IAJ 2023\_TAIPEI\_ITALY proposta di mozione

In Italy four reforms of rules of our Constitution have been presented by some members of the Government majority and they propose: to change the composition of both the self-governing bodies - judges and prosecutors - of the Italian judiciary (named “Consiglio Superiore della Magistratura”), by providing for half of its members to be chosen by the government and to allow that the magistrates will be chosen by lot; to prohibit the higher councils of the judiciary from opening files to protect the independence of individual magistrates and to prohibit to express opinions on reforms in the field of justice; to abolish the rule in the Constitution that provides that magistrates are distinguished only by the functions they perform; to prohibit prosecutors from becoming judges and vice versa, but at the same time to provide for the direct appointment of lawyers as magistrates at every level of the jurisdiction without selection by public competition; to reduce the principle of mandatory prosecution, limiting it to the cases and methods provided for by law.

The Italian delegation of the National Association of Magistrates, after presenting its document on the current situation in Italy and the risks for the independence of the judiciary connected to the constitutional reform proposals, formulates the following motion for a resolution:

“*in relation to the constitutional reform proposals under discussion before the Italian Parliament, IAJ European shares the concerns expressed by the Italian delegation of the National Association of Magistrates.*

*The lines of reform contained in the various legislative proposals are, due to their content, likely to strongly affect the system of self-government and the guarantees of independence of judges and prosecutors: they are only apparently aimed at ensuring the judge's third party status and the adversarial process within the criminal trial, but actually aim to greatly expand the scope of influence of politics on the jurisdiction and weaken its essential prerogatives of autonomy and independence, indispensable prerequisites for the exercise of the judicial function in a state of law*

*Certain that the public debate on the reforms will develop to its fullest extent in Italy, the IAJ Europe hopes that the Italian Association of Magistrates will have the opportunity to illustrate, in institutional venues and before all the media, the critical issues related to the prospects of constitutional amendments and the possible repercussions on citizens’ rights*”