



INTERNATIONAL ASSOCIATION OF YOUTH AND FAMILY JUDGES AND MAGISTRATES (IAYFJM)
ASSOCIATION INTERNATIONALE DES MAGISTRATS DE LA JEUNESSE ET DE LA FAMILLE (AIMJF)
ASOCIACIÓN INTERCIONAL DE LA JUVENTUD Y LA FAMILIA (AIMJF)

STATEMENT
ON PROPOSED LAW No 2284
CONCERNING THE REFORM OF JUVENILE JUSTICE AND
ABOLITION OF YOUTH COURTS IN ITALY

The **International Association of Youth and Family Judges and Magistrates (IAYFJM)** has learned of the existence of proposed law No 2284, currently under discussion by the Justice Commission of the Italian Senate, which, among other measures aimed at improving the efficiency of civil judicial proceedings, provides for the abolition of Youth Courts and of the Youth Public Prosecutor. IAYFJM wishes to express its opinion on this reform, which is being promoted by the Italian Government and is under discussion by the Italian Parliament.

In particular, recalling and considering the following international instruments and guidelines:

- *Convention on the Rights of the Child*, in particular articles 37, 39 and 40, where it is expected that proceedings involving children are managed by a competent, independent and impartial judicial authority, and that States parties should endeavour to promote the establishment of authorities specifically dedicated to children;
- *United Nations Standard Minimum Rules for the Administration of Juvenile Justice*, adopted in 1985 (“The Beijing Rules”), which recommends the allocation of all possible resources for the creation of a juvenile justice system that ensures the management of judicial proceedings by professionals, including the public prosecutor and the judicial police, specifically trained and skilled to respond to the typical needs of children;



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- *United Nations Guidelines for the Prevention of Juvenile Delinquency*, adopted in 1990 (“The Riyadh Guidelines”), where Governments are invited to adopt a specialized approach to juvenile justice;
- *United Nations Rules for the Protection of Juveniles Deprived of their Liberty*, adopted in 1990 (“The Havana Rules”);
- *United Nations Standard Minimum Rules for Non-custodial Measures*, adopted in 1990 (“The Tokyo Rules”);
- *Guidelines for Action on Children in the Criminal Justice System*, adopted in 1997 (“The Vienna Guidelines”), where States Parties are invited to establish a juvenile justice system of child-oriented youth courts with primary jurisdiction over juveniles who commit criminal acts and to design special procedures to take into account the specific needs of children;
- *General Comment No. 10 (2007) of the Committee on the Rights of the Child*, which reiterates the need to separate the juvenile justice system from the adult justice system, ensuring the presence of competent, independent and impartial judges, supported by professionals with a high degree of expertise and skills in juvenile issues;
- *Guidance Note of the Secretary-General on UN approach to Justice for Children*, adopted in 2008;
- *Concluding observations* adopted by the Committee on the Rights of the Child in 2003, on reports submitted by Italy, where it reaffirms the need for specialized training for all those who come into contact with children involved in judicial proceedings;



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- *Concluding observations* adopted by the Committee on the Rights of the Child in 2011, on reports submitted by Italy, which recommends that Italy should commit adequate human, technical and financial resources to the juvenile justice system;
- *Recommendation Rec (2003) 20 of the Committee of Ministers of Council of Europe on new ways of dealing with juvenile delinquency and the role of juvenile justice*, adopted in 2003;
- *Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice*, adopted in 2010, which also advocates specialized courts for children, as well as the specialization and the appropriate training of all professionals, particularly judges and lawyers, who come into contact with children in the justice system;
- *Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings*, adopted in 2016, which provides *inter alia* that Member States should take appropriate measures to ensure that judges and prosecutors involved in criminal proceedings concerning children have specific expertise in this area and have effective access to appropriate training.

Having analysed the rules for the juvenile justice system contained in proposed law No. 2284, the organization of the existing judicial system in Italy, the recommendations in the international instruments and guidelines set out above and in the light of a comparative investigation of other European countries, **IAYFJM**

EXPRESSES



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Its **disagreement** with a reform of the Italian juvenile justice system that provides for the abolition of Youth Courts and of the Youth Public Prosecutors and the transfer of their functions into specialized sections established at the Adult Courts.

In particular, **IAYFJM** observes that the proposed law No 2284 does not take into account the components that, in the opinion of **IAYFJM**, are essential in order to build a child-friendly judicial system. These components are:

1. **A specialised jurisdiction dedicated to dealing with children, both in civil and criminal proceedings.** We believe that the Italian experience of Youth Courts and Youth Public Prosecutors, to which many countries within Europe and beyond are looking with interest, has been able to create a culture which is able to identify and implement effectively the best interests of the child. To a significant degree, this is due to a multidisciplinary approach to the issues of childhood and adolescence, guaranteed largely by the presence of Honorary Judges; by the establishment and promotion of specialized authorities and Youth Courts; and by the separation of the jurisdiction for children from the jurisdiction for adults, especially in criminal matters. These aspects conform to binding and non-binding international standards, among which we would refer particularly to the “*UN Convention on the Rights of the Child*”, the “*Guidelines of the Council of Europe on Child-Friendly Justice*” and the “*European Directive on procedural safeguards for children who are suspects or accused persons in criminal proceedings*”;
2. **The need for judicial autonomy.** Any reform of the Juvenile Justice System should avoid weakening the culture of juvenile justice in favour of organizational requirements designed to make up for a lack of resources. The experience of juvenile judicial authorities should



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not be diluted or dispersed in an attempt to give more support to bureaucratic mechanisms and hoped-for efficiency savings. Backlogs will grow if resources are not compatible with the paramount need to protect the fundamental rights of growing individuals. Delay in dealing with children is contrary to their best interests and good practice.

3. **The role of the Prosecutor's Office** as the body that, together with the Judicial Police, first comes into contact with a child involved in judicial proceedings and which plays a key role in triage and assessment thanks to its specialization and exclusive jurisdiction;
4. **The need for children's issues be addressed by judicial authorities exclusively dedicated to children**, so as to avoid the requirements of children becoming confused with developments in "adult justice", especially in criminal matters;
5. **The need to invest human and financial resources in the juvenile justice system.** A reform that does not include the allocation of funds and resources appears flawed from the outset. It is essential to invest in children and their healthy mental and physical development.

In the light of all these considerations, **IAYFJM**

OBSERVES

That the culture and ethos of the existing Italian youth justice system is a beacon for other countries; and.

HOPES

That the reforms now under discussion in the Italian Parliament will be **reconsidered** both in the light of binding and non-binding international instruments and of the fact that the Italian system of



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juvenile justice upholds the key values of specialisation, independence, exclusivity of functions and effective child protection.

London, 28 February 2017

Avril Calder

President IAYFJM/AIMJF