

# Organization of the Italian court system and access to the higher courts – the latest reforms

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The work recently carried out by Monti's government has seen a number of reforms being introduced. Some of these affect the way that justice is administered, as if foreign investment is to be encouraged and foreign investors are to be content to submit to Italian jurisdiction, then an efficient court system is fundamental.

Here we focus on:

- Legislative Decree pursuant to Law No. 148/2011, which has reduced the number of court venues and
- Decree Law No. 83/2012, which introduces a preliminary stage at which matters on appeal can be dismissed early on, thereby reducing the number of cases that reach the Supreme Court on appeal.

## Reduction in the number of courts

The Legislative Decree referred to above has abolished over one thousand courts, with the plan being to allocate the relevant judges and court staff to courts where, given the number of cases pending, the need for them is greater.

## Limitation on cases reaching appeal in the higher courts

The changes concerning the possibility of appealing a decision at first instance in the higher courts have been introduced by a Law by Decree, which requires Parliamentary approval within 60 days of issue and will only become effective 30 days following publication. Given recent experience on the part of Monti's government, it is highly likely that approval will not be forthcoming, or will be conditional upon significant amendments being made.

The main change in relation to proceedings on appeal to the Court of Appeal is that the court is now required to carry out a preliminary assessment of the appeal. If the Court of Appeal takes the view that the appeal does not have reasonable prospects of success, then it is dismissed at an early stage. A decision that there are no such prospects can only be appealed to the Supreme Court.

Further, Decree Law No. 83/2012 significantly limits the possibility of appealing a judgment to the Supreme Court. In particular, prior to the reforms being introduced the Appellant could, as well as raising other procedural matters and points of law, ask the Supreme Court to reconsider the factual aspects of the case where it was claimed that mistakes had been made affecting the decision making process, such as provisions that are self-contradictory, a failure to consider crucial points or reasoning wanting in logic.

Post reform, however, where the factual aspects of the matter are concerned, the Appellant may only raise objections where there has been a total lack of consideration of what was a crucial point.

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It is obviously left to Parliament to have the final say on whether these changes affecting matters in the Court of Appeal and the Supreme Court should be introduced. The reforms as a whole, however, would appear to have been designed to address some of the more troubling issues affecting the extent to which proceedings that have reached the higher courts are dealt with efficiently.

With a number of significant improvements having already been made where matters heard at first instance are concerned, the court system in Italy could well be taking important steps towards reducing the gap that currently separates it from those in other, more advanced jurisdictions.