DECISION NO. 22 YEAR 2022

The Court was asked to assess the constitutionality of the rules on residential facilities to enforce psychiatric security orders ("residenze per l'esecuzione delle misure di sicurezza", REMS) regarding offenders with mental disorders.

The ensuing judgment recalls that, according to legislation enacted in 2012, the REMS are residential facilities with a radically different purpose from that of the former judicial psychiatric hospitals, which operated exclusively as custodial facilities. By contrast, they are intended to contribute to the gradual social rehabilitation of their inmates. These are small facilities that promote maintenance or re-establishment of relations with the outside world. People suffering from a psychiatric illness may only be referred to such facilities when it is impossible to control the danger they pose to others by alternative means, such as referring them to local mental health services.

However, under Italian law, a decision to place an individual in a REMS is a psychiatric safety order issued by the criminal courts. They serve not only to ensure treatment but also to contain the threat to society of a person who has committed an offence.

This means – the Court noted – that the constitutional principles applicable to "security measures" (*misure di sicurezza*) and compulsory medical treatment must be complied with. These include "reservation to primary legislation" (*riserva di legge*, i.e., the requirement that the relevant matter must be regulated under primary State legislation) not only concerning the circumstances in which security measures may be ordered, but also the manner of implementation. However, only a small fraction of the rules currently applicable to REMS facilities are set out in primary legislation: most are contained in secondary legislation and agreements between the State and local government bodies, with the result that these facilities differ widely from Region to Region.

The Court also stressed that, due to severe operational problems, the system does not effectively protect the fundamental rights of potential victims of the offences which those with mental disorders might commit again, nor the right to health of the latter, who do not receive appropriate medical treatment. It notes, in this regard, that between 670 and 750 people are currently on waiting lists for allocation to a REMS, also remarking that the average waiting time is approximately ten months, although it is much longer in some Regions, adding that many of these people have committed serious, and in some cases violent, offences.

However, the Court holds that it is unable to declare the current legislation unconstitutional. Such a decision would result in "the abolition of the entire system of REMS, which has resulted from an unavoidable process of replacing the old judicial psychiatric hospitals"; to do so would leave "an intolerable gap in the protection of constitutionally significant interests".

The Court therefore calls upon the legislator to implement a comprehensive reform of the system without delay in order to ensure:

– an appropriate legislative framework for new psychiatric safety orders;

– the establishment and efficient operation throughout the country of a sufficient number of REMS to cover actual needs, as well as the enhancement of alternative non-custodial facilities for treating mentally ill offenders;

– appropriate involvement of the Minister of Justice in the coordination and monitoring of REMS facilities and other agreements to protect the mental health of offenders, in addition to planning for the associated budgetary requirements.

[omitted]

THE CONSTITUTIONAL COURT

[omitted]

in proceedings concerning the constitutionality [...] of Article 3-*ter* of Decree-Law No. 211 of 22 December 2011 [...] initiated by the Judge for Preliminary Investigations of the Court of Tivoli in criminal proceedings against P. G., with an order of 11 May 2020 [...].

after hearing Judge Rapporteur Francesco Viganò in the public hearing of 15 December 2021;

after deliberation in chambers on 16 December 2021.

JUDGMENT

The facts of the case

1.– With the order indicated in the headnote, the Judge for Preliminary Investigations of the Ordinary Court of Tivoli raised questions on the constitutionality [...] of Article 3-*ter* of Decree-Law No. 211 of 22 December 2011 [...].

1.1.– The referring court states that, in June 2019, it issued an order for P. G. – under investigation for assaulting a public official – to be referred, as a security measure (*misura di sicurezza*), to a "residential facility to enforce psychiatric safety orders" (*residenza per l'esecuzione delle misure di sicurezza* (REMS)). The technical consultant appointed by the Public Prosecutor had declared P. G. mentally disturbed and a danger to society, in part due to systematic alcohol abuse. The referring court also ordered that – until such time as he could be sent to a REMS, P. G. should be kept on probation in a psychiatric residential facility for long-term therapeutic-rehabilitative treatment [...] designated by the mental health centre [...] with territorial jurisdiction.

The Public Prosecutor then asked the Department of Prison Administration [...] of the Ministry of Justice to indicate in which REMS P. G. should be hospitalised.

In response, the Department of Prison Administration [...] of the Ministry of Justice provided a list of facilities, specifying that, in accordance with the Ministry of Health Decree of 1 October 2012 issued in conjunction with the Ministry of Justice, they are under the management of the health services of the Lazio Region and its mental health service were responsible for P. G.'s health care [...].

Over the following ten months, the Public Prosecutor tried in vain to enforce the hospitalisation order, but the local health authorities constantly rejected his demands due to a lack of places. In the meantime, P. G. had systematically refused all treatment and failed to comply with the terms of probation pending the availability of a place in a REMS.

[…]

Considered in law

[…]

2.– In essence, the referring court claims that the impossibility of enforcing the order for commitment to a REMS is not due to practical or organisational difficulties but to the structure of the legislation in force, which is incompatible with the Constitution for two different reasons.

Firstly, the challenged provision completely divests the Minister of Justice of any competence regarding the execution of a measure such as the one under consideration. This conflicts with Article 110 of the Constitution, which states that the "Minister of Justice has responsibility for the organisation and functioning of those services involved with justice". The referring court considers this to be the reason why it is impossible to enforce the order for admission to a REMS in the case at hand: entrusting the management

of a REMS to the health service alone, which is entirely under the control of the Regions and Autonomous Provinces, means that the Ministry of Justice, and in particular the Department of Prison Administration [...], cannot ensure the timely execution of a security measure issued by a criminal court regarding an offender, or in situations when there is evidence that the person concerned has committed a criminal offence, thus constituting a danger to society. Consequently, the constitutional requirement that the Minister of Justice alone must be responsible for the justice services is not met.

Secondly, the referring court considers the challenged provision unconstitutional as it delegates essential aspects of the rules governing measures that involve the deprivation of liberty and compulsory medical treatment to secondary legislation or agreements between the State and the local authorities. This objection arises from the alleged breach of the reservation on this matter to primary legislation within the meaning of Articles 25(3) and 32(2) of the Constitution, relating to the regulation of security measures and compulsory medical treatment, respectively. The court contends that the reservation is circumvented because the challenged provisions refer to secondary sources and arrangements with the local authorities, thus leading to the inconsistent application of the rules on the REMS across the country.

[…]

5.1.– [It is] first of all necessary to clarify the nature of referral to a REMS.

Even from the sparse wording of paragraph 3 of the challenged provision, it is clear that the legislator sought to emphasise that the facilities in question are meant to protect the beneficiary's mental health. They must be managed "[exclusively] by the health service" and can provide, "when required by the health condition of the interested party", only "external" and "perimetral" surveillance to prevent unauthorised egress.

It is also clear that the legislator intends to bring the establishment and subsequent management of the facilities in question within the remit of the regional health authorities, and, in particular, their mental health departments [...].

Nevertheless, as the law currently stands, referral to a REMS cannot be considered an exclusively health-related matter.

[…]

Analysis of the rules on referral to a REMS confirms that it differs from an ordinary form of treatment for mental health conditions, as it also constitutes a security measure.

Assignment to a REMS is, first of all, a measure curtailing individual liberty as the person concerned may be lawfully prevented from leaving the facility. During their time at a REMS, patients may receive compulsory medical treatment, even against their will. Referral to a REMS also differs from the compulsory medical treatment for mental illness governed by Articles 33 to 35 of Law No. 833 of 23 December 1978 (Establishment of the National Health Service), which is also compulsory, in so far as such a measure:

– presupposes not only that the person concerned a) has a mental illness (or 'mental impairment', in the wording of the Criminal Code), but b) has also committed a crime (Article 202 of the Criminal Code), and c) has been assessed as socially dangerous (Article 202 of the Criminal Code), i.e., as a person who is likely to commit further criminal offences (Article 203 of the Criminal Code);

– is not applied by an administrative body and later endorsed by a judge, as envisaged by Article 35 of Law No. 833 of 1978, but by a criminal court (Articles 222 and 206 of the Criminal Code);

– is enforced by the "supervisory magistrate" (*magistrato di sorveglianza*) (Article 679(2), Code of Criminal Procedure; Article 69(3), Prisons Act), who "assesses the danger posed within the meaning of Article 208(1)(2) of the Criminal Code, and the

application, execution, transformation, or revocation, even before time, of safety and security measures" (Art. 69(4), Prisons Act), and can always revoke referral to a REMS or replace it with the lesser measure of probation (sentence No. 253 of 2003), and the person concerned can be entrusted to the local health services for mental health care.

5.2.– Unlike standard mental health care, referral to a REMS as a safety measure serves to contain the dangerousness of mentally ill persons who have committed – or are seriously suspected of committing – a crime.

This role, however, is not incompatible with the aim of curing mental illness. It is precisely through this concurrent aim – as an expression of the primary duty of the law to care for the health of every individual enshrined in Article 32 of the Italian Constitution – that the natural function of a safety measure as a means of social rehabilitation comes into play (point 4 of the Consideration in Law of Judgment No. 197 of 2021, and point 4.4. of the Consideration in Law of Law No. 73 of 2020).

As this Court pointed out almost twenty years ago regarding the judicial psychiatric hospital and – implicitly – probation for the mentally ill (made possible by that very ruling), offenders who "may not be subject to measures of even a partially punitive nature" must have access to "therapeutic measures no different from those generally considered appropriate in the treatment of the mentally ill. On the other hand, the danger that such persons pose to society, having committed criminal acts, […] reasonably requires measures to contain this risk and protect society from further danger. The security measures for mentally disturbed persons without mental capacity inevitably move between these two poles and are justified, in a system based on the personalist principle (Article 2 of the Constitution), as they simultaneously serve two associated and inseparable purposes (cf. Judgment No. 139 of 1982): the care and protection of the mentally infirm, and the containment of their danger to society. A system catering to only one of these purposes (to keep a disturbed person deemed 'dangerous' under control) but not the other cannot be considered constitutionally admissible" (Judgment No. 253 of 2003).

Replacing admission to a judicial psychiatric hospital or referral to a care and custody home (as envisaged in the 1930 Criminal Code) with referral to a REMS represents a significant move towards implementing the principles expressed in that decision. Institutions set up as detention centres, almost exclusively designed to protect society from the danger posed by its inmates, were clearly unsuitable as, in practice, they totally and often permanently segregated them from the community at large. Consequently, the regulations that have gradually come into being since 2012 have radically rethought the rationale of security measures for unaccountable or semi-accountable offenders, ensuring their efficacy and the therapeutic goals upon which their lawfulness depends.

Thus, the new measure (referral to a REMS) is markedly therapeutic and rehabilitative. It is conceived as a means of reintegration into society, consisting of small residential facilities and promoting the maintenance or re-establishment of relations with the outside world. At the same time, the scope of application of this new measure is expressly limited to cases where there is a real need to contain the danger to society posed by the offender. It is a last resort or, at any rate, a solution involving the minimum necessary sacrifice within the meaning of Article 13 of the Constitution, which concerns all measures involving the deprivation of liberty (Point 6 of Article 13, Judgment No. 250 of 2018 on preventive custodial measures; Point 4(4) of the Conclusions on points of law of Judgment No. 179 of 2017 on custodial sentences; Point 13 of the Conclusions on points of law of Judgment No. 265 of 2010 on preventive measures). If there is no real

necessity, the court must favour alternative control and treatment strategies, such as those provided by the competent local mental health departments, possibly within the framework of the prescriptions dictated by the less severe measure of probation.

5.3.– The "dual-headed" nature – also present in the current legislation – of the REMS as a distinctly health-related security measure entails compliance with the constitutional principles underpinning security measures on the one hand, and compulsory health treatment on the other.

5.3.1.– As for the first aspect, Article 25(3) of the Italian Constitution states that "no one may be subjected to restrictive measures except in the cases provided for by law". This provision provides a different perspective on the principle of legality *vis-à-vis* security measures from the content of the second paragraph on punishment and does not exclude retroactivity *in peius*. However, there is no reason to consider that the different corollary of the reservation to primary legislation, expressly established in the second and third paragraphs, has a differentiated content for punishment, on the one hand, and security measures on the other, since in both cases reservation is absolute and refers to State legislation (on the absolute nature of the reservation to primary legislation in criminal matters, see Order No. 24 of 2017, Judgment No. 333 of 1991, No. 282 of 1990, and No. 26 of 1966; on the insufficiency of a Regional law to satisfy the reservation in Article 25(2) Const., see Judgment No. 5 of 2021, No. 134 of 2019, and No. 487 of 1989).

Moreover, although Article 25(3) of the Constitution expressly provides that only the law can establish the "cases" when a restrictive measure may be applied, an interpretation in the light of Article 13(2) can only lead to the conclusion that the law must also state, at least in broad terms, in what ways a restrictive measure may limit the personal freedom of the individual to whom it is addressed. It is inconceivable that the Constitution should have intended to burden the law with the task of specifying the ways in which personal freedom may be curtailed, only to abandon this requirement for punishments and security measures, i.e., those most typically capable of restricting – and indeed depriving individuals of – liberty, often for lengthy periods or even for the rest of their lives. Precisely to meet this constitutional requirement, with the Prison Act of 1975, the legislator established detailed regulations for the execution of penalties and security measures, which had for too long been entrusted to mere secondary sources (for the long-standing case law of this Court enouncing that the prison system is "a matter for the law, in accordance with Article 13 of the Constitution", see Judgment No. 26 of 1999; on the extension of a different corollary of the lawfulness of punishments, in particular, the prohibition of retroactive application *in peius* to the regulation of the modes of enforcing sentences, see Judgment No. 32 of 2020, No. 183 of 2021, and No. 193 of 2020).

Similar considerations must also be made concerning the reservation of primary legislation in relation to compulsory health treatment within the meaning of Article 32(2) of the Italian Constitution. At least when the law establishes that a specific treatment is not only "compulsory" – i.e., potentially involving penalties for those who do not voluntarily submit to it – but also "coercive" – as the addressee may be physically forced to undergo it, albeit within the limits imposed by respect for the human person – the protection envisaged in Article 32(2) of the Constitution must be added to those found in Article 13, protecting personal freedom, which is at risk in every case of coercion affecting the body (Judgment No. 238 of 1996). Consequently, the law must establish the "cases", as well as the "modes" in which a patient may undergo treatment against their will. Indeed, Article 32(2) establishes that treatment must be "determined", and therefore described and regulated by the law.

5.3.2.– However, the current regulations regarding referral to a REMS, as rightly observed in the referral order, reveal clear points of friction with regard to these principles.

[…]

Most of the current regulation concerning REMS is based on non-legislative acts, namely the Ministerial Decree of 1 October 2012 [...], the agreement adopted in Joint Conference on 26 February 2015 [...], and all the consequent acts adopted by the individual Regions and Autonomous Provinces.

Thus, if the primary source – specifically the rules in the Criminal Code, in conjunction with Article 3-*ter*(4) of Law Decree No. 211 of 2011 as converted – prescribes the "cases" when the new restrictive measure can be applied (in practice, all the cases where hospitalisation in a judicial psychiatric hospital or referral to a care or custody home could have been applied in the past), the "modes" in which the measure is to be applied, with the deprivation of liberty that this implies, are still almost exclusively entrusted to secondary sources and agreements between the Government and the local authorities.

Furthermore, the Criminal Code, the Prison System Act, and the Prison Regulations continue to refer to and regulate the commitment to judicial psychiatric hospitals and referral to care and custody homes, even though they are no longer present in the system due to the provision complained of here. Indeed, the legislator has taken no action to amend these references or coordinate the rules. To do so would not be a merely formal act, considering the profoundly different structure and function of and rationale of the REMS compared with the old institutions.

The constitutional requirement for regulation by a primary source at State level meets the undisputable need to protect the fundamental rights of offenders whose illness makes them particularly vulnerable. Suffice it to recall that mental disorders are not infrequently treated using controversial methods involving physical or pharmacological restraint, perhaps the most intense forms of coercion to which a person can be subjected. Articles 13 and 32(2) of the Constitution, like Article 2, which protects the inalienable rights of the person, including psychophysical integrity, require the legislator to assume the problematic responsibility of establishing – naturally, as a last resort, within the boundaries of proportionality to the therapeutic needs, and provided that the dignity of the person is respected — whether and to what extent it is lawful to have recourse to restraint in a REMS and, if so, what the admissible modes of implementation are (on the limits of the lawfulness of physically restraining psychiatric patients from the international human rights law perspective, see European Court of Human Rights, Judgments of 19 February 2015, *M. S. v. Croatia No. 2*, paragraphs 98 and 103-105, and, more recently, 15 September 2020, *Aggerholm v. Denmark*, paragraphs 81-85; in German law, Federal constitutional Court, Judgment of 24 July 2018, 2 BvR 309/15 and 2 BvR 502/16).

Moreover, the law cannot fail to address the need for precise and uniform regulation throughout the entire Italian territory, establishing the role and powers of the judicial authorities, and in particular the supervisory judiciary, in relation to the treatment of persons interned in a REMS and their judicial protection with respect to the decisions of the relevant administrations (on the constitutional obligation for the system to ensure "judicial guarantees within the institutions responsible for the execution of measures restricting personal freedom", see Judgment No. 26 of 1999). The markedly therapeutic aim of these facilities cannot avoid the fact that the treatment they provide severely limits inmates' personal freedom and does not obviate the need to protect them from possible

abuse.

5.4.–. Furthermore, the entire referral order evidences that the system in place for admission to a REMS is seriously and structurally flawed. This, the referring court claims, is illustrated by the case in question, where the measure regarding the person concerned still cannot be enforced almost a year after the order was issued despite the countless attempts of the Public Prosecutor's office to do so, duly detailed in the referral order.

The investigation undertaken by this Court has amply confirmed and shed further light on the referring party's account.

A number of persons at least equal to those hosted in the thirty-six currently active REMS – approximately 670 (according to the calculations of the Ministry of Health and the Conference of the Regions and Autonomous Provinces) or 750 (according to the calculations of the Ministry of Justice) – are currently awaiting allocation to a REMS in their region of residence or elsewhere (facts of the case, point 5.3.). On average, patients remain on the waiting list for approximately ten months, but in some Regions the time required for allocation to a REMS can be much longer (facts of the case, point 5.3.). Persons on the waiting list are often charged with, or convicted for, very serious offences, including domestic abuse, persecutory conduct, sexual violence, robbery, extortion, assault, and even murder or attempted murder (facts of the case, point 5.4.).

It is not for this Court to establish whether, as the Ministry of Justice maintains, the length of the waiting lists is primarily due to the overall lack of available places, the absence of alternative solutions to safeguard the health needs of the individual and protect the community, coupled with the failure of the State to intervene in the more problematic Regions; or whether, as the Ministry of Health and the Conference of Regions and Autonomous Provinces argue, the judicial authorities commit too many people to a REMS on account of a widespread failure to adopt the new cultural approach underlying the reform.

In any case, this Court cannot fail to note the problem caused by lengthy waiting lists when executing measures issued by the judicial authorities against offenders on the assumption that they pose a danger to society and, therefore, within the meaning of Article 203 of the Criminal Code, are likely to re-offend. By their very nature, such measures should be enforced immediately, in the same way as the pretrial measures envisaged by the Code of Criminal Procedure, given the need to prevent risks such as the offender committing further serious offences (Article 274(1)(c) of the Code of Criminal Procedure).

A situation where measures designed to prevent new offences remain systematically unexecuted for several months is much more than a mere inconvenience in terms of the concrete implementation of the legislative framework; rather, it reveals a systemic flaw in the protection of the whole range of fundamental rights that referral to a REMS is intended to protect. It is a flaw to which this Court – no less than the Strasbourg Court, which has been stressing for decades that the Convention serves to protect the effectiveness of rights (at least since ECtHR Judgment of 9 October 1979, *Airey v Ireland*, paragraph 24: "The Convention is intended to guarantee not rights that are theoretical or illusory but rights that are practical and effective") – cannot remain indifferent, also in the light of Art. 3(2) of the Constitution (as already emphasised in Judgment No. 215 of 1987, to the effectiveness of the right to education; on the principle of the effectiveness of judicial protection, see Judgment No. 10 of 2022, Nos. 157 and 48 of 2021, and the precedents referred to therein, as well as Judgment No. 26 of 1999 numerously cited).

On the one hand, widespread and significant delay in enforcing the measures in question leads to a lack of effective protection of the fundamental rights of potential

victims of violence, which a person suffering from psychiatric illness, often the perpetrator of serious or very serious offences, could commit again, and which the legal system must prevent. On the other, failure to implement these measures promptly also infringes the right to health of the ill person, who remains untreated while awaiting referral, despite the legally guaranteed minimum level of welfare (facts of the case point 5.9) he or she requires for a return to health and gradual reintegration into society.

The solution to this lack of protection cannot simply be to pack more people into the existing REMS: such a remedy would only lead to overcrowding, thus undermining their function and usefulness for health care and rehabilitation. Nor can the people be temporarily sent to prison, as they need treatment and rehabilitation – which prison cannot provide. Indeed, in response to the various proceedings pending before the European Court of Human Rights (one of which has now concluded with the Judgment of 24 January 2022, *Sy v. Italy*) brought by persons with psychiatric illnesses who have been detained in penitentiary establishments, the report of the Ministers of Justice and Health and the Conference of Regions and Autonomous Provinces expressed the joint commitment of all the institutional actors involved to resolve these situations, which are likely to give rise to intolerable violations of the fundamental rights of the persons concerned (facts of the case, point 5.5.).

The problem of waiting lists must be addressed without delay, with adequate funding by the central Government and the Regions and adopting the various strategies proposed in the report by the Ministries of Justice and Health and the Conference of Regions and Autonomous Provinces (facts of the case, point 5.12.); these would gradually eliminate the current gap between the number of available places and the number of referrals. Any solution requires a broad range of interventions as proposed by the various institutions: from upgrading and increasing the number of mental health care facilities, thus reducing to the maximum the need to resort to custodial measures in the REMS; to the establishment of shared criteria for choosing the measures best suited to the clinical status and danger to society posed by the offender. Even the creation of new REMS could be envisaged if there is no other solution to cope with a demand that cannot be further reduced.

The Court's investigations have also shown that the difficulties reported relate to specific Regions, where the waiting lists are particularly numerous, and the average waiting time extends considerably longer than a year. This creates an intolerable situation in which fundamental rights do not receive unequal protection across the country, thereby increasing the number of potential victims at the hands of socially dangerous persons and putting offenders' health at risk. Possible solutions should therefore include the exercise of ordinary substitutive powers by the Government under Article 120(2) of the Constitution in Regions that fail in their constitutional duty to ensure the essential levels of services to protect the civil and social rights of those referred to a REMS.

6.– This Court, therefore, acknowledges the existence of the gaps complained of by the referring court [...], yet has no choice but to rule [...] inadmissible the questions raised by the referring court concerning Article 3-*ter* of Decree-Law No. 211 of 2011, as converted, also in the light of the findings of the preliminary investigation.

[…]

Declaring the challenged provision unconstitutional for violation of the reservations to primary legislation within the meaning of Article 25(3) and Article 32 of the Constitution would lead to [...] the abolition of the entire REMS system, which has resulted from an unavoidable process of replacing the old judicial psychiatric hospitals; and would produce not only an intolerable gap in the protection of constitutionally

significant interests, but also a result diametrically opposed to the one pursued by the referring court, which seeks to render the existing system more efficient, overcoming the difficulties that prevent timely admission to a suitable facility (on the inadmissibility of questions which, if accepted, would produce a result inconsistent with the objective pursued, Judgments No. 21 of 2020, No. 239 of 2009 and No. 259 of 2009, No. 21 of 2020, No. 239 of 2019, and No. 280 of 2016).

The above considerations have, however, highlighted the urgent need for a sweeping reform of the system, capable of providing for:

– a sufficient legislative basis for the new security measure, in harmony with the principles outlined above;

– the creation across the country of a sufficient number of efficient REMS, in the context of a complete and urgent overhaul of the facilities provided nationwide, ensuring an adequate range of health care solutions and equally adequate protection of the community (and the fundamental rights of the potential victims of crimes that those subjected to security measures may commit);

– appropriate involvement by the Ministry of Justice in coordinating and monitoring the correct functioning of the existing REMS and other forms of mental health treatment to be set up as alternative probationary security measures, as well as the involvement of the Ministry of Justice in the budget for REMS.

While declaring that the present questions are inadmissible, this Court cannot, however, fail to emphasise – as on other analogous occasions (in particular, Judgment No. 279 of 2013, and more recently, albeit in a different context, Judgment No. 32 of 2021) – that excessive continuance of legislative inaction with regard to the urgent problems evidenced in this Judgment would be intolerable.

ON THESE GROUNDS

THE CONSTITUTIONAL COURT

declares inadmissible the questions of constitutionality [...] regarding Article 3-*ter* of Decree-Law No. 211 of 22 December 2011 [...] raised with reference to Articles 2, 3, 25, 27, 32, and 110 of the Constitution by the Judge for Preliminary Investigations of the Court of Tivoli by the order indicated in the headnote.

Decided in Rome, at the seat of the Constitutional Court, *Palazzo della Consulta*, on 16 December 2021.

Signed by:

Giancarlo CORAGGIO, President

Francesco VIGANÒ, Author of the Judgment