5 MOTIVI PER VOTARE NO

5 REASONS TO VOTE NO

WHAT ARE WE VOTING ON?

In the referendum of 22-23 March 2026, we are called upon to confirm or reject the so-called "Nordio reform". This is the constitutional reform law of the judiciary titled **"Provisions on the judicial system and the establishment of the Disciplinary Court"** of 30 October 2025.
This law amends seven articles of the Italian Constitution and provides, in summary, for:

a) the establishment of two High Councils of the Judiciary (known by its Italian acronym CSM), one for judges (the adjudicating judiciary) and one for public prosecutors (prosecuting judiciary) replacing the single High Council for alla members of the judiciary;
b) the selection by lot (rather than election) of their members, with different procedures for the judicial and "political" components;
c) the creation of a High Disciplinary Court for ordinary judges only (removing disciplinary power from the High Councils of the Judiciary).

Make no mistake. This constitutional reform **does not merely introduce the "separation of careers"** between judges and prosecutors, as is often stated. **It goes much further**.

WHY WE SAY NO TO THE REFORM

I. Why it threatens the autonomy and independence of the judiciary

The High Council of the Judiciary (CSM) is **a constitutional body** (i.e. established by the Italian Constitution) that guarantees the autonomy and independence of the criminal and civil judiciary. It is composed of two-thirds of magistrates (judicial members known as "togati") and one-third lawyers and university law professors (lay members known as "laici"), elected by their peers and Parliament, respectively.
The founding fathers and mothers of the Italian Constitution assigned the High Council the power to appoint, transfer, promote and discipline magistrates. They described these powers as four "nails" driven in to hold the autonomy and independence of the judiciary firm, shielding it from any outside interference.
However, this reform changes the constitutional model of the High Council. It doesn't "unbundle" the High Council into three separate bodies (one for judges, one for public prosecutors and a High Disciplinary Court), it also alters the very nature and powers of these new High Councils of the Judiciary. **In doing so, it profoundly shifts the balance of powers designed by our Constitution**, specifically between the judiciary (magistrates), the executive (the government) and the legislature (Parliament).
In short: while Article 104 of the Constitution still states that "The judiciary is an autonomous branch, independent of all power", this reform has undermined the pillars that safeguard this sacrosanct principle. How?

- The reform **strips magistrates to elect their own representatives**, who will instead be chosen **by lot.** Thus, magistrates – they alone among all citizens! – are denied the possibility of choosing the individuals people they deem most fit and competent to represent them and manage their professional careers.

- The reform creates a severe **imbalance between the judicial ("togati") and politically appointed lay ("laici") members:** the judicial members selected by random sortition, whereas the lay members will be drawn be drawn from a pre-selected list of elected members by Parliament (the parliamentary majority). In effect, this is a sham lottery.

- The reform **strips the High Council of its disciplinary power**, one of the four pillars established to safeguard its independence and autonomy.

- Finally, the reform transfers disciplinary powers to **a High Court**, whose composition reduces the percentage of magistrates compared to the current High Council. Regarding this new body, the main concerns relate to the judicial panels formed within the High Court to evaluate individual cases. The method for forming these panels is yet to be defined: currently, the law only states that magistrates "will be represented" on them – without specifying their number or proportion. For instance, a political majority could, pass a law ensuring its own representatives hold a majority on the panels judging a magistrate. **The risk of pressure, interference and intimidation therefore exists.** Furthermore, there is no provision for appeals to the Court of Cassation; rulings can only be appealed before a different panel within the High Court itself.

II. Why it does not solve the justice problems weighing on citizens (on the contrary, it wastes resources by multiplying costs!).

The reform does nothing to address the real emergencies and the many ills afflicting the Italian justice system. Lengthy proceedings, lack of staff and resources, bureaucracy and complicated language... Citizens' dissatisfaction stems mainly from these problems, which will remain unchanged. It must be clear that voting "yes" to the reform will not result in a more efficient justice system that is closer to citizens.
Furthermore, replacing the old, single High Council of CSM with three independent bodies **triples costs**, dispersing resources that could be effectively invested in improving the functioning of public prosecutors' offices and courts.

III. Why separating the careers of judges and prosecutors can "undermine the nature of" the Public Prosecutor's Office (without significantly increasing the safeguards for defendants and suspects)

Today, judges and prosecutors train and take the competitive examination together, **pursuing a single *career*** path before **taking on different *roles*** as judges or prosecutors. **They can switch roles only once**, moving from one to the other, and to do so they must also relocate to another city or region. This almost never happens (in 2024, just 42 transfers out of almost 9,000 magistrates: 0.4%). So, in fact, there is already a separation of functions.
The high percentage of trials ending in acquittal (i.e., the judge rejecting the prosecutor's requests) shows that, under this system, the judge is already "neutral and impartial" as required by the Constitution (Article 111) and does not rule in favour of the prosecutor simply because they are 'colleagues'.
In addition to **their** careers, **magistrates share the same judicial culture**: in concrete terms, judges and prosecutors share a public role, and the public prosecutor must not "win" but must also seek exculpatory evidence in the defendant's favour. **This is a guarantee that protects suspects and defendants** (lawyers, on the other hand, who are private parties, do not have to seek evidence against the defendant).
What could happen with separate careers? If the prosecutor simply becomes *a mirror image of the defence*, then they no longer need to worry about seeking the truth, but only about securing a conviction. This makes defendants who cannot afford expensive defence teams more vulnerable.
There is a risk of having a "supercop" public prosecutor, say some, who is stronger with the weak and weaker with the strong because he is more easily influenced (for the reasons already explained above).

IV. Due to the way in which the reform was approved (which is the opposite of what is recommended by the Italian Constitution)

The Constitution provides for the possibility of amendments, but it also provides for a complex procedure to encourage **broad consensus and ample time for reflection**, both in Parliament and in society

(for example, it requires four parliamentary approvals instead of two, and there must be a three-month interval

between each approval to allow for discussion both inside and outside the Floor). **This is precisely the opposite of what happened**.
We are being called to a referendum because the reform did not obtain the approval of two-thirds of Parliament. In the absence of broad consensus, the Italian government, instead of encouraging discussion, decided to go it alone, with a "closed" procedure: after the first approval, it was not possible to submit amendments for the other three votes scheduled. The same text that began the approval process was used to reach the end. This is the first time in the history of Republic that a constitutional reform has been approved in this way. It is a hasty and "closed" procedure that is exactly the opposite of what the founding fathers and mothers had hoped for.

V. Why public statements by the Italian government confirm (and exacerbate) concerns about the independence and autonomy of the judiciary

For many months, **the government** has been **attacking the work of the judiciary** and **expressing impatience with the checks and balances.** For example, the Prime Minister spoke of the need to "stop the encroachment" of the judiciary on the decisions of the political powers (referring to the necessary oversight by the Court of Auditors, which protects taxpayers' money). She also said that the judiciary often "undermines the work of the security forces", citing cases in where judges annulled arrest, detention or expulsion measures by applying existing laws designed to protect citizens. Justice Minister Nordio even complained that opposition leaders "are well aware of how much political sovereignty has been limited by the intrusiveness of prosecutors" and blamed them for "compromising their freedom of action tomorrow" by opposing the reform.
However, **the independence of the judiciary** exists precisely to ensure that the **judicial power can limit the executive power** and **monitor its compliance with the law, protecting all citizens. It is one of the cornerstones of liberal democracies,** which, unsurprisingly, **is under attack in many countries today**, in Europe and worldwide. **Without it, the law is not equal for everyone.**