JUDGMENT NO. 158 YEAR 2020

The Constitutional Court rejects the question concerning the constitutionality of Art. 20 of the Consolidated law on registration tax regarding the powers of interpretation of transactions submitted for registration, upon referral by the Fifth Civil Division of the Supreme Court of Cassation, in respect of Articles 3 and 53 of the Constitution.

Article 20 of the Decree of the President of the Republic No. 131 of 26 July 1986, following the amendments introduced by the Financial Law for 2018, states that in interpreting each instrument subjected to registration tax, the tax authorities must take into consideration only "elements inferrable from the contract itself […] regardless of the extratextual instruments and the contracts linked to them, except as provided for in subsequent articles".

According to the referring judge, the rule in question – which Art. 1, para. 1084, Law No. 145/2018 (State budget for 2019) expressly qualifies as a rule of authentic interpretation – is alleged to be in conflict with the principle of the ability to pay taxes enshrined in Art. 53 of the Constitution and with the principle of equality expressed in Art. 3.

With regards to the first possible conflict, by precluding the possibility of giving importance to extra-textual elements related to the contract presented for registration, the new wording of Art. 20 of the Consolidated law on registration tax would produce "the practical effect of removing from the scope of taxation a typical indication of the ability to pay". Concerning the second, the possibility that equal manifestations of economic power might be subject to different levels of taxation on the basis of whether a transaction is established by a single contract rather than several related instruments would result in a probable breach of the principle of equality and reasonableness.

Summarising the orientation followed by the prevailing constitutional case law, the referring court claims that the concept of "contract presented for registration" is to be understood in the sense of an overall transaction, regardless of whether it is carried out by means of one or more formally separate documents: these related documents may indeed be taken into consideration to reconstruct the nature of the transaction as a whole. It also claims that the consolidated case law of the Supreme Court of Cassation constitutes a given fact made necessary on constitutional grounds.

The Constitutional Court, however, does not deem that the importance of the concrete reason for the contract for tax purposes is a priori equivalent to a constitutionally necessary interpretation, stating that there may be other definitions of the term "contract submitted for registration" and "legal effects" equally compatible with the Constitution. Indeed, the clear meaning of the wording of the challenged provision points towards interpreting contracts submitted for registration as requiring the interpreter to disregard the "extra-textual elements and related transactions", save for the exceptions provided for in subsequent articles of D.P.R No. 131 of 1986.

The Court also states that it would be of no avail to object that the provision under discussion, excluding (except for the circumstances expressly regulated by the consolidated text) the interpretative relevance of both extra-textual instruments and related contracts, might facilitate undue fiscal advantages by exonerating "effective taxable wealth" from taxation in breach of the aforementioned constitutional provisions.

The Court thus finds the questions of constitutionality raised unfounded and makes a veiled invitation to the legislator, evoking the advisability to provide for a possible update of the legal framework of registration duty that would take into account the complexity of modern contractual techniques and current technological developments, with particular regard to both the system of registration of notary deeds and the system of document

management by the financial administrative offices.

[omitted]

THE CONSTITUTIONAL COURT

[omitted]

gives the following

JUDGMENT

in proceedings concerning the constitutionality of Article 20 of Decree of the President of the Republic No. 131 of 26 April 1986 (Approval of the consolidated text of the provisions concerning registration duty), "as resulting from the changes brought by Article 1, paragraph 87" [*rectius* paragraph 87, letter *a*)] of Law No. 205 of 27 December 2017 (State budget for financial year 2018 and multi-year budget for the three-year period 2018-2020) and Article 1, paragraph 1084, of Law No. 145 of 30 December 2018 (State budget for financial year 2019 and multi-year budget for the three-year period 2019-2021), initiated by the Supreme Court of Cassation, Fifth Civil Division, during the proceedings pending between Saint Gobain Distribuzione srl a socio unico, [single-member limited liability company] and the Italian Revenue Agency, by an order of 23 September 2019, registered as No. 212 in the 2019 Register of Referral Orders and published in the *Official Journal* of the Republic No. 48, first special series 2019.

After examining the application filed by Saint Gobain Distribuzione srl a socio unico and the intervention of the companies Total E&P Italia spa and Mitsui E&P Italia A srl and the President of the Council of Ministers;

after hearing Judge Rapporteur Luca Antonini and Counsel Antonio Tomassini and Andrea Di Dio for Saint Gobain Distribuzione srl a socio unico, Massimo Luciani for Total E&P Italia spa and Mitsui E&P Italia A srl, and State Counsel [*Avvocato dello Stato*] Paolo Gentili for the President of the Council of Ministers, in the public hearing of 10 June 2020, held, pursuant to the Decree of the President of the Court of 20 April 2020, point 1), letters *a*) and *d*), remotely, at the request of Counsel Antonio Tomassini, Andrea Di Dio, Massimo Luciani and Alberto Mula, received on 14, 20, 27 and 29 May 2020;

having deliberated in chambers on 10 June 2020.

[omitted]

Conclusions on points of law

1.– By an order of 23 September 2019 (No. 212 of 2019 in the Register of Referral Orders), the Supreme Court of Cassation, Fifth Civil Division, acting ex officio, with regard to Articles 3 and 53 of the Constitution, raised questions as to the constitutionality of Article 20 of the Decree of the President of the Republic No. 131 of 26 April 1986 (Approval of the consolidated text of the provisions concerning registration duty), "as resulting from the changes brought by Article 1, paragraph 87" [*rectius* paragraph 87, letter *a*)] of Law No. 205 of 27 December 2017 (State budget for financial year 2018 and multi-year budget for the three-year period 2018-2020) and by Article 1, paragraph 1084, of Law No. 145 of 30 December 2018 (State budget for financial year 2019 and multi-year budget for the three-year period 2019-2021), insofar as it provides that, in applying a registration duty "according to the intrinsic nature and legal effects of the contract submitted for registration, even if the title or apparent form do not match it, only elements inferable from the contract itself shall be taken into account, 'regardless of the extra-textual instruments and the contracts linked to them, except as provided for in subsequent articles".

The referring Supreme Court of Cassation, after analytically setting out the reasons why it does not consider the reasons of encumbrance "potentially absorbing", unlike the

question relating to the scope of the above-mentioned Article 20, concludes that, as a result of Article 1, paragraph 1084, of Law No. 145 of 2018, according to which "Article 1, paragraph 87, letter *a*), of Law No. 205 of 27 December 2017 constitutes an authentic interpretation of Article 20, paragraph 1 of the consolidated text referred to in Decree of the President of the Republic No. 131 of 26 April 1986", it is impossible to decide the dispute without applying the challenged provision.

In view of the above, according to the referring court, this "new and narrower" wording of the cited Article 20 is allegedly in breach of:

a) Article 53 of the Constitution, concerning the effectiveness of tax duty, since – in contrast with the "essential and also historically entrenched" principle of the prevalence of substance over form – "the exclusion of instruments related to the transaction in the legal classification of the contract produces the practical effect of removing from the scope of taxation a typical indication of the ability to pay";

b) Article 3 of the Constitution, concerning equality and reasonableness, since "equal manifestations of economic power (and therefore of the ability to pay) cannot be subject to different amounts of taxation [...] on the basis of whether [...] the parties have decided to establish their transaction by a single contract rather than several related instruments", since a set of linked contracts do not indicate diversification of subject matter justifying different treatment of the situations subjected to comparison.

2.– Mention should first of all be made to the order of 10 June 2020, by which the intervention of Total E&P Italia spa and Mitsui E&P Italia A srl was declared inadmissible in that it regards parties unrelated to the case at issue and with no specific interest directly and immediately pertaining to the substantive relationship asserted during the proceedings.

3.– Saint Gobain Distribuzione srl a socio unico, having entered an appearance, objected on grounds of the manifest inadmissibility of the questions raised by the referring court, on account of their incorrect or implausible rationale relating to the relevance of the questions themselves, as they allegedly focus on the "presumed existence of a consolidated orientation in the case law of the Supreme Court of Cassation regarding (one of several) interpretations of Article 20 of D.P.R. No. 131/86 in the version prior to the regulatory changes", which is the matter brought before the Court today. In the opinion of the private party, in support of its claim, the referring court should not only have argued the compatibility of this orientation with the challenged provision, but also that – although consolidated in constitutional case law – it was the only one constitutionally possible. All the more so as this orientation is "indeed unanimously opposed in scholarship [...] and in case law, both that of the Supreme Court of Cassation itself – in particular Judgment No. 2054/2017 – and, above all, courts of first and second instance".

The objection is unfounded.

The referring Supreme Court of Cassation, in fact, adequately demonstrated the relevance of the claim both by specifying that the provision – being explicitly interpretative and, therefore, with "retroactive scope" – applies to the referred proceedings, and by referring to the literal wording of the provisions under discussion. This is sufficient to recognise the admissibility of the questions; any further consideration being reserved to examination of the merits.

4.– The State Counsel's Office objected that the questions were inadmissible on different grounds.

In the opinion of State Counsel, the referring court did not sufficiently explain why it is allegedly not possible to reach a constitutionally compliant interpretation of the

challenged Article 20 of the Decree of the President of the Republic No. 131 of 1986, insofar as it provides that taxation must disregard extra-textual elements and any contracts linked to the one presented for registration.

In particular, State Counsel maintains that the prohibition of recourse to extra-textual elements or elements inferable from related contracts only serves to exclude reference to elements "out of context" or "extraneous" "with respect to the intention and the effects immediately inferable" from the contract to be registered, since they make no reference to it or in any case have no influence on its effects.

The objection is manifestly unfounded.

State Counsel does not consider that the referring court had expressly excluded the possibility of a constitutionally compliant interpretation of the challenged provision "by letter, rationale and context of adoption", considering it "absolutely unequivocal and insurmountable in stipulating the exclusion of extra-textual elements and related transactions from the task of classifying a contract".

The argument of the referring court renders the questions admissible, because, as this Court has also recently reaffirmed, "in the light of adequate reasoning concerning the impediment to an interpretation compatible with the Constitution, specifically due to the 'literal wording of the provision', [...] 'the possibility for a further alternative interpretation, which the lower court did not consider it appropriate to pursue, does not have any significance for the purposes of compliance with the rules governing proceedings before the Constitutional Court, as the control as to the existence and legitimacy of such an additional interpretation is a question that relates to the merits of the dispute, and not to its admissibility' (Judgment No. 221 of 2015)" (Judgment No. 217 of 2019).

It follows that the above objection raised by State Counsel also concerns the merits of the interpretation of the challenged provision and not the admissibility of the questions.

5.– On the merits, the questions relating to the breach of Articles 53 and 3 of the Constitution are unfounded.

5.1.– Article 20 of Decree of the President of the Republic No. 131 of 1986, in its currently challenged wording, establishes that when applying registration duty according to the intrinsic nature and legal effects of the contract to be registered, regardless of its title or apparent form, only the elements that can be inferred from the contract itself (understood as the legal effects of the legal transaction conveyed in a document) shall be taken into consideration, regardless of the "extra-textual elements and the contracts related to it, except as provided for in subsequent articles".

5.1.1.– The referring court too starts from this literal interpretation of the challenged provision: it deems, however, that this implies the alleged breach of Articles 53 and 3 of the Constitution, because preclusion of the assessment of extra-textual instruments and related contracts would be contrary to the principle of the prevalence of economic substance over legal form, a principle that it claims is implied by these provisions as well as being "essential and [...] historically entrenched" in the tax system in general and in the legal framework on the registration duty in particular.

More precisely, the referring judge contrasts the new and challenged amendment with the interpretation of the previous Article 20 of the consolidated text, as proposed by the "vast and fully consolidated" orientation of the case law of the Supreme Court of Cassation, according to which:

a) the "transaction duty" nature of the registration duty, confirmed by the wording of Article 1 of D.P.R. No. 131 of 1986 concerning the object of the tax, "does not preclude

the general exploitation of external interpretative elements and related transactions", since "contract submitted for registration" must be understood to mean the transactional provisions taken as a whole, aimed at the overall regulation of the legal effects arising from the various related instruments;

b) the introduction of external transactional elements related to the contract submitted for registration meets the need to emphasise the "true purpose of that contract [...] which, by its nature, cannot be left to the discretion of the tax-paying parties or to what the parties have declared";

c) this "process of reclassification" arises from reference to the general civil law institutions of the "concrete purpose" of the contract and the "related transactions", so that, "although they retain their own autonomous purposes, the different contracts linked by their functional relationship work together towards a single regulation of mutual interests";

d) reference in the text of the challenged Article 20 to the "legal effects" of the contract does not preclude the attribution of relevance to the "one economic purpose" achieved by the parties through the combination and coordination of the legal effects of the individual contracts, thus revealing their "intrinsic nature"; moreover, given that the reclassification of the contract for tax purposes "anyway leaves intact the validity and effectiveness of the contract itself and of the contractual model freely chosen by the parties, resulting solely in the application of the most appropriate tax rules", under Article 41 of the Constitution, no impairment can be detected in relation to the "free economic initiative" and the "autonomy of the parties to enter into agreements";

e) "the express inclusion in Article 10-*bis*, paragraph 2, letter a) of Law No. 212/2000 of the case of related transactions (absent instead in the wording of Article 20)" does not exclude that related instruments may continue to have weight – beyond anti-tax-avoidance considerations – "on the objective level of mere legal classification", under Article 20 of D.P.R. No. 131 of 1986.

5.1.2.– The referring court affirms, therefore, that in Article 20 the term "contract" submitted for registration must be understood as a transaction as a whole, even if it is not entirely expressed in a single document, and that its interpretation necessarily requires the use of all the extra-textual elements available to the interpreter, including related transactions found in separate documents (albeit not stated or mentioned in the contract presented for registration). From the point of view of the referring court, this interpretation – resulting from the consolidated case law of the Supreme Court of Cassation, like the previous wording of Article 20 – constitutes a given fact made necessary on constitutional grounds, so that "the uncertainty concerns the correct exercise of legislative discretion and the correct application of the choices of the legislator on tax matters".

5.1.3.– This evolutionary interpretation, which the case law of the Supreme Court of Cassation has reached regarding the importance of the concrete reason for the contract for registration tax purposes, is not, however, equivalent a priori to a constitutionally necessary interpretation, as the referring court, on the other hand, claims.

In this regard, it should first of all be emphasised that, if any assessment of the correctness in itself of the aforementioned evolutionary interpretation of the former Article 20 provided by the Supreme Court of Cassation in its role as guarantor of the uniform interpretation of the law is, of course, beyond the scope of this Court's review, it does, however, fall to the Constitutional Court to determine whether this interpretation is the only one permitted by the aforementioned constitutional provisions and, therefore,

whether the exclusion from interpretative consideration of extra-textual elements and related contracts, established by the legislator with the aforementioned regulatory changes of 2017 and 2018 is contrary to the constitutional provisions themselves.

5.2.– In the present case, in the opinion of this Court, starting precisely from the interpretation of the referring *c*ourt regarding the meaning to be attributed to the legislative provisions of 2017 and 2018, which led to the current formulation of the challenged provision, it is also possible to deem other definitions for "contract submitted for registration" and "legal effects" compatible with the Constitution, besides those definitions adopted by the remitting court, that can be used to assess the ability to pay tax, taking into account the identification of the tariff items separately established by the consolidated text on registration duty.

These different possible definitions, validated by the challenged provision, concern the tax base itself, identified in Article 20 of D.P.R. No. 131 of 1986, which must be assessed in the light of the provisions regulating the tax as a whole.

However, it should first be reiterated that the clear meaning of the words of the challenged provision (according to their connection), the correlated preparatory work (in particular, the explanatory report to Article 1, paragraph 87, of Law No. 205 of 2017), and all common (especially, the systematic) interpretative criteria unambiguously point towards understanding the provision in question as intended to require that, when interpreting the deed submitted for registration, one must disregard the "extra-textual instruments and related contracts", except as provided for in subsequent articles of D.P.R No. 131 of 1986.

Therefore, the "proposed interpretation" put forward by the State Counsel's Office in its various briefs cannot be upheld. For State Counsel, the exclusion of recourse to extra-textual instruments or elements that can be inferred from related contracts allegedly only means rejecting the relevance of "out-of-context" or "extraneous" elements (namely, those making no reference to the contract to be registered or with no effect on it) , as well as those that can be subsumed in Article 10-*bis* of Law No. 212 of 27 July 2000 (Provisions on the status of taxpayer's rights). This interpretation allegedly confirms – again according to State Counsel – that of the previous Article 20 of the consolidated text provided by the prevailing orientation of the case law of the Supreme Court of Cassation.

In particular, it should be noted that: a) the wording of the challenged provisions does not make an uncertain distinction, in the context of extra-textual elements, between those "out of context" and those "within the context"; and b) the "conforming interpretation", where it involves substantive confirmation of the original interpretation of Article 20 of D.P.R. No. 131 of 1986 provided by the prevailing case law of the Supreme Court of Cassation, would result in an arbitrary and illogical *interpretatio abrogans* of the challenged provisions.

5.2.1.– In this regard, it is appropriate to specify that the referring court itself notes that the questions relate to themes with historical roots well established in tax law.

The original legal framework (Article 7 of Law No. 585 of 21 April 1862, entitled "On registration duty") provided, in fact, that "[t]he duty shall be applied according to the intrinsic nature of the transactions and contracts, and not according to their apparent form" (later carried over into Article 8 of Royal Decree No. 3269 of 30 December 1923, entitled "Approval of the text of the registration law"). As for the first decades of the twentieth century, this wording already provoked a lively debate between those who firmly supported the need for a consideration of the economic substance underlying the legal activity represented in the contracts and those who radically denied it, tending to

favour a criterion of taxation based on the legal effects (albeit potential and objective) of the contractual models used.

Years later, the legislator seemed to close the debate – which had also been reflected in case law – with Decree of the President of the Republic No. 634 of 26 October 1972 (Regulations regarding registration duty), which, in the context of tax reform, inserted explicit reference to "legal effects" into Article 19 on the "interpretation of contracts". That expression was later transposed into Article 20 of the current consolidated text.

However, after a few decades, especially with the spread of the policy to contrast abuse of the law, in the case law of the Supreme Court of Cassation a substantivist interpretation re-emerged whose development has indeed been complex. In particular, firstly – and the referring court notes this – consolidating itself in support of the anti-avoidance nature of Article 20 and, subsequently (with the introduction of Article 10-*bis* of Law No. 212 of 2000 containing the substantive and procedural rules for the assessment of abuse of the law and tax avoidance), agreeing on the statement that Article 20 dictates a merely interpretative rather than an anti-avoidance provision, but that in any case makes it possible to identify the "true economic activity" pursued by the parties, due to the principle of the prevalence of substance over form.

This, however, did not prevent the emergence of an isolated contradiction in the case law of the Supreme Court of Cassation, when it was stated – in contrast to the prevailing orientation – that reclassification "cannot go beyond the typical contractual model within which the contract is framed without artificially constructing a taxable fact/situation different from what was intended and involving different legal effects" (Supreme Court of Cassation, Fifth Civil Division, Judgment No. 2054 of 27 January 2017, later invoked by the Supreme Court of Cassation, Fifth Civil Division, in Judgment No. 722 of 15 January 2019, the latter in turn taken up by the Supreme Court of Cassation, Sixth Civil Division, in Order No. 6790 of 10 March 2020, in which, moreover, the anti-avoidance nature of Article 20 reappears).

Also as a result of this contradiction (the cited Judgment of the Supreme Court of Cassation No. 2054 of 2017 is mentioned in the explanatory report to Article 1, paragraph 87, of Law No. 205 of 2017), the tax legislator intervened on Article 20 expressly establishing – in substantial adherence to the minority case law of the Court of Cassation – that, in interpreting the contract submitted for registration, for the purposes of the application of registration duty, one must disregard "extra-textual instruments and related contracts, except as provided for in subsequent articles".

5.2.2.– On closer inspection, the legislator's position, which confirms only taxation on the transaction realised by the contract submitted for registration according to the legal effects that can be inferred from it, is consistent with the principles inspiring the legislative framework for registration duty and, in particular, with the nature of "transaction duty" historically attributed to registration duty after its substantial evolution from tax to duty.

Although it may appear, *de iure condendo*, partly obsolete with respect to the evolution of contractual techniques, this nature has not been superseded by the legislator, considering the current systematic structure of the substantive and procedural framework of registration duty.

In this context, the challenged regulatory intervention appears to seek to bring the aforementioned Article 20 back to its original scope, where interpretation, in line with the specificities of tax law, is limited to the legal effects of the contract submitted for registration (namely, the *gestum*, which is relevant according to the typology established

by the items indicated in the tariff attached to the consolidated text), with no investigation of further effects, unless this is expressly established by the legal framework of the consolidated text itself.

It is worthwhile, in fact, specifying that the final clause of the challenged Article 20 "except as provided for in subsequent articles" contributes to endorsing the above-mentioned systematic value of the 2017 legislative intervention in the framework of tax regulation. Indeed, as a result of the new legislation, the hypotheses attributable to the general restrictive meaning of the notion of "contract" presented for registration are identifiable only beyond those, expressly regulated by the same consolidated text, that recognise the relevance of the effects of separate contracts or related facts or, in other words, of events falling within the overall plan of action brought into being by a previous contract, which will affect the tax regime of the latter or involve different tax treatments.

5.2.3.– For this reason, through the challenged provision, the legislator intended, by a not manifestly arbitrary exercise of its discretion, to reaffirm the "document duty" aspect of registration tax, specifying the object of the tax in line with the structure of a levy on the legal effects of the contract submitted for registration, without taking into account extra-textual instruments and related contracts with no textual relationship to the contract itself, except in the cases expressly regulated by the consolidated text. In this way, the internal consistency of the tax structure with its economic premise is respected; and verifying this very consistency is the object of the judgment regarding constitutionality (on this requirement, *among many*, see Judgments No. 10 of 2015, No. 116 of 2013, No. 223 of 2012 and No. 111 of 1997).

It follows that the questions raised regarding Articles 3 and 53 of the Constitution are unfounded, in that they are based on the assumption of the referring court that, for the purposes of the application of the registration duty, the facts implying ability to pay, indicated in the legal effects inferable, even from another source, from the concrete purpose of the contract contained in the transaction submitted for registration, are the only ones constitutionally compatible with the constitutional provisions mentioned.

It is precisely this assumption that cannot be accepted: in fact, on the level of constitutionality, these standards are not opposed, in absolute terms, to a different practical expression by the legislator of the principles of the ability to pay taxes and, consequently, of tax equality, which seek (as established by the challenged provision) to identify the assumptions for taxation only in the legal effects that can be inferred from the transaction contained in the contract submitted for registration, without considering elements found in another source, "except as provided for in subsequent articles" of the consolidated text itself.

In this way, moreover, the criterion of classification and subsumption by way of interpretation is homogeneous with that of typifying, according to the rules of the consolidated text and on the basis of the legal effects of the individual contracts separately identified by the legislator in the relevant tariff items attached to it.

5.2.4.– Lastly, it would be of no avail to object that the provision under discussion, excluding (except for the circumstances expressly regulated by the consolidated text) the interpretative relevance of both extra-textual instruments and related contracts, might facilitate undue fiscal advantages by exonerating "effective taxable wealth" from taxation in breach of the aforementioned constitutional provisions.

In this regard, it should be noted that this exclusion could be significant from the point of view of the abuse of law. However, the referring court categorically rules out (based on "the most recent orientation" of the case law of the Supreme Court of Cassation)

that Article 20 of D.P.R No. 131 of 1986 has a specific anti-avoidance function and, in its rationale for the referral order, does not dwell on the existence and practical applicability of individual anti-abuse regulations issued prior to the introduction in the system – which subsequently occurred in relation to the case in question in the referred proceedings – of the explicit general clause referred to in Article 10-*bis* of Law No. 212 of 2000 (expressly evoked for the registration duty system by the current wording of Article 53-*bis* of D.P.R. No. 131 of 1986).

Having ascertained, with regard to the above, that it was not manifestly arbitrary of the legislator to reaffirm the rationale for registration duty as substantially conforming to its historical origin as a "document duty" in the meaning specified above, in the case of a set of linked contracts, here it can only be observed, at constitutional level, that the evolutionary interpretation upheld by the referring court of said Article 20 of D.P.R. No. 131 of 1986, focusing on the notion of "true reason", would cause inconsistencies in the system, at least starting from the introduction of Article 10-*bis* of Law No. 212 of 2000. On the one hand, this would in fact allow the financial administration to work against tax avoidance without applying the guarantee of hearing both parties in court in favour of the taxpayer and, on the other hand, to free itself from any evidence of "undue" tax advantages and transactions "without economic substance", effectively precluding the same taxpayer from any legitimate tax planning (clearly permitted in the national and EU tax systems, however).

5.2.5.–In conclusion, the challenged provision is not in conflict with either the principle of the ability to pay tax, nor with those of reasonableness and fiscal equality, and the questions raised are thus unfounded.

Obviously, it is reserved to the discretion of the legislator to provide – compatibly with the benchmarks established by European Union law – for a possible update of the legal framework of registration duty that would take into account the complexity of modern contractual techniques and current technological developments, with particular regard to both the system of registration of notary deeds and the system of document management by the financial administrative offices.

ON THESE GROUNDS

THE CONSTITUTIONAL COURT

declares unfounded, with the order mentioned in the headnote, the questions as to the constitutionality of Article 20 of Decree of the President of the Republic No. 131 of 26 April 1986 (Approval of the consolidated text of the provisions concerning registration duty), as amended by Article 1, paragraph 87, letter *a*) of Law No. 205 of 27 December 2017 (State budget for financial year 2018 and multi-year budget for the three-year period 2018-2020), and Article 1, paragraph 1084, of Law No. 145 of 30 December 2018 (State budget for financial year 2019 and multi-year budget for the three-year period 2019-2021), raised by the Supreme Court of Cassation, Fifth Civil Division, concerning Articles 3 and 53 of the Constitution.

Decided in Rome, at the seat of the Constitutional Court, *Palazzo della Consulta* 10 June 2020.

Signed by:

Marta CARTABIA, President

Luca ANTONINI, Author of the Judgment