified mail» (called PEC, acronym for «Posta Elettronica Certificata») and digital signature are adopted, according to national legislation and technical rules.
- **Synchronous services,** such as on-line access to information and electronic acts and documents stored in the File System. For these kinds of services, strong authentication is required in order to ensure certain e-identification of the user. The authentication is performed by specific external Access Points (authorized by the Ministry of Justice) or by the Italian e-Justice Portal provided by the Ministry of Justice. Besides, anonymous information on the status of the proceedings can be gained without any authentication through the Portal or via mobile apps (for iOS or Android devices) provided by the Ministry of Justice.

[Rz 8] In the next paragraphs services and benefits are listed per type of user.

2.1. For lawyers and assessors

[Rz 9] Lawyers (as defendants) and assessors designated by the judge are qualified external users that can:

- Have on-line access to reliable and up-to-date information handled in the Court Management System and to legal acts and documents stored in the File System. This same service is also available for applications, so that these kinds of users can have their own software automatically synchronize their information and documents with the ones of the courts. This service allows to significantly reduce access to the Courts, saving time and human resources both for external users and for office clerks.
- E-file legal acts to the competent Court. Also this service allows to significantly reduce access to the Courts and to save time and human resources; it also avoids the handling and moving of paper files.
- Use the on-line Payment System to pay the Court fees, again to save time and human resources.
- Receive electronic communications and notifications from the Courts. Besides the benefits of saving time and human resources, this service allows immediate and reliable information for the recipient and a consistent saving of costs for delivering paper through bailiffs or portal services.

2.2. For citizens and private companies

[Rz 10] As for their lawyers, also citizens and private companies can have access as involved parties to the information managed by the Court Management System and to legal acts and documents stored in the File System.

[Rz 11] In a near future they will also be able to e-file legal acts to the competent Court and to receive communications and notifications from the Courts, when the law so provides.

2.3. For public administrations

[Rz 12] A public administration can take benefits from all services available for lawyers even when it stays before the court by its designated employees.

2.4. For office clerks (court registrars)

[Rz 13] All functions for on-line services are fully integrated in the Court Management System used by the registrars of the court and by the office clerks.

[Rz 14] The system is the «nerve centre» of all the information, since it implements the work-flow of all procedural events of the proceedings.

[Rz 15] Through specific functions of the system, the user formally accepts electronic acts e-filed by both external and internal users of the court; it also sends and monitors electronic communications and notifications sent.

[Rz 16] These services allow consistent saving of time and human resources in courts, especially in duties like providing face-to-face information or like handling and circulation of papers.

2.5. For judges

[Rz 17] Judges are provided with a fully functional software application that enables them to exhaustively manage the single proceedings assigned, to read and annotate the legal acts sent by the parties involved (especially from lawyers and assessors) and to write, digitally sign and e-file their own decisions to the court registry.

[Rz 18] These functions are available also from out-of-office.

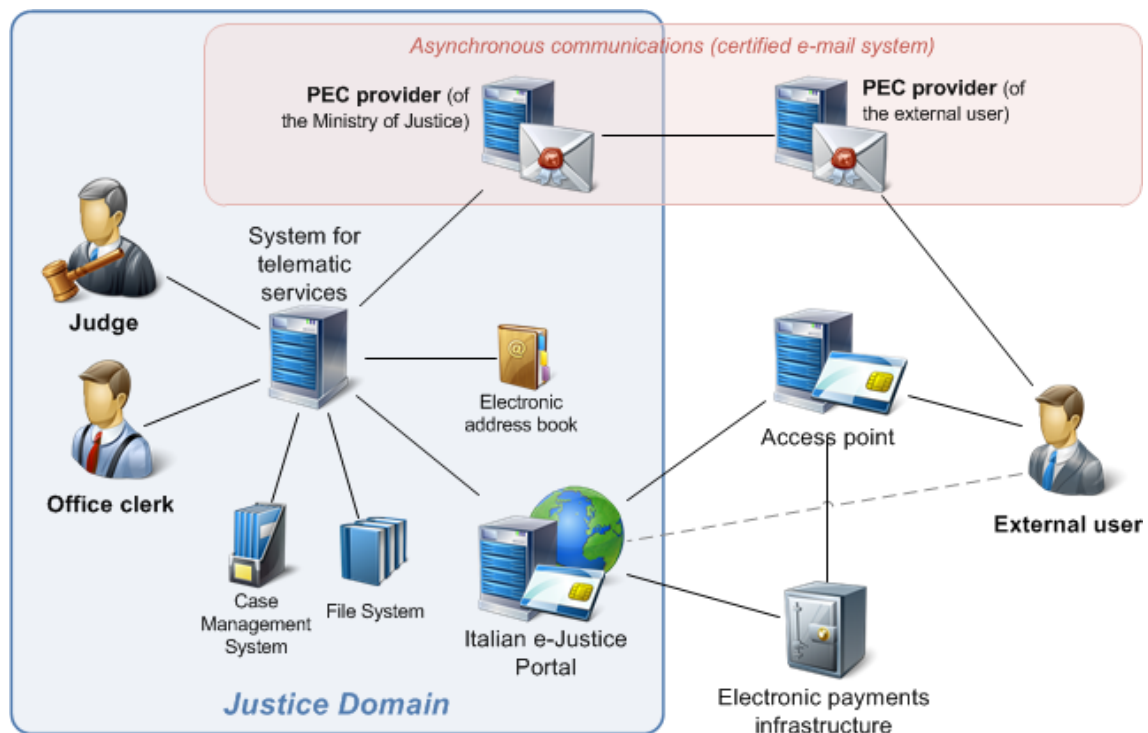
[Rz 19] Single judges, head of sections and head of courts can also monitor the progress of the proceedings through a highly sophisticated analysis console which also reports particular alerts related to deadlines or specific duties.

[Rz 20] Moreover, public decisions of the court are tagged with the European Case Law Identifier (ECLI) and are searchable through a large number of criteria to be combined with full-text retrieval search.

[Rz 21] Benefits are a consistent saving of time for the decision making process and for formal checks, overcoming of logistical problems in courts, and continuous monitoring of compliance.

3. Technical aspects

[Rz 22] The infrastructure that enables all services is illustrated in the following picture:



3.1. Asynchronous communications

[Rz 23] As said, asynchronous communications are managed by the certified mail system (called PEC, acronym for «Posta Elettronica Certificata») which is adopted according to national legislation and technical rules, valid for all public administrations, professionals and citizens.

[Rz 24] In synthesis, these rules and specifications provide that mail messages receive an official delivery receipt in order to obtain certainty of the delivery and its exact time. Both messages and receipts are digitally signed by the sender's provider and the recipient's provider in order to ensure authenticity, non-repudiation and integrity.

[Rz 25] PEC providers are authorized by the «Agenzia per l'Italia Digitale» (acronym AgID, which can be translated into «Agency for Digital Italy»), the highest authority for ICT in Italy, which also performs supervision on the providers to ensure the respect of the rules, especially on the security side.

[Rz 26] For **e-filing** of legal acts by external users, the payload (i.e. the electronic act itself and all attachments) consists of an encrypted S-MIME envelope, which has to be attached to the PEC message.

[Rz 27] The envelope must contain the legal act in PDF format, digitally signed by the author, together with a specific XML file providing structured information (according to the type of act), also digitally signed, and all documents attached to the legal act.

[Rz 28] The official time of delivery to the court, to be considered in case of procedural deadlines, is the timestamp of the PEC delivery receipt sent back to the sender.

[Rz 29] Once delivered to the court's PEC mailbox, the PEC message is automatically retrieved and checked by the system, then the envelope is decrypted and the content is formally verified; a PEC message is sent back to the sender with the result of these checks, then the content is provided to the office clerk for definite acceptance and update of the Case Management System. A final PEC message is sent back to the sender with the result of the acceptance: from this stage the files are available for all parties involved in the proceeding for on-line queries.

[Rz 30] A PEC message is also sent whenever an electronic **communication or notification** has to be delivered to the lawyers or to other recipients: in this case the content and the message is automatically prepared and sent by the Case Management System after the registration of the specific procedural event and in case the recipient owns a PEC address (retrieved in official PEC directories). Once sent, the system automatically retrieves the PEC receipts of the message from the PEC provider and stores them into the File System, alerting the office clerk in case of delivery failure (the PEC system tries to deliver the message within 24 hours). If the delivery failed for reasons attributable to the recipient, the message has to be picked up at the court.

3.2. Synchronous services

[Rz 31] In order to obtain **on-line access** to non-anonymous information and to the electronic acts, the external user needs to be e-Identified through strong authentication (i.e. smart card, cryptographic tokens, etc.), which is performed by an Access Point or by the Italian e-Justice Portal provided by the Ministry of Justice itself.

[Rz 32] The holder of an Access Point – which becomes responsible for the e-Identification process of its users – can be a Bar Association, a public administration or a private company (with a

minimum share capital of 1 million euros). The system must respect the security specifications defined by the Ministry of Justice, which gives explicit authorization after performing specific security checks.

[Rz 33] The architecture of synchronous services implements an application-to-application interoperability: this means that queries on the Case Management System and on the File System are performed by specific web services available both for the Access Points and for external software, which can then develop their own user interfaces and/or integrate their own applications.

[Rz 34] The PCT Infrastructure also enables **electronic payments**, connecting both the Access Points and the Italian e-Justice Portal to the bank system through a specific infrastructure developed by AgID; a highly secure connection is created in order to deliver an electronic receipt of payment back to the payer; the receipt (an XML file digitally signed by the bank) can then be e-filed to the court, or simply printed and presented to the court, as an official proof of payment of court fees or other taxes; the Case Management System checks the integrity and authenticity of the receipt ensuring single usage through a check on the central repository of all receipts.

3.3. Connection to e-CODEX for cross-border proceedings

[Rz 35] The PCT Infrastructure is connected to the e-CODEX platform to enable cross-border transmissions: the payload coming from another piloting country is automatically checked and transformed into the PCT envelope in order to be directly forwarded to the Court.

4. State of the art

[Rz 36] It has to be considered that in Italy there are 1.040 courts for civil proceedings: 848 offices of the «Justices of the peace» [Giudici di Pace], which are honorary judges competent in matters of minor importance (less than 5.000 euros), 165 first instance Courts [Tribunali], which are also Courts of appeal against the decisions of justices of the peace, 26 Courts of Appeal [Corti di Appello], second instance courts and 1 Court of cassation [Corte di Cassazione], which is the Italian Supreme Court dealing with infringement of the law.

[Rz 37] There are about 250.000 lawyers.

4.1. Users

[Rz 38] External users accounted in September 2013 are about **425.000**: 275.000 are lawyers or qualified practitioners, the rest are other professionals (which act as assessors) or employees of public administrations.

[Rz 39] There are about 1.800 judges that use the system.

4.2. E-Filing

[Rz 40] About 52% of first instance Courts and Courts of Appeal are now able to accept legal-value electronic acts from lawyers and assessors. A special decree has been issued for each of those courts

to state exactly which kinds of act can be e-filed with legal value (i.e. avoiding simultaneous paper filing).

[Rz 41] In the last 12 months almost **240.000** electronic acts with legal value have been e-filed from external users, exceeding the amount of 35.000 in July 2013.

[Rz 42] A recent law has stated that from June 30th 2014 all acts sent by lawyers and assessors to all first instance Courts must be sent only electronically using the PCT infrastructure.

[Rz 43] Judges have e-filed over **115.000** decisions and **57.000** reports of hearings.

[Rz 44] A recent law has stated that from June 30th 2014 all acts regarding injunctions must be sent electronically by judges using the PCT infrastructure.

4.3. Electronic communications and notifications

[Rz 45] All 165 first instance Courts and all 26 Courts of Appeal are obliged by law (since February 2013) to send communications and notifications only via electronic means, of course using the PCT infrastructure.

[Rz 46] Over **15 million** messages have been sent since the adoption of the certified e-mail system (PEC), which took place on November 19th 2011. In peak months the average is about 1,2 million per month.

[Rz 47] The annual savings of costs for notification (through bailiff or postal service) is estimated in 35-40 million euros!

4.4. On-line queries

[Rz 48] All 165 first instance Courts and all 26 Courts of Appeal are enabled for on-line access to the Case Management System and to the File System. 373 Justices of the peace offices and the Supreme Court of cassation are enabled for on-line access to their Case Management System.

[Rz 49] There are 46 authorized access points.

[Rz 50] There are up to **2 million** daily accesses from external users or their software applications, both from access points and from the Italian e-Justice Portal.

[Rz 51] Over 85.000 downloads of the mobile apps have been performed.

GIULIO BORSARI, IT Expert, responsible for the telematics infrastructure at the Italian Ministry of Justice, Department of Judicial Organization, Personnel and Services, Directorate General for Automated Information Systems giulio.borsari@giustizia.it.