



Press Office of the Constitutional Court

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*Press release of 22 October 2021*

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COVID EMERGENCY AND DECREES OF THE PRESIDENT OF THE  
COUNCIL OF MINISTERS: DECREE-LAW NO. 19 OF 2020 DID NOT  
GRANT LEGISLATIVE POWERS TO THE PRESIDENT OF THE COUNCIL OF  
MINISTERS

Articles 1, 2 and 4 of Decree-Law No. 19 of 2020 did not confer upon the President of the Council of Ministers legislative functions in breach of Articles 76 and 77 of the Constitution; nor did they grant any extraordinary powers pursuant to Article 78. Rather, those provisions simply vest the President of the Council of Ministers with the task to execute, with general administrative acts, measures that are sufficiently detailed therein. This is one of the crucial passages of [Judgment No. 198 of the Constitutional Court](#), filed today (*Rapporteur*: Stefano Petitti), of which main contents had been anticipated in a [press release on 23 September 2021](#).

The Constitutional Court decided upon the questions raised by the Frosinone Justice of the Peace on the constitutionality of Decree-Law No. 6 and Decree-Law No. 19 of 2020, both of which have been converted into ordinary laws. Both measures concerned the adoption by decree of the President of the Council of Ministers (DPCM) of urgent measures to contain and manage the COVID-19 epidemiological emergency. In the case at stake, an individual had challenged an administrative fine of 400 euros, which had been imposed on him on the grounds that he had left his home during the April 2020 lockdown in breach of the prohibition laid down by the Decree-Law, and subsequently by the DPCM. According to the referring judge, the two decrees-law delegated legislative powers to the President of the Council of Ministers, and thus violated Articles 76, 77 and 78 of the Constitution.

The Court ruled inadmissible the challenges brought against Decree-Law No. 6 on the grounds that it is not applicable to the case at issue, in light of the time when the punished conduct took place.

Instead, it ruled unfounded the questions concerning Decree-Law No. 19, which was applicable in the case at stake. This legislative act has typified the single measures that the President of the Council of Ministers is entitled to adopt. Furthermore, it established that the execution of those general measures must take place according to the principles of adequacy and proportionality. In so doing, it imposed a standard of conduct that typically characterizes the exercise of administrative discretion, which is inherently incompatible with the conferral of legislative power.

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