

THE ITALIAN JUDICIAL SYSTEM

Under the Italian legal system, there are different categories of jurisdiction: the constitutional court, ordinary courts and special courts.

Constitutional Court (*Corte costituzionale*)

Constitutional court: challenges to the constitutionality of legislation; disputes over the division of powers; procedures against the President of the Republic under the Constitution on the initiative of Parliament. It is comprised of 15 judges, chosen amongst highly distinguished legal scholars, lawyers and judges, one third appointed by the President of the Republic, one third elected by Parliament and one third elected by the highest courts of ordinary and administrative jurisdiction.

1. Ordinary Courts

The ordinary courts are administered by judges who are competent for general civil and criminal matters, with the exclusion solely of the matters that are reserved for the jurisdiction of special judges.

Court of cassation (*Corte di cassazione*)

Corte di Cassazione: the highest court in Italy, located in Rome. It is divided into three sections, for criminal, civil and labour law disputes. For particularly important matters it may judge in plenary ("*a sezioni unite*").

Competence over:

- appeals on issues of law of second-instance court judgments;
- contests raised in any procedure of the jurisdiction of the Italian judges.

Courts of Second Instance

(*Tribunale*, for appeals against decisions of the *Giudice di Pace* and the former *Pretore*; *Corte di appello*, for appeals against decisions of the *Tribunale*; *Corte d'assise d'appello*, for appeals against decisions of the *Corte d'assise*)

Corte di appello: jurisdiction over appeals from the Courts of First Instance; jurisdiction over enforcement proceedings in Italy of decisions rendered by foreign courts and arbitrators; jurisdiction proceedings for nullity or damages in competition matters. It is comprised of a panel of 3 judges, and is divided into sections for criminal, civil and labour disputes.

Corte d'assise d'appello: composed of 2 professional judges and 6 lay judges. It hears appeals against the decisions of the *Corte d'assise*.

Courts of First Instance (*Tribunale, Giudice di Pace, Tribunale per i minorenni, Corte d'assise*)*

Tribunale: default court of general jurisdiction for all civil and criminal disputes as well as disputes that do not have a determinable value. Generally, only one judge will hear a case, but for matters of particular importance, there may be three judges. It may act as an appellate court for the decisions rendered by the *Giudice di Pace*.

Giudice di Pace: honorary judge with jurisdiction over minor civil claims; motor vehicle accidents; real estate boundaries; minor rental and co-habitation disputes; minor criminal matters. Its decisions may be appealed before the *Tribunale*.

Tribunale per i minorenni: composed of 2 professional judges and 2 experts; it has civil and criminal competence for all disputes and procedures concerning minors (under 18).

Corte d'assise: composed of 2 professional judges and 6 lay judges; it has competence over felonies. Its decisions are appealed before the *Corte d'assise d'appello*.

* Untill 1988, the *Pretore* was a sole professional judge, whose functions have now been absorbed by the *Tribunale*.

2. Special Courts

Administrative jurisdiction: exercised by the *Tribunali Amministrativi Regionali* – TAR (Regional Administrative Courts), whose decisions may be appealed before the *Consiglio di Stato* (Council of State).

Auditing jurisdiction: exercised by the *Corte dei Conti* (State Auditors' Department) for matters concerning public accounts;

Military jurisdiction: exercised by the *Tribunali Militari* (Military Courts), by the *Corti Militari di Appello* (Military Appeal Courts) and by the *Tribunali Militari di Sorveglianza* (Military Surveillance Courts), for military offences committed by members of the Armed Forces;

Fiscal jurisdiction: exercised by the *Commissioni Tributarie Provinciali* (Provincial Fiscal Commissions) and by the *Commissioni Tributarie Distrettuali* (District Fiscal Commissions), for matters concerning taxes.

Tribunale Regionale delle Acque Pubbliche (Regional Court of Waters) and the *Tribunale Superiore delle Acque Pubbliche* (High Court of Waters), competent for controversies on waters which are property of the State.

There are few comprehensive online databases of Italian case law. However the following link provides up to date information on Italian legal research and has links to several online Italian websites where case law may be found for a fee or free of charge: <http://www.llrx.com/features/ladu2.htm>
Corte di Cassazione decisions dating from 2002 can be found in Italian against payment at <http://www.giustizia.it/cassazione/indice.htm>.