



INTERNATIONAL COMMISSION OF JURISTS

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Italy: Bill increasing length of criminal trial should be rejected

The International Commission of Jurists delivered last Friday a letter to the Members of the House of Representatives of Italy calling on them to dismiss the draft legislation on evidence in criminal trials which, if adopted and implemented, will almost certainly exacerbate further the already dramatic delays in Italian judicial proceedings.

The legislation would eliminate the possibility for a judge to reject the admission of "superfluous" and even "manifestly superfluous" evidence, allowing the parties to a case to call an almost infinite number of witnesses, and potentially delaying the case indefinitely. It also would make it unduly difficult to incorporate previous final rulings on the same case as *prima facie* evidence of the facts in the proceedings.

"These "reforms", masked as guarantees for the defendant, will, if carried through, increase exponentially the already shameful length of judicial proceedings", said Massimo Frigo, Legal Advisor for the ICJ Europe Programme.

Italy already has among the poorest record of any State in the Council of Europe in conducting excessively lengthy judicial proceedings. The Council of Europe's Committee of Ministers and the European Court of Human Rights have on numerous occasions called on Italy to bring its judicial system into line with its obligation under the European Convention on Human Rights that judicial hearings must proceed in a reasonable time. The High Council of Magistrature has also recently outlined the danger this legislation may entail for the respect of the right to a fair trial within a reasonable time. The ICJ is particular concerned by allegations that the draft legislation may be intended to influence the outcome of the criminal proceedings against the President of the Council of Ministers, Silvio Berlusconi.

"The promotion of this legislation constitutes a further low for Italy's commitment to the Rule of Law", said Massimo Frigo. "This draft legislation aims in a direction precisely contrary to what is required from the Italian Parliament, which is to achieve reasonable lengths for criminal proceedings in the country."

The ICJ considers it essential to ensure fair trial guarantees for defendants in criminal proceedings. However, there are no effective guarantees if trials continue to be excessive in length. Allowing for these delaying strategies will impact adversely on the rights of fair trial of people with limited means, and would also frustrate and delay reparations for victims of crimes.

"Without the effective functioning of the administration of justice, human rights, including fair trial rights, cannot be effectively protected and guaranteed", said Massimo Frigo, "This legislation abuses the concept of fair trial rights by making them an instrument operating to undermine the effective administration of justice. The Parliament should take effective measure to ensure that the justice system conducts trials of reasonable, not unduly prolonged, duration."

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The ICJ is an international non-governmental organisation comprising sixty of the world's most eminent jurists and has a worldwide network of national sections and affiliated organisations

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