



## **BLACKLISTING OF JUDGES IS A BREACH OF THE RULE OF LAW**

On the 23<sup>rd</sup> of May, pronounced by MEDEL as the Alert Day for the Independence of Justice in Europe, MEDEL invited to reflect on the need for an independent and effective justice all over Europe and its importance for the safeguard of European citizens' fundamental rights and freedoms, as very dark signs have arisen all over Europe in recent years, inside and outside the European Union.

Unfortunately, few days have passed until another shocking and worrying example of the threats referred to by MEDEL came to light - the attack from the Italian Interior Minister against the judges who issued decisions on the matter of international protection of asylum-seekers and migrants.

The Minister affirmed that judges who issued decisions against the Ministry should resign and be candidate to political elections, and that judges who participate in debates or seminars or write articles or collaborate with magazines dealing with law and immigration should abstain or be withdrawn from passing verdicts in cases involving immigrants, because their opinions conflict with government policy on security and immigration.

Such messages were expressed by "naming and shaming" personally the judges who issued decisions to the press and through social media, ending up in heavy insults and serious threats to the judges' security.

MEDEL wishes to recall that, although judicial decisions are subject to criticism and legal remedies, according to European standards, *"If commenting on judges' decisions, the executive and legislative powers should avoid criticism that would undermine the independence of or public confidence in the judiciary. They should also avoid actions which may call into question their willingness to abide by judges' decisions, other than stating their intention to appeal"*.<sup>1</sup>

Furthermore, as citizens in a democratic society, judges have the right and freedom of speech, opinion, and participation to scientific activities and debates.

Judges have the duty to protect rights of persons and to decide cases assessing evidence and interpreting the law, according to national Constitutions, the Charter of Fundamental Rights, the European Convention of Human Rights, and other national, European and international relevant sources, including ECJ and ECtHR case law.

Pressures and threats to judges are a violation of the principle of separation of powers and a breach to the rule of Law, which requires that governmental decisions be subject to the law and to judicial

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<sup>1</sup> Council of Europe Recommendation CM/Rec(2010)12 of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities

scrutiny according to the law.

MEDEL express its solidarity to all European judges committed to the values of democracy, protection of fundamental rights and the Rule of Law.

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*MEDEL - Magistrats Européens pour la Démocratie et les Libertés, is an association that gathers 24 associations of judges and prosecutors, from 16 different European countries, representing a total of more than 15 thousand magistrates.*