



Press Office of the Constitutional Court

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## **SUPPLEMENTARY PENSIONS: PUBLIC SECTOR EMPLOYEES MAY BENEFIT FROM THE SAME PREFERENTIAL TAX RULES AS THOSE WORKING IN THE PRIVATE SECTOR**

The difference in treatment for tax purposes - between public and private sector employees - in relation to the redemption of an individual entitlement accruing between 2007 and 2017 within sectoral supplementary pension funds is unconstitutional.

The contested legislation treats public sector workers less favourably than private sector workers, even though the two classes are substantially homogeneous. It is therefore discriminatory and violates the principle of equality in relation to tax.

This ruling was adopted by the Constitutional Court in [Judgment no. 218](#) filed today (Judge Rapporteur Luca Antonini), which held that also public sector employees must be allowed to benefit from the favourable regime adopted in 2007 for private sector employees only.

The question had been referred by the Vicenza Provincial Tax Board, before which a teacher had brought an action seeking the reimbursement - which had been refused to her by the Italian Revenue Agency on the basis of the contested provision - of the excess tax paid on an amount redeemed from the Espero pension fund. This income will now have to be subject to the more favourable substitute tax introduced in 2007 rather than the rate established by adding the amount to the total income for the year.

The Court based its ruling on the fact that the mechanism for financing supplementary pensions is the same for all sectoral supplementary pension funds, whether in the private sector or in the public sector, and concluded that the difference in the tax charged on the amount of the savings

redeemed cannot be justified either by any difference in the nature of the employment relationship or by the fact that the end of service payment [*trattamento di fine rapporto*] is set aside for public sector employees on a merely notional basis throughout the employment relationship.

It therefore extended also to public sector employees the preferential rules already applicable to private sector employees with the aim of promoting the development of supplementary pensions.

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