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# How to bring a case to court



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European Judicial Network  
(in civil and commercial  
matters)

## 1 Do I have to go to court or is there another alternative?

The Italian legal system guarantees that you can have resort to the courts as a general channel for protecting your rights.

But in some matters you first need to attempt mediation, with your lawyer's assistance, and only if that fails can you bring a court action: these areas are disputes concerning condominiums, property rights, division of assets, inheritance, family agreements, rent or lease, loans for use, business leases, claims for damages due to medical malpractice, defamation in the press or other media, and disputes relating to insurance, banking and financial contracts, profit-sharing agreements, consortia, franchising, works, networks, agency workers, partnerships and subcontracting agreements. Proceedings are conducted at mediation bodies authorised by the Ministry of Justice.

In addition, if you intend to bring a court case concerning compensation for damage caused by the movement of vehicles and boats or a claim for payment of sums not exceeding EUR 50 000, you are obliged to attempt negotiation with the other party. However, this procedure involves direct negotiation between the parties, who must be assisted by lawyers.

Another option is arbitration, where the dispute is adjudicated by a private arbitrator designated by the parties to the dispute. Recourse to arbitration as an alternative to court action must be agreed upon by the parties concerned.

## 2 Is there any time limit to bring a court action?

Specific limitation periods apply according to the type of claim. The standard limitation period is 10 years; however, some types of claim have shorter limitation periods (Articles 2934–2961 of the Civil Code (*codice civile*)).

In certain specific cases, the law also lays down time limits relating to specific actions. For example, Article 1495 of the Civil Code provides that in order to seek a remedy before the courts, a buyer who discovers defects in a purchased item must notify the seller within eight days of the discovery.

## 3 Should I go to a court in this Member State?

To obtain a final judgment with the force of *res judicata* you have to go to court. To identify the court with jurisdiction, you must consider the type of dispute and the national and EU rules governing jurisdiction.

## 4 If yes, which particular court should I go to in this Member State, given where I live and where the other party lives, or other aspects of my case?

The basic rule is that the competent court is the court of the place where the defendant resides or has its head office; this is the rule of territorial jurisdiction that determines what is described as the ordinary forum for natural

and legal persons (*foro generale delle persone fisiche e giuridiche*). Depending on the value of the dispute, or on the specific matter at issue, you will have to turn to a specific court in the relevant area (the Justice of the Peace (*giudice di pace*), or the Ordinary Court (*tribunale*) sitting with one judge or with a panel of judges), or indeed to a court outside the ordinary forum for natural persons (in which case there is said to be mandatory territorial jurisdiction (*competenza per territorio inderogabile*)).

See the factsheet on '[Jurisdiction](#)'.

## 5 Which particular court should I go to in this Member State, given the nature of my case and the amount at stake?

Actions concerning movable property for a value of up to EUR 10 000 must be brought before the Justice of the Peace. The Justice of the Peace is also competent for actions having a value of up to EUR 25 000 if they relate to compensation for damage caused by the movement of vehicles and boats. Actions where the sum at issue is larger are handled by the Ordinary Court sitting with one judge. Certain matters are assigned irrespective of their value to the Justice of the Peace (Article 7(3) of the Code of Civil Procedure (*codice di procedura civile*)), the single-judge Ordinary Court (Article 409 of the Code of Civil Procedure) or the Ordinary Court sitting with a panel of judges (Article 50-bis of the Code of Civil Procedure).

See the factsheet on '[Jurisdiction](#)'.

## 6 Can I bring a court action by myself or do I have to go via an intermediary, such as a lawyer?

As a general rule, you will have to be represented by a lawyer: professional representation is mandatory (*obbligo di difesa tecnica*). This rule does not apply to claims for small sums (claims of EUR 1 100 or less before the Justice of the Peace) or if you yourself are a qualified lawyer (Article 86 of the Code of Civil Procedure).

## 7 To initiate the case, who exactly do I apply to: to the reception office or the office of the clerk of the court or any other administration?

The application must be notified to the other party and filed with the competent office of the clerk of the court.

## 8 In which language can I make my application? Can I do it orally or does it have to be in writing? Can I send it by fax or by e-mail?

The application can be made orally only in claims before the Justice of the Peace (Article 316 of the Code of Civil Procedure). In all other cases it must be written, in the Italian language. The application cannot be sent by fax or e-mail alone. Lawyers must file documents by certified email in a dedicated IT system.

## 9 Are there special forms for bringing actions, or, if not, how must I present my case? Are there elements that have to be included in the file?

There are no set forms; the application must indicate the parties, the court, the subject matter and the heading. In ordinary civil proceedings, the applicant must also indicate the hearing at which the other party must appear and inform them that professional representation by a lawyer is mandatory and that they can apply for legal aid (*patrocinio a spese dello Stato*), subject to conditions.

## 10 Will I have to pay court charges? If so, when? Will I have to pay a lawyer right from the introduction of my application?

You will need to pay to the State a fee, which will depend on the amount you are claiming, at the time you file the application (single fee under the Consolidated Law on Legal Costs, Presidential Decree No 115/2002 (*Testo Unico delle Spese di Giustizia, DPR 115/ 2002*)).

The amount and timing of payment of lawyer's fees will depend on the arrangements you make directly with your lawyer.

## 11 Can I claim legal aid?

Both Italian nationals and foreign nationals can claim legal aid if they fulfil the legal personal income requirements (Consolidated Law on Legal Costs, Presidential Decree No 115/2002).

## 12 From which moment is my action officially considered to have been brought? Will the authorities give me some feedback on whether or not my case has been properly presented?

The action is considered to have been brought

- when it is served on the other party, in the case of a writ of summons addressed to the other party (*atto di citazione*),
- when it is filed at the office of the clerk of the court, in the case of an application addressed to the court (*ricorso*).

The court will not consider whether the case has been presented properly until it comes to trial, when both parties can be heard.

## 13 Will I have detailed information about the timing of subsequent events (such as the time allowed for me to enter an appearance)?

The time allowed for entering an appearance, and the timing of other steps to be taken by the parties or by the court, are set out in the Code of Civil Procedure. Each court applies these rules from one step in the proceedings to the next or by setting an overall schedule for the proceedings (Article 81-bis of the Decree implementing the Code of Civil Procedure). The Registrar notifies the parties of court orders issued outside the hearing (for example, changes to the hearing date) and judgments.

Link to Articles 163-166 of the Code of Civil Procedure:

<https://www.normattiva.it/uri-res/N2L5?urn:nir:stato:regio.decreto:1940-10-28;1443>

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