

Italy / Italie

IN YOUR COUNTRY:

1. What are the general official measures taken for reacting to and implementing the decisions of international courts and treaty monitoring bodies?

As far as the judgements of the ECtHR are concerned, their translation into Italian is officially done and published when Italy is directly involved or when the judgment has great general relevance. The system aims to stimulate prompt reaction to those judgements by the Italian institutions (Ministry of Justice, Ministry of Foreign Affairs, Presidency of the Council of Ministers).

2. Based on your answer to the 1st question, what are the measures taken particularly for the practical independence of the prosecution services and individual prosecutors? Can you give examples?

No relevant cases to report.

3. Are these measures reflected in the law or in the prosecution policy or debate?

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4. If yes, then were there any changes in the prosecution system as a consequence of such measures?

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5. Are there also national decisions of the Supreme or Constitutional Courts, or any other highest judicial body at national level, dealing with the question of independence of prosecutors?

Yes, the Italian Constitutional Court dealt with the question of independence of prosecutors in several judgements, concerning the appointment of Chief prosecutors (no. 72/1991), admissibility and limits of hierarchy within the prosecution service (no. 52/1976), mandatory criminal action (n. 84/1979) and other aspects.

6. Does the prosecution system in your country belong to the judiciary?

Yes, it does.

7. Are prosecutors and prosecution services independent or autonomous from the executive and legislative branches of state power?

Yes, they are. The prosecution service as a whole, as well as single prosecutors, are completely independent from the executive and the legislative branches.

8. Is there a Council of Prosecutors or a similar equivalent body which can be considered as a mechanism to monitor and ensure prosecutorial independence, including in the way in which the prosecution services operate?

The Italian High Council of the Judiciary (CSM) is the self-government body of the Judiciary. This institution has constitutional relevance and has the duty to ensure the independence of prosecutors and of the prosecution service, as well as of judges and of judicial courts. The CSM is competent for recruitment, allocation, transfer, promotion, professional evaluation and disciplinary measures in respect of prosecutors and judges.

9. How many of its members are elected by their peers, and does the prosecution policy or the debate within the judiciary produce any impact on the election of the members of the Council of Prosecutors?

The Italian CSM is composed of 27 members. It is chaired by the President of the Republic; the First President of the Supreme Court of Cassation and the Prosecutor General are *de*

iure members as well. Judges and public prosecutors, together, elect among their peers 16 members, i.e. the two thirds of the elected members (the remaining one third being “lay members”, appointed by the Parliament among private lawyers and law professors). Four of the members elected by judges and prosecutors are prosecutors; two of the other elected members come from the Supreme Court and can be either prosecutors or judges.

10. Who has the initiative of disciplinary proceedings?

Both the Prosecutor General at the Supreme Court and the Minister of Justice can start the disciplinary action, independently of each other. The General Prosecution Office at the Supreme Court is in charge of investigating and prosecuting disciplinary cases. The specific section of the CSM (*Sezione disciplinare*) is the disciplinary Court, whose decisions can be appealed to the United Sections of the Court of Cassation.

11. Are prosecutors appointed for life or do they have to fulfil successive terms? Of how many years?

In Italy public prosecutors are appointed for life.

12. Are the rules regarding appointment, transfer, promotion and discipline of prosecutors similar to those of judges?

Yes, they are almost the same.

13. May the government instruct the prosecution services, for instance, to prosecute or not to prosecute? Are instructions general or specific in nature? Are they given in writing? Can the prosecution challenge them?

There is no possibility for the government to instruct the prosecution service.

14. Are the instructions of superior prosecutors given in writing to those under their supervision? Can these instructions be challenged or refused?

In the (limited) cases of possible instructions of superior prosecutors, they are in writing and can be challenged in front of the CSM. In any case, each single prosecutor is autonomous when he/she takes part in a hearing in court.

15. Which are, if any, the main initiatives in terms of training to strengthen the awareness about the *de facto* dimension of the prosecutorial independence?

The issue is widely dealt with in several training courses organised by the Italian Superior School for the Judiciary, as well as in initiatives organised by the CSM.

16. To what extent the media cover the decisions of international courts and treaty bodies as regards the practical independence of prosecutors?

The issue is covered by the media in the context of the wide national discussion concerning the justice system.

17. To what extent the prosecutor offices interact with the broad public as regards the decisions of international courts and treaty bodies related to the practical independence of prosecutors?

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