



Press Office of the Constitutional Court

Press release of 25 June 2021

CHALLENGES TO THE RECOGNITION OF PATERNITY: THE ONE-YEAR TIME LIMIT FOR THE PERSON RECOGNISED AS THE FATHER MUST START TO RUN FROM THE TIME HE DISCOVERED THAT HE IS NOT THE BIOLOGICAL FATHER

It is unreasonable to require that, in situations not involving impotence, the one-year time limit imposed on the person recognised as the father in order to challenge paternity starts to run from the time when paternity was formally recognised, rather than the time when he discovered that he is not the biological father.

This ruling was issued by the Constitutional Court in [Judgment no. 133](#) filed today (author Emanuela Navarretta). In this judgment, on the one hand the Court declared unconstitutional Article 263(3) of the Civil Code insofar as it does not provide that the one-year time limit imposed on the person recognised as the father in order to challenge paternity starts to run from the time when he became aware that he is not the biological father.

In particular, the Court held that law unreasonably discriminates between a man who is able to prove that he is impotent and a man who, whilst not being impotent, discovers that he is not the biological father, in both instances more than one year after paternity was formally recognised. The latter is unable to launch judicial proceedings, even though within such proceedings his interest in establishing whether or not he is the biological father must in all cases be weighed by the court against the child's interests under the specific circumstances.

The Court also held that the contested provision was unreasonable in making it more difficult for an unmarried father to avoid losing the right to challenge his recognition of paternity upon expiry of the one-year period compared to right granted to a married father under Article 244 of the Civil Code as regards the one-year time limit for bringing an action to challenge paternity.

On the other hand, the judgment ruled unfounded the question concerning the constitutionality of Article 263(3) of the Civil Code with reference to Article 117(1) of the Constitution, in relation to Article 8 of the European Convention on Human Rights. – The question doubted the constitutionality of that provision insofar as it requires that an action to challenge the recognition of paternity must be brought within five years of the time when that registration was noted on the birth certificate. The Court in fact held that the passage of such a long period of time establishes a family bond, and that accordingly the fact of affording priority to the interest in stability of the established bond strikes a non-disproportionate balance between the interests in conflict.

Rome, 25 June 2021