

# Gergely Czoboly: Reforms of civil procedure in Central and Eastern Europe



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# Cost, delays, frustration?



**”WRETCHED WATERS OF CIVIL JUSTICE”  
(SIR JACK I. H. JACOB, 1987)**

# Delays in litigation



## Effects on the average duration of proceedings

- Overwhelming caseload
- Lack of resources
- Improper preparation and concentration
- **Dilatory behaviour of parties**
  - Lord Woolf: Costs due to abuse of procedural tools

# Dilatory tactics by the parties



- Independent of age or geographical location
- 2 main circumstance:
  - Intent + Opportunity
- Vulnerability of a legal system?
  - Responsibilities and power of the judge and the parties
  - Existence of sanctions against dilatory behavior
  - Litigation practice

# Historical developments



## Liberal civil procedure

- XIX<sup>th</sup> century
  - “free play of powers”
- **Autonomy of parties**  
(even in conduct of the procedure)
- No means of judicial power
- Frequent misuse of influence
- Timing - Holding back information to gain advantages

## Socialist model

- 1950s – Civil Procedure Codes of Central Europe
  - Material truth,
  - Objective truth
  - Golden rule is to discover truth
- Judge has duty and power –  
**paternalistic judges**
- Passivity of parties and attorneys,  
late submission of evidences

# Reforms after the transition



- 1st wave – 1990s: antidemocratic elements
- 2nd wave – 1995-nowadays:

How to deal with delays and high costs?

# Main steps towards a well-balanced system



- **Legislation** providing adequate **procedural tools** preventing dilatory behaviour
- Application: Reducing paternalistic **character of judges** (Abolition of substantive procedural guidance, but having tools)
- **Preclusion**: excluding evidences not submitted in time
- Parties shall be **active in their interests** having a deadline

# Thank you for your attention!



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