



Press release of 16 March 2021

REGISTRATION DUTY: THE RETROACTIVITY OF A GENUINE SYSTEMATIC PROVISION IS NOT UNCONSTITUTIONAL

“It is not possible to challenge” the constitutionality of a legislative measure conferring retroactive effect on a “genuine systematic provision”. This is the case even when said action results from the intention to remedy an interpretation that has become settled in case law (including in the case law of the Supreme Court of Cassation), but differs from the legal policy direction that the Legislator deems most appropriate.

This is the core of the reasoning underlying [Judgment No. 39](#), filed today (Judge Rapporteur: Luca Antonini), in which the Court declared the unfoundedness of the questions raised by the Provincial Tax Board of Bologna relating to Article 1(1084) of Law No. 145 of 2018. This provision qualified, as the “authentic interpretation”, the legislative measure adopted the previous year, concerning the interpretation of transactions for the purposes of applying the registration duty (Article 20 of the Decree of the President of the Republic No. 131 of 1986).

Thus, shortly after Judgment No. 158 of 2020, the Court again rules upon these same subjects, examining them from the viewpoint provided by this peculiar set of legal events.

In fact, the Court reiterated that, for the purposes of constitutional review, the innovative or interpretive nature of the provision qualifying as the authentic interpretation (with retroactive effect) does not assume decisive significance, in and of itself. In this regard, it specified that in the case before the Court, the key aspect was the entire, decades-long and complex history of the application of the registration tax. As highlighted in [Judgment No. 158 of 2020](#), this history was characterized by an accumulation of interpretations, developed in case law also in response to the various evolutions of the legal system brought about by the Legislator.

Rome, 16 March 2021