



Covid-19 Insights

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THE ADMINISTRATION OF JUSTICE IN ITALY DURING THE COVID-19 EMERGENCY

Italy has implemented a set of rules to manage effectively the administration of justice during the COVID-19 emergency for the joint purpose of avoiding major adverse effects on the judicial system while avoiding prejudice to claimants and defendants.

Sections 1 and 2 of the Law Decree No. 11/2020 issued by the Italian government on March 8, 2020 provided for a “freezing period” from March 9, 2020 to March 22, 2020. Later, by Section 83 of the Law Decree No. 18 of March 17, 2020 the “freezing period” was extended to April 15, 2020. Finally, by Section 36 of the Law Decree No. 23/2020 of April 8, 2020 the government has further extended the “freezing period” through May 11, 2020. As a result:

- a) all non-emergency hearings scheduled for between March 9 and May 11, 2020 are postponed to dates after May 11, 2020;
- b) all time limits and procedural deadlines are stayed between March 9 and May 11, 2020.

A few specific proceedings, particularly in family matters, and those where the delay may cause serious harm to the parties are excluded from the “freezing period”. In the latter case, the declaration of urgency is made by the head of the judicial office or his delegate at the bottom of the summons or application and, for pending cases, by an order of the investigating Judge or the Chairman of the panel.

The Chairmen of some Courts (e.g. the Courts of Turin and Brescia) have clarified that the “freezing” should be interpreted as a prohibition to file non-urgent documents electronically. In other Courts, on the other hand, including the Court of Milan and Naples, attorneys may file cases electronically at their discretion and it is left to judicial authorities how to proceed with such electronic filings.

The Chairmen of each Court are afforded discretion to issue orders limiting public attendance to hearings to the parties and their attorneys, or establish procedures to hear matters remotely by Microsoft Teams or Skype for Business or issue decisions on the basis of

papers only which can be filed and exchanged electronically.

The “freezing” does not prevent a Plaintiff from initiating a new lawsuit. The Plaintiff’s presence in Italy is not required to initiate a lawsuit, an attorney holding a power of attorney can do it. Under our Rules of Civil Procedure, oral evidence from the Defendant or Plaintiff and their witnesses is taken after the Defendant has filed his first answer, the first hearing has been

held, the parties have filed three pleadings including their applications for investigation and the Judge has decided what evidence to admit and has scheduled hearings to hear the witnesses: therefore, witness evidence is typically not taken until year 2 of a proceeding, although this much depends on each Court, the Judge’s workload, the whereabouts of the witnesses, etc.



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