Horizontal learning in the quality of justice: a new "twinning" method to reduce the implementation' costs and ensure judicial autonomy

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Background

Justice systems have been experiencing since a few decades recurrent and interlaced waves of reforms [Vigour, 2012; Dallara and Piana, 2015; Kosar, 2015; Ginsburg and Garoupa, 2016]. This happened due to a number of concomitant reasons. First and foremost the scope of the judicial function has been forced to expand. Increasingly complex and intensive litigations have demanded a deeper and wider response from judicial institutions in many countries and, with higher significance, in countries featuring high levels of fragmentations or cultural polarization [Stone Sweet, 2000; Guarnieri, 2015; Morlino and Sadurski, 2010; Morlino and Piana, 2015]. These phenomena have provoked the overload of the judicial institutions and have called for a reallocation of resources within the administrative services attached to them. Secondly, the economic crisis which hit the Euro-zone in 2007 and 2008 forced public institutions to rethink their human resources endowment and rationalize their expenditure schemes [Natalini, 2015; OECD, 2017]. All said holds also for the judicial sector. This went through a comprehensive process of rationalization in the budget allocation scheme. In many countries the role played by IT-based tools in the improvement of the court management has been praised under the auspices of an efficiency-oriented approach [Frydman 2011; Jean 2007; Batard et al. 2013] warmly welcomed to react to the crisis. As a matter of fact, the costs/benefits ratio inspired the policy discourses of the judicial reforms adopted in almost all southern European countries [Piana and Verzelloni, 2017; Verzelloni, 2017]. Furthermore, justice systems got ranked at the top of the international agenda on good governance, inclusive growth, poverty reduction, equal treatment promotion. The uphill of this topic started several years ago: the engagement of the international organizations have been though renovated at the aftermath of the Agenda 2030 adoption, which includes under the overarching principle "goals 16" the purpose of increasing the equality of everyone to access reliable, impartial, and accountable mechanisms of rights enforcement.

The combination of all these factors impinged upon the design of the judicial reforms and demanded to the national elites to engage in long term sighting agendas, a condition that has been fulfilled dependently on several factors, intimately related to the culture, the legacy, and the veto players' distribution featured by each country. And yet, despite the specific aspects of the countries, the political contingencies, the different legal cultures and the models of judicial

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governance, the European member States have all been marked by a significant and relentless attempt to improve the justice systems by adopting new laws and injecting new inputs in the organizational units of the courts, the public prosecutor offices, the bars, and in general in all institutions that are co-participants in the *mise en oeuvre* of the rule of law principle within the justice sector.

This has happened so far by means of two types of rule-making mechanisms:

- Legal provisions and promotion of legal tools
- Standard setting and promotion of soft law inspired reforms

The two mechanisms go hand in hand with two qualitatively different methods of rule-adoption and rule-implementation. Legal provisions are adopted by means of codified legal procedures, which are enacted by legislative bodies or executive agencies on the basis of a substantial consensus, raised within the services or the groups that operate into them or attached to them. Just to provide an example: a reform of the civil procedural code is firstly drafted by a legislative service within the ministry of justice, debated close doors within the council of ministers, shared and discussed with the stakeholders in some cases, and then put through the parliamentary process of amendments and adoption [Knill, 1999]. Once the provision has become a part of the legal system, the implementation process follows alongside the mobilization of the judicial and administrative body. In this context a top-down logic of action applies, even though we can observe instances in which the inputs are coming from offices or part of the judiciary that have already experienced practices non legally binding which proved to improve the functioning of the system. Once the practices are incorporated into a legally binding provision or into a set of legally binding provisions, for sure the organizations (such as a court, or an administrative service attached to it) that had already experienced them are facilitated in the rule implementation stage. This notwithstanding, the overall dominant logic of action is deductive: general rules to be applied to single cases.

This avenue to the adoption of new rules entails a number of costs. In several cases scholars and policy makers have highlighted the political nature of these. Reaching a general consensus at the national scale is demanding in terms of political resources. Actors at all level of the decision making process are confronted with unavoidable transaction costs which can end up with reshaping and rewording considerably the initial provisions (or cluster of provisions). Moreover, actors that are active in the legislative arena are not immediately and directly involved into the implementation process, which is handled by the judicial staff and the administrative staff assigned to the courthouses [Piana, 2017; Vecchi, 2016; Hilbnik, 2013]. Finally the learning process, which is part of the implementation, is a fortiori condemned to pay off for the side effects engendered by the temporal gap that lapses between the adoption of the law and the time in which the law is put into motion [Barahona de Brito, 2011]. Once the effects of the law are visible and measurable as it is needed to learn, the time has passed already and some mistakes have been already committed. Several advantages are yet unquestionably linked to the top down

model. The implementation can be governed by the center and the law can be enforced through mechanisms of formal sanctioning control. In a nutshell, legally binding norms adopted to improve the quality of justice following a top down and synoptic logic of action have high potential of large scale impact and at the same time are confronted with high costs of adoption (political costs) and implementation (monitoring costs).

The standard based approach has been promoted also to medicate these problems and to avoid these costs. Standards are shaped without the need of going through the parliamentary processes and the political transactions entailed by these. Standards are moreover derived from practices that have been experienced and have proved on the field their effectiveness and their sustainability. At the same time standards are general rules, they are worded in abstract terms. If one states that "the courthouses should adopt reliable mechanisms to communicate in a user friendly manner with the citizens", this statement reads abstract and general enough to be then incorporated into several different possible contexts and still contains important normative meanings (reliable is a normatively connotated term). The next paragraph is going to show however that some of the costs that are entailed by the first model of rule-adoption and rule-implementation emerge also in the standard based processes of organization and institutional change. This affects notably the implementation costs.

Standard and guidelines: the European way to the quality of justice

The avenue opted for by the European institutions in the judicial sector is definitely not new for the international and transnational setting. The strategy which consists into governing courts by standards, is fairly popular in most international organizations, such as the World Bank and the OECD [Grindle, 2013; Politt, 2013]. In Europe the enterprise of constructing uniformities across legal and judicial boundaries still overlapping national political and geographical boundaries looks as a fairly titanic venture, entailing a paramount work. The concept of "quality of justice" seems to have rephrased the concept of rule of law by adding to the impartial and lawful adjudication other principles, such as the actual possibility to access the court system, the transparency of the court management, the efficiency of the resource management scheme adopted by courts. A high number of non-legally binding norms has made its appearance in the European Union as one of the most path breaking outcome of a transnational standard setting process targeting the administration and the organization of domestic courts and public prosecutor offices. Several types of standards have been put forth: reasonable timeframe, equal access to justice, efficient financial management, effective public communication, etc [Fabri, et al., 2005]. In order to ensure both the measurement and (consequently) the quantitative assessment of the judicial systems concepts such as "timeframe", "delays", "fair trial" have been unpacked and translated into indicators. The operationalization of the quality of justice came as a new avenue to compare systems that proved to be fairly reluctant to mere integration or yet quite different and divergent in terms of their own strategies to go about court overloading,

challenging cases (involving children, refugees, or ethical and religious issues). In general if, by any chance, a European citizen had the opportunity to observe the European judicial systems from an external point of view, say a planet of the solar system, she would be in the position to spot huge differences in the way trials take place and surely in the way the law is used, applied and enforced. Differences do not refer here to legal norms (the European system still is a system of 28 national legal systems living underneath the EU law). Rather it refers to the organization, the staff, the services offered to users, and the number of mechanisms of public and social accountability under which judicial staff is held In this context the road which consists into unfolding standard settings processes needs to be accompanied by a long process of operationalization, which creates a set nominal labels (indicators) to name different things with similar names: "An indicator is a named, rank-ordered representation of past or projected performance by different units that uses numerical data to simplify a more complex social phenomenon, drawing on scientific expertise and methodology. The representation is capable of being used to compare particular units of analysis (such as countries or persons), and to evaluate their performance by reference to one or more standards" [David, Kingsbury, Merry, 2010, 2].

This way of phrasing the function performed by indicators fits perfectly with the stance taken by the European institutions toward the measurement of the quality of justice and responded to their need to find a common and possibly "a-cultural" manner to speak about justice across the national borders. The creation of the European Commission for the Evaluation of the Judicial Systems, under the umbrella of the General Directorate of Legal Affairs of the Council of Europe, marked a turning point in the whole story told herein. CEPEJ's mandate is to collect data on the judicial systems of 47 countries and to set down guidelines and blueprints of remedies to improve the quality of justice. This turned out in an impressive work to single out indicators and measurement methodology. The first two Reports, published in 2008 and 2010 are in this respect to be welcome as an innovative way to go about the justice administration assessment [CEPEJ, 2008; CEPEJ, 2010]. The idea underpinning this work can be worded as it follows: justice administration is a public sub-sector and should be held accountable from the point of view of the capacity of delivering a good service to users – citizens – and of the capacity of allocating money along with a strict instrumental rationality. Remedies suggested come from best practices experienced in more advanced countries – countries that rank high from the point of view of courts' efficiency – 3and from the development of common standards which serve as common transnational reference point to assess the quality of national and sub-national judicial offices. Judicial offices respectful of the rule of law should be efficient in delivering judicial decisions in due time, should be transparent in the way they manage their resources, should introduce massively IT instruments to facilitate the information processing and the public communication. To put it briefly, innovation has become a common sense when policy makers are referring to the judicial institutions and are asked to solve and medicate the illness affecting the judicial sector, such as unreasonable time frame, uneasy or unfair access to the courts, lack of confidence granted by the general public to the bench, etc. (Frydman, 2011).

This has entailed a growing commitment to inject within the traditional systems of judicial governance new organizational practices and policies originated in other systems or offices. The injection into a specific context of abstract models of judicial governance ends with being followed by its encapsulation or hybridization [Emery and Glauque, 2014] caused by cultural and organisational forces, rooted into the domestic court system [Hammergreen, 1996; Dakolias, 1996; Albers, 2001]. In other words, transnational standards are forced to accommodate many several different national legacies which bridge standards into practices and eventually can engender perverse effects [Ahrne, Brunnson and Garsten, 2000]. Hybridisation and acclimatization are two different mechanisms that have been observed by scholars in several different policy contexts. One of the effects they entail consists into the creation of opportunities for micro changes in the systems where the standards are acclimatized. If in theory the standard for an open access to court is set transnationally, the organization where this standard is made into a daily working practice can interpret it in several manners, if specific guidelines are not provided. It is the center of the system which is, somehow, asked to provide bridging guidelines, transforming abstract standards into concrete organizational and communicative schemes. For sure, in absence of of legal obligation and under conditions of semantic openness, a differential implementation, dependently on the context and the legacies, is not only possible, but even desirable. Standards and soft laws in general define the borders of legitimate policy windows, through which domestic policy makers can then intervene. In most cases the promotion of specific solutions is based on the endorsement of a user oriented approach that frames the judicial reforms and leads them in an output oriented direction. The actual entrepreneurship of the domestic institutions and the implementation of these types of normative inputs – i.e. non-legally binding norms – depend both enormously on the availability of capable actors, of legitimate and influential policy entrepreneurs, of domestic facilitating conditions in terms of political competition and the organisational forces at work in the judicial field. This is the reason why the analysis of a critical case, the Italian one, may cast new light upon the potential consequences – including the unintended effects – of the judicial reforms driven by the quality-of-justice mainstream.

And yet, beyond the different patterns of interaction that standards and legal provisions entail, the reasoning behind their implementations converges at least in one sense: both implementation processes are deployed on the basis of a deductive rationality, which goes from an abstract principle – a norm – to a specific case – a practice or behaviour that instantiates the norm. The largest part of the standards is worded in abstract terms: budget transparency is a principle. How to implement it and to make into a practice depends on a number of factors that narrow progressively the possible options of behaviours that can be adopted coherently to the abstract principle and possibly in the specific context of application. The same logic holds in the case of the principle of equal access to the judicial mechanisms of dispute resolution. The term “equal access” is abstract: this way of normative wording is suitable for a wide and differential implementation. This principle is put into motion by means of a specific tools, mechanisms, organisational solutions, and policy designs.

The deductive and (scope-narrowing) logic of action which governs the implementation is the typical cognitive pattern followed in case of a norm – based understanding of the institutional actions [Hart, 1960; Searle, 1993]. This pattern features an unavoidable cost of learning which is related to the timeframe of the implementation process. In order to reach a sound and reliable understanding of the effects that originate from the norm implementation, a certain lapse of time needs to be spent in monitoring actions, observing strategies, data collection and analysis. If, for instance, a mechanism of ADR is introduced to decrease the overload of the court system and to improve the services delivered to the court users, the effectiveness of the ADR will be measured after an "x" period of time, with "x" higher than 0. The more the mechanisms introduced are complex, the higher are the monitoring costs that are afforded. International organisations and European institutions involved into the promotion of the quality of justice are aware of these critical aspects and have been working hard to facilitate the so called "policy transfer". To what extent this method responds to the functional needs of the justice systems?

Transferring models, reducing autonomy. Why experts are not enough

'Policy transfer' is a concept that bridges the difficulties classical disciplinary perspectives have in dealing with multi-level governance and transnational regimes (Rose, 1993; Radaelli, 2005). Policy transfer is a process by means of which a practice, a solution, a way of doing this that proved effective in a context is then transferred into a different context. This happens alongside the recruitment of experts that are knowledgeable in both systems – the one that originates the practice and the one that benefits from its transfer. The convergence of policy instruments across national politics and the diffusion of policy solutions among domestic policy systems are increasingly common features of contemporary political processes since they seem to stem from the development of supranational sources of norms and regulations (Stubb, 2003). This explains the fact that in contemporary politics 'foreign agents and institutions seem to increasingly become sources of policy ideas, policy design, and implementation' (Jessop, 2004, 66). The process of European integration is an excellent empirical field within which to test the empirical adequacy of this analytical perspective because of the prominent role played by the European institutions in facilitating the exchange and circulation of best practice among member states. The EU has put extensive pressure on national governments to measure their policy failures using an international set of standards and benchmarks (Lundvall and Tomlinson, 2002; Börzel and Risse, 2003). The concept of 'policy transfer' was not at first evident in European studies but the mere fact that policy transfer is the 'methodology for making European Union policy' (Bomberg and Peterson, 2000) has opened up the possibility of exploiting this concept to explain the logic of Europeanization. Indeed, besides the mechanism of the adoption of a number of legal norms as included in the *acquis communautaire* , member states and candidate countries compare their policy styles and gauge their capacity to conform to European benchmarks. This has also pushed scholars to talk about a 'new approach to policy' (De la Porte, et al., 2001), one

which weakens the monopoly of national governments in setting their domestic agenda and which no longer uses coercive mechanisms of government (Eberlein and Kerver, 2002).

After having explored changes in the field of policy that directly relate to the political dimension of EU decisions, scholars have also explored the changes which the process of European integration entails for the structure of the state (for an overview and critique of the 'research agenda', see Vink and Graziano, 2006). Empirical evidence gathered so far has shown that in the policy fields in which the EU exercises 'soft power' (Manners, 2006), the mechanisms of influence driving institutional changes go beyond compulsory adaptation and depend also on the voluntary imitation of best practice and of successful solutions. This holds for instance in the field of judicial policy. Even though the judicialization of European politics has been studied (Trubek, 2002; Stone Sweet, 2000), there are few works addressing the Europeanization of domestic judicial policy, and none that address the Europeanization of judicial policies in candidate countries. In fact, the 'Europeanization approach' to the candidate countries raises some analytical difficulties, such as the question as to whether the concept of 'Europeanization' has the same meaning for old and for prospective member states, an issue which was first highlighted by academics (Morlino, 2002). This notwithstanding, we would argue that Europeanization through policy transfer can be used to develop a deeper understanding of policy processes in candidate countries if the concept of 'Europeanization' means a process of creation, selection, diffusion of normative inputs, the value of which is due to the fact that they are produced or promoted by European institutions (Radaelli, 2003; Fargion *et al.* , 2006). This conception fits perfectly with the policy transfer framework: 'the process by which knowledge about policies, administrative arrangements, institutions and ideas in one political system [...] is used in the development of policies, arrangements, institutions and ideas in another political system' (Dolowitz and Marsh, 2000, 5). According to that view, the crux of the policy transfer framework becomes the comprehension of 'who are the key actors involved in the policy transfer', and of 'what is transferred and what restricts or facilitates the policy transfer?' (*Idem*).[1] Thus, we would argue that an *actor-centred view* of the process of Europeanization can account for the process of creation, selection and diffusion of normative inputs, the appropriateness and legitimacy of which depends on the fact that they have a truly 'European' feature. In that view, Europeanization is conceived as a process that has touched upon the 'constellation of actors' involved in policy making across different levels of governance (Piana, 2006).

The importance of multiple networks has been already pointed out (Wedel, 2000) and stresses the differential impact that networks have, the differences depending on the identity of the actors who are in a position to adopt input from abroad and implement them at home. Such actors are vested with a *de facto* power as gatekeepers and are influenced by the pressure exercised by the supranational institutions through non-coercive instruments (Scott and Trubek, 2002). As far as the Europeanization of candidate countries is concerned, scholars have identified several mechanisms of influence that go far beyond the coercion of political conditionality (Sedelmeier

and Schimmelfennig, 2004; Dimitrova, 2005). Empirical researches have shown that social learning and lesson drawing have been channels of democratization 'from abroad' for EU candidates. In particular, studies acknowledge that the European normative inputs aimed at promoting democracy (Kubicek, 2003) and the rule of law differ considerably in terms of their compulsory force (Grabbe, 2002; Kochenov, 2004, http://eiop.or.at/eiop/; Schwellnus, 2005). Where the absence of legal constraint opens the door to *social learning* (Checkel, 2001) and *lesson drawing* (Rose, 2001), actors involved in transfer networks are best placed to shape the process of creation, selection and diffusion of norms. Indeed, actors moving across national and supranational policy sub-systems are vested with the power of taking norms and adapting them to national institutional settings. Moreover, experts are also in the best position to fully exploit their competence to interpret inputs before they enter the domestic system (Stone, 2000). In the field of judicial education, the EU is not vested with any coercive power. Norms that apply to that field are not legally binding. Thus, the diffusion of models and policy solutions tried out in other countries represents a key mechanism of Europeanization. The participation in epistemic communities involved in the process is a key variable in the process of Europeanization (as intended above) and accounts for the differences among countries equally subject to external opportunities for imitation and transfer. [13] Accordingly, the low degree of legalization (Abbott and Snidal, 2000) of the 'pro-rule of law' norms -- the ones that become the normative guidelines for judicial education programmes -- does not simple represent a pitfall in the pre-accession strategy, but can be also seen as an opportunity to test the other mechanisms that work above and beyond legal coercion. Indeed, the absence of legal constraint opens the door to an *entrepreneurship* by domestic policy makers, a phenomenon that helps the interpretation of European standards and their integration into the domestic institutional context.

The external effects of European policies take place along a continuum that runs from fully voluntary to more constrained forms of adaptation, and include a variety of modes such as unilateral emulation, adaptation by externality and policy transfer through conditionality. Accordingly, Europeanization can be conceived as a process of transformation of policy making across borders and between two levels of governance: the transnational and the national levels. It has created arenas where national policy makers can coordinate their strategies and can learn successful policies experienced in other countries. The creation of epistemic communities and policy networks working at the transnational level are exogenous incentives to policy transfer, set up by the European Union. Within this setting, policy transfer in the European space can be understood as a particular form of policy making through multi-level networks (Evans and Davies, 1999; Ladi, 2003). The crucial platform that gives incentives to the process of transfer is the transfer network, that is a network of actors that exchange information and ideas within a particular policy sector. Experts belonging to epistemic communities (Haas, 1992), that is to say policy networks that cross national borders, are only part of a variety of transfer networks which may be set up in a multi-level system of governance. To the extent that policy makers move across the national borders and between the domestic and the European arenas, they progressively enforce the domestic ties that the policy sub-systems have with the transnational

policy network. Twinning projects currently represent the bulk of large-scale activity in international cooperation based on bilateral exchanges between old and candidate members. In the process of enlargement, several experts moved from western countries to CEECs to disseminate know-how and to bridge gaps between their own country and the host administration located in candidate countries. Even though judicial education was not included on the agenda of any project, training sessions, and exchanges of views, legal expertise (for instance, doctrine or interpretative patterns of legal norms) and ideas were somehow encouraged in each judicial cooperation project. Twinning and bilateral or multilateral cooperation projects have entailed large-scale socialization activity (Piana, 2005a, 2005b and 2005c). Socialization and training were thus not just specific objectives of cooperative projects, but also spill over effects of other projects, most of which were based on peer review, cross-border discussion or teaching. The role played by experts in the standard – driven policy transfer experiences can be summarized in the following way. Experts are expected to be aware of the standards and therefore handled an abstract model of what should be done under general conditions. Moreover, they are selected and appointed in the projects of judicial cooperation because of their knowledge of the system or of the organization from which the practice that should be transferred originates. They visit the beneficiary or the recipient organization and select those conditions that can facilitate the transfer or / and address those barriers that can create obstacle to the transfer. The expert operates during a short or medium timeframe in the recipient organization. A number of training sessions are foreseen to create the awareness and to train the staff of the organization that, once the project reaches its end, needs to be capable to manage and to incorporate the new practice among its own ways of doing things. The a posteriori audit showed however in a high number of cases, despite the quality of the design of the transfer and the quality of the practices transferred, the internalization of the norms and the translation into routinized practices easily fails. Why?

Mutual learning: an integrated approach that requires stepping on a self – governing foot

The role played by experts and consultants in the contemporary world should be highlighted once again. Knowledge is the key to make a policy idea into a successful solution. Specific and reliable know how is of utmost importance in all processes of institutional and organisational changes. This is what we have learnt from all the experiences of reforms enacted over the last decades in all advanced democracies. Less genuine is however the relationship between the injection of expertise and the durability of the change. This holds especially in those cases of change that feature a low degree of forma constraints and rather rely on a high degree of spontaneous or at least not formally mandatory commitment. The experiences of policies adopted to improve the quality of justice under the auspices of the European institutions belong to this second type. Why the quality of the expertise and the quality of the change are not linearly and necessarily correlated?

This is the case for several reasons. At a first sight it is intuitively acknowledgeable that between the experts and the judicial staff that benefit of the expertise provided, it exists an asymmetry of information and know-how. Surely during the period spent by the expert team in the courthouse to design the policy, to acclimatize the standards to the specific organisational context, and ultimately to teach and train the court staff, a quid of knowledge is transferred not by means of declarative utterances – communications acts – but also by means of imitation, emulation, and practices examples. After this period of time, however, what remains in the organisation is different from what has been brought initially, both method and content wise. The regular, predictable, routinized implementation of ways of doing things that mirror the echo of the standards but incorporate all micro actions of redesign and adaptation that are requested by the context should in principle become part of the cognitive schemata followed by judges, prosecutors, and clerks in the daily working life. Moreover, the systemic effect triggered by the encounter of the previous organisational practices and the new ones is far from been fully known in advance. It is rather a matter of discovery. The discovery, in many cases, happens when the experts have left already and entails a high level of learning cost. Learning by doing is a way to brought about a process of change but it happens alongside vertical logic. At the time T0 the organisation launches a new policy, a new tool, a new solution to a functional problem, having in mind a final goal, which usually is worded in terms of "improvement of the quality of justice", or "reduction of the trial timeframe" or "improvement of the public trust toward the judiciary". The goal is considered fixed and the process of change is launched. The gap between the expected outcomes and the actually originated results is measured on the way. This is the typical logic of a result – oriented rationality, which is not profoundly change even if the goals and the expected results are inspired by a standard or by a normative principle that has the shape of a non-legally binding norm (such as a standard or a guideline).

How to avoid or to temperate the side effects that this avenue seems to entail? With a shift in the method of expertise provision and a change in the method of policy transfer.

Rather than using experts as mechanisms to channel good practices inspired by standards and experienced in specific contexts, experts can be better if they work out the method of acclimatisation of the standards and the monitoring tools that are necessarily put into motion to ensure the effectiveness and the success of the change introduced into a justice system or a court. Method wise the implementation of standard features a higher sensitiveness to the quality of the monitoring process and of the "in itinere" evaluation, not only at the central level (the ministry or the high judicial council or any other domestic institutions vested with the responsibility of ensuring the good governance of the justice system). The type of indicators, the scope of the observation, the timeframe and the regularity of the measurement, the tools of data analysis and the grammar used in the successful story telling: all these aspects are covered by the "method". They should be ensured by the experts. Beyond this a deeper and a newly shaped engagement of the actors that are the protagonists of the practices, the players that each day work in the justice systems, is necessary. This engagement is, in our understanding, conceived

alongside two trajectories of reasoning: the first refers directly to the role that should be players by leaders and the second refers to the comparative method of policy transfer.

Leaders and chief justices in the justice systems play an increasingly significant role in ensuring the good governance and the quality of the services delivered to citizens and business. In many countries, the burden of the policy implementation is on them, due to the room of manoeuvre they enjoy in the adaptation of general inputs to the organisational context where they operate on a daily basis. If we consider as an example the adoption of the digitalised case management which is progressively spreading off in the EU MSs, once the tools and the steps are indicated and the regulation of the procedures are adopted by the ministries, the specific, punctual, micro adaptation of the IT – based practices of work to the already in place practices takes place within the services and the offices, under the overarching supervision of the chief (being she prosecutor, bar chairman, justice, etc). The strong engagement of leaders to make a process of change into a real successful story is not a new hint brought to the attention of the policy makers. We already got it and have gained a diffuse and consensual awareness of the importance all decision makers have to assign to this aspect. This knowledge comes out from analysis of all administrative reforms, especially those that have been inspired by a result-oriented approach [Eymeri Douzans, 2013; Pëters, 2012; Contini and Lanzara, 2014]. Less genuine is the consensus reached on the role that leaders should play in the justice sector, because this aspect touches directly upon sensitive issues such as the discretionary power that legitimately justices and prosecutors handle and the autonomy vs the accountability that should / are associated with the use of this power. However, the reality is such that it would be hard to deny that leaders and chiefs are front players in the implementation of all policies that are inspired by standards. A second point refers instead to the comparative method that should be adopted to ensure that the implementation costs of good practices are reduced. Comparative with what and on the basis of what?

The point that we want to make here is that twinning projects are very promising as avenues to translate good standards into good practices. However, they should not be designed in a vertical manner: one organisation experiences one practice, verifies that this is effective, then experts come, observe this practice, model it, and transfer it into a new organisation. Better to ensure that a small group of staff operating into one organisation observe in practice the ways of doing thing of a second (twinned) organisation on the basis of a grid that is designed by the experts. They learn not only the practice (how to do something) but also avoid the learning costs that have been paid by the giver – the organisation that had tested first the practice. Afterwards the small group injects the practice into its own organisation, relying on the awareness that has been gained in the twinned organisation (which has worked out as a laboratory). The same should be done bilaterally, as an exchange of practice, where the recipient organisation, which benefits of the learning process unfolded in the twin, provides also in exchange a good practice, whose observation is to be made by a small group coming from the first organisation and observing in real time the practice deployed in the second organisation. The overarching analytical

framework as well as the monitoring tool should be designed by the expert and provided once for good to the two organisations that need to be autonomous and self-governing in the monitoring and consolidation of the change.

This method can be qualified as an integrated approach, combining vertical and horizontal types of learning (learning within the experiencing organisation and learning between the two twinned organisations). It combines also a multiple set of expertise and competences, insiders and outsiders, actors operating in the justice systems and experts. It would be preferable to have it applied to two twinned organisations rather than larger samples to reduce the transaction costs and the organisational costs in the application of the method itself. Once doubly tested and cross checked the practice can be also debated as a potential template for other similar organisations. The key point is represented by the selection of "similar" organisations. Mutual learning happens effectively if cognitive processes unfold accordingly. The representation of the original organisation – the one from which the good practice comes and where the good practice is observed – should be conducive to sound and reliable analogies so that similar conditions facilitating the introduction of the practice can be easily pointed out. More precisely, we deem that the size should be taken into consideration as one of the most if not the most important dimension along with the comparison should be done and the selection of the twins should be realised.