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Italian

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Types of legal professions

Italy

This page provides you with an overview of the legal professions in Italy.

Legal professions – introduction

The main legal professions in Italy are those of *magistrato* (including the functions of judge (*giudice*) and law officer of the public prosecution service (*ministero pubblico*)) and lawyer and notary.

Judges and public prosecution service

The system by which judges and law officers of the prosecution service discharge their **judicial functions** is set out in the Constitution.

Judges

Justice is administered in the name of the people. Judges are subject only to the law. (**Article 101 of the Constitution**).

The system by which judges discharge their judicial functions is laid down and regulated by the laws on the judicial system.

No 'extraordinary' or 'special' courts may be set up, only special chambers attached to ordinary courts. The law lays down how and when the public may take part directly in the administration of justice.

Access to the judiciary is through public competition. However, honorary judges may be appointed to carry out all the functions of an individual ordinary judge.

Autonomy and independence

The judiciary is an **autonomous body**, independent from any other branch of government(**Article 104 of the Constitution**).

This independence is upheld by the Higher Judicial Council (*Consiglio Superiore della Magistratura*), a self-governing body charged with judicial appointments, assignment of duties and transfers, promotions and disciplinary measures (Article 105 of the Constitution).

The only difference between judges is the nature of their work.

Their appointment is permanent and they cannot be dismissed or suspended without a decision to that effect by the *Consiglio Superiore della Magistratura* pursuant to the laws on the judiciary and with the guarantees laid down therein, or with the consent of the judge concerned.

Law officers of the prosecution service

Organisation

The Constitution also enshrines the principles of the **independence and autonomy** of the public prosecution service (**Article 107**).

Article 112 lays down the principle of mandatory prosecution of crimes: once the competent public prosecutor has been informed of a criminal offence, they must conduct investigations and submit the results of these investigations to a judge for appraisal, along with the relevant requests. The obligation to institute criminal proceedings helps to ensure the independence of the public prosecution service in carrying out its work and also underpins the equality of all people before the law.

The offices of the public prosecution service are attached to the Court of Cassation, the appeal courts, ordinary courts and juvenile courts.

Role and duties

The prosecution service is involved in all **criminal proceedings** and acts on behalf of the **state**. Offices of the prosecution service participate in civil proceedings where this is provided for in law (e.g. in certain family disputes, cases involving persons lacking legal capacity, etc.).

Organisation of the legal profession: lawyers and notaries

Lawyers

A lawyer is an independent professional called upon to represent and assist their clients – who may be an individual, a company or a government body – before a civil, criminal or administrative court.

A lawyer defends clients on the basis of an agreement to represent them and upon payment of a fee.

Attached to each court is a council composed of local lawyers (*Consiglio dell'ordine*).

At national level there is the National Bar Council (*Consiglio Nazionale Forense*).

Law No 247 of 31 December 2012 brought in new provisions governing of the practice of law.

Notaries

A notary is a professional who exercises a **public function**: their role is to authenticate acts signed in their presence.

The profession of notary is governed by Law No 89 of 16 February 1913 on the rules governing the notarial profession and notarial archives.

The national body is the National Council of Notaries (*Consiglio Nazionale del Notariato*).

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