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National ordinary courts

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Italy



Italy

This section provides you with information on the organisation of the ordinary courts in Italy.

Ordinary courts – introduction

The ordinary courts have jurisdiction of two kinds:

- civil jurisdiction, which seeks to protect rights in relations between private parties, or between private parties and the public administration in circumstances where, in performing its duties, the administration infringes the private party's rights;
- criminal jurisdiction, where the court is called upon to decide whether the criminal proceedings instituted by a public prosecutor against a given individual are well founded.

Civil and criminal proceedings are regulated by separate sets of procedural rules: the Code of Civil Procedure (*codice di procedura civile*) and the Code of Criminal Procedure (*codice di procedura penale*).

Criminal proceedings are instituted by a public law officer who is a qualified judge of the ordinary courts holding the office of public prosecutor (*pubblico ministero*; see the last paragraph of Article 107 of the Constitution).

Civil proceedings may be brought by any public or private party (*l'attore*, the plaintiff) against another party (*il convenuto*, the defendant).

Civil courts

Justices of the peace (*giudici di pace*) are 'honorary' or non-permanent judges (*giudici onorari*) who have jurisdiction in matters of minor importance.

The lower tier of courts (*tribunali*) are courts of first instance in all other disputes, and also hear appeals against the decisions of justices of the peace.

Juvenile courts (*tribunali per i minorenni*) and juvenile divisions of the courts of appeal (*sezioni per i minorenni delle corti di appello*) have jurisdiction in matters involving minors where the ordinary courts are not competent.

There are also divisions (*sezioni*) of the lower courts and of the courts of appeal specialising in work-related matters.

The courts of appeal (*corti di appello*) are courts of second instance.

The Court of Cassation (*Corte di Cassazione* or *Corte Suprema di Cassazione*), which sits in Rome, is the supreme court in the judicial system, and considers whether the judgments of other courts have been arrived at in accordance with the law.

Criminal courts

The justices of the peace try minor offences.

The lower tier of courts are the courts of first instance that try all criminal matters outside the jurisdiction of the justices of the peace or the assize courts, and also hear appeals against judgments handed down by justices of peace.

The juvenile courts and the juvenile divisions of the courts of appeal are the courts of first and second instance for all offences committed by minors.

Assize courts (*corti di assise*) are the courts of first instance that try the most serious crimes.

The courts of appeal are courts of second instance.

Assise courts of appeal (*corti di assise di appello*) are courts of second instance that hear appeals against judgments handed down by assise courts.

The supervisory courts (*tribunali di sorveglianza*) and the supervisory offices (*uffici di sorveglianza*) supervise the enforcement of prison sentences and fines and the application of the law governing sentences.

The Court of Cassation considers whether the judgment of another court was arrived at in accordance with the law. It hears appeals against any decision of any court in civil or criminal matters, or against any limitation on individual freedom; in some cases applications may be made to it directly.

The Court of Cassation is the supreme court in the judicial system. The Fundamental Act on the Organisation of the Courts (*legge fondamentale sull'ordinamento giudiziario*), Act No 12 of 30 January 1941, Article 65, lists among the Court's major functions that of ensuring 'the correct application of the law and its uniform interpretation, the unity of law throughout the country, and observance of the limits between the jurisdiction of the different courts'. One of its fundamental roles, therefore, is to ensure that the law is applied uniformly, so as to provide legal certainty.

As to whether the Court of Cassation can be described as a court of further appeal, or court of third instance, the rules in force allow it to take account of the facts of a case only in so far as they have been established in the earlier proceedings, and only to the extent necessary in order to determine whether the application to the Court of Cassation is legally admissible.

■ Last update: 18/01/2022

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