Constitutional Court

Report of President Silvana Sciarra on the Work of the Constitutional Court in 2022

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President of the Republic, Speakers of the Senate of the Republic and the Chamber of Deputies, Undersecretary to the Presidency of the Council of Ministers, Ministers, Presidents and Judges Emeriti of the Constitutional Court, Authorities.

The Constitutional Court in Europe and the world

A special annual meeting marks the passage of time in a solemn way and lends itself to a reflection on the work done by constitutional judges and by those belonging to the Constitutional Court community who facilitate the exercise of judicial functions. I would like to start my report by expressing my heartfelt thanks to all concerned.

It is also due to that community and the range of expertise demonstrated by it that the Court has opened up even more to Europe and the world, an openness made urgent by the escalation of wars and the aspiration for peace.

In a widely endorsed resolution, President Giuliano Amato urged the constitutional courts gathered at the world conference in Bali last October – tellingly focused on the topic of constitutional justice and peace – to firmly and unanimously affirm the principles of the rule of law. The Italian Court was represented at that conference, presenting a key-note speech in the session dedicated to the independence of member courts.

The independence of judicial systems at all levels and the transparency of their actions consolidate the authority of constitutional courts. The metaphor of the network, often used to describe the connections among courts and their interaction on common issues, gives a good idea of the intense exchange of information and of the initiatives promoted by the Italian Court, which is an active participant in the network of the Courts of the European Union and in that of the Council of Europe.

With the aim of drawing the attention of young people to the issue of protecting the rights of the vulnerable and disabled, in April the Court invited the then President of the European Court of

Human Rights (ECtHR), Robert Spano, to give a lecture in the great hall at Sapienza University of Rome.

A delegation of judges from the Court of Justice of the European Union (CJEU), led by President Koen Lenaerts, was received in September at a seminar where national identity and common European values were discussed. In December, the discussion continued in Luxembourg, during the solemn celebrations for the 70th anniversary of the Court of Justice, with the Constitutional Court attending the opening session.

Other international engagements included the profitable Italian presence in Paris, at the meeting of the European Courts, as well as the bilateral meeting with a delegation of judges from the German Federal Constitutional Court in Rome, on 22 June 2022, dedicated to "The Protection of National Identities and Prerogatives before the Court of Justice of the European Union", and with the Albanian Constitutional Court in Tirana, on 20 October 2022, devoted to the "Role of Constitutional Courts in New Democracies".

The numerous invitations that the Court receives as well as the requests from other courts – in Europe and elsewhere – to initiate exchanges of experience are a sign of vitality and dynamism. This guarantor institution maintains its function as guardian of the Constitution even when increasingly consolidating European and conventional parameters, integrating them with national ones.

Here, then, is the first image that I intend to highlight, that of a Court that is vigilant and at the same time permeable, dynamic, projected into broader jurisdictional universes, on the basis of the clauses in our Constitution showing an opening towards Europe and the world.

Concrete confirmation of a propensity for robust dialogue with both the CJEU and the ECtHR can be found in some decisions.

In the wake of a reference to the CJEU for a preliminary ruling, the Constitutional Court held that constitutional rights as well as the rights enshrined in the Charter of Fundamental Rights of the European Union (CFREU) had been infringed and declared unconstitutional certain provisions that excluded third-country nationals without a long-term residence permit from receiving maternity and childbirth allowances, which are benefits granted to needy families (Judgment No **54**).

On the other hand, on grounds of irrelevance, the Court declared inadmissible questions raised in relation to provisions that the referring courts should have disapplied, since the CJEU had already ruled on them (Judgment No **67**). On another occasion, faced with the simultaneous bringing of constitutional proceedings and an action before the CJEU, the Court stated that the referring court must first determine the relevance – or the irrelevance – of the question in the light of the EU judgment (Order No **137**). In a decision on consumer credit, the Court specified that the

effects of a decision of the CJEU, taken following a reference for a preliminary ruling, cannot be independently limited in time in each single national legal system (Judgment No **263**).

On the subject of double punishment, the Court found – in line with European case law – a violation of the *ne bis in idem* principle, enshrined in Article 50 CFREU (Judgment No **149**).

In a decision centred on Article 3 of the Constitution, in which Article 21 CFREU and a 2000 EU directive on employment and working conditions were also considered, the Court held that a provision setting an unreasonable upper age limit for eligibility for the role of State Police technical psychologist officers was unconstitutional (Judgment No **262**).

These are but just a few examples of case law conscious of the expansion of horizons that EU law affords, even when it imposes limits on national courts.

There are also numerous judgments referring to ECtHR case law, all of which focus on a careful selection of precedents and arguments. This was the case in order to affirm the rights of children (Judgments Nos **79** and **131**), the *ne bis in idem* principle (Judgment No **149**), the right of detainees to confer confidentially with defence counsels (Judgment No **18**), and the prohibition of interference by the legislature in the administration of justice (Judgments Nos **136** and **145**).

In all these disparate matters, with different facets and yet following a common thread, the Italian Court maintained that, without ever detracting from what constitutional proceedings typically involve, legal reasoning can be enriched and the horizons for the protection of rights can be expanded.

The Court in figures

As for the Court's overall activity, it must be emphasised – having regard to the statistical data at hand, meticulously set out by the Studies Department – that the ordinary courts account for the majority of referrals of questions (68), confirming how lively that avenue of recourse is.

This is followed by the regional judicial sections of the Court of Auditors (24), the regional administrative courts (19), the Council of State (16), justices of the peace (15), and provincial tax tribunals (10).

The right of the Council of Guarantee of the Senate of the Republic to raise questions of constitutionality was also recognised, since it is a self-regulating body exercising impartial judicial functions to resolve disputes, with objective application of the law (Judgment No **237**).

The rise in the number of cases reaching the Court by way of incidental proceedings, with an increased number of judgments – as opposed to orders – and the refinement of decision-making techniques, project the image of a Court that works diligently, to the point that the time taken to settle pending matters has been reduced.

I now wish to move on to propose a few key words that will guide me in an examination – certainly not exhaustive – of some of the topics that most characterised the Court's work in the past year. For a broader overview I would refer you to the publications of the Studies Department and the Yearbook, which again this year the Court is publishing in printed, online and English versions.

Family, children, solidarity

The word *family* operates to connect a number of decisions.

In the adoption of a minor in "special cases", after reaffirming that the latter enjoys the status of son or daughter, the Court recognised the adoptee's right to have a civil relationship with the adopter's relatives, in view of the child's best interests. Therefore, a provision requiring the application of the rules on adoption for adults was declared unconstitutional on grounds of violation of Articles 3, 31(2) and 117(1) of the Constitution (Judgment No **79**).

The decision emphasises that the protection of children, through family ties, requires going well beyond a regulatory framework aimed at settling economic and inheritance matters.

The Court also went beyond the traditional patronymic rule, which was the subject of a self-referral (Order No 18/2021). In view of the right to the identity of the child – whether acknowledged, born in wedlock, or adopted – and by virtue of the equality between parents, the giving of the paternal surname alone is unconstitutional. Unless only one surname is agreed upon, provision must be made for giving the maternal surname in addition to that of the father (Judgment No **131**).

In another context, which concerned the case of prolonged detention of a parent, in order to avoid serious harm to the underage child, it was held that recourse to special home detention must be envisaged as an alternative measure aimed precisely at safeguarding that interest in care (Judgment No **30**).

In tax matters, with reference to a municipal property tax (IMU) exemption for a taxpayer's primary residence, a contemporary notion of family unit, whose members, for various reasons, including work, do not necessarily reside under the same roof, was developed. A provision that gave rise to unequal treatment in eligibility for the exemption, to the detriment of spouses or members of civil unions residing in different municipalities, was declared unconstitutional (Judgment No **209**).

In social security matters, extending the recognition of survivor's pensions to adult grandchildren who are orphans and unable to work, was referred to as the "ultra-activity of family solidarity" (Judgment No **88**).

Still on the subject of survivor's pensions, despite acknowledging legislative discretion and

consequently declaring the question raised by the referring court to be inadmissible, the Court took the opportunity to reaffirm the necessary equivalence between children born out of wedlock and children born during marriage. The purpose of a survivor's pensions is to preserve the bond of solidarity, even though it is necessarily up to the legislature to decide the percentage share of the survivor's pension for the child born out of wedlock and for the surviving spouse not the parent of the child (Judgment No **100**).

Finally, in a decision on the acquisition of nationality by a foreigner, where the conditions therefor are met, the Constitutional Court stated that the death of a spouse – during the proceedings – cannot constitute an obstacle to the granting of citizenship. The death of one of the spouses, even though it dissolves the marriage bond, does not invalidate the protection based on family solidarity (Judgment No **195**).

Gender equality

The word *equality* is among the most recurrent in the language of the Court.

A further step forward on the issue of equal access to elected office (Article 51 of the Constitution) was taken when the Court declared certain provisions relating to elections in municipalities with less than 5,000 inhabitants to be unconstitutional, insofar as they did not provide for the exclusion of lists that did not ensure the representation of both sexes (Judgment No **62**).

Pandemic, health, person

Another key word, another link among some decisions, is *health*.

The measures adopted by the legislature to counter the spread of the COVID-19 pandemic meant that the Court had to take complex decisions aimed at reviewing the balance struck by the legislature and determining whether the guarantees provided by the Constitution had been complied with.

In declaring the questions raised to be unfounded, the Court clarified that restrictive measures of a general nature, such as compulsory quarantine, adopted by the authorities during a pandemic, must be brought within the scope of the constitutional framework relating to restrictions on freedom of movement (Article 16 of the Constitution) rather than restrictions on personal freedom (Article 13 of the Constitution). They are measures justified by the urgency of protecting health in the interest of the community, consistent with the criteria of proportionality and adequacy, in the circumstances of the specific case (Judgment No **127**).

Elsewhere, legislation that allowed only pharmacies, as part of the National Health Service, and not also parapharmacies, to carry out tests and swabs to diagnose infection, was held not to be

contrary to the Constitution. The protection of health justifies, including in EU law, restrictions on freedom of establishment and competition (Judgment No **171**).

The measures taken to prevent and contain the spread of the contagion were also the backdrop to resolving certain conflicts between central institutions. In ruling out that these measures affected specific powers of members of Parliament, the urgency of protecting health and safeguarding the community was emphasised (Orders Nos **15** and **212**).

Persons and their health also occupy a central role in decisions arising out of direct applications filed with the Court.

In declaring unconstitutional a regional law in Puglia providing experimental pre-natal screening for a duration of two years, because the Region was subject to a debt restructuring plan, the Court reiterated that the procedure for defining 'essential levels of care' – in which such screening was not contemplated – served to reconcile the protection of health with the overall financial soundness of the health system (Judgment No **161**).

In a judgment on another Puglia regional law that introduced a genetic test capable of diagnosing rare hereditary diseases well in advance and accurately, the Court declared that the question was unfounded. In so doing it gave a broad interpretation to a service contemplated in the essential levels of care apt to afford access to the test, even in the case of mere suspicion and not only in cases of ascertained disease. In this context, the political bodies were in any case urged to update the essential levels of care, in order to avoid obsolescence in treatment and to guarantee equality of access to the best services in the country (Judgment No **242**).

One cannot fail to emphasise the centrality of that solicitation.

And again, while striking down a provision of national law that did not respect the constitutional principle of fair co-operation (Article 120 of the Constitution), the Court affirmed the importance of personalised care to protect women's health, without prejudice to proceedings pending on the issue of expenditure (Judgment No **114**).

In saving a provision of Molise law allocating certain sums to a regional fund for the employment of the disabled, the Court found that it was consistent with the fundamental principles established by national law and the shared purpose of ensuring protection for situations of particular vulnerability, such as that of persons with disabilities, to which special attention is devoted in the constitutional framework, since it involves an ensemble of "values that draw on" its "fundamental underlying rationale" (Judgment No **110**).

The principles of public finance must thus be read in harmony with the protection of rights and the satisfaction of people's needs, a protection that cannot fail to involve both the State and the Regions while respecting their specific spheres of competence.

Environment, landscape, climate

Another key word is *environment*.

Reading between the lines of complex decisions on the division of competences between central and local government, one comes across statements aimed at treating the environment as an "organic entity", of primary constitutional value, within which the Court has constantly included the protection of the landscape (Judgment No **24**). For these reasons – reiterated the Court – the national rules on waste and the provisions of the Cultural Heritage and Landscape Code apply to all ordinary Regions as well as the "autonomous" ones governed by special statutes, insofar as they are considered to be rules of economic and social reform (Judgments Nos. **21**, **108**, **248**, and **251**).

The Court also specified that the predominance of the regional landscape plan, jointly drawn up by the State and Region concerned, is not a mere statement of a principle (Judgment No **251**). This highlights the need to ensure knowledge of the entire territory and to value an "overall view of the areas to be protected" (Judgment No **187**).

An integrated approach to protection of the landscape and the environment shows a Court attentive to the great issues of the present, including the fight against climate emergencies. In reaffirming the principle of the maximum spread of renewable energy, also rooted in supranational and international legislation, the Court emphasised that the authorisation framework in force (provided for in Articles 12 *et seq.* of Legislative Decree No 387/2003, Articles 4 *et seq.* of Legislative Decree No 28/2011 and Ministerial Decree of 10 September 2010) strikes an indispensable balance between two interests of fundamental axiological importance, namely the strengthening of renewable energy sources combined with the protection of the territory concerned (Judgment No **121**).

Fair co-operation, solidarity, people

Again in 2022, the Court emphasised the principle of fair co-operation between the State and the Regions, to be understood as the equivalent in institutional terms of solidarity among citizens. This occurred when invoking the principle of subsidiarity for the establishment of funds restricted to specific purposes (Judgment No **123**). As well as when, in order to identify the appropriate tools for the protection of persons in the social groups in which their personality is expressed (Article 2 of the Constitution), the Court criticised the absence of a provision in the relevant agreements setting criteria for the allocation of funding to support amateur sports associations (Judgment No **40**), research (Judgment No **114**), and companies damaged by the collapse of State infrastructure

(Judgment No **179**).

Solidarity, understood as an institutional connection, is a major contemporary theme.

Person and authority

There are numerous decisions concerning the inviolable rights of persons in their dealings with public authorities.

The Court reaffirmed that the constitutional basis of the provisions of the Code of Criminal Procedure on arrest in *flagrante delicto* and on the detention of suspects lies in Article 13(3) of the Constitution. The provisional police measures limiting personal liberty must serve to protect needs enshrined in the Constitution, among which those connected with aims pursued by criminal proceedings are of special relevance (Judgment No **41**).

Following proceedings that began in June 2021, the Court addressed the subject of residential facilities to enforce psychiatric security orders (REMS). In a system informed by the personalist principle of Article 2 of the Constitution, the Court stated that security measures for the mentally ill who are totally incapacitated are justified only insofar as they fulfil the aims of caring for and protecting the mentally infirm and, at the same time, containing the danger that they pose to society. In a ruling of inadmissibility, the Court urged the legislature to intervene to comprehensively regulate the matter, in keeping with Articles 2, 13 and 32(2) of the Constitution and the principle of the minimum necessary sacrifice, applicable to all measures dealing with the deprivation of liberty (Judgment No **22**).

In a completely different context – that of illegal immigration – the protagonist was a woman charged with having accompanied her underage daughter and niece to Italy and forced to pay large sums to cross borders, using international transport services and forged documents. After ascertaining the disproportionality of the penalty imposed if there is no involvement with a criminal organisation, with a so-called ablative judgment the Court struck down the infringing provision, thereby reducing the size of the penalty for those who help others to enter Italy illegally (Judgment No **63**).

The wide margin of discretion enjoyed by the legislature in quantifying penalties is limited by the principle that the punishment cannot be manifestly disproportionate, either in relation to the penalties provided for other offences, or in relation to the intrinsic seriousness of the single offence at issue.

This decision – along with others – enriches the case law on the proportionality of criminal and administrative sanctions, within the framework of judicial review of the "dosing of sanctions". The issue has become increasingly central to the Court and is one of the elective areas of scrutiny

of the reasonableness of legislative provisions.

The severity of the penalty imposed by the legislature cannot be manifestly disproportionate to the seriousness of the offence in terms of *actus reus* and *mens rea*.

The Court returned to the subject of the regulation of releases on temporary licence of prisoners convicted of offences that preclude such benefits and considered reasonable the "double evidentiary regime" – now well-settled case law but nonetheless questioned by the referring court – that differentiates the position of the non-cooperating prisoner by choice from that of the non-cooperating prisoner due to the impossibility of cooperation (Judgment No **20**).

Subsequently, the Court again ruled on the question of whole life sentences, which was raised by the Court of Cassation in 2020. As a result of the new rules adopted in the wake of the Court's previous admonitions (Law-Decree No 162/2022), it returned the case to the referring court (Order No **227**). In fact, the new provisions amended the rules concerned in the constitutional proceedings and transformed the presumption of dangerousness from absolute to rebuttable. The latter Court's judgment followed postponements that had been made by the Court itself (Orders Nos 97/2021 and 122/2022) for the specific purpose of inviting the legislature to take action in accordance with its discretion. Returning the case to the referring court that initially raised the question of constitutionality – so that they could reassess its relevance in light of the legislative changes occurred – is standard procedure that furthers dialogue with the referring court. In so doing the Court demonstrated that it consciously wished to manage procedural deadlines in order to allow time for the desired intervention of the legislature.

The complexity of this case raises, once again, the issue of fair co-operation between the Constitutional Court and Parliament, a matter that should not be disregarded given its institutional importance.

Work, welfare, enterprise

Employment "in all its forms and practices" (Article 35 of the Constitution) returned to the attention of the Court. With a declaration of unconstitutionality, the adjective "manifest" was struck down from a provision governing the consequences of a dismissal made on grounds of an objective justification, in the absence of the circumstances adduced in support. Originally, that absence had to be manifest in order to secure reinstatement of the worker. While affirming that the merits of an employer's organisational choices cannot be reviewed, the ruling reiterated that dismissals must have a justification and must be proposed as a last resort (Judgment No **125**).

On the other hand, with reference to the compensation payable to workers dismissed by small businesses, the Court ruled that, despite the established infringement, the question as to

constitutionality was inadmissible in view of the range of options open to the legislature in the exercise of its discretion to remedy it. This was ruled not without a strong warning about the inconsistencies that can be traced in the overall legal framework governing dismissals (Judgment No **183**).

Confirming the centrality of social security matters, the Constitutional Court ruled on the obligation for professionals to register with the National Social Security Institute (INPS) state-run pension scheme and declared that the questions as to constitutionality were unfounded since the challenged legislation serves to achieve a comprehensive system and is based on the "universalisation" of social security protection (Judgment No **104** concerning the legal profession and, in a similar vein, Judgment No **238** concerning engineers and architects).

The Court was concerned, in another respect, that the pension treatment of seafarers should not be prejudiced, declaring unconstitutional on grounds of unreasonableness the failure to "neutralise" the extension of periods spent in actual navigation, where those give rise to an unfavourable calculation of the pension benefits (Judgment No **224**).

With regard to the "functions of general interest for the business system" entrusted to the Chambers of Commerce, it was clarified that the cost savings should not result in an unreasonable bias in favour of the State, since these "hybrid" bodies are responsible for the "care" of businesses for their development (Judgment No **210**).

I will now leave aside the key words that I have chosen to illustrate proceedings concerning the constitutionality of laws, and move on to give an account of the Court's other competences.

Conflicts of authority between central institutions

As for conflicts of authority between central institutions, an application in that regard filed by the Sicilian Region was rejected. The Court held that the Regional Assembly conducts a political review when it approves the accounts, whereas the Court of Auditors is responsible for checking the lawfulness/regularity of the administrative result (Judgment No **184**).

The Court ruled out an interference between the Court of Auditor's decision on appeal and the Sicilian Regional Assembly's approval through legislation of those same accounts since the latter is responsible for the political scrutiny of the executive's financial choices.

On the other hand, the Court upheld an application for the resolution of a dispute filed by the Valle D'Aosta Region and declared that it was not for the State, and through it the Court of Auditors, to establish the administrative responsibility of regional councillors who had cast a vote in the exercise of their policy-making functions (Judgment No **90**). In this way, an essential core of council political functions was safeguarded, and in particular freedom from review, which is

also expressed through voting on administrative acts.

Referendum questions: proceedings on admissibility

The Court dealt with the admissibility of eight proposals for abrogative referendums. Five applications passed the admissibility test.

The proceedings concerned: the repeal of the so-called Severino Law concerning the grounds for disqualification from holding elective and government offices (Judgment No **56**); the repeal of certain parts of Article 274(1)(*c*) of the Code of Criminal Procedure, on the application of supervision measures (Judgment No **57**); the rules governing the passage from the functions of prosecutor to those of judge and vice versa (Judgment No **58**); the participation of "lay" members in the Governing Council of the Court of Cassation and of the Judicial Councils (Judgment No **59**); and the rules on the candidatures of career judiciary members in elections for the High Judicial Council (Judgment No **60**).

Four questions dealt with provisions concerning the judiciary and prosecution service in various ways. Amongst these, the question concerning the civil liability of judges and prosecutors (Law No 117/1988) was declared inadmissible as it would have led to the manipulation of existing law and the creation of new law (Judgment No **49**).

The Court made it clear that the civil liability of judges and prosecutors, in so far as it necessarily depends on the introduction through legislation of quite specific conditions and limits, does not lend itself to the basic application of the ordinary provisions in force on the liability of state officials. An abrogative referendum would have led to a potential expansion of the principles embodied in those provisions, which had to be ruled out.

The referendum to repeal parts of Article 579 of the Criminal Code, which punishes murder of a consenting person, was also declared inadmissible. The Court held that regulation of the matter was constitutionally necessary since it involves a plurality of constitutional interests and therefore requires a balancing act to ensure a minimum level of protection. In taking into consideration the interests of vulnerable and weak persons, the Court's decision emphasised situations in which an unrestrained prevalence of the freedom of self-determination could mean that these persons were unable to give informed and final consent. This could result in a potential impairment of their right to life (Judgment No **50**).

The request to submit certain provisions of the Consolidated Law on Narcotic Drugs (Presidential Decree No 309 of 9 October 1990) to an abrogative referendum was also declared inadmissible (Judgment No **51**).

With reference to the first part of the question, the Court noted, contrary to the promoters'

intention, that a positive outcome to the referendum would have concerned the cultivation of plants from which hard drugs are extracted and only indirectly "domestic" cultivation. Another criminal provision – not affected by the referendum – punishing the cultivation of drugs for domestic purposes would have remained in force. The Court pointed out the contradiction that would result from the elimination of the punishment of imprisonment for acts involving soft drugs, in the face of the continued existence of provisions not affected by the referendum question but that punish the same acts with imprisonment and a fine, if they are considered "minor".

The transparency – and at the same time the depth – of such a complex choice resulted in an increased communicative effort on the part of the then President, aimed at explaining the reasons for the judgments in their indispensable technical-argumentative aspects, with the intention to value the Court's consistency with its own precedents.

In its judgments on the admissibility of referendum questions, in addition to dwelling on the subjects on which referendums are not permitted under Article 75(2) of the Constitution, the Court developed increasingly scrupulous criteria regarding the set of constitutional values affected by proposals for abrogative referendums, such as the conscious exercise of the right to vote and the inalienability of a minimum protection of constitutional rights and principles.

The expression "laws with constitutionally binding content" has been interpreted by the Court, including in the above-mentioned judgments, to mean those "normative nuclei" that, if undermined, would deprive certain rights or – as in the case of the judiciary and prosecution service, certain prerogatives of judicial bodies – of their necessary constitutional protection.

Publicity of proceedings and communication

The year 2023 opened with the return of the Constitutional Court to the courtroom, a place that embodies the history of this institution and for this very reason symbolically hosts the proceedings to be held. The Court, without ever having ceased to operate, even in times of restrictive measures and heightened attention to health protection, has reappropriated a social space, within which constitutional proceedings take shape.

This is the first place of communication and transparency. The theory of discourse, which is meant to apply to constitutional adjudication, takes shape in the interaction of institutionalised debates with informal public opinions, with the intention of reaching the periphery of the public sphere.

This is why in the courtroom one witnesses – as is tradition – the ritual of a Court that listens, attentive to the person and to the protection of primary interests; guarantor in respect of the division of competences between the State, the Regions, and the Autonomous Provinces; arbiter in disputes

concerning the allocation of powers between the State, the Regions, and Autonomous Provinces as well as in conflicts between central institutions; determined, in admissibility proceedings on referendum questions, to protect the rights of the citizens called to vote.

The rights of the people as well as scrutiny of observance of the separation of powers enshrined in Constitution – an assessment that it is up to the Court to exercise – vitalise the judicial work of the Court, in a deliberative process that also entails learning and therefore communication. That is why it is important to dwell on the words spoken by the Court: I chose a few key words earlier to illustrate their incisiveness in people's everyday lives.

One can grasp in these words the function of the Court that ensures respect for the Constitution, constantly open to dialogue with Parliament, which is called upon to give concrete effect to these rights. In its solicitations to the legislature, the Court develops a combined test of reasonableness and proportionality, consolidates the consistency of its arguments, founded on the independence and pluralism of its members.

I began by placing the Italian Constitutional Court in Europe and the world, highlighting the connection with the CJEU and the ECtHR. This creates an increasingly harmonious coordination of argumentative techniques and refines the use of the criteria of reasonableness and proportionality. Consistency between deliberative processes serves to strengthen democracy and the rule of law, undisputable prerequisites in the creation of peace.