



Press Office of the Constitutional Court

Press release of 22 July 2020

THE COVID EMERGENCY AND RELEASES FROM PRISON: THE CONSTITUTIONAL COURT REFERS CASE BACK TO SPOLETO SUPERVISORY JUDGE

Today, the Constitutional Court examined the questions raised by the Spoleto Supervisory Judge as to the constitutionality of Article 2 of Decree-law No. 29 of 10 May 2020. The provision concerns the releasing – in connection with the COVID emergency – of inmates convicted of especially serious crimes.

Pending filing of the order, the Press Office of the Constitutional Court informs the public that the Court has decided to refer the case back to the Spoleto Supervisory Judge for it to ascertain whether, in light of the amendments introduced by Law No. 70 of 2020, which was subsequently enacted, the questions raised are still to be considered not manifestly unfounded.

The challenged provision establishes a mechanism for the regular re-evaluation – to be conducted by supervisory judges – of orders granting house arrest or deferment of the prison sentence due to the pandemic. This re-evaluation is to be conducted on the basis of opinions and information that the judges must acquire from – among others – the National anti-mafia prosecutor and the Department of Prison Administration. If the conditions justifying the release no longer prevail, the release must be revoked.

According to the Spoleto Supervisory Judge, the provision in question violates the right of defence and equality of arms in judicial proceedings, as well as the principle of equality, given that the documents and information referred to in the re-evaluation are not shared with the defence.

The Court noted that after Decree-law No. 29/2020, Law No. 70 of 2020 was approved. According to this law, when a supervisory judge has ordered release on a provisional basis and the convict has returned to prison, the relevant supervisory court must reach a final decision on the convict's request for release within the

compulsory deadline of 30 days. During these proceedings, the defence must be able to access the case documentation fully.

Therefore, the Spoleto Supervisory Judge will have to re-evaluate whether the constitutional rights of convicted persons now receive adequate protection.

The order will be filed in the coming days.

Rome, 22 July 2020

Palazzo della Consulta, Piazza del Quirinale 41 Roma - Tel. 06.46981/06.4698224/06.4698511