

Structure and Functions of the Trial Office
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1. Normative Sources

The **Trial Office** was established by Article **16-octies Decree-Law** No. 179 of 18 October 2012 (converted with amendments by Law No. 221 of 17 December 2012), introduced by Article 50 Decree-Law No. 90 of 24 June 2014 (converted with amendments by Law No. 114 of 11 August 2014).

Article 16-octies of Decree-Law No. 179/2012 was subsequently repealed as a result of the entry into force of **Legislative Decree No. 151 of 10 October 2022**, which dictated an **organic regulation** of the institution of the Office for Trial and provided for its explicit mention in the Codes of Civil Procedure (Article 58-bis of the Code of Civil Procedure) and of Criminal Procedure (Article 126 paragraph 1-bis of the Code of Criminal Procedure).

The trial office is contemplated, in the abstract, by the aforementioned Legislative Decree 151/2022, which represents the most recent primary legislative source on the subject, but its establishment, in practice, is left to organisational measures of the heads of the judicial offices.

These organisational measures - which must be included in the draft tables¹ of the individual offices - are adopted in compliance with the **Guidelines** periodically outlined by the SCM² and **the Circulars on the formation of the organisation tables of the judicial offices**³.

2. Composition and Objectives

Trial Offices are **organisational structures**, delegated to support the judge in his tasks and activities, set up ‘in order to guarantee the reasonable duration of the trial through the innovation of organisational models and a more efficient use of information and communication technologies’ (art. 2 Legislative Decree 151/2022).

¹ The tables of judicial offices are four-year organisational documents that establish ‘the division of the judicial offices referred to in Article 1 into chambers, the allocation of individual magistrates to the chambers and assize courts, the assignment of presidents to the chambers the designation of magistrates who are in charge of chambers pursuant to Article 47-bis, second paragraph, the assignment of the tasks referred to in Articles 47-ter, third paragraph, 47-quater, second paragraph, and 50-bis, the assignment of the specific procedural attributions identified by law and the formation of judicial panels’ (art. 7-bis Royal Decree No. 12 of 30 January 1941 on the Judicial Order).

² Guidelines for the Trial Office were issued by resolutions of 15 May 2019, 13 October 2021 and, most recently, 13 June 2024.

³ The Circular for tabular projects for the four-year period 2026/2029 is dated 26 June 2024.

The importance of the Trial Offices is central in the pursuit of the **objectives established by the NRP** which, in particular, consist, following the renegotiation of the same by the decision of the European Council of 8 December 2023, in:

- Reduction, by December 2024, of 95% of the civil backlog pending as of 31 December 2019 in the courts (337,740) and courts of appeal (98,371);

- Reduction, by June 2026, at the courts of 90% of the civil case backlog as at 31 December 2022 registered since 1 January 2017 (1,197,786) and at the courts of appeal of the civil case backlog as at 31 December 2022 registered since 1 January 2018 (179,306);

- Reduction, by June 2026, of 40% in the processing time of all civil and commercial litigation proceedings compared to 2019;

- Reduction, by June 2026, of 25% in the processing time of all criminal proceedings compared to 2019.

The **composition** of the Trial Office is varied.

In particular, the following may be assigned to this structure (Article 4 of Legislative Decree 151/2022) in the ordinary courts and in the Courts of Appeal

a) as regards the trial offices in the courts, the honorary justices of the peace referred to in Articles 10 and 30(1)(a) of Legislative Decree No. 116 of 13 July 2017;

b) as regards the trial offices at the Courts of Appeal, the auxiliary judges referred to in Articles 62 et seq. of Decree-Law No. 69 of 21 June 2013, converted, with amendments, by Law No. 98 of 9 August 2013, until the reorganisation of the role and functions of the honorary judiciary is completed within the timeframe established by Article 32 of Legislative Decree No. 116 of 13 July 2017;

c) trainees referred to in Article 73 of Decree-Law No. 69 of 21 June 2013, converted, with amendments, by Law No. 98 of 9 August 2013;

d) those undergoing professional training pursuant to Article 37 paragraph 5 of Decree-Law No. 98 of 6 July 2011, converted, with amendments, by Law No. 111 of 15 July 2011

e) the staff of the chancelleries or judicial secretariats;

f) the staff referred to in Article 11 et seq. of Decree-Law No. 80 of 9 June 2021, converted, with amendments, by Law No. 113 of 6 August 2021 (these are the AUPP officials, who were hired - in support of the project lines included in the NRP - to ensure the speedy settlement of legal proceedings and to strengthen and speed up the reduction of the backlog)

g) the staff referred to in Article 1, paragraph 19 of Law no. 206 of 26 November 2021 and Article 1, paragraph 27 of Law no. 134 of 27 September 2021;

h) any other professional figure established by law for the performance of one or more of the activities provided for in this Decree.

Several Trial Offices may be established at each judicial office (e.g., a Trial Office for each civil and criminal section, as well as, where appropriate, Trial Offices

with a **cross-sectional** scope, among which the **Office for Statistics and Management Control** has proved particularly useful, with the task of collecting and processing, according to uniform statistical criteria, data on pending, contingent and final cases for the entire judicial office).

The **objectives** to be pursued by each trial office are set out in the draft schedules of the individual judicial offices and must be selected from those set out, in a general and abstract manner, in Article 5 of Legislative Decree No. 151/2022:

a) preparatory and support activities for the magistrate's duties, such as: study of the file, compilation of summary sheets, preparation of hearings and council chambers, selection of the conditions for the mediation of litigation, research into case law and doctrine, preparation of draft orders, assistance in taking minutes

b) support to the magistrate in carrying out the preliminary verifications envisaged by Article 171-bis of the Code of Civil Procedure as well as in identifying the proceedings envisaged by Article 348-bis of the Code of Civil Procedure

c) connection and coordination between the activities of the magistrate and those of the chancelleries and administrative services of the judicial offices

d) collection, cataloguing and archiving of the office's measures, also through local case law databases

e) support for the use of IT tools;

f) assistance for the analysis of statistical flows and monitoring of the office's activities;

g) support for the implementation of organisational projects aimed at increasing the productive capacity of the office, reducing the backlog and preventing it from building up.

3. Trial Office and Honorary Justices of the Peace

A special relationship links the honorary justices of the peace (henceforth GOP for brevity) to the trial office.

The honorary judiciary was the subject of an organic reform by Legislative Decree No. 116 of 13 July 2017.

Those who take up the post of 'honorary justice of the peace' must first undertake a six-month internship at the ordinary court of reference (art. 7 paragraph 1 Legislative Decree 116/2017) and, subsequently, are assigned for the first two years to the Office for Trial and 'may perform exclusively the tasks and activities inherent thereto' (art. 9 paragraph 4 Legislative Decree 116/2017). Notably, during this first two-year period, the GOP may perform the following activities pursuant to Article 10 paragraphs 10, 11 and 12 of Legislative Decree 116/2017:

(i) assists the professional judge to whom it is assigned and, under the direction and coordination of the professional judge, carries out, also for proceedings in which the court sits in collegiate formation, all preparatory acts useful for the exercise of the judicial function by the professional judge, in particular, the study of the files, the in-depth study of case law and doctrine and the preparation of the minutes of the orders. The honorary judge may attend the council chamber;

(ii) by delegation of the professional judge, may take testimony, make attempts at conciliation and adopt orders fixing the remuneration of auxiliaries and orders settling simple and repetitive matters

(iii) by delegation of the professional judge, may adopt final orders: a) settling proceedings in voluntary jurisdiction, in matters other than family matters, including matters falling within the competence of the protective judge; b) settling proceedings in matters of social security and compulsory assistance; c) settling proceedings to challenge or oppose administrative measures; d) settling cases concerning movable property having a value not exceeding €50. 000, as well as relating to the payment for any reason of sums of money not exceeding the same value; e) that define cases of compensation for damage produced by the circulation of vehicles and boats, provided that the value of the dispute does not exceed €100,000; f) that define proceedings of expropriation from third parties, provided that the value of the attached claim does not exceed €50,000.

At the end of the first two-year period, there is an alternative, in that the GOP:

1) may be assigned to the office of the justice of the peace, where he will exercise civil and criminal jurisdiction according to the jurisdiction by territory, subject matter and value dictated by the rules of procedure for justice of the peace offices;

2) may remain within the ordinary court, always within the trial office, with the consequence that he/she cannot ‘exercise civil and criminal jurisdiction at the justice of the peace office’ (art. 9 paragraph 3 Legislative Decree 116/2017). The GOP who remains at the ordinary court beyond the initial two-year period enjoys an expansion of his functions, since, in addition to the activities he could previously carry out, he can become assignee of proceedings of his own, which he handles and manages from the beginning until the end. The assignment to GOP of civil and criminal proceedings is possible provided that certain conditions set forth in Article 11 of Legislative Decree No. 116/2017 are met, with the exclusion, in any event, of certain categories of proceedings deemed by the legislator to be generally more complex or delicate⁴.

⁴ Honorary justices of the peace may not be assigned, pursuant to paragraph 1 of Article 11 of Legislative Decree 116/2017:

‘(a) for the civil sector:

1) interlocutory and possessory proceedings, with the exception of applications made in the course of the case on the merits and in the petitory proceedings as well as proceedings within the jurisdiction of the enforcement judge in the cases provided for by the second paragraph of Article 615 of the Code of Civil Procedure and the second paragraph of Article 617 of the same Code within the limits of the interlocutory phase;

(2) proceedings on appeals against orders of the justice of the peace;

3) proceedings concerning labour relations and compulsory social security and assistance;

(4) proceedings in company and bankruptcy matters

5) proceedings in family matters;

As we have seen, there is therefore a relationship of primary importance between GOP and the Trial Office, since GOP can only operate within the courts if they are assigned to the Trial Office⁵.

4. Trial Office and AUPP officials

Various **models of employment** of AUPP officers within the Trial Office are possible:

1) shadowing of the officers by individual magistrates (so-called **one-to-one model**). In this model, the individual magistrate is entrusted with the management of the relevant AUPP, with assignments of tasks such as drafting and updating the trial record, carrying out case law research and drafting orders;

2) **staff or mini-pool** PPO models, in which the PPO staff work as a team and in support of the various magistrates and PPO reference roles. In these hypotheses, the commitment of the AUPPs in the preliminary examination of the composition of the roles is profitable in order to identify repetitive issues or issues involving identical and recurring questions of law, so as to census, on the roles of all the magistrates of the section or assigned to the same area, cases characterised by serial or common profiles, capable therefore of being dealt with in a standardised manner and to be the subject of more rapid definition through the contribution of the AUPP.

Specialisation, through the handling by the staff or the mini-pool of the PPO of a specific branch of litigation (e.g. in the civil sector, of a particular type of contract or a specific hypothesis of non-contractual liability, such as road traffic; in the criminal sector, of specific types of offences) allows a physiological greater speed in the definition of business. The shared preparation, by the magistrates of the same section or area, also with the cooperation of the other members of the PPO, of guidelines for the definition of this type of litigation has proved useful, so as to ensure also a working methodology and homogeneous decisions within the same area or section of interest (e.g. Guidelines on Statute of Limitations in Criminal Matters), also through the elaboration of motivation points and model orders.

⁵ GOP appointed before the entry into force of Legislative Decree No. 116/2017 are exempt from this mechanism, with respect to whom 'the tabular proposals may provide for their assignment to the trial office or may provide that they are assigned proceedings and may also supplement the panels, within the limits allowed by Articles 11, 12 and 30 of Legislative Decree No. 116/2017. The joint assignment of both the attributions now indicated is permitted' (so, art. 176 para. 3 Circ. form. tables 2026/2029). GOPs appointed before the entry into force of Legislative Decree No. 116/2017 are subject to a confirmation evaluation procedure (art. 29 Legislative Decree 116/2017).

5. Final Considerations

The statistical monitoring carried out by the CSM and the Ministry of Justice returned an overall positive picture of the usefulness of the Office for the Trial and Recruitment of AUPP officials.

A recent survey (4 July 2024) carried out by the ANM on the basis of the answers provided by 26 Courts of Appeal and 110 Ordinary Courts reconstructed the impact of AUPP officers on the overall performance of the Office as follows

very positive impact: 36% for the civil sector and 46% for the criminal sector

fairly positive impact: 59% for the civil sector and 49% for the criminal sector;

neither positive nor negative impact: 6% for the civil sector and 5% for the criminal sector.

The observation of the Judicial Offices of first and second instance showed that the negative performances have as a common element the inclusion of a lower number of staff members than expected as well as the allocation of the AUPPs mainly, if not exclusively, to tasks of assisting the Chancelleries instead of priority and direct support to the jurisdiction.

Among the most critical issues reported by the Offices is also the continuous outflow of AUPPs, which only the prospect of stabilisation could resolve definitively. The massive resignations recorded in the course of the experience to date also risk thwarting the efforts made from time to time for the induction and training of employees and jeopardising the effectiveness of the programming implemented to achieve the NRP targets.