

Italian Reform of civil proceedings: faster trials and wider use of ADR.

Legislative Decree No. 149/2022 reformed the rules of Italian civil procedure, the entry into force of which was staggered between 1 January 2023 and 30 June 2023, 28th February being the deadline for the enactment of most of the new rules.

In particular, as from **28 February 2023**, civil proceedings will be governed by the new amended rules, while proceedings already pending will continue to be governed by the previously applicable rules.

The aim of the Cartabia Reform is to streamline and simplify civil proceedings, speeding up their progress and conclusion. Three canons permeate the Reform according to the intentions of the legislature: clarity, conciseness and specificity.

The various amendments include: the replacement of in-person hearings with the possibility of participating via online platforms or through the preparation of written negotiation notes (to be filed no less than 15 days after the hearing); financial penalties from € 500.00 to € 5,000.00 in the event of aggravated liability pursuant to Article 96 of the Code of Civil Procedure (abuse of process); incentives for ADR procedures through tax relieves and the extension of the matters open to mediation and conciliation.

More specifically, here are the main novelties:

a. **Lower Magistrate Courts:** the competence by value is increased (from 28 February 2023 it will be €10,000.00 for cases relating to movable properties and €25,000.00 for cases of compensation for motor damages, including watercrafts). The application shall be filed by way of an appeal and no longer by way of a claim form. The defendant's appearance must be completed within 10 days prior to the hearing (and no longer at the hearing). Finally, from 30 June 2023, the trial will be telematic and no longer paper-based.

b. **High Court:** the summons must be clear, specific and concise and must contain specific new written warnings. Also from 28 February 2023:

- the time limit from the service in Italy of the third-party summons/call to the first hearing will be 120 days (no longer 90 days);

- the time limit for the defendant/third party to enter an appearance will be 70 days (and no longer 20) before the first hearing;

- the judge, within 15 days after the expiration of the time limit for the defendant to enter an appearance, proceeds with the preliminary verifications and decides on the *ex officio* issues pursuant to Art. 171 ter of the Code of Civil Procedure;

- immediately thereafter, there will be the filing of "Supplementary Pleadings" that will replace the previous pleadings *pursuant to* Article 183(6) of the Code of Civil Procedure (albeit with the same content), which must be filed 40-20-10 days before the date of the first hearing;

- at the 'new' first hearing, the parties are scheduled to appear in person: the judge will attempt conciliation and, if this fails, will decide on the preliminary motions;

- Once the pre-trial phase has been concluded, the judge will schedule the final hearing (written hearing) from which the deadlines for concluding writs of 60-30-15 days will be set backwards. The judgement will then follow;

- Summary Judgement **procedure** is then provided for in parallel, in which the application is made by way of an appeal; the judge by decree fixes an appearance hearing, giving the defendant a period of 10 days before the hearing to enter an appearance. This procedure ends with a judgment and not with an order as before.

c. **Appeal:** the filter provided for in Article 348 *bis* c.p.c. is eliminated, by inserting a different filter consisting of the oral discussion of the case pursuant to Article 350-*bis* of the Code of Civil Procedure; the role of the investigating Judge, who is responsible for carrying out all the tasks prior to the decision phase (e.g. verifying that the parties have duly appeared, declaring default, attempt at conciliation), is modified and the cases of referral back to the court of first

instance are reduced. The time limits for the service of the appeal and the appearance of the defendant remain unchanged.

- d. **Supreme Court:** an accelerated procedure is provided for and the appeal must contain a clear and essential statement of the facts and grounds for the proceedings.
- e. **Mediation/Negotiation:** the pre-reform matters for which mediation is a condition for the prosecution of legal proceedings are now expanded, with the obligation of mediation organisations to ensure both face-to-face and online meetings.

On the one hand, these changes **will have a great impact on defence activity with ever tighter deadlines for both clients and the law firms assisting them**, on the other hand, failure to comply with the new timeframe could even further prolong the trial process.

All that remains for legal practitioners is to *experience* the new process.

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