

4th February 2011

Mediation Italian Style

The Commercial Court have ruled that the case of Depfa and Dexia v The Provincia di Pisa is to be mediated in Italy. The Provincia di Pisa who is represented by Seddons is being sued by Depfa and Dexia banks in relation to certain interest rate swap agreements. Although the case turns at least in part upon the validity of the contracts under Italian law, it is being litigated in the High Court in London because the contracts contain provisions applying English law and giving the English court exclusive jurisdiction.

At the case management conference which took place on 28 January, after hearing representations made by Jonathan Davies Jones (instructed by Seddons to represent Provincia di Pisa) of counsel, Mr Justice Smith ruled that before the procedural timetable kicks in the parties should attempt to mediate the dispute. As the parties themselves are based in Italy and in the interests of saving costs, he ordered that the mediation should take place there.

Marvin Simons who is the lead partner on the case and heads the litigation department at Seddons says “Alternative Dispute Resolution and in particular mediation is something that we always seek to encourage at Seddons. We have found that in most cases parties engage positively in the mediation process and that this can often lead to a settlement which is acceptable to all sides and which results in an enormous saving in costs”

Germana Lo Iacono-Smith is the solicitor with day to day conduct of the case at Seddons. Germana (who is a native Italian speaker) says that “this case and in particular the reference to mediation in Italy has provoked much media interest particularly in the Italian financial press. There is at present a very large amount of “swap agreement” litigation taking place involving banks and Italian cities and provinces. Seddons are acting on 2 such cases at present and have also been consulted on others. These cases are complex involving a combined application of English and Italian law (working in collaboration with Italian lawyers Avvocati Luca Zamagni and Matteo Acciari) and is an interesting area in which we are rapidly developing an expertise”