



Press Office of the Constitutional Court

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## THE CONSTITUTIONAL COURT MAINTAINS NATIONAL LEGISLATION ESTABLISHING PERIODS FOR PAYMENT IN EFFECT, ESPECIALLY IN THE HEALTHCARE SECTOR

National health system authorities that pay suppliers are under a duty to include, in the employment contracts of their general and administrative directors, a specific objective that makes at least 30% of their performance bonus conditional upon compliance with the periods for payment established by law.

This was held in Judgment No. 78, filed today (Judge Rapporteur: Luca Antonini), in which the Constitutional Court rejected the applications of the Lazio Region and the Autonomous Provinces of Trent and Bolzano regarding, *inter alia*, Article 1(865) of Law No. 145 of 2018, which contains this specific duty.

The Court recalled that compliance with the payment deadlines on the part of public bodies has, especially during crises, significant effects on the economic system. It also specified that while previous reforms and allocations of resources have undoubtedly improved the situation, they have not been, however, enough to bring the phenomenon of payment delays back within normal limits. Indeed, in its judgment of 28 January 2020, the Court of Justice of the European Union (Grand Chamber) – underscoring the need for a decisive shift towards a culture of prompt payment, and specifying that the Italian Republic can be held liable for the delays incurred by local and regional authorities – held that the latter had failed to meet its obligations concerning payment periods established by Article 4(3) and (4) of Directive 2011/7/EU.

This being said, the Constitutional Court has clarified that the provision in question forms part of a set of further interventions – with respect to those considered by the Court of Justice – established by Law No. 145/2018 against payment delays. The Court thus rejected the questions raised by the applicants, specifying that the

provision falls within the State's exclusive competence in civil law matters and serves to ensure that public finances can be coordinated in a dynamic manner, in that it directs public expenditure towards compliance with the established payment periods. In addition, the judgment emphasizes that – unlike other national legal provisions that are distinctly “linear” in nature and that have been held unconstitutional in the past – the challenged provision does not apply when authorities comply with the payment periods (such that there is no change for “virtuous” authorities), and provides for progressive measures, commensurate with the seriousness of the failure.

The Court's judgment also held unfounded the questions raised by the Sicily Region on the mandatory inclusion, in budgets, of a specific guarantee fund for cases in which authorities do not comply with payment periods or do not reduce the stock of commercial debts to a sufficient extent (Article 1(859), (862) and (863) of Law No. 145/2018). These provisions make it possible to obtain the liquidity required to accelerate payments and to reduce exposure for debt interests, with the positive effect of enabling recovery of resources that can be allocated to support institutional activities.

Rome, 24 April 2020