

Pro Bono Practices and Opportunities in Italy

I. Introduction

Historically, pro bono legal services have not been provided as part of the legal culture or framework in Italy. Pro bono activities are primarily restricted to legal assistance given to non-profit entities or individuals who cannot pay for legal services based on ethical and social motivations, or very basic legal information promoted to citizens before they wish to contact a lawyer by e.g. local bar associations or notaries’ associations. However, in recent years large global law firms with offices in Italy have started to engage in such activities, providing pro bono legal services and embracing the relevant cause.

II. Overview of Pro Bono Practices

(a)	Professional Regulation	
	<p>1. Describe the laws/rules that regulate the provision of legal services?</p>	<p>The provision of legal services is regulated by the Articles from 2229 to 2238 of the Italian Civil Code. In particular, the Italian Civil Code states that: (i) the remuneration for any service provided shall be commensurate with the importance of the services and the dignity of the profession; and (ii) if the activity involves the solution of difficult technical problems, the professional is liable for such activity only in case of gross negligence or wilful misconduct.</p> <p>In addition, lawyers’ activities in Italy must be carried out in compliance with the provisions of the Italian Code of Professional Conduct and Ethics (as amended on June 12, 2018) (the “Professional Rules”), issued by the National Bar Association (<i>Consiglio Nazionale Forense</i>); the Professional Rules establish the rules of conduct that any lawyer is expected to observe in general and, specifically, in their relations with clients, with the other party, with other lawyers and with other professionals. The compliance with the Professional Rules is supervised by the local Bar Associations. In regard to such rules, please refer to the website of the National Bar Association.¹</p>
	<p>2. Describe any licensure requirements governing the provision of legal services.</p>	<p>The new Regulation for the Organization of the Legal Profession (Law No. 247 of December 31, 2012²) sets out the rules necessary in order to become an Italian lawyer.</p> <p>The first requirement to enter the legal profession is to have studied law in an Italian university. After graduation, an 18-month traineeship in a law firm</p>

¹ See <https://www.consiglionazionaleforense.it/web/cnf/codice-deontologico-forense> (last visited on May 1, 2019).

² See <https://www.consiglionazionaleforense.it/documents/20182/0/Legge+247-2012+-+Testo+aggiornato+al+5+giugno+2018/c8146804-2291-4c3e-b49f-f1c41a53bec0> (last visited on May 1, 2019).

		<p>or at the Government Legal Service (<i>Avvocatura dello Stato</i>) must be completed by the trainee-lawyer (<i>Praticante Avvocato</i>). At the end of the traineeship, the trainee-lawyer obtains the related certificate and can be admitted to take the State Examination for the Qualification to the Profession of Lawyer (<i>Esame di Stato per l'abilitazione all'esercizio della professione di Avvocato</i>), both written and oral. Upon passing the examination, taking the oath and registering with the Italian Bar Association (<i>Ordine degli Avvocati</i>), the new lawyer can legitimately start to practice in the legal profession.</p>
(b)	Pro Bono Practice and Culture	
	<p>1. Describe the rules that regulate the provision of pro bono legal services e.g. any explicit regulation or limitation on providing free legal services in some or all contexts, details of any mandatory or minimum fees imposed on provision of legal services.</p>	<p>Under the Italian Law or the Professional Rules, it is not mandatory for attorneys to do or report on pro bono legal services, and no explicit regulation exists to govern such practice.</p> <p>On the contrary, under the principles provided by the Professional Rules, lawyers cannot carry out any conduct directed at the acquisition of client relationships by means not conforming to principles of propriety and decorum, and in the past the offer of legal services free of charge was considered as a breach of the principles connected to the fair competition among attorneys.</p> <p>However, also following the entry into force of certain recent regulations (e.g. Law decree No. 233/2006, known as the “Bersani Decree”, and Law decree No. 1/2012, known as the “Liberalizzazioni Decree”) which affirmed, amongst other things, the principle of freedom of the parties in determining the applicable fees for legal services, the Professional Rules are now usually interpreted so as to allow the provisions of free legal services if they are ethically or socially motivated.</p>
	<p>2. Are lawyers required by such rules to work a minimum number of pro bono hours? If so, how many?</p>	<p>Under Italian Law it is not mandatory for attorneys to provide pro bono legal services and, therefore, Italian lawyers are not required to work a minimum number of pro bono hours.</p>
	<p>3. Are aspiring lawyers required to complete a minimum number of hours of pro bono legal services in order to become licensed lawyers?</p>	<p>Aspiring lawyers in Italy are not required to complete a minimum number of hours of pro bono legal services in order to become licensed lawyers.</p>

	<p>4. What are the main areas of law which require or present opportunities for the provision of pro bono legal services? What are the major unmet legal needs?</p>	<p>In Italy pro bono legal services are offered by lawyers especially to persons belonging to certain “vulnerable categories” such as, <i>inter alia</i>, victims of domestic violence, minors and asylum seekers, as well as to non-profit associations pursuing social objectives, non-governmental organizations (“NGOs”), charitable organizations and foundations.</p> <p>It should be noted that certain inefficiencies of the Italian judicial system – in particular, the excessive length of court proceedings and the number of bureaucratic formalities related thereto – affect the effectiveness of pro bono legal assistance and produce delays and inefficiencies that prejudice the possibility of pro bono clients receiving a prompt satisfaction of their rights.</p>
	<p>5. Who are the main providers of pro bono legal services? e.g., NGOs, governmental or other public services, schools and universities, private law firms (local or international) or corporate organizations?</p>	<p>Generally speaking, certain legal services in Italy – in particular, legal assistance in court in litigation cases – can only be provided by Italian lawyers duly registered with the National Bar Association or foreign lawyers who had their qualification recognized in Italy and are therefore fully licensed to practice law in Italy. As a consequence, the main providers of pro bono legal activities in Italy are some global and large local firms (e.g. Latham & Watkins, Linklaters, Clifford Chance, Cleary Gottlieb Steen & Hamilton, Bonelli Erede and Gianni Origoni Grippo Capelli) as well as individual attorneys, which sometimes are also members of certain non-profit associations, NGOs and charitable organizations (e.g. Avvocato di strada Onlus;³ Naga;⁴ Osservatorio Solidarietà⁵).</p>
<p>(c) Obstacles to Provision of Pro Bono Services</p>		
	<p>1. Do lawyers require a license to provide pro bono legal services?</p>	<p>No specific license is required by lawyers to provide pro bono legal services in Italy. The only requirements are to be a lawyer registered with the Italian Bar Association (<i>Ordine degli Avvocati</i>) and to offer pro bono legal services in compliance with the applicable legislation and the Professional Rules.</p>

³ See <https://www.avvocatodistrada.it/> (last visited on May 1, 2019).

⁴ See <https://naga.it/attivita/servizio-legale/> (last visited on May 1, 2019).

⁵ See <http://osservatoriosolidarieta.org/chi-siamo/> (last visited on May 1, 2019).

<p>2. Do foreign lawyers require any additional license(s) to provide pro bono legal services?</p>	<p>Foreign lawyers do not require any additional license to provide pro bono legal services in Italy. Nevertheless, they must comply with the aforementioned applicable legislation and Professional Rules which provide, <i>inter alia</i>, that certain legal services – in particular, legal assistance in court in litigation cases – can only be provided by Italian lawyers duly registered with the National Bar Association or foreign lawyers who had their qualification recognized in Italy and are therefore fully licensed to practice law in Italy.</p> <p>Please refer to the Consiglio Nazionale Forense website in relation to the recognition of foreign qualifications.⁶</p>
<p>3. Do lawyers require professional indemnity legal insurance cover for any pro bono legal services that they provide? If so, are they prohibited from working under the cover of another pro bono provider, such as a private law firm or organization working on the same pro bono project?</p>	<p>Pursuant to Article 12 of Law No. 247/2012,⁷ all lawyers registered with the National Bar Association have to enter into certain insurance policies aimed at covering professional liability for possible damages suffered by clients in connection with the exercise of professional legal activities.</p> <p>The fundamental requirements of such insurance policies are established by the Ministerial Decree of September 22, 2016,⁸ that has been in force since October 11, 2017. Please note that the aforementioned Ministerial Decree does not specify whether the insurance cover also applies to pro bono legal services eventually provided by the lawyers.</p> <p>Such insurance policies shall be entered into also by foreign lawyers who want to practice law in Italy (and who are therefore registered with the national Bar Association), as the Professional Rules applies to any lawyer practicing in Italy.</p>
<p>4. Are there any rules that prohibit advertising of pro bono successes or soliciting new pro bono clients?</p>	<p>The Professional Rules set some limits for advertising attorneys' activities. Pursuant to Article 35 of the Professional Rules,⁹ lawyers are permitted to advertise their professional activity in accordance with the standards of truthfulness, fairness, transparency, secrecy and confidentiality, as well as the principles of dignity and decorum of the profession. Such principles could constitute, in</p>

⁶ See <https://www.consiglionazionaleforense.it/1-avvocato-internazionale> (last visited on May 1, 2019).

⁷ See <https://www.consiglionazionaleforense.it/documents/20182/0/Legge+247-2012+-+Testo+aggiornato+al+5+giugno+2018/c8146804-2291-4c3e-b49f-f1c41a53bec0> (last visited on May 1, 2019).

⁸ See <http://www.gazzettaufficiale.it/eli/id/2016/10/11/16A07253/sg> (last visited on May 1, 2019).

⁹ See <https://www.consiglionazionaleforense.it/web/cnf/codice-deontologico-forense> (last visited on May 1, 2019).

		certain conditions, restrictions on the advertising of pro bono successes.
	5. Do lawyers receive any “Continuing Legal Education” or equivalent credit for pro bono hours worked?	Italian lawyers do not receive any “Continuing Legal Education” or equivalent credit for pro bono hours worked. Currently, such credits are only obtained in connection with the participation to lectures, courses, or teaching activities.
(d)	Sources of Pro Bono Opportunities and Key Contacts	
	1. Describe any governmental sources of pro bono and/or other legal services in Italy.	The following organizations may provide pro bono referrals and opportunities for lawyers to participate in education and research activities: <ul style="list-style-type: none"> • Ministry of Justice;¹⁰ • Notaries’ website;¹¹ • Italian Bar Association;¹² and for cities where legal services are mostly provided: <ul style="list-style-type: none"> ▪ Milan Bar Association;¹³ ▪ Rome Bar Association;¹⁴ ▪ Turin Bar Association.¹⁵
	2. Describe the main non-governmental sources of pro bono and/or other pro bono resources in Italy.	Several non-governmental organizations are involved in providing, among other services, legal assistance to citizens who have been expelled, detained or refused a residence or asylum permit, as well as homeless people who cannot afford legal services. For instance, the following organizations are involved in pro bono legal services: (i) <i>Naga</i> ; ¹⁶ and (ii) <i>Avvocato di strada Onlus</i> . ¹⁷
	3. Is there any public or private organization with which a local or foreign attorney can register in order to be made aware of pro bono opportunities?	Several initiatives are being undertaken to enable local and foreign lawyers to register their interest in Italian pro bono opportunities. For example, in May 2017 “Pro Bono Italia” was established. ¹⁸ Pro Bono Italia is a non-profit association of lawyers, law firms and forensic associations created for the promotion and spread of the culture of pro bono

¹⁰ See <https://www.giustizia.it/giustizia> (last visited on May 1, 2019).

¹¹ See <https://www.notariato.it/it/sportelli-di-consulenza> (last visited on May 1, 2019).

¹² See <https://www.consiglionazionaleforense.it/> (last visited on May 1, 2019).

¹³ See <https://www.ordineavvocatimilano.it/> (last visited on May 1, 2019).

¹⁴ See <https://www.ordineavvocatiroma.it/> (last visited on May 1, 2019).

¹⁵ See <http://www.ordineavvocatorino.it/> (last visited on May 1, 2019).

¹⁶ See <https://naga.it/attivita/servizio-legale/> (last visited on May 1, 2019).

¹⁷ See <https://www.avvocatodistrada.it/> (last visited on May 1, 2019).

¹⁸ See <http://probonoitalia.org/en> (last visited on May 1, 2019).

		<p>throughout Italy. Such association carries out, through its members and in compliance with the rules on free patronage, pro bono legal services in favor of non-profit organizations that have social purposes and people who have difficulty in obtaining legal assistance and access to justice, promoting the progress of the public good, the protection of human rights and the improvement of the legal system.</p> <p>Pro Bono Italia has been created in connection with “Italian Pro Bono Roundtable”, that is a network of lawyers, law firms and companies sharing the purpose of interacting and cooperating on pro bono basis with Italian NGOs and civil society. For further information, please refer to the PILNet web page for Italy.¹⁹</p>
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¹⁹ See <http://www.pilnet.org/italy> (last visited on May 1, 2019).