

Judicial System of Italy



Fundamentals

The Italian judicial system is based on civil law within the framework of late Roman law, and not based on common law.

Its core principles are entirely codified into a normative system which serves as the primary source of law, which means judicial decisions of the supreme court, as well as those of lower courts, are binding within the frame of reference of each individual case submitted, but do not constitute the base for judicial precedent for other future cases as in Common Law.

It is worth noting that while in Civil Law jurisdictions the doctrine of *stare decisis* (precedent) does not apply, however, in practice the decisions of the Supreme Court of Cassation usually provide a very robust reference point in jurisprudence *constante*.

The two essential aims of the Supreme Court of Cassation are to ensure that lower courts correctly follow legal procedure, and to harmonize the interpretation of laws throughout the judicial system.

Ministry of Justice

(Ministero della Giustizia)



The ministerial department of the Judicial branch of the Italian government

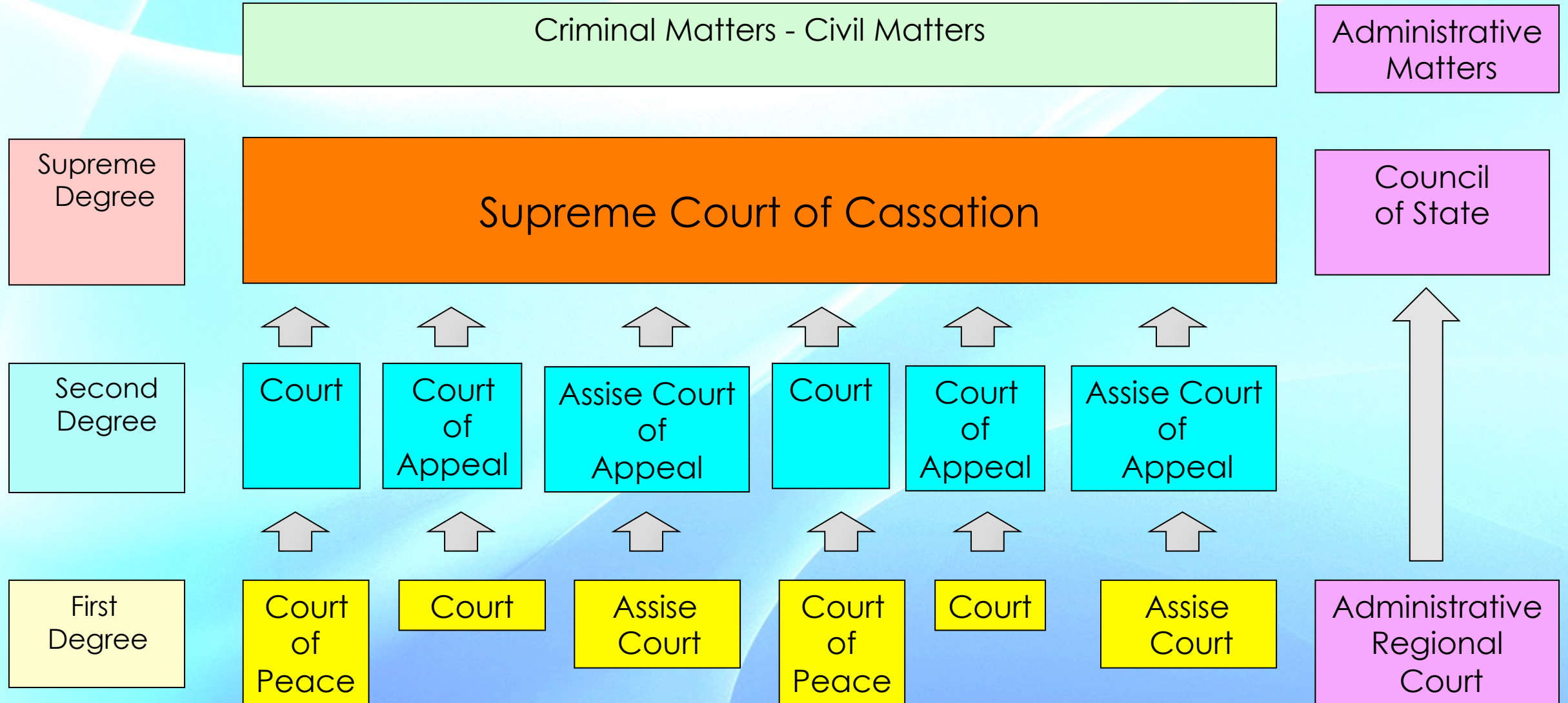
The department in power in regards to the formulation of judicial policies

The department is lead by the elected Minister of Justice

The Minister of Justice is a senior member of the cabinet

- The Ministry of Justice carries out its fundamental functions within the central structures, such as Rome, and the in judicial offices, tribunals, and courts.
- The judicial courts are composed of a chief magistrate and a court manager.
- The chief magistrate heads the judiciary and has the last say on judicial office decisions.
- The court manager serves as internal assistance to the judge and public prosecutors.
- The Italian judiciary is divided into three departments: inferior courts, intermediate appellate courts, and courts of last resort.
- The vertical and hierarchical structure of the courts of the judicial system is mitigated by the esteemed judges and prosecutors of the Superior Council of Magistrates.

The System



Court (Tribunale)

Court (monocratic)

1 Magistrate



Court (collegial)

3 Magistrates



Court of Peace

(*Giudice di Pace*)

1 Judge



Assise Court (Corte di Assise)

2 Magistrates + 6 Civil Judges



Court of Appeal (Corte di Appello)

5 Magistrates + 1



Supreme Court of Cassation

(*Corte di Cassazione*)

Criminal Section

Civil Section

5 - 9 Magistrates



Council of State (*Consiglio di Stato*)

Supreme Court for Administrative Matters

Council of Presidency

President

President Adjunct

Secretary General

Assembly General (Consultative)

Assembly Plenary (Jurisdictional)



Administrative Regional Court

(*Tribunale Amministrativo Regionale*)

20 Regional Courts + Territorial Branches

5 + Magistrates

3 Judges



Constitutional Court

(Corte Costituzionale)

15 Judges



5 named by the President of the Republic

5 named by the Parliament

3 named by the Supreme Court of Cassation

1 named by the Council of State

1 named by the Court of Audit

Magistrates (also retired) from Supreme Court, State Council, Court of Audit

Senior Lawyers

University Professors of Jurisprudence

Supreme Council of Magistrates (*Consiglio Superiore della Magistratura*)



24 + 3 Members



16 togate members elected by the ordinary magistrates

8 lay members nominated by Parliament political parties

1 *ex officio*: the President of the Republic

1 *ex officio*: the First President the Supreme Court

1 *ex officio*: the Prosecutor General of the Supreme Court

National Association of Magistrates (*Associazione Nazionale Magistrati*)

Members: 8.284 of 8.886 magistrates in activity (93%)

Directed by a 36 members committee, elected every four years

Not a trade union, salaries are established by ministerial decree

Representative association, non-political

ASSOCIAZIONE
NAZIONALE
MAGISTRATI



Court of Audit

(Corte dei Conti)



1 President

1 Prosecutor-General

1 Adjunct-President

4 Magistrates

4 Elected citizens chosen by the Parliament
(professors of jurisprudence or senior lawyers)

