

DEVELOPMENTS REPORT

The 53rd European Presidents' Conference of Bars and Law Societies constitutes an important occasion for discussion and a significant opportunity to take stock of the progress of the institutional activity carried out by the Bars and Law Societies in their respective countries and to renew their commitment to an efficient, fair and citizen-friendly Justice.

As far as the Rome Bar Association is concerned, it is considered appropriate to premise that it is a public body established by law, having its headquarters in the “eternal city,” the capital of Italy; it is headed by a Council elected every four years; and it guards a roll in which some 26,000 lawyers and 5,000 practitioners are registered.

These same conditions entrust the Rome Bar Council with a very special role, both as an observer of the jurisdiction and as a key player in interlocutor with other institutions.

In Italy, the recent “*Cartabia Reform*” pursued the goal of speeding up trial times through the simplification of procedures and the modernization of the judicial system, both in the civil and criminal sectors.

Despite the urging of the Rome Bar Council, this goal does not appear to have been achieved, given the current actual length of trials.

However, it must be noted that the processing of cases has indeed been speeded up, with a sharp decline in the backlog of pending cases.

However, it cannot be overlooked that the current trial reforms are not sufficient to solve the problem of the untimely settlement of proceedings unless the shortage of facilities and especially of Judges and administrative staff, which has been going on for decades and has become more and more pronounced, is remedied.

On this issue, the Rome Bar Council has intervened to draw the attention of the public and the Authorities, complaining not only about the unacceptable delay in the processing of judgments, but also pointing out that the planned increase in the jurisdiction of the Justice of the Peace, the one of greater proximity to citizens.

For the civil sector, the Rome Bar Council has proposed concrete solutions to the Ministerial Authorities and the Superior Council of the Magistracy, providing for the immediate placement of



Honorary Judges, traditionally gathered from Lawyers of adequate experience and professionalism, in judging functions.

One of the cornerstones of the “*Cartabia Reform*” is the digitization of the civil process, which is certainly useful and in line with technological evolution, but which must not be at the expense of legal certainty, due process and the protection of defensive guarantees, with particular reference to cross-examination and the orality of the trial, which is significantly necessary and, in some cases, indispensable to achieve Justice.

Unfortunately, we must note the existence of obstacles due to the lack of staff training, inadequate and insufficient maintenance of the existing computer system, which adversely affects the smooth operation of Justice, creating situations of serious discomfort for operators and lawyers, in the performance of their activities.

In the criminal sector, the “*Cartabia Reform*” has pursued the goal of speeding up the definition of trials and reducing the number of pending proceedings, limiting, in some cases, the effectiveness of the right of defense and the values of due process in the name of a claimed efficiency and speeding up of trials, as if the right of defense were an obstacle to their speedy conclusion, such as to justify both the compression of the autonomous power of appeal of the defense counsel to the detriment of the weaker subjects, and the provision of new hypotheses of forfeiture and inadmissibility linked to purely technical aspects (errors in telematic filings or merely formal as in appeals judgments).

In this regard, it is strongly felt by the Bar the need to proceed, in a short time, to eliminate all those rules of the “*Cartabia Reform*” that have limited the right to defense, so as to reconstitute the identity and role constitutionally recognized to the defender.

The judicial function cannot be properly exercised, according to the dictates of the Italian Constitution, if in the exercise of that function the effectiveness of the right of defense is not guaranteed, and any unjustified limitation of it violates the principles of legality and democracy, which constitute the essence of the rule of law.

The Rome Bar Council is ready to protect these indefectible and non-negotiable principles by raising awareness among civil society, politicians and the media, also in order to significantly reduce the existing gap between the constitutional culture of rights and the dominant social culture, which is often oriented to identify the defender as an accomplice of the criminal or, even worse, as a defender of crime.



It is necessary to spread the culture of garantism and to make the public understand that every citizen, even those accused of heinous crimes, has the right to defense, which should in no way be limited or even demonized.

The Council of the Bar Association of Rome has also expressed its deepest concern and dismay at the conditions in which detainees continue to live in Italian prisons, with no one listening to the constant appeals for respect for the fundamental rights of people in detention. Dilapidated prisons, overcrowding, and degraded living conditions even for prison staff, which have led to numerous suicides among inmates and also suicides among prison staff in 2024. In the face of this dramatic situation, recently recalled by the President of the Republic himself, it is imperative to intervene without ideological bias or partisan views, operating in compliance with Article 27 of the Italian Constitution, by which it is sanctioned.

In Italy at the moment, a crucial and topical issue is the prospect of career separation between magistrates assigned to prosecutorial functions and those assigned to judiciary functions.

In this regard, it is necessary that an unproductive and rigid opposition between the powers of the State be avoided and, in this regard, the Council of the Bar Association of Rome is ready to commit itself, in the permissible ways and in the appropriate forums, to overcome the serious conflict that currently exists.

It must be reaffirmed, however, the principle that the accusatory process requires the presence of a Judge who is third and impartial with respect to the Public Prosecutor and the Defender, in the context of a cross-examination that must take place under conditions of total parity between prosecution and defense, to be understood not as equality of powers between the Public Prosecutor and Defenders but as recognition to the Defense of powers suitable to counterbalance those due to the Public Prosecutor.

As part of a constructive collaboration with the Institutions and the Judiciary, based on mutual respect and sharing of common goals, the Council of the Bar of Rome cultivates the hope that, also with its decisive contribution, an opportune improvement of Justice in Italy will be realized in order to make it ready and efficient, capable of responding to the real needs of Society, thus becoming a guardian of legality and an instrument of social peace.

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