



Press Office of the Constitutional Court

Press release of 22 June 2021

DEFAMATION THROUGH THE PRESS CUSTODIAL SENTENCES SHOULD ONLY BE IMPOSED IN EXCEPTIONALLY SERIOUS CASES

Today the Constitutional Court examined questions raised by the Court of Salerno and the Court of Bari concerning the constitutionality of the custodial sentence provided for in relation to defamation through the press due to the violation, *inter alia*, of Article 21 of the Constitution and Article 10 of the European Convention on Human Rights. The questions have now been re-examined by the Court one year after Order no. 132 of 2020 was issued, which called on the legislator to enact comprehensive legislation to reform this area of the law.

Pending the filing of the judgment, the Press Office of the Court announces that, having taken note of the legislator's failure to enact legislation, the Court has declared unconstitutional Article 13 of the law on the press (no. 47 of 1948). This provision stipulates a mandatory custodial sentence of between one and six years, in addition to the payment of a fine, in the event of conviction for defamation through the press consisting in "imputing a specific fact".

On the other hand, Article 595(3) of the Criminal Code has been upheld as constitutional. This Article provides for a custodial sentence of between six months and three years or, alternatively, the payment of a fine, in relation to ordinary defamation offences committed through the press or another medium for public dissemination.

This provision in fact only enables the courts to impose custodial sentences in exceptionally serious cases.

However, there is still a need for the legislator to enact a general reform that is capable of ensuring a more reasonable balance – which the Court does not have the means to strike – between freedom of expression and protection for individuals' reputations, also in the light of the increasingly apparent dangers arising in tandem with developments in communications technology, as previously highlighted in Order no. 132.

The judgment will be filed over the next few weeks.

Rome, 22 June 2021