

(English version)

Question for written answer E-000516/25
to the Commission
Giuseppe Antoci (The Left)
(5 February 2025)

Subject: Separation of the *magistrati* career paths and establishment of the High Disciplinary Court: impact on the Italian judiciary's autonomy and compliance with EU rules

A constitutional bill laying down 'rules on the judicial system and establishing the High Disciplinary Court', adopted at first reading ⁽¹⁾, introduces changes to a number of the Italian Constitution's articles.

Article 4 in particular provides for the amendment of Article 105 of the Constitution. It stipulates that disciplinary jurisdiction over *magistrati* — judges and prosecutors — shall be assigned to a new body called the 'High Disciplinary Court' ⁽²⁾.

Judgments handed down by the High Disciplinary Court can only be contested before a different panel of the same Court, making it 'self-referential' and effectively meaning its decisions are not subject to appeal — a guarantee afforded by all other courts.

Exercised in this way, the Court's disciplinary power could be used to serve political ends: firstly, because the panel's composition tips the balance between 'lay' and professional judges towards the former — and they will have been chosen at random by politicians; secondly, because, with jurisdiction over disciplinary matters being taken out of the hands of examining judges, they would, despite being on the 'front line' ⁽³⁾, no longer have any representative to express their views in disciplinary matters.

Disciplinary judgments, which would essentially be unappealable, could be used by politicians to make the judiciary fear the executive power.

Can the Commission say whether the reform to separate the *magistrati* career paths and establish the High Disciplinary Court complies with the principles of independence and autonomy enshrined in the EU Treaties ⁽⁴⁾?

Submitted: 5.2.2025

Answer given by Mr McGrath on behalf of the European Commission
(16 April 2025)

The Commission follows developments related to the justice systems in all Member States in the framework of the annual Rule of Law Report.

The Commission refers the Honourable Member to the country chapter for Italy of the 2024 Rule of Law Report ⁽¹⁾, which reported about the draft constitutional reform aimed at introducing a separation of careers of judges and prosecutors and at establishing two separate High Councils, as well as creating a High Disciplinary Court.

The Commission will continue to monitor relevant developments.

¹ Chamber of Deputies, 16 January 2025.

² This court will be made up of 15 members: 3 lawyers/university professors appointed by the Italian President and another 3 drawn at random from a specially compiled list ('lay' members); and 9 professional *magistrati* drawn at random (3 prosecutors, 6 judges). It will be presided by a 'lay' member.

³ They are the most vulnerable to political attack for unwelcome investigations and verdicts.

⁴ Article 2 TEU and Rule of Law Checklist adopted by the Venice Commission, pp. 39-41.

⁽¹⁾ https://commission.europa.eu/document/download/60d79a4f-49cd-4061-a18f-d3a4495d6485_en?filename=29_1_58066_coun_chap_italy_en.pdf