



Press Office of the Constitutional Court

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AUXILIARY JUDGES ARE UNCONSTITUTIONAL, ALTHOUGH ONLY AFTER 31 OCTOBER 2025

The legislation providing that auxiliary judges may sit on courts of appeal as honorary magistrates is unconstitutional. However, auxiliary judges may lawfully continue to rely on this legislation in order to reduce the case backlog until the law governing honorary magistrates has been thoroughly overhauled. This reform must be implemented by 31 October 2025 and must comply with constitutional principles.

This ruling is contained in [Judgment no. 41](#) filed today (author of the judgment Giovanni Amoroso). In this judgment, the Constitutional Court accepted a question raised by the third civil division of the Court of Cassation in relation to two cases concerning appeals against judgments of courts of appeal issued - in both cases - by a bench that also included an honorary auxiliary judge. The Court therefore ruled unconstitutional Articles 62 to 72 of Decree-Law no. 69/2013, converted into Law no. 98 of 9 August 2013.

The Constitutional Court held that Article 106 of the Constitution, which provides that honorary magistrates may be appointed “for all the functions performed by single judges”, only allows honorary judges to perform collegial functions at first instance under exceptional circumstances as temporary substitutes. Therefore, they may only be appointed to courts of first instance [*Tribunali*] and not to higher courts [*Corti*], such as courts of appeal or the Court of Cassation.

Therefore, insofar as the law provides for the appointment of auxiliary honorary judges to perform - solely and on a stable basis - collegial functions on courts of appeal within civil disputes, it must be considered to be in open breach of Article 106 of the Constitution.

However, in declaring unconstitutional the provisions establishing and regulating auxiliary honorary judges, the Court considered it necessary to leave sufficient time to the legislator in order to “ensure the necessary gradual approach to the full implementation of the provisions of the Constitution”. In order for this to be

done, it set the time limit provided for under Article 32, first sentence, of Legislative Decree no. 116 of 13 July 2017 on the general reform of the law applicable to honorary magistrates, i.e. 31 October 2025. Until that time, the “temporary tolerability under constitutional law” of the current framework is intended to avoid decisions issued with the involvement of auxiliary judges from being annulled and to avoid the courts of appeal from being deprived immediately of the contribution provided by these honorary judges to reducing the backlog of civil cases.

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