



Assessing the Professional Evaluation of Italian Judges and Prosecutors

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ACADEMIC ARTICLES



ABSTRACT

The Italian system for evaluating judges and prosecutors was created to ensure quality, efficiency, and institutional accountability. Yet, as over 99% of assessments are positive, it is doubtful whether it truly distinguishes merit and provides effective oversight. Recent reforms have introduced more objective and qualitative criteria, but these reveal major flaws. Through an in-depth analysis of recent deliberation records, this study critically examines the evaluation system, highlighting structural imbalances and the inherent difficulty of assessing judicial performance. The near absence of non-positive and negative evaluations suggests that the evaluation system fails as a tool for accountability or growth. In light of these findings, two questions arise: What real impact do professional evaluations have on the justice system? Are there possible improvements that could make the assessment process more effective? The goal is not merely to refine evaluation criteria, but to redefine the purpose of evaluation – turning it into a genuine tool for responsibility and professional development. Amid growing public distrust, such reform is essential for the justice system as a whole.

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KEYWORDS:

judicial professional
evaluation; Superior Council
of the Magistracy; judges
and prosecutors' careers;
Italian justice system

TO CITE THIS ARTICLE:

Daniela Cavallini, Eleonora
Ferrari and Silvio Roberto
Vinceti, 'Assessing the
Professional Evaluation
of Italian Judges and
Prosecutors' (2026) 17(2)
*International Journal for
Court Administration* 3. DOI:
[https://doi.org/10.36745/
ijca.795](https://doi.org/10.36745/ijca.795)

The professional evaluation of judges and prosecutors occupies a crucial yet ambivalent place within the Italian judicial system. Conceived as a tool to safeguard the quality of judges and prosecutors, enhance institutional accountability, and promote the efficiency of the justice system, it paradoxically reveals – through its near-universal positive outcomes — an intrinsic difficulty in distinguishing merit, detecting shortcomings, and fostering meaningful professional development. This dissonance between normative aspirations and practical implementation calls into question the very function of professional evaluations. First, what real impact do professional evaluations have on the functioning of the justice system? Second, are there possible improvements that could render the assessment process more effective, both in terms of professional development and institutional accountability?

In addressing these questions, the present paper adopts a twofold methodological approach. On the one hand, it explores the Italian evaluation system, tracing its regulatory foundations and the institutional rationale underpinning its current configuration. Particular attention is devoted to the reform introduced between 2022 and 2024 — commonly referred to as the “Cartabia-Nordio reform”, after the names of the Ministers of Justice who promoted it — whose aim was to enhance the reliability, transparency, and effectiveness of professional assessments by more finely articulating outcomes and combining both quantitative and qualitative criteria. On the other hand, the paper presents an empirical analysis of the deliberations issued by the Superior Council of the Magistracy (hereafter SCM) between January 2023 and September 2024.

The selected timeframe is not intended to assess the reform’s effects, which are still unfolding, but rather to establish a baseline. By offering a concise quantitative analysis complemented by qualitative insights, this study provides updated data that may serve as a baseline for future comparisons and monitoring potential changes in evaluation practices. In essence, this analysis combines a quantitative assessment of evaluation outcomes with a qualitative examination of selected cases, including non-positive and negative assessments and decisions subject to internal debate. At the same time, brief comparative references are introduced to highlight that the topic is widely debated at the international level and has led to a variety of practices and solutions.

The structure of the paper reflects this twofold methodology. Section 2 introduces a brief comparative overview to illustrate alternative approaches to professional evaluation. Section 3 offers a contextual overview of the professional evaluation system in Italy, discussing its institutional aims, legal framework, and longstanding shortcomings. It also highlights the tension between the need for judicial accountability and the imperative to preserve independence. Section 4 presents the results of the empirical investigation, offering insights into the consistency of evaluation outcomes and the treatment of complex and controversial cases. Section 5 examines the key innovations introduced by the Cartabia-Nordio reform, including the reconfiguration of assessment outcomes, the refinement of performance criteria — such as the use of reversal rates — and the enhanced role of external actors, notably the Bar, in evaluation procedures. Section 6 returns to the paper’s two guiding questions, and Section 7 concludes. The conclusion draws together the findings to reflect on the broader implications for judicial accountability, institutional trust, and the role of evaluations in promoting both independence and excellence in the judiciary.

2. COMPARATIVE SCENARIO

Judicial professional evaluation is a recurring issue across Europe (and beyond) along with the contemporary debates on the “quality of justice.” Comparative analysis shows the diversity of existing national practices and highlights several tensions among accountability, efficiency, and judicial independence.¹ This Section briefly highlights some current issues and challenges.

In recent years, most judges’ recruitment systems have shifted from a focus solely on legal knowledge to the inclusion of practical and interpersonal skills such as teamwork, communication and adaptability. Countries like France, the Netherlands, and Hungary have introduced broader qualifications in recruitment and practice-oriented training. Italy, on the contrary, continues to rely mainly on legal expertise. Similarly, judges’ professional evaluation has become a crucial topic internationally, but it also raises concerns about judicial independence, especially when it affects salaries, as in Sweden. More cautious systems, such as that of the Netherlands, rely on “soft” tools like peer review. However, an evaluation conducted by other judges may generate internal pressure, as judicial independence requires protection not only from external branches of government but also from hierarchical influence within the judiciary itself. On the other hand, evaluations carried out by judicial councils tend to better safeguard judicial independence, but they may also lead to self-referential assessments and a risk of corporatism.² In assessing judicial decisions, the “Handle with Care” study warns against overreliance on “reversal rates” (the percentage of judicial decisions overturned on appeal), which may endanger autonomy, and promotes more qualitative approaches, like those used in Finland and the Netherlands.³ Comparative analysis also shows that professional evaluation can serve multiple functions, such as judicial promotion, general feedback, disciplinary action, allocation of training, etc. and recommend linking evaluations to training and quality of justice, designing assessments aimed at improvement rather than control and avoiding mere quantitative productivity-based criteria.

There is therefore no single or predominant model for judicial evaluation in Europe, nor are there empirical analyses detailing the effectiveness of the systems in use, which remains strongly context-dependent. This paper seeks to fill this gap and to provide detailed information on the actual functioning of professional evaluations in Italy.

3. THE EVALUATION OF JUDGES AND PROSECUTORS IN ITALY: A GENERAL OVERVIEW

According to international standards, persons selected for judicial office shall be individuals of integrity and ability with appropriate training or qualifications. The same principles apply to judicial promotions, which shall be based on objective

1 Francesco Contini, ed., *Handle with Care: Assessing and Designing Methods for Evaluation and Development of the Quality of Justice* (Bologna: IRSIG-CNR, 2017); Consultative Council of European Judges, *Opinion No. 17 (2014) on the Evaluation of Judges’ Work, the Quality of Justice and Respect for Judicial Independence* (Strasbourg: Council of Europe, 2014); Consultative Council of European Judges, *Summary of Replies to the Questionnaire for the preparation of Opinion No. 17 (2014)*.

2 David Kosař, “Beyond Judicial Councils: Forms, Rationales and Impact of Judicial Self-Governance in Europe,” *German Law Journal* 19, no. 7 (2018): 1567–1612; Nuno Garoupa and Tom Ginsburg, “Guarding the Guardians: Judicial Councils and Judicial Independence” (John M. Olin Program in Law and Economics, Working Paper No. 444, 2008).

3 Contini, *Handle with Care*, 284.

factors like ability, integrity, and experience.⁴ In recent decades, due to the increased complexity of the work of the judge, it has become quite evident that the professional qualifications for the proper exercise of the judicial role go far beyond basic legal knowledge. Additional skills are required, such as IT competences, organizational and relational skills, the ability to combine celerity, efficiency and quality, to manage ADR tools and to implement good practices.⁵ Generally speaking, there are two main tools to assess the professional qualifications of judges: recruitment selection and professional evaluations during their career. As regards recruitment, in Italy, a civil law country, public competition is the common way to access the judiciary.

As a rule, participants are young law graduates without, or with limited, professional experience, and they are tested almost exclusively on their legal knowledge, not on their practical skills.⁶ After recruitment, judges must undergo an 18-month period of initial training, which includes a final evaluation. The system is based on the assumption that the process of professional socialization and the development of professional skills will take place primarily within the judiciary and be governed by the judiciary itself, through specific institutions: the School of the Magistracy and the SCM, the self-governing body of judges and prosecutors. This also applies, in Italy, to public prosecutors, as judges and prosecutors belong to the same body (the magistracy) and follow the same recruitment and career path. The current paper, therefore, refers to both judges and public prosecutors. At present, the ordinary justice system (civil and criminal jurisdiction) employs about 9,700 magistrates; a little over two-thirds are assigned to judicial functions, while the others perform prosecutorial functions.⁷

Since the recruitment system is focused on legal knowledge, professional evaluations during judges' and prosecutors' careers (i.e. periodic evaluations of professional performance) play a fundamental role in assessing and guaranteeing the development of professional skills. They, moreover, are crucial for the purpose of promotions, role assignment, managerial functions, and transfers.⁸ According to the current system, judges and prosecutors are evaluated seven times at four-year intervals, with reference to four dimensions of their performance: capacity, productivity, diligence, and commitment. Moreover, three other fundamental criteria must be checked: independence, impartiality and balance, which are necessary "prerequisites" of judicial or prosecutorial function.⁹ The SCM is entrusted with the final decisions, after having assessed several documents, including the advisory opinion of the local Council

4 United Nations, *Basic Principles on the Independence of the Judiciary* (1985).

5 Hélène Pauliat et al., "Comparing the Evaluation and Development of the Quality of Justice in Finland, France, Hungary, Italy and The Netherlands," in Contini, *Handle with Care*, 277ff.

6 "There is no room to check their mental attitude towards the job, their interpersonal skills and relational capacity hence the attitude to treat parties properly or to teamwork that are becoming essential requisites of contemporary work in courts," Francesco Contini et al., "The Evaluation and Development of the Quality of Justice in Italy," in Contini, *Handle with Care*, 183.

7 The law formally provides for 10,863 posts (that is, the maximum number of career judges/prosecutors for the ordinary justice system). There are, therefore, several vacancies in the system.

8 Giuseppe Di Federico, "Judicial Independence in Italy," in *Judicial Independence in Transition*, ed. Anja Seibert-Fohr (Heidelberg: Springer, 2012), 372.

9 Additional criteria are provided for the assignment of high-level functions (such as those of "Court of Cassation judge") and chief positions in courts and prosecution offices, thus promoting greater specialization for such roles.

in whose district the judge or prosecutor to be evaluated serves.¹⁰ Such opinions are important elements in the evaluation process, as underlined by the last reform. In implementing statutory laws, the SCM has regulated in greater detail the evaluation criteria, identifying several indicators for each of them.

Promotions to higher career levels depend on these professional evaluations. The outcome of each evaluation may be positive, non-positive or negative. Non-positive evaluations are connected to a minor deficiency in one of the dimensions mentioned above. In this case, the judge or prosecutor must be reassessed after one year, and his or her salary increase is delayed by one year. A negative evaluation is usually connected to a very serious deficiency in one or more of the dimensions mentioned above. The judge or prosecutor is reassessed after two years, and his or her salary increases are postponed until then; in the meantime, he or she must attend training courses and might be excluded from specific functions or managerial tasks. In the event of a second negative evaluation, the judge or prosecutor is dismissed.

Positive evaluations are dispensed when no deficiencies are detected; unlike other countries (see, e.g., Germany), they do not lead to a merit ranking (excellent, very good, good, etc.) among the judges and the prosecutors. As regards salary, the achievement of certain evaluations (I, III, V and VII) allows for automatic salary progression. This system, according to the SCM, better protects the independence of judges/prosecutors, which could instead be jeopardized if economic progression were tied to competitive procedures or to the role actually performed. Moreover, every 2 years, they are guaranteed substantial and automatic salary increases of about 6% in the early stages of their career and 2.5% after a certain length of service. This mechanism is intended to avoid judges or prosecutors being regularly obliged to obtain salary increases by way of direct dealings with the executive, a fact which might indirectly influence their independence.

The system described above has proven to be poorly effective in practice, as will be discussed in the following paragraphs. *De facto*, professional evaluations do not provide useful and reliable information about the merit and skills of judges and prosecutors, and do not allow for a comparative picture. In other words, they do not achieve their purpose of detecting judicial merit and skills. The problem, actually, dates back to the reforms of the 1960s and 1970s.¹¹ The reforms dismantled the traditional system of evaluation of judges and prosecutors (based on selective promotions) without, however, introducing new mechanisms or improving the initial

10 Twenty-six local Councils are located in the 26 Court of Appeal districts. They are decentralised self-governance bodies mainly composed of judges and prosecutors elected by their colleagues, together with attorneys (appointed by the Bar) and University professors (appointed by the National University Council). A similar body is also attached to the Court of Cassation.

11 Until the late 1960s, the Italian judiciary followed a closed-rank career system, in which advancement to appellate or Supreme court positions required passing selective competitions for a limited number of vacant posts. Professional evaluations played a substantive role, particularly for promotions from first-instance judges to appellate judges and from appellate judges to the Court of Cassation. Evaluations were conducted by senior magistrates and based primarily on written judicial work (e.g., judgments), with only the top-ranked candidates eligible for promotion. Failing candidates – though deemed “suitable” – had no right to promotion and had to reapply in future competitions. Negative assessments could even lead to dismissal up to the appellate level. This system tied career advancement strictly to judicial merit and limited out-of-court assignments, as prolonged absence from judicial functions hindered eligibility for promotion. See Di Federico, “Judicial Independence in Italy,” 372ff.

recruitment.¹² Some argue, on the contrary, that the current system is suitable, as professional evaluations are not intended to compare or select the best judge or prosecutor, but only to verify the maintenance of minimum professional skills.¹³ Thus, the fact that almost all judges and prosecutors are rated positively shows that all of them reach appropriate standards.

The issue, however, is far from being simple. First of all, it is not easy to evaluate the work of judges and prosecutors, which consists of very different tasks requiring various skills (such as the capacity to handle the hearing, to write in a clear and concise way, to efficiently manage the workload, to work as a team, to promote ADR tools, like mediation, etc.). Secondly, professional evaluations must not be perceived by judges and prosecutors as an undue limitation of their independence, but rather as an essential condition to ensure their authority before the community and to effectively serve society. They must assess judicial performance while preserving, at the same time, judicial independence. Thirdly, the evaluation system should focus on both quantitative and qualitative criteria. While quantitative criteria can be based on established standards and targets, qualitative measurement is much more difficult. The search for a good balance is a crucial issue, and some judges and prosecutors complain about the current system, which, in their view, is too target-oriented.¹⁴

Nevertheless, it is unquestionable that statistical tools are extremely useful for judicial evaluation, to detect the workflow and the type of judicial work in order to identify future actions, strategies and priorities with a view to reducing the backlog and improving court organization (the main problems of the Italian justice system). Finally, generalized promotions up to the top levels of career and salary have so far granted judges and prosecutors substantial economic benefits. This ends up being the main effect of professional evaluation, in the absence of any ranking and selective assessments. Thus, reforming the system and depriving judges and prosecutors of this (expected) benefit would be perceived as a “punitive” action; in addition, if the SCM were to carry out more selective evaluations, it would lose support among judges and prosecutors, who are its own voters, undermining their trust also with a view to future elections.

Two other factors are relevant to fully grasp the peculiarities of the Italian system. First, since professional evaluations are poorly effective in practice, judges’ inabilities or deficiencies can be addressed only by means of the disciplinary process, which thus becomes the main tool for reacting to judges’ shortcomings. Professional evaluations, on the contrary, should make discipline unnecessary and residual; they should somehow prevent it or even anticipate it. Therefore, the lack of effective evaluations

12 The recruitment process has remained almost identical to that outlined by Minister of Justice Zanardelli in the late nineteenth century; it aims more at assessing candidates’ mnemonic skills than their ability to reason and write; the only relevant innovation is due to Law No. 71/2022 which introduced a psychological test in the selection process (applicable from 2026). However, the large number of candidates involved in the selection process would make this kind of evaluation either superficial (as a self-administered test) or expensive and time-consuming; Contini et al., “The Evaluation and Development of Quality of Justice in Italy,” 183.

13 Raffaello Magi and Daniele Cappuccio, “La delega Cartabia in tema di valutazioni di professionalità del magistrato: considerazioni a prima lettura,” *Questione giustizia*, no. 2–3 (2022): 77ff.

14 In their opinion, the statistical-quantitative approach has led judges to prioritize the disposing of caseloads to the detriment of the quality of judicial work, the values protected, the development of critical case-law, and dialogue with supranational jurisdictions; Riccardo De Vito, “Soggetti soltanto alla legge. I magistrati e le carriere,” in *Questione giustizia*, no. 4 (2017).

has given greater importance to disciplinary control. The second aspect concerns the role of chief judges/prosecutors. Chief judges, for example, must supervise judges' timeliness to guarantee the reasonable length of judicial proceedings. They have become a kind of "guardians" of compliance with procedural deadlines and must work to prevent and remedy any critical situations. However, their role is very ambiguous: their powers are quite limited in practice and are often challenged before the SCM whenever they are considered to affect the independence of the single judge or prosecutor.

In 2022–2024, the Cartabia-Nordio reform was approved after much debate.¹⁵ The reform has introduced several changes to the professional evaluations regime that are discussed in Section 5, with three in particular standing out from the rest: i) the articulation of a grading system into the positive evaluations; ii) the greater emphasis on more objective criteria into evaluations, such as the reversal rate; iii) the involvement of attorney members and, with them, of the Bar in the evaluation process.

4. NUMBERS AND NUANCE: DECODING ITALY'S PROFESSIONAL EVALUATIONS

As outlined in Section 3, professional evaluations in Italy are based on three prerequisites (independence, impartiality and balance) and four criteria: capacity, productivity, diligence, and commitment. Evaluations are classified as positive, non-positive, or negative, depending on the presence and severity of any deficiencies. While generally positive outcomes — resulting in automatic career advancement — are usually issued through standardized, concise decisions, more complex cases may involve internal discussion and brief justification.¹⁶ By contrast, non-positive and negative evaluations follow a more detailed and structured format, including e.g. a review of the judge and prosecutor's career, disciplinary history, and an in-depth assessment of the concerns raised.¹⁷

In light of this framework, an in-depth analysis of the SCM's deliberation records from 11 January 2023 to 18 September 2024 was conducted to examine the concrete functioning of the professional evaluation system.¹⁸ This analysis had two main focuses: a quantitative assessment of evaluation outcomes and the identification of emerging trends, and a qualitative investigation of non-standard decisions, including positive evaluations following internal discussion, as well as non-positive and negative

15 [Law No. 71/2022](#) and [Legislative Decree No. 44/2024](#).

16 Discussions are frequent when assessing diligence and productivity, particularly in cases of delays in filing judgments, procedural documents, or releasing detainees. At times, they concern professional capacity, such as weak legal reasoning or poorly drafted rulings. More rarely, debates arise in controversial cases involving judges/prosecutors subject to criminal proceedings – either acquitted or dismissed. These remain isolated instances.

17 In general, professional evaluations draw on multiple sources, as outlined in Article 11 of [Legislative Decree No. 160/2006](#). These include reports from the head of office, annual summaries, Bar association feedback, personal records, hearings with the judge or prosecutor, and, where relevant, samples of procedural documents. The judge or prosecutor also submits a written report on their activities during the evaluation period. For further analysis, see Pasquale Serrao d'Aquino, "Le valutazioni di professionalità dei magistrati. Parte seconda. I nodi problematici: le fonti di conoscenza, il rapporto con il disciplinare, gli sfasamenti temporali, le modalità espressive," in *Giustizia Insieme* (2020).

18 The SCM deliberations are publicly available on the official website: <https://www.csm.it/web/csm-internet/lavori-del-consiglio/dal-plenum>.

evaluations.¹⁹ Notably, the deliberations examined do not apply the Cartabia-Nordio reform, which entered into force only in November 2024. As such, they reflect the criteria previously in use, offering a valuable benchmark for future assessments. The timeframe was therefore selected not to measure the impact of the reform — which remains to be seen — but rather to establish a pre-reform baseline while updating previous empirical accounts with more recent data. In this perspective, the analysis of SCM deliberations provides crucial insight into how evaluation procedures are concretely implemented and how interpretive methods and assessment criteria are applied to problematic cases.

Regarding the first point (quantitative dimension), the research shows that between 11 January 2023 and 18 September 2024, the SCM issued 2,280 professional evaluations. Of these, 2,262 were positive – including 120 classified as ‘positive with discussion’ – 7 were non-positive, and 11 were negative.

EVALUATION OUTCOMES BY YEAR	2023	2024	TOTAL
Positive	1680	582	2262
Non-positive	1	6	7
Negative	7	4	11
Total	1688	592	2280

Table 1 Distribution of evaluations by year.

As shown in Table 1, most evaluations occurred in 2023, with 1,688 decisions (74% of the total), compared to 592 evaluations in 2024 (26%). This imbalance reflects the timing of the analysis, conducted in mid-December 2024, which included only decisions published up to September 18. When looking at the outcomes across both years, negative evaluations were more frequent in 2023 (7 out of 11), while the remaining 4 occurred in 2024. A notable opposite trend is observed in the distribution of non-positive evaluations, with 6 of the 7 cases occurring in 2024, compared to just one in 2023. This shift may suggest stricter criteria or a more selective approach in the latter period; caution, however, is warranted, since the detected number (6) is still very low (1%) compared to the total assessments analyzed in 2024 (592).

EVALUATION OUTCOME IN RELATION TO CAREER LEVEL	1	2	3	4	5	6	7	TOTAL
Positive	407	164	290	33	381	501	486	2262
Non-positive			1	2	2		2	7
Negative	1		2	2	1	1	4	11
Total	408	164	293	37	384	502	492	2280

Table 2 Distribution of evaluations by career level.

The analysis by career level (Table 2) shows that negative evaluations are mainly concentrated in the seventh evaluation (4 out of 11), towards the end of a judge or prosecutor’s career.²⁰ The others are spread across the third and fourth (2 each), and

19 Although “positive with discussion” evaluations are considered in the qualitative analysis for the issues they raise, they are not treated separately in the quantitative analysis, which focuses on the overall number of positive outcomes as the most relevant indicator.

20 In Italy, judges and prosecutors typically enter the judiciary at around 30 years of age and are evaluated every four years, for a total of seven assessments throughout

the first, fifth, and sixth (1 each). Non-positive evaluations also start from the third evaluation, with two each at the fourth, fifth, and seventh, and one at the third. None were recorded for the first, second, or sixth. This could suggest increased scrutiny for judges/prosecutors, since those evaluations are necessary qualifications to apply for high-level functions and managerial roles. However, it is still a limited number of cases.²¹ This pattern might appear somewhat counterintuitive, since one might expect fewer negative or non-positive outcomes in the later stages of a judicial career, when experience and professional maturity are typically greater. Conversely, early-career judges and prosecutors might be expected to receive more critical assessments, given their limited experience and the minimal scrutiny applied at the initial entry into the profession.²²

EVALUATION OUTCOMES FOR 2023 AND 2024 IN PERCENTAGES	NUMERIC VALUES	PERCENTAGE VALUES
Positive	2262	99,20%
Non-positive	7	0,30%
Negative	11	0,50%
Total	2280	100%

Table 3 Summary of evaluations by percentage.

Table 3 shows that 99.2% of evaluations were positive, compared to 0.3% non-positive and 0.5% negative. These figures may reflect either a highly qualified judiciary or a poorly effective evaluation system. Similarly, referring to the 2017–2021 period, data reported by the Ministry of Justice show almost identical proportions: 7,394 positive (99.2%), 24 non-positive (0.3%) and 35 negative (0.5%) evaluations.²³ Although the absolute number of assessments differs significantly —2,280 in the present dataset versus 7,453 in the previous one — the proportions remain almost identical. This suggests a persistent pattern in the evaluation process over time, pointing either to a uniformly high level of professional performance or to a limited capacity of the current framework to differentiate merit and detect underperformance. What is certain, however, as a consequence of what has been described, is that the vast majority of judges and prosecutors after 28 years of service reach the seventh (and thus the highest) professional evaluation; it follows that they also reach the highest salary level, benefits, and pension, regardless of the functions performed.²⁴

their careers. On this basis, the final evaluation usually occurs at approximately 58. After that, they may continue to serve without further assessments until mandatory retirement age (70).

21 The distribution observed may simply reflect the timeframe of the data analysed rather than a structural pattern. The dataset covers evaluations carried out within a limited two-year timeframe. The apparent concentration of certain outcomes at specific career stages may therefore partly depend on the timing of those evaluations, rather than reflecting the overall distribution of magistrates across career levels.

22 In the Italian judicial system, newly appointed judges and prosecutors undergo an 18-month traineeship after passing the national competitive examination. At the end of this period, the SCM delivers a formal judgment of suitability for the conferment of judicial functions, which almost invariably results in a positive outcome (see Giuseppe Di Federico, “Riforma delle valutazioni di professionalità e delle disfunzioni ad essa connesse, in prospettiva comparata,” in *Diritto di Difesa*, March 30, 2022).

23 Statement by the Minister of Justice Marta Cartabia during the Parliamentary Question Time, Chamber of Deputies, October 20, 2021.

24 In the Italian judicial system, remuneration and retirement benefits are determined by the level of professional evaluation reached, not by the specific position or functions performed.

For the qualitative dimension, over the two-year period 2023–2024, the review of deliberations concerning positive evaluations with discussion, non-positive and negative evaluations has revealed several noteworthy elements.

Regarding “positive with discussion” evaluations, 120 were recorded. Most (41) concerned delays in filing decisions or in releasing detainees. While usually minor, in two cases the delays exceeded the legal deadlines threefold, and these cases initially received negative opinions from the local Councils. In 7 cases, delays were also subject to disciplinary proceedings, with mixed outcomes. Three cases involved concerns about independence and impartiality, requiring extensive discussion. Thirteen cases involved clarification of personal or professional ties to Luca Palamara.²⁵ In 14 instances, the discussion focused on whether previously identified issues — stemming from an earlier negative evaluation — had been resolved. The remaining cases were heterogeneous, involving either deficiencies in competence (e.g., poor drafting, weak reasoning, inappropriate language) or individual personal or professional situations evaluated case by case.

Regarding non-positive evaluations, seven were recorded. In 2023, only one case was registered involving a prosecutor who failed the third evaluation due to deficiencies in balance and competence, including repeated personal use of office resources and improper investigative practices.²⁶ In 2024, six additional cases were registered. One prosecutor failed the fourth evaluation for lack of impartiality and competence, having failed to pursue investigative leads and demonstrated poor courtroom preparation.²⁷ Additionally, four cases involved significant delays in issuing decisions, leading to negative assessments of diligence and productivity. One judge failed the fourth evaluation due to widespread delays in civil rulings across multiple offices.²⁸ Another judge failed the fifth evaluation for persistent delays in labor-related rulings, despite prior disciplinary action.²⁹ A third failed the seventh evaluation for severe delays in both civil and criminal decisions, resulting in two disciplinary sanctions.³⁰ A fourth judge received a non-positive outcome at the seventh evaluation for continued delays, despite a backlog-reduction plan.³¹ Finally, one judge failed the fifth evaluation for lack of diligence, following two delayed releases of crime suspects – both subject to disciplinary proceedings for failing to monitor the expiration terms of pre-trial detention.³²

25 The case is connected with the “Palamara affair,” a scandal that erupted in 2019, involving attempts by Luca Palamara – a public prosecutor, then a member of the SCM and leader of the *Unità per la Costituzione* association – to influence appointments to chief positions in Rome and Perugia prosecutors’ offices through informal negotiations (lobbying activity) with other colleagues and politicians. For further details, see, inter alia, Maurizio Catino, Cristina Dallara, and Sara Rocchi, “The Organizational Reasons for Wrongdoing: The Case of Italy’s Superior Council of the Judiciary (CSM),” *Crime, Law and Social Change* 79 (2023): 453, 458–59; Simone Benvenuti, “The Italian System of Judicial Governance: An Arena of Confronting Informal Practices and the Push Towards Formalization,” *German Law Journal* 24, no. 8 (2023): 1373–92.

26 In particular, the cases involved repeated use of the office mobile phone to place paid calls to astrology and fortune-telling services and initiating an investigation based on an anonymous report conducted in a manner considered inappropriate for the institutional role (SCM’s deliberation of April 12, 2023).

27 SCM’s deliberation of April 24, 2024.

28 SCM’s deliberation of March 6, 2024.

29 SCM’s deliberation of June 12, 2024.

30 SCM’s deliberation of June 19, 2024.

31 SCM’s deliberation of July 24, 2024.

32 SCM’s deliberation of July 17, 2024.

Regarding negative evaluations, 11 were recorded – seven in 2023 and four in 2024. In 2023, six cases primarily concerned deficiencies in core prerequisites for judicial functions (i.e. independence, impartiality, and balance): one judge failed the seventh evaluation for exerting undue influence on a colleague;³³ another prosecutor failed to recuse himself due to personal ties;³⁴ a third judge improperly disclosed confidential information to a defense attorney;³⁵ a fourth prosecutor was suspended for violent behavior;³⁶ a fifth and sixth attempted to influence judicial appointments through inappropriate negotiations over appointments with a member of the judicial council.³⁷ Conversely, based on parameters of diligence and competence, the seventh case in 2023 involved a judge criticized for delays in issuing decisions, despite prior disciplinary sanctions.³⁸ Also in 2024, three additional cases concerned deficiencies in the core prerequisites: one judge displayed improper personal conduct, including unauthorized access to judicial databases and an attempt to influence a criminal case;³⁹ another was involved in politically motivated media activity;⁴⁰ and a third failed to recuse herself

33 The negative outcome stemmed from disciplinary findings of repeated attempts to influence a personal case, showing an improper overlap between personal ties and professional duties, despite positive assessments of competence and commitment (SCM's deliberation of January 18, 2023).

34 The prosecutor failed the third evaluation for lacking independence and impartiality, following several disciplinary proceedings and a criminal conviction for abuse of office, due to not recusing himself from cases involving individuals with whom he had strong personal, professional, and financial ties (SCM's deliberation of January 18, 2023).

35 This case involved a judge who disclosed confidential internal deliberations and expressed inappropriate opinions, resulting in a negative evaluation due to violations of the duty of confidentiality and harm to judicial prestige (SCM's deliberation of March 1, 2023).

36 The prosecutor failed the fourth evaluation for lack of balance and competence, with disciplinary sanctions including a two-year suspension for violence and threats against public officials, revealing poor emotional control and unawareness of institutional consequences (SCM's deliberation of October 4, 2023).

37 These judges failed respectively the seventh and the sixth evaluation for lack of independence and impartiality, based on communications during a disciplinary case aimed at influencing appointments in favor of members of the same judicial association, compromising credibility and neutrality. Reference is made to the Palamara affair (see note 29 above) (SCM's deliberations of October 18, 2023).

38 This concerned a judge undergoing the fifth evaluation, which was negative due to repeated and serious delays in issuing decisions, previously sanctioned with a nine-month suspension. Despite recognizing general industriousness and basic suitability, the SCM found persistent deficiencies in diligence, commitment, and competence. The delays, unjustified by workload or productivity, disrupted the functioning of the office, and the judge's reluctance to issue basic procedural orders further confirmed the lack of diligence (SCM's deliberation of March 1, 2023).

39 This concerned a judge who failed the seventh evaluation for lack of independence, impartiality, and balance, due to personal conduct interfering with judicial duties. Incidents included defamatory posts against a former partner, unauthorized access to a judicial database, and an attempt to influence a criminal case. The judge also showed deficiencies in diligence and competence, with delays in decision-making, limited training participation, and procedural errors. Despite a favorable opinion from the local Council, the evaluation was negative and triggered mandatory re-evaluation within two years (SCM's deliberation of February 14, 2024).

40 This case concerned a judge who failed the seventh evaluation for lack of independence and balance. Despite positive assessments from the local Council and head of office regarding diligence and competence, the SCM focused on wiretapped conversations with a person involved in a high-profile criminal case. These revealed the judge's participation in media and political initiatives driven by personal ties. Although related criminal and disciplinary proceedings had favorable outcomes, the SCM found that this overlap between private and institutional spheres compromised the judge's credibility and impartiality (SCM's deliberation of June 5, 2024).

in proceedings involving a personal acquaintance, resulting in disciplinary action.⁴¹ The final 2024 case concerned a judge with persistent deficiencies in diligence, industriousness, and commitment, including delays of over 1,000 days. Following a second consecutive negative evaluation, this led to dismissal from the judiciary.⁴²

In conclusion, although the Italian professional evaluation system is characterized by the high rate of positive outcomes (99.2%), a closer look at non-positive and negative evaluations reveals a more nuanced picture. These rare cases highlight the criteria prioritized in assessing judicial performance and the interpretive challenges in applying parameters such as independence, impartiality, balance, and diligence. Notably, similar issues — particularly delays — also emerged in “positive with discussion” evaluations, which in about one third of cases concerned timeliness, further confirming the relevance of this parameter. The findings suggest that applying these criteria depends on contextual factors, such as the severity and recurrence of deficiencies in judicial activity and its perceived impact on the judiciary’s credibility. When applied rigorously, evaluation can serve as a vital tool for institutional accountability and professional improvement.

5. THE 2022–2024 REFORM: ANOTHER LOST OPPORTUNITY?

As already mentioned, criticism of the performance evaluation system in Italy has a long history.⁴³ The most notorious and contentious issue is the overwhelming positivity of evaluations. The previous Section showed in greater detail that nearly all judges and prosecutors (>99%) pass the assessment rounds with the very same mark: “positive.” The negligible numbers of “non-positive” and “negative” evaluations thus raise serious doubts about the genuine nature of the process. For many, it is clear evidence that the evaluation system is broken and evaluations are just a formality, for possibly different and mutually non-exclusive reasons: conflict-avoidance, guild-mentality, entrenched peer leniency and reciprocity. In fact, the SCM is given no specific institutional incentive to be either particularly selective or lenient. Since professional evaluations are linked to otherwise automatic salary increases, the overwhelming leniency deprives judges and prosecutors of incentives to work more efficiently and, in turn, contributes to lagging productivity in justice administration. Additionally, boilerplate positive evaluations do not provide compelling evidence to gauge judges’ individual abilities and are therefore fundamentally useless in

41 This case involved a judge who failed the fourth evaluation for lack of independence, impartiality, and balance. Despite a favorable opinion from the local Council, the SCM raised concerns based on criminal and disciplinary findings. The judge maintained a close relationship with an attorney and failed to recuse herself from two cases involving the attorney’s clients. She also disclosed information from internal deliberations. These actions led to two disciplinary convictions and a loss of seniority, deemed incompatible with judicial impartiality (SCM’s deliberation of July 10, 2024).

42 SCM’s deliberation of July 24, 2024.

43 Cf Giuseppe Di Federico, “Recruitment, Professional Evaluation, Career and Discipline of Judges and Prosecutors in Italy,” in *Recruitment, Professional Evaluation and Career of Judges and Prosecutors in Europe: Austria, France, Germany, Italy, the Netherlands and Spain*, ed. Giuseppe Di Federico (Bologna: Lo Scarabeo, 2005), 140–41; Daniela Cavallini, “Judicial Discipline: Different Approaches in Five EU Member States,” in *Handbook on Judicial Politics*, ed. Ramona Coman and Cristina Dallara (Iași: Editura Institutul European, 2010), 153; Di Federico, “Judicial Independence in Italy,” 371–72; Francesco Contini, Davide Carnevali, Marco Fabri, and Nadia Carboni, “The Evaluation and Development of the Quality of Justice in Italy,” in Contini, *Handle with Care*, 201.

adjudicating competition for scarce, top judicial positions. The absence of reliable criteria for selecting professional merit thus paves the way to the development of informal practices for judicial appointments and, notoriously, contributes to judicial associations' grip over judges and prosecutors' careers.⁴⁴ Within this line of argument, the widely discussed internal patronage and favoritism allegedly affecting the Italian judiciary directly correlates with the ineffective system of performance assessment.

By contrast, other authors, and especially some judges, contend that criticisms of performance evaluations rest on a fundamental misunderstanding about their institutional function. They claim that these assessments are designed to certify the achievement of some minimum standard of competence by all judges. (The very fact that they bear the name of "professional evaluation" might foreshadow the idea that it is an assessment aimed at discerning some kind of professional threshold, rather than individual excellence.) Seen in this light, expectations for higher rates of non-positive and negative evaluations, as well as the belief that they could serve to vet candidates for top positions in the judiciary, are fundamentally misguided.

Whatever the intrinsic merit in these positions, some data cannot be easily brushed aside. The issue lies not so much with the number of other-than-positive evaluations – i.e., non-positive and negative – but rather in the startling inconsistency with the evidence probed by disciplinary proceedings. The number of judges sanctioned for performance-related misconduct – e.g., delays, shirking duties or excessively delegating tasks, failing to respond when on call, etc. – is greater than the number of non-positive and negative evaluations combined. In other words, more judges are being disciplined for shortcomings in their work performance than are failing their evaluations.⁴⁵ This fact, of course, is perplexing, as one would expect discipline to be used only in the most serious cases, with performance evaluation ideally displaying a more sensitive threshold for productivity and industriousness. Even if one assumes that episodic cases of work-related disciplinary faults may be offset by spectacular improvements, a higher number of "non-positive" evaluations would nonetheless be expected.

However, even this conclusion eventually strikes as too charitable. On the one hand, considering the number of disciplinary sanctions may understate the size of the issue, since many judges and prosecutors choose to leave the bench beforehand to avoid being disciplined, e.g., through early retirement or resignation. On the other hand, as mentioned, the SCM's 2007 implementing regulation adds independence, impartiality, and composure as prerequisites for a positive evaluation, regardless of the judge's standing under the four criteria of efficiency. If we add at least the most serious disciplinary offences against these prerequisites to the total count, more other-than-positive evaluations would be expected. Considered together, all these elements thus cast a very dark shadow on the integrity of professional evaluations in Italy.

For its part, the Italian legislature appears to recognize that something fundamental is at odds with judges and prosecutors' professional evaluations. The law no. 71 of 2022 and the related legislative decree no. 44 of 2024 introduce multiple changes to the new legal framework. Innovations include, for example, the establishment of a separate personal file on the evaluation of the judges and prosecutors, different

44 Di Federico, "Judicial Independence in Italy," 374.

45 For more data and detail, see Silvio Roberto Vinceti, "L'efficienza come categoria della responsabilità disciplinare del giudice nel diritto comparato," in *Riforma dell'ordinamento giudiziario ed efficienza del sistema giustizia*, ed. Francesca Biondi and Francesco Dal Canto (Turin: Giappichelli, 2025), 167–69.

from the general one, which is intended to collect a significant amount of data and information on the assessed judge or prosecutor. Moreover, the reform imposes greater consideration of disciplinary sanctions in the professional evaluation, even where the case of misconduct occurred earlier than the quadrennium under assessment. Among these changes, however, three deserve particular attention. First, in its reformed structure, the assessment of judges and prosecutors now allows for a grading of the “positive” mark. The reformed scale of positive evaluations includes three grades, each described by a different adjective: “decent” (*discreto*), “good” (*buono*), and “excellent” (*ottimo*). The scale however will apply only in the assessment of the judge’s or prosecutor’s ability to “organize his or her own work.” The underlying idea is that by grading positive evaluations individual merit will arguably be emphasized through at least some appreciable distinctions between the evaluatees. While different votes will not display any effect on salaries, they may possibly be considered in deciding over promotions, though no express indication is given to this effect — in practice this may give way to lawsuits being lodged before administrative courts. (Incidentally, this would further increase litigation on judicial appointments — a phenomenon which takes place in other countries — e.g. Germany — but is remarkably significant in Italy).⁴⁶ Additionally, there is no quota for any specific grade. Secondly, the reform package puts greater emphasis on measurable, objective data, such as statistical information on the judicial activities and their consistency with the court’s annual productivity plan. Express consideration is given to “serious anomalies” in the frequency with which judges’ or prosecutors’ decisions are overruled or otherwise rejected by higher courts — the already mentioned reversal rate. Thirdly, the reform aims at fostering external accountability by allowing lay members of local Councils — i.e., attorneys and law professors — to participate in the evaluation process. All lay members are now allowed to examine the preparatory materials, with attorney members voting on the local Council’s opinion, which is then submitted to the SCM for the adoption of the evaluation.

A proper assessment of the reform will clearly require some evaluation cycles and thus may be too early to call it a missed opportunity. Even on paper, however, there is some reason to doubt that the legislative package will deliver on its promises, as the greatest innovations seem somewhat watered down by their own design. While potentially a truly momentous development, the restriction of the reformed scale of positive evaluation to the ability to “organize his or her own work” is in some way underwhelming. If certainly important and consequential, organizational abilities are but one of many skills — consider, e.g., proficiency in legal reasoning, or interpersonal skills, such as efficient communication, teamwork, emotional management, etc.

Moreover, since the indices of organizational ability laid out in the SCM implementing regulation leave room for some appreciable degree of discretion.⁴⁷ The prospective use of measurable and more objective data on judicial activity to make evaluations more objective risks remaining an empty dream. The SCM implementing regulation holds serious anomalies to occur only when the overruling resulted from an extraordinary flaw in the appealed decision, or if the overall reversal rate is statistically significant against the total number of proceedings, with the controversial proviso that statistical significance applies only when more than two-thirds of the decisions are reversed —

⁴⁶ Johannes Riedel, “Judicial Review of Judicial Appointments in Germany,” *International Journal for Court Administration* 11, no. 1 (2020): 6–8.

⁴⁷ *Circolare sui nuovi criteri di valutazione di professionalità dei magistrati*, Circolare P. 21578 del 2024, SCM deliberation of November 13, 2024.

a threshold considered by many as in itself too lenient. Thirdly, the enhancement of external accountability through the empowerment of lay members in local Councils is constrained in its application. The weight of attorney members in the opinion's drafting is diluted, since they cast just one single collective vote and only in the case that the local Bar signaled in advance some complaints of the judge's or prosecutor's conduct (the Milan Bar only recently launched the first complaint platform).⁴⁸ If no complaint is mentioned beforehand, attorney members cannot vote on the opinion.⁴⁹ Law professors, moreover, are altogether excluded from voting — a decision that strikes as puzzling since they could act as a third party, independent of both the judiciary and the Bar.

Taken together, these limitations leave the impression that the reform will not necessarily give way to any effective overhaul of the evaluation system. To be sure, reforming professional evaluations is no mean feat, as the assessment can all too easily be used to curb judicial independence. The three considered innovations illustrate the point. Effective evaluations empower the evaluators and increase their potential influence over individual judges. If the evaluators are peer judges, this may eventually undermine internal judicial independence. Similarly, rather than a noble dream, the use of measurable and objective data in performance evaluation can turn into a nightmare if the well-known issues in using raw metrics on adjudication are not addressed through some kind of legal contextualization.⁵⁰ Finally, external accountability can also lead to undue external influence. Attorneys and law professors may have their own biases and agendas, which could impinge on the integrity and consistency of the evaluation process. In this sense, these are all remarkable challenges.

Moreover, one can always revert to the fundamental misconception in construing performance evaluations as a ranking instrument identifying excellence among judges rather than a threshold mechanism assessing some minimal competence. But then again, why attempt a reform that aims at strengthening meritocracy in the judicial and prosecutorial branches, and yet even on paper does not apparently seem conducive to any substantial change in the relevant evaluation practice? Is it because of Italy's contractual obligations under the EU-funded National Recovery and Resilience Plan to improve the efficiency of its justice system? It can be one possible explanation. At the same time, one cannot help but think of a famous Italian aphorism: "*If we want things to stay as they are, things will have to change.*"⁵¹

6. BEYOND APPEARANCES: RETHINKING EVALUATIONS

The purpose of this paper is to discuss two main questions: the impact of professional evaluations on the justice system and possible improvements to make the assessment process more effective.

48 See <https://www.ordineavvocatimilano.it/segnalazione-magistrati-uffici-giudiziari/>.

49 In any case, the attorney members' vote must conform to the Bar's indication. If they disagree, they can ask a second decision by the Bar but have to vote accordingly if the first vote indication is confirmed.

50 Silvio Roberto Vinceti, "Innovating Judicial Performance Evaluations: Toward Academic-Style Peer Review?" *International Journal for Court Administration* 15, no. 1 (2024): 7–9.

51 Giuseppe Tomasi di Lampedusa, *The Leopard*, trans. Archibald Colquhoun (New York: Pantheon, 1960), 40.

With regard to the first question, do professional evaluations genuinely contribute to improving the judiciary, or do they risk crystallizing a merely formalistic oversight mechanism devoid of substantive value? As outlined in the previous paragraphs, in the Italian system, the very limited number of non-positive and negative evaluations suggests that the existing monitoring system fails to serve as a genuine mechanism for oversight and professional development. Data clearly show that the evaluation system, whose structure is extremely complex and burdensome, has proven to be poorly effective in practice. Effective and substantive professional evaluations, on the contrary, are crucial to promote the quality of our judges and prosecutors, whose merits and skills are not tested at the recruitment stage. When applied rigorously and transparently, professional evaluation can serve as a meaningful instrument of institutional accountability.

Conversely, if intended as a mere formalistic tool, the career of judges and prosecutors ends up relying only on seniority and automatic salary increases (until the highest level); criteria that do not respond to the contemporary challenges of a modern and efficient justice system. Professional evaluations, in such cases, are deprived of their function and do not provide valuable information to be used for the purpose of guaranteeing professional growth and the proper functioning of the justice organization. Such a lack of information, moreover, is not compensated by the disciplinary control (which serves other purposes and might – or might not – affect a judge or prosecutor's career), or by other qualitative tools like, for example, customer satisfaction surveys, peer-review mechanisms, etc. that do not exist in the Italian system. Professional evaluations, for example, are supposed to help the SCM decide on the assignment of chief positions in courts and prosecutors' offices.

However, if all judges and prosecutors have received positive evaluations of their professional performance, the greatest merit cannot be easily determined. This has another consequence: it often happens that success in obtaining the desired position significantly depends on the support that the various associations of judges and prosecutors are capable of rallying in favor of their affiliated candidates, as shown by the "Palamara affair."⁵² Since the SCM is unable to base its choice on the professional qualifications of candidates (i.e., on merit), it finds itself at the mercy of the lobbying activity by the various judicial associations. In this sense, the weakness of the evaluation system indirectly shifts decision-making power from formal criteria to informal networks.

Such a phenomenon results from a combination of institutional factors and informal practices. On the institutional dimension, the Italian judiciary is formally characterized by strong guarantees of internal independence and by the absence of hierarchical relationships among judges. Article 107 of the Constitution expressly states that judges and prosecutors differ only in their functions, thereby excluding an internal hierarchy. As a result, court presidents play a rather weak role, in contrast to the very strong role of the SCM, which is entrusted with all functions related to judicial governance. This arrangement has helped insulate the judiciary from potential interference by political powers. At the same time, however, it has fostered strong internal cohesion and corporatism. Indeed, the SCM is composed predominantly of judges/prosecutors elected by their peers, who remain accountable to them, also in view of subsequent

⁵² This phenomenon (called *correntismo*) is widespread and has characterized the decision-making processes of the SCM for decades; Di Federico, "Judicial Independence in Italy," 374.

elections. It is therefore not particularly surprising that the practices developed by the SCM in the area of professional evaluations tend to be rather benevolent toward judges/prosecutors, given that the evaluators are themselves elected by the judges/prosecutors they assess. So, it is primarily the SCM's activity — and the way it applies the law — that deserves the strongest criticism. This also explains the weak incentives for potential innovations: more stringent evaluations would negatively affect judges' and prosecutors' expectations of automatic salary progression, and the SCM would risk losing the support of its electorate.

The question posed in the previous paragraphs, whether professional evaluations should detect excellence or minimum standards, does not seem relevant in Italy, because what really matters is that an effective and reliable mechanism to assess professional qualifications seems to be lacking. This is our main conclusion. As regards the question itself, we contest its formulation because it is unclear what 'minimum standards' are and what specific level is expected to be achieved. Indeed, the complex and detailed criteria established in our evaluation system appear to go well beyond any notion of minimum standards.

In theory, as already mentioned, the Italian system is very detailed and strict, with various evaluation criteria and three prerequisites. Furthermore, with regard to the latter, the empirical analysis has revealed that these prerequisites (upon which the very legitimacy of judges and prosecutors lies) are understood in a broad sense. They also encompass extrajudicial conduct that, while formally external to judicial duties, is assessed in light of its potential effect on the prestige of the judiciary and the credibility of the individual judge or prosecutor. This extended meaning reinforces the role of evaluation not only as a mechanism of control but also as a tool for safeguarding the image and legitimacy of judges and prosecutors. However, it is striking that the SCM extends beyond the normative framework, treating the three prerequisites as indicators of professional merit rather than mere eligibility requirements. Even more remarkably, many of the few non-positive and negative evaluations appear to stem precisely from shortcomings in these prerequisites.

As regards the second question, the innovations of the Cartabia-Nordio reform have great potential but also entail risks; they focus mainly on qualitative criteria and reflect general trends observed in other countries as well.⁵³ First of all, the reform highlights the need to improve judges' ability to organize their work, also through teamwork and more efficient management of court staff. Promoting the diversification of judges' skills and profiles can help address the increased complexity of their tasks and the heavy workload. The empirical research also found that non-positive or negative evaluations mostly involved recurrent delays in the performance of due activities, indicating that the concerned judges were unable to efficiently organize their workload.⁵⁴ Following the same rationale, the reform introduced a more extended evaluation of the individual performance, including the rate of upheld or quashed judgments (by appellate courts and the Court of Cassation) as an indicator of the quality of judicial work. For public prosecutors, the indicator refers to the rate

53 For a comparative picture, see Pauliat et al., "Comparing the evaluation and development of the quality of Justice in Finland, France, Hungary, Italy and the Netherlands," 278ff.

54 Judge support should also be improved; in Italy, for example, there are still no reliable tools for "weighing" judicial proceedings, which are already present in other countries; Marco Fabri, "Metodi per la pesatura dei procedimenti giudiziari in Europa," *Questione Giustizia*, November 23, 2020.

of approved or rejected requests for pre-trial measures or charges. These indicators are debated and harshly opposed by the SCM.⁵⁵ Their introduction, therefore, signals a shift towards performance-sensitive criteria, aimed at overcoming the limits of a system in which evaluation outcomes are largely undifferentiated. Finally, diversity has also been enhanced in the bodies involved in the evaluation process by allowing attorney members to vote in local Councils. However, the restrictions introduced to safeguard judicial impartiality have, *de facto*, not only greatly reduced the attorneys' impact, but are intrinsically problematic so long as multiple members must express a unitary vote on a given proposal.

The innovations mentioned above have triggered strong criticism from judges and prosecutors, who consider them punitive and dangerous for their independence. It cannot be denied that the new criteria are highly problematic and challenging, both in their implementation and in the possible risks to the independence of the individual judge and prosecutor. These concerns raise a broader question: to what extent should judicial independence shield the profession from performance-based assessment? Striking a balance between preserving autonomy and fostering institutional improvement remains a delicate yet necessary challenge. However, both the legislative power during the approval of the reform bill and the SCM through implementing regulations have significantly reduced the innovations' potential and their possible impact. This mitigation could reflect institutional caution and a very difficult approach to professional evaluations. In this context, professional evaluations remain confined to a mainly formalistic, bureaucratic function rather than developing into a concrete organizational or professional growth tool.

7. CONCLUSION

Through a combined normative and empirical approach, this paper examines how the Italian system for the professional evaluation of judges and prosecutors operates in practice. While recent reforms aim to enhance reliability and effectiveness through refined criteria and procedures, the current evaluation outcomes still display strong continuity with past patterns – most notably, the overwhelmingly positive assessments. This continuity raises legitimate doubts as to whether the system truly fulfils its intended functions of diversifying judges' and prosecutors' skills and profiles, ensuring accountability, and promoting professional development. Although it is still premature to assess the impact of the 2022–2024 reform cycle, the findings presented suggest that without a deeper reconsideration of the evaluation logic and its actual use, meaningful change is unlikely. A shift in culture, not only in rules, may also be required to ensure that evaluations become an instrument of growth rather than mere formalism. In this respect, the central challenge is not merely to refine evaluation criteria but to ensure that professional assessments can effectively perform their multiple functions: detecting merit and skills, fostering professional growth, strengthening accountability, and supporting informed, meritocratic career decisions. Further research will be essential to determine whether the reformed framework can overcome long-standing structural limitations and foster a more effective, transparent, and credible system of professional assessment.

55 Prior to the reform, the reversal rate was considered only in exceptional (serious) cases, and the SCM was entrusted with large discretionary power.

FUNDING INFORMATION

Silvio Roberto Vinceti's research is supported by the Roberto Ruffilli Postdoctoral Fellowship Program at the Department of Political and Social Sciences, University of Bologna.

COMPETING INTERESTS

The authors have no competing interests to declare.

AUTHOR NOTE

The paper is the result of a common effort. However, Sections 1 and 4 were written by Eleonora Ferrari, Sections 2 and 3 by Daniela Cavallini, Section 5 by Silvio Roberto Vinceti. The authors wrote the Conclusions (Sections 6 and 7) together.

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TO CITE THIS ARTICLE:

Daniela Cavallini, Eleonora Ferrari and Silvio Roberto Vinceti, 'Assessing the Professional Evaluation of Italian Judges and Prosecutors' (2026) 17(2) *International Journal for Court Administration* 3. DOI: <https://doi.org/10.36745/ijca.795>

Published: 28 July 2026

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