COMMISSIONER FOR HUMAN RIGHTS

COMMISSAIRE AUX DROITS DE L'HOMME

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

Ref: CommHR/NM/sf 023-2017

Mr Pietro GRASSO
President of the Italian Senate

Strasbourg, 9 May 2017

Dear President,

I wish to share with you some concerns regarding the bill on the efficiency of civil judicial proceedings (proposal No. 2284/9), which is currently pending for examination before the Italian Senate. According to the information at my disposal, the bill foresees the transfer of the competencies of youth courts and youth prosecutors to specialised sections of ordinary courts and the prosecution service.

The Council of Europe Guidelines on child-friendly justice (2010) provide that justice for children should be "accessible, age appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child, respecting the rights of the child including the rights to due process, to participate in and to understand the proceedings, to respect for private and family life and to integrity and dignity". Experience in different countries shows that these conditions are best met in a system where justice is delivered by specialised professionals with exclusive competencies, as is currently the case in Italy. Transferring the competencies of dedicated courts and prosecutors to ordinary judicial bodies is likely to lead to a dilution of the capacity of judges and prosecutors to pay adequate and specific attention to children's needs. There is also a risk that the substantial experience and knowledge accumulated by juvenile justice professionals in Italy for decades might in part be lost.

As you know, the primary aim of juvenile justice is ensuring the protection of the rights of children who come into contact with judicial authorities, whether as offenders, victims and witnesses of crimes, in order to seek redress for rights infringements or to safeguard their interests. This not only implies that reintegration and rehabilitation should prevail over repression, but also requires specific approaches to be followed, from enhanced co-operation between different actors (including police, schools, social workers and child protection services) to ensuring that children's views are heard, and importantly, looking for alternatives to judicial proceedings. The ability to fulfill these tasks and take into account the child's best interests in a comprehensive manner can easily be lost if highly specialised services are merged within the ordinary justice system.

I believe that the most efficient justice is a justice that fully protects the rights of all persons, including children. The draft law under your consideration has the potential to weaken the well-established system for the protection of children's rights in Italy, and thus, undermine Italy's ability to comply fully with its international commitments in this field. I believe that its adoption by the Senate would be a step in the wrong direction. I stand ready to discuss all these matters further with you.

I would also be grateful if you could ensure that all members of the Senate receive a copy of this letter.

Yours sincerely,

Nils Muižnieks

F – 67075 Strasbourg Cedex, Fax: +33 3 90 21 50 53, http://www.coe.int/commissioner e-mail: commissioner@coe.int