



Press Office of the Constitutional Court

Press release of 9 April 2019

THE CONSTITUTIONAL COURT PAVES THE WAY TO THE REORGANISATION OF THE RED CROSS

The reorganisation of the Italian Red Cross (Legislative Decree no. 178/2012) is not unconstitutional. This reorganisation had been contested by many of its employees, who had thus launched proceedings before the TAR [*Tribunale amministrativo regionale*, Regional Administrative Tribunal] of Lazio.

This was established by the Constitutional Court in Judgment no. 79, filed today (Judge rapporteur: Augusto Barbera), in which it rejected the questions of constitutionality raised by the TAR.

By means of the challenged legislative decree, the Monti government had reformed the Italian Red Cross, converting it from a body governed by public law to a voluntary association governed by private law, called upon to perform activities of significant public interest. According to the Court, this reorganisation was in line with the will of Parliament.

The Red Cross societies of the major European countries are regulated by private law; moreover, this form of regulation is called for by the Constitution of the International Federation of Red Cross and Red Crescent Societies, which expressly refers to the “non governmental organisations” recognized by the various states.

With regard to the *Corpo militare ausiliario* [Auxiliary Military Corps], the Court clarified that the legislative decree censured by the TAR of Lazio reformed its structure consistently with the new legal framework governing the Italian Red Cross and its new associational structure. Indeed, the members of this Corps now fall under a category of discharged staff that serves on a voluntary and unremunerated basis (as do the Volunteer Nurse Corps and the Association of the Sovereign Military Order of Malta).

According to the constitutional judges, the essential content of the rights of the auxiliary staff is protected, as they may still choose whether to serve in the newly established Association or to be transferred to other bodies of the State administration. Under the private law regime, the main items of staff remuneration are preserved; such staff continues to receive adequate remuneration, being able to

request to join the voluntary Military Corps and, in conformity with the Association's objectives, perform unremunerated and voluntary activities (that is, unremunerated beyond what they already receive by virtue of being employees according to the law) in that capacity.

As for the mobility procedures, the Court reiterated that these enable guaranteeing a balanced reconciliation of two constitutionally significant necessities: the preservation of work relationships and legislative discretion in reorganising the State and public bodies. This does not preclude defects from occurring in the application of this provision, due to the related administrative acts to be adopted. Any such defects will be for the competent judicial bodies to review.

Rome, 9 April 2019