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## BALKAN NETWORK TEMPLATE ITALY

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**COUNTRY: ITALY**

<b>Official name in original language</b>	<b>CONSIGLIO SUPERIORE DELLA MAGISTRATURA</b>
<b>Official name in English</b>	HIGH COUNCIL FOR THE JUDICIARY
<b>Address</b>	Piazza dell'Indipendenza, 6 00185 Rome
<b>Telephone number</b>	+39 06 44 491 (1) – 273 – 322 - 608
<b>Website</b>	<a href="http://www.csm.it">http://www.csm.it</a>
<b>e-mail</b>	uricsm@cosmag.it
<b>Brief history</b> (300-400 character)	<p>A reference to the CSM has been made for the first time in Article 4 of Law 511 of 1907, substantially as an advisory body, and heavy administrative charges relating to the appointment of some judicial office within the judiciary. The CSM's took its first seat in the building of the Ministry of Justice. A few months later, the government Giolitti passed a bill (nr. 689/1907) in which it defined and framed the new body, although of course, the judiciary acted in the name of the King, its members could be construed as public employees. Its functions were roughly unchanged until the Republican Constitution, during which it was an administrative consultative body under the Ministry, and then became a selfgovernment body of the Judiciary. After these reforms, the CSM was fully operational until 1959, overall as a result of law n. 195 of 1958. Actually the CSM doesn't perform (exercises) political functions and therefore plays no political role, properly understood. Indeed, the CSM does not pursue political goals. Under the Italian Constitution its functions hinge primarily on the administration of judiciary members. The protection of judicial independence and autonomy is also a significant task which is carried out by the CSM.</p>
<b>Legal acts regulating the Status of the Organization</b>	The regulation of CSM is provided by Republican Constitution (art. 104, 105, 106, 107) and by two laws : n. 195 of 1998 and 44 of 2002.
<b>Composition</b> (Generally)	
	1. <b>Total number of members:</b> <b>27</b>
	2. <b>Term of office of the members</b> <b>4 years</b>
	3. <b>Election process: 2/3 (16 members)</b> are elected among judges and prosecutors; <b>1/3 (8 lay members)</b> elected by the Parliament in a joint session of the two chambers. <b>3 members</b> are ex officio

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The members elected by judges are chosen as follows: 2 magistrates from the Supreme Court (Corte di Cassazione), who are judges and/or public prosecutors deciding on legitimacy issues; 4 public prosecutors who carry out their role by deciding on the merits; 10 judges who carry out their role of judges in trial courts deciding on the merits. –

**4. Is there a possibility to be renewed as a member?**

Yes, but not immediately upon expiration of the term of office

**5. Do the members have a full-time position or not? Full-time**

Yes, it is provided by art. 104 of Republican Constitution.

**Is there a majority of Judges?**

**16 members are magistrates**, elected by their peers. The members elected by judges are chosen as follows: 2 magistrates from the Supreme Court (Corte di Cassazione), who are judges and/or public prosecutors deciding on legitimacy issues; 4 public prosecutors who carry out their role by deciding on the merits; 10 judges who carry out their role of judges in trial courts deciding on the merits. –

**8 lay members**, appointed by Parliament in a joint session; -

**3 ex officio members**: the President of Italy (Chairperson), the First Chief Judge of the Supreme Court and the Attorney General (Chief Public Prosecutor).

**Presidency (Generally)**

The President of the Republic of Italy

**Role of the Presidency**

The President can chair the Plenary Session (*Plenum*) and the Disciplinary Division hearings.

The Constitution (art. 104 Cost.) provides for the C.S.M. to elect a Vice President from among the members elected by the Parliament, who replaces the President of the Republic in the event of his absence or impossibility of attending meetings and exercises the duties that the latter delegates to him/her.

**Main Competences of the Council:**

- 1. Career of judges and/or prosecutors:** According to the Italian Constitution, the Council is responsible for the recruitment, assignment, transfer, promotion and disciplinary measures concerning magistrates - judges and public prosecutors – (as stated in section 105 of the Constitution).

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2. **Judicial training:** Legislative Decree no. 26 of 30 January 2006 has established the School of the Judiciary, which is exclusively competent for training magistrates - both initial and ongoing. The School has been effectively set up in 2012, and it started to operate in 2013. Before the School was set up, training was organized by the High Council for the Judiciary. At this stage, in drawing up its annual program of training courses, the School must give due consideration to the guidelines delivered by the High Council for the Judiciary, the Ministry of Justice and any proposals forwarded by the National Bar Association and the National University Council.
3. **Discipline:** The High Council is exclusively competent on disciplinary procedure and sanctions against judges and public prosecutors. The legal act regulating discipline of the judiciary is Legislative Decree no. 109/2006 – “rules regulating breaches of discipline by magistrates, relevant sanctions, and application procedure”. The decision adopted by the Disciplinary Division can be challenged in front of the Joint Divisions of the Supreme Court.
4. **Ethics:** There is not specific role of Council in the field of judicial ethics; the matter is however relevant in the periodic professional appraisal of magistrates, since judges' and prosecutors' independence, impartiality and balance are assumed to be indispensable conditions for a proper exercise of judicial functions. The National Magistrates' Association (Associazione Nazionale Magistrati), a private law association of judges and prosecutors voluntarily joined by most of the Italian members of the judiciary, has adopted a Code of professional conduct, thus implementing specific legal provisions in the field of codes of ethics for public agencies and members of the judiciary.
5. **Opinions on legislation/other opinions:** Article 10 of law n. 195 - 1958 entitles the Council to make proposals and give opinions to the Ministry of Justice in the field of regulation regarding matters related to the judiciary and justice administration. The law that regulates the functioning of the CSM, vested the Minister of Justice with the power to formulate requests and make comments on matters falling under the competence of the Council for the Judiciary.
6. **Others: Budget** The CSM has financial autonomy with regard to the amounts made available by the State for its functioning. The budget for the operation of the courts and, in general, for the organization of the judiciary, is administered by the Ministry of Justice. In order to safeguard its autonomy and independence the Council is not politically and institutionally accountable to anyone. The presidency of the President of Italy is deemed to be the guarantee of fairness and correctness of its action.

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### Status of decisions

(Opinion, authorization, recommendation, decision)

Administrative acts issued by a public authority.

### Supervision

(Transparency)

#### 1. Over the Council:

2. **Over the decisions:** The decisions of the Council can be challenged in front of the administrative courts, by the individuals who are somehow interested.

### International relations

1. **Global relations:** Kyrgyzstan, South Korea, Egypt, Kazakhstan, Thailand, Mauritania, Iceland, Norway, UN, The Hague International Criminal Court, Vietnam, Georgia, Armenia, Eritrea, Lebanon, Tunisia, Palestine, China, Russia, Israel, Mongolia, Somalia, OSCE, Libya, OCSE, Brazil, Argentina.

2. **Regional relations:** Albania, Turkey, Spain, Romania, Ukraine, Denmark, France, Belgium, Poland, Lithuania, Germany, Moldova, Macedonia, Czech Republic, Kosovo.

3. **Bilateral relations:** signed agreements for mutual cooperation with Turkey, Palestine, Israel, Iraq, Tunisia, Lebanon, Mongolia

### Ongoing projects

1. **With the European Union:** the Italian CSM is Member of the **ENCJ** and **EJTN** Networks, since their foundation; it's Member of the European and **Euro-Arab Judicial Training Network**; it's Member of the **CCJE** and **CCPE** within the Council of Europe
2. **Regional:** the Council is currently carrying on the "PAMECA IV" project in **Albania**; the project "Support the modernization of the Administration of justice" in **Egypt**; the Twinning project "Strengthening efficiency, accountability and transparency of the judicial and prosecutorial system in **Kosovo**"; the project "**JTR Just** – Improving Training and Recruitment of Justice and

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Rule of Law Experts to EU CSDP Missions” carried on by the “Scuola S.Anna” from Pisa-Italy; the project to support the High Council for the Judiciary in **Palestine**; the project to support the High Council for the Judiciary in **Tunisia**;

### **3. Internal:**

Made by the Balkan Network Secretariat