

With reference to the information to be communicated to the European Commission by the Member States by 12 June 2008 under Article 29 of Regulation (EC) No 1896/2006, please find attached a table showing the relationship between the Italian provisions and the Community provisions.

It should be pointed out that, in accordance with Article 2(2)(d) of the Regulation, account has been taken of claims arising from non-contractual obligations. With regard to Article 29(b), the need seems to arise to distinguish between the cases referred to in Article 20(1) and those in Article 20(2) as the first paragraph refers to relief from the effects of the expiry of time where such time has expired through no fault of the defendant, whereas Article 20(2) applies where the order for payment was clearly wrongly issued or in other exceptional circumstances, such as, for example, intent on the part of the party.

In the first set of cases the relevant legislation concerns late appeals against payment orders, for which provision is made under Article 650 of the Italian Code of Civil Procedure (CPC) and which must be lodged with the same court that issued the warning letter. The approach in this case is standard and can be applied extensively, although the court must rule on the applicability of the deadline stipulated in the final subsection of Article 650 CPC, as it applies to Article 20(1)(b) of the Regulation.

In the second set of cases, however, the solution currently practised is that of the ordinary application or, depending on the circumstances, an application to the competent court of first instance, although the court must rule on whether the rules applicable derive from Italian law or can be inferred from the Regulation.

With regard to the means of communication referred to in Article 29(1)(b) of the Regulation, taken in conjunction with Article 7(5), it has been decided to refer to communication on paper only here given that for other means of communication (electronic) compliance with the specific Italian rules is required and, according to the Regulation, the means of communication must be ones which 'are available' to the courts concerned.

#### Article 29(1)(a) - Courts with jurisdiction

The following courts have jurisdiction to issue a European order for payment:

The Justice of the Peace [*Giudice di Pace*] for claims of up to:

- 1) EUR 10 000.00, for general claims;
- 2) EUR 25 000.00 for claims concerning compensation for damages caused by vehicles and boats, within the conditions laid down in Article 2(2)(d)(i) of Regulation (EC) No 1896/2006.

Justices of the Peace have jurisdiction for claims of any amount involving relations between owners or occupiers of dwellings concerning smoke, fumes, heat, noise, vibrations and similar nuisances exceeding normal levels pursuant to Article 7(3)(3) of the Italian Code of Civil Procedure, in the circumstances referred to in Article 2(2)(d)(i) of Regulation (EC) No 1896/2006.

The Justice of the Peace also has jurisdiction for cases involving interest or incidentals for late payment of pension or welfare benefits.

The ordinary civil court or the court of appeal as the court of first and final instance have jurisdiction in all other cases and exclusive jurisdiction as provided for by Italian legislation.

In particular, on matters not excluded by Article 2, the ordinary civil courts have jurisdiction in cases of:

- 1) claims relating to agricultural contracts (in this case, the specialised agricultural divisions of the ordinary court have jurisdiction pursuant to Article 9 of Law No 29 of 14 February 1990);
- 2) claims in respect of patents and trademarks (in this case the special business sections of the ordinary courts have jurisdiction pursuant to Article 1 *et. seq.* of Legislative Decree No 168 of 27 June 2003 - most recent wording)
- 3) claims under shipping law, in particular for damage in connection with the collision of vessels; damage caused by vessels when anchoring or mooring or performing any other manoeuvres in ports and other stopping places; damage caused by the use of loading and unloading gear and the handling of goods in ports; damage caused by vessels to nets and other fishing equipment; charges and compensation for assistance, rescue and recovery; reimbursement of expenditure and awards for recovering wreckage under Article 589 of the Navigation Code.
- 4) cases and proceedings relating to public contracts for works, supplies and services of Community significance, to which one of the undertakings referred to in Article 3 of Legislative Decree No 168 of 27 June 2003 (as amended) is party to or where one of these participates in a consortium or a temporary grouping to which the contracts were awarded or where the ordinary court has jurisdiction (in this case, the specialised business sections of the ordinary courts also have jurisdiction pursuant to Article 3 of Legislative Decree No 168 of 27 June 2003).

On matters not excluded by Article 2 of the Regulation, the Court of Appeal has jurisdiction as the court of first and final instance for claims relating to compensation for damages caused by agreements restricting competition and abuse of dominant position (Article 32(2) of Law No 287 of 10 October 1990).

#### Article 29(1)(b) - Review procedure

The court with jurisdiction for the review referred to in Article 20(1) of Regulation No 1896/2006/EC and the related proceedings, is the court which issued the order pursuant to Article 650 of the Italian Code of Civil Procedure.

The court with jurisdiction for the review referred to in Article 20(2) of Regulation No 1896/2006/EC and the related proceedings, is the ordinary court responsible for the order, in accordance with the commonly applicable rules.

#### Article 29(1)(c) - Means of communication

The means of communication accepted for the purposes of the European order for payment procedure pursuant to Regulation (EC) No 1896/2006 are postal services.

#### Article 29(1)(d) - Accepted languages

The language accepted is Italian.

Last update: 24/03/2024

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