

CIVIL LITIGATION		
	<u>Questions</u>	<u>Answers</u>
1	In what language(s) may court proceedings be conducted? What arrangements can be made for translation/interpreter services?	Court proceedings are conducted in Italian. Interpreters may be appointed by a judge and translations must be sworn in by translators.
2	What types of pre-action measures are available and what are their limitations? Must you send a warning letter before issuing any proceedings?	Pre-action measures are not available. However, in some cases mediation is obligatory. Warning letters are typically sent but they are usually not obligatory.
3	What are the costs of civil and commercial proceedings? Who bears the costs?	The cost of proceedings depends on the value of the issue at hand or on the rate fixed by lawyers. During the proceedings, each party pays for its own expenses and fees. Once proceedings conclude, the losing party must pay the winning party's expenses and fees, but most courts do not recognize expenses and fees in their entirety and, therefore, the winning party is not completely compensated.
4	What are the basic rules of disclosure of documents in civil and commercial proceedings? Which documents do not require disclosure? Is electronic disclosure of documents normal?	There are no rules of disclosure. Parties must prove their affirmations by their own means.
5	What is the process for witness evidence (namely, is it deposition based in advance, or witness statement, or examination or cross-examination)? Can a witness be compelled to attend to give evidence?	Witnesses may be called to testify before a judge. Cross-examination is possible and, although it is not common, affidavits may be taken.
6	How are settlement discussions usually conducted (namely whether oral or written and whether between the parties direct or their representatives)? Is the settlement correspondence between the parties/counsel privileged (i.e: may not be disclosed to the court)?	Settled discussions are conducted both orally and in writing. Correspondence between the parties themselves is not privileged, while correspondence between the parties' lawyers is privileged.
7	How can foreign judgments be enforced?	Foreign judgments can be enforced through procedure indicated in Council Regulation (EC) No 44/2001. Generally, foreign judgments are recognized by Italian Courts.

ARBITRATION		
	Questions	Answers
1	Are mediation clauses in commercial contracts binding and enforceable?	Yes, mediation clauses in commercial contracts are both binding and enforceable.
2	What is the procedure for mediation? Is it a popular method for resolving commercial disputes?	Mediation may be (i) voluntarily chosen by the parties, (ii) required by law in cases involving certain controversies, or (iii) mandated by a judge. The process of mediation is typically four months long. The mediation organization involved appoints a mediator, who helps the parties reach an agreement. The agreement reached during the mediation proceeding is enforceable by law. If the parties cannot reach a consensus, civil litigation begins.
3	Are arbitration clauses in commercial contracts binding and enforceable?	Yes, arbitration clauses in commercial contracts are both binding and enforceable.
4	What type of arbitration is commonly used for resolving commercial disputes: ad hoc arbitration or institutional arbitration?	Both ad hoc and institutional arbitration are used to resolve commercial disputes.
5	Which arbitration institutes are most popular?	The most famous arbitration institute in Italy is the Chamber of Arbitration of Milan, a branch of the Chamber of Commerce of Milan. But there are many other prominent institutes located in other Italian cities.
6	What influence can the parties have on the identity of the arbitrator(s)?	Each party nominates its own arbitrator and those two arbitrator nominate a third.
7	In what language is an arbitration proceedings conducted?	The language in which arbitration proceedings are conducted is agreed upon by the parties. If the parties cannot reach a consensus, the arbitrators choose the language.
8	What types of pre-arbitration measures are available and what are their limitations?	There are no pre-arbitration measures available.
9	What are the costs of arbitration proceedings and who bears these costs?	The cost of arbitration is either established by arbitration institutes, or by the arbitrators themselves, when they are nominated by the parties (normally on the basis of a tariff).
10	What are the basic rules of document disclosure in arbitration? Which documents do not require disclosure?	There are no rules of document disclosure. <i>See answer to <u>Civil Litigation</u> question 4.</i>
11	What is the procedure for witness evidence in arbitration (namely, is it deposition based or witness examination or cross-examination)?	The procedure for witness evidence in arbitration is the same as it is in civil court. <i>See answer to <u>Civil Litigation</u> question 5.</i>
12	How are settlement discussions usually conducted (namely whether oral or written and whether between the parties direct or their representatives)? Is the settlement correspondence between the parties and/or counsel privileged (i.e., may not be disclosed to the Arbitrator)?	<i>See answer to <u>Civil Litigation</u> question 6.</i>
13	Under what circumstances can an Arbitration Award be enforced, challenged or annulled?	An Arbitration Award can be annulled if: the Arbitration Agreement is invalid; the arbitrators were not nominated in accordance with the law; the Arbitration Award was pronounced by an individual who did not have the authority to act as an arbitrator, went beyond that which was allowed by the Arbitration Agreement, or was pronounced after an established deadline.