



Statement on the recent attacks on the Italian judiciary

MEDEL expresses strong concern over the public attacks and media campaign against the Italian judiciary following the decisions issued by the International Protection Section of the Court of Rome in relation to the first cases of application of the so-called Italy-Albania protocol. This concern is getting increasingly serious following the individual *naming and shaming* of one of the sitting judges for the positions expressed— while participating in the public debate as a member of a judicial association - on issues concerning migrants and fundamental rights.

As already clarified in the press release of the President of the competent Chamber, six judges did not validate the detention of migrants in application of the principles stated by the recent CJEU decision of October 4, 2024, issued following a reference for preliminary ruling of the Regional Court in Brno: in particular, the refusal to validate the detentions in Albanian facilities and areas, which are equated to Italian border or transit zones, was based on the impossibility of recognizing the states of origin of the detained persons as "safe countries", which implied the absence of the necessary precondition for the border procedure and the detention of migrants.

The reasoning of the Court clearly confirms that the judges based their decisions on the binding nature of the principles set in the case law of the EU Court of Justice and in EU legislation, namely the Reception Conditions Directive, which were deemed to prevail over conflicting national law with respect to the type of procedure applied by state administrations to examine applications for international protection.

In the face of this reasoning and of the fact that the underlying principle is very clear, being represented by the unbreakable primacy of European Union law, the accusation that the magistrates have exceeded their powers and acted for purposes of political opposition to the government, is a very serious attack on the independence of the judiciary, as well as on the very principle of the separation of powers.

The Rule of law backsliding experienced in recent years in Europe, as in the case of Poland, has shown us how questioning the role of national judges in applying EU law and asserting its primacy poses a serious risk to the resilience of the entire legal system, and to the judicial protection of fundamental rights on which the European Union is founded.

While expressing its support and solidarity with the judges targeted by the attacks, **MEDEL reaffirms that the respect for the separation of powers and the principles of the Rule of law, which are among the very pillars of true Democracy, demands:**

that the criticism of judges' decisions, especially when brought by public authorities and government or institutional figures, never turns into a dangerous delegitimization of their function, with instrumental accusations of bias or abuse of power for political purposes;

that the other state powers respect the constitutional function of judges, which is to always be impartial guarantors of the fundamental rights of all, also applying - when relevant - sources superordinate to national ones;

that national authorities respect the role that judges play as "European" judges, who are called upon to ensure the effective and uniform application of EU law, as well as its precedence over conflicting national law;

that the independent exercise of judicial functions not be jeopardized by attacks against individual judges and their decisions for the sole fact that they are deemed not to be in line with the choices made by any political majority, or by improper pressures and influences, exerted by direct attacks on individual judges and by targeted media campaigns on their persons;

that the right to speak of magistrates and their associations is not jeopardised by instrumental accusations of bias due to their participation in the public debate on the Rule of law and fundamental rights.

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