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Italy

Corte Suprema di cassazione

Date of establishment:

Before the unification of the Italian kingdom, there were regional courts of cassation. After the unification of the Italian kingdom also the courts of cassation were unified; in particular a unique Court of cassation dealing with criminal proceedings was established in 1888 (law 6 November 1888 n. 5825); a unique Court of cassation dealing with civil proceedings was established in 1923 (Royal decree 24 March 1923 n. 601).

Address and e-mail of the court:

Palazzo di Giustizia,

Piazza Cavour, 00193

Roma, Italia

cortedicassazione@giustizia.it ^[1]

Website :

<http://www.cortedicassazione.it/> ^[2]

Link to the national database of their case law: www.italgiure.giustizia.it ^[3]

The *Corte Suprema di Cassazione* is the highest court in the judicial system.

What does the court decide about:

Among its major functions there is the task to ensure the correct application of the law and its uniform interpretation, together with the unity of the national legal system.

The Italian *Corte di cassazione* is also entrusted with the charge of defining the jurisdiction (i.e., of indicating, in case of controversy, the court, either ordinary or administrative or fiscal, which is empowered to judge upon the case) and the "competence" (i.e., of settling a conflict between two courts dealing with the merits of a case).

The principals of procedure:

No special permission is required to appeal the Supreme Court.

According to Article 111 of the Italian Constitution any citizen can file an appeal to the Supreme Court based on infringement of the law by a decision of lower courts, both in civil and criminal matters or against any limitation to individual freedom.

The appeals (petitions) are based on violation of law and lack of grounds against the decisions of the ordinary and tax courts dealing with civil, criminal, tax and labour cases. The Italian Supreme Court does not undertake fact-finding of its own but confines itself to reviewing the legal assessment of a case by the lower courts. The facts established by these courts are binding on the *Corte di cassazione*, unless such findings are affected by a procedural error pointed out in the statement of grounds for appeal.

The number of justices and panels:

The justices of the Supreme Court are about 350: 1 Chief justice, 1 deputy president, 54 justices presiding over the divisions, 288 Supreme Court judges. There are also 30 judges of the courts of lower instance acting as supporting justices at the Supreme Court and working as members of the Maxim and Digest Office.

The Court consists of six civil and seven criminal divisions. The allocation of the cases to the civil and criminal divisions is based on the subject-matter. A criminal and a civil division examines the inadmissible petitions.

In every division the Court decides in a panel of five judges (a presiding judge and four justices). Each division is presided by a chief presiding judge, assisted by further additional presiding judges (who do not hold the office of chief presiding judge).

The *Sezioni Unite* (i.e. Enlarged Board of the Supreme Court) (whose panel is made of a presiding judge and eight justices belonging to the various divisions of the Court) are entrusted to decide upon a case when concerning disputes about jurisdiction or questions already settled by previous decisions on the basis of a divergent interpretation of the law; further cases are provided for by the law (like the disciplinary cases concerning justices, public prosecutors, lawyers).

How are the justices appointed:

According to the Italian Constitution (art. 104) the judiciary is an autonomous body independent from the legislative and the executive powers. Ordinary judges are subject to the authority of their self-governing body: the *Consiglio Superiore della Magistratura* (CSM). After preparing a list of vacant positions, the High Council for the Judiciary carries out competitions and engages the winners. In order to be appointed Judge of the Italian Supreme Court a candidate shall have at least 16 years seniority. The C.S.M. Evaluation Committee, is in charge of the selection process on the basis of the promotion level of the candidates, their seniority, professional capacity, diligence, aptitude and publications. The High Council for the Judiciary, after consulting the list of candidates submitted by the Evaluation Committee, appoints the counsellors.

As an exception to ordinary recruitment the Constitution prescribes that regular university law professors and lawyers (with at least fifteen years professional activity and registered in the special Register entitling them to practise in the higher jurisdiction courts), may be appointed Counsellors of the Supreme Court of Cassation for outstanding merits (art. 106 Constitution) This measure has recently been enforced by Law n. 303 of 5 August, 1998. The number of the university professors and lawyers appointed cannot

exceed one tenth of the overall number of posts at the Supreme Court.

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