**The reform of the honorary judiciary in Law 51/2025**

I would like to begin my speech with the words of the Prosecutor General of Brescia at the conference organized in October.

We honorary judges are the first people citizens encounter when they go to court.

In the normal course of things, matters concerning citizens are matters which are dealt with only by honorary judges. A claim for damages for a road accident, a dispute with a neighbour, a claim for reimbursement for a delayed flight are all matters which are dealt with and decided only by the honorary magistrates. So if a citizen is brought to trial for theft, injury or fraud, the person who will be facing the prosecution in the trial will be an honorary deputy prosecutor, and the one who will decide will often be an honorary magistrate.

Here, the citizen when he is in front of us, does not think to be before a lower court, does not distinguish between career judge and not. For that citizen we are the ones who administer justice, and in fact we administer justice, without differences with the ordinary judiciary, and pronounce sentences in the name of the Italian people.

This brief reflection, which I also share, brings us to the topic that I want to talk about, because it was necessary and no longer procrastinable to reach a reform of the honorary judiciary long course.

We have just heard the troubled history that led us to the law 51/2025 which by a strange coincidence came into force on 1 May, precisely on the date that coincides with the Labor Day.

Yes, because we are workers, we have always been and now it has finally been recognized and enshrined in a law of the state.

**Scope of the law**

The **Law of 15 April 2025, n. 51,**of **governmental initiative makes changes to the discipline of the honorary judiciary already in force (L. 116/2017) introducing provisions aimed at revising the legal**, economic and social security</b> regime of honorary magistrates , also to respond to the observations made by the European Commission to Italy with the opening of an infringement procedure (n. 2016/4081) for violation of workers' rights of honorary magistrates.

Law 51/25 applies only to honorary magistrates who were in service at the time of entry into force of L. 116/2017 (regulation sanctioned by Europe) and who, following an evaluation procedure, have been confirmed in their duties, these magistrates are also called "confirmed magistrates" or "established magistrates".

**The assessment procedure**

The assessment procedure addressed only to those who were already in service at the entry into force of law 116/2017 consisted of an oral examination, before an examining board composed of the President of the Tribunal, a civil and criminal magistrate and a lawyer. The examination concerned civil law and civil procedure, or criminal law and criminal procedure. The topic, a practical case to be solved, was drawn by lot from a list of secret questions, and the candidate had a maximum of 30 minutes to answer all the questions asked by the examination board.

**The new law**

The rules introduced revise the legal, economic and social regime of honorary magistrates, regulating both the **employment relationship of** those who choose to exercise exclusively honorary functions and those who have not exercised this option.

In practice the law intervenes on the regulation of the employment relationship of the honorary judiciary, dictating rules on the exclusivity of functions, Termination of service and application to honorary magistrates of the National Collective Labour Agreement of the Subdivision central functions with regard to leave, absences and leaves.

The President of the Court for Honorary Magistrates, or the Attorney of the Republic at the Court, for Honorary Deputy Procurators, will define the work programme of the Honorary Magistrates, in accordance with the guidelines drawn up by the Supreme Council of the Judiciary, taking into account the need to include in the total time both the activities to be carried out at the hearing and those preparatory and subsequent to the hearing itself as well as the training activities referred to in Article 22.

A limit is set on the weekly working time, which comes directly from Europe, and for the protection of honorary magistrates. The maximum working time is 36 hours per week for exclusive magistrates and 16 hours per week for other judges.

The rule then introduces a rule on incompatibilities for confirmed magistrates who have opted for the exclusivity regime. The exclusive honorary magistrates may not perform the duties of honorary magistrate in judicial offices included in the district of the court where the spouse or cohabiting partners exercise the legal profession, Relatives up to the second degree or related persons within the first degree or parties to a civil union. Honorary magistrates who are related to each other up to the second degree or of affinity up to the first degree, of marriage or cohabitation or who are parties to a civil union may not be assigned to the same judicial office. The provisions of this paragraph shall also apply to the parties to a civil partnership. This provision is the same as that provided for in articles 18 and 19 of the judicial system (royal decree of 30 January 1941, n. 12) for ordinary magistrates and to assess the incompatibility in concrete will be used the same parameters, Provided that these articles are directly referred to by law.

Art. 30 of the law specifies that the honorary magistrates who fall under the c.d. "role to exhaustion of the honorary magistracy" (precisely because it is the subjects addressed are only and only those who were already in service in 2017) consists of confirmed honorary justices of the peace, confirmed honorary court judges and confirmed honorary deputy prosecutors. It specifies that those who at the entry into force of L. 51/25 exercised the functions of justice of peace, will continue to be assigned all the functions attributed by law to the justice of peace. Honorary judges of the court who are employed in the office for the trial or in the office of cooperation of the prosecutor of the Republic shall be assigned to deal with and define, with monocratic functions, the following matters:

**- For the civil sector**, all proceedings may be assigned to the honorary judge, with the exception of: a) family proceedings, except those relating to parental responsibility, before the Juvenile Court

b) proceedings in corporate and collective law matters;

c) labour procedures;

d) proceedings to challenge the Justice of the Peace;

and) proceedings relating to movable property of a value of more than Euro 50,000' as well as proceedings relating to the payment, in any way, of sums of money exceeding the same value, except in the case of proceedings relating to compensation for damage caused by vehicles and boats, in which case proceedings may be awarded in which the value does not exceed € 100,000;

f) the proceedings of the Court of First Instance and the holders, with the exception of applications made in the main proceedings.

- **For the criminal area** , all proceedings may be assigned to the honorary judge, with the exception of:

a) proceedings relating to offences other than those referred to in article 550 of the Code of Criminal Procedure (offences with penalties exceeding 4 years' imprisonment or which are not included in the list of offences referred to in paragraph 2 of art. 550 c.p.p., that is murder, stalking, calumnies, complex tax crimes)

b) the proceedings assigned to the preliminary inquiry judge and to the preliminary hearing judge;

c) the appeals against the measures issued by the justice of the peace;

d) the proceedings referred to in Article 558 (judgment for validation of arrest) of the Code of Criminal Procedure with the consequent judgment.

However, in the event of temporary needs or emergency situations, the honorary judge may be called upon to make up the panel, except in the case of civil proceedings, proceedings relating to concordat or cases falling within the jurisdiction of specialised chambers, in the criminal field, proceedings before the review court.

As regards the honorary deputy procurators, they will continue to perform the functions of public prosecutor, by delegation of the Attorney of the Republic, for all judgments before the Justice of the Peace, and to the Tribunal except those expressly reserved by law for ordinary magistrates. However, they will always be able to carry out the office of public prosecutor in all judgments in civil matters, labour or bankruptcy.

The law has also introduced rules on secondment in cases of absence or inability of professional magistrates, limited to exceptional service requirements.

It was also introduced a regulation on holidays that provides that honorary magistrates do not serve during the working period (provided for and regulated by art. 1 L. 742/1969 1-31 August of each year). However, if there are specific requirements of office and the honorary magistrate works during this period, he is entitled to recover his leave at another time.

For the first time, the possibility is introduced for the honorary magistrate to request transfers to another place if certain criteria are met. The new assignment is made by decree of the Minister of Justice, after a favourable decision of the Superior Council of the Judiciary, on the proposal of the autonomous section for honorary magistrates of the judicial council.

The new law also regulates the procedure for assessing professional competence.

The independent section for honorary magistrates of the Judicial Council will make the assessment on the basis of the report of the head of the office on the activities carried out by the honorary magistrate, evaluating the copy of the documents and measures taken from samples, Reading the report of the honorary magistrate, analyzing comparative statistics on the activity carried out and considering the certificate issued by the structure of the decentralized training network as well as the reports of the council of the bar association. The opinion of suitability or unsuitability to perform judicial functions is transmitted to the Supreme Council of Magistracy. If the verdict is not positive, the honorary magistrate must be assigned for two years to the office of the trial or to the office of cooperation of the prosecutor of the Republic, excluding the exercise of judicial functions. At the end of the two-year period, the confirmed honorary magistrate is subject to a new assessment of professional competence and if it is negative, will be released from service by decree of the Ministry of Justice.

In the case of career judges, aptitude assessments do not lead to a higher level of remuneration.

The law also introduces a specific graduated disciplinary liability regime ranging from serious failure to perform the duties of the office to cases of minor gravity.

Provisions are introduced in the remuneration regime with provision for a compensation defined independently, compared to that introduced by the Budget Law of 2021which set it as the treatment of judicial administrative staff of Area III.

Social security and tax provisions are also introduced for the first time, and compensation is assimilated to that of employees, thus introducing an amendment to art. 50 TUIR.

An important milestone achieved is the introduction of the provision that ensures the honorary magistrates

the National Institute for

Occupational Accident Insurance (INAIL). The honorary magistrates are enrolled in the pension fund for employees of the compulsory general insurance at the National Institute of Social Security (INPS) as well as the following forms of social security:

a) insurance for invalidity, old age and survivors;

b) insurance against involuntary unemployment;

c) health insurance;

d) Maternity insurance.

Finally, honorary magistrates are granted a meal voucher if they exceed the six-hour period of presence at the judicial office.