

# I. CRIMINAL JUSTICE SYSTEM IN ITALY

A short description

# Common law systems and Civil law systems

- Written law and Court rulings
- In real world is there such a big difference?

# Constitution is our “Magna Charta”

- It establishes fundamental rules and principles on how Justice is administered
- One of these principles states that Prosecutors must pursue each and every crime. But, what does this really mean?

# Crime suspicion – investigations

- Police gather elements
- Police draft reports to the Prosecutor
- Police follows instructions and orders given by the Prosecutor in charge of the investigation

# From rough elements to a shaped “notitia criminis”

- A case is serious enough and there are elements against somebody
- The “registro degli indagati” as a record for individual rights protection
- Procedural rights from that moment on (duration of investigations, information on investigations, etc)

# Prosecutor powers are not limitless

- There is a Judge that controls prosecutors activities and grants fundamental rights (no wiretapping, precautionary measures and other limitations for individuals without orders given by a Judge)
- The Judge for Preliminary Investigations (GIP)
- The different roles between Judges and Prosecutors

# A practical case as an example

- What happens during investigations?
- Typical acts are: search and seizures of the area and wreckage, if there is one; collection of witness statements; expert witness appointed by Prosecutors

# EXPERT WITNESS

- How the choice is made (University, trustiness and confidence)
- What Judges and Prosecutors want from an expert witness (how they can translate technical informations in informations that a Judge can “use” in his decision, ruling or explanation)
- Should the expert speak the same language as the Judge?

# when preliminary investigations are over

- Formal Indictment or ask for dismissal
- Preliminary hearings to evaluate “probable cause” or.. if the crime allegation deserves a trial
- What happens during Preliminary hearing

# A final question in aviation accident cases

- In the end, this is the substantial question we have to answer in aviation cases: there must be a written rule that says that who operates as a controller or a pilot or the head of aerodrome has some duties and responsibilities. If something happens (incident or accident), there could be a case for negligence if the person in charge did not do everything he could to avoid that event.

# II. HOW IT REALLY GOES...

What does a Judge do

- A Judge makes countless decisions
- Interpretation of Constitution or laws
- Explanations of decisions (consistent with precedent rulings)
- Crafting new decisions for new cases
- Decide the sentence to impose, after conviction (between the minimum and maximum penalties provided by Criminal

- Assess the evidence during trials and other phases
- Control and masters hearings (enforce respect of procedural rules)
- Craft decisions as an impartial decision maker, in an adversary trial where opposing sides debates on different views of the facts that have to be assessed and evaluated

- Judge, most of all, is the "trier of facts"
- before a Judge, facts become the "truth", he decides how to evaluate evidence, if witness must be trusted, if expert witness persuades him
- In doing so, he prepares the ground for his final decision, the judgement he is going to pass at the end of the trial