



Communications and Press Office of the Constitutional Court

Press Release of 21 July 2023

**THE TERMINATION OF ENFORCEMENT PROCEEDINGS
AGAINST GERMANY FOR REPARATION OWED TO VICTIMS OF WAR CRIMES
COMMITTED DURING WORLD WAR II IS NOT UNCONSTITUTIONAL**

The questions as to the constitutionality of Article 43(3) of Decree-Law No 36/2022 raised, with reference to Articles 2, 3, 24, and 111 of the Constitution, by the Court of Rome in enforcement proceedings on German State-owned property to compensate victims of war crimes and crimes against humanity committed during World War II, are unfounded.

The heirs of a number of deportees to concentration camps had been granted compensation for damages caused by the Third Reich by inhumane treatment during internment and had obtained the seizure of real property owned by the Federal Republic of Germany.

In order to compensate for the war crimes committed in the period from 1 September 1939 to 8 May 1945, the challenged Article 43 established a special Fund in keeping with the previous 1961 Bonn Agreement between Italy and Germany, which had already envisaged compensation to Italian citizens victims of Nazi persecution. Article 43 set forth that anyone who obtained a final judgment ascertaining damages and granting compensation following legal action initiated not later than 28 June 2023 – final date beyond which new legal action is no longer

possible – is entitled to compensation under the Fund”. The functioning of the Fund is regulated by a recent inter-ministerial decree, as provided for by Decree-Law No 36/2022.

Article 43 also provided that already initiated and pending enforcement proceedings must be terminated and no enforcement proceedings may be initiated or continued.

In [Judgment No 159](#) published today (judge rapporteur Giovanni Amoroso), the Constitutional Court held that in enforcement proceedings (so-called restricted) State immunity applies, as the International Court of Justice in The Hague had already stated in relation to Germany. The Constitutional Court also affirmed that the termination of pending proceedings is counterbalanced by the safeguard introduced by the “Compensation” Fund, the amounts of which equal the sums awarded pursuant to final judgments.

The Court held that it is not unreasonable the balance struck by the challenged provision between the judicial protection afforded to those who have obtained a final judgment and the obligation to comply with the 1961 Bonn Agreement on compensation for victims of war crimes.

Rome, 21 July 2023