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# THE ITALIAN LEGAL SYSTEM

Butterworths



# The Italian legal system

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## The Italian legal system



# Butterworths' Legal Systems of the World

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## Series preface

This is the second study in Butterworths' *Legal Systems of the World*, a series devoted to single-country or, where appropriate, multi-country studies of the principal contemporary legal systems of the world, reflecting a high level of scholarship but suitable for a broad audience. Each study treats briefly the historical development of the respective legal system and its place in the larger family of legal systems or legal traditions in which it originates or by which it has been significantly influenced, the structure and organisation of legal education and the legal profession, the principal institutions involved in the administration of justice and dispute settlement, the sources of law, the constitutional or state system, the basic elements of the principal branches of law, including attention to conflicts of law and foreign relations law, and an analytical bibliography of the principal official gazettes, court reports, and other relevant materials. The studies are designed to serve as a basic reference tool for the particular legal system and to be suitable as preliminary or supplementary reading for courses in international or comparative law, a resource for practitioners, executives, and government legal advisers engaged in legal transactions with the country concerned, and background for area students and specialists who require an introduction to the legal orders of their area of concern.

In the case of Italian law, the introduction by Mauro Cappelletti, John H. Merryman, and Joseph M. Perillo, *The Italian Legal System* (1967) is nearly two decades old. That accomplishment, the translation of *The Italian Civil Code* (1969) by M. Beltrano, G. E. Longo, and Merryman, with Supplement (1978), Cappelletti and Perillo's fine study *Civil Procedure in Italy* (1965), E. M. Wise's translation with introduction of *The Italian Penal Code* (1978), specialist studies such as that by M. Gutierrez and U. Ruffolo, *The Law and Practice Relating to Pollution Control in Italy* (1982), and the expanding links between Italy and other nations both within and without the European communities have laid the base for a comprehensive survey of Italian law, including areas never treated in the general comparative literature: labour law, environmental law; foreign relations law; and commercial law. Dr Leroy Certoma brings to his study a thorough command of the Italian legal system based on research in leading Italian centres and a



background in Anglo-American law enabling him to relate salient features of the Italian Romano-Germanic tradition to English experience.

The present volume presupposes no knowledge of the Italian language. Because most Italian legislation is not available in English translation, the author has been unusually attentive to detail, but in the interests of narrative textual references have been kept to a minimum. The principal doctrinal orientations are set out, with ample reference to the most important writings cited in ch 12.

London  
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W. E. Butler



# Preface to the Italian legal system

The principal object of this work, which forms part of Butterworths' *Legal Systems of the World*, is to present the first comprehensive study of the Italian legal system. Since the majority of subjects covered have not hitherto been dealt with in the English language, a comparatively greater emphasis has been placed upon these rather than those subjects whose treatment is readily to be found in other works.

It is hoped that the work will inspire a better understanding and further studies of the Italian legal system, which is not only a modern example of the Romano-Germanic system of laws but whose very history, until relatively recently, has coincided with the origins and development of the Romano-Germanic tradition. Because the contemporary Italian legal system has had, before many others, to face numerous and diverse challenges necessitating an active, even if not always successful, search for new solutions, its experiences provide a timely and valuable insight into the general types of problems that may well concern our own societies in the future.

The writer is indebted to numerous persons and institutions but desires particularly to express his gratitude and appreciation to the following for their assistance in the various tasks connected with the preparation of the manuscript: Josephine Di Fava, Graeme Coss and Ethel Bohnhoff. The writer especially thanks his wife Maria who bore the unexpected task of typing much of the manuscript. He is also grateful to Dott.sa Iolanda Calamandrei and numerous other members of the Faculty of Law of the University of Florence who were always ready to lend their assistance, as well as to various government officials including Dott. Mario Venditti, whose practical expertise in regional affairs was particularly valuable.

September 1984

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*l* on decriminalisation .....

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**1982**

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*l* on personal liberty .....

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# Abbreviations

A	Article
Artt	Articles
C	The Republican Constitution (1947)
Cass	Court of Cassation
Cass Sez Un	The Full Court of Cassation
cc	Civil Code (1942)
CCA	Company Labour Agreements
CCNL	National Collective Labour Contracts
Citations to Case Law	For example, 120/1967 signifies case no 120 of 1967 of the particular court under consideration.
Cl	Constitutional legislation
cn	Navigation Code (1942)
Corte Cost	Constitutional Court
cp	Criminal Code (1930)
cpc	Code of Civil Procedure (1940)
CPL	The Communal and Provincial Law (1915)
cpp	Code of Criminal Procedure (1930)
DL	Legislative decree
DM	Ministerial decree
dp	The Preliminary Provisions of the Civil Code
dPR/DPR	Presidential Decree
DPR ra	The Presidential Decree on Administrative Review (1971)
HL	The Health Law (1934)
l	law
lf	Bankruptcy Law (1942)
l for	The Law on Legal Practice (1933)
ll	Labour Law (1970)
LM	'Legge Merli' on Soil and Water Pollution (1976)
ln	The Notarial Law (1913)
l TAR	The Law on the Regional Administrative Tribunals (1971)
rd/RD	Royal Decree
RDL	Royal legislative decree



Sez Un	Full court
snc	The ordinary partnership
SpA	Public company
SRL	Private company
TAR	Regional Administrative Tribunal
TUCP	The Consolidated Law on the Communes and Provinces (1934)
TUPS	The Consolidated Law on Public Safety (1931)