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Small claims

Italië

## 1 Existence of a specific small claims procedure

There is no specific procedure for small claims. Small claims are heard by the justice of the peace (*giudice di pace*).

As a general rule, proceedings before the justice of the peace are kept as simple as possible (Sections 316-318 of the Code of Civil Procedure).

### 1.1 Scope of procedure, threshold

Justices of the peace have jurisdiction in disputes involving movable assets with a value of €5 000 or less, unless the law specifically provides otherwise.

Actions brought for damages in connection with vehicular and water traffic accidents are also heard by the justice of the peace, provided that the value involved does not exceed €20 000.

Irrespective of the value involved, the justice of the peace hears all cases involving:

the setting of boundaries and observance of distances for the planting of trees and hedges as established by law, regulation or custom;

the scope and use of apartment building services;

relations between owners or occupiers of dwellings concerning smoke, fumes, heat, noise, vibrations and similar nuisances exceeding normal levels;

interest or incidentals for late payment of pension or welfare benefits.

By Law No 57 of 28 April 2016, the Italian Parliament empowered the Government to reform the system of honorary judges. The empowerment also provides for the jurisdiction of honorary judges to be extended by raising the ceiling for the value of the cases they deal with from €5 000 to €30 000, and to €50 000 in cases of compensation for damage or injury caused by traffic accidents. The empowerment has not yet been implemented, so the new rules do not yet apply.

### 1.2 Application of procedure

Actions brought before a justice of the peace begin with a summons (*citazione*) to appear in court at an appointed hearing. A claim may also be lodged orally, in which case the justice of the peace records it in a document that the claimant serves on the defendant with a summons to appear in court at an appointed hearing (Section 316 of the Code of Civil Procedure). The application must name the court and the parties and set out the facts and the subject-matter of the case. The time limit between the day of service of the summons and that of appearance is half that allowed before the general court (*tribunale*), i.e. 45 days (Section 318 of the Code of Civil Procedure). In the first hearing, the justice of the peace questions the parties at his or her discretion and makes an attempt at conciliation: if this is successful, the settlement arrived at is recorded. If the attempt at settlement fails, the justice of the peace will ask the parties to provide a full account of the facts supporting their claims, defences and objections, and to submit documents and any other evidence. If it appears necessary in the light of the conduct of the case by the parties at the first hearing, the justice of the peace will schedule, once only, a new hearing to allow the submission and taking of additional evidence. The documents submitted by the parties can be included in the case file and kept there until the case is adjudicated.

### 1.3 Forms

There are no set forms.

### 1.4 Assistance by a lawyer

Where the value of the case does not exceed €1 100, the parties may represent themselves before the justice of the peace (Section 82 of the Code of Civil Procedure; see the factsheet on '[How to bring a case to court](#)').

In all other cases, the parties must be assisted by a lawyer. However, the justice of the peace may, on the basis of the nature and scope of the case, allow a party to act as a litigant in person, at the party's own oral request or otherwise.

The judge checks that the parties have taken all the steps required for their appearance in court, and, where necessary, will ask them to complete or regularise any documents the judge finds to be defective.

If the judge finds any flaw in the power of attorney given to the lawyer, he or she will set a time limit within which the parties must remedy it. If the flaw is remedied within the time limit, the application is considered regularised, and its substantive and procedural effects will apply from the date of the first notification (Section 182 of the Code of Civil Procedure).

### 1.5 Rules concerning the taking of evidence

The rules on the taking of evidence are the same as for ordinary court proceedings (see the factsheet on '[Taking of evidence](#)').

### 1.6 Written procedure

There is no provision for a purely written procedure, as justices of the peace are obliged to hear the parties and attempt to find a settlement.

### 1.7 Content of judgment

The rules of ordinary proceedings usually apply.

The empowerment to reform the system provides for honorary judges to be able to adjudicate 'ex aequo et bono' (on the grounds of fundamental fairness) without a specific reference to the legal rules, in cases up to a value of €2 500.

This option is currently open to justices of the peace in cases up to a value of €1 100.

### 1.8 Reimbursement of costs

Is there any restriction on the reimbursement of costs? If so, which?

Decisions awarding costs are taken on the basis of the normal rules, whereby the losing party has to pay the costs. However, the parties may each have to pay their own costs if both lose, or for some other good reason.

### 1.9 Possibility to appeal

The rules on judgments based on fundamental fairness (*sentenze di equità*, in disputes with a value not exceeding €1 100) were amended in 2006: such judgments are open to appeal only if there has been a breach of procedural rules, constitutional law or Community law, or of the principles governing the subject-matter.

These provisions apply to all judgments delivered from 2 March 2006 (Article 27 of Legislative Decree No 2006/40).

Judgments based on fundamental fairness delivered prior to that date can be appealed before the Court of Cassation (within the legal time limits) only on grounds of infringement of constitutional, Community or procedural rules, infringement of the principles governing the substance of the case, or lack of a

proper statement of the grounds of the original judgment. Judgments delivered by the justice of the peace concerning administrative fines can be challenged only by extraordinary appeal to the Court of Cassation.

All other judgments delivered by the justice of the peace may be appealed.

See the factsheets on the [judicial system](#), [jurisdiction](#) and [how to proceed](#).

#### **Related annexes**

##### [Code of Civil Procedure](#)

Last update: 21/07/2022

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