



Press Office of the Constitutional Court

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*Press release of 23 December 2020*

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## COVID EMERGENCY: THE SUSPENSION OF LIMITATION PERIODS DOES NOT VIOLATE THE PRINCIPLE OF NO PUNISHMENT WITHOUT LAW SINCE IT IS INCIDENTAL TO THE SUSPENSION OF TRIALS

The suspension of limitation periods provided for under Decrees-Law No. 18 and No. 23 of 2020, issued in order to combat the COVID-19 emergency, is not unconstitutional as it is incidental to the suspension of trials from 9 March until 11 May 2020, which was provided for in order to deal with the health emergency. The so-called “COVID suspension” constitutes one of the general grounds for the suspension of limitation periods provided for under Article 159 of the Criminal Code – which provides specifically that the operation of limitation periods shall be suspended whenever the suspension of the proceedings or of the criminal trial is required under a particular statutory provision – and thus does not violate the constitutional principle prohibiting the retroactive effect of less favourable criminal law provisions.

This ruling is contained in [Judgment No. 278](#) filed today (author Giovanni Amoroso), by which – as previously mentioned in the [press release of 18 November](#) – the Constitutional Court declared unfounded, and in part inadmissible, the questions raised by the Courts of Siena, Spoleto and Rome concerning the applicability of the suspension of limitation periods from 9 March until 11 May 2020 also to trials concerning offences committed prior to the entry into force of the new provisions.

In particular, the Constitutional Court ruled the questions unfounded insofar as they concerned the principle of no punishment without law laid down by Article 25 of the Constitution; on the other hand, it ruled them inadmissible with regard to the principles of European law referred to by Article 117(1) of the Constitution.

The Court clarified that the principle of no punishment without law requires that the perpetrator of the offence must not only be in a position to recognise in

advance what conduct is criminally punishable, along with the penalty that may be imposed, but also – according to the judgment – “must, when acting, be fully aware of the legislation governing the timeframe within which it will be possible to reach a definitive judgment within a trial concerning his or her criminal responsibility (i.e. the duration of the limitation period), even if this does not entail the precise identification of the *dies ad quem* on which the limitation period expires”.

As regards the suspension of limitation periods, Article 159 of the Criminal Code “makes twofold provision”, the Judgment continues, as it contains first of all “a general ground for suspension”, which is triggered whenever a suspension of the proceedings or of the trial is required by a particular statutory provision, and secondly a list of specific cases.

It is precisely that general ground for suspension that applied within the cases that resulted in the questions brought before the Court.

The temporary halt to the proceedings or to the trial required by law gives rise, as a general matter, to an interruption in the limitation period, the consequences of which are relevant for all parties: the prosecution, the injured party if participating as a civil claimant and the accused. Moreover, just as the criminal prosecution and the damages claim are temporarily suspended, in order to protect the balance between the values at stake the time limits for the suspect or the accused are also suspended.

In classifying the new ground for suspension of the trial under the general ground laid down by Article 159 of the Criminal Code – which as such is also applicable to prior conduct – the Court went on to clarify that it cannot start to apply with reference to a time falling before the law providing for it.

Finally, the Judgment states that the brief duration of the suspension of trials, and hence the related suspension of limitation periods, is entirely compatible with the right to a trial within a reasonable time. Moreover, the provision is justified in terms of reasonableness and proportionality by the need to protect public health in order to contain the risk of infection from COVID-19 during a period of exceptional health emergency.

Rome, 23 December 2020