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Ns. rif. MP/20-VI/Club COVID Circular no. 3

**COVID-19 – PROCEDURAL RULES AND TIME BAR IN ITALY**

Hereunder please find an updated situation, as of June 2020, regarding the procedural rules and the suspended period for time bar and prescription subsequent to the latest COVID-19 rules issued by the Italian Government.

**A) Italian Courts - general situation - Status of proceedings**

1. Procedural terms

In Italy we have had two separate phases i.e. (1) a period of suspension of any activities before the Court and (2) a period of re-organisation to avoid any gatherings of people in the Court.

All Italian civil and criminal ordinary proceedings, as well as all procedural time limits relating to pending proceedings in Italy, were suspended from **9 March to 11 May 2020** inc. (as per DL 8 March 2020 no.11, DL 17 March 2020 n. 18 and DL 8 April 2020 no. 36), with the exception of the red zone, where terms were suspended from 22 February to 11 May (as per DPCM 1 March 2020). All hearings pending and scheduled during those periods were postponed *ex officio*.

From 12 May to 30 June, subsequently extended to 31 July 2020, attendance in the Court was organized in such a way as to avoid any gatherings. Web-hearings, via Microsoft Teams, were introduced to avoid any contact between lawyers/Judges and Bailiffs.

2. Time bar and prescription terms

All time bars and prescription terms expiring between 9<sup>th</sup> March 2020 and 11<sup>th</sup> May 2020 were suspended only if the action had been brought or commenced before the Court by the legitimated party (and not via an extra-judicial action).

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All other substantial terms not requiring judicial acts or proceedings to exercise the action were not suspended (i.e. those rights or actions which can be exercised by means of a registered letter with acknowledgement of receipt are not covered by the period of suspension)

**B) Marine Claims – contractual and in tort**

1. Contractual action

All terms relating to maritime claims and subject to time bar (i.e. Hague Visby Rules art. III point 6) which should have been commenced by an action of the plaintiff within 9 March 2020 were suspended up to 11 May 2020 included.

However if the matter is subject to Italian national law and could be suspended by means of an extra-judicial action (i.e. so called prescription) it is not covered by the aforesaid suspension, as the right could be exercised via a registered letter with acknowledgement of service or by means of a PEC certified email.

2. Recourse action

The period of suspension is applicable to any party which should have brought a recourse action before the Court (such as Hague Visby Rules art. III point 6bis)

3. Marine Casualty - Action in tort

All proceedings relating to Marine Casualty – action in tort subject to Italian law and the Navigation Code - are not suspended considering that the rights could have been exercised (and terms interrupted) during the period of suspension by means of a certified registered letter or a PEC

4. Arrest proceedings

During the COVID-19 period of suspension all Italian Courts were active and open for urgent proceedings such as arrest proceedings, though subject to strict regulation.

**C) CMR and inland carriage**

During the period of suspension all pending hearings were postponed as per above point A) 1. whilst the substantial terms for the exercise of a right, such as prescriptions and time bar, are subject to the terms as indicated under point A) 2.

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I hope that this information will be of assistance to Clubs, ship owners and all operators, though I strongly recommend that the original time limits be respected in so far as there are – as yet – no precedents.

Kind regards

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