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National justice systems

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Italy

Italy



This section provides you with an overview of the court system in Italy.

Organisation of justice – judicial systems

The Italian judicial system is based on the civil law.

The function of a judge, as well as of that of a public prosecutor, is exercised by members of the judiciary. The administrative function is carried out by the Ministry of Justice.

The judicial function can be broken down into the following areas:

- Ordinary civil and criminal
- Administrative
- Accounting
- Military
- Taxation

Jurisdiction over administrative matters is exercised by regional administrative courts (Tribunali Amministrative Regionali or TAR) and by the Council of State (Consiglio di Stato).

Jurisdiction over accounting matters is exercised by the State Auditors' court (Corte dei conti). The office of its general public prosecutor is based at the same court.

Jurisdiction over taxation matters is exercised by the Provincial Taxation Commissions and the District Taxation Commissions.

Jurisdiction in military affairs is exercised by the military courts, the military appeals court, the surveillance military court, military prosecutors based at the military courts, general military prosecutors based at the military appeals court, and the general military prosecutor based at the Court of Cassation.

Jurisdiction over ordinary civil and criminal matters is exercised by magistrates belonging to the judicial order, which is divided into judges on the one hand and magistrates of the public prosecutor's office on the other, fulfilling the roles of judges and investigators respectively.

Administration of courts

The Constitution, among the government structures, puts the Ministry of Justice in charge of court administration because of its special function, role and relationship with the judiciary.

After a very difficult public examination, magistrates are assigned to courts in a certain area of competence, according to their personal choice. They cannot be assigned, promoted, removed, transferred or punished without deliberation by the Consiglio Superiore della Magistratura or CSM (the superior council of magistrates) and with special guarantees of protection.

All matters related to magistrates must be evaluated by the CSM, which protects the independence of the

magistrates and their status.

The President of the Italian Republic is also president of the CSM.

The Ministry of Justice carries out its administrative and organisational functions at two levels:

- Within the central structures (dipartimenti), mainly in Rome and, for special areas of competence, also in local sections
- In judicial offices, tribunals, courts and so on

The administrative function is also responsible for the personnel assigned to judicial services.

At the top level of the courts (or public prosecution offices), there is:

- A chief magistrate, who is in charge of the judiciary and has the last word on office decisions
- A court manager (dirigente) dedicated to the organisation of judicial services for the public and internal assistance to judges and prosecutors. The dirigente is the highest position in the administrative personnel.

Types of courts – short description

Courts are set up as follows:

First instance

- Justices of the peace (giudici di pace) – who are honorary (not professional) judges. They hear minor civil and criminal matters
- Courts or tribunals (tribunali) – hear the more serious cases
- The penal office (ufficio di sorveglianza) – hears cases in the first instance involving penal (criminal) justice (questions about prisoners, convictions, etc.)
- Juvenile court (tribunale per i minorenni)

Second instance

To claim against the first decision on factual grounds and the interpretation of the law:

- Courts of appeal (corte d'appello)
- Penal tribunals (tribunale di sorveglianza) – second instance (and, in some special matters, first instance) courts in matters involving penal justice

Third instance

To obtain recourse for infringement of the law at the highest level:

- Supreme court (corte di cassazione) – with overall competence and final instance

Inside the main tribunals, there are also special sections. Courts of assizes (corti d'assise) sit with two professional judges and six jurors. Jurors are chosen from the body of citizens to serve for short periods, to cooperate and represent the various sectors of society. These courts take decisions on serious crimes (murder, serious assault and similar).

Magistrates who play the role of the public prosecutors in the trials are:

- Chief prosecutors of first instance (procuratore della Repubblica presso il Tribunale) and their deputies (sostituti procuratori)
- Chief prosecutors of second instance (procuratore generale presso la Corte d'appello) and their deputies (sostituti procuratori generali)
- Attorney general for the supreme court (procuratore generale presso la Corte di cassazione) and his or her deputies (sostituti procuratori generali)

In Italy, the role of public prosecutor is played by career magistrates, who exercise their functions under the supervision of the chief of their bureau. This operates as a kind of hierarchy that applies only to the public

prosecutors' offices.

Hierarchy of courts

| | Civil Jurisdiction | Criminal Jurisdiction | Juvenile Jurisdiction | Penal Jurisdiction |
|---------------------|---------------------------------------|---------------------------------------|--|---------------------------------------|
| I Degree | Justice of the Peace Tribunal | Justice of the Peace Tribunal | Juvenile Court | Penal Office/Penal Tribunal |
| II Degree | Court of Appeal | Court of Appeal | Specialised Section of the Court of Appeal | Penal Tribunal |
| Infringement of law | Supreme Court (or Court of Cassation) | Supreme Court (or Court of Cassation) | Supreme Court (or Court of Cassation) | Supreme Court (or Court of Cassation) |
| Legal databases | | | | |

The website of the [Italian Ministry of Justice](#) contains information about the judiciary, the Ministry of Justice, the respective competences of and contact details for various offices.

The website of the [Superior Council of Magistrates](#) offers details about the Italian judicial system in Italian, English and French.

Both websites are accessible free of charge.

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