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# THE DRAFTING OF PROCEDURAL LEGAL DOCUMENTS BETWEEN CONCISENESS AND GAI TOOLS

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**ABSTRACT:** AI forces a reconsideration of how the Italian principles of clarity and conciseness should be interpreted in legal drafting. If algorithms can synthesise complex reasoning, the traditional linear structure of procedural documents may lose relevance, opening the way to thematic layouts, interconnected points, or dynamic formats inspired by the French model.

**KEYWORDS:** legal drafting; clarity and conciseness; GAI tools.



## 1. THE PRINCIPLE OF CONCISENESS IN THE CARTABIA REFORM

The Italian Legislative Decree No. 149 of 10 October 2022 implemented the principle of conciseness and clarity of procedural documents in civil proceedings, incorporating an approach that had previously emerged from doctrinal[1]

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[1] More precisely, the Cartabia reform does not create these principles *ex novo*, but rather affirms their full operability within civil proceedings as well. As emphasised in doctrine, the need for conciseness arose as a result of the increasing regulatory and technical ease with which excessively long judicial documents could be produced, due, on the one hand, to the obligation of procedural self-sufficiency, which encouraged the full transcription of deeds and documents, and, on the other hand, to IT tools, which made it possible to reproduce case law and defence texts immediately. For further information, Biavati (2017).

and jurisprudential considerations[2]. Drawing inspiration from the rules governing administrative proceedings, where this principle had already been expressly codified[3], the legislator thus marked, at least in part, a reversal of the traditional paradigm according to which civil proceedings constitute the general model of reference against which the rules governing other proceedings are developed[4].

As is well known, the principle of conciseness and clarity has been codified in Art. 121 Civil Procedure Code, whose heading — originally *"Libertà di forme"* (Freedom of form) — has now been changed to *"Libertà di forme. Chiarezza e sinteticità degli atti"* (Freedom of form. Clarity and conciseness of documents). The regulatory choice in favour of an express provision of formal requirements for procedural acts has raised some concerns, as it potentially conflicts with the principle of achieving the purpose, which guarantees the validity of the act that fulfils its function regardless of its form[5].

The contradiction with the principle of freedom of form is even more evident when examining the provisions of Art. 46 implementing provisions of Civil Procedure Code (also affected by the reform), which delegates the adoption of IT formats and editorial limits for procedural documents to Ministerial Decree 110/2023; a provision that is likely to conflict with the principle set out in Art. 121 Civil Procedure Code insofar as it introduces formal and dimensional constraints that are potentially capable of limiting the effective articulation of defences. Although the principle of conciseness and clarity of documents was introduced with reference to both party documents and judicial measures, this reflection will examine only its application to party documents, where the practical implications are most relevant. To this end, it should be noted that the concepts of conciseness and clarity, although frequently considered as a pair, refer to different meanings, so that—in the absence of an express regulatory definition that reduces their semantic indeterminacy[6]—they must be analysed individually[7].

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[2] The case law of legitimacy stands out, which, having affirmed the principle of conciseness and clarity with reference to the parties' documents for the purposes of the admissibility of the appeal to the Court of Cassation, then extended its scope, elevating it to a general principle. Luongo (2021).

[3] Art. 3, par. 2, Administrative Procedure Code establishes the principle of clarity and conciseness in procedural documents, stipulating that the judge and the parties shall draft documents in a clear and concise manner, in accordance with the provisions of the implementing rules.

[4] The Court of Cassation stated that the principle of conciseness of procedural acts, introduced into procedural law by Art. 3, par. 2, Administrative Procedure Code, expresses a general principle of procedural law, which is also intended to apply in civil proceedings, in that it serves to guarantee, on the one hand, the principle of reasonable duration of proceedings, constitutionalised by the amendment to Art. 111 of the Constitution, and, on the other hand, the principle of loyal cooperation between the parties to the proceedings and between them and the judge (Court of Cassation, 20 October 2016, n. 2129).

[5] Critical observations in this regard can be found in Gamba (2023).

[6] It should be noted that the absence of defined boundaries, which characterises the concepts of clarity and conciseness, makes it difficult to give them effective prescriptive content without running the risk of overly discretionary regulatory formulations. Noceto (2024). On this subject, the reflections of Michele Taruffo, prior to the Cartabia reform, are noteworthy. According to Taruffo, the principle of conciseness is vague and lacks defined criteria, so much so that the only way to evaluate it is through questionable quantitative measures. The same applies to clarity, as there are no objective parameters for determining whether a text is clear or not. For further information, Taruffo (2017).

[7] Among those who highlight the distinction between the two concepts, Luongo (2021).

The concept of "conciseness", at first glance, seems to refer to a purely quantitative aspect of the act, implying that the text should not be verbose or redundant. However, such a description risks being reductive and misleading, if not counterproductive. Indeed, if conciseness were to be reduced to a mere quantitative parameter, this would risk compromising not only the clarity of the act, but also the effectiveness of judicial protection[8]. Therefore, as reiterated in doctrine[9] and case law[10], conciseness should be understood as a notion that depends, on the one hand, on the plurality and complexity of the issues to be addressed and, on the other, on the scope of the procedural submission. In other words, conciseness cannot be reduced to a merely quantitative, rigid, or absolute parameter; rather, it must be contextualised in light of several factors, including the degree of specificity that procedural acts are required to exhibit within the relevant regulatory framework[11].

The term "clarity", on the other hand, refers to the qualitative dimension of the text and, more precisely, to its comprehensibility. This requirement relates to the logical structure of the discourse, the orderly use of regulatory references, and the use of technical language, such as legal language, that is understandable. Intelligibility therefore presupposes skilful use of the drafting techniques of the act[12].

The distinction between the two concepts, which allows us to understand the correct meaning of conciseness, can be easily grasped through the following observation: a concise text is not, in itself, necessarily clear and, conversely, a clear act is not, for that reason alone, necessarily concise. In light of this, it is preferable to conceive of conciseness in its relational dimension, i.e. as the result of a balance between the need for completeness and the need for restraint. More precisely, in order to draft a document that is both clear and concise, it is advisable to use simple and straightforward language, avoiding long sentences full of subordinate clauses and favouring concise and effective phrases, without, however, sacrificing the completeness of the defence arguments. With a view to reducing redundant exposition, it is therefore advisable to make moderate use of doctrinal or jurisprudential citations,

[8] Given that the conciseness of procedural documents increases their persuasive effectiveness vis-à-vis the judge and makes the arguments clearer and more transparent, also to the benefit of the other party, a concise document facilitates the management of the proceedings, ensuring their reasonable duration, pursuant to Art. 111 of the Italian Constitution. In this sense, conciseness is an essential criterion for protecting the fundamental right of defence, ensuring the effectiveness of judicial protection. Pellegrinelli (2018).

[9] De Giorgis (2023).

[10] According to the Council of State, the essence of conciseness, as prescribed by the code of procedure, does not lie in the number of pages or lines on each page, but in the proportion between the multiplicity and complexity of the issues debated and the length of the document that conveys them (Council of State, 12 June 2015, n. 2900).

[11] Consider, by way of example, Art. 167 Civil Procedure Code; Art. 281-undecies, par. 3, Civil Procedure Code; Art. 342 Civil Procedure Code; Art. 378 Civil Procedure Code; Art. 416, par. 3, Civil Procedure Code.

[12] Consider, for example, the drafting of an index, the division of the text into paragraphs (and sub-paragraphs) and the use of sequential numbering; these are already established editorial practices for many solicitors.

limiting oneself—where possible—to indicating the details of the judgments and refraining from the extensive use of "copy and paste"[13].

Although these observations may seem obvious (if not trivial), they are in fact necessary given the trend, observed in recent decades, towards a gradual increase in the length of court proceedings. This phenomenon has been facilitated by several factors, including, for example: the use of IT tools[14]; the introduction of a unified contribution[15]; the principle of non-contestation[16]; the principle of self-sufficiency[17].

In view of the tangible increase in the size of procedural documents, there is a clear need to bring their length within reasonable limits, avoiding superfluous arguments, in order to ensure that proceedings are conducted in a more orderly and efficient manner, in accordance with the principles of procedural economy. In light of the context in which the principle of conciseness and clarity has been codified, it becomes necessary to assess its actual impact on the reasonable duration of proceedings. In this regard, one must consider a significant issue frequently encountered in practice: it is not uncommon for the judge to conduct the hearing without having had the opportunity to read the documents filed, thereby asking counsel to (re)explain what has already been set out in writing[18]. Although this is merely a factual observation with no immediate regulatory significance, the phenomenon is nonetheless important when examining the practical application of the principle of conciseness and clarity in the drafting of procedural documents. This notuncommon dynamic, it is clear, risks not only diminishing the attention devoted by lawyers to complying with the standards of conciseness and clarity in the drafting of submissions, but also undermining the necessary cooperation between the judge and the parties[19].

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[13] For further information on the evolution of legal writing in the context of progressive digitisation, see Zucconi Galli Fonseca (2015).

[14] The advent of electronic civil proceedings has led to a significant increase in the length of procedural documents, as the spread of word processing technology has made it extremely easy to reproduce texts and insert long quotations (from case law, legal doctrine or legislation). The use of computers, characterised by the absence of the material constraints typical of paper, has also contributed to less attention being paid to the synthesis and selection of relevant information. For further information, see Zucconi Galli Fonseca (2015). On the link between legal language and the material support used, see also the reflections of Comoglio (2015).

[15] The reform of the taxation system, which replaced the stamp duty every four pages with a fixed unified contribution, also had an impact on the excessive length of procedural documents, encouraging their length, as it was no longer conditioned by economic limits proportionate to the number of pages. Among the many contributions that highlight this aspect, Pellegrinelli (2018).

[16] The principle of non-contestation, enshrined in Art. 115 Civil Procedure Code, as amended by Law No. 69 of 18 June 2009, leads defence lawyers to take a position on every single argument put forward by the opposing parties, often out of concern not to overlook any defence argument, even if only potentially relevant. Pellegrinelli (2018).

[17] The principle of self-sufficiency of appeals, developed through case law, has had a significant impact on the scope of procedural acts, since its violation renders the appeal inadmissible. On this point, see Luongo (2021).

[18] If not, indeed, to reiterate from time to time what has already been said at previous hearings.

[19] This is intended to emphasise that the impossibility for the judge to study the parties' documents and, therefore, to conduct the hearing with due accuracy, due to the excessive number of pending

While, on the one hand, the need to limit the length of pleadings is understandable, aimed as it is at avoiding superfluous or redundant arguments and at facilitating the judge's work; on the other hand, it should not be overlooked that the judge possesses the requisite skills to discern the relevance of the arguments advanced, and is able to calibrate the degree of attention devoted to each part of the submission, also in light of the complexity of the issues addressed[20].

Another important factor is the now widely recognised fact that the format in which documents are accessed, whether paper or digital, is by no means neutral. On the contrary, it has a significant impact on reading habits, encouraging faster but generally less thorough reading in the case of electronic consultation of digital documents[21]. This consideration, together with others, raises doubts about the effective guarantee of implementation of the reasonable duration of proceedings by the codified principle. In addition, in the face of particularly complex issues—but above all because of the stringent provisions laid down by the Italian Code of Civil Procedure itself—it is inevitable that the procedural document will be drafted accordingly, not to mention the fact that the complexity inherent in containing the defence arguments may also derive from the attitude of the opposing party. These observations clearly highlight the need to understand conciseness as a concept of proportion between the plurality and complexity of the issues to be dealt with, on the one hand, and the length of the document, on the other[22].

In light of the considerations outlined above, it is clear that in a context characterised by restrictions and burdens[23]—where oral proceedings have given way to written proceedings and unified contributions have replaced revenue stamps—the principle of conciseness and clarity in procedural documents cannot be considered a solution to the problem of the length of proceedings: on the one hand, it might be appropriate to rethink the rules of procedure in order to restore a balance that allows lawyers to draft more concise documents without incurring preclusion or inadmissibility; on the other hand, the judge should be able to examine the procedural documents in such a way as to

proceedings, compromises the effective exercise of the powers necessary for the prompt and proper conduct of the proceedings, as referred to in Art. 175 Civil Procedure Code. For further information, see Caponi (2016).

[20] According to the Court of Cassation, the excessive abundance of evidence presented by the parties not only burdens the administration of justice and the opposing parties with unnecessary burdens, but, far from clarifying the issues to be decided, envelops them in a veil that obscures their contours and prevents their clear understanding, ultimately resulting in an impediment to the full and fruitful conduct of the adversarial proceedings (Court of Cassation, 20 October 2016, n. 2129).

[21] For further psychological insights into this now well-established phenomenon, see Nardi (2022). This leads to the need to adapt writing styles to digital reading, including in the legal field. For further considerations on this topic, see Rosenberg (2023).

[22] De Giorgis (2023).

[23] Reference is made to the obligations, on the one hand, to specifically contest the opposing party's allegations and, on the other, to censure all the *rationes decidendi*, in order to avoid the inadmissibility of the appeal, to which is added the principle of self-sufficiency of the appeal to the Court of Cassation, as highlighted by De Giorgis (2023).

allow lawyers to simply cite previous documents, without having to reproduce them in full[24].

## 2. CONCISENESS AND SIZE LIMITS OF PROCEDURAL DOCUMENTS

The amended Art. 46 implementing provisions of Civil Procedure Code was implemented by Ministerial Decree 110/2023, which introduced size limits and technical specifications for the drafting of clear and concise documents. The intervention, both from the formal point of view of the source of law and from the substantive point of view of the regulatory provisions, has raised many concerns in legal doctrine[25].

With regard to the first aspect, there has been criticism of the decision to adopt these measures by means of a ministerial decree, rather than through an act having the force of law, the constitutionality of which has been called into question[26].

From a content perspective, the introduction of size limits (i.e. numerical and quantitative)—in addition to conflicting with the principle of freedom of form referred to in Art. 121 Civil Procedure Code[27]—risks disregarding the central importance of the quality of procedural documents. In this regard, the risk inherent in reducing the principle of conciseness of documents to mere brevity of content has been pointed out on several occasions, since, by interpreting conciseness as a formal quantitative factor, there is a risk of limiting the scope of defence arguments to the detriment of their qualitative dimension[28].

As highlighted above, it should be borne in mind that these new provisions are part of a civil procedure which, following a series of reforms, has moved away from oral proceedings in favour of written proceedings[29] and the direct consequence of this approach, which has become established over the years, is an inexorable increase in the size of documents[30]. More specifically, the

[24] And, undoubtedly, to facilitate this type of operation, it would be necessary to address the underlying problem by filling staffing shortages, so that the judicial workload can be more evenly distributed among the judicial bodies.

[25] By way of example, Pagni (2023).

[26] Gamba (2023).

[27] On this point, legal scholars have criticised the choice made by the delegated legislator, noting an excess of delegation: while the enabling law reaffirmed the principle of freedom of form, subjecting it to the clarity and conciseness of procedural documents; the delegated legislator, on the other hand, introduced more restrictive rules, delegating to a ministerial decree the determination of the size limits of the documents, based on general criteria relating to the type, value and complexity of the case, as well as the nature of the interests and the number of parties involved. Gamba (2023).

[28] In particular, the decision to give predominant importance to the value of the cause is questionable, as it indicates adherence to a quantitative—rather than qualitative—conception of conciseness. Giabardo (2024).

[29] For further information on this topic, Caponi (2024), Pagni (2024) and Punzi (2024).

[30] Emblematic in this sense is the introduction of written hearings (*udienze a trattazione scritta*), which, replacing traditional in-person hearings, exclude any form of direct dialogue between the parties to the proceedings. For critical observations on the so-called *udienza cartolare*, see Scarselli (2020).

replacement of oral arguments with the filing of written documents, together with the codification of the principle of non-contestation in Art. 115 Civil Procedure Code, has inevitably required lawyers to formulate their written defences using arguments that are as comprehensive and precise as possible[31].

With regard to the content of the new provisions, there has also been extensive discussion in legal doctrine about the consequences of non-compliance with the measures established by the implementing decree, as the legislator has provided that violation of the drafting limits does not affect the validity of the act[32]. In particular, par. 5 of Art. 46 implementing provisions of Civil Procedure Code gives the judge the power (but not the obligation) to consider non-compliance with technical specifications and drafting criteria solely for the purposes of costs; it follows that, in the absence of a real sanction (except in economic terms), the binding effect of the new provisions is considerably weakened. In other words, the lack of consequences in terms of the admissibility or validity of the document ultimately compromises the real binding force of the drafting limits, reducing them to mere recommendations, lacking in incisiveness. It should also be noted that the limits currently in place are, in any case, particularly broad, which raises questions about the actual usefulness—if not the actual necessity—of these regulatory provisions. In addition, even when complied with, the size limits refer only to the parties' submissions, limited to the factual and legal grounds (not including other elements, such as the heading), but may be disregarded if there are adequate reasons for doing so[33].

These theoretical and practical misgivings help to explain why the first decision applying the new regime was awaited with particular interest. The Court of Cassation's initial pronouncements confirm the doctrinal diagnosis in concrete terms: exceeding the dimensional thresholds set by Ministerial Decree 110/2023, although constituting a breach of the principles of clarity and conciseness, does not affect the admissibility or intrinsic validity of the act; the sole, foreseeable consequence is an adverse modulation of costs under Art.

[31] Panzarola (2018) observes that, in requiring lawyers to meet high standards of conciseness in the drafting of procedural submissions, one must take into account the concrete conditions under which defensive activity is carried out, particularly the tight time constraints within which it is often performed, structurally different from those available to the judge in the decisionmaking phase. Conciseness, therefore, cannot be understood as an autonomous or merely stylistic burden, nor may it result in an aggravation of defence obligations not envisaged by the Italian Code of Civil Procedure; rather, it must be framed, within the limits set by the legislature, as a criterion functional to the effectiveness of the adversarial process and to the reasonable duration of proceedings, without encroaching upon the essential core of the right of defence protected by Art. 24 Cost.

[32] See, e.g., Montanari (2024), according to which the violation of the canons of clarity and conciseness does not, as a rule, affect the validity of the procedural act, since these canons operate as drafting criteria rather than as essential requirements of the act itself. The resulting sanction is therefore external to validity and operates primarily at the level of cost allocation.

[33] Michele Taruffo had already pointed out, on the one hand, the arbitrariness inherent in the application of quantitative limits to procedural acts and, on the other, the vagueness of the relevant derogation regime. With regard to this second aspect, he emphasises that the vagueness stems from the fact that the cases in which exceeding the size limits is permitted are not only based on discretionary assessments but are also contained in merely illustrative lists. Taruffo (2017).

46, par. 6, implementing provisions of Civil Procedure Code, to be deployed where the prolixity demonstrably imposes an unnecessary burden. In the case at hand the Court found a manifest noncompliance—a petition of some 120 pages and roughly 200,000 characters submitted without any justification for derogation—and, in light of the petition's manifest uselessness and the breach of the duty of loyal cooperation, ordered costs at the maximum parameters. That outcome thus confirms two points: first, the essentially economic character of the sanction envisaged by the implementing decree; second, the high degree of judicial discretion that will govern its application[34].

The legal and policy implications are clear: as matters stand, the new drafting limits perform primarily a symbolic and standardising function rather than a coercive one; they signal a legislative preference for brevity and machinereadability (especially in a telematic environment) but rely on costbased incentives and judicial prudence for enforcement. If the legislature's objective is to secure more uniform compliance and to reduce the transactional costs of litigation, two complementary responses appear necessary. On the one hand, courts should develop and publish clearer, doctrinebased criteria for assessing when length translates into prejudicial prolixity; criteria that specify the evidentiary showing required, the metrics to be used, and the circumstances in which cost modulation is appropriate. On the other hand, procedural standardisation, including the templates and fieldstructured formats introduced by Ministerial Decree 110/2023, and technological aids (for example, tools that flag excessive length or identify redundant passages) can reduce discretionary variance and assist practitioners in conforming to the new expectations. Until such doctrinal and operational clarifications emerge, however, the first application of Art. 46 implementing provisions of Civil Procedure Code confirms that the reform's immediate effect will be to reframe professional incentives rather than to impose a rigid formal barrier to access to the courts[35].

In light of this brief examination of the reform and its implementing regulations, it can be concluded that—without prejudice to the need to understand the principle of conciseness as a concept of relationship and proportion—*in medio stat virtus*. When faced with a complex issue that requires skilful use of defensive arguments, conciseness could be inversely proportional to the clarity of the act. In this sense, it is indeed essential to ensure a balance between the complexity of the issue and the conciseness of the document in which it is represented, but it is equally true that the requirements of conciseness and clarity in the drafting of procedural documents are nothing more than an expression of common sense[36]. While understanding, therefore, the need

[34] Court of Cassation, ord., 14 January 2026, n. 802.

[35] The sanction provided for in Art. 46 implementing provisions of Civil Procedure Code for violating the dimensional limits of submissions does not entail invalidity, but may affect the allocation of costs; this framework confirms the legislative choice not to link conciseness to a regime of invalidity, but rather to a mechanism of economic accountability for the parties. Montanari (2024).

[36] In this sense, Taruffo highlights the fact that this is a true emphasis on banality (*"enfatizzazione della banalità"*), because the idea that writing and speaking should privilege clarity and conciseness

to keep the size of documents within reasonable limits [37], the introduction of purely quantitative limits does not appear to be the most appropriate means of achieving this objective [38].

## 3. CONCISENESS AND GENERATIVE AI

Having outlined the regulatory framework and examined the scope of the principle of conciseness, it is appropriate to consider its relationship with generative AI tools (the so-called GAI tools), in order to assess whether such technologies may serve as a viable means of ensuring its effective implementation in accordance with the parameters set out in Ministerial Decree 110/2023.

It must be acknowledged that, given the relentless pace of technological innovation, any reflections offered here are destined to become rapidly outdated. Likewise, many of the critical remarks concerning the limitations or shortcomings of current systems are likely to be overtaken by the emergence of increasingly sophisticated and, consequently, more reliable software. Yet, even with the awareness that future developments will be marked by a continual refinement of outputs, AI-based technologies nonetheless present themselves as instruments capable of offering valuable avenues for reflection [39].

Starting from these premises, the aim is to examine the use of generative AI tools by lawyers, with particular regard to the practical and functional implications arising from the adoption of technological solutions specifically designed for the legal field [40]. In this regard, it should be noted that generative AI systems developed specifically for the legal sector are already available on the market. Sector-specific specialisation therefore significantly mitigates the degree of uncertainty typical of generalist models used by the general public, as it is more closely aligned with the language and logic of legal discourse. The implementation of the functionalities of these systems—such

over prolixity and obscurity is a commonplace principle found throughout rhetorical theory ("*che nello scrivere e nel parlare sia meglio essere sintetici e chiari piuttosto che essere prolissi ed oscuri è una regoletta di senso comune presente in tutti i discorsi sulla retorica*"). Taruffo (2017), p. 454.

[37] Since it is undeniable that the use of computers, which allows for easy copying and pasting of other documents or records, has a considerable impact on the size of the content of court documents.

[38] They could prove to be more effective than legal writing workshops aimed at students enrolled in law degree programmes, given the validity of Legal Writing programmes (as well as Legal Clinics) in the United States, as highlighted by Bello (2024).

[39] For some thoughts on how the transparency of AI systems affects people's trust in them, see J. Zerilli. *et al.* (2022).

[40] On an operational level, it should be noted that generative AI tools, based on machine learning or deep learning, are capable of generating images and texts using natural language. In particular, with regard to the latter aspect, reference is made to Natural Language Processing (NLP) and, more recently, to Large Language Models (LLMs), which are capable of processing natural language with a high degree of complexity. For observations on the relationship between LLM and legal texts, with particular reference to the perception of lawyers towards documents drafted by such systems, please refer to Harasta *et al.* (2024).

as the drafting of procedural documents according to specific templates, as well as the use of technical legal language—allows lawyers to streamline and speed up repetitive tasks. In this sense, subject to an unavoidable retrospective check, a dual use is conceivable[41].

Upstream use may consist, for example, in instructing the AI tool to prepare a template or preliminary draft of the document to be produced. However, with the advent of electronic civil proceedings and the widespread use of computers, which has led to a substantial standardisation of the various categories of procedural documents, lawyers already rely on templates within their firms, customised and predefined according to the type of submission. In this sense, AI could be employed to generate documents by providing the predefined template and asking the software to modify the relevant sections, replacing outdated information with new data or adding further elements. In such cases, however, it must be borne in mind that obtaining a satisfactory output requires supplying the system with inputs that are as precise and comprehensive as possible. Consequently, where a predefined template is already available, the use of AI may not offer significant advantages in terms of time optimisation. Conversely, in the absence of a suitable facsimile into which new data can be inserted, it may be beneficial to rely on an AI tool to generate an initial draft that can subsequently be refined manually.

In addition to these opportunities, there is also the possibility of downstream use. One may, for instance, upload a fully drafted document into an AI tool and request the correction of grammatical errors or the elimination of inconsistencies within the text. Such a task aligns closely with the functioning of Natural Language Processing systems, which operate on principles of textual coherence. Unlike humans, however, generative AI tools do not "reason" in the strict sense; they process sequences of words to produce sentences that appear meaningful. For this reason, it is important to bear in mind that, although the tool may generate a grammatically and logically coherent text, the result remains, in a certain sense, incomplete. One of the features that distinguishes human reasoning from algorithmic calculability is intuition: while a solicitor can identify alternative interpretations and propose different solutions to the same problem, a machine, in order to provide an answer, will tend to reproduce the patterns it has previously followed, even when asked to rework them[42].

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[41] To cite two of the most commonly used systems: Simpliciter AI is capable of identifying certain potentially relevant judicial decisions, at times providing a useful starting point for drafting a legal opinion or developing a specific line of argument (this support must, however, be employed with caution, as the decisions suggested are not always pertinent or fully reliable); LexRoom AI, for its part, adopts a generally less acquiescent approach than other systems (yet it is not free from errors and, although it tends to avoid fabricating information when it lacks the necessary data, it nonetheless requires careful critical scrutiny by the user).

[42] To support the fact that human intuition, unlike algorithmic calculation, allows the same data to be interpreted differently, Garapon and Lassègue offer the example of the appeal: a machine, limiting itself to repeat the same results in a strictly identical manner starting from the same data, it would not be able to deal with a type of appeal based on the possibility of drawing different conclusions from the same facts. Garapon *et al.* (2021).

Beyond their use in drafting documents, these tools may also assist more broadly in the activities that make up legal practice, such as consulting databases or employing predictive systems capable of identifying trends in case law, thereby supporting the construction of defence strategies. Even in the context of legal advice, identifying a particular jurisprudential trend can offer a valuable interpretative key to the case at hand, enabling the solicitor to provide more informed guidance on potential litigation strategies. This not only facilitates the lawyer's study and preparation of the case, but may also have a positive impact in terms of reducing litigation: when faced with a consolidated and clearly unfavourable jurisprudential orientation, likely to result in the dismissal of the claim, the lawyer may advise the client to refrain from initiating proceedings and, where appropriate, to opt for alternative dispute resolution mechanisms.

In essence, the use of generative AI in the legal sector represents a significant opportunity, with the potential to enhance the efficiency, accuracy and overall quality of drafting activities. However, alongside this potential, it is essential to acknowledge the critical issues inherent in the use of such tools. Among the most frequently cited concerns are the risks of bias, the blackbox effect and the phenomenon of socalled "AI hallucinations"[43]. In particular, the latter, recently brought to public attention in the judicial sphere[44], describes the tendency of generative models to provide answers that appear plausible but are in fact completely incorrect, as they lack any documentary or jurisprudential evidence [45]. This phenomenon is particularly insidious, for when the system is asked to confirm, or even directly confronted with, the error in its output, it nonetheless persists in asserting the correctness of the information provided, reiterating its supposed veracity and reproducing the fabricated data with a striking degree of confidence.

These findings raise important questions about the reliability of the tools used. With regard to the latter, there is therefore a need for active and informed human control, especially in the drafting of procedural documents, where accuracy and verifiability of sources are essential requirements. For these reasons, targeted training courses appear necessary, aimed at promoting in-depth awareness of the characteristics, potential and limitations of generative AI tools, so that professionals are guided towards responsible, informed and technically appropriate use of the technologies in question[46]. In fact, although there are some problematic aspects, it is undeniable that these tools, when used correctly, can offer significant opportunities for improving efficiency and the quality of professional performance[47].

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[43] Yu *et al.* (2019) and Cyphert *et al.* (2024).

[44] Trib. Firenze, sez. imprese, ord. 14 March 2025.

[45] Dahl *et al.* (2024).

[46] In the regulations introduced by the AI Act (Regulation (EU) 2024/1689), training plays a fundamental role, as highlighted in Recital 20. Art. 4, moreover, imposes an obligation of "AI literacy" on deployers, i.e. users of such systems.

[47] Consider the optimisation of database consultation activities; a computer's ability to analyse enormous amounts of data is incomparable to that of a human being. It is clear that software is capable

In summary, the use of generative AI tools could facilitate the correction of typos and (probably) promote the implementation of the principles of conciseness and clarity. From the point of view of conciseness, at least, the machine can be asked to reorganise the text, improving its syntax to make it more concise overall; by contrast, enhancing the intelligibility of legal submissions may prove more challenging, given the operational logic on which these systems are based[48].

## 4. BEYOND CONCISENESS: RETHINKING THE STRUCTURE OF PROCEDURAL DOCUMENTS IN THE GENERATIVE AI ERA, INFORMED BY THE FRENCH EXPERIENCE

In the final analysis, the spread of generative AI tools compels a reconsideration not only of the techniques used in drafting procedural documents, but of the very notion of conciseness on which those techniques have traditionally rested. More specifically, to continue articulating this principle in predominantly quantitative terms (such as limiting length or reducing the number of pages) means operating within a paradigm that has now been overtaken, one premised on informational scarcity and on a centrality of written text no longer compatible with the digital environment and with the possibilities opened by contemporary technology. Consequently, in a context in which AI is capable of producing, reorganising, and synthesising content almost instantaneously, the quality of a procedural document can no longer be assessed by its extent, but must instead be linked to its capacity to orient the decisionmaking process effectively.

Conciseness, therefore, cannot be reduced to a mere limitation of legal discourse; it must instead be understood as a criterion for structuring procedural information. This shift entails a genuine change of paradigm: the procedural document can no longer be conceived as a narrative organised according to a rigid (and often redundant) sequence, but rather as a construction designed to render the relevant facts, legal issues, and corresponding arguments immediately intelligible. In this perspective, the value of the document does not lie in its descriptive completeness, but in the clarity of its architecture and in the transparency of the connections between the alleged facts and the evidentiary record, according to a logic that aligns the procedural act more closely with hypertextual systems and conceptual maps than with the traditional narrativeargumentative format[49].

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not only of identifying existing precedents, but also of selecting those that are truly relevant. To this end, it is essential to have not only a high-quality database, but also an effective system for extracting the legal principles from a judgment.

[48] Alternatively, the result produced could offer useful food for thought in order to evaluate the possibility of reworking the sentences already written, providing an external and different point of view on the possible construction of the argument, for example, in more concise terms.

[49] On the conciseness and usability of procedural documents, Comoglio (2015).

The French model of the unitary, progressively-constructed procedural document offers, for its part, a particularly fertile framework for rethinking the structuring of procedural documents in light of the principle of conciseness. The *conclusions*, conceived as a unitary document progressively integrated throughout the *mise en état*, make it possible to concentrate the entire body of defensive material within a single filing, thereby ensuring internal coherence and avoiding both the systematic reiteration of identical arguments and the dispersion of decisive issues. The reforms accompanying this evolution, culminating in the progressive *modélisation* of filings and in the strengthening of the judge's casemanagement powers, demonstrate that formal standardisation and the structured organisation of information do not amount to a restriction of the right of defence, but rather constitute instruments for making that right effective. The French experience shows, in other words, that conciseness is not a constraint imposed on counsel, but a condition for the efficient functioning of the adversarial process[50].

Building on this model, and in light of the possibilities opened by generative AI, one can envisage solutions even more disruptive than the current configuration of party submissions in Italian civil procedure. GAI tools make concretely feasible the idea of a "dynamic" procedural filing, capable of evolving over time through traceable integrations, without losing coherence or becoming unwieldy as the document is progressively updated and expanded throughout the proceedings. In such a scenario, it becomes plausible to imagine a profound transformation of the very form of the procedural act, to the point of calling into question the primacy of narrativeargumentative writing. There is, in fact, no intrinsic reason why a procedural document must necessarily take the form of a discursive text; a structure based on bullet points, diagrams, tables, argumentative maps, or even a slidebased presentation could prove far more suitable for representing the facts of the case and the parties' submissions in a more concise and precise manner, thereby translating the complexity of the dispute into greater clarity and guiding the

[50] In particular, the innovations introduced by *décret* no. 981231 (and subsequent measures, notably *décret* no. 20191333) have progressively transformed the *conclusions* from mere defensive pleadings into fully structured containers of the entire evidentiary and argumentative record, regulating the *editio actionis*, the sequencing and purpose of the memoranda, and instituting the *calendrier de la procédure* as the temporal governance mechanism for documentary exchange. Practically speaking, the introduction of specific forms (e.g., *conclusions qualificatives* and *récapitulatives*) and the real prospect of procedural sanctions, including *irrecevabilité* for pleadings that fail to conform to prescribed drafting standards, have prompted the bar to rethink drafting technique: practice has favoured the construction of filings as autonomous, coherent blocks, thereby reducing repetition and increasing responsibility in the selection of arguments. At the same time, the progressive *modélisation* of filings has been accompanied by a strengthening of the judge's casemanagement powers (calendaring, powers to direct proceedings and to sift issues), demonstrating that formal standardisation serves a more effective governance of the adversarial process rather than a mere formal curtailment of the right of defence. Finally, the convergence of standardisation and digitalisation—through uniform templates and formats, structured fields and electronic procedures—has enabled more accessible and verifiable use of procedural material, transforming the single pleading into a genuine information infrastructure: not a constraint on argumentative creativity, but a device to render argumentation more intelligible, traceable and usable for decisionmaking. See Noceto (2024).

judge in identifying the issues that warrant closer attention. Such a reconceptualisation would not entail abandoning legal argumentation, but rather relocating it within a more efficient informational architecture. Argumentation does not disappear; it becomes visible, decomposable, and verifiable, with clear benefits in terms of transparency and oversight, streamlining the procedure (particularly with respect to the burdens placed on counsel) and ensuring the reasonable duration of the proceedings. In this context, AI can play a decisive supporting role: from the automatic generation of summaries and thematic indexes, to the verification of consistency between alleged facts and evidence, to the management of versioning within the unitary procedural document. The responsibility of counsel would, of course, remain intact: the algorithm would not replace the lawyer, who would instead be required to exercise informed and critical oversight over the tools employed[51].

The issue, in truth, is not the adoption of a new technology, but the redefinition of the very concept of the procedural act. In the age of AI, conciseness no longer coincides with "writing less" but with "writing better" according to a logic of information design oriented toward decisionmaking. Embracing this perspective entails accepting a genuine break with tradition, moving beyond a procedural framework built on the proliferation of filings and their textual repetition, and shifting instead toward a model in which the procedural act becomes a shared, evolving, and functional informational infrastructure. Only in this way can conciseness recover its most authentic meaning, not as a formal constraint, but as a parameter of argumentative quality and, ultimately, of procedural rationality.

From this standpoint, a renewed emphasis on orality could facilitate the introduction of this new structuring of procedural documents, bringing the core of the adversarial exchange back into the courtroom and reducing the proliferation of defensive submissions and supplementary memoranda that are often redundant. The enhancement of orality and immediacy would not entail any curtailment of the right of defence; on the contrary, it could contribute to making the adversarial process more authentic and efficient, restoring to the judge the central role in directing the proceedings that the judiciary once held.

Recentring orality within civil proceedings could significantly streamline the Italian process, which is currently burdened by an excessive number of written submissions that often, quite unreasonably, replicate the same content. This redundancy weighs down a system already characterised by an unduly long average duration. A viable solution (one capable of ensuring compliance with the principle of reasonable duration as well as the principles of clarity and conciseness) would be to restore the central role that orality once held. By expanding the space for genuine dialogue between the parties, it would become possible to reduce both the quantity and the length of procedural documents. From this perspective, a reform would be desirable that, on

[51] Comoglio (2015).

the one hand, fundamentally rethinks the very notion of the procedural act as we understand it today, replacing the current sequence of submissions with a single, progressively formed act; and, on the other hand, brings orality back to the heart of the process, thereby reducing the written dimension, which has been pushed to an extreme by the Cartabia reform (one need only consider the paradox of writtenonly hearings, where the exchange of written notes substitutes for an inperson hearing under art. 127 *ter* c.p.c.).

This scenario raises the question of the relationship between procedural acts and documents; a question of particular relevance when such acts are processed, summarised, or reworked by means of AI tools. The core problem concerns the legal value that a procedural act acquires when it contains, transcribes, or incorporates an evidentiary document, and the consequences that follow when the original document is no longer physically available on the case file.

The Joint Divisions of the Court of Cassation (*Sezioni Unite*), in judgment no. 4835/2023, held that a document, once produced, remains part of the proceedings and cannot be lost merely because the party's case file was not deposited in subsequent instances. The court of appeal cannot disregard documentary evidence solely on the ground that it is not physically before it; on the contrary, it is under a duty to reconstruct the document's content through the first-instance judgment, the procedural acts that refer to it, or, where necessary, by ordering its production. From this perspective, a procedural act may become a source of knowledge of the document, without thereby assuming the character of independent evidence in its own right. The Court acknowledges, in fact, that the content of a document may be reconstructed even through its partial transcription or its citation in the acts, thus preventing the dispersal of evidence and ensuring continuity of the evidentiary record across instances[52].

It follows that when a procedural act is fed into an AI system for summarisation, the act does not change its nature as a communicative vehicle, nor does it take on the function of autonomous evidentiary document; yet, insofar as it contains the transcription or description of a document, it becomes (consistently with the approach endorsed by the *Sezioni Unite*) a source capable of reconstructing that document's content. The summary generated by the AI therefore does not create evidence, but may contribute to making already-acquired evidentiary material more accessible and intelligible, provided that the underlying act is drafted in a clear, concise, and well-structured manner. The formal quality of the act, in other words, becomes a variable capable of directly affecting the reliability of the algorithmic processing built upon it.

Conciseness, ultimately, is a structural precondition for procedural acts to perform their function effectively, even within a digital and algorithmic ecosystem. Prolix, repetitive, or overloaded acts not only burden the judge's

[52] Court of Cassation, Sez. Un., 16 February 2023, n. 4835.

work, but undermine the capacity of AI systems to extract relevant information, increasing the risk of errors, omissions, and distortions in their automated processing. Two responses are therefore required: on one hand, a rethinking of procedural architecture so as to restore centrality to orality, envisaging a single act of progressive formation; on the other, the cultivation of a culture of procedural drafting that treats conciseness and clarity not as formal duties imposed by statute, but as the substantive precondition for effective judicial protection, all the more so in an era marked by the growing use of AI tools in litigation.

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