

Milan

New rules governing Italian arbitration proceedings

Legislative Decree no. 149 of 10 October 2022 introduced some noteworthy amendments to the Italian Code of Civil Procedure concerning arbitration. Among the amendments, two stand out as the most significant novelties, marking a radical change from the previous legal regime. The latter amendments may have a significant impact as to how Italy plays as a suitable venue for international arbitration proceedings.

Firstly, the parties have now the right to confer on arbitrators the exclusive power to grant urgent and provisional measures, while arbitration proceedings are pending. This constitutes a key innovation to the Italian legal framework, since traditionally the power to grant provisional measures was only conferred on state courts. From this viewpoint, the new rule reveals the intention to place arbitration and court proceedings on a more equal footing. Accordingly, the Milan Chamber of Arbitration, as the most prominent Italian arbitration institution, has updated its Arbitration Rules, notably, by amending article 26 to provide for a process on the basis of which arbitral tribunals may grant interim measures. Under the new regime, parties consenting to arbitration agreements which refer potential disputes to arbitration under the rules of the Milan Chamber of Arbitration and elect Milan as legal seat will, as such, entrust the arbitral tribunal with the power to grant interim measures.

Secondly, the new arbitration law provides for the immediate enforceability of the decree which recognises a foreign arbitral award. Contrary to past case law which prohibited award creditors from enforcing a foreign award prior to the conclusion of opposition proceedings, if any, or the expiration of a 30-day period, award creditors may now enforce a foreign award upon its issuance by the arbitral tribunal.

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