**How do Civil Law legal orders react to ex-ante transaction costs? A focus on the most relevant regulatory solutions.**

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**Abstract:**

Free market economics are based on contracts and property rights. On the one hand, contract enable individuals and firms to create social value by transferring resources from someone who value them less to someone who value them more. On the other hand, a well-defined system of property rights describes the powers people have over resources. The linkage between these legal arrangements is given by the fact that the contract is a way of transmitting property on derivative basis. Moving from these assumptions, economic analysis of law has reconducted the bargaining process into the conceptual framework of game theory, thus imagining the contract as a cooperative game suitable to provide mutual advantages to the parties.

Even though all the parties can benefit from bargaining, nothing ensures that a contract will come into light because of transaction costs. This paper aims to investigate in a twofold perspective (legal-dogmatic and economic) how Civil Law legal orders react to ex-ante transaction costs, by these meant all the potential obstacles to bargaining just prior to the signing of the contract.

In detail, in addition to comparing the various pre-contractual liability systems, we will focus on two arrangements peculiar to the Italian legal tradition subservient to the function of reducing ex-ante transaction costs, namely arbitration and the “contract for person to be appointed”.