

Courts, judges and the hierarchy of justice

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The judicial organization of the canton grew in layers. The first government of 1803 created a Court of Appeal of thirteen judges, eight district courts and thirty-eight justices of the peace, one for each circle.¹ The reform of 1855 introduced popular juries for serious crimes. The compromise over the capital in 1878 moved the Court of Appeal to Lugano, where it has remained.² Above the cantonal courts the Federal Supreme Court, established as a permanent court in Lausanne in 1875, became the guardian of federal law and of constitutional rights, and from 1883 the final interpreter of the federal law of obligations.³ Since 2004 the Federal Criminal Court in Bellinzona has added a federal jurisdiction in the canton, which Chapter J.II examines.

For the financial centre the decisive point was the separation of justice from politics. In the first half of the nineteenth century the courts of Ticino were part of a political system in which each change of government brought purges, confiscations and political trials, as the events of 1841 show. The federal guarantee of cantonal constitutions, the appeal to the Federal Supreme Court and, after 1892, the sharing of government among the parties gradually removed the courts from the battlefield. Today Article 51 of the Federal Constitution requires each canton to have a democratic constitution approved by its people and compatible with federal law, and Article 52 obliges the Confederation to protect the constitutional order of the cantons and to intervene when public order in a canton is disturbed and the canton cannot maintain it alone.⁴ These provisions are the modern form of the federal guarantees that the Confederation enforced in Ticino five times in the nineteenth century.

1 Confidence as an institution: the line to today

The modern financial centre of Lugano depends on the same institutional conditions. When the Associazione Bancaria Ticinese speaks to cantonal

and federal politicians, its demand is for stable and sustainable framework conditions. In June 2025 its president Alberto Petruzzella described such conditions as necessary "per non compromettere la propria competitività internazionale", in order not to compromise the sector's international competitiveness. Its director Franco Citterio said that the banks asked only for stable and sustainable framework conditions.⁵ On the same occasion the Swiss Bankers Association reported that banking accounted for 3.6 per cent of employment in Switzerland, 5.5 per cent of value added and 12.5 per cent of tax revenue. Those figures presuppose institutions that Ticino did not have in 1798: a democratic constitution, federal and cantonal codes of private law, a land register with public faith, an independent judiciary and a tax system that the voters accept.

For the practitioner. The institutional history of Ticino leaves traces that matter in current work: - In real estate transactions and mortgage lending, check whether the commune has a definitive land register or only the provisional register, and obtain the relevant extracts and survey data (Legge sul registro fondiario, Art. 9, 23 and 25). - Where land belongs to a *patriziato* or is subject to its rights of use, verify the corporation's capacity to sell or encumber and the approvals required under cantonal law. - In neighbour disputes and building projects, apply the cantonal law of neighbours in Art. 103–163 LAC alongside the Civil Code. - For notarial deeds, powers of attorney and authentication of signatures, follow the cantonal notarial law to which Art. 19– 25 LAC refer, and plan for Italian as the language of the instrument. - In litigation, note that the cantonal Court of Appeal sits in Lugano while the government and the Federal Criminal Court are in Bellinzona.

2 Notes

1. "Primi lavori del Piccolo Consiglio" (above). ↩
2. Marazzi, reform of 1855 (above); Mondada, "Bellinzona" (above). ↩
3. Federal Act on the Organization of the Federal Administration of Justice of 27 June 1874. ↩
4. Federal Constitution of 18 April 1999, SR 101, Art. 51–52, <https://www.droit-bilingue.ch/en-it/1/10/101-52-60.html>. ↩

5. Danila Rizzi, "Piazza finanziaria ticinese: servono regole chiare e stabili", finews.ch Ticino, 18 June 2025, <https://www.finews.ch/ticino/68068-piazza-finanziaria-ticinese-stabili-alberto-petruzzella-franco-citterio-roman-studer-swiss-banking-gabriel-bourquin-christian-vitta>. ↩

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