

LITIGATION / CONTROVERSY



Pirola
Pennuto
Zei
& Associati

studio di consulenza
tributaria e legale

Our Vision

"We value ethical conduct, integrity, honesty, openness, personal excellence, constructive self-criticism, continual self-improvement, and mutual respect."

Our Mission

"To defend and protect the client by providing competent, efficient and cost-effective legal representation and by conducting all litigation ethically, competently, fairly, and diligently."

About our Firm

Pirola Pennuto Zei & Associati was established as an association of professionals in the early 1980s by its founders who, in the 1970s, had been engaged in providing tax and statutory consulting services to companies and multinational groups. With its **10 offices in Italy, 1 in London and 2 in China** it is currently one of the leading independent Firms in the country.

Our organization has made service quality its distinctive feature through the experience and high professionalism of **over 500 professionals** who, by combining their technical skills and expertise, provide a wide range of tax, corporate and statutory consulting services, using advanced methodologies and an extensive network of correspondents.

Leveraging the wealth of knowledge and know-how gained over the years, Pirola Pennuto Zei & Associati is recognized as an authoritative partner in business, academic and professional circles, providing synergy, support and mutual enrichment.

Pirola Pennuto Zei Litigation Team

The Pirola Pennuto Zei & Associati Litigation Team, strong of its experience in the defence of important multinational groups in Italy, provides legal assistance in disputes concerning:

- International and domestic arbitration
- Aviation
- Bankruptcy
- Bank and Finance
- Contracts
- Constructions
- Directors Liability
- Energy
- Labour
- IP Law
- Product Liability
- Procurement
- Real Estate
- Tax
- Transportation
- Insurance

The Italian Civil and Tax Judicial System

The Italian legal system maintains several different categories of jurisdiction basically divided into:

the constitutional court;
ordinary courts;
special courts.

1. Constitutional Court (*Corte Costituzionale*)

Constitutional Court

Challenges to the constitutionality of legislation; disputes over the division of powers; procedures against the President of the Republic under the Constitution on the initiative of Parliament. It is comprised of 15 judges, chosen amongst highly distinguished legal scholars, lawyers and judges, one third appointed by the President of the Republic, one third elected by Parliament and one third elected by the highest courts of ordinary and administrative jurisdiction.

2. Ordinary Courts

The ordinary courts are administered by judges who are competent for general civil and criminal matters, with the exclusion solely of the matters that are reserved for the jurisdiction of special judges.

Corte di Cassazione

The highest court in Italy, located in Rome. It is divided into several sections, for criminal, civil, labour law and tax disputes. For particularly important matters it may Judge in plenary (“*a sezioni unite*”).

Competence over:

- appeals on issues of law of second-instance court judgments;
- contests raised in any procedure of the jurisdiction of the Italian judges.

Corte di appello

Jurisdiction over appeals from the Courts of First Instance;

jurisdiction over enforcement proceedings in Italy of decisions rendered by foreign courts and arbitrators; jurisdiction proceedings for nullity of the awards or antitrust competition law. It is comprised of a panel of 3 judges, and is divided into sections for criminal, civil and labour disputes.

Courts of First Instance (*Tribunale, Giudice di Pace*)

Tribunale

Default court of general jurisdiction for all civil and criminal disputes as well as disputes that do not have a determinable value. Generally, only one judge will hear a case, but for specific matters of particular importance, there may be three judges. It may act as an appellate court for the decisions rendered by the *Giudice di Pace*.

The Tribunale is divided in multiple sections, for: Bankruptcy, Enterprise and Business, other sections, in the biggest cities Courts, some have specializations in Bank and Finance, Contracts, Malpractice, Agency and others.

Giudice di Pace

Honorary judge with jurisdiction over minor civil claims; motor vehicle accidents; real estate boundaries. Its decisions may be appealed before the Tribunale.

3. Special Courts

Administrative jurisdiction

Exercised by the *Tribunali Amministrativi Regionali* – TAR (Regional Administrative Courts), whose decisions may be appealed before the *Consiglio di Stato* (Council of State).

Fiscal jurisdiction

Exercised by the *Commissioni Tributarie Provinciali* (Provincial Fiscal Commissions) and by the *Commissioni Tributarie Distrettuali* (District Fiscal Commissions), for matters concerning taxes.

The Italian Civil Lawsuit

The Italian civil lawsuit is regulated by the Italian Civil Procedural Code (*‘Codice di procedura civile’*) and after the past two years reformatio, several procedural instruments and measures to speed up the trial with provisional enforceable orders and measures were introduced.

After such new regulations, the trial has been set in steps and can be described as a standard.

The trial can be started by filing a summons and complaint or a recourse, depending on the matters of the dispute.

Before bringing the action before the Italian Court, the plaintiff must serve the summons and complaint summoning the defendant to appear before the competent Italian Judge in a determined hearing to be held.

The summons and complaint must be served by an official bailiff.

After service of the initiating documents, the plaintiff must file the served summons and complaint in the Clerk's Office in the competent Court of jurisdiction.

The ordinary civil lawsuit will then continue with the following path:

1. summons and complaint (Claimant);
2. reply brief to be filed within 20 days from the first hearing (Defendant);
3. first hearing;
4. possibility to file three briefs in the following 80 days. First brief for specify the request to the Court. Second brief to file evidences and expert or witness request. Third brief for replying on evidences (Claimant and Defendant)
5. second hearing, discussion on evidences;
6. possible evidences phase, witness, expertise (Court)

7. final hearing
8. final briefs (Claimant and Defendant)
9. judgment (Court)

The basic principle of the Italian civil Lawsuit is that the Claimant must give the evidence of his right and the defendant is required to respond to the plaintiff's complaint.

The basic problem of the Italian civil lawsuit is the timing to obtain the judgment that vary from Court to Court and can be indicated in:

- 2-4 years for a first instance lawsuit,
- 3-5 for an appeal;
- 3-5 for a Court of Cassazione lawsuit.

In fact, notwithstanding the fact that the trial has been regulated in all its steps, the time distance from a hearing to another may vary from 6 month to one year and a half (depending from judge to judge and court to court) and the timing to obtain the final judgment from the final hearing may vary from 6 months to 2 years and more (depending from judge to judge and court to court).

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