

## ANNEX 37

- Country Report ITALY

**CONTRACT**  
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**FOR**



**COMMISSION EUROPEENNE**

**- DG FOR JUSTICE, FREEDOM  
AND SECURITY -**

**Study on the Transparency of Costs of Civil Judicial  
Proceedings in the European Union**

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**- COUNTRY REPORT -**

**- ITALY -**

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ANNEXE 1 Questionnaire completed for the implementation of this study

## COUNTRY REPORT

### *Preliminary notes*

This study has been the occasion to further analyze a subject with which operators deal everyday, but which is not always given the importance and the attention it deserves.

It results that the creation of a rational and transparent system of costs of justice could result to be one of the key issues on which to invest in the interest of the Common Market.

This work is aimed to provide a description of the state of art of costs of justice in Italy, together with thoughts and proposals for the implementation of the related transparency, in the interest of the parties accessing justice in Italy and in the EU.

## Introduction

This study has been completed on the basis of the answers to the questionnaires by the subjects interviewed (such as the Presidents of Italian Courts, as well as by different interested organizations), and on our own experience on the matter.

Preliminarily, with reference to the Italian costs of justice it is possible to make a general distinction between “lawyers’ fees” and “other proceeding costs of justice”.

Both issues have been the object of recent legislative intervention: in the case of lawyers’ fees, the Italian legislator intervened on 2006, with measures aimed to liberalize and increase competition in this area; “other proceeding costs of justice” have been the object of a great effort of reorganization and rationalization by the Italian legislator on 2002, and were taken together into a Single Act (Presidential Decree of 30 May 2002, No. 115).

Moreover, within the Italian legislative framework, there is an increasing testing of e-justice systems, which could lead to an increase of transparency and accessibility to justice, also in the interest of the EU market.

## Executive Summary

### 1 Summary of the mains sources of costs

In order to provide a schematic summary of Italian costs of justice, it is opportune to make a distinction between the following items of costs.

#### **Lawyers' fees**

These fees can be agreed between the lawyer and its client in advance. In lack of an agreement, it is necessary to consult the lawyers' fees as established by the Italian Government, upon proposal made by the National Lawyers Association (hereinafter also "Professional Fees").

The incidence of lawyers' fees in the global costs can be set between 20% and 60%

**Court fees:** the main source of Court fees is the standard fee for beginning the trial (the so-called "**Contributo Unificato**"), and it is previewed by Article 9 of the Presidential Decree of 30 May 2002, No. 115 - hereinafter also the "Decree").

The incidence of Court fees in the global costs can be set between 3% and 5%.

**Bailiff fees** - are established by Articles 34, ss. of the Decree, and depend on variables such as the distance to be covered by the bailiff or the urgency of the service to be accomplished.

The incidence of Bailiff fees in the global costs can be set around 3%.

**Expert fees** - are provided by Article 50 of the Decree and by Ministerial Decree, May 30 2002. Within this category a distinction must be made between Court and parties experts' fees: Court experts' fees are provided by the judge on the basis of the relevant legislation. Parties experts fees come outside the framework of the judicial proceeding and they are freely agreed by the parties.

The incidence of Expert fees in the global costs can be set between 5% and 25%

**Translators and interpreters' fees** - are considered as auxiliaries of the judge, and their fees are fixed in the same way as experts' ones.

The incidence of Translators and interpreters' fees in the global costs can be set between 5% and 10%

**Costs for enforcing the judgement**, are established by the Decree: Article 9 (Contributo Unificato's costs for the cases of enforcing the judgement), 37 and 38 (Bailiffs' fees for the performance of enforcing acts). In any event, it should be considered that the amount of those costs depends on the kind of procedure carried out (e.g. *forcible expropriations of fixed assets, forcible expropriations of movable assets, expropriation through third parties, transfer obligations, enforcement of the obligation to act or not to act*). The party requesting the enforcement of the judgement bears a fixed initial cost, provided by Article 9 of the Decree. Such cost is not predetermined, since it may vary according to the complexity of the action taken (it may be necessary to have assets valued, to appoint administrators or custodians, who are entitled to remuneration, to advertise auctions in newspapers or on websites, and so on). As a general rule, the enforcing creditor pays the costs in advance and they are subsequently charged to the person on whom the decision is enforced.

The incidence of costs for enforcing the judgement in the global costs can be set between 3% and 15%.



## 2 Level of transparency in the sources of costs

Referring to the level of transparency and to the determination of the amount of costs, it is necessary to draft a difference between i) proceeding costs (Court fees, bailiff fees, expert fees, costs for enforcing the judgement) and ii) lawyer fees.

i) proceeding costs are provided by law (Presidential Decree of 30 May 2002, No. 115 - hereinafter, the “Decree”). Such costs can be divided into the following two categories:

§ easily foreseeable costs - this is the case of the standard fee for beginning the trial (i.e. the so called “Contributo Unificato” as hereinafter extensively described);

§ not easily foreseeable costs - this is the case of the other proceeding costs (bailiffs’ fees, expert fees and costs for enforcing the judgement) since they may be determined on the basis of variable aspects, which are not easily foreseeable at the moment of the request).

ii) Lawyers’ fees can be agreed between the lawyer and its client in advance. In lack of an agreement, it is necessary to make reference to lawyers’ fees as provided by the Italian Government, upon proposal by the National Lawyers Association (hereinafter also “Professional Fees”). Their transparency is guaranteed by the fact that they are provided by law and they are available to everyone.

In general, costs of justice are easily available only for the operators (e.g. Italian lawyers). They are generally provided by legislative acts and they can be obtained for free by consulting both public and private Italian web sites. However, they are not provided in single texts and they are generally not available in brochures, nor by consulting information centres or calling the court. In any case, Italian lawyers can provide such information for free.

The level of transparency in a scale from 1 to 5 can be summarised as follows:

- § Court fees: 4
- § Lawyers' fees: 3
- § Bailiff fees: 2
- § Expert fees: 2
- § Translators: 2
- § interpreters' fees: 2
- § legal aid: 3
- § transcription: 2

### 3 **Determination of the amounts of costs**

In general terms, the amount of the costs may be determined on the basis of different parameters, such as:

- the value of the claim, e.g. the Contributo Unificato;
- the kind of proceeding, e.g. for employment, welfare and social security disputes, there is an exemption from all charges and costs for Court and bailiff fees;
- the act or service required or performed, e.g. notifications costs vary on a progressive scale which is given by the kilometres that must be covered by the bailiff.

Please consider that, in general terms, in Italy:

- § the average cost of a proceeding can be set around Euros 5.000,00 (five thousand);
- § the average monthly wages are around 1.500,00;
- § the average yearly income of a family unit is about 30.000,00

#### 4 Level of transparency in determining the actual costs

The Italian costs of justice are all governed by specific regulation.

§ Court fees: Presidential Decree No. 115 of 30 May 2002 (Law Journal No 139/2002 - hereinafter also the “Decree”).

The level of transparency in determining Court fees is high because the decree provides for fixed costs that depend on the value or the nature of the proceeding.

§ Lawyers’ fees:

General Regulation :

- Law Decree 27 November 1933, No. 1578, regarding the regulation on lawyers’ profession;
- Italian Civil Code (articles 2229-2231);
- Italian Civil Procedure Code (articles 91-98);

ii) Special Regulation :

- Ministry Decree 8 April 2004 No. 127 ;
- Lawyers Ethic Code/self-regulation Code adopted by the Lawyers National Association (called : CNF - Consiglio Nazionale Forense);
- Law 4 August 2006 No. 248;

The level of transparency in determining lawyers’ fees is sufficient. Lawyers’ fees can be determined making reference to schedules provided by law, or can be negotiated between the lawyer and his client.

§ Bailiff fees: D.P.R. of May 30 2002 No. 115 (articles 19 - 39).

The level of transparency in determining Bailiffs’ fees is medium because the legislation provides for fixed costs that depend on the number of receivers, the distance covered by the bailiff and on the urgency of the service.

§ Expert fees:

Law July 8, 1980, No.319;

Ministry Decree 30 May, 2002

D.P.R. May 2002, 30, No. 115

The level of transparency in determining Experts’ fees is sufficient because the legislation provides for fixed costs that depend on the value or the nature of the proceeding.

§ Translators:

Law 8 July 1980 No. 319;

D.P.R. 27 July 1988 No. 352;

Ministry Decree 5 December 1997;

Ministry Decree 30 May 2002;

The level of transparency in determining Translators fees is sufficient because the legislation provides for fixed costs that depend on the number of pages.

§ interpreters' fees:

Law 8 July 1980 No. 319;

D.P.R. 27 July 1988 No. 352;

Ministry Decree 5 December 1997;

Ministry Decree 30 May 2002;

The level of transparency in determining interpreters' fees is sufficient because the legislation provides for fixed costs that depend on the time required.

§ Witness: articles 45 - 48 of the Decree.

The level of transparency in determining witness' compensation is medium because the legislation provides for fixed amounts that depending on the travel expenses and days required.

## **5 Proportion of each identified cost on the overall cost of civil judicial proceedings**

### **Lawyers' fees**

The incidence of lawyers' fees in the global costs can be set between 20% and 60%

### **Court fees**

The incidence of Court fees in the global costs can be set between 3% and 5%.

### **Bailiff**

The incidence of Bailiff fees in the global costs can be set around 3%.

### **Expert fees**

The incidence of Expert fees in the global costs can be set between 5% and 25%

**Translators and interpreters' fees**

The incidence of Translators and interpreters' fees in the global costs can be set between 5% and 10%

**Costs for enforcing the judgement**

The incidence of costs for enforcing the judgement in the global costs can be set between 3% and 15%.

The approach of analysis adopted for the purpose of answering the questions of this Study regarding EU-cross border disputes, is necessarily referred to those of such disputes, which have been established in Italy.

On this regard, this analysis takes into consideration how the Italian legislation copes with the costs of justice applicable in case of disputes established in Italy presenting EU cross-border elements.

The presence of cross-border elements in a proceeding established in Italy, may give rise to cost increases, in case of need to translate acts and documentation, to make use of an interpreter, or to make reference to a foreign lawyer.

Moreover, in case of enforcement abroad, it appears difficult to foresee the amount of the costs that could be required.

It should also be noted that pursuant to the Italian/EU International Private Law dispositions, the Italian Judge may be called to apply a foreign law in order to solve EU cross-border disputes. On this case, the costs of the proceeding may increase, due to the need to consult a lawyer of the Country whose law is applicable.

## **6 Proportion of each identified cost on the overall volume of activity**

In order to identify the proportion of each cost on the overall cost of civil judicial proceedings, it is possible to note that:

- lawyers' fees have a predominant incidence on the overall proceeding costs. In any case, it is necessary to specify that, lawyers' fees can be agreed between the lawyer and the client, and therefore, their influence has to be considered on a case-by-case basis;
- an other cost with a relevant incidence on the overall cost of proceeding is the so-called Contributo Unificato. As it will be extensively described below, the amount of such item of cost is proportionate to the value of the claim;
- the impact of Expert costs, if required, depends on the complexity of the technical matter and of the value of the claim; therefore, in case of high value and complex cases, Experts' costs generally impact highly on the overall cost of the procedure. Moreover, in case an Expert is appointed by the Judge, both parties have a right to avail themselves of the consultancy of a "Party Expert", in order to provide a technical support to their arguments. As in the case of the Experts appointed by the Judge, the cost of those experts may have an increasing impact on the general costs of the proceeding.

## **7 Proportion of each identified cost on the value of disputed claim**

The value of the disputed claim is certainly the element holding the most relevant influence on the determination of the costs of justice in Italy.

As considered in the previous paragraph, the value of the claim is the element on the basis of which one shall ground the calculation of the amount to be paid for the

Contributo Unificato (i.e. the standard fee for beginning the trial) as well as for the Expert costs.

The value of the claim also has a significant impact on lawyers' fees, especially in case of application of the Professional Fees, as defined above. Their amount is strictly tied to such element. On this regard, please refer to the Professional Fees, attached to the draft report.

## **8 Specificities in relation to EU cross-border disputes**

In general, there are no specificities in EU cross-border disputes. It has to be considered that if such proceedings are pending in Italy, they will be disciplined by the Italian law, so the rules governing costs trials will be applicable. In other words a specific cost for this type of controversies is not predicted., foreign parties may be involved with additional costs for specific services, such as translation of acts and documentation or the use of an interpreter

In case of a civil litigation in which a Court is located in another Member State, access to information on costs of justice is generally not easy. Italian lawyers with an international practice generally obtain such information by referring to their correspondents in the target Member State. Foreign lawyer will thus provide information on the general costs deriving from the case, which include both lawyers' fees and procedural fees. Therefore, currently, local lawyers seem to be, still, the most effective means for obtaining information on costs of justice.

The approach of analysis adopted for the purpose of answering the questions of this Study regarding EU-cross border disputes, is necessarily referred to those of such disputes, which have been established in Italy.

On this regard, this analysis takes into consideration how the Italian legislation copes with the costs of justice applicable in case of disputes established in Italy presenting EU cross-border elements.

The presence of cross-border elements in a proceeding established in Italy, may give rise to cost increases, in case of need to translate acts and documentation, to make use of an interpreter, or to make reference to a foreign lawyer.

Moreover, in case of enforcement abroad, it appears difficult to foresee the amount of the costs that could be required.

It should also be noted that pursuant to the Italian/EU International Private Law dispositions, the Italian Judge may be called to apply a foreign law in order to solve EU cross-border disputes. On this case, the costs of the proceeding may increase, due to the need to consult a lawyer of the Country whose law is applicable.

## **9 Recommendations for EU action/national action**

. As already pointed out, lawyers' fees have been the object of a recent legislative intervention aimed at liberalizing professional fees.

Such intervention, in line with certain tendencies at EU level, repealed both the obligation to charge fixed or minimum fees, and the prohibition from agreeing fees linked to the attainment of objectives.

No doubt this intervention gave rise to a high number of discussions within the stakeholders. On the one hand the Italian legislator, highly supported by the Italian Antitrust Authority (the *Autorità Garante della Concorrenza e del Mercato* - [www.agcm.it](http://www.agcm.it)), stress the benefits of such reform to competition and to consumers, on the other hand many Bars and Lawyers' associations underline the fact that, in some cases, this reform could lower the level of lawyers' professionalism.

The reform is very recent and it is not yet possible to give a certain evaluation of its concrete effects on the market and in particular on the costs of justice.



Proceeding costs have been the object of a great effort of reorganization and rationalization by the Italian legislator, with the issue of Presidential Decree of 30 May 2002, No. 115 - hereinafter also the “Decree”.

Such legislation gathered the main provisions on costs of justice, into a Single Text, with a great effect on both transparency and clearness. One of the main examples of such transparency is represented by the Contributo Unificato, as below extensively described.

On this regard, it is possible to state that if, on the one hand, the Decree brought a great deal of clearness and transparency into the Italian legal system, on the other hand, it appears that such clearness and transparency is mostly referred to “technical operators”, such as Italian lawyers, and not to individuals, nor to foreign individuals and/or lawyers.

Therefore, it seems to be opportune to implement at European level a system of information on the applicable costs of justice - easily available and reader-oriented - to everybody (individuals and lawyers) in all EU languages. The most efficient method, seems to be achievable through the publication of the relevant information on costs of justice on the EC Commission website. Such web page should be duly advertised, by inserting hyperlinks on Member State public websites on justice (e.g. the web site of the Ministers of Justice).

2. It is moreover necessary to spend some words on the opportunity for Member States and the EU to invest a lot on e-justice. As it is described in Section 14.7 below, e-justice has been object of some experimentation in Italy, which have already given positive results, even in terms of saving costs of justice.

A rising use of e-justice would surely permit, for instance:

- an increase of transparency, since e-justice would certainly permit everybody to have access to the costs necessary for the proceeding;
- a possible reduction of the costs, since e-justice could - if structured in this way - avoid some costs related to the filing of documents or to parties and lawyers’ transfer;
- to ease cross-border proceedings.

Such examples should be taken into account, in order to evaluate the means to implement e-justice in all Member States, as well as to implement such instrument at EU level, in an harmonized way.

## 10 Relationship between the costs of justice, the transparency in the costs of justice and access to justice

With reference to the Italian legislative framework on costs of justice, it is possible to consider that:

- lawyers' fees have been object of legislative intervention which permit either to be directly agreed between the lawyer and its client, without necessarily making reference to minimum and maximum fees previously determined at legislative level Or In case of lack of an agreement, one will refer to Professional Fees, which contain many items of costs, which do not appear to be always foreseeable and understandable;
- other procedural costs are object of specific legislation which is mostly gathered into a Single Text (the Decree). Within this legislation it is possible to maintain that while some of the costs are easily and directly determined and/or foreseeable (e.g. Contributo Unificato), other costs may vary according to many parameters, which are not always easily determined or foreseeable (e.g. bailiffs' fees, expert fees, judgement enforcement fees).

Such Italian legislative framework on costs of justice, presenting the intervention of many items of costs, not always foreseeable, leads to the conclusion that, in order to determine *ex ante*, the amount of the general costs related to a civil proceeding, an interested party generally refers to a lawyer.

## Detailed Draft Report

### 1 General Questions

#### 1.1 Level of information on the transparency of fees and costs of justice

In general, costs of justice are easily available only for the operators (e.g. Italian lawyers). They are generally provided by legislative acts and they can be obtained for free by consulting both public and private Italian web sites. However, they are not provided in single texts and they are generally not available in brochures, nor by consulting information centres or calling the court. In any case, Italian lawyers can provide such information for free.

The level of transparency in a scale from 1 to 5 can be summarised as follows:

- Court fees: 4
- Lawyers' fees: 3
- Bailiff fees: 2
- Expert fees: 2
- Translators: 2
- interpreters' fees: 2
- legal aid: 3
- transcription: 2

In case of a civil litigation in which a Court is located in another Member State, access to information on costs of justice is generally not easy. Italian lawyers with an international practice generally obtain such information by referring to their correspondents in the target Member State. Foreign lawyer will thus provide information on the general costs deriving from the case, which include both lawyers' fees and procedural fees. Therefore, currently, local lawyers seem to be, still, the most effective means for obtaining information on costs of justice.

## 1.2 Transparency perception

In Italy there are numerous organizations to which individuals - generally consumers - may refer in order to receive general legal support and assistance. Those are generally consumers' associations whose entourage is not normally composed only of lawyers.

Within such organizations there are associations, such as the legal aid association "ANVAG" - whose entourage is made of lawyers and magistrates -, having the purpose of providing legal assistance and consultancy as well as to promote the legal aid profusion. With reference to legal aid, it should be noted that Italian Bar associations provide information about the requirements needed to benefit of legal aid, as well as the relevant documentation which has to be filed at the Bars offices.

The organizations specialized in the defence of people facing difficulties in accessing justice are mainly consumer's organizations, the most well-known of which are those hereinafter listed:

- CODACONS - <http://www.codacons.it/>
- ADUC - <http://www.aduc.it/>
- ADICONSUM - <http://www.adiconsum.it/index.php>
- ACU - <http://www.acu.it/Sezioni/Home/Default.asp>
- Unione Nazionale Consumatori - <http://www.consumatori.it/>
- Movimentoconsumatori - <http://www.movimentoconsumatori.it/index.php>

Moreover, other organizations, such as « A.N.V.A.G. - Associazione Nazionale Volontari Avvocati per il Gratuito patrocinio e la difesa dei non abbienti - <http://www.anvag.it/> » are specialized in legal aid.

In Italy, transparency of costs of justice could be understood as being:

- generally high for lawyers, who are able to find the relevant costs and the means of calculation gathered into a Single Act (the Decree), as hereinabove described;
- generally low for non-operators; the legislation includes many items of costs, which are not of immediate perception to those persons which are not used to handle legislative material.

The lack of great transparency and information on costs of justice might have the effect of deterring individuals from exercising their rights, while creating a sense of unfairness and judicial insecurity.

Moreover, it should be observed that the negative effects above described might increase in cross-border proceedings: the lack of information on costs of justice, together with the lack of knowledge about the foreign legislation, may appear to an individual as insurmountable obstacles and therefore a deterrent from taking an action (or even a business) abroad. These effects are clearly absent in case of individuals used to make business abroad or to those referring to lawyers with an international practice who can provide the relevant information on how to deal with cross border cases.

### **1.3 Solutions to improve transparency**

Both Italian and European legislation do not seem to have a good level of efficiency as regards the facilitating transparency and access to justice. At national level, in fact, that despite the commendable effort made by the Italian legislator in 2002 in order to bring together proceeding costs of justice into a Single act (i.e. the Presidential Decree of 30 May 2002, No. 115), access to information on costs of justice seems to be still not transparent to non-operators.

It seems to be opportune to centralize information on costs of justice at national (or even at European level), providing reader-orientated schedules in internet web sites. In case of implementation of a centralized information at European level, this should entirely translate all EU languages. At the same time, e-justice proceedings should be improved, permitting individuals to have - in certain cases - the same procedural rules and costs at European level, with reference to certain kind of disputes.

#### 1.4 Fairness of costs

With reference to the fairness of costs, it is possible to state that:

- lawyers' fees are now possible to be agreed between the lawyer and its client independently from the application of the Professional Fees. In any case, Italian lawyers' fees do not seem to be higher than the general lawyer fees in other EU Member States;
- Italian legislative intervention on State financial issues (e.g. Italian Financial Law, 2005), that procedural costs have been progressively increased in the past few years,. Such increase appears to be unjustified because, on the one hand, it was not followed by a parallel increase in the efficiency of the Italian justice, and on the other such increase was finalized to the general Italian budget and not to the specific exigencies of Italian Justice, as it would have been desirable and appropriate.

In any case, it worth recognizing the fairness of the Italian judicial system, which has within its basic principles, that the losing party generally reimburses expenses previously anticipated by the winning party (unless the Judge orders the division of the costs among the parties, as provided by Article 92 of the Italian Code of Civil Procedure).

## 2 Court fees

### 2.1 General

Italian rules governing Court fees are set out in Presidential Decree No. 115 of 30 May 2002 (Law Journal No 139/2002 - hereinafter also the “Decree”), which reorganised and rationalised all issues related to Court fees.

The notion of Court fees shall be intended in strict sense as including only the fees requested for the performance of the activity of the judges and the Court chancelleries. This notion shall thus not include lawyers’ fees, bailiffs’ fees, experts’ fees, translators and interpreters’ fees, which shall be analysed independently.

The followings come within the notion of Court fees in Italy: A. The “Contributo Unificato” (disciplined by articles 9 - 18 of the Decree), which is a standard payment for implementing a trial; B. Other forms of payment, coming within the notion of Court fees, are those arising during the proceedings for requiring copies of documents to the Chancellery of the Courts (disciplined by article 40 of the Decree).

#### A. The Contributo Unificato

The main source of Court fees is the Contributo Unificato. In force since March 2002, the Contributo Unificato substitutes all the other costs which were requested for criminal, civil and administrative procedures. This new type of excise helps simplifying the taxation of judicial acts, since it includes the payment of all stamp taxes, registration taxes, chancellery taxes and the expenses for the designation of a public officer during a trial.

The payment of the Contributo Unificato is required before the case is filed and it has to be paid by the party who enters the case, lodges the initial appeal or, in enforcement proceedings, or submits an application for assignment or sale.

However, proceedings relating to the following subjects are exempted from the payment of the Contributo Unificato:

- o Judicial separations (provisions related to minors and proprietary relations between spouses);
- o preventive proceedings;
- o land registry proceedings,
- o proceedings to enforce delivery and release,
- o proceedings related to child maintenance payments,
- o all proceedings concerning children (e.g. proceedings regarding parental responsibility) and
- o rules on competence and jurisdiction.

The amount to be paid for the Contributo Unificato generally depends on the value of the proceeding (e.g. the amount requested in the claim). The maximum amount to be paid is equal to Euro 1.110,00, in case of proceedings of a value exceeding Euro 520.000,00.

In cases dealing with particular matters (such as real estate leases and bankruptcy) the Decree provides for fixed amounts, applied independently from the value of the proceeding (article 13 of the Decree).

The amounts to be paid for the Contributo Unificato are determined by Article 13 of the Decree and they generally depend on the value of the proceeding (e.g. the amount requested in the claim).

In some cases, the amount to be paid is fixed and it depends on the nature of the litigation (article 13 of the Decree).

In particular, article 13 of the Decree provides as follows.

Art 13. (L) Amounts due

1. The standard fee is payable in the following amounts
  - a. euro 30 for proceedings of a value up to euro 1,100;



- b. euro 70 for proceedings of a value between euro 1,100 and euro 5,200 and for non-contentious proceedings and special proceedings as per book IV, chapter II, section VI of the civil procedure code;
- c. euro 170 for proceedings of a value between euro 5,200 and euro 26,000 and for contentious proceedings of an indeterminable value of the sole jurisdiction of a justice of the peace;
- d. euro 340 for proceedings of a value between euro 26,000 and euro 52,000 and for civil and administrative proceedings of an indeterminable value;
- e. euro 500 for proceedings of a value between euro 52,000 and euro 260,000;
- f. euro 800 for proceedings of a value between euro 260,000 and euro 520,000;
- g. euro 1,110 for proceedings of a value exceeding euro 520,000.

2. For enforcement proceedings regarding property a fee of euro 200 is payable. For other enforcement proceedings this amount is halved. For opposition proceedings to enforcement deeds a fee of euro 120 is payable (7).

3. The fee is halved for special cases as per book IV, chapter I, of the civil procedure code, including opposition in court to an injunction and opposition to an insolvency ruling. For the purposes of the fee due, the value of cases of eviction for default shall be established on the basis of the amount of the rent instalments unpaid at the date of notification of the validation writ, and that for cases where the rental or lease term is completed shall be established on the basis of the annual instalments payable.

4. For cases regarding leasing and renting, bailment, occupation without right and challenges made to resolutions taken by condominiums, the fee payable is euro 103.30.

5. In insolvency proceedings, which are the closing proceedings in which a insolvency is adjudicated, the fee due is euro 672.

If the statement required by article 14 is missing, the value of the case shall be taken as that indicated at paragraph 1, letter g).

B. Other forms of payment

Other forms of payment, coming within the notion of Court fees, are those arising during the proceedings for requiring copies of documents to the Chancellery of the Courts (disciplined by article 40 of the Decree).

Copying and certification fees, by this also including new technological means of recording, are governed by Presidential Decree, pursuant to article 17, paragraph 2 of Law no. 400 of 23 August 1988, on the proposal on the Minister of Justice, in agreement with the Minister for the Economy and Finance, and the amounts of such are established on the basis of the cost of the service and the cost of collecting those fees.

Fixed sum fee to copy documents to a recording medium other than hard copy without certification as to conformity

for each phonographic cassette of 60 minutes or less 3.10

for each phonographic cassette of 90 minutes 4.65

for each videophonographic cassette of 120 minutes or less 5.16

for each videophonographic cassette of 180 minutes 6.20

for each videophonographic cassette of 240 minutes 7.75

for each data disc of 1.44 Mb 3.62

for each compact disc 258.23

Fixed sum fee to copy civil, criminal and administrative deeds with certification as to conformity Fixed sum fee to make and issue copies for those requested without certification as to conformity

Number of pages		Copying fee	Certificate as to conformity	fixed sum
Total	Number of pages	Copying fee	fixed sum	
- 4	1.03	5.16	6.19	1 - 4 0.77
5 - 10	2.07	5.16	7.23	5 - 10 1.55

I	1	-	20	3.10	5.16	8.26	11	-	20	3.10
	21	-	50	5.16	5.16	10.32	21	-	50	6.20
	51	-	100	10.33	5.16	15.49	51	-	100	12.39
	over	100	10.33 + 6.20	each	5.16	15.49 + 6.20	each	over	100	12.39 + 5.16
				each						

additional 100 pages or part thereof additional 100 pages or part thereof  
additional 100 pages or part thereof

Both rights correspond to one page of “uso bollo” official paper format and are established in an equal manner for photographic copies. Urgent cases: three times the above fees.

In order to understand the level of information - as well as the amount and calculation - on Courts’ fees, a distinction should be made between i) Contributo Unificato (which represents surely the most relevant Court fee) and ii) other Court fees.

i) Information on the amount to be paid for the Contributo Unificato can be obtained for free by consulting both public and private websites and also by calling a lawyer. Such amounts are however not provided by brochures, information centres or by calling courts.

ii) the amount to be paid for other court fees (i.e. copies of documents) can be obtained for free by calling a lawyer

Moreover, in consideration of the fact that the maximum amount for the Contributo Unificato is Euro 1.110,00 and of the marginality of the cost of other Court fees, it can be maintained that the average amount of Court fees in Italy is between Euro 250,00 and Euro 349,00.

The factors that determine the amount of these fees are the amount requested in the claim (in most cases) and the nature of the litigation (in specific cases listed by Article 13 of the Decree).

As above described, the Contributo Unificato has to be paid before a case is filed. Other Court fees are paid during the proceeding.

With reference to the methods of payment, it should be noted that Court fees are treated as taxes and they are payable to the offices of the inland (tax) revenue, which in Italy comes under the Ministry for Financial Affairs. This means that the parties do not pay directly to the court, which is however not allowed to receive from the parties cash, cheques or credit card payments.

Moreover, in case a party wants to introduce a trial, for the payment purposes ( e.g. “Contributo Unificato”) it will make reference to banks, post offices or to authorized agencies (e.g. Lottomatica S.p.A.) and the relevant sum will vary according to the type of proceeding to be initiated, the amount requested in the claim and the level of the court involved.

## **2.2 Cost of bringing an action in the courts**

Pursuant to Article 9 of the Decree, a standard fee has to be paid for bringing an action to the courts, at each judicial level, in civil proceedings, including collective creditor action procedures and non-contentious proceedings, and in administrative proceedings, in accordance with the amounts provided in article 13 and except for the exemptions provided in article 10, hereinafter reported.

Such payment, to be made in advance to the filing of the action, is paid through the so-called “Contributo Unificato”.

The amounts to be paid for the Contributo Unificato are determined by Article 13 of the Decree and they generally depend on the value of the proceeding (e.g. the amount requested in the claim).

In some cases, the amount to be paid is fixed and it depends on the nature of the litigation (article 13 of the Decree).

In particular article 13 of the Decree provides as follows.

Art 13. (L) Amounts due

1. The standard fee is payable in the following amounts
  - a. euro 30 for proceedings of a value up to euro 1,100;
  - b. euro 70 for proceedings of a value between euro 1,100 and euro 5,200 and for non-contentious proceedings and special proceedings as per book IV, chapter II, section VI of the civil procedure code;
  - c. euro 170 for proceedings of a value between euro 5,200 and euro 26,000 and for contentious proceedings of an indeterminable value of the sole jurisdiction of a justice of the peace;
  - d. euro 340 for proceedings of a value between euro 26,000 and euro 52,000 and for civil and administrative proceedings of an indeterminable value;
  - e. euro 500 for proceedings of a value between euro 52,000 and euro 260,000;
  - f. euro 800 for proceedings of a value between euro 260,000 and euro 520,000;
  - g. euro 1,110 for proceedings of a value exceeding euro 520,000.
  
2. For enforcement proceedings regarding property a fee of euro 200 is payable. For other enforcement proceedings this amount is halved. For opposition proceedings to enforcement deeds a fee of euro 120 is payable (7).
  
3. The fee is halved for special cases as per book IV, chapter I, of the civil procedure code, including opposition in court to an injunction and opposition to an insolvency ruling. For the purposes of the fee due, the value of cases of eviction for default shall be established on the basis of the amount of the rent instalments unpaid at the date of notification of the validation writ, and that for cases where the rental or lease term is completed shall be established on the basis of the annual instalments payable.
  
4. For cases regarding leasing and renting, bailment, occupation without right and challenges made to resolutions taken by condominiums, the fee payable is euro 103.30.
  
5. In insolvency proceedings, which are the closing proceedings in which a insolvency is adjudicated, the fee due is euro 672.

If the statement required by article 14 is missing, the value of the case shall be taken as that indicated at paragraph 1, letter g).

Pursuant to article 10 of the Decree, proceedings relating to the following subjects are exempted from the payment of the Contributo Unificato:

- Judicial separations (provisions related to minors and proprietary relations between spouses);
- preventive proceedings (e.g. attachment of debts);
- land registry proceedings,
- proceedings to enforce delivery and release,
- proceedings related to child maintenance payments,
- all proceedings concerning children (e.g. proceedings regarding parental responsibility) and
- rules on competence and jurisdiction.

Pursuant to Article 30 of the Law Decree (herein attached in its English version) the party which brings an action to Court is also called to pay a revenue stamp amounting to Euro 8,00, as a lump sum anticipating costs for possible notifications required by the Court in course of proceeding (e.g. a communication of a Court decision issued *inaudita altera parte*, i.e. without prior hearing of the other party).

With reference to cross border litigations if such proceedings are pending in Italy, they will be disciplined by the Italian law, so the rules governing costs trials will be applicable. In other words a specific cost for this type of controversies is not predicted., foreign parties may be involved with additional costs for specific services, such as translation of acts and documentation or the use of an interpreter

Moreover, in case of enforcement abroad, it appears difficult to foresee the amount of the costs that could be required.

It should also be noted that, pursuant to the Italian/EU International Private Law dispositions, the Italian Judge may be called to apply a foreign law in order to solve EU cross-border disputes. On this case, the costs of the proceeding may increase, due to the need to consult a lawyer of the Country whose law is applicable.

The related costs depend on the number and on the nature and the type of services which are requested by legislation of the other country.

### **2.3 Other proceedings costs**

The parties involved in a proceeding are required to pay additional Court costs as well as the ones required for the Contributo Unificato.

Such costs can be summarized as follows:

- copies of documents (article 40 of the Decree);
- notifications (articles 25 - 39 of the Decree);
- experts, translators and interpreters appointed by the Judge or by the parties (Articles 49 – 57 of the Decree; Ministerial Decree, May 30 2002).

Additional costs may also be required in case of registration of judgements, decisions, and other judicial acts subject to registration duties.

### **2.4 Costs of legal recourses (Appeals...)**

Pursuant to Article 9 of the Decree, a standard fee has to be paid for bringing an action to the courts, at each judicial level, in civil proceedings, including collective creditor action procedures and non-contentious proceedings, and in administrative proceedings, in accordance with the amounts provided in article 13 and except for the exemptions provided in article 10, hereinafter reported.

Such payment, to be made in advance to the filing of the action, is paid through the so-called “Contributo Unificato”.

The amounts to be paid for the Contributo Unificato are determined by Article 13 of the Decree and they generally depend on the value of the proceeding (e.g. the amount requested in the claim).

In some cases the amount to be paid is fixed and it depends on the nature of the litigation (article 13 of the Decree).

In particular article 13 of the Decree provides as follows.

Art 13. (L) Amounts due

1. The standard fee is payable in the following amounts
  - a. euro 30 for proceedings of a value up to euro 1,100;
  - b. euro 70 for proceedings of a value between euro 1,100 and euro 5,200 and for non-contentious proceedings and special proceedings as per book IV, chapter II, section VI of the civil procedure code;
  - c. euro 170 for proceedings of a value between euro 5,200 and euro 26,000 and for contentious proceedings of an indeterminable value of the sole jurisdiction of a justice of the peace;
  - d. euro 340 for proceedings of a value between euro 26,000 and euro 52,000 and for civil and administrative proceedings of an indeterminable value;
  - e. euro 500 for proceedings of a value between euro 52,000 and euro 260,000;
  - f. euro 800 for proceedings of a value between euro 260,000 and euro 520,000;
  - g. euro 1,110 for proceedings of a value exceeding euro 520,000.
  
2. For enforcement proceedings regarding property a fee of euro 200 is payable. For other enforcement proceedings this amount is halved. For opposition proceedings to enforcement deeds a fee of euro 120 is payable (7).
  
3. The fee is halved for special cases as per book IV, chapter I, of the civil procedure code, including opposition in court to an injunction and opposition to an insolvency ruling. For the purposes of the fee due, the value of cases of eviction for default shall be established on the basis of the amount of the rent instalments unpaid at the date of notification of the validation writ, and that for cases where the rental or lease term is completed shall be established on the basis of the annual instalments payable.
  
4. For cases regarding leasing and renting, bailment, occupation without right and challenges made to resolutions taken by condominia, the fee payable is euro 103.30.
  
5. In insolvency proceedings, which are the closing proceedings in which a insolvency is adjudicated, the fee due is euro 672.



If the statement required by article 14 is missing, the value of the case shall be taken as that indicated at paragraph 1, letter g) (8).

Pursuant to article 10 of the Decree, proceedings relating to the following subjects are exempted from the payment of the Contributo Unificato:

Judicial separations (provisions related to minors and proprietary relations between spouses);

preventive proceedings (e.g. attachment of debts);

land registry proceedings,

proceedings to enforce delivery and release,

proceedings related to child maintenance payments,

all proceedings concerning children (e.g. proceedings regarding parental responsibility) and

rules on competence and jurisdiction.

Pursuant to Article 30 of the Law Decree (herein attached in its English version) the party which brings an action to Court is also called to pay a revenue stamp amounting to Euro 8,00, as a lump sum anticipating costs for possible notifications required by the Court in course of proceeding (e.g. a communication of a Court decision issued *inaudita altera parte*, i.e. without prior hearing of the other party).

With reference to cross border litigations if such proceedings are pending in Italy, they will be disciplined by the Italian law, so the rules governing costs trials will be applicable. In other words a specific cost for this type of controversies is not predicted., foreign parties may be involved with additional costs for specific services, such as translation of acts and documentation or the use of an interpreter

Moreover, in case of enforcement abroad, it appears difficult to foresee the amount of the costs that could be required.

It should also be noted that, pursuant to the Italian/EU International Private Law dispositions, the Italian Judge may be called to apply a foreign law in order to solve EU cross-border disputes. On this case, the costs of the proceeding may increase, due to the need to consult a lawyer of the Country whose law is applicable.

The related costs depend on the number and on the nature and the type of services which are requested by legislation of the other country.

## 2.5 Costs of ADR

With reference to the cost impact on the parties, it is opportune to make a distinction between *i)* the Arbitration and *ii)* other ADR proceedings.

### *i) The Arbitration*

Traditionally, the Arbitration is the most used ADR proceeding in Italy. The basic legislation on Arbitration is provided by the Italian Code of Civil Procedure, Articles 806 - 840.

Such legislation gives the opportunity to the parties to have their potential disputes decided by arbitrators.

Such ADR is traditionally very expensive, and its costs are generally much higher than a Court proceeding. This implies that this proceeding is generally used in order to decide over commercial law disputes, related to high value claims.

The Arbitrator is a professional who provides providing its service against payment of a sum of money. Therefore Arbitrators' fees may be compared to lawyers' ones.

Arbitrators' fees are fixed differently whether the arbitration is governed by a Chambers of Arbitration regulation(A.), or not (B.).

#### **A. Arbitration governed by a Chamber of Arbitration regulation.**

The parties accept the Chambers of Arbitration's regulation and, consequently, the fees fixed for both Administration costs and the Arbitrator fees.

In Italy there are numerous Chambers of Arbitration (more than 100) and many of them provide for alternative dispute resolutions as a service (arbitration conciliation procedures). On this regard, it should be noted that each **Chamber of Arbitration provides for its own fees**, and therefore fees are different from the one to the other Chamber of Arbitration.

Following, in order to provide a prompt reference to the reader, are illustrated the tariffs applied by the arbitration chambers of Milan ([www.camera-arbitrale.com](http://www.camera-arbitrale.com)) and of Rome ([www.cameraarbitralediroma.it](http://www.cameraarbitralediroma.it)).

The fees fixed by the Chambers of Arbitration of Rome depend on the value of the claim (Valore della controversia), in the measure hereinafter described:

**Administration Costs** may vary from Euro 400,00 in claims whose value is below Euro 25.000,00, to Euro 130.000,00, in claims whose value exceeds 1000.000.000,00.

**Arbitrator fees:**

Value of the proceeding	Single Arbitrator		Panel of Arbitrators	
VALORE DELLA CONTROVERSA	ONORARIO ARBITRO UNICO		ONORARI COLLEGIO ARBITRALE	
	MIN	MAX	MIN	MAX
da 0 a € 25.000,00	€ 800,00	€ 1.900,00	€ 1.700,00	€ 3.750,00
da € 25.001,00 a € 50.000,00	€ 2.000,00	€ 3.000,00	€ 3.900,00	€ 6.000,00
da € 50.001,00 a € 100.000,00	€ 3.000,00	€ 5.000,00	€ 6.200,00	€ 11.750,00
da € 100.001,00 a € 250.000,00	€ 5.000,00	€ 12.000,00	€ 13.000,00	€ 25.000,00
da € 250.001,00 a € 500.000,00	€ 12.000,00	€ 22.000,00	€ 26.000,00	€ 47.000,00
da € 500.001,00 a € 1.000.000,00	€ 22.000,00	€ 35.000,00	€ 50.000,00	€ 75.000,00
da € 1.000.001,00 a € 2.500.000,00	€ 35.000,00	€ 60.000,00	€ 77.000,00	€ 120.000,00
da € 2.500.001,00 a € 5.000.000,00	€ 60.000,00	€ 90.000,00	€ 120.000,00	€ 180.000,00
da € 5.000.001,00 a € 10.000.000,00	€ 90.000,00	€ 110.000,00	€ 180.000,00	€ 240.000,00
da € 10.000.001,00 a € 25.000.000,00	€ 110.000,00	€ 140.000,00	€ 240.000,00	€ 310.000,00
da € 25.000.001,00 a € 50.000.000,00	€ 140.000,00	€ 190.000,00	€ 310.000,00	€ 400.000,00
da € 50.000.001,00 a € 100.000.000,00	€ 190.000,00	€ 240.000,00	€ 400.000,00	€ 530.000,00
oltre € 100.000.000,00	€ 240.000,00 + 0,05% sull'eccedenza di € 100.000.000,00 Tetto massimo € 258.000,00		€ 530.000,00 + 0,1% sull'eccedenza di € 100.000.000,00 Tetto massimo € 774.000,00	
More than Euros 100.000.000,00	Euros 240.000,00+0,05% on the amount exceeding Euros 100.000.000,00 Maximum ceiling: Euros 258.000,00		Euros 530.000,00+0,1% on the amount exceeding Euros 100.000.000,00 Maximum ceiling: Euros 774.000,00	

**B. Arbitration not governed by a Chamber of Arbitration regulation.**

In absence of a reference to a Chamber of Conciliation regulation, the arbitrators fix their fees by themselves.

In case the parties do not agree with such fees, the arbitrator has to refer to a Judge in order to have its fees approved.

**- International arbitration**

With reference to costs of **international arbitration**, generally in Italy each Chamber of Arbitration provides its rules and the related Schedule of fees. According to the schedules adopted by the principal Chamber of Arbitration in Italy (Rome, Milan), the costs of the proceedings include:

**i) administrative fees**

**ii) fees for a single arbitrator or a panel of arbitrators.**

Such fees are fixed by the Arbitration Council on the basis of the value of the dispute and are published in a specific Schedule of fees. The Schedule of fees usually provides, on the basis of the value of the claim, a range of a minimum and a maximum fee.

The identification of the applicable fee within the range limits shall then be established on the basis of the following parameters:

- a)** the complexity of the dispute,
- b)** the length of the proceeding and
- c)** the work done by the Arbitrator.

In case of an Arbitration Panel, the Arbitration Council can set a different compensation for the various members of the panel, in particular for the Chairman with respect to other members;

iii) if technical experts are required the expenses shall be determined by the Arbitration Council.

**Payments** generally shall be made either by cash, cheque made out to the Chamber before which the action has been brought or else by bank transfer to the Chamber involved.

Please find hereinafter the Schedule Fees of the two principle Italian Arbitration Chambers:

**a) Milan's arbitration Chamber:**

**SCHEDULE OF FEES in Euros**

VALUE OF DISPUTE	FEES CHAMBER OF ARBITRATION	FEES SOLE ARBITRATOR		FEES ARBITRAL PANEL	
		Min	Max	Min	Max
1. Up to 25.000	400	600	1.500	1.600	3.800
2. 25.001 - 50.000	800	1.500	2.500	3.800	6.000
3. 50.001 - 100.000	1.500	2.500	4.500	6.000	12.000
4. 100.001 - 250.000	3.000	4.500	10.000	12.000	25.000
5. 250.001 - 500.000	5.000	10.000	20.000	25.000	50.000
6. 500.001 - 1.000.000	8.000	20.000	30.000	50.000	75.000
7. 1.000.001 - 2.500.000	12.000	30.000	50.000	75.000	120.000
8. 2.500.001 - 5.000.000	18.000	50.000	80.000	120.000	180.000
9. 5.000.001 - 10.000.000	25.000	80.000	100.000	180.000	250.000
10. 10.000.001 - 25.000.000	35.000	100.000	130.000	250.000	320.000
11. 25.000.001 - 50.000.000	48.000	130.000	180.000	320.000	420.000
12. 50.000.001 - 100.000.000	70.000	180.000	230.000	420.000	550.000
13. Above 100.000.000	70.000 + 0,1% of the amount exceeding 100.000.000 Maximum amount 120.000	230.000 +0,05% of the amount exceeding 100.000.000	550.000 +0,12% of the amount exceeding 100.000.000		

This Schedule of Fees shall be effective as of 1 January 2004; it does not include VAT and any other legal and fiscal duties mandated by law.  
The total amount of fees is indicated, to be apportioned among the parties.  
Payments shall be made either by cheque made out to the Chamber of National and International Arbitration of Milan (Camera Arbitrale Nazionale e Internazionale di Milano) or by bank transfer to account no. 00000385926, Intesa San Paolo S.p.A., Milan headquarters (sede centrale di Milano), ABI 03069 - CAB 0400 - CIN H - IBAN IT24 10030 0309 4000 0000 0385 926

b) Rome's arbitration Chamber for web site:  
<http://www.cameraarbitralediroma.it/Dati/File/File13.pdf>

Please consider that Rome's Arbitration Chamber indicates tariffs schedules on international arbitration in USD, as hereinafter described:

- **Registration Fees : USD \$ 1.000;**
- **Administrative Fees:**

Value of the claim	Fees
Up to \$ 50.000	\$ 1.000
From \$ 50.001 - \$ 100.000	\$ 2.000
From \$ 100.001 - \$ 500.000	\$ 4.000
From \$ 500.001 - \$ 1.000.000	\$ 10.000
From \$ 1.000.001 - \$ 2.000.000	\$ 15.000
From \$ 2.000.001 - \$ 5.000.000	\$ 20.000
From \$ 5.000.001 - \$ 10.000.000	\$ 25.000
From \$ 10.000.001 - \$ 50.000.000	\$ 37.000
Beyond \$ 50.000.000	\$ 55.000

- **Arbitrator Fees:**

### Value of the Claim with a single Arbitrator

	min.	max.
Up to \$ 50.000	\$ 2.000	
From \$ 50.001 - \$ 100.000	\$ 2.000	\$ 8.000
From \$ 100.001 - \$ 500.000	\$ 3.000	\$ 25.000
From \$ 500.001 - \$ 1.000.000	\$ 6.000	\$ 40.000
From \$ 1.000.001 - \$ 2.000.000	\$ 10.000	\$ 65.000
From \$ 2.000.001 - \$ 5.000.000	\$ 15.000	\$ 90.000
From \$ 5.000.001 - \$ 10.000.000	\$ 20.000	\$ 120.000
From \$ 10.000.001 - \$ 50.000.000	\$ 40.000	\$ 170.000
Beyond \$ 50.000.000	\$ 50.000	\$ 170.000 + 0,1% exceeding 50.000.000

### Fees Arbitrator panel

	min.	max.
Up to \$ 50.000	\$ 6.000	
From \$ 50.001 - \$ 100.000	\$ 5.000	\$ 17.000
From \$ 100.001 - \$ 500.000	\$ 7.000	\$ 65.000
From \$ 500.001 - \$ 1.000.000	\$ 15.000	\$ 100.000
From \$ 1.000.001- \$ 2.000.000	\$ 25.000	\$ 140.000
From \$ 2.000.001 - \$ 5.000.000	\$ 35.000	\$ 200.000
From \$ 5.000.001 - \$ 10.000.000	\$ 50.000	\$ 280.000
From \$ 10.000.001 - \$ 50.000.000	\$ 90.000	\$ 450.000
Beyond \$ 50.000.000	\$ 120.000	\$ 450.000 + 0.3% exceeding 50.000.000

Such fees are effective for all the procedures established from December 1, 1999.

For example, in case of compensation, the costs are subdivided within the parties (50%)

The maximum fees paid for the Arbitration Committee is 0,1% on the surplus of \$ 100.000.000 for the controversies in which the value exceeds \$ 100.000.000 are the ones indicated in the above schedule,

#### *ii) Other ADR proceedings*

The main other forms of ADR existing in Italy are provided by:

- Law 11 May 1990 No. 108, regarding **extrajudicial conciliation in labour law disputes**, preliminary to a possible judicial claim in dismissal cases;
- Law 29 December 1993, No. 580, regarding the **institution of arbitral commissions at Chamber of Commerce**;
- Law 2 March 1963, No. 320, regarding the **obligatory trial to conciliate before a judicial action is filed**,
- Law Decree 17 January 2003, No. 5, regarding the reform of civil proceeding in **company law cases** (Artt. 38 - 40), which provides for the possibility for the parties to **conciliate before a Chamber of Commerce**.

The costs of such proceedings are, in a general way, lower than those of an Arbitration.

As an example, the costs related to the conciliating procedure provided by Law Decree 17 January 2003, No. 5, (i.e.: **companies proceedings**) it is previewed an initial contribution equal to Euro 30,00 and other costs as described in the following table:

Value of the claim		Expense		(FOR EACH PARTY)	
Up to €	1.000				40
From €	1.001		5.000		100
From €	5.001		10.000		200
From €	10.001		25.000		300
From €	25.001		50.000		500
From €	50.001		250.000		1.000
From €	250.001		500.000		2.000
From €	500.001		2.500.000		4.000
From €	2.500.001		5.000.000		6.000
Over €	5.000.000		?		?

Moreover, Article 19 of the Legislative Decree 9 April, 2003 n. 70 (which implements Directive 2000/31/CE on electronic commerce) provides for an *Online Dispute Resolution* proceeding. The aforesaid article does not provide for any specific cost/item of cost.

Recently the Italian Communication Authority, on 19 April 2007, provided for a regulation referred to disputes between electronic communications operators and users. This ADR also provides for the possibility to attend hearings in videoconference ([www.agcom.it](http://www.agcom.it)).

For a more detailed research and acknowledgement in regard of online dispute resolutions it is advisable for the interested parties to consult the following internet addresses which provide the users with all the relevant information regarding the access to such dispute resolutions, the rules and the tariffs :

- <http://www.conciliaonline.net/conciliaonline/accesso.asp?cciaa=14&lang=2> ;
- <http://www.camera-arbitrale.com/show.jsp?page=118319>

As an example Milan's Arbitration Chamber provides the following tariffs for conciliation proceedings:

Value of proceedings EUROS	Cost for each party
fino a 500	25
da 501 a 1.000	40
Da 1.001 a 5.000	80
Da 5.001 a 10.000	150
Da 10.001 25.000	250
da 25.001 a 50.000	450
Da 50.001 a 250.000	1.000
Oltre 250.001	3.000

Moreover, Milan's Arbitration Chamber provides free online conciliations for the proceedings between consumers and enterprises started within 31<sup>st</sup>, December 2007.



## 2.6 Payment

With reference to payment of Court fees, please note that the Contributo Unificato can be paid by:

- Post office payment;
- Bank payment;
- Authorized agent payment (e.g.: Lottomatica S.p.A.). In this case, it is generally possible to provide for such payment at shops duly licensed by the authorized agents.

## 2.7 E-justice

E-justice in Italy is currently in a development stage and it is the object of a pilot testing project.

We report hereinafter the text of a presentation of the project as drafted in a Brochure provided by the Ministry of Justice which is available in its complete text at the web [page: http://www.processotelematico.giustizia.it/pdapublic/resources/English%20Brochure%20PCT.pdf](http://www.processotelematico.giustizia.it/pdapublic/resources/English%20Brochure%20PCT.pdf)

“The “on-line civil trial” project represents a key step of the Italian judicial system innovation strategy. It will allow the on-line execution - avoiding to physically go to court clerks’ offices - of operations such as the depositing of legal deeds, transmission of communications and notifications, as well as online consultation of case status, court clerks’ registers, case files and relevant jurisprudence. The project will thus permit a significant abbreviation of court cases, as well as providing operational benefits to all players in the civil justice system - including over 160,000 lawyers. For dimension and contents, it can be considered one of the most significant e-government projects in Europe. The on-line civil trial leverages a series of innovative services already developed by Datamat for the Ministry of Justice, and well received by users: Polis, primarily intended for judges and court

clerks, that for the first time permits the creation of a database including relevant jurisprudence; Civil Case Information System, which manages the “electronic dossier” of each case allowing also a more effective analysis and organisation of related workloads; PolisWeb, which provides access to key information concerning case files and court hearing schedules, thus significantly reducing the need to visit court clerks’ offices”.

Moreover, since December 2006, the Tribunal of Milan permits on-line civil trial, only in the cases of requests for Injunctive Decrees.

We point out that to date, more than 500 Injunctive Decrees have been required on-line.

On this regard it worth making reference to an article published on the “Il sole 24 Ore” on 15 June 2007. Please find herein below the translated text.

Milan saves Euro 14 millions with online Injunctive Decrees

On line trial proceeding surely produces economical benefits. And this in Milan has become certainty and recently Italy’s Central Bank Governor (Mr. Mario Draghi) has been of the same advice. This is confirmed and supported from the results of the experimentation conducted on the use of injunction decrees at Milan’s civil court house from December 2006 until today (six month period of trial ). This innovation is worth 14 million euros each year.

The on line modality applied to injunction decrees has brought an overall time saving of at least two months.

This result emerges from a report conducted by Milan’s Court. During the six months considered there have been 1.722 appeals related to Injunction Decrees for a total value of Euro 350 million. Therefore, Euros 700 million if related to a one year activity.

Normally, 60 days is the lapse of time estimated for the achievement of an Injunction Decree, instead by using the on line - procedure the lapse of time for the achievement of an Injunction Decree may vary from a minimum of three days to a maximum of five, so time saving by using this last method is evident.

The results that emerge from the report conducted by Milan's Court have to be taken in serious consideration but at the same time they are not to be considered in an absolute manner.

Milan's Court is convinced that such on line procedure tested with the Injunction Decrees should be extended to other procedures and this is the intention of Italy's Ministry of Justice starting from 2010.

Milan's Court computation seems to confirm that the investment made by the Bar of Milan for the "access point" necessary for the use of the on line procedure related to injunction decrees, has given good results. In economical terms, the investment is estimated around Euros 100.000,00 surely such amount of money is to be considered as an important achievement but it is certainly related with the volume of injunction decrees developed in all the Milan area .

The extension to other Courts on the Italian territory depends only if the other district Bars are willing to invest on the creation of new access points from which the data files can be send directly from the lawyers' firms to the Court.

Of course, Court that don't develop such an amount of "work" (compared with the Milan Court) are not encouraged on such elevated starting up investment (creation of access points) but the huge benefits gained by the Milan's experience must be taken in serious consideration.

Of course the on line trial will be a great challenge for the Italian Justice and Italy grants the primacy in Europe for having been the first one to move in such direction.

On 23 May 2007 the Italian Ministry approved a Bill which aims at introducing e-justice proceedings into the Italian legal system, which should start in 2010 ([http://www.giustizia.it/ministro/com-stampa/xv\\_leg/23.05.07.htm](http://www.giustizia.it/ministro/com-stampa/xv_leg/23.05.07.htm)).

## **2.8 Impact of the number of hearings on costs**

The number of hearings has not a direct impact on the proceedings' costs. In fact, the standard fee to be paid before bringing an action to the Court (the so-

called “Contributo Unificato”, covers the costs of proceeding independently from the number of hearing.

There is not a predetermined number of hearings, the latter may change according to the type of proceeding chosen by the party. Principally the requirements that affect the numbers of hearings are the nature and the complexity of the case

For example:

- Family Law / Civil Status / Labor Law / Lease procedures: the Italian legislation provides for a “quick procedure”.
- Interim measures procedures: also in this case the Italian legislation provides for a quick procedure and during the proceeding there may be even only one hearing.

However the number of hearings may impact on other costs related to the proceeding, such as the costs for copies of the documents, lawyers’ fees, experts’ fees.

## **2.9 Transcription costs**

Transcription costs are required in case of Court acts or judgments resulting in a release or assignment of rents not yet matured for a period longer than three years (Art. 2643, paragraph 9, Italian Civil Code), and in case of judgements which cause the establishment, transfer or modification of real estate rights, such as the:

- o transfer of the ownership of real estate;
- o constitution, transfer or modification of the right of usufruct on real estate and the superficiary right;
- o constitution or modification of the right of use or the right of habitation over real estate;
- o real estate leases with a duration exceeding nine years,

as provided by Article 2643, paragraph 14, Italian Civil Code.

The amount to be paid for transcription costs changes according to the type of act, and they are easily identifiable consulting the table contained in Legislative Decree no. 347 of 31 October 1990, as updated from time to time by the Italian Legislator (the current table is available in the English version of Legislative Decree no. 347 of 31 October 1990 herein attached).

The parties have also the opportunity to consult, for a proper identification of the relevant tariffs, public websites (e.g. [www.agenziaterritorio.it/documentazione/normativa/index/.htm](http://www.agenziaterritorio.it/documentazione/normativa/index/.htm)), private websites ( e.g. [www.deaprofessionale.it](http://www.deaprofessionale.it) ) or by consulting a lawyer. Generally such information is provided by free.

Transcription in Italy is made at the provincial land registry and the relevant services are often provided by private companies which carry out all necessary tasks for the interested party.

The average transcription cost for a party is between 100 and 249 euros and pursuant to Article 2679 of the Italian Civil Code, “those who ask for the transcription are obliged to anticipate the related costs, and they are entitled to reimbursement by the interested party. If more than one person is interested, each of them is called to reimburse the part of the cost corresponding to its share”.

### **3 Lawyers’ consulting and representation fees**

#### **3.1 General**

The rules which govern the lawyer fees can be divided into two principal categories:

i) General Regulation :

- Law Decree 27 November 1933, No. 1578, regarding the regulation on lawyers’ profession;
- Italian Civil Code (articles 2229-2231);

- Italian Civil Procedure Code (articles 91-98);

ii) Special Regulation :

- Ministry Decree 8 April 2004 No. 127 ;
- Lawyers Ethic Code/self-regulation Code adopted by the Lawyers National Association (called : CNF - Consiglio Nazionale Forense)
- Law 4 August 2006 No. 248.

It should preliminarily be noted that the Italian regulation on lawyers' consulting and representation fees has been object of a recent radical intervention of the Italian Legislator, with the so-called "Bersani Decree" (Law-Decree No. 223/2006, as converted into Law No. 248 of 4 August 2006).

⇒ The Bersani Decree, which is aimed at liberalizing lawyers' consulting and representation fees, repealed the obligation to charge fixed or minimum fees, as well as the prohibition from agreeing fees linked to the attainment of objectives.

\*

The information regarding lawyers' representation fees is available on line for free on both public websites (e.g. [www.giustizia.it](http://www.giustizia.it)) and private websites (e.g. [www.consiglionazionaleforense.it](http://www.consiglionazionaleforense.it); [www.avvocati.roma.it/servizi/tarife/tariffe.htm](http://www.avvocati.roma.it/servizi/tarife/tariffe.htm) ; <http://www.foroeuropeo.it/tariffe/tariffe.htm>). The amount of lawyers' fees for judicial proceedings can be obtained by consulting a lawyer, who provides such information for free. Such specific information on lawyers' fees is not provided by brochures, information centres or by calling courts.

\*

- A registered lawyer is generally needed in all litigations. The cases in which a registered lawyers' assistance is not mandatory are limited to the following cases:

- i) Court proceedings: when the total amount of the claim is not higher than Euro 516,46;

- ii) Labour Law: when the amount of the claim is not higher than Euro 129,11;
- iii) Family Law: Judicial separations by mutual consent

Pursuant to article 86 of the Code of Civil Procedure, a lawyer has the possibility to directly represent himself beyond a Court and therefore explicate all the defensive powers admitted by the Law.

\*

The Law 9<sup>th</sup>, February 1982 n.31 (“Free performance of services other Member State lawyers”) allows other Member States qualified lawyers to perform services in Italy temporarily. This law is in compliance with the Directive relating to the free circulation within the EU.

Moreover, non Italian lawyers are entitled to exert the lawyer’s activity, after their professional qualifications, acquired in the Country of origin, has been recognized, as provided by Directive EC No. 89/48 and No. 98/5.

The aforesaid Directives have been implemented in Italy by Legislative Decree No. 115/92 and by Legislative Decree No. 96/2001.

The exercise of the legal professions in Italy is only allowed to those who, after having obtained the title to exert the legal profession in the country of origin, fulfil the other conditions set out by the aforesaid legislative decrees. Those Legislative Decrees set out the required conditions for the recognition of professional qualifications, as well.

\*

Lawyer’s fees are determined by the Italian government, after having consulted the National Lawyers Association.

Lawyers’ fees are organised according to specific schedules provided by Ministerial Decree No.127/2004. Such fees are divided into:

- the so called “onorari” (intellectual services of the lawyer such as the study of the case)

- and the so called “diritti” which refer to the material activity carried out by the lawyer (e.g. access to Court in order to file acts).

(see: [www.consumerlaw.it-tariffario\\_forense](http://www.consumerlaw.it-tariffario_forense); [www.giustizia.it](http://www.giustizia.it)).

The schedules determine lawyers’ fees on the basis of the monetary value of disputes, the level of the court seized and the duration of the proceedings. For each procedural step, or series of steps, the schedules sets maximum and minimum fees.

It is of extreme importance to consider that the Bersani Decree, which is aimed at liberalizing lawyers’ consulting and representation fees, repealed the obligation to charge fixed or minimum fees,. Agreements derogating from the minimum fees set by the scale for lawyers’ services are therefore allowed.

The Bersani Decree also made contingency fees lawful.

Since August 2006, lawyer fees can therefore depend on the case’s decision.

- Lawyers’ fees can also be applied on a per-hour basis.

Hour fees are generally determined on the basis of the skills of the lawyer involved in the assistance and on the basis of a specific agreements with the clients. Pursuant to article 2233 of the Italian Civil Code the agreements between the lawyer and its client has to be drawn up in a writing.

For example the hour fee may be: from 80 Euro/per hour average for a Junior associate to 500-600 Euros/per hour average for a Senior Specialist Lawyer.

The average lawyers’ fees on a per-hour basis can be set between 180 and 249 euros.

Moreover, it should be noted that VAT it applicable to lawyers’ fees at a rate of 20%.

With reference to the methods of payments, it has to be pointed out that pursuant to the Decreto Bersani, due to fiscal purposes, lawyers’ fees have to be paid either by non transferable cheque or by bank transfer. The new regulation is aimed to avoid the



possibility to address cash payments which could be not registered. Actually the only cash payments admitted are the one those lower than Euro 1000,00.

Please also consider that the retainer is usually requested to avoid the expenses anticipation that the Court proceedings request, as provided for by article 43 of the Lawyers Ethic Code. This is due to the length of the proceedings.

### **3.2 Fees depending on the nature of the litigation**

In general the fees are the same for all nature of the proceedings except for the Labour proceedings up to Euros 500,00 in which case s the fees are halved.

Given the fact that in Italy unless a specific agreement between the lawyer and the client, fees are determined on the basis of the value of the controversy and the kind and the numbers of the acts performed by the lawyer (as provided by the Ministerial Decree No.127/2004).

An average amount of lawyers' fees shall be deemed only as a general estimation, made without any scientific approach.

In any case, it is possible to estimate, only for a general overview, the following average amount:

- for Family Law proceedings the average costs of fees can be evaluated between Euros 3.000 and 5.000;
- for Labour Law proceedings the average costs of fees can be evaluated between Euros 5.000 and Euros 25.000, depending on the complexity of the case, the amount disputed and the length of the proceeding ;
- for Commercial Law proceedings the average costs of fees can be evaluated between Euros 5.000 and Euros 50.000, depending on the value of the case (i.e. agreement value), the complexity of the case and the length of the proceeding;
- for Civil Law proceedings (Consumer Protection and Liability) the average costs of fees can be evaluated between Euros 1000,00 and Euro 10.000, depending on the complexity of the case, the amount disputed and the length of the proceeding;

- for Property law proceedings (lease) the average costs of fees can be evaluated around Euro 5000,00, but they depend on the complexity of the case, the amount disputed and the length of the proceeding;
- for Civil status the average costs of fees can be set around 4.000,00.

Please note that such costs are not required in legal aid or consumers' association assistance.

### 3.3 Fees depending on the type of lawsuit or proceedings

An average amount of lawyers' fees shall be deemed only as a general estimation, made without any scientific approach.

In any case, it is possible to estimate, only for a general overview, the following average amount:

- **Interim Measures/Urgency claims:** It depends on the value of the controversy, the complexity of the case. An average cost can be set around Euros 7.000;
- **Ordinary proceedings:** it depends on the value of the controversy, the complexity of the case, the variety and the numbers of the acts and therefore on the proceeding length. An average cost can be set between 5.000 and 30.000;
- **Special proceedings:** as provided by the Italian Code of Civil Procedure and according to the schedules provided by the aforesaid Ministerial Decree, such proceedings include, for example, order for possession, notice to quit, request for injunction decree). The fees depend on the value of the controversy, the complexity of the case. An average cost can be set around 5.000;
- **Enforcement proceeding:** as provided by the Italian Code of Civil Procedure and according to the schedules provided by the aforesaid Ministerial Decree, such proceedings include the enforcement of judgement and the execution proceedings. The fees depend on the value and the nature of the goods distrained, on the complexity of the case, on the numbers of the acts and the length of the proceeding. An average cost can be set around 3.000 and around 10.000 for estate properties.

### 3.4 Fees depending on the value of the claim

. In general the fees as determined by the schedules provided by the Ministerial Decree No.127/2004 depend on the value of the controversy.

The schedules determine lawyers' fees on the basis of the **monetary value of disputes**, the level of the court seized and the duration of the proceedings. For each procedural step, or series of steps, the schedules sets maximum and minimum fees.

It is of extreme importance to consider that the Bersani Decree, which is aimed at liberalizing lawyers' consulting and representation fees, repealed the obligation to charge fixed or minimum fees,. Agreements derogating from the minimum fees set by the scale for lawyers' services are therefore allowed.

### 3.5 Fees depending on the jurisdiction

An average amount of lawyers' fees shall be deemed only as a general estimation, made without any scientific approach.

In any case, it is possible to estimate, only for a general overview, the following average amount:

- Judge of Peace (Giudice di Pace) - Such Judge is competent for controversies valuing up to Euros 5.000 and up to Euros 30.000 for damages liability arising from road traffic. The average cost can be set around Euros 2.000;
- Court: an average cost can be set between Euros 5.000 and Euros 30.000;
- Appeal / Court of Cassation: an average cost can set between Euros 5.000 and Euros 30.000
- ..

### 3.6 Legal aids cases

Legal aid is limited to those parties filing the request, having an annual income below Euro 9.723,84, except in the case of criminal cases when Euro 1.032,94 is added to this for each cohabiting dependent.

In civil, administrative, voluntary (non-contentious), tax and accounting cases an assessment is made as to whether the applicant's cause is not manifestly unfounded.

Legal aid can also be granted to not -for-profit organisations and associations that do not perform any economic activity.

Legal aid is also granted to nationals involved in a cross-border cases. The requirements needed to benefit legal aid in this case are the same as those required to obtain the benefit for disputes in the national territory. Moreover , the Legislative Decree no. 116 of 27 May 2005 has implemented the European Directive 2003/8/EC. It is to be noted that the object of the directive is to improve the access to justice in cross-border disputes by establishing minimum common rules relating to legal aid borne by the State in such cases published in Official Journal no. 151 of 1 July 2005.

In civil proceedings legal aid is granted by the council of the institute of lawyers on an advance and temporary basis.

Pursuant to the Italian legislation in case of admission to the legal aid procedure all the costs related to the proceeding are bared by the State (see D.P.R. 30<sup>th</sup>, May, 2202, n.115), except if during the procedure there is a significant changement of the economic conditions of the subject admitted.

If the party which granted legal is entitled to recover the expenses disbursed in his favor, the State has the right to be refunded by the other party.

This right may be exercised for charged and advanced expenses when by Judgment or settlement the party granted legal aid has reached at least one sixth of the expenses, or in the event of waiving action or the discharge of judgement; it may only be exercised for the expenses provided in advance, independently from the sum or value reached.

In cases in which a settlement is reached, all of the parties are jointly liable for the payment of the charged expenses and these may not be transferred to the party granted legal aid. Any agreement to the contrary is null and void.

When judgment is discharged or waived, the plaintiff or claimant other than the party granted legal aid is liable to pay the expenses charged.

In the case of cancellation pursuant to article 309 of the civil procedural code, and in cases of discharge other than those provided in paragraphs 2 and 4, all the parties are bound jointly to pay the expenses charged.

### **3.7 Contingency fees**

The Bersani Decree, is aimed at liberalizing lawyers' consulting and representation fees, repealed the obligation to charge fixed or minimum fees,. Agreements derogating from the minimum fees set by the scale for lawyers' services are therefore allowed.

The Bersani Decree also made contingency fees lawful.

Since August 2006, lawyer fees can therefore depend on the case's decision.

The first experiences show as the clients want to fix the amount of the fees due to the lawyer in respect of the result achieved (success fee principle).

It is early to estimate an average cost of the fees determined on the basis of the free negotiation between the lawyers and the clients. The adoption of the contingency fees is not yet entered in the current practice..

## **3.8 Payment**

### **3.8.1 Retainers**

In general, for the long-time assistance relationship the lawyer and its client agree that payments are made on a periodical bases (e.g.: quarterly); in case of assistance provided for a proceeding, in general the client pay an amount requested by the lawyer for retainer and the following payments are requested by the lawyer on the basis of the state of the proceeding and on the activity already performed..

Moreover, it should be noted that VAT it applicable to lawyers' fees at a rate of 20%.

With reference to the methods of payments, it has to be pointed out that pursuant to the Decreto Bersani, due to fiscal purposes, lawyers' fees have to be paid either by non transferable cheque or by bank transfer. The new regulation is aimed to avoid the possibility to address cash payments which could be not registered. Actually the only cash payments admitted are the one those lower than Euro 1000,00.

Please also consider that the retainer is usually requested to avoid the expenses anticipation that the Court proceedings request, as provided for by article 43 of the Lawyers Ethic Code. This is due to the lenght of the proceedings.

## **3.9 Conclusions and recommendations**

In addition to the preliminary comments represented in the paragraph 3.1 above, on the basis of our experience, we can consider as follows.

Lawyers' fees are foreseeable in the measure that the lawyer finds an agreement with his client before the professional activity starts.

In case of application of lawyers' schedules, lawyers' fees are not greatly foreseeable, in consideration of the possible items of costs arising in course of proceeding. In this case,

in fact, lawyers' fees depend on the value of the controversy together with the kind and number of acts, hearings, correspondence, ecc..

Lawyers' fees are not neither greatly foreseeable in case of application of hour-based fees. In this case, in fact, the client and the lawyer himself may not have a grounded awareness of the possible number of hours necessary to perform the activity and even the number of lawyer who may be involved in the management of a case within a law firm.

In any case, the best practice is to agree before the starting of the legal assistance on a maximum ceiling and/or on to clarify in advance a possible range of the final fees.

The public is generally informed about the costs, mostly if this is a company referring to lawyers in their everyday practice. The level of information may decrease in case of individuals referring to lawyer only from time to time, and with regard to single issues that may rise in their lives.

The cost of lawyers does not seem to be a deterrent for an access to justice. A person who refers to a lawyer in order to bring an action to the court generally acts in order to see his rights enforced, with the possibility to be refunded of the legal expenses in case of winning the case. This perspective may also be increased in case of agreement for contingency fees which are however not yet entered into the Italian practice yet.

With respect to contingency fees it is also possible to observe that if on the one hand they are such as to lower or annul lawyers' fees they may, on the other hand, lower the professionally and the impartiality/neutrality which should characterise lawyers' activity.

In Italy there is not a specific cost for cross border litigation. Nonetheless, cross border litigation may involve higher costs related to correspondence, travels, need to serve notification abroad, interpreters as well as the possible need to refer to experienced lawyer with international background, whose fees might be higher than other lawyers.

The total costs may be reimbursed in their entirety to the winning party of a judicial proceeding.

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## 4 Bailiff fees

### 4.1 General

. Bailiff's intervention is required for the accomplishment of many different tasks and, in particular:

- a) for serving notifications of judicial acts (e.g. writs of summons, witness summons, Court judgements, etc.);
- b) for serving notifications of non-judicial acts (e.g. notification of the reasons of disagreement with condominium assembly resolution to the condominium administrator - art. 1132 Italian Civil Code);
- c) for obtaining the enforcement of a decision;
- d) for other activities, such as bailiff's intimation to the creditor to receive the performance of an obligation by the debtor (Articles 1206 - 1217 Italian Civil Code).

**Bailiffs fees in Italy are regulated by the D.P.R. of May 30 2002 No. 115 (articles 19 - 39).**

The relevant information referring to Bailiffs activity's and fees are provided for free both by public websites ([www.giustizia.it](http://www.giustizia.it)) and private websites (<http://www.auge.it/index.htm> <http://www.uiug.com>) as well as by consulting a lawyer. Such information is not provided by brochures, information centres or by calling courts.

Payment of bailiffs' fees is borne by the party requesting for the Bailiffs services or by the Italian State Treasury in cases of legal aid or proceedings exempted from such costs (e.g. labour law proceedings).

Pursuant to Articles 34. 35, 36 of the Decree, Bailiffs' fees are determined by:

- the **number** of the receivers whom the notifications are addressed to;
- the **distance** covered by the Bailiffs for the service. Please consider that the Bailiffs are assigned a specific territory in which they directly carry out the service (by



hands). The services that have to be implemented outside the assigned territory are carried out by the postal service. In this case no compensation sums are due to the Bailiff but the party requesting the service has to pay exclusively the post service.

- the **urgency** of the notification;

It should also be noted that the **average cost** for non-urgent bailiffs' notification by hand or by mail amounts to about **Euro 7,00 for each receiver of the served act**. In case a bailiffs has to serve for **urgent** documents ( for urgent its to be intended the same day or next-day delivery) the charges and carriage costs are **increased of 50%**.

The charges are payable on the scales provided for by statute and vary with the number of addressees (from Euro 2.58 for two addressees to Euro 12.39 for a further six addressees).

Carriage costs are payable on the scales provided for by statute and vary on a progressive scale with the distance in kilometres to be covered; the rates are modest (for distances of more than 18 km the cost is Euro 3.06, plus Euro 0.65 per additional 6 km or fraction of at least 3 km).

If the party is eligible for legal aid, the bailiff's charges and carriage costs and all costs of service are payable in advance by the Treasury or debited to it.

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Pursuant to the provisions of the Legislative Decree n.5/2003 (regarding ***the companies proceedings***), the Bailiffs' services can also be avoided for the notification of the acts. In such cases the service can also be made, alternatively, :

- a. by fax;
- b. by e-mail;
- c. by direct exchange between legal representatives with signatures endorsed for receipt on the original, even by staff employed in the lawyers' offices.

Transmission by fax or e-mail must comply with the legislation on the signing and transmission of computerised documents transmitted electronically.

In all these cases the payment of bailiffs' fees is avoided. Nevertheless, with reference to notifications by fax or by e-mail, the current practice has not yet seen a widespread application. In particular, the difficulties that these kind of notifications find in practice are mostly related to the fact that, due to technical matters, a proving evidence of the fulfilled notification of the act is not yet guaranteed.

## 4.2 Ante judgment

Bailiffs' activity *ante judgement* is required for serving notifications of judicial acts for the purpose of commencing a judicial proceeding (e.g. writ of summons, recourse in appeal, ecc.).

Moreover, Bailiffs may also be required to perform extra-judicial activities, such as to serve notification of non-judicial acts or to carry out other activities, such as the intimation to the creditor to receive the performance of an obligation by the debtor.

The fees for Bailiffs' activity *ante judgement* are provided on the basis of:

**i)** the **number** of the receivers whom the notifications are addressed to and, in particular:

- a.** for orders having one or two recipients **euro 2.58**;
- b.** for orders having from three to six recipients **Euro 7.75**;
- c.** for orders having more than six recipients **Euro 12.39**

**ii)** the **distance** covered by the Bailiffs for the service and, in particular:

- a.** up to six kilometres **Euro 1.39**;
- b.** up to twelve kilometres **Euro 2.56**;
- c.** up to eighteen kilometres **Euro 3.48**;
- d.** over eighteen kilometres, for each additional six kilometres or additional part exceeding three kilometres, the aforementioned amount plus **Euro 0.74**)

**iii)** the **urgency** of the notification: fees and travel allowances are increased by 50% for urgent procedures.

The party asking for notification has to pay the relative costs and in case of legal aid or of proceedings exempted from the payment of costs, these will be paid by the Italian Treasury (e.g. labor law proceedings).

Payment is generally due simultaneously with the notification and it is anticipated by the party, unless the party is required to further integrations after the notification.

### **4.3 During proceedings**

Bailiffs' activity during proceedings is required in order to serve notifications of acts functional to the proceeding, such as witness summons or interim measures orders.

With reference to fees they are provided on the basis of

**i)** the number of the receivers whom the notifications are addressed and in particular:

**a.** for orders having up to two recipients Euro 2.58;

**b.** for orders having from three to six recipients Euro 7.75;

**c.** for orders having more than six recipients Euro 12.39;

**ii)** the distance covered by the Bailiffs for the service and, in particular:

**a.** up to six kilometres Euro 1.39;

**b.** up to twelve kilometres Euro 2.56;

**c.** up to eighteen kilometres Euro 3.48;

**d.** over eighteen kilometres, for each additional six kilometres or additional part exceeding three kilometres, the aforementioned amount plus Euro 0.74;

**iii)** the urgency of the notification: fees and travel allowances are increased by 50% for urgent procedures.

In case a party needs to notify in a foreign country bailiffs service can not implemented but the party should make use of the postal service and the relevant costs are born by the subject who asks for the service.

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#### **4.4 Post proceedings**

Bailiffs' activity post proceeding is required in order to serve notification of Court judgements or decision (whose fees are fixed on the basis of the variables, as described above), as well as for obtaining the enforcement of a Judgement decision.

In the latter case, pursuant to Articles 37 and 38 of the Decree, fees may vary according to:

- the value of the act enforced;
- the distance covered by the Bailiffs for the service; Please note that in case of enforcement, the value of indemnity due to the bailiff for the distance covered for the service is twice the one required for notification.

#### **4.5 Legal aid cases**

Payment of bailiffs' fees is born by the party requesting for the Bailiffs services or by the Italian State Treasury in cases of legal aid or proceedings exempted from such costs (e.g. labour law proceedings).

#### **4.6 Payment**

- . Payment for bailiffs' fees has to be performed in cash.

##### **4.6.1 Retainer**

The payment of the total amount for the service is required at the moment the notification is requested, unless further integration are required to the parties.

The party requiring bailiffs' services have to pay a lump sum in advance.

Following the performance of the service:

- the party may be required to integrate its payment, in case the lump sum was insufficient to cover all bailiff's fees;
- the party may be entitled to request the refunding of exceeding amounts, in case the lump sum paid was too high.

## 5 Expert fees

### 5.1 General

Within the Italian civil judicial proceeding, the “Expert” is an auxiliary to the Judge which is appointed in case of need of a consultancy over technical matters (e.g. medical, engineering, ecc.). The Expert can only appointed by the Judge.

Expert fees are governed by the following regulation:

Law July 8, 1980, No.319;

Ministry Decree 30 May, 2002

D.P.R. May 2002, 30, No. 115.

The information referring to experts activities and fees are provided for free both by public websites ([www.giustizia.it](http://www.giustizia.it)) and private websites (<http://www.techius.org>), as well as by consulting a lawyer, the expert, or the trade association Associazione Italiana Consulenti Tecnici in Procedimenti Giudiziari. Such information is not provided by brochures, information centres or by calling courts.

Expert fees are governed by the following regulation:

Law July 8, 1980, No.319;

Ministry Decree 30 May, 2002

D.P.R. May 2002, 30, No. 115 (the Decree).

In particular, experts are entitled to receive a fee, a travel and board allowance, travel expenses and a refund of the costs incurred in performing the engagement (article 49 of the Decree).

Pursuant to article 50 of the Decree, the amount of fixed and variable fees and fees paid on a time basis is established by tables approved by a decree of the Minister of Justice, in agreement with the Minister for the Economy and Finance, pursuant to article 17, paragraphs 3 and 4 of Law no. 400 of 23 August 1988.

These tables have been drawn up by making reference to any existing professional rates regarding the same subject adapted to the legal nature of the engagement.

Tables regarding fees paid on a time basis provide details of the hourly rate, making a distinction between the first hour and subsequent hours as the case may be, the percentage increase in case of urgency, the maximum level of hours per day and information as to when this limit may be exceeded for an engagement performed in the presence of the judicial authorities.

The tables currently applicable are provided by Ministry Decree 30 May, 2002 and provide as follows.

A table containing the fixed and variable fees of experts and technical consultants for engagements performed under disposition of the judicial authorities in civil and criminal matters, implementing article 2 of Law no. 319 of 8 July 1980.

1. To determine fees payable on a percentage basis the reference point to be used for appraisals shall be the value of the asset or other property being appraised, determined on the basis of objective factors resulting from the minutes of the trial, while the reference point to be used for technical consultancy shall be the value of the dispute; if it is not possible to apply these criteria the fees payable shall be proportional to the time considered necessary to perform the engagement, determined as time parcels (vacazioni).

2. Fees for appraisals or technical consultancy in administrative, accounting and fiscal matters shall be payable to the appraiser or technical consultant on a percentage basis in bands as follows:

up to € 5,164.57, from 4.6896% to 9.3951%;  
from € 5,164.58 and up to € 10,329.14, from 3.7580% to 7.5160%;  
from € 10,329.15 and up to € 25,822.84, from 2.8106% to 5.6370%;  
from € 25,822.85 and up to € 51,645.69, from 2.3527% to 4.6896%;  
from € 51,645.70 and up to € 103,291.38, from 1.8790% to 3.7580%;  
from € 103,291.39 and up to € 258,228.45, from 0.9316% to 1.8790%;  
from € 258,228.46 and up to but not exceeding € 516,456.90, from 0.4737% to 0.9474%.

In all cases a fee of not less than € 145.12 shall be payable.

3. Fees for appraisals or technical consultancy in matters relating to the appraisal of companies and businesses, heritage bodies (enti patrimoniali), company situations, estates, goodwill, entitlements to damages, corporate and industrial rights and appraisals relating to movable assets in general shall be payable to the appraiser or technical consultant pursuant to the preceding article as reduced by one half.

In all cases a fee of not less than € 145.12 shall be payable.

4. Fees for appraisals or technical consultancy in matters relating to a balance sheet and respective profit and loss account shall be payable to the appraiser or technical consultant on a percentage basis in bands as follows:

A. Total assets:

- up to € 51,645.69, from 0.3790% to 0.7579%;
- from € 51,645.70 and up to € 103,291.38, from 0.1405% to 0.2811%;
- from € 103,291.39 and up to € 258,228,45, from 0.0932% to 0.1879%;
- from € 258,228.46 and up to € 516,456.90, from 0.0474% to 0.0947%;
- from € 516,456.91 and up to € 1,032,913.80, from 0.0235% to 0.0471%;
- from € 1,032,913.81 and up to but not exceeding € 2,582,284.50, from 0.0093% to 0.0188%.

B. Gross revenues:

- up to € 258,228.45, from 0.0932% to 0.1879%;

- from € 258,228.46 and up to € 516,456.90, from 0.0474% to 0.0947%;
- from € 516,546.91 and up to € 1,032,913.80, from 0.0188% to 0.0376%;
- from € 1,032,913.81 and up to but not exceeding € 5,164,568.99, from 0.0093% to 0.0188%.

The above fees shall be reduced by one half if the financial statements relate to companies, bodies or businesses that do not perform any commercial or industrial activities or whose activities are limited to the pure and simple administration of real estate or the enjoyment of investment income; this disposition shall not be applicable to public bodies.

In all cases a fee of not less than € 145.12 shall be payable.

5. Save the matters provided in the previous paragraph, a fee of between € 145.12 and € 970.42 shall be payable to the appraiser or technical consultant for appraisals or technical consultancy in matters relating to inventory and accounting statements and positions.

6. Fees for appraisals or technical consultancy in matters relating to general damages shall be payable to the appraiser or technical consultant as a percentage of the total amount allowed in bands as follows:

- up to € 3,098.74, from 4.6896% to 9.3951%;
- from € 3,098.75 and up to € 5,164.57, from 3.7580% to 7.5160%;
- from € 5,164.58 and up to € 10,329.14, from 3.2843% to 6.5686%;
- from € 10,329.15 and up to € 25,822.84, from 2.8106% to 5.6370%;
- from € 25,822.85 and up to € 51,645.69, from 1.8790% to 3.7580%;
- from € 51,645.70 and up to € 103,291.38, from 1.4053% to 2.8106%;
- from € 103,291.39 and up to € 258,228.45, from 0.7042% to 1.4085%;
- from € 258,228.46 and up to but not exceeding € 516,456.90, from 0.2353% to 0.4705%.

In all cases a fee of not less than € 145.12 shall be payable.



Fees for appraisals or technical consultancy in matters relating to specific damages shall be payable to the appraiser or technical consultant as a percentage of the total amount liquidated in bands as follows:

- up to € 3,098.74, from 3.2843% to 6.5686%;
- from € 3,098.75 and up to € 5,164.57, from 2.8106% to 5.6370%;
- from € 5,164.58 and up to € 15,493.71, from 1.4053% to 2.8106%;
- from € 15,493.72 and up to € 30,987.41, from 0.7042% to 1.4085%;
- from € 30,987.42 and up to € 51,645.69, from 0.4737% to 0.9474%;
- from € 51,645.70 and up to but not exceeding € 103,291.38, from 0.2353% to 0.4705%.

In all cases a fee of not less than € 145.12 shall be payable.

7. A fee of between € 145.12 and € 484.95 shall be payable to the appraiser or technical consultant for appraisals or technical consultancy performed using actuarial methods for determining balances or positions relating to compensation or social security, loans, bare property and usufruct, financial depreciation and amortisation and cost of living and monetary revaluation adjustments.

A fee of between € 193.67 and € 582.05 shall be payable to the appraiser or technical consultant for appraisals or technical consultancy for verifying the technical bases used for social security and state benefit funds, individual mathematical reserves and the values of cumulative length of service redemption for social security and retirement purposes.

8. Fees for appraisals or technical consultancy for assessing the financial equilibrium of social security and state benefit funds shall be payable to the appraiser or technical consultant as a percentage of the inflows, actual or presumed, of the year to which the appraisal relates in bands as follows:

- up to € 103,291.38 from 0.6632%, to 1.3106%;
- from € 103,291.39 and up to € 258,228.45, from 0,3790% to 0.7579%;
- from € 258,228.46 and up to € 516,456.90, from 0.2842% to 0.5684%;
- from € 516,456.91 and up to € 5,164,568.99, from 0.0379% to 0.0758%;

- from € 5,164,569 and up to but not exceeding € 25,822,844.95, from 0.0093% to 0.0188%.

In all cases a fee of not less than € 145.12 shall be payable.

Fees for appraisals or technical consultancy for technical analyses of historical or prospective financial statements of social security, insurance or financial organisations shall be payable to the appraiser or technical consultant on a percentage basis in bands as follows:

- up to € 103,291.38, from 0.3284% to 0.6569%;
- from € 103,291.39 and up to € 258,228.45, from 0.1405% to 0.2811%;
- from € 258,228.46 and up to € 516,456.90, from 0.0474% to 0.0947%;
- from € 516,456.91 and up to € 5,164,568.99, from 0.0141% to 0.0281%;
- from € 5,164,569 and up to but not exceeding € 51,645,689.91, from 0.00235% to 0.0047%.

If the analysis referred to regards more than one set of financial statements, the total fee shall be determined as the sum of the fees relating to the most recent set of financial statements and those relating to each previous set reduced by one half.

In all cases a fee of not less than € 145.12 shall be payable.

9. A fee of between € 96.58 and € 484.95 shall be payable to the appraiser or technical consultant for appraisals or technical consultancy in matters relating to paintings, sculptures and similar objects.

If the investigation relates to more than one exhibit, the fee payable for each exhibit subsequent to the first shall be reduced by a factor of between one third and two thirds.

10. A fee of between € 145.12 and € 582.05 shall be payable to the appraiser or technical consultant for appraisals or technical consultancy in matters relating to the assessment of compensation or social security, insurance, state benefit and fiscal contributions and all other questions regarding employment relationships.

11. Fees payable for appraisals or technical consultancy in matters relating to building and construction, industrial plant, plant for general services, electrical equipment, individual machines and their parts, railways, roads and canals, hydraulic works, aqueducts and sewers, bridges, individual manufactured goods and special structures, projects to reclaim agricultural land and similar shall be payable to the appraiser or technical consultant on a percentage basis in bands as follows:

- up to € 5,164.57, from 6.5686% to 13.1531%;
- from € 5,164.58 and up to € 10,329.14, from 4.6896% to 9.3951%;
- from € 10,329.15 and up to € 25,822.84, from 3.7580% to 7.5160%;
- from € 25,822.85 and up to € 51,645.69, from 2.8106% to 5.6370%;
- from € 51,645.70 and up to € 103,291.38, from 1.8790% to 3.7580%;
- from € 103,291.39 and up to € 258,228.45, from 0.9316% to 1.8790%;
- from € 258,228.46 and up to but not exceeding € 516,456.90, from 0.2353% to 0.4705%.

In all cases a fee of not less than € 145.12 shall be payable.

12. A fee ranging from a minimum of € 145.12 to a maximum of € 970.42 shall be payable to the appraiser or technical consultant for appraisals or technical consultancy in matters relating to the extent to which works respond to the technical requisites of projects and/or contracts, specifications and norms, the testing of works and supplies, the measurement and accounting for works and the updating and revision of prices.

A fee ranging from a minimum of € 145.12 to a maximum of € 970.42 shall be payable to the appraiser or technical consultant for appraisals or technical consultancy in matters relating to topographic, planimetric and altimetric reliefs, including triangulations and poligonations, the measurement of countryside funds and reliefs of roads, canals, factories, urban centres and buildable areas.

13. Fees for appraisals or technical consultancy for property valuation estimates shall be payable to the appraiser or technical consultant as a percentage of the estimated amount in bands as follows:

- up to € 5,164.57, from 1.0264% to 2.0685%;
- from € 5,164.58 and up to € 10,329.14, from 0.9316% to 1.8790%;
- from € 10,329.15 and up to € 25,822.84, from 0.8369% to 1.6895%;
- from € 25,822.85 and up to € 51,645.69, from 0.5684% to 1.1211%;
- from € 51,645.70 and up to € 103,291.38, from 0.3790% to 0.7579%;
- from € 103,291.39 and up to € 258,228.45, from 0.2842% to 0.5684%;
- from € 258,228.46 and up to but not exceeding € 516,456.90, from 0.0474% to 0.0947%.

In the case of a summary estimate a fee shall be payable to the appraiser or technical consultant determined pursuant to the preceding article as reduced by one half; in the case of a simple valuation estimate the amount is reduced by two thirds.

In all cases a fee of not less than € 145.12 shall be payable.

14. Fees for appraisals or technical consultancy in matters relating to quarries and mines, minerals and solid, liquid and gaseous substances shall be payable to the appraiser or technical consultant as a percentage of the estimated amount in bands as follows:

- up to € 5,164.57, from 1.4053% to 2.8106%;
- from € 5,164.58 and up to € 10,329.14, from 0.9316% to 1.8790%;
- from € 10,329.15 and up to € 25,822.84, from 0.4737% to 0.9474%;
- from € 25,822.85 and up to € 51,645.69, from 0.2842% to 0.5684%;
- from € 51,645.70 and up to € 103,291.38, from 0.1879% to 0.3758%;
- from € 103,291.39 and up to € 258,228.45, from 0.0932% to 0.1879%;
- from € 258,228.46 and up to but not exceeding € 516,456.90, from 0.0474% to 0.0947%.

In all cases a fee of not less than € 145.12 shall be payable.

15. Fees for appraisals or technical consultancy in matters relating to the valuation, repair and conversion of aircraft, ships and other water craft and in matters of rescue and recovery shall be payable to the appraiser or technical consultant pursuant to article

11 as reduced by one half. In matters relating to the valuation of damages the fees as previously determined shall be reduced by a further half.

In all cases a fee of not less than € 96.58 shall be payable.

16. A fee ranging from a minimum of € 145.12 to a maximum of € 970.42 shall be payable to the appraiser or technical consultant for matters relating to administrative and accounting functions regarding houses and countryside assets, to the curatorship of agricultural businesses, to fair rent, to the rental of town or country estates, to the drawing up of estimates of the damage caused by fire and hail and to the preparation of tables for the determination of the allocation of condominium service charges.

17. Fees for technical consultancy in matters relating to road and traffic accidents shall be payable to the technical consultant on a percentage basis in bands as follows:

- up to € 258.23, from 7.5160% to 15.0321%;
- from € 258.24 and up to € 516.46, from 5.6370% to 11.2741%;
- from € 516.47 and up to € 2,582.28, from 3.7580% to 7.5160%;
- from € 2,582.29 and up to € 25,822.84, from 1.4053% to 2.8106%;
- from € 25,822.85 and up to but not exceeding € 51,645.69, from 0.9316% to 1.8790%.

In all cases a fee of not less than € 38.73 shall be payable.

The value shall be determined on the basis of the size of the damage caused to the object. In the case that more than one object is damaged, the damage of the largest amount shall be taken. For valuations relating to matters in the first paragraph, the fee shall be proportional to the time considered necessary to perform the engagement, determined as time parcels (vacazioni).

18. A fee of between € 48.03 and € 145.12 shall be payable to the appraiser or technical consultant for appraisals or technical consultancy relating to explosives, arms, bullets, cartridges and similar objects, for the first exhibit.

If the exhibit consists of one weapon then the bullets and cartridges in that weapon shall be included in that exhibit.

A fee of between € 96.58 and € 387.86 shall be payable to the appraiser or technical consultant for the first exhibit on matters relating to ballistics.

When the investigation referred to in the first and third paragraphs relates to more than one exhibit the fees payable for each exhibit subsequent to the first shall be reduced by a factor of between one third and two thirds.

19. A fee ranging from a minimum of € 241.70 to a maximum of € 4,852.11 shall be payable to the appraiser or technical consultant for matters relating to applied geomorphology, hydrology, applied geology and slope stability.

20. The following fees shall be payable to the expert relating to matters of a legal-medical nature in the case that a minuted opinion is expressed immediately; these fees are not cumulative:

legal-medical visit € 19.11;  
external inspection of a corpse € 19.11;  
post mortem € 67.66;  
post mortem on an exhumed corpse € 96,58.

If an opinion cannot be expressed immediately and if a written report is then issued, the following fees shall be payable to the expert for the same work:

for legal-medical visits from € 48.03 to € 145.12;  
for the examination of corpses from € 116.20 to € 387.86.

21. A fee of between € 48.03 and € 290.77 shall be payable to the technical consultant for technical consultancy relating to medical investigations, diagnoses and the identification of pathogenic agents relating to a person.

22. A fee of € 14.46 per sample shall be payable to the expert or technical consultant for a valuation or technical consultancy relating to the measurement of the level of alcohol.

23. A fee of € 28.92 per sample shall be payable to the expert or technical consultant for a valuation or technical consultancy relating to research to determine the level of carboxyhemoglobinemia.

24. A fee of between € 96.58 and € 387.86 shall be payable to the expert or technical consultant for a valuation or technical consultancy relating to psychiatric or criminological matters.

25. A fee of between € 28.92 and € 290.77 shall be payable to the expert or technical consultant for a valuation or technical consultancy relating to diagnoses carried out on biological materials or on biological traces or biological investigations or evaluations of the results of laboratory tests on biological traces.

If there is more than one exhibit or marker subject to examination the fee payable for each one subsequent to the first shall be reduced by one half.

26. The following fees shall be payable to the expert or technical consultant for a diagnostic examination of animals in the case that a minuted opinion is expressed immediately; these fees are not cumulative:

clinical visit € 19.11;

necroscopic examination € 67.66.

If an opinion cannot be expressed immediately and if a written report is then issued, the following fees shall be payable to the expert or technical consultant for the same work:

- for a clinical visit from € 48.03 to € 145.12;
- for a necroscopic examination from € 96.58 to € 290.77.

In the case of infectious, epidemic or endemic diseases that have infected several members of a flock or herd of animals or a breeding farm the fees referred to in the previous paragraph shall be doubled.

27. A fee of between € 48.03 and € 145.12 per sample shall be payable to the expert or technical consultant for a toxicological valuation or technical consultancy carried out through qualitative research on a non-biological exhibit and between € 67.66 and € 193.67 per sample if carried out through quantitative research.

A fee of between € 67.66 and € 193.67 for each substance shall be payable to the expert or technical consultant for a toxicological valuation or technical consultancy carried out through qualitative research on a biological exhibit and between € 48.03 and € 145.12 for each substance if carried out through quantitative research.

If there is more than one substance or sample subject to examination the fee payable for each substance or sample subsequent to the first shall be reduced by one half.

28. A fee of between € 48.03 and € 145.12 shall be payable to the expert or technical consultant for a valuation or technical consultancy of a chemical-toxicological nature carried out through complete general unknown quantitative or qualitative research on inorganic substances, volatile organic substances, non-volatile organic substances and pathogenic agents.

A fee of between € 48.03 and € 407.48 shall be payable to the expert or technical consultant for an ecotoxicological valuation or technical consultancy aimed at ascertaining alterations in and impurities of any substance or identifying infecting, infesting or polluting pathological agents.

A fee of between € 48.03 and € 484.95 shall be payable to the expert or technical consultant for a valuation or technical consultancy relating to acoustic pollution.



29. Unless otherwise established in the tables all fees shall be considered inclusive of those for the report on the results of the engagement performed, attendance at hearings and every other activity performed concerning the questions raised.

Each Court provides for a “Court Experts Record”, which lists the accredited experts according to their specific specializations (Art. 13, Implementation Provisions to the Italian Code of Civil Procedure). The Court Expert Records are available for free at each Court.

A professional, in order to be appointed as an expert, has to be accredited by the Court and included in the Court Expert Record.

Pursuant to Article 61 of the Italian Code of Civil Procedure in connection with Article 15 of the relevant Implementation Provisions, in order to be accredited, it is necessary to fill-in an application form required by the Court (e.g.: enrolment to the professional register, specific field of competence, previous tasks, professional experience, etc.) and to prove the meeting of the following requirements:

- a specific skill on the matter;
- an undisputed moral conduct;
- the inscription to a professional record.

In general terms, it can be stated the fees requested by a professional for a consultancy made as a Court Expert are slightly lower than those required in its private activity.

It should be noted that access to information on expert and on the cases in which they have to be called is not easily accessible, since information is generally limited to operators.

## 5.2 Fees (medical experts, technical transports experts...)

Expert fees are governed by

- i) Law July 8, 1980, No. 319, article 4
- ii) the Decree, and

iii) the Ministry Decree May 30, 2002.

Expert fees can be fixed or variable, and this is determined by:

- i) the nature of the task;
- ii) the requested time.

Moreover, pursuant to Article 50 of the Decree, the amount of fixed and variable fees and fees paid on a time basis is provided by tables approved by a Decree of the Minister of Justice, in agreement with the Minister for the Economy and Finance, pursuant to article 17, paragraphs 3 and 4 of Law no. 400 of 23 August 1988.

These tables have been drawn up by making reference to any existing professional rates regarding the same subject adapted to the legal nature of the engagement.

Tables regarding fees paid on a time basis provide details of the hourly rate, making a distinction between the first hour and subsequent hours as the case may be, the percentage increase in case of urgency, the maximum level of hours per day and information as to when this limit may be exceeded for an engagement performed in the presence of the judicial authorities.

The tables currently applicable have been approved by Ministerial Decree of 30 May 2002, which includes the fees payable to valuers, technical experts, interpreters and translators for activities performed at the request of the judicial authorities on civil and criminal matters.

## **5.3 Payment**

### **5.3.1 Retainers**

Payment of experts has to include VAT, at the rate of 20%. VAT is invoiced also in cross-border litigations.

The methods of payment generally accepted by experts are cheque and wire transfer.

In order to determine Experts' fees reference should be made:

- for the estimation (perizia) to the value of the object of expertise;
- for the technical consultancy (consulenza tecnica) to the value of the judicial proceeding.

The average amount of these fees is more than Euro 1000. On this regard, the average amount of these fees can be estimated at about Euro 5.000,00

The Court Expert fees are determined by the Judge in two steps:

1. the judge first determines a retainer fee at the moment of the appointment. Such retainer is charged to the party interested in the consultancy;
2. the Judge then determines the residual amount due to the Expert, at the conclusion of the Expert's service.

#### **5.4 Legal aid cases**

Pursuant to the Italian legislation the legal aids costs are bornE by the State (see D.P.R. 30th, May, 2002, n.115), except in case of a significant change in the economic conditions of the subject admitted to legal aid. Therefore, such costs are not covered by legal aid associations.

In order to obtain legal aid assistance, the subject has to envoy an application form to the Counsel of the Lawyers Register representing its economic conditions.

Pursuant to the Italian legislation (see D.P.R. 30 May 2002, n.115) the thresholds required to be admitted to the legal aid is determined in about Euros 9.723,84. Said threshold is reviewed every two years by the Justice Ministry.

The fees due to the expert are covered by the State, in case it results to be impossible to recover the amount from the other party.

## 5.5 Reimbursement of experts' fees

In the case of a favourable decision for the party that has paid the expert fees, the court can order the losing party to reimburse these fees. Pursuant to Article 91 of the Italian Code of Civil procedure, the judge in his verdicts condemns the losing party pay the cost of the trial to the winning party.

## 5.6 Pratical questions

Only the experts accredited by the Court can be appointed by the judge. A professional, in order to be appointed as an expert, has to be accredited by the Court and included in the Court Expert Record.

Pursuant to Article 61 of the Italian Code of Civil Procedure in connection with Article 15 of the relevant Implementation Provisions, in order to be accredited, it is necessary to fill-in an application form required by the Court (e.g.: enrolment to the professional register, specific field of competence, previous tasks, professional experience, etc.) and to prove the meeting of the following requirements:

- a specific skill on the matter;
- an undisputed moral conduct;
- the inscription to a professional record.

The accreditation proceeding is therefore based on the examination of the documentation provided by the Court Expert.

As provided by Article 15 of the Implementation Provisions to the Italian Code of Civil Procedure, such documentation includes:

- a) certificate of inscription to the record of the trade category (e.g. engineers, doctors, architects, ecc.);
- b) relevant documentation proving the level of professional skills (e.g. publications).

Such documentation is deemed to be sufficient and, therefore, no examination is required.

In case an Expert is appointed by the Court (Court Expert), each party is entitled to require the consultancy of their expert (Party Expert), which are entitled to participate to technical investigations. In any case, the choice of the expert to be appointed, is left to the judge. Therefore, the admission of an expert comes within the exclusive powers of the judge and the parties can only request its appointment.

The validity of the Court Expert is not time limited. Its validity is linked to the proceeding in which the expert's consultancy has been requested.

In Italy, the Court Expert are accredited before the Court in whose specific register they have been inscribed.

## **6 Translation and interpretation fees**

### **6.1 General**

Translators and interpreters, so as experts, are considered as auxiliaries of the judge, and they can be appointed by the Judge, in case of need to:

- a)* examine any document in a foreign language not spoken by the Judge (pursuant to Article 123 of the Italian Code of Civil Procedure);
- b)* interview a person (including one of the parties, the witness, etc.) not speaking Italian and in case the Judge does not speak that person's language (pursuant to Article 122 of the Italian Code of Civil Procedure).

The difference between translators and interpreters is due to the fact that translators have to translate a written document where as the interpreters have translate a speech. Moreover, the difference between the category of translators/interpreters and experts is principally based on the fact that the translators have to perform single acts whereas experts provide a preparatory activity in regard of the decision.

It is to be noted that the appointment of a translator regards exclusively the documentation produced in the trial whereas the procedural pleadings have to be rigorously drawn up in Italian.

Pursuant to article 49 of the Decree translators are included in the category of judges auxiliary's/assistants. Therefore they are entitled to receive a i) fee ii) travel and board allowance iii) refund for travel expenses and iv) refund of the costs incurred in performing the engagement.

Translators have to be accredited by the courts before they can act as translators in litigation. In this regard article 61 of the Italian Code of Civil Procedure in connection with the article 13 of the relevant Implementation Provisions, provides for translators to fill in an application form in which they have to specify the information required by the Court (e.g.: enrolment to the professional register, specific field of competence, previous tasks, professional experience, etc.).

## **6.2 Translation fees**

The legislation provided for the Court Experts also applies to translators and interpreters because they are considered auxiliary consultants of the judge and the relevant rules and information on translation fees are disseminated throughout the following measures:

- Law 8 July 1980 No. 319;
- D.P.R. 27 July 1988 No. 352;
- Ministry Decree 5 December 1997;
- Ministry Decree 30 May 2002;

Information on translations fees can be retrieved by consulting i) a lawyer, which provides the relevant information for free ; ii) the courts ( every court has a list of translators and interpreters and iii) the Italian Translator and Interpretation Association.

The Italian government, after having consulted the National Lawyers Association - for the purpose of concerting the action to take - determines the translations fees.

Pursuant to article 123 of the Italian Civil Procedure Code, translation is required when it is necessary for the judge to examine any document which is not written in Italian. In such case the judge can appoint a translator who is obliged to swear in front of the judge before accepting the assignment.

The court, in the case of a favourable decision for a party that has paid the translator's costs, can order losing party to refund the translators fees.

The fees are calculated on the basis of the number of pages translated. So the amount of amount is directly proportioned to the nature of the assignment. The average costs are to be considered in between 10 and 19 euros per page.

### **6.3 Interpretation fees**

Pursuant to the article 122 of the Italian Code of Civil Procedure, an interpreter is required when the judge intends to interview a person (including the party itself, the witness, etc.) who does not speak the Italian language, nor the Judge speaks the language of that person.

Information on interpreters fees can be retrieved by consulting i) a lawyer, which provides the relevant information for free ; ii) the courts ( every court has a list of translators and interpreters and iii) the Italian Translator and Interpretation Association.

The Judge appoints the interpreter and determines the relevant fees on the basis of the criteria provided by the law. In such regard fees are calculated per hour and the average amount of the interpretations fees on a per day basis is between 50 and 99 euros.

Interpreters fees are disseminated throughout the following measures:

- Law 8 July 1980 No. 319;
- D.P.R. 27 July 1988 No. 352;
- Ministry Decree 5 December 1997;
- Ministry Decree 30 May 2002;

## 6.4 Payment

The value added tax is provided for both national , for which the amount is determined in 20% and cross border litigations which depend from the levy applicable system . Such tax is applicable to both interpreters and translators fees. The accepted method of payments are i) cash ii) cheque or iii) bank transfer.

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## 6.5 Practical questions

The conditions that have to be fulfilled to be a translator or an interpreter are determined by article 61 of the Italian Code of Civil Procedure in connection with the article 13 of the relevant Implementation Provisions. Translators have to fill in an application form in which they have specify the information required by the Court (e.g.: enrolment to the professional register, specific field of competence, previous tasks, professional experience, etc.).

The accreditation proceeding is exclusively based on the study of the documentation provided by the translator or interpreter. A specific exam is not required.

Translations are mostly provided with reference to Contract/agreement translations, power of attorneys, law provisions, etc.

The translation conditions ( timeframe etc. ) are determined by the court.

The judge is the only one that can determine if it is opportune to appoint a translator. This means that a party may provide a translation ( e.g. sworn statement ) and the judge may consider such translation sufficient and exshastative and accept the party's translation.



## **6.6 Legal aid cases**

Pursuant to the Italian legislation in case of admission to the legal aid procedure all the costs related to the proceeding are bared by the State (see D.P.R. 30<sup>th</sup>, May, 2202, n.115), except if during the proceeding there is a significant changement of the economic conditions of the subject admitted. There fore if a party benefits of legal aid the translations fees are paid by the Italian government.

A party, that wants to make use of legal aid, must compile an application form to the Counsel of the Lawyers Register in which its economic condition is represented.

Pursuant to the Italian legislation (see D.P.R. 30<sup>th</sup>, May, 2202, n.115) the threshold required to be admitted to the legal aid is determined in about Euros 9.723,84. Such threshold is reviewed every two years by the Justice Ministry.

## **7 Witness Compensation**

### **7.1 General**

Information on witness compensation can be obtained for free by consulting public websites as well as by asking a lawyer, which will generally not charge any fee for this information. However, that information is not provided by information centres, not by consulting brochures or by calling courts.

Moreover, there is not any national organization to contact to obtain a list of the witnesses' rights.

On this regard, it should therefore be noted that information on witnesses' rights is not easily accessible, and that they are essentially available to the operators of the sector (e.g. lawyers), by consulting the legal texts governing the issue.

## 7.2 Fees

The Italian legislation provides for witnesses compensation. However, it worth noting that the amount of compensation fixed by law are so low and derisive that, not only they have a marginal incidence on the overall costs of justice, but they are generally not applied nor required.

Witnesses compensation fees are set by articles 45 - 48 of the Decree.

A distinguish has to made between :

i) **resident witnesses**: a witness is considered resident when:

a. the election of its legal residence complies with the municipal where the court house office has fixed the hearing or

b. the legal residence elected is within two kilometres from the municipal where the Court has fixed the hearing. Residential witnesses have the right to receive a refund of **Euros 0.36** a day.

ii) **non resident witnesses** have right to be refunded of second class round trip ticket for flights, buses or trains. If such transport means are not provided for the location where the hearing has been fixed, the witness compensation shall be calculated by using as a parameter the nearest location where the travelling services are available. For non residential witnesses compensation fees are determined in the following manner: the recognised daily refund is of **Euro 0.36** euros. For each day spent travelling the witness has to add to his daily refund the amount of Euro 0.72. In case a witness is required not to return to his residence for an entire day, he is entitled to receive the amount of 1.29 euro in addition to the daily refund.

iii) **Under Age Witnesses and escorts for underage witnesses or invalids**: less than 14yrs old witnesses have no right to be refunded. Whereas the individuals who perform the escort service for invalid or for < 14 yrs old witnesses have the right to be refunded and the amount is same individuated for the previous categories. This last prevision is not valid if the subject in charge of the escort service is a witness himself in the same proceeding.

Witnesses compensation fees are provided by law, and in particular by articles 45 - 48 of the Decree.

### **7.3 Payment**

VAT is not applicable to witness compensation.

A witness is paid by cash or by cheque. The amounts are slightly different in case the witness is resident, non resident, or is younger than 14 years. Compensation fees are calculated on a daily basis and the compensation covers travel expenses and the working days the lost by the witness.

The average amount of this compensation on a per day basis is set between Euro 0 and 19.

Non resident witnesses have right to be refunded of second class round trip ticket for flights, buses or trains. If such transport means are not provided for the location where the hearing has been fixed, the witness compensation shall be calculated by using as a parameter the nearest location where the travelling services are available.

In consideration of the extremely low amount of witness compensation, they can not be considered as aimed to compensate the working days lost.

Compensation does not depend on the nature of the litigation.

Referring to the sort of costs and payments, it should be noted that in the Italian framework, the relevant legislation provides for compensations in favour of witnesses which are so low and derisory that not only they are not such as to have an incidence on the overall costs of justice, but they are generally not applied, nor required. In any case, if they are provided they can also be supported by the Country in case of legal aid.

Pursuant to article 204 of the Italian Code of Civil Procedure, in case the judge needs to carry out any preliminary investigation in an other country, the relevant acts (e.g.: witness examination) have to be performed by rogatory letters (in a diplomatic way).

In the case of a favourable decision for the party that has paid the compensation, the Court can order the losing party to pay for this compensation

## 7.4 Practical questions

Pursuant to article 246 of the Italian Code of Civil Procedure the only subjects who can not be called to lay evidence as witnesses are the subjects who have a “*direct interest*” in the proceeding matters.

Pursuant to article 116 of the Italian Code of Civil Procedure the authenticity of the witness’s testimony is freely evaluated by the judge.

Pursuant to article 207 of the Italian Code of Civil Procedure the witnesses are examined orally and therefore the judge collects the relevant testimony by filling out the Court record.

In Italy the Judge has the competence to collect testimonies.

## 8 Pledges and security deposits

### 8.1 General

Pursuant to the Italian Code of Civil procedure, the security deposit (*i.e.* the caution) can be required in the following cases:

- i) request of interim enforcement of the injunction (articles 642 - 648);
- ii) lease matters (eviction - article 663);
- iii) interim measures request (art.669-undecies)
- iv) enforcement procedure (to guarantee the purchase proposal of distrained goods in case of selling by auction - article 571, 576, 580, 587);
- v) seizure revoke request (article 684).

In those cases, the Judge may require the applicant to lodge a security to guarantee that the parties are treated equally, in case during the proceeding, it could result that there were no grounds to impose the measure.

It does not seem that security deposits are required more often in cross border cases.

The judge determines the amount of the pledges and security deposits in consideration of the nature of the litigation as well as of the total amount of the claim (article 119 Italian Code of Civil procedure).

Please note that the security deposit is provided by cash (article 86 Implementation Provisions to the Italian Code of Civil procedure)

With reference to judicial proceedings, the Italian legislator only provides for security deposit.

The security deposit/caution is generally provided by the judge at its only discretion on party request.

Please note that the security deposit/caution is mandatory to guarantee the purchase proposal of distrained goods in case of selling by auction (article 571, 576, 580, 587 of the Italian Code of Civil procedure).

## **8.2 Fees**

The Judge determines the amount of the security deposit considering the nature of litigation and the total amount of the claim (article 119 Italian Code of Civil procedure).

## **8.3 Payment**

Security deposit is provided by cash (article 86 Implementation Provisions to the Italian Code of Civil procedure).

## **8.4 Practical questions**

The security deposit/caution is generally provided by the judge at its only discretion, on party request. Moreover, The security deposit/caution is mandatory to guarantee the purchase proposal of distrained goods in case of selling by auction (article 571, 576, 580, 587 of the Italian Code of Civil procedure).

## **9 Court decisions**

### **9.1 Cost of notification**

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. Costs of notification comes within the general regulation on Bailiffs' fees.

With reference to the specific costs, it could be stated the maximum cost for notification of court decisions in Italy is below 19 euro for each receiver.

The average cost of notification of court decisions in European Union is less than 50 Euro ( between 20 and 49 Euros).

The average costs of publication of a court decision is set between 0 and 19 Euro.

The costs for obtaining an authenticated copy of a decision on a per act basis is set between 20 and 40 Euro.

### **9.2 Cost of obtaining an authenticated decision**

Pursuant to Article 40 of the Decree, the cost required to obtain an authenticated decision depends on the number of pages of the decision itself and by the urgency of the request, as shown in the following table.

Nun of	Copying fee	Certificate to conform	Total
1 -	1.03	5.16	6.19
5	2.07	5.16	7.23
11	3.10	5.16	8.26
21	5.16	5.16	10.32
51	10.33	5.16	15.49
10.33 + 6.20 each additional 100 pages or		5.16	15.49 + 6.20 each additional 100 pages or

Both rights correspond to one page of official paper format (“carta uso bollo”) and are established in an equal manner for photographic copies. It should be noted the carta uso bollo contains 100 lines.

In case of urgency, the cost is three times the above-listed fees.

Costs for enforcing the judgement, are established by the Decree: Article 9 (Contributo Unificato’s costs for the cases of enforcing the judgement), 37 and 38 (Bailiffs’ fees for the performance of enforcing acts). In any event, it should be considered that the amount of those costs depends on the kind of procedure carried out (e.g. forcible expropriations of fixed assets, forcible expropriations of movable assets, expropriation through third parties, transfer obligations, enforcement of the obligation to act or not to act). The party requesting the enforcement of the judgement bears a fixed initial cost, provided by Article 9 of the Decree. Such cost is not comprehensive, since it may vary according to the complexity of the action taken (it may be necessary to have assets valued, to appoint administrators or custodians, who are entitled to remuneration, to advertise auctions in newspapers or on websites, and so on). As a general rule, the enforcing creditor pays the costs in advance and they are subsequently charged to the person on whom the decision is enforced.

There are no specific hearings for starting the enforcement proceeding and the hearings referable to the enforcement proceeding (e.g.: compulsory sale hearing) do not require any specific additional cost.

It should be noted that the costs for obtaining the enforcement of a decision should include: bailiff fees (from 0 to 75 euro), support of public enforcement agencies (from 0 to 75 euro), seizure proceedings (from 100 to 200 euro), seizure costs (from 100 to 200 euro), compulsory sale (from 100 to 200 euro).

## 10 Civil Legal aid

### 10.1 General

Legal Aid in Italy is expressly previewed at Constitutional level, by Article 24:

«Everyone can take judicial action to protect individual rights and legitimate interests. The right to defence is inviolable at every stage and moment of the proceedings. The indigent are assured, through appropriate institutions, the means for action and defence before all levels of jurisdiction. The law determines the conditions and the means for the reparation for judicial errors ».

The Constitutional provision above found a comprehensive legislative regulation since 2001, with Laws No. 60/2001 and No. 134/2001, subsequently amended and brought together into the Decree, which includes (Articles 74, ss.) the currently applicable regulation.

Its to be noted that the rules that govern legal aid may be obtained by consulting both public ([www.giustizia.it](http://www.giustizia.it)) and private (<http://www.anvag.it/>) websites. Moreover the regulation is available only in Italian language.

Information on legal aid can be obtained for free on private websites such as [http://www.ordineavvocatimilano.it/html/contenitore.asp?pagina=intro\\_macro.asp&bot t=ok&idmacro=13&idSezione=&idlayout;](http://www.ordineavvocatimilano.it/html/contenitore.asp?pagina=intro_macro.asp&bot t=ok&idmacro=13&idSezione=&idlayout;)  
[http://66.102.9.104/search?q=cache:\\_q61PZuZ42IJ;www.ordineavvocati.roma.it/Servizi /Modulistica/ModulisticaOrdine/ModulisticaOrdine.asp%3FID%3D13+patrocinio+stato+ordi ne+avvocati+roma&hl=it&ct=clnk&cd=2&gl=it;](http://66.102.9.104/search?q=cache:_q61PZuZ42IJ;www.ordineavvocati.roma.it/Servizi /Modulistica/ModulisticaOrdine/ModulisticaOrdine.asp%3FID%3D13+patrocinio+stato+ordi ne+avvocati+roma&hl=it&ct=clnk&cd=2&gl=it;)  
<http://legalserve.comune.prato.it/modules/smartsection/item.php?itemid=40&page=0;>  
[http://www.overlex.com/gratuito\\_patrocinio.asp](http://www.overlex.com/gratuito_patrocinio.asp) ;<http://www.anvag.it/>

They can also be obtained for free by consulting brochures (ANVAG brochures), information centres of the municipal offices or bar associations.



## 10.2 Conditions of grant

Legal aid is limited to those parties filing the request, having an annual income below Euro 9.723,84, except in the case of criminal cases when Euro 1.032,94 is added to this for each cohabiting dependent.

In civil, administrative, voluntary (non-contentious), tax and accounting cases an assessment is made as to whether the applicant's cause is not manifestly unfounded.

Legal aid can also be granted to not -for-profit organisations and associations that do not perform any economic activity.

Legal aid is also granted to nationals involved in a cross-border cases. The requirements needed to benefit legal aid in this case are the same as those required to obtain the benefit for disputes in the national territory. Moreover , the Legislative Decree no. 116 of 27 May 2005 has implemented the European Directive 2003/8/EC. It is to be noted that the object of the directive is to improve the access to justice in cross-border disputes by establishing minimum common rules relating to legal aid borne by the State in such cases published in Official Journal no. 151 of 1 July 2005.

In civil proceedings legal aid is granted by the council of the institute of lawyers on an advance and temporary basis.

Pursuant to the Italian legislation in case of admission to the legal aid procedure all the costs related to the proceeding are bared by the State (see D.P.R. 30<sup>th</sup>, May, 2202, n.115), except if during the procedure there is a significant changement of the economic conditions of the subject admitted.

## 10.3 Strings attached

The consequence of legal aid is that the benefiting party does not bear proceeding costs and the lawyer fees.

In particular, the party benefiting of legal aid, does not bear:

- copies of the deeds of the proceedings when they are needed to carry out a defence;

- travel allowances and expenses due to magistrates, officers and judicial officials for transfers relating to the performance of procedural actions outside the office building in which they work;
- travel allowances and expenses due to witnesses;
- transfer allowances, fees and expenses incurred by judicial officials for the delivery of official notices or notices requested by the parties;
- travel allowances and expenses, costs incurred for performing the engagement and fees, payable or refundable to assistants to the magistrate, expert witnesses appointed by the parties and authorised private investigators;
- depositary fees;
- lawyers' fees and expenses;
- expenses for carrying out publication of a legal nature of the measures taken by the judicial authorities;
- the unified fee for civil and administrative proceedings;
- stamp duty pursuant to article 17 of Presidential Decree no. 642 of 26 October 1972, in accounting and tax proceedings;
- the fixed fee for official notifications in civil proceedings;
- stamp duty pursuant to article 59, paragraph 1, letters a) and b) of Presidential Decree no. 131 of 26 April 1986, in civil and administrative proceedings;
- mortgage and cadastral tax pursuant to article 16, paragraph 1, letter e) of Legislative Decree no. 347 of 31 October 1990;
- copyright fees.
- travel allowances and expenses due to magistrates, officers and judicial officials for transfers relating to the performance of procedural actions outside the office building in which they work, in civil cases;
- travel allowances and expenses due to witnesses, notaries, expert witnesses appointed by the parties and magistrate's assistants, together with the expenses incurred by the latter in performing the engagement;
- expenses for carrying out publication of a legal nature of the measures taken by magistrates in civil proceedings;
- expenses for completing the work not performed in civil proceedings or for the destruction of that performed in those proceedings;
- expenses for official notices.
- The fees and allowances or expenses incurred by judicial officials for the delivery of notices and enforcement deeds on the request of the parties are charged or advanced pursuant to article 33.

## **10.4 Practical questions**

If the party which granted legal aid is entitled to recover the expenses disbursed in his favor, the State has the right to be refunded by the other party.

This right may be exercised for charged and advanced expenses when by Judgment or settlement the party granted legal aid has reached at least one sixth of the expenses, or in the event of waiving action or the discharge of judgement; it may only be exercised for the expenses provided in advance, independently from the sum or value reached.

In cases in which a settlement is reached, all of the parties are jointly liable for the payment of the charged expenses and these may not be transferred to the party granted legal aid. Any agreement to the contrary is null and void.

When judgment is discharged or waived, the plaintiff or claimant other than the party granted legal aid is liable to pay the expenses charged.

In the case of cancellation pursuant to article 309 of the civil procedural code, and in cases of discharge other than those provided in paragraphs 2 and 4, all the parties are bound jointly to pay the expenses charged.

## **11 Personal experience**

In case of cross border litigation the law firm avails itself of the services of foreign law firms, in order to elaborate the best consultancy for the clients. Those law firms are consulted in order to receive information on all the issues related to costs of justice abroad. Moreover, the information about costs of justice were not difficult to recover since they were provided by local lawyers.

The cooperation with foreign lawyers permits to have an overall knowledge in regard of all the procedural and logistics aspects involved.

The cooperation with foreign lawyers clearly has incidence on the overall cost of the litigation and this is a deterrent for seeking justice today in cross border litigations. In such regard, the client has to bear a redouble of the lawyers fees (domestic and foreign lawyer) and also to bear the costs of justice (proceeding costs) in an other country. Those costs may be higher than the costs would be charged to the client in case of domestic litigation.

On the basis of personal experience, the best way to represent costs transparency to the client, is by representing the foreseeable costs of the proceeding and also the aspects that may change those costs (e.g.: procedure length and complexity, appeal, etc.).

The recent legislation development brings to consider more and more the legal assistance as a service for the citizens.

The current practice indicates that the client is now oriented to agree with the lawyers the relevant fees for the assistance.

The hourly fees method is growing up in the practice especially in case of continuative assistance (e.g.: in case of legal assistance requested by the commercial companies). Such method permits the client to be aware of the costs for the legal assistance, in advance.

It is possible to conclude in any event, that costs may be lowered by the implementation of e-justice and our law firm is authorized to request on-line Injunction Decrees to the Court of Milan, and has followed training courses to understand its way of use.

## **12 Case studies**

### **12.1 Case study 1**

The case described under CASE STUDY 1 deals with a agreed divorce between a married couple.

The case described under case A does not involve any fee to start the proceeding, not transcription fees, in consideration of the fact that it deals with a family law issue. In this case ADR is not applicable. Lawyers' fees should be around Euro 3000/5000, bailiff fees are not required in case of agreed. Expert fees are not required. Translators and interpreters' fees are not required.

The case sub B is not pending before an Italian Court and the fees seem to be limited to State B regulation.

## **12.2 Case Study 2**

The case described under CASE STUDY 2 deals with a custody of children matter.

The case described under case A does not involve any fee to start the proceeding, not transcription fees, in consideration of the fact that it deals with a family law issue. In this case ADR is not applicable. Other court fees (copies of documents should be around Euro 100), lawyers' fees should be around Euro 3000/5000, bailiff would be around Euro 150 considering both pre and post judgement services. Experts could require fees between Euro 500 and Euro 2500 depending on the need. Witness cost could be around Euros 50 and they mostly depend on the case of non resident witnesses. Legal aid is admitted in case of meeting of the legal requirements.

The case described under case A may involve higher costs for notification (around Euro 400 considering both pre and post judgement service. Witnesses fees might also increase in case of need to reimburse travel expenses from abroad. Translators may be needed in consideration of the need to report all documents and acts into Italian (average cost: Euro 2000). Interpreters may be necessary for the parties or however requested by the judge, and their average fee might be around Euros 1000.

## **12.3 Case Study 3**

The case described under CASE STUDY 3 deals with an alimony matter. The case described under case A does not involve any fee to start the proceeding, not transcription fees, in consideration of the fact that it deals with a family law issue. In

this case ADR is not applicable. Other court fees (copies of documents should be around Euro 100), lawyers' fees should be around Euro 3000/5000, bailiff would be around Euro 150 considering both pre and post judgement services. Experts could require fees between Euro 500 and Euro 2500 depending on the need. Witness cost could be around Euros 50 and they mostly depend on the case of non resident witnesses. Legal aid is admitted in case of meeting of the legal requirements.

The case described under case A may involve higher costs for notification (around Euro 400 considering both pre and post judgement service. Witnesses fees might also increase in case of need to reimburse travel expenses from abroad. Translators may be needed in consideration of the need to report all documents and acts into Italian (average cost: Euro 2000). Interpreters may be necessary for the parties or however requested by the judge, and their average fee might be around Euros 1000.

#### **12.4 Case Study 4**

The case described under CASE STUDY 4 deals with an commercial law matter.

The case described under case A involves a contribution of Euro 178,00 for bringing the case to the Court as a Contributo Unificato fee. This is in fact the fee required for a proceeding whose value is equal to Euro 20.000. The same price is required in case of appeals. An ADR proceeding is an open option and the average costs may be fixed around Euros 10,000. Lawyers' fees are about Euros 5000/7000, bailiff fees would be around Euro 150 considering both pre- and post-judgement services. Experts could require fees around Euro 5000, in consideration of the possible need of an advice on the status of the goods delivered. Witness cost could be around Euros 100 and they mostly depend on the case of non resident witnesses. A possible caution could be around Euros 25.000 in consideration of the value of non delivered objets. Translation and interpreters do not seem to be need in the case at issue.

The case described under case B would involve the same Court fees as the ones described under case A, lawyers' fees could be increased in consideration of the additional activity and possible need of travels abroad, bailiff fees could increase to Euro 450, in consideration of the higher fees to serve notifications abroad, witnesses

fees could increase in consideration of the possible need to reimburse travels from abroad.

## 12.5 Case Study 5

The case described under CASE STUDY 5 deals with an commercial law/responsibility matter.

The case described under case A involves a contribution of Euro 340,00 for bringing the case to the Court as a Contributo Unificato fee. This is in fact the fee required for civil proceedings of an indeterminable value. The same price is required in case of appeals. An ADR proceeding is an open option and the average costs may be fixed around Euros 15,000. Lawyers' fees are about Euros 10000/20000, bailiff fees would be around Euro 150 considering both pre- and post-judgement services. Experts could require fees around Euro 15000 (in consideration of the need to assess the cause of the fire and the status of the machines delivered). Witness cost could be around Euros 100 and they mostly depend on the case of non resident witnesses. A possible caution could be around Euros 30.000. Translation and interpreters do not seem to be needed in the case at issue.

The case described under case B would involve the same Court fees as the ones described under case A; lawyers' fees could be increased in consideration of the additional activity and possible need of travels abroad expenses, bailiff fees could increase to Euro 450, in consideration of the higher fees to serve notifications abroad, witnesses fees could increase in consideration of the possible need to reimburse travels from abroad and Expert fees could increase in consideration of the possible additional activity to be performed abroad.