



Statement on constitutional reform of the judiciary in Italy

MEDEL expresses strong concern about the reform of the judiciary recently approved by the Italian Parliament on the proposal of the current government.

Known as the reform for “the separation of careers”, the law actually disrupts, in its key points, the constitutional structure that has guaranteed up to now the independence of the entire judicial system and its self-governing body, without replacing it with equally strong safeguards for the Rule of Law.

The principle of the “unity of the judiciary”, through which the Constitution has placed the Public Prosecutor's Office out of the control of the executive, will be eliminated, thus opening the door to external control of the Public Prosecutor's Office and the loss of its independence.

Moreover the Superior Council will be debased, losing its representativeness and legitimacy as well as key functions and prerogatives essential to its role as guarantor of the independence of judges and public prosecutors.

In both “new” Councils, judges and prosecutors will no longer be elected by their peers, as recommended by European standards, but will be drawn by lot. “Lay” members will be as well selected at random, but from a list drafted by Parliament.

Disciplinary functions will be transferred to a single body outside the Councils, the High Disciplinary Court, that will act as a “special” and “exclusive judge”, with jurisdiction at first instance and for appeals against its own decisions, without any guarantee of independent review of the decisions. Even for a body with such crucial functions, closely related to judicial independence, the composition is mostly the result of a ballot, with a draw between judges and prosecutors, with at least 20 years of seniority, who serve or have served in the Court of cassation, while the lay members will be selected randomly from a list compiled by Parliament, with the exception of three appointed by the President of the Republic.

The implementing legislation will have room for choices -such as the lottery system-that will directly affect the ability of the newly established bodies to effectively perform their functions in the respect and defence of the independence of the judicial system.

While stressing the impact that this reform will have on the independence of judges, no less than that of prosecutors, MEDEL recalls that:

- the erosion of the Rule of Law in EU member states, such as Poland, has led precisely to reforms of key institutions, such as the Councils for the Judiciary and the Public Prosecutor's Offices;
- the disciplinary liability of judges has become a topic of great concern and several decisions by European courts have found that disciplinary measures have been used to silence or remove judges and prosecutors;

– as emphasised by the ENCJ in the recent Riga Declaration¹, it is precisely in a context of negative developments for the Rule of Law and challenges related to the separation of powers, such as the current one, that the Councils for the Judiciary must play a fundamental defensive role, supporting judicial systems and judges under attack and upholding the resilience of an independent judiciary.

Faced with the ongoing global attack on democracy, the Rule of Law and the independence of the judiciary, national authorities should safeguard the system of checks and balances, rather than weakening it.

MEDEL fully supports the National Magistrates Association and all Italian magistrates who, in a difficult context that also challenges their right and duty to speak out in defence of the independence of the judiciary, continue their commitment to the Rule of Law and the values enshrined in the Constitution.

Athens, 22 November 2025

¹ Declaration of Riga “Confronting Threats to the Rule of Law”, <https://pgwrk-websitemedia.s3.eu-west-1.amazonaws.com/production/pwk-web-encj2017->