



The reform of family proceedings in Italy to take effect on 1 March 2023

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The **Cartabia Reform** came into force on March 1st, 2023. This will have a significant impact on family law proceedings. The aim is to reduce the length of time from the start of proceedings and a judgement.

Article 3, paragraph 33, Legislative Decree 149/2022 provides, in fact, in the Code of Civil Procedure in Book II, the new Title IV bis that establishes a single procedure for disputes concerning individuals, minors and families. The primary objective is the protection of children, in addition to parents, in family crises.

Professionals who work in this area are aware of how detrimental the parent's choice to separate or divorce can be for minor children if it is not implemented through an agreement reached within a reasonable time frame.

The Reform seeks to shorten the length of time taken by the court to make a judgement as minor children are almost always disputed between their parents.

To this end, the legislator has intervened by promoting the route of family mediation, to encourage a process of restructuring and regeneration in the parental relationship aimed at resuming communication and respect for the different parental roles. A single procedure has been introduced for matters within the jurisdiction of the Ordinary Court, the Juvenile Court and the Tutelary Judge (with some exceptions).

A summary of the new rules

From March 1st, 2023, there will be no difference when dealing with a family crisis in married couples and in de facto couples. Nor will different judges deal with the application for child maintenance and for the application for maintenance of the cohabitee. Nor will there be different Judges for the application from one spouse to request that the separation be charged to the other and attribute the responsibility for the end of the marriage to the other spouse.

The new procedure will apply to the following proceedings initiated after March 1st, 2023:

- Judicial separation;
- Judicial divorce;
- Custody proceedings for children born out of wedlock;
- Dissolution of civil unions;
- Judgments modifying the conditions of separation, divorce and custody of children born out of wedlock;
- Separation by mutual consent, joint divorce, joint action for custody of children born out of wedlock;
- Alimony;
- Appeals under Article 709b;



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- Disputes over parental responsibility;
- *De potestate* proceedings;
- Status actions;
- Proceedings indicated in Art. 38 bis disp. att;
- Proceedings concerning the status and capacity of persons;
- Proceedings within the competence of the tutelary judge;
- Claims for damages connected by object or title to proceedings indicated above.

However, this will not apply to procedures for the declaration of child adoption and adoption and to procedures for the competence of the immigration sections, international protection, and free movement of EU citizens.

The most important reforms for the protection of minors

- The jurisdiction of the court will be determined on the basis of the habitual residence of the children (in the absence of children, the jurisdiction will be that of the defendant's residence and in the event of their unavailability or residence abroad, that of the plaintiff);
- no more than 90 days must pass from the filing of the appeal to the summons to the parties to appear in court;
- in the event of imminent and irreparable harm, or when the summoning of the parties could jeopardise its implementation, the judge may issue measures for the protection of the children before the scheduled hearing, but fix a hearing for confirmation, modification, or revocation of the measures within the following 15 days.
- where a child refuses to have contact with a parent or where a parent obstructs the relationship with the other parent or with grandparents and relatives, the Judge will shorten the procedural time limits to protect family relationships by scheduling the hearing as soon as possible;
- in the case of applications for financial assistance, the last three tax returns must be submitted immediately, together with bank statements and financial documents within the last three years relating to accounts held exclusively and jointly with third parties, as well as documents certifying ownership of real estate and registered movable property and shares;
- each parent must complete and attach a "parental plan". This document should include the children's routines, their daily school and extracurricular activities, in addition to the holidays normally enjoyed.



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If the parents fail to reach an agreement, it is up to the judge to suggest a plan or to appointment an expert, such as a parental coordinator who can help the parents to reach an agreement;

- the child court hearing must always be ordered by the Judge for minors who have reached the age of 12 or who are capable of discernment;
- in the event of high levels of conflict between the parents, a special guardian may be appointed for the child, who may also be granted protective powers after the proceedings have ended;
- It is compulsory that the parties disclose whether there are any proceedings, including criminal proceedings pending against them;
- Cost-orders can be made against a party who disclosed only partial or inaccurate documentation regarding their economic and financial affairs. The duty of loyal collaboration between the parties (whether they are parents and/or spouses or cohabitants) is sanctioned by the court;
- In both judicial and consensual separation applications, parents can submit an application for divorce at the same time (which can be pronounced in a single proceeding, only in the presence of a partial judgment of separation and if cohabitation has not been resumed), thus reducing the length of time of the proceedings.