



Press Office of the Constitutional Court

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CONVICTS WHO SUFFER FROM PARTIAL MENTAL INFIRMITY MAY RECEIVE A REDUCED SENTENCE, EVEN IN CASE OF MULTIPLE OFFENDING

The ban on reducing punishments imposed on multiple offenders is unconstitutional, if said offenders suffer from partial mental infirmity.

This was established by the Constitutional Court in Judgment No. 73, filed today (Judge Rapporteur: Francesco Viganò).

The Court dealt with a question of constitutionality raised by the Criminal Court of Reggio Calabria in the context of criminal proceedings against two multiple offenders, who had been accused of aggravated robbery. The psychiatric examination ordered by the judge found that the accused persons suffered from serious psychiatric disorders, which significantly diminished – but did not wholly eliminate – their mental capacity.

In cases of partial mental infirmity, the Criminal Code usually allows for a reduction in punishments, by up to one third of that originally imposed. However, the so-called *ex-Cirielli* Law of 2005 prohibited judges from applying this provision in cases where the accused is a repeat offender (i.e. has been convicted at least twice of non-involuntary crimes), even though he or she suffers from a partial mental infirmity.

The Court held this prohibition to conflict with the constitutional principle stating that punishments must be proportionate to the objective and subjective seriousness of the crime, and thus also to the extent to which the person who committed it can be subject to reprehension.

As infringements of criminal law are less reprehensible if they are committed by persons with significantly impaired capacities for understanding and self-control due to mental diseases or disorders, provisions such as those called into question in

these proceedings, prevent judges from reducing punishments in proportion to the convicted person's lower subjective liability.

The Court emphasized that its ruling does not entail a sacrifice of the rightful need to protect society from individuals who have committed multiple infringements of the criminal law. Indeed, judges can impose safety measures (such as supervised release) once convicts have served their sentence, so as to restrain the danger they pose and, at the same time, help them to cure their diseases or disorders and to reintegrate into society.

Rome, 24 April 2020