

The Legal System of Foreign Investment in Italy from the Perspective of Comparative Law

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Abstract: to Introduce the Current Legal System in Italy, We Cannot Avoid the Fact That It is a Member of the European Community. the Same is True. in Terms of Obligations, the Rome Treaty Requires Every Member of the European Community to Cooperate in the Supplementary Provisions of the European Community Law and the Realization of the European Community Policies, Especially in the Consideration of the Consistency and Coordination with the Laws of Various Countries, Which Will Produce Important and Long-Term Results and Effects. This Result and Influence Can Be Summarized as Follows: Firstly, as a Source of Law, the European Community Law Has the Effect of Surpassing the National Common Law; Secondly, the Judges of a Country Have the Obligation Not to Apply the Laws and Regulations Adopted by the Congress, the Government and the Ministries Which Are Contrary to the European Community Law When Dealing with Some Special Cases; Finally, in Case of Involving the Interpretation of the European Community, the National Judges of the Intermediate Court Have the Understanding the Judge of the Court of Final Appeal Has the Duty to Visit the Judge of the Supreme Court of Europe for the Judicial Interpretation of His Own Affairs. This Means That under the Ec Law, a Principle of Judicial Restraint is Being Applied, Although to a Large Extent, the Continental Law Countries Do Not Understand This Principle, Just as They Do Not Understand the National Laws.

1. Introduction

When We Start to Introduce the Constitution and Public Law, We Should First Take the Following as the Basis. Italy Has a Written Constitution, Known as the Constitution of the Republic of 1948. It Creates Fundamental Principles That Guide the Social, Political and Cultural Values That Underpin the Republic of Italy (Here, the “Italian” Republic is a Broader Concept Than Understood as the Italian State, Because It Includes Central and Local State Organizations, Autonomous Regions and National Civil Associations). the Constitution is Divided into Two Parts[1]. the First Part is “the Rights and Obligations of Citizens”, and the Second Part is “the State Structure of the Republic”. There Are 139 Articles in the Two Parts. There Are 18 Transitional and Recent Provisions At the End of the Constitution. the Text is Called “Rigid” Because It Cannot Be Modified by General Laws and Regulations. the Amendment of the Constitution Must Go through a Long Legislative Process Which is Passed by a Specific Majority.

2. Italian Constitution and State Organization

Italy's constitutional system consists of the following components of state power. Congress, which includes the house of Representatives and the Senate of the Republic. Both houses are elected by the people, with the same power and status. Their differences lie in the number of members they represent, the age at which they are qualified), the electoral system. The president of the Republic is basically a just power to govern and guarantee. The president is elected by Congress,

and representatives of both houses and regions participate in the election meeting[2]. The term of office of the president is seven years, and a qualified one can be renewed. The president has many roles, and his power involves legislation, administration and government enforcement. Linked to government legislation, the president's powers include convening a new round of elections, presenting a state of the Union address to Congress, approving a motion to Congress, dissolving Congress (unless within the last six months of the president's term), promulgating decrees and regulations, and suspending the promulgation of legislation that needs to be reviewed. The first and most important role of the president in administration is the nomination of the prime minister[3]. The role linked to government law enforcement is to appoint members of the constitutional court and to approve amnesty, amnesty and commutation decisions made by the chairman of the High Council of judges. The main organs of government are the Prime Minister nominated by the president of the Republic and a cabinet of ministers from all countries. The Minister of the state is appointed by the president of the Republic on the recommendation of the prime minister. One third of the 15 members of the constitutional court are elected by Congress and one third by the president of the Republic and one third by the supreme general and administrative court. Their term of office is nine years. Usually these 15 members sit together, but the court can also be held by 11 members elected to a quorum[4]. The basic function of this court lies in the judicial review of legislation. Another important role is to arbitrate conflicts between state institutions and between state and local authorities. There is a hearing before the court and another top 16 laymen selected by Congress from a regularly prepared list. Other special important constitutional bodies are: the court, which exercises administrative and judicial supervision functions and supervises the financial activities of government agencies; the State Council, which exercises administrative and judicial functions, including local administrative law enforcement[5]; the judge's high agreement Committee, which is an autonomous and self regulating body separated from judicial power, handles all judicial related cases, exercises administrative and judicial functions Disciplinary function. In addition to the central organs of the state, it is also worth mentioning the administrative divisions on the national territory, which are divided into cities, provinces and regions. Simply put, when cities and provinces are placed in the important position of the direct jurisdiction of the central government, regions have only limited legislative, administrative and financial autonomy. Italy is divided into 20 regions, five of which enjoy special autonomy, the rest enjoy general autonomy[6]. Part 5 of the constitution describes the general principles of organization and role within these areas. For example, Article 117 provides for the granting of certain legislative power to a region, which can be divided into four main types: the administrative system and its organizations in the region;the people and services. economic development. management and utilization of real estate). There are three forms of local legislative power: exclusive right; supplementary right; Amendment right.

3. Sources of Law

Traditionally, legal sources are divided into two categories: written and unwritten. As in other places, the source of written law in Italy is legislative provisions. The source of written law is at least the most important in theory. As mentioned above, there are many sources of legislation, arranged in order of hierarchy and importance, including: constitution, regional law, international treaties, written law, authorized legislation, judgments and regulations adopted by ministers, regional law, local methods), or autonomous regulations formulated by public institutions such as universities and authorized by legislative bodies. As far as the written law is concerned, we should especially mention the code, which is a set of rules composed of general and basic legislative provisions, arranged into books and chapters. There are four codes in Italy: 1942 civil code, 1940 civil procedure code, 1930 criminal code and criminal procedure code. Another is the 1940 maritime code, mainly maritime law and transportation law. "Code" is usually used to represent a unified legal text, such as "road code", which includes all traffic regulations[7]. However, it is important to pay attention to each of the four codes, especially the civil code, the civil procedure code and the criminal code, which have many legislative regulations. These regulations cover specific contents, family , adoption law, insurance law, fair rent law, etc.; Civil Procedure Law:

bankruptcy and liquidation procedures. In addition, there are also direct amendments to the code which introduces a series of legislation, namely the so-called revised code law. Results in many cases, only reading the code, not being misled, will produce a one-sided understanding of specific issues[8]. Only through additional or specific laws and regulations can we form a comprehensive understanding. What should be emphasized further is the formal recognition of the origin of written law. Indeed, this kind of identification is too simple to take into account other more important, influential and informal sources in practice. These informal and practical sources are case law and legal principles. At the same time, we should consider how well the solutions to legal problems and the necessity of cases are understood in the existing various formal or informal complex legal relations. In particular, as far as the relevance of case law is concerned, it is generally recognized that Italian lawyers are consultants of clients, while Italian judges make decisions after considering relevant legislative provisions and relevant legal interpretations, especially judicial precedents or case law. In this regard, however, the Italian legal system reflects a trend that can also be observed in other countries with continental law[9]. To some extent, law journals have comments on judicial decisions, and some special journals regularly publish the full text of judgments. It is possible to discuss the decision of the court of appeal online through direct contact with the special center set up by the court and managed by the court's personnel. Of course, there are many judicial and legislative databases published on CD by publishers.

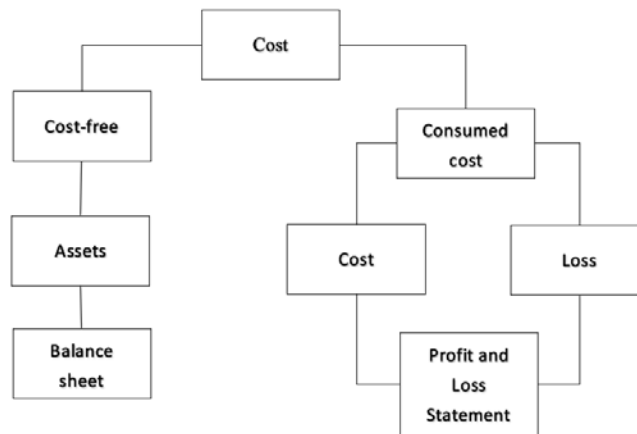


Fig.1 Foreign Cost and Cost Chart

4. Public and Private Law

The court of Italy is mentioned to make a judgment to determine whether the administrative act is legal and effective. It should be understood, however, that Italy, like many other western countries, has undergone profound changes in this area in the decades since the Second World War: on the one hand, the government has been more and more involved in the field of economic and social life, and correspondingly restricted the scope of private autonomy (in terms of property and contractual power) - a very extensive phenomenon, sometimes called legal “Public legalization” - on the other hand, compared with the “public legalization” trend mentioned above, another updated phenomenon is that some parts of public law have a tendency of “private legalization”, which makes the traditional distinction between public law and private law in crisis. Moreover, in civil law countries, private law has always been considered as code law in history. However, there are also changes in this area, resulting in a large number of special laws and norms as a supplement to the civil code, to adjust all the new things or those new things that are not fully developed when the code is revised. This process is called “illegal codification” of law, which makes Italy and other countries of civil law system experiencing the same changes in a very serious situation, because these countries should be traditionally considered as countries of code law system.

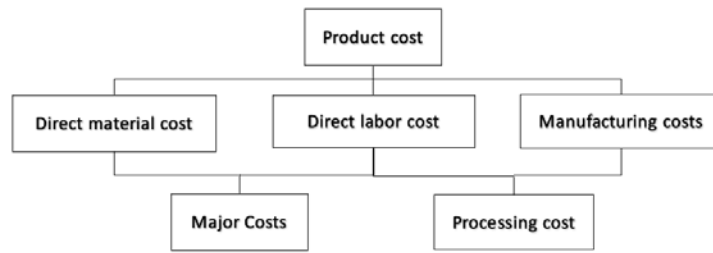


Fig.2 Product Cost of Foreign Investment

5. Conclusion

It is impossible to discuss this problem in more detail here. For us, as long as we know that the code is still the basis of the systematization of this law, but many civil (private) law cases are solved from other places rather than the code.

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