

# E-JUSTICE IN ITALY: THE „ON-LINE CIVIL TRIAL“ <sup>1</sup>

*Abstract: The “processo civile telematico” (which in English can be translated into “On-line Civil Trial”), developed by the Italian Ministry of Justice, is one of the most important e-Government plan in Italy, not only in Justice. It aims to increase the availability of on-line services building a two-way data and document interchange and application interoperability between an enormous number of 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.*

## Index

1	Introduction .....	2
2	on-line services available .....	2
2.1	For lawyers and assessors .....	3
2.2	For citizens and private companies.....	3
2.3	For public administrations .....	3
2.4	For office clerks (court registrars).....	3
2.5	For judges.....	3
3	Technical aspects .....	4
3.1	Asynchronous communications .....	4
3.2	Synchronous services .....	5
3.3	Connection to e-CODEX for cross-border proceedings.....	5
4	State of the art (May 2016).....	6
4.1	Users .....	6
4.2	E-Filing.....	6
4.3	Electronic communications and notifications.....	6
4.4	On-line queries.....	6

---

<sup>1</sup> Written by the Italian Ministry of Justice, IT Department

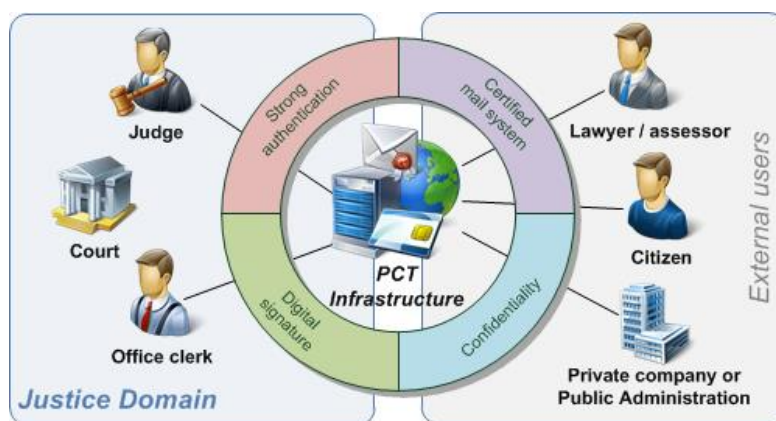
## 1 INTRODUCTION

The “Processo Civile Telematico” (acronym PCT, which in English can be translated into “on-line civil trial”), is an e-Government plan developed by the IT Department of the Italian Ministry of Justice, started in 2003.

All services and features are covered by first-level norms and a specific technical regulation.

They 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.

The following picture illustrates the main abstract view of the actors involved and the main features of the infrastructure:



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 decree which became law in late 2012,<sup>2</sup> subsequently amended, introduced mandatory electronic transmissions of all communications (to lawyers, professionals and parties) since February 2013 from 1st and 2nd grade courts, and since February 2016 from the Supreme Court. That same law made it mandatory also for electronic filing for injunctions & pleadings (after constitution) in new cases since June 2014, for all pleadings (after constitution) since January 2015 and in Courts of Appeal.

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

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

<sup>2</sup> DECRETO-LEGGE 18 ottobre 2012, n. 179

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.

In the next paragraphs services and benefits are listed per type of user.

## 2.1 For lawyers and assessors

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 reducing 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. In addition, 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

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.

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

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)

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.

The system is the “nerve centre” of all the information, since it implements the workflow of all procedural events of the proceedings.

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.

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

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.

These functions are available also from out-of-office.

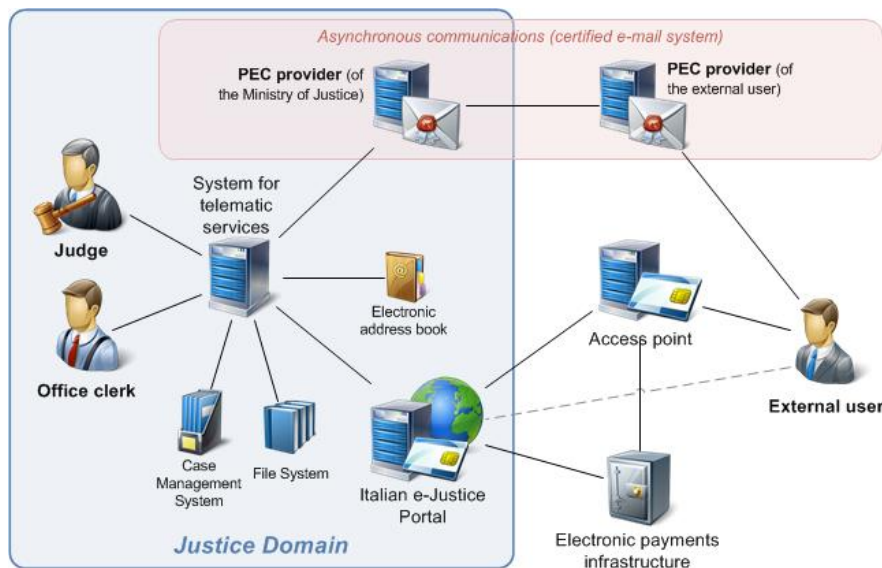
Single judges, head of sections and head of courts can also monitor the progress of the proceedings through a highly sophisticated analysis console, which also reports specific alerts related to deadlines or specific duties.

Moreover, public decisions of the court are searchable through a large number of criteria to be combined with full-text retrieval search.

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

The infrastructure that enables all services is illustrated in the following picture:



#### 3.1 Asynchronous communications

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 and citizens.

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.

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.

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.

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.

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.

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 checked; 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.

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 the Electronic Address Book). 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).

### 3.2 Synchronous services

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.

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.

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.

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 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

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 (MAY 2016)

### 4.1 Users

External users accounted are over **1 million**, 250.000 of them are lawyers, the rest are other professionals (which act as assessors) or employees of public administrations.

There are about 4.500 judges (both ordinary and honorary) that use the system everyday, almost 2.000 also from out of office.

### 4.2 E-Filing

From January 2013 and May 2016 almost **20 million** electronic acts have been received though the system:

- Over 11.300.000 from external users, about 700.000 every month are e-filed.
- Over 7.500.000 from judges, about 400.000 every month are e-filed

### 4.3 Electronic communications and notifications

All 165 first instance Courts, 26 Courts of Appeal and the Supreme Court are obliged by law to send communications and notifications only via electronic means, of course using the PCT infrastructure.

Over **17 million** messages have been sent in the last 12 months.

The annual savings of costs for notification (through bailiff or postal service) is estimated in 55 million euros !

### 4.4 On-line queries

There are over **6.500.000** daily accesses from external users or their software applications, both from access points and from the Italian e-Justice Portal.