



Press Office of the Constitutional Court

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*Press release of 21 July 2020*

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TRIVIALY UNLAWFUL CONDUCT: FAILURE TO PROVIDE THIS  
EXEMPTION FOR OFFENCES WITHOUT A LEGALLY PRESCRIBED  
MINIMUM CUSTODIAL SENTENCE IS UNCONSTITUTIONAL

Exemption from criminal liability due to the “particularly trivial nature of the unlawful conduct” is available for the offence of handling stolen property established by Article 648(2) of the Criminal Code, and for all offences for which – there being no legally prescribed minimum term of incarceration – the absolute minimum custodial sentence of 15 days applies.

This was held by the Constitutional Court in [Judgment No. 156](#), filed today (Judge Rapporteur: Stefano Petitti), in which it declared Article 131-*bis* of the Criminal Code unconstitutional insofar as it does not apply the said exemption to offences for which the law does not prescribe a minimum term of imprisonment, but does envisage a maximum custodial sentence exceeding 5 years.

The Court noted that the legislator chose to allow the absolute minimum custodial sentence (15 days) to be imposed, thus acknowledging that some unlawful conduct can be only minimally harmful. In these cases, therefore, it would be unreasonable to exclude applicability of the exemption.

Rome, 21 July 2020