



Press Office of the Constitutional Court

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## “SPORTS JUSTICE”: RULES AND LIMITS

Limiting the judicial protection available against penalties imposed under the sports jurisdiction to compensation for damages is constitutional. In Judgment no. 160, filed today (Judge Rapporteur: Daria de Pretis), the Constitutional Court – which was called upon once again to address the relationship between the “sports justice” system and the ordinary jurisdiction – confirmed the ruling it handed down in 2011 (Judgment no. 49). However, the Court also added a number of clarifications, emphasising *inter alia* that administrative judges are empowered to apply various types of precautionary measures, including orders to pay monetary amounts on a provisional basis.

A sports manager of the Italian Football Federation (*Federazione italiana gioco calcio*, FIGC) applied to the Regional Administrative Tribunal [*Tribunale amministrativo regionale*, or TAR] of Lazio for annulment of the disciplinary measure of three years’ suspension issued against him by the “sports judge” (to whom Decree-law no. 220 of 2003 reserves the exclusive power to decide all disciplinary matters), and for compensation for damages. The TAR temporarily suspended the disciplinary measure and raised a question of constitutionality with regard to Article 2 of Decree-law no. 220 of 2003, referring *inter alia* to the Constitutional Court’s interpretation of the provision in Judgment no. 49 of 2011. This interpretation opened the possibility of seeking compensation for damages before administrative courts; however, it excluded that the judicial protection available could be extended to allow for annulment of disciplinary measures.

The Constitutional Court rejected the questions raised by the TAR. It reiterated that the legislator’s choice to exclude, as a rule, the annulment of decisions made by sports judges is the outcome of a not-unreasonable balancing exercise between the constitutional principle of full and effective judicial protection (Articles 24, 103

and 113 of the Constitution) and the protection afforded to the autonomy of the sports justice system (Articles 2 and 18 of the Constitution).

Stability in legal relations, which the general exclusion of annulment is intended to serve, is particularly significant in the sports context. Indeed, the sets of rules governing each sport have developed independently from one another, following the peculiar traits of each sector; moreover, these rules usually present a high level of specificity and technicality, which should be maintained to the greatest extent possible.

The judgment states, once again, that Article 113 of the Constitution – as correctly interpreted – is not always and unconditionally capable of assuring unlimited and immutable judicial protection against administrative decisions. Rather, the ordinary legislator enjoys some discretion in regulating the manner and effectiveness of the judicial protection available. The Court emphasises the importance of the administrative courts' incidental evaluation of the legality of the measure in question, as well as the fact that the sports justice system is also required to take it into consideration. Finally, the Court specifies that the need for forms of temporary protection is adequately met by the fact that the precautionary measures that administrative courts are empowered to adopt are atypical and broad.

Rome, 25 June 2019