



Press Office of the Constitutional Court

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## HEALTHCARE: ESSENTIAL LEVELS OF ASSISTANCE MUST BE PROVIDED IN FULL AND EU FUNDS MUST BE USED WITHOUT DELAY

Whilst it falls to the state legislator to specify essential levels of socio-medical assistance (“*livelli essenziali di assistenza*” – LEA), the distribution of such assistance in terms of regional need necessarily involves the regions. Thus, the inherent structural interplay between these bodies must be based on the principle of loyal cooperation in order to ensure the optimum service level for the general public.

This finding was made by the Constitutional Court in [Judgment no. 62](#) filed today (author Aldo Carosi), which declared unconstitutional two provisions of Sicily Region Law no. 8/2018, which provided for funds to be used other than for the purpose of financing essential levels of medical and hospital assistance. The Court reached this conclusion after obtaining specific evidence from the State (which had filed the application) and the Region (see [Judgment no. 197/2019](#) and the [press release of 24 July 2019](#)).

The Court asserted “the primacy of medical protection over the interests on which financial disputes between the State and the regions are based” in accordance with the constitutional principle that affords priority to “the individual as a human being, not only in terms of his individuality, but also within the organisation of the communities to which he belongs, which typifies the social nature of the health service”.

It also asserted the principle of advance planning of financial needs and the requirement of ongoing monitoring in order to verify whether resources are sufficient and to ascertain service output in accordance with the standards laid down by law and the Decree of the President of the Council of Ministers on LEA.

The Judgment also declared unfounded the application brought by the State against the Region, objecting to the failure to follow the procedure, or the incomplete application of the procedure, for altering the intended usage of structural funds allocated for the 2014-2020 period. The Court observed that, were the objections raised by the State to be accepted, this would have further delayed the time-scale for using the funds, which it stressed must be used up before the end of the current financial year. It thus reasserted the priority status of the interest in ensuring that European funds are actually used by the Region over the period of time specified in the regulations, as the principal financial instruments for the EU's regional investment policy.

According to the Court, the principle of loyal cooperation, which must constitute the basis for relations between the State and the regions, requires that the concerted action procedure provided for under the resolution of the Inter-Ministerial Committee for Economic Planning ("*Comitato interministeriale per la programmazione economica*" – CIPE), or a similar simplified procedure, "be implemented swiftly by both parties and translated into concrete action, which will under all circumstances be absolutely essential in order to avoid the definitive lapse of the funds under examination". All of the above is "due to the priority need to commit the funds and to carry out work before the non-deferrable deadlines laid down under European law".

Rome, 10 April 2020