



Press Office of the Constitutional Court

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THE CONSTITUTIONAL COURT CAUTIONS THE LEGISLATOR: THE PROCEDURE TO ENFORCE PECUNIARY SANCTIONS MUST BE MORE EFFICIENT

The system for enforcing pecuniary sanctions and converting them into measures restricting convicted offenders' freedom must be simplified and streamlined. Indeed, currently, in the vast majority of cases, the sums due cannot be collected because it is unwieldy. In many other countries, pecuniary sanctions are an effective alternative to measures restricting convicted offenders' freedom.

This is the warning contained in Judgment no. 279, filed today (Judge Rapporteur: Francesco Viganò), in which the Constitutional Court declared unfounded the question of constitutionality raised by a sentence supervisory court regarding Article 238-*bis* of the Consolidated Law on justice expenditure.

Generally, enforcement of pecuniary sanctions falls to collection agents. These are required to notify convicted offenders of payment demands made against them; if payment continues not to be made, they must initiate forced execution procedures. If the latter are unsuccessful, the sentence supervisory court – after verifying that the offender is insolvent – may convert the pecuniary sanction into a term of restricted liberty or, should the offender so request, community work.

The provision challenged before the Constitutional Court establishes that sentence supervisory courts must convert the pecuniary sanction not only when forced execution procedures are unsuccessful, but also when the collection agent has not engaged any enforcement activity in the past 24 months. The purpose of the provision is to avoid that in the case of non-paying convicted offenders, protracted inaction on the part of the collection agent may risk impeding the conversion of pecuniary sanctions.

The Constitutional Court has stated that this provision does not contrast with the principles of equality and reasonableness, nor with the right to a defence or the rehabilitative function of punishment.

Indeed, in constitutional terms, there is no need for convicted offenders to submit to an unsuccessful forced execution procedure before the conversion measures established by law can be applied against them, provided that the offenders have been duly informed by the office of the sentence supervisory court of their duty to pay the pecuniary sanction and of the possible consequences of non-payment.

Rome, 20 December 2019