

Consiglio Superiore della Magistratura (CSM), the Superior Council of the Judiciary

Art. 87, para. 10, and Art. 104, para. 2 of the Constitution designate the President of the Republic as the President of the Consiglio Superiore della Magistratura (CSM), the Superior Council of the Judiciary.

The CSM is the body that allocates jurisdiction and guarantees the autonomy and independence of ordinary magistrates. It is a constitutional body insofar as it is expressly enshrined in the Constitution, which sets forth its composition (Art. 104) and its duties (Art. 105). It adopts all the provisions affecting the status of magistrates (including their recruitment through public competitions, their assignment and transfer procedures, promotions and dismissal from service). Moreover, it handles the recruitment of honorary magistrates and manages their activities. Lastly, it is entrusted with the task of judging the behaviour of magistrates subjected to disciplinary actions pursuant to Law N. 195 of 1958, which regulates the Council's general composition and competences.

In order to guarantee the judiciary's utmost autonomy and independence from the legislative and executive powers, the Superior Council of the Judiciary is presided over by the President of the Republic, who is an ex-officio member thereof together with the President and the Prosecutor General of the Supreme Court of Cassation. As for the other members, who are set at 24 under Law N. 44 of 2002, two-thirds are elected by all the magistrates and one-third by the Parliament assembled in a joint session. The term of office lasts four years and excludes immediate re-election. Out of the 16 members elected by the magistrates (called stipendiary members), two are chosen among those who carry out legitimacy functions at the Court of Cassation; ten are chosen among those who work as judges in trial courts (Appeal Courts or District Courts); four among the public prosecutors working for the General Prosecutor's Office at the Courts of Appeal or in the Public Prosecutor's Office in District Courts. The six members elected by Parliament (called lay members) are chosen among university law professors or practicing lawyers having at least a 15-year experience.

Art. 104 of the Constitution lays down that the Council elects a Vice President from among the members appointed by Parliament. The Vice President sits in for the President in case of absence or impediment and exercises the functions delegated to him/her by the President. The Vice President also presides over the President's Committee (composed of the First President and the General Prosecutor of the Supreme Court of Cassation) which has the task of promoting council activity, of implementing CSM resolutions and of managing budget funds.

The bodies of the Council, which autonomously governs its functioning through rules of procedure, are represented by the Secretariat, which is headed by the Secretary General, and by the Office of Studies and Documentation.

The CSM is articulated into Commissions, which are currently eight, and whose functions are to investigate and make proposals. The Plenary Assembly (called *plenum*) has the power to deliberate. The Assembly, which is generally presided over by the Vice President (unless the President of the Republic chooses to chair it), includes all the members of the CSM: lay and stipendiary members, the First President and the General Prosecutor of the Supreme Court of Cassation. The CSM's Disciplinary Section is jurisdictional and its decisions can be appealed before the Grand Chamber of the Court of Cassation. The Disciplinary Section comprises six members, four stipendiary and two lay magistrates, including the Vice President of the CSM who presides over it.

The Council's relations with the Government are based on the principles of autonomy and independence of the Judicial Order and especially involve aspects linked to the organisation and good functioning of the justice-related services that Art. 110 of the Constitution assigns to the responsibility of the Minister. More specifically, the CSM is called upon to express its opinion on the bills proposed by the government concerning the judicial system and the administration of justice; it can also make proposals to change judicial districts and on all matters concerning the organisation of justice-related services.

Also the Council's relations with the Parliament are based on principles of autonomy and independence: the only interlocutory form envisaged gives the CSM the faculty to send to the Parliament, through the Minister, an annual Report on the state of justice, highlighting problems and setting forth proposals.