JUDGMENT NO 111 OF 2023

**The constitutional right to silence during criminal investigations and trials, which is an essential part of the broader right of defence, must extend to questions pertaining to the personal circumstances of suspects and defendants, such as their nickname, family or social conditions, previous convictions or involvement in criminal proceedings, holding of public office.**

**For this reason, the Constitutional Court held a provision of the Code of Criminal Procedure partially unconstitutional, to the extent that it failed to provide that a person under investigation or trial be advised of their right not to answer such questions.**

**The Court also declared a provision establishing the criminal offence of making false statements to a public officer partially unconstitutional, to the extent that it failed to provide an exception for cases where a suspect gives false statements while being questioned about circumstances of the kind mentioned above, without being previously advised of their right to remain silent.**

[omitted]

THE CONSTITUTIONAL COURT

[omitted]

gives the following

JUDGMENT

in proceedings concerning the constitutionality of Article 495 of the Criminal Code and, in the alternative, of Article 64(3) of the Code of Criminal Procedure, as well as Article 495 of the Criminal Code, initiated by the First Criminal Division of the Ordinary Court of Florence (*Tribunale ordinario di Firenze, sezione prima penale*) during the criminal proceedings against M.G., with referral order of 4 July 2022, registered as No 98 of the 2022 Register of Referral Orders, published in *Official Journal of the Italian Republic* No 38, first special series of 2022, and scheduled for discussion in chambers on 5 April 2023.

*Having regard to* the statement in intervention filed by the President of the Council of Ministers;

*after hearing* Judge Rapporteur Francesco Viganò in chambers on 6 April 2023;

*after deliberation* in chambers on 6 April 2023.

*The facts of the case*

1.– The First Criminal Division of the Ordinary Court of Florence has raised questions as to the constitutionality of Article 495 of the Criminal Code with reference to Articles 3 and 24 of the Constitution, “to the extent to which it applies to false statements made during criminal proceedings by the suspect or defendant in relation to their criminal record and, in general, in relation to the circumstances specified in Article 21 of the Rules Implementing the Code of Criminal Procedure”.

The same Court has raised a subordinate question as to the constitutionality of Article 64(3) of the Code of Criminal Procedure, “to the extent to which it fails to specify that any prescribed warning must be provided to the suspect or the defendant prior to any form of questioning of that person during criminal proceedings”, as well as Article 495 of the Criminal Code, “to the extent to which it fails to provide an exception to liability for making false statements about one’s criminal record and, in general, the circumstances specified in Article 21 of the Rules Implementing the Code of Criminal Procedure (RICCP) when they are made during criminal proceedings by a person who

was not duly advised of the right to silence", with reference only to Article 24 of the Constitution.

1.1.– The referring court is conducting a criminal trial against M.G., who was indicted […] for having told personnel at the Police Headquarters of Pisa (*Questura di Pisa*) that he had no previous criminal convictions in Italy while providing information as to his identity, mailing address, and defence lawyer. In reality, M.G. had two prior convictions.

The referring court observes that this action falls under […] the […] crime laid out in Article 495 of the Criminal Code (Making false statements or declarations to a public officer concerning one's identity or personal characteristics of oneself or others), under which the defendant should, therefore, be found guilty.

However, the referring court raises doubts about the constitutionality of that provision.

[omitted]

*Conclusions on points of law*

[omitted]

3.– The issues brought before this Court turn on the extension of the right to silence to suspects or defendants in criminal proceedings. Specifically, the referring court argues that the right to silence covers not only circumstances related to the alleged misconduct, but also personal circumstances (specified in Article 21 RICCP), except for identification information narrowly defined (name, surname, and date and place of birth).

3.1.– This Court has long held that the right to silence – defined by Article 14(3)(g) of the International Covenant on Civil and Political Rights (ICCPR) as the safeguard assured to any person accused of a crime "not to be compelled to testify against himself or to confess guilt" – is an implicit corollary to the inviolable right of defence enshrined in Article 24 of the Constitution.

Judgment No 236/1984 held that the right to refuse to answer (except questions concerning the identity of the subject) certainly falls under the right of defence of suspects (point 12 of the *Conclusions on points of law*). Judgment No 361/1998 puts it in more explicit terms: "the intangibility of the right of defence, in the form of respect for the principle *nemo tenetur se detegere*, and, consequently, for the right to silence, is manifested in the safeguard that [the defendant] shall not […] be obliged to answer questions during hearings that may pertain to their liability" (point 2.1. of the *Conclusions on points of law*). Order No 291/2002, which is directly quoted in Orders No 451 and 485 of 2002, and then in Order No 202/2004, calls the principle *nemo tenetur se detegere* an "essential corollary of the inviolability of the right of defence".

More recently, Order No 117/2019, grounding the right to silence on both Article 24 of the Constitution and on sources of international law binding for the Italian legal system, including Article 14 ICCPR and Article 6 of the European Convention on Human Rights (ECHR), as interpreted by the Strasbourg Court (ECtHR) (point 7.2. of the *Conclusions on points of law*), defined it as "the right of the person not to be compelled to testify against themselves or to confess guilt (*nemo tenetur se ipsum accusare*)" (point 3 of the *Conclusions on points of law*).

In response to the questions referred to the Court of Justice of the European Union in the same Order No 117/2019 as to whether the scope of application of the right to silence extends to administrative proceedings potentially leading to sanctions of "punitive nature", the Grand Chamber of the Court of Justice, with Judgment of 2

February 2021, in case C-481/19, *DB v. Consob*, likewise recognised that the right to silence is implicitly guaranteed in Article 47 of the Charter of Fundamental Rights of the European Union (CFREU), in keeping with the well-established case law of the ECtHR on Article 6 of the ECHR. The Court explained that the right to silence "is infringed, inter alia, where a suspect is obliged to testify under threat of sanctions and either testifies in consequence or is sanctioned for refusing to testify" (paragraph 39), and that it "also covers information on questions of fact which may subsequently be used in support of the prosecution and may thus have a bearing on the conviction or the penalty imposed on that person" (paragraph 40). These statements were incorporated into this Court's Judgment No 84/2021, which declared the challenged sentencing provision unconstitutional to the extent that it applied to people refusing to answer a question by Consob which could give rise to liability for an offence carrying punitive administrative sanctions, or even liability for a crime.

3.2.– The current rules governing criminal proceedings protect the right to silence of suspects and defendants essentially by means of Article 64(3) of the Code of Criminal Procedure. Under this provision, before beginning questioning, courts must provide a set of warnings, particularly the one prescribed at letter b), concerning the "right not to answer any question". Paragraph 3-*bis* provides that, if the warning is omitted, "statements made by the person under interrogation cannot be used in court". The warnings under paragraph 3 must also be provided before all questioning at trial, and, as a rule, when the police collect general information about an alleged crime (Article 350(1) of the Code of Criminal Procedure).

On the substantive criminal law side, a suspect or defendant cannot incur criminal liability either by remaining silent or by providing false information during questioning, except in specific situations in which they falsely accuse others of having committed a crime (Article 368 of the Criminal Code) or falsely claim that a crime has occurred (Article 367 of the Criminal Code).

3.3.– By contrast, the Code of Criminal Procedure does not currently grant suspects or defendants the right to silence with respect to questions about their own "identification information" or "other information needed to identify [them]". Pursuant to Article 66(1) of the Code of Criminal Procedure, they must be asked for this information the very first time they are questioned. Article 66(1) of the Code of Criminal Procedure requires the authorities to warn suspects of the "consequences for those who refuse to provide their identification information or who provide false identification information". Article 64(3)(b) of the same Code states that there is an obligation to advise people of their right to silence, "except as provided by Article 66(1)" of the Code of Criminal Procedure.

In substantive criminal law, Article 651 of the Criminal Code makes it an offence to refuse to provide one's identification information, and Article 495 of the Criminal Code establishes a penalty of one to six years in prison for those who "make a false statement or declaration to a public officer of their identity, status, or other personal characteristics of themselves or another person". According to well-established case law of the Court of Cassation, this provision extends to suspects and defendants who provide false identification information […].

3.4.– As mentioned above, however, the matters at issue before this Court today do not relate to questions about a suspect's or defendant's identification information. Rather, they relate to the additional questions that the police or judicial authorities must ask (pursuant to Article 21 RICCP) when proceeding under Article 66(1) of the Code of

Criminal Procedure Article, namely questions about any nicknames or pseudonyms, any assets at their disposal, individual, family, and social conditions, as well as questions on whether they are currently subject to other criminal proceedings, whether they have ever been convicted of a crime either in Italy or abroad, and whether they hold or have held public office or positions or carried out public services or public duties.

3.4.1.– In 1976, this Court was seized with questions analogous to the ones at issue in the present case, also in reference to Article 24 of the Constitution. At issue were both the previously in force version of Article 495(2) of the Criminal Code, which criminalised the making of false declarations about one's identity, status, and personal circumstances, and Article 25 of Royal Decree No 602 of 28 May 1931 (Provisions implementing the Code of Criminal Procedure). This last provision, which was functionally equivalent to the current Article 21 RICCP, established a duty for courts to ask defendants, as a preliminary matter, if they were subject to other criminal proceedings or had been convicted of criminal offences in Italy or abroad.

In that case, this Court held that the questions raised were unfounded. The Court held that there was no doubt "that, if defendants answer the investigator's questions about their previous convictions in an untruthful way, they will incur the penalties provided under Article 495 of the Criminal Code. But it is not accurate to say that they are obliged to answer the question, since they can certainly refuse to provide the information requested about this without incurring any criminal liability". From the analysis of aforementioned Article 25 of the implementing provisions in force at the time, this Court deduced that "defendants are obliged to answer only the request for their identification information, incurring criminal liability if they refuse to answer or provide false details", simultaneously making it clear that identification information includes only "name, surname, and place and date of birth". This narrow definition excluded the other circumstances indicated by the provision before the Court in that case, including any past convictions (Judgment No 108/1976, point 4 of the *Conclusions on points of law*).

3.4.2.– Under the new Code of Criminal Procedure currently in force, the Court of Cassation has confirmed that suspects or defendants are, on the one hand, under no obligation to answer questions about the circumstances specified in Article 21 RICCP, unlike questions about their identification information. On the other hand, however, it continues to hold that, when the suspect or defendant answers those questions untruthfully, they commit the offence described in Article 495(1) of the Criminal Code, in its current wording […].

Moreover, the Court of Cassation's case law denies that questions under Article 21 RICCP are covered by the constitutional right of defence of suspects and defendants. Therefore, the case law does not require that they be given notice of their right not to answer such questions pursuant to Article 64(3) of the Code of Criminal Procedure. Indeed, these questions may very well be asked immediately after the person is warned, pursuant to Article 66(1) of the Code of Criminal Procedure, that they will incur penalties if they refuse to provide their identification information or provide false identification information […].

In addition, the Court of Cassation sees no obstacle to using a defendant's answers to the questions listed in Article 21 RICCP against them, during either the pre-trial or the trial stage. This includes, for example, using their declarations regarding income and assets as evidence to justify confiscation measures […], or to argue that a defendant had no intent to make personal use of drugs found in their possession (Court of Cassation,

Judgment No 2497/2022, and Judgment No 43337/2016, holding that there are "no limits on how the answers given by a defendant concerning their life and personal circumstances can be used […], since they do not pertain to the merits of the case and cannot be classified as statements against themselves").

3.5.– This Court holds that the current state of the law does not ensure adequate protection for the right to silence of suspects or defendants pursuant to Article 24 of the Constitution, in light of the international obligations binding upon Italy as well as EU law (point 3.1. above).

Indeed, firstly, the constitutional right to silence extends to the questions listed in Article 21 RICCP (point 3.5.1. below). Secondly, an effective protection of this right necessarily requires giving suspects or defendants advance notice of their right not to answer these questions (point 3.5.2. below).

3.5.1.— If the right to silence is an individual's right "not to be compelled" not only to "confess guilt" but also to "testify against himself", as Article 14(3)(g) ICCPR states, then this right is necessarily in play whenever prosecuting authorities investigating the commission of a crime question a suspect or defendant about circumstances that, even if not directly related to the facts of the crime, may later be used against them during criminal proceedings or trial, and can, in any case, have "a bearing on the conviction or the penalty" that could be imposed (Court of Justice, *D.B. v Consob*, paragraph 40).

This is precisely the situation when it comes to the questions listed in Article 21 RICCP. These questions pertain to the suspect's or defendant's personal circumstances other than their identification information, which are capable of generating prejudicial outcomes for them during criminal proceedings, or for purposes of conviction or sentencing. This is because there is no ban, under the legal framework described above, on using their answers to these questions against them.

To begin with past convictions, the referring court correctly points out that these may sometimes constitute elements of a crime, as in the case of the offence under Article 707 of the Criminal Code, and generally amount to aggravating circumstances of any offence, potentially leading to significantly harsher penalties. In addition, prosecutors and, later, judges, may well use information about other pending criminal charges or past convictions – whether final or not, either in Italy or abroad – to assess the level of danger an individual poses to society for a wide range of purposes, including pre-trail detention, probation, acquittal on *de minimis* grounds, and sentencing.

It matters little that information about past convictions is easily obtainable with a court records search, as State Counsel observes, making "the defendant's attempt to mislead investigators by falsely stating that he had not committed previous crimes futile". Since circumstances of this kind are, indeed, potentially prejudicial for the suspect or defendant, and even lend themselves, in many cases, to be used as aggravating factors that can result in dramatically harsher penalties, the burden of proving such circumstances must necessarily fall to the prosecutor, as is the case with all the other circumstances that may make a defendant criminally liable. This means that any legal framework that attempts to lay on a suspect or a defendant a duty to provide information that may contribute not only to their conviction, but potentially to an aggravated penalty, or to the adoption of measures that limit their rights during proceedings and trial, are incompatible with Article 24 of the Constitution.

An analogous argument may be made for all the other circumstances specified in Article 21 RICCP. Knowledge of a suspect's nickname – which, unlike one's name and surname, is not used by the entire community to identify them, but only by the circle of people with whom they have private relations – may be of critical importance for an investigation. Tapped conversations, for example, often refer to the suspect or defendant by their nickname. Therefore, asking a suspect about their nickname can amount to soliciting a confession from them.

Moreover, as legal scholars have pointed out, information about the assets held by a suspect or defendant, about their individual, familial, or social life conditions, or about their holding of public office may be of great importance during the investigation and at trial. Such information can be used for assessing the risks supporting precautionary measures – such as the risks of flight or re-offending – or for purposes of imposing custodial (Article 133(2)(4) of the Criminal Code) and pecuniary sentences (Article 133-*bis* of the Criminal Code), as well as for disqualifying a person from holding public office or exercising public services.

The constitutional dimension of the right to silence means that no duty can be placed on an individual to provide information concerning all these circumstances to the investigating or prosecuting authorities, thus forcing them to cooperate in an investigation or trial against them.

3.5.2.– Having found that the right to silence enshrined in Article 24 of the Constitution must be held to apply to the circumstances specified in Article 21 RICCP, it remains to be seen whether the law in force adequately ensures the protection of that right.

As a preliminary matter, it bears reiterating that the right to silence is infringed not only when a person is forced, through violence or intimidation, to make statements of this kind, but also when they are induced to do so by the threat of a penalty or sanction of a punitive nature, as was the case in Judgment No 84/2021.

Now, it is true that the substantive criminal law in force today does not consider it to be a criminal act when a suspect or defendant remains silent concerning the questions listed in Article 21 RICCP (just as when aforementioned Judgment No 108/1976 was handed down). Only false statements made in this context are considered punishable, and, according to the case law on this issue, they constitute the offence provided in Article 495 of the Criminal Code.

Nevertheless, it is equally true that the procedural law, as interpreted by the well-established case law of the Court of Cassation (point 3.4.2. above), does not require advising someone of their right not to answer before asking them the questions listed in Article 21 RICCP. On the contrary, these questions are normally asked immediately after the person is warned, pursuant to Article 66(1) of the Code of Criminal Procedure, about the consequences they will be exposed to if they refuse to give their identification information.

Moreover, as the case law of the Court of Cassation also acknowledges, nothing prohibits any statements made in answer to these questions being used for a wide variety of purposes, throughout the criminal proceedings and trial. This plainly follows from Article 64(3-*bis*) of the Code of Criminal Procedure, since its prohibition on use of statements applies only to cases in which the warnings under paragraph 3 of that Article have been unlawfully omitted. According to the case law, these warnings are not required prior to asking the questions listed in Article 21 RICCP.

This legislative and judicial framework leaves the right to silence with insufficient protections, in light of the general principle of the effectiveness of the protection of the fundamental rights recognised by the Constitution. This Court has put particular emphasis on this principle in relation to the right of defence, which ranks among "the inalienable rights of the human person (Judgments No 238/2014, 323/1989, and 18/1982), that characterise Italian constitutional identity" (Order No 117/2019, point 7.1. of the *Conclusions on points of law*; on the effectiveness of the right of defence in its various corollaries, see, among many, recently, Judgments No 18/2022, points 4.3. and 4.4.2. of the *Conclusions on points of law*; 10/2022, point 9.2. of the *Conclusions on points of law*; and 157/2021, point 8.1. of the *Conclusions on points of law*).

Indeed, as the United States Supreme Court held in one of its best-known decisions of the last century (*Miranda v. Arizona*, 384 U.S. 436 (1966) 467), appropriate procedural safeguards must be put in place effective to secure the privilege against self-incrimination and ensure that the police and judicial authorities comply with it. The Supreme Court argued that, to counterbalance the inevitable psychological pressure that comes from in-custody or court interrogation, which might understandably compel the interrogated person to make statements they would not have made under other circumstances, the person must be "adequately and effectively apprised of his rights" by means of the well-known "warnings" laid out in the same decision. These were transposed nearly word-for-word by the Italian legislature into the current Code of Criminal Procedure. The system must also provide the corresponding procedural penalty of blocking the use of any statements the interrogated party made where this procedural obligation was violated (on the obligation, arising from Article 6 ECHR, to give prior notice of the individual's right not to reply, see also ECtHR, Judgments of 24 October 2013, *Navone and others v. Monaco*, paragraph 74; 27 October 2011, *Stojković v. France and Belgium*, paragraph 54; 14 October 2010, *Brusco v. France*, paragraph 54).

This procedural obligation and the corresponding procedural sanction are not currently provided in relation to the circumstances specified in Article 21 RICCP, notwithstanding the fact that they are susceptible to being used against the accused during criminal proceedings and trial. It follows that individuals are currently not put in a position to knowingly exercise their right to remain silent, and are by no means protected in the event that right is infringed.

The current state of the law, therefore, infringes Article 24 of the Constitution.

4.– This being said, the remedy proposed by the referring court with the first group of questions partly exceeds the purpose of bringing the law in line with the Constitution (point 4.1. below) and is partly insufficient to this aim (point 4.2. below).

4.1.—The referring court correctly points out that the Italian legislature has decided, as a general matter, not to impose any criminal sanction on suspects or defendants who make false statements in their defence. It, therefore, holds that specifically punishing those who make false statements in answer to the questions listed in Article 21 RICCP, pursuant to Article 495 of the Criminal Code, infringes Articles 3 and 24 of the Constitution. As a consequence, the referring court asks this Court to rule that Article 495 of the Criminal Code is unconstitutional to the extent that it categories statements of this kind as criminal conduct.

It is important to note that the referring court is not assuming, here, that the right to silence under Article 24 of the Constitution amounts to a *right to lie* – which would

always make the punishment of false declarations by a suspect or defendant unconstitutional. Such an assumption would not correspond to the internationally recognised concept of the right to silence, and would lack any support coming from this Court's case law. The cursory statement contained in Judgment No 179/1994, which legal scholars sometimes emphasise, that "the defendant not only enjoys the privilege not to answer, but is not even required to tell the truth" (point 5.1. of the *Conclusions on points of law*), merely describes the system designed by the legislature, and is not intended to specify the contents of the right to silence safeguarded by the Constitution.

However, according to the referring court, the legislature ought to be consistent, in the light of Article 3 of the Constitution, in protecting the right enshrined in Article 24 of the Constitution within the legal system. Once the legislature, in the exercise of its discretion, has held, as a general matter, that the need to protect this right prohibits punishing people suspected or charged with a crime who lie to the authorities on the circumstances of the fact in an attempt to defend themselves, it is constitutionally untenable – so goes the referring court's argument – to treat the analogous situations of making false statements about personal circumstances differently.

This Court does not share this view. The need for internal consistency of the legal system cannot go so far as to preclude the legislature from adopting a differentiated solution for two situations, both of which are covered by the right to silence, but which do not overlap completely.

The legislature's choice not to impose criminal sanctions, as a rule, upon suspects or defendants who lie in an attempt to defend themselves is grounded on solid reasons, and corresponds to a long-standing tradition in Italy. However, the fact that the law does not provide criminal sanctions for given conduct does not necessarily mean that this conduct is lawful (or even constitutes the exercise of a constitutional right).

The law recognises situations in which suspects or defendants, having opted not to avail themselves of their constitutional right to remain silent, may, indeed, be penalised for making false statements concerning other people's liability (Article 64(3)(c) of the Code of Criminal Procedure), or for claiming that a crime was committed which, in reality, was not (point 3.2. above). In scenarios like these, a penalty is considered necessary in order to effectively safeguard the public and private rights protected by Articles 367 and 368 of the Criminal Code.

As mentioned above, there is no perfect overlap between false statements about the crime (which the law generally considers non-punishable) and false statements relating to the suspect's or defendant's personal circumstances, which potentially fall under Article 495 of the Criminal Code. Given that the right to silence extends to both types of statements, this Court finds it is not unreasonable, in the event the person involved knowingly waives the exercise of that right, for the law to forbid them to make false statements about their personal circumstances, and to impose a criminal sanction if they disregard the prohibition. What is more, the ability of prosecutors to trust, in particular, the veracity of these statements, which are freely provided by the individual, also serves the individual's interest to avoid futile or excessive precautionary measures.

It follows that the finding that Article 495 of the Criminal Code is unconstitutional, to the extent it includes false statements made by people who were previously advised of their right not to reply to the questions listed in Article 21 RICCP, would produce an outcome that exceeds the purpose of ensuring that the current legislative and judicial framework conform to the Constitution.

4.2.– At the same time, the referring court's suggested remedy is inadequate to achieve the purpose of bringing the law in line with the Constitution. Indeed, this remedy only refers to the question of whether false statements are punishable, and not to the authorities' duty to advise people subject to interrogation of their right not to reply to questions, including those listed in Article 21 RICCP. This aspect of the matter takes precedence both logically and chronologically. Without this duty, as stated above, the right to silence with respect to these questions would be totally ineffective.

4.3.– It follows that the main questions raised by the referring court are unfounded.

5.– On the contrary, the subordinate questions raised by the referring court are well founded.

5.1.– Article 64(3) of the Code of Criminal Procedure violates, indeed, Article 24 of the Constitution.

According to the settled case law of the Court of Cassation (point 3.4.2. above), the police and prosecutors are currently not required to give the warnings referred to in Article 64(3) of the Criminal Code to a suspect or defendant prior to asking them the questions listed in Article 21 RICCP. Consequently, the general rule set by paragraph 3-*bis* – according to which a person's answers to these questions cannot be used if the warnings are omitted – does not apply.

In keeping with the considerations above (point 3.5.2.), this legislative and judicial framework is inconsistent with the need to safeguard the right to silence as enshrined in Article 24 of the Constitution. This constitutional right requires that suspects and defendants be duly advised, specifically, of their right not to answer questions about their personal circumstances other than those about their identification information, and warned about the possibility that any statements they make may be used against them.

Article 64(3) of the Code of Criminal Procedure must, therefore, be declared unconstitutional to the extent it fails to stipulate that the warnings indicated therein be provided to a suspect or defendant before they are asked to give the information described in Article 21 of the RICPP.

By effect of this ruling of unconstitutionality, the statements made by suspects or defendants who have not been given the warnings pursuant to Article 64(3) of the Code of Criminal Procedure cannot be used against them, according to paragraph 3-*bis*.

5.2.– The question as to the constitutionality of Article 495 of the Criminal Code, as laid out by the referring court as a subordinate matter – it, too, in reference to Article 24 of the Constitution – is also well founded.

Liability for making false statements about "one's own or another person's characteristics" under Article 495 of the Criminal Code does not conflict with Article 24 of the Constitution only when the suspect or defendant has been previously advised of their right not to reply, pursuant to Article 64(3) of the Code of Criminal Procedure. The legislature may then determine whether also to excuse an individual who has been so advised and nonetheless makes false statements anyway, in order to avoid adverse consequences related to their criminal proceedings or trial.

Article 495(1) of the Criminal Code must also be declared unconstitutional to the extent it does not create an exception to liability for suspects or defendants who make false statements when asked to provide the information described in Article 21 RICCP, but were not previously given the warnings referred to in Article 64(3) of the Code of Criminal Procedure.

ON THESE GROUNDS

THE CONSTITUTIONAL COURT

1) *declares* that Article 64(3) of the Code of Criminal Procedure is unconstitutional to the extent that it fails to provide that the warnings referred therein must be given to suspects or defendants before they are asked for the information described in Article 21 RICCP;

2) *declares* that Article 495(1) of the Criminal Code is unconstitutional to the extent that it fails to create an exception to liability for suspects or defendants who, when asked to provide the information specified in Article 21 RICCP, make false statements without having been given the warnings pursuant to Article 64(3) of the Code of Criminal Procedure;

3) *declares* that the additional questions as to the constitutionality of Article 495 of the Criminal Code, raised by the First Criminal Division of the Ordinary Court of Florence, in reference to Articles 3 and 24 of the Constitution, with the relevant referral order, are unfounded.

Decided in Rome, at the seat of the Constitutional Court, Palazzo della Consulta, on 6 April 2023.

Signed:

Silvana SCIARRA, President

Francesco VIGANÒ, Judge Rapporteur