



Press Office of the Constitutional Court

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## ROAD TRAFFIC INJURIES AND *EX OFFICIO* PROSECUTION: THE CONSTITUTIONAL COURT CALLS ON THE LEGISLATOR TO RETHINK THE LAW CURRENTLY IN FORCE

The failure to provide for a way for affected parties to bring proceedings in cases of serious and very serious road traffic injuries is not unconstitutional; however, the Legislator should reconsider the appropriateness of the current legal framework.

This suggestion was made in [Judgment No. 248](#), filed today (Judge Rapporteur: Francesco Viganò), in which the Constitutional Court declared the unfoundedness of the questions as to constitutionality raised by the Ordinary Court of Pavia concerning the current law, which states that the offences of serious and very serious road traffic injuries can only be prosecuted *ex officio* (Article 590-*bis* of the Criminal Code, introduced by Law No. 41 of 2016).

According to the referring judge, *ex officio* proceedings – established by the Legislator in 2016 and confirmed in 2018 with a measure that, however, allowed for affected parties to bring proceedings against several other crimes – were unconstitutional, with regard to the principles of equality and reasonableness.

The Constitutional Court noted that the offences relating to road traffic injuries established under Article 590-*bis*(1) of the Criminal Code can entail serious harm to their victims' physical integrity. However, they are usually the result of conduct that is far less objectionable than that described in the subsequent paragraphs of the article, which are defined by "conscious (or even reckless) taking of unreasonable risks". Examples are driving after consuming drugs or significant amounts of alcohol, driving at more than twice the speed limit or reversing direction near a bend or a speed hump. On the other hand, in cases involving occasional inattention, which may affect even the most experienced drivers, it may not be necessary to open criminal proceedings, if the damaged party is fully compensated for the injury suffered. This

is also to avoid pointless burdens on an already notoriously overloaded criminal justice system.

However, the Court held that the Legislator's choice as to how proceedings for these crimes can be brought cannot be deemed manifestly unreasonable and, for this reason, unconstitutional. In fact, the Legislator intended to make the punishments envisaged for such crimes harsher, because it considered that they caused particular concern in society, in light of the large number of road accidents occurring in Italy every year. However, at the same time, the Court called on the Legislator to rethink the legal framework governing how proceedings in cases of road traffic injuries can be brought, a legal framework regarding which several bills have already been submitted to Parliament.

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