

Italy Predictions 2026

Landmark decision in Italian climate change litigation will impact insurance

In a landmark decision in the Italian courts between Greenpeace and others and ENI and others, the Joint Sections of the Court of Cassation provided critical guidance including for the insurance sector. Claims in the context of climate change litigation fall within the scope of tort liability. Liability may extend not only to the legal entity directly involved in climate-harmful conduct, but also to its shareholders, and ultimately, to the State. The order also outlines the potential for a new category of liability borne by corporate executives of legal persons engaged in practices with a potential negative impact on the climate. This decision has the potential to impact claims falling under liability policies and D&O cover. Policy wordings will need to take into account such risks and, if necessary, provide for specific sub-limits and/or exclusions.

The natural catastrophe insurance pool represents a turning point in risk management in Italy

On 7 July 2025, the natural catastrophe insurance pool came into operation as an autonomous legal entity and operational hub for Italian insurance companies in the management of catastrophic risks. The creation of the pool marks a watershed moment, enabling the domestic insurance market to meet newly introduced legal obligations through collective risk mitigation and transfer mechanisms. The pool is structured as a consortium with legal personality, but without independent underwriting capacity: it neither retains risk nor capital and operates solely in the name and on behalf of its member companies. Membership of the consortium is voluntary, but companies representing approximately 75% of the Italian market have already joined. Risk transfer will be based on a 'pure premium' principle, with each company free to determine its own commercial premium. In a context where mandatory coverage could generate pricing imbalances and opportunistic behaviour, the consortium model allows for the harmonisation of underwriting practices, contract structures, and strategic approaches. The natural catastrophe pool marks the beginning of a new, structured, and collaborative approach to managing systemic risk.

The new EU directive on liability for defective products will increase claims

The new EU Product Liability Directive (PLD), expected to be implemented in Italy by December 2026, is generally considered more claimant friendly. The PLD expressly extends to software, expands the list of entities that may be held liable (including, under certain conditions, online platforms), introduces new circumstances in which products may be presumed defective and provides the right for the injured party to request disclosure of documents from the manufacturer. This will likely increase claims and costs for product liability insurance.

The Digital Operational Resilience Act will impact D&O liability

The Digital Operational Resilience Act (DORA), in force since January 2025, is a significant legislative framework designed to enhance digital/cyber security and resilience for financial institutions in Europe. DORA requires management bodies to define, approve and supervise the information and communication technology risk management framework of financial entities. DORA allows for regulatory investigations and the imposition of administrative and remedial penalties in the event of a breach. Importantly, penalties can be imposed personally on management responsible for compliance. This includes directors and officers. Although many D&O policies do not cover regulatory penalties imposed, any breaches could also result in potential liabilities to third parties such as shareholders. These claims may trigger D&O coverage, meaning insurers should both be familiar with the steps that their policyholders are taking to ensure compliance, and check that policies are appropriately worded to limit coverage where necessary.

Expected rise in M&A activity should boost growth for warranty and indemnity insurance and claims

Following a slowdown in M&A deals and activity in 2024 and early 2025, there are expectations of growth going forward (subject to geopolitical instability and monetary policies which may create uncertainties), with private equity funds again playing an important role in the Italian M&A landscape. In such a scenario, it is reasonable to expect growth for warranty and indemnity (W&I) and transactional products, though many expect that terms will remain favourable for insureds, given the likely strong competition between insurers. Such growth may be coupled with a material increase in claims volume, with the main focus on tax and financial statements warranties. Transactional products focusing on mitigation of tax risks will also possibly be on the rise (even beyond M&A deals). A thorough understanding of the market conditions and of the Italian litigation and arbitration landscape – in a space with very few known precedents – will be a key factor in handling the expected flow of claims in line with the possible market growth.

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