

Milan

New provisions on impartiality and independence of arbitrators

The recent Legislative Decree no. 149 of 10 October 2022 has implemented a set of principles aimed at making arbitration a more attractive, transparent and efficient dispute resolution mechanism in the Italian legal system. The recent reform of the Italian Code of Civil Procedure has introduced, amongst these principles, a number of rules to strengthen the independence and impartiality of arbitrators.

First, in order to validly accept their arbitration mandate, arbitrators must disclose in writing all the circumstances that might compromise their impartiality and independence, as these circumstances constitute grounds for the parties to challenge the appointment of arbitrators. In line with the aim of ensuring full transparency and the legitimate constitution of the arbitration panel, this written disclosure must be renewed anytime throughout the proceedings, if further circumstances require so. This novelty is also intended to modernize Italian arbitration rules and adapt them to the best practices which are followed both domestically and internationally, and under which the obligation of disclosure is well established (e.g. article 20 of the Arbitration Rules of the Milan Chamber of Arbitration and article 11 of the ICC Arbitration Rules).

Second, parties can now challenge the appointment of arbitrators based on the existence of “serious reasons of convenience” that might affect the independence or impartiality of arbitrators. This general clause reveals the intention to further strengthen independence and impartiality of the panel by providing parties a broader ground for challenging arbitrators, as traditionally, grounds were specific and mostly related to the arbitrators’ relationship with the parties.

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