

A new reform of the Italian civil procedure: towards a more efficient system?

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Last week the Italian Parliament converted into law Law Decree no. 132 of September 12, 2014 (the “Decree”) on measures aimed at reducing the backlog in civil proceedings. The Decree is part of a comprehensive reform of the Italian civil and criminal procedure systems recently announced by the Renzi government and is aimed, among other things, at making Italy more attractive to foreign investment.

The key points of the Decree are as follows:

- 1. Lawyers’ Arbitration** - The Decree provides for the possibility of transferring pending proceedings from the ordinary courts to a special arbitration proceeding. The arbitrators need to be lawyers enrolled with the Italian Bar Association and, in order to access this special procedure, a joint request from the parties is required. This procedure is precluded for disputes regarding inalienable rights, employment and social security matters. The arbitral award has the same effect as a court decision.
- 2. Assisted negotiation.** This is an Alternative Dispute Resolution procedure, led by lawyers, and available for disputes of all natures, with the exception of those related to inalienable rights and employment matters. In cases of disputes concerning the payment of sums of up to €50.000, or regarding compensation for damages claims caused by traffic accidents, this procedure is a necessary first step prior to ordinary proceedings before a court. If the parties reach an agreement it will have the efficacy of a court’s decision.

3. **Proceedings expenses.** Generally speaking, the courts have been inclined to split the litigation expenses between the parties, regardless of the outcome of the trial. The new provision on this matter – which amends this trend - limits the potential for the judge to split the legal expenses to three specific circumstances: (i) when the decision is not totally in favor of one party; (ii) when the case at hand regards an “absolutely new” matter and; (iii) when previous consolidated case law, substantially relevant for the final decision, is overruled.

4. **Legal interest rate.** The interest rate applied during a trial’s progress was previously a rate set by the legislator that in the past ten years had fluctuated between 1% and 3%. The new legal interest rate is that which is provided by the EU Directive for commercial transactions as implemented in Italy (BCE benchmark rate + 8%). The parties have in any case the opportunity to determine a customized interest rate by contract.

5. **Suspension of the Courts’ activities.** The suspension of the Courts’ activities is reduced from 45 days to 31 days. The corresponding period runs from August 1st to August 31st.

6. **Summary trial proceedings’ incentives.** Before the Decree it was possible to switch from a summary trial procedure (a simplified proceeding recently introduced in civil matters) to ordinary proceedings, but it was not possible to do the opposite. With the intention of speeding up trials and relieving the courts’ duties, the Decree provides that in cases decided by a single judge, when the dispute is not complex and has a clear evidentiary framework, the judge is authorized to switch from ordinary to summary proceedings.

The measures introduced by the Decree are interesting and innovative for Italian civil procedures. Only the time will tell whether such measures, along with the rapid, on-going digitalization of proceedings, will help to make civil proceedings more efficient and, ultimately, Italy a more attractive country to foreign investment.