



Press Office of the Constitutional Court

Press release of 21 December 2020

EXPANSION OF THE APPIA ANTICA PARK: AN ORDER SUSPENDING A PREVIOUSLY APPROVED CONSTRUCTION PROJECT UPHeld AS LAWFUL

Lazio Region did not violate the Constitution in expanding the Appia Antica Park, blocking the completion of a construction project previously approved by both the Municipality of Marino and the Region itself.

This ruling was adopted by the Constitutional Court in [Judgment No. 276](#) filed today (author Daria de Pretis), which ruled unfounded the doubts raised by the Regional Administrative Court for Lazio concerning Article 7 of Regional law No. 7/2018. The questions of constitutionality had been raised within the ambit of proceedings launched by certain companies against the Municipality of Marino and Lazio Region seeking the annulment of decisions that, under the terms of the above-mentioned regional legislation, had suspended the environmental impact assessment procedure and refused construction permission.

The Court rejected the view taken by the Regional Administrative Court – that an area of environmental importance that is adversely affected by a construction project cannot be protected where an executive town planning decision has already been approved – pointing out that this would end up enabling town planning considerations to prevent the full implementation of environmental protection measures, whereas this would be at odds with the very function of the constraints put in place in order to achieve this goal.

After discussing constitutional precedents concerning the limits on ownership rights, the Judgment restates the position that the constraints put in place with the aim of achieving environmental protection (in a broad sense) do not have

expropriative effect and thus do not fall within the scope of Article 42(3) of the Constitution. These are constraints that pertain inherently to the property in view of its characteristics, and must therefore fall under Article 42(2) of the Constitution. This also applies where the constraint applies to properties for which an executive town planning decision has already been approved.

These conclusions – the ruling clarifies – do not affect proceedings that were pending prior to the entry into force of the contested provision, and do not preclude the possibility of different forms of protection resulting from any legitimate expectations brought about by the actions of the administration.

The Court also ruled unfounded the questions raised with reference to Article 6 of the European Convention on Human Rights (ECHR) concerning the right to a fair trial, as well as Article 1 of the Additional Protocol to the ECHR on the protection of private property rights.

Rome, 21 December 2020