



MEDEL expresses its support and solidarity with all Italian magistrates and the Associazione Nazionale Magistrati

On the occasion of the opening of the judicial year, Italian magistrates, carrying the Constitution in their hands, raised the alarm about the constitutional reform that has taken its first step with the approval on first reading in one branch of Parliament:

-under the heading of “separation of careers”, despite the already existing (and increasingly restrictive) regulation of the respective career paths of judges and prosecutors , the reform actually introduces a radical change in the structure of judicial power as established by the Constitution and in the principles that have until now guaranteed the external and internal independence of the judiciary as a whole;

-the Public Prosecutor is deprived of the status and of the guarantee of external independence that in the Constitution are ensured by the principle of the unity of the judiciary, that implies a common set of guarantees for judges and prosecutors and a common Superior Council; once transformed into a separate body, the Public Prosecutor can easily be placed under the control of the executive;

-the Superior Council is split and deprived of key prerogatives such as those concerning disciplinary proceedings; the reform provides as well for a shift from the current system with elected members to a system where the magistrates sitting in the Council are selected exclusively by lot.

Recalling all the charters and principles developed at European and international level in order to protect judicial independence and Rule of law, MEDEL reaffirms that:

-the independence of the Prosecutor is a cornerstone of the Rule of law and of an independent judicial system; as the recent years’ experience in Europe proves, the institutional framework of prosecution can be strategically exploited to modify institutional balances to the advantage of the executive power and to provide it with a control on justice and on the exercise of core judicial functions;

- self-government – as a prerequisite for achieving and protecting independence and autonomy of the judiciary from the executive and legislative powers - requires Judicial Councils able to effectively perform their role and accordingly entrusted with the essential competences concerning the individual status of magistrates, endowed with legitimacy and representativeness, and composed of a majority of members of the judiciary “elected” by their peers;

-magistrates and their associations have a “duty to speak out” in defense of judicial independence and Rule of law, at both national and international level, and to cogently state the reasons against any reform proposals undermining these values;

- freedom of expression enables judicial associations to pursue their fundamental objectives publicly expressing criticism of legal reforms, especially when these concern the functioning of the justice system and issues relating to the separation of powers.

While sharing the concerns expressed by the Associazione Nazionale Magistrati, MEDEL:

- recalls the serious risks to the Rule of law posed by a radical revision of the constitutional framework and of the guarantees enshrined in its key components, such as the independence of the Public Prosecutor and the role and legitimacy of the Superior Council;
- reiterates its full support to Italian magistrates for their commitment to the defense of the constitutional guarantees of judicial independence;
- expresses its full solidarity with the Associazione Nazionale Magistrati for the attacks that come as a consequence of this commitment and of the legitimate exercise of freedom of expression.

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