



Statement on the recent attacks on the Italian judiciary

MEDEL -Magistrats Européens pour la Démocratie et les Libertés- wishes to express its serious concerns over the recent reports of repeated mediatic and political attacks on Italian judges, following decisions concerning migrants.

Particularly alarming is that, without any consideration of the merits of decisions based on reference to constitutional, European and international norms, members of the government are leading such a campaign by accusing judges of boycotting national migration policies on ideological grounds.

All this is even more serious because of the simultaneous dissemination of news and TV reports about the involved judges, concerning their participation in public demonstrations and the opinions they expressed in public conferences, allegedly proving per se their bias.

Against this backdrop, MEDEL stresses the risks of a drift towards what has been observed in other contexts, such as Poland, where public campaigns supported by politicians to discredit judges were used for the promotion of reforms that brought to a disruption of the Rule of Law and the independence of judiciary, including legislation allowing the application of disciplinary sanctions for judges who respect the primacy of EU law.

MEDEL recalls that:

-while public criticism of judicial decisions is part of the ordinary dialectics of democracy, the delegitimization of judges and their decisions through accusations of bias and of pursuing hidden political agendas is an attack on the Rule of Law and undermines citizens' trust in justice¹;

-blacklisting practices, by individually "naming and shaming" - in the press and in the social media - the judges who issued decisions, represent a specially worrying development, eventually bringing as well to serious threats to the judges' security.

MEDEL reaffirms that in a democracy:

-the duty of judges is to protect the rights of all persons and to decide cases assessing evidence and interpreting law, according to national constitutions, the Charter of Fundamental Rights, the European

¹ Council of Europe Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities: "If commenting on judges' decisions, the executive and legislative powers should avoid criticism that would undermine the independence of or public confidence in the judiciary. They should also avoid actions which may call into question their willingness to abide by judges' decisions, other than stating their intention to appeal"

Convention of Human Rights, and other national, European and international sources, including ECJ and ECtHR case law;

- criticism of judicial decisions, especially when expressed by the members of the government, cannot turn into delegitimization of decisions they disagree with;

- pressures and attacks on judges for their decisions are a violation of the principle of separation of powers and a breach of the Rule of Law, which requires that governmental decisions be subject to the law and to judicial scrutiny according to the law;

- individual magistrates enjoy – like any other citizen – the right and freedom of speech, opinion, participation to scientific activities and public debates.

MEDEL expresses its solidarity to all European judges committed to the values of democracy, protection of fundamental rights and the Rule of Law.

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