



Italian Constitutional Court Annual Report 2022





Italian Constitutional Court
Annual Report 2022



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Left: the entrance to Palazzo della Consulta

Next page, the Panel of Judges chaired by President Silvana Sciarra since 20 September 2022



«Not only impartial but seen to be impartial»

The style of a Court that communicates

An interview with President Silvana Sciarra

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the Annual Report



Madam President, in practical and symbolic terms, what does the return of the judges to the courtroom after the pandemic period mean? Does it represent a restoration of the Court's ritual practices rather than a simple return to normality?

“I would refer to it as a return to our rituals because the Court never actually stopped working: even during the most difficult months of the pandemic, we continued to hold remote meetings. We eventually had to relocate to a different room on the fifth floor of Palazzo della Consulta to comply with the distancing measures adopted to curb the spread of the virus and adjust some of our working methods accordingly. Returning to the official courtroom now represents a particularly important step because we are reopening a social space familiar to the public as a historical venue where the hearings take place and that sets them apart. It gives the impression of a very immersive, semi-circular layout where the judges face each other, almost as if to visually highlight the collaborative nature of their decisions as they communicate with the public. It's important to me that, alongside highly qualified professionals, university students who book to observe the Court's proceedings attend public hearings”.

Among the more sensitive decisions the Court handed down in recent months are the judgments concerning the choices that led the legislature to implement mandatory vaccination as a measure to combat the Covid-19 pandemic.

“The Court's decisions on mandatory vaccination were guided by the principle that the legislator's choices were not unreasonable, considering the scientific data available at the time and the urgent need to control the Covid-19

pandemic. Furthermore, we should bear in mind that these decisions sought to protect the national health system, which was under unprecedented pressure. The Court looks to the concept of non-unreasonableness to protect the decision-making autonomy of the legislator. In every decision on mandatory vaccination, the Court refers to the scientific data currently available. This approach also serves to address objections from those who oppose vaccination. We based our decisions on scientific data and the information assessed by the competent national and international bodies”.

How effective was the balancing act the Court sought to strike between the free choice of the individual and safeguarding public health?

“The Court once again emphasised that, in duly balancing the collective and individual dimensions of the right to health, a correlation that had already been remarked in previous judgments should be considered: the principle of solidarity that underlies social coexistence, as enshrined in the Constitution, justifies the imposition of compulsory health treatment. Article 32 of the Constitution makes it necessary to strike a delicate balance between the ‘fundamental rights of the individual’ and the ‘interests of the community’. The principle of solidarity plays a crucial role in this balance, as emphasised in the recent Decisions No 14 and No 15 of 2023 on compulsory vaccination for health service personnel, in which the Court recognised the two-fold value of solidarity underlying Article 32. Especially in the field of public health, individual rights may be limited for the sake of the interests of the community. The (individual) rights of others are taken into account in the name of the ‘horizontal’ solidarity that

binds each member of the community to their fellow citizens. The non-derogable duties incumbent upon every individual exist to safeguard and guarantee the rights of others, which are a reflection of their own rights. It is the responsibility of the legislator to balance these subjective situations, and it falls to this Court to ensure that the correct balance has been struck”.

Do you really believe that the Court has succeeded, albeit in part, in convincing the people who were – and remain – opposed to compulsory vaccination?

“It is my hope that the judgments will demonstrate the respect which the Court has always shown for individual choice, especially considering that those who were unable to receive vaccines due to proven medical reasons were protected by the legislator”. The Court has also been careful to empha-

size the symmetry upon which solidarity is based: health protection involves both the individual and the community. Duties, not only rights, are reciprocal. I have the vaccine not only for myself but also for the community...”

With the recent revision of Article 9 of the Constitution, the protection of the environment, biodiversity and ecosystems is now one of its fundamental principles, expressed in the wording “also in the interest of future generations”. The constitutional reform law was approved by a large parliamentary majority, ruling out possible requests for a confirmatory referendum.

“Before this significant constitutional amendment, the Court had already been advocating for a narrow interpretation of landscape protection, envisaging a broad and inclusive defence of the environment. The landscape is of

significant visual importance and represents the morphology of places. It is a crucial part of our history and serves as a foundational element that helps us preserve other important aspects of our lives. The Court has always been attentive to these matters. A new and noteworthy development is the inclusion of an explicit reference to future generations, a significant challenge – in this new phase – for judges who must now work to give it practical significance. Reference to future generations, not yet holders of rights, establishes and defines the responsibilities of *current* generations, including the ruling classes and lawmakers, who must ensure the well-being of those who will succeed them”.

Despite the Court’s repeated solicitations addressed to the legislator regarding life sentences with no possibility of parole, the Court returned the cases to the Court of Cassation because the Government had passed a decree-law on the matter, which was later approved by Parliament.

“In keeping with the principle of sincere cooperation between institutions, the Court has also issued reminders to the legislator regarding the sensitive issue of life sentences with no possibility of parole and the provisions governing conditional release and other prison benefits for prisoners who do not cooperate with justice. In other words, also in this case, the judges postponed their decision and scheduled a new hearing in order to allow Parliament and the Government to act. The Court sent the case back to the Court of Cassation to decide after the new legislation regulating the issue came into effect last autumn”.

Is the Court therefore right to make an effort to respect the sometimes lengthy legislative process?

“Sincere cooperation between institutions is a rather sensitive matter grounded in reciprocity and sincerity in relations between the various institutional bodies. It is my belief that the Court, in a republican spirit of collaboration with Parliament, may choose to exercise restraint in certain exceptional circumstances and allow it sufficient time to draft new legislation. Undoubtedly, there will come a time in the near future when it will be necessary to reflect very seriously on the Court’s decision to grant Parliament such a degree of leeway, as it has not always given citizens satisfactory or timely outcomes on some very sensitive and socially significant matters”.

The Court’s decisions often concern the enforcement of criminal sentences and prisoners’ rights.

“Life sentences without parole and Article 41-bis of the Prisons Law have kept the Court occupied throughout the year. Among others, I can mention Judgment No 20, which stated that, in order to submit an admissible request for conditional release, it is legitimate to distinguish between the position of a detainee who can ‘objectively’ cooperate with justice but ‘subjectively’ does not wish to do so, and that of one who would ‘subjectively’ like to cooperate but ‘objectively’ cannot”. Again on the topic of the so-called ‘enhanced surveillance regime, the Court has affirmed that the censorship clearance procedure for correspondence between a detainee held under the 41-bis regime and their lawyer breaches the right of defence. This is an example of balanc-



ing the execution of a sentence with the recognition of the detainee's rights in accordance with a judgment on the constitutionality of prison sentences. It highlights the importance of not unduly restricting the guarantees protecting the individual".

As the Court resumes its tour of schools across Italy, it aims to reach out to young students. What are the key words in the Constitution that best embody the idea of a future for a student who will be over 50 years old around the middle of the century?

"Person, environment, work, and health: these are the first four words – although the list could be much longer – all of which refer to the rights and protection that the Constitution guarantees. I believe that, in today's world, it is more important than ever for younger generations to learn about



and take ownership of the Constitution. The Court's resumption of school visits, after being interrupted by the Covid-19 pandemic, provides an opportunity for the judges to engage directly with sec-

ondary school students and raise their awareness of the Court's role in protecting fundamental rights and freedoms. Through these visits, students can gain insight into how the judges work and understand the impact that constitutional jurisprudence has on people's lives. I also have another project in mind that I would love to see operating in the second half of the year. It would involve telling the story of, and explaining, the Constitution to primary school children".

Madam President, speaking of the relationship between the Constitutional Court and international courts, you have often stated that national identity is strengthened today not against Europe but through Europe, and that sovereignty, which is also an element of identity, can be defended, if not strengthened, beyond the State. However, in the light of Russia's aggression towards Ukraine, which strikes at the heart of Europe, how can we remain optimistic about this?

"I am convinced that the strength of our democracies also lies in the ongoing dialogue between national constitutional courts and the European courts, particularly the European Court of Human Rights and the Court of Justice of the European Union, confirming a transversality of rights which, woven together, strengthen and expand to reach an ever-widening audience. And I

strongly believe that within this framework of constant collaboration, national identity and sovereignty can remain under the full control of States while also serving as the engines for new

supranational mechanisms. The underlying theme for the European Union and the larger community of Council of Europe member States is to regulate the mechanisms of these engines and ensure they function in an increasingly synchronous and integrated manner. The productive exchange between the Constitutional Court and supranational and international courts serves to strengthen the fabric of democracy, fostering mutual trust and shared responsibilities".

What are the limitations and strengths of a panel of judges who are equal but have diverse professional and cultural backgrounds?

"The Court's decisions are always the result of collective effort, and individual dissenting opinions are not published, because what is emphasised is, fundamentally, the inalienable principle of collegiality. The panel of judges at the Constitutional Court is significantly, and I would say virtuously, influenced by its pluralistic, diverse, and multidisciplinary composition, which sets the Italian Court apart from other courts. This complexity also represents a wealth and assurance in the balance between institutions. In my experience as a constitutional judge coming from the world of academia, this variety of opinions and knowledge has certainly helped my personal growth in a continuous exchange with other judges who come from different experiences and professions".

Each President of the Constitutional Court is also remembered for their attention to statistics and the Court's 'productivity'.

"In my view, each of the Presidents who have led the Court before me has prioritised the effective and efficient

functioning of the institution as their foremost objective. Each of my predecessors has made a valuable contribution to the crucial objective of resolving pending cases, and my own presidency is equally committed to achieving important results in this regard. I count on the constant and invaluable support of all the Offices of the Constitutional Court".

Madam President, is there a sustainable practice that strikes a balance between those who argue that the Court should communicate solely through its judgments and those who would like to see the Constitutional Court have a much stronger media presence?

"There can be no doubt that we have a duty of communication and transparency towards citizens and the institutions. The Court continues to fulfil this duty by providing information that is as precise, impartial, and detailed as possible. This is mainly achieved through press releases published when judgments are filed on the institutional website and its social media accounts in order to make the content of the reasoning, which is necessarily drafted in technical language and sometimes not immediately understandable, accessible to everyone, not only to experts. For the entire Panel and the individual judges, the obligation to communicate and be transparent must always measure itself against their duty to not only be impartial but also appear impartial in the eyes of the citizens watching us. The Court must not only maintain genuine impartiality, but also ensure through its communication that this impartiality is visible, so that it can be perceived and felt by all those with whom we interact".



The Court

The President



**SILVANA
SCIARRA**

Judge Sciarra, Full Professor of Employment Law, was elected to the Court by Parliament on 6 November 2014 and sworn in on 11 November of the same year. She was appointed Vice-President of the Constitutional Court on 29 January 2022. She was elected President on 20 September 2022.

Vice-President



**DARIA
DE PRETIS**

Judge de Pretis, Full Professor of Administrative Law, was appointed to the Court by the President of the Republic on 18 October 2014 and sworn in on 11 November of the same year. She was appointed Vice-President of the Constitutional Court on 29 January 2022.

Vice-President



**NICOLÒ
ZANON**

Judge Zanon, Full Professor of Constitutional Law, was appointed to the Court by the President of the Republic on 18 October 2014 and sworn in on 11 November of the same year. He was appointed Vice-President of the Constitutional Court on 29 January 2022.

The photo on the left shows the Panel of Judges, presided over by Silvana Sciarra, standing on the monumental staircase of Palazzo della Consulta



**FRANCO
MODUGNO**

Judge Modugno, Professor Emeritus of Constitutional Law, was elected to the Court by Parliament on 16 December 2015 and sworn in on 21 December of the same year.



**AUGUSTO ANTONIO
BARBERA**

Judge Barbera, Professor Emeritus of Constitutional Law, was elected to the Court by Parliament on 16 December 2015 and sworn in on 21 December of the same year.



**GIULIO
PROSPERETTI**

Judge Prosperetti, Full Professor of Employment Law, was elected to the Court by Parliament on 16 December 2015 and sworn in on 21 December of the same year.



**STEFANO
PETITTI**

Judge Petitti is a former Division President of the Court of Cassation, which elected him to the Constitutional Court on 28 November 2019. He was sworn in on 10 December of the same year.



**ANGELO
BUSCEMA**

Judge Buscema is a former President of the Court of Auditors, which elected him to the Constitutional Court on 12 July 2020. He was sworn in on 15 September of the same year.



**EMANUELA
NAVARRETTA**

Judge Navarretta, Full Professor of Private Law, was appointed to the Court by the President of the Republic on 9 September 2020 and was sworn in on 15 September of the same year.



**GIOVANNI
AMOROSO**

Judge Amoroso is a former Division President of the Court of Cassation, which elected him to the Constitutional Court on 26 October 2017. He was sworn in on 13 November of the same year.



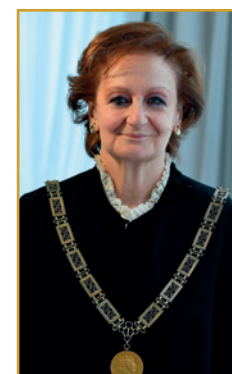
**FRANCESCO
VIGANÒ**

Judge Viganò, Full Professor of Criminal Law, was appointed to the Court by the President of the Republic on 24 February 2018 and was sworn in on 8 March of the same year.



**LUCA
ANTONINI**

Judge Antonini, Full Professor of Constitutional Law, was elected to the Court by Parliament on 19 July 2018 and was sworn in on 26 July of the same year.



**MARIA ROSARIA
SAN GIORGIO**

Judge San Giorgio is a former Division President of the Court of Cassation, which elected her to the Constitutional Court on 16 December 2020. She was sworn in on 17 December of the same year.



**FILIPPO
PATRONI GRIFFI**

Judge Patroni Griffi is a former President of the Council of State, which elected him to the Court on 15 December 2021. He was sworn in on 29 January 2022.



**MARCO
D'ALBERTI**

Judge D'Alberti, Professor Emeritus of Administrative Law, was appointed to the Court by the President of the Republic on 15 September 2022 and sworn in on 20 September of the same year.

In 2022, two judges left the Constitutional Court. On 28 January, President Giancarlo Coraggio concluded his nine-year term and, on the following day, was succeeded by President Giuliano Amato at the helm of the Constitutional Court. President Amato held the position until 18 September 2022.

On 20 September, Silvana Sciarra was elected President. Two new judges were sworn in: Filippo Patroni Griffi on 29 January 2022, and Marco D'Alberti on 20 September 2022.

The year in figures

Figures for 2022

Read the Studies
Department reports



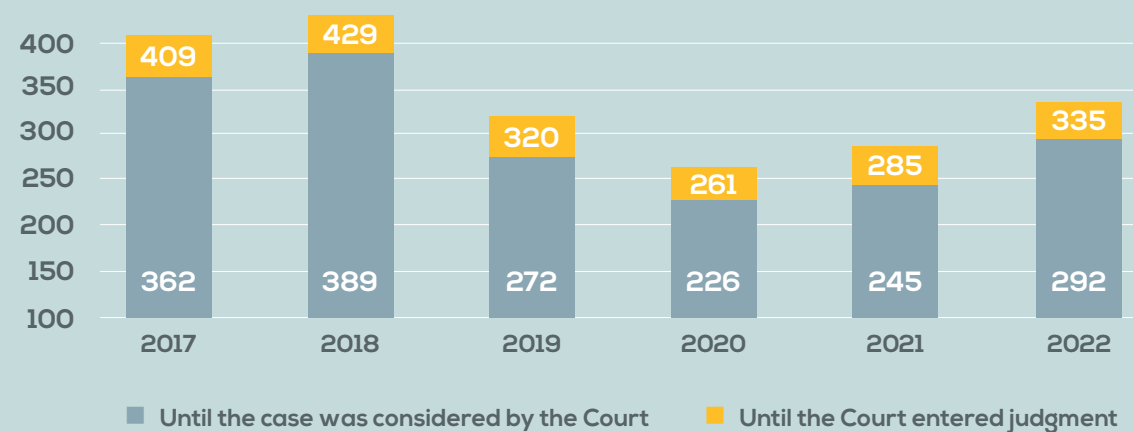
The Constitutional Court handed down 270 decisions in 2022: 213 judgments and 57 orders. This represents an increase of 2.7% from 263 decisions in 2021. There was also an increase in the number of rulings of unconstitutionality, including 75 in incidental proceedings (compared to 50) and 121 in main proceedings (compared to 106).

This confirms the Court's tendency to

decide on the merits of referrals, upholding or rejecting them. There was an increase from 120 to 130 rulings on the merits in incidental proceedings in 2022 compared with the previous year. This trend is even more marked with regard to main proceedings.

The average duration of incidental proceedings, calculated from the date of publication of the referral order in the

Average duration of incidental proceedings (no of days)



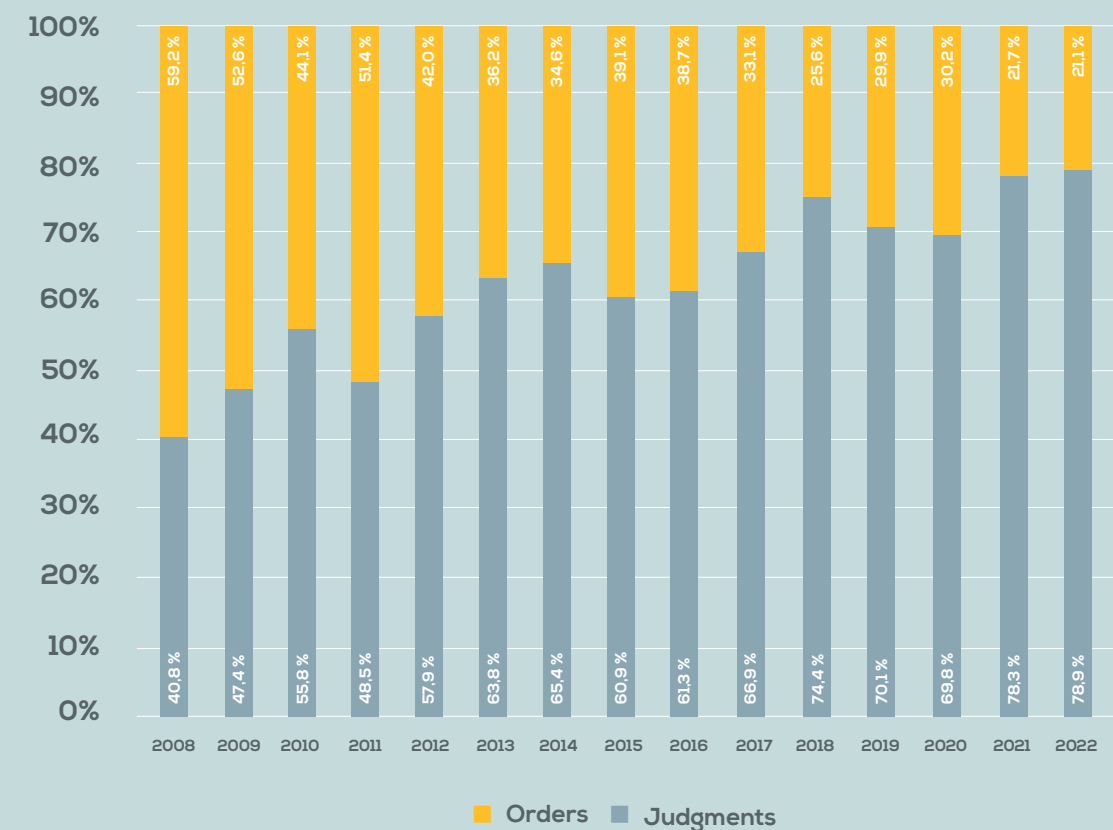
Official Journal of the Italian Republic to the date of discussion in public hearing or in chambers, was 292 days. This represents a slight increase on 2020 (226 days) and 2021 (245 days) but also reflects the greater number of decisions handed down. Moreover, the average duration of main proceedings fell to 324 days, compared with 351 in 2021 and 372 in 2020.

With regard to the different types of decisions, in 2022 they are distributed as follows: 160 (132 judgments and 28 orders) in incidental proceedings concerning constitutionality, 84 (68 judgments and 16 orders) in main proceedings of constitutionality, 4 judgments concern-

ing disputes between the State, the Regions, and the Autonomous Provinces, 12 decisions concerning jurisdictional disputes between State institutions (11 orders and 1 judgment), 8 judgments on the admissibility of referendums, and 2 orders concerning the correction of material errors.

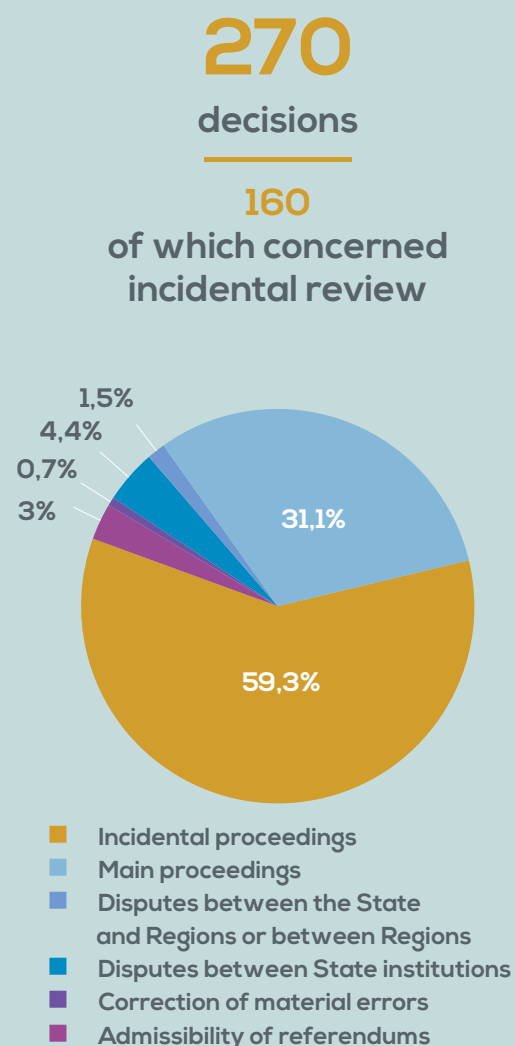
In percentage terms: incidental proceedings account for 59.3% of the decisions, while main proceedings stand at 31.1%. Disputes between the State and Regions or between Regions account for 1.5%, disputes between State institutions account for 4.4%, 3% concern the admissibility of referendums, and 0.7% the correction of material errors.

Proportion of judgments to orders (2008-2022)



The response to the demand for constitutional justice

Incidental proceedings, with 160 decisions in 2022, continued to make up the majority of the Court's work. The 2022 figure represents a significant rise of 13.5% compared with the 141 decisions in 2021. These incidental decisions made up 59.3% of the total decisions in 2022, an increase on the 53% of 2021. The 84 decisions handed down in main proceedings in 2022 show a significant decrease (-22.2%) compared with the 108 of 2021. Similarly, the percentage in relation to the total number of decisions, 31.1%, is lower than in 2021 (40.6%). Judgments regarding disputes between the State, Regions, and Autonomous Provinces, doubled to 4 in 2022, compared with the 2 in 2021; similarly, the percentage value in relation to the total number of decisions rose from 0.8% in 2021 to 1.5% in 2022. As regards disputes between State institutions, the situation remained unchanged as there were 12 decisions in both 2021 and 2022.



The proportion of judgments to orders

The 270 decisions handed down in 2022 consisted of 213 judgments and 57 orders, representing 78.9% and 21.1% of the total respectively. Following the trend of recent years, 2022 confirms the decrease in the number of orders and the progressive increase in judgments. The 132 judgments in incidental proceedings in 2022 show a significant in-

crease (+14.8%), compared with the 115 in 2021, while the 28 orders show a slight increase (+7.7%) on the 26 of the previous year. The 68 judgments in main proceedings in 2022 represent a significantly lower figure (-25.3%) compared with the 91 of 2021. The number of orders (16), on the other hand, remained virtually unchanged compared to 2021 (17).

Incidental proceedings

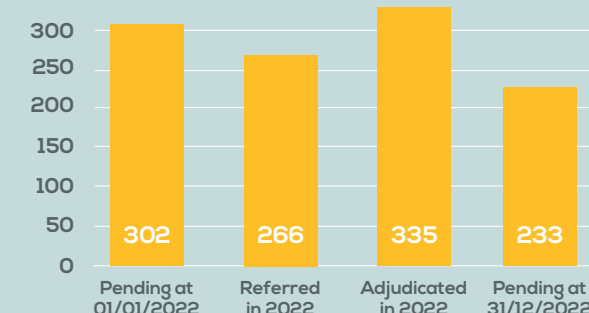
These arise during court disputes, where a court, required to apply a legislative provision or act having the force of law that appears potentially incompatible with the Constitution, raises a question of constitutionality of its own motion or at the request of either party.

Pending cases

At 1 January 2022, there were 302 cases pending. During the year, 266 new cases were referred, and 335 were settled. By the end of the year, 233 cases remained pending, a significantly lower figure than at the close of 2021 (-22.8%). A total of 205 incidental proceedings were pending at 1 January 2022. During the year, 160 referral orders were submitted, and 218 cases were settled. The number of pending incidental proceedings on 31 December 2022 therefore stood at 147, a significant decrease compared with the previous year (-28.3%). There was also a slight decrease in the number of main pro-

ceedings pending at the end of the year (-4.8%), with 79 cases still to be settled compared to 83 at the end of 2021.

Cases referred, adjudicated, and pending (total, 2022)



'Warnings' to the legislator

Also in 2022, the trend begun in 2019 was confirmed, which attests to the Court's constant dialogue with State and regional legislators to whom reminders and solicitations were addressed in the spirit of sincere institutional cooperation. After the steady growth recorded with the 10 'warnings' issued to the legislator in 2018, which doubled in 2019 to reach 25 in 2020 and 29 in 2021, the figure for 2022 stabilised at 22. 'Warnings', recommendations, and solicitations refer to the invitations that the Constitutional Court issues to the two tiers of Parliament or the regional institutions to intervene on specific legislation to remedy problematic, obsolete, and potentially or declaredly unconstitutional situations on which the Court itself cannot intervene, or on which it does so only partially or provisionally. Also in 2022, the Court's 'warnings', recommendations, and solicitations concerned a variety of issues. These included, among others, those relating to

the representation of both sexes in the electoral lists of small municipalities and to the process of completely phasing out judicial psychiatric hospitals (*OPG – ospedali psichiatrici giudiziari*) and their replacement with residential facilities for the enforcement of psychiatric security orders (*REMS – residenze per l'esecuzione delle misure di sicurezza*). They also concerned the incongruity between the Constitution and the absolute presumption that cooperation with justice is the sole means by which prisoners serving life sentences may become eligible for conditional release. Additionally, they deliberated upon the new arrangement whereby the attribution of both parents' surnames is the general rule. Furthermore, they examined the Prefect's authority to override disqualifications and prohibitions resulting from anti-mafia information if they determine that the individual concerned and their family may lack means of subsistence.

Main proceedings

These are a means for the State to challenge regional laws, or a Region to challenge State laws or acts having force of law, or other regional laws when the distribution of legislative authority under Article 117 of the Constitution is considered not to have been complied with.



Palazzo del Quirinale from the terrace of Palazzo della Consulta

The 2022 judgments

Go to the Studies Department report and press releases



In 2022, the Constitutional Court rendered 270 decisions encompassing a diverse array of subjects, deliberating on issues relating to the environment, vaccines, the family, minors, the judicial system, the enforcement of criminal sentences, employment, pensions, equal opportunities, and foreign nationals, among others. The Court presided over 11 cases involving disputes between State institutions, ruling 4 admissible and 7 inadmissible. Additionally, the Court issued a judgment on the merits of a dispute between an ordinary court and the Chamber of Deputies.



CHAMBERS OF COMMERCE/BUSINESSES

In **Judgment No 210**, the Court determined that it was unreasonable to require chambers of commerce to repay savings resulting from expenditure containment rules to the national treasury. The Court remarked that, since 2017, the legislator had almost halved the chamber of commerce fee paid by businesses. This reduction, combined with the obligation to repay savings to the treasury, had increasingly strained the budgets of the chambers of commerce. The Court found that the sacrifices imposed by these provisions were no longer sustainable and incompatible with constitutional requirements from 2017 to 2019.

COVID

In 2022, the Court addressed many issues related to the Covid-19 pandemic. One of the most sensitive of these issues was addressed in **Judgment No 127**, in which the Court stated that the quarantine imposed on Covid-19 patients did not restrict personal freedom. Rather, it is a general restrictive measure introduced by law for health reasons that limits freedom of movement, not personal freedom. Quarantine does not imply any judgment on the moral character or social dignity of a person who tests positive for Covid-19 and does not require judicial assessment. Later, in **Judgment No 171**, the Court reaffirmed the reasonableness of the legislator's decision to allow only pharmacies, and not para-pharmacies, to perform rapid antigen tests (swabs) and serological tests.

In **Order No 21**, the Court declared inadmissible the dispute between State institutions raised by a Member of Parliament. She had claimed that she had been prevented from attending sessions convened for the election of the President of the Republic due to the compulsory Covid-19 health pass ('green pass') requirement.

Similarly, with its **Order No 15**, the Court declared inadmissible the dispute between State institutions brought against the Government by five Members of Parliament residing in Sardinia and Sicily. They had challenged the obligation to present a 'super' Covid-19 health pass ('super green pass') to access public transport.

Lastly, in a press release in December, the Court announced three rulings – that were yet to be entered – on vaccines, in which it stated, among other things, that Parliament's decision to mandate vaccines for healthcare workers during the pandemic was neither unreasonable nor disproportionate. The Court affirmed that, in the light of the epidemiological situation at the time, the legislator had taken into account the data from national and supranational scientific and medical authorities competent in the sector regarding the efficacy and safety of vaccines.

EMPLOYMENT

In order to safeguard Article 18 of the Workers' Statute, as amended under the 'Fornero reform', courts are not required to verify that the non-existence of the fact constituting the ground for dismissal for economic, productive and organisational reasons is "manifest". This is the core of **Judgment No 125**, in which the Court stated that the manifest groundlessness requirement in the Fornero reform regarding the regulation of dismissals is indefinite. This lends itself to application uncertainties and consequent disparities in treatment. In its **Judgment No 183**, the Constitutional Court issued a 'warning' to Parliament. The Court holds that urgent reform of the dismissal regulations outlined in the 'Jobs Act' is required to ensure that workers in small companies receive adequate financial protection. In its **Judgment No 202**, the Court issued another 'warning' to the legislator, this time concerning domestic work, to provide broader insurance coverage against the risk of permanent disability for personal care workers and to strengthen welfare coverage.

EQUAL OPPORTUNITIES

According to **Judgment No 62**, it is unconstitutional for municipalities with fewer than 5,000 inhabitants to not require their electoral lists to have candidates of both sexes. The decision reiterated that having both sexes on municipal electoral lists is a minimum guarantee of equal opportunities for access to elected office. This obligation applies to municipalities with under 5,000 inhabitants, which represent 17% of the Italian population. However, the regulations on presenting lists provide no sanctions for non-compliance.



FOREIGNERS

In July, the Court handed down **Judgment No 195** on the issue of citizenship, ruling that a foreigner married to an Italian citizen and awaiting recognition of their Italian citizenship cannot be denied it due to the death of their spouse during the proceedings for the recognition of their right.

In March, the Court issued **Judgment No 63**, declaring that the sentence of five to fifteen years' imprisonment envisaged by the Consolidated Law on Immigration for anyone who has helped someone enter Italian territory illegally by plane using false documents is manifestly disproportionate.

According to the Court, the crime of aiding and abetting immigration, for which the penalty in its basic form is from one to five years' detention, serves to control migratory flows. The aggravated forms of the crime, for which much harsher sentences are provided, are intended to protect the interests of the migrant, who is considered to be a victim in these cases.

Again in March, the Court filed **Judgment No 54**, declaring unconstitutional the provisions that exclude from certain benefits (the 'baby bonus' and maternity allowance) non-EU foreigners who do not hold a long-term EU residence permit but who are admitted to the State for work purposes or for other purposes while being able to work. The Court established that these provisions "establish an unreasonably more burdensome system only for third-country nationals". Questions relating to the baby bonus and maternity allowance were once again brought to the attention of the Court after the ruling of the Court of Justice of the European Union on 2 September 2021 (C-350/20). This decision addressed the inquiries raised by the Constitutional Court in its Order No 182, dated 30 July 2020. According to the

CJEU, Italian law is incompatible with both Article 34 of the Charter of Fundamental Rights of the EU and Article 12 of Directive 2011/98/EU on equal treatment between nationals of non-EU countries and citizens of Member States.

This decision is significant because it closes the virtuous circle of the preliminary reference to the Court of Justice of the European Union and aligns the Constitutional Court with the Luxembourg Court on the matter of the reasonable application of the principle of equality. The Constitutional Court also addressed other questions concerning the right of third-country nationals to access benefits provided for by law. Again in March, with **Judgment No 67**, the Court ruled that non-European citizens who are long-term residents and hold a single work permit may not be treated differently from Italian citizens with regard to eligibility for the family unit allowance (*ANF – assegno per il nucleo familiare*), even if some family members reside temporarily in their country of origin.

National courts, obliged to apply European legislative acts directly, protect the equal treatment of recipients of this benefit, which provides both social security and support in times of need. Regarding the basic income scheme (*reddito di cittadinanza*), the Court stated that it was not unreasonable for the legislator to allocate this subsidy to foreigners residing in Italy indefinitely but not to those with a single work permit or a residence permit of at least one year.

This is the core of **Judgment No 19**, which reaffirmed the non-short-term time horizon required for access to the basic income scheme. The Court stated that permanent residency in Italy is not an unrelated requirement for receiving the benefit.



FUNDING FOR CULTURE

In **Judgment No 186**, the Court declared unconstitutional the provision that allocated a financial contribution of eight million euros to the Teatro Eliseo in Rome for the years 2017 and 2018. The allocation of these resources, which were not part of the Single Fund for Entertainment (*FUS – Fondo Unico per lo Spettacolo*), intended to cover ordinary and extraordinary expenses and ensure the continuity of the theatre's activities during its centenary year, was deemed unreasonable and likely to distort competition in the market for theatrical performances. The funding for the Eliseo was not tied to specific interventions and was considered excessive and disproportionate.

HEALTHCARE

In its **Judgment No 161**, the Constitutional Court declared that the provision allowing the Apulia Region to provide a Non-Invasive Prenatal Test (NIPT) for particular categories of pregnant women at risk was unconstitutional. The Court determined that this was an additional health service supplementing the basic levels of specialist outpatient care established by national legislation. The provision of this service entailed redirecting resources that the Region ought to have used to guarantee essential healthcare services.

In its key **Judgment No 190** on innovative drugs, the Court declared a provision of the Sicily Region's Stability Law concerning the treatment of spinal muscular atrophy (SMA) unconstitutional. The Region, which had been subjected to an operational programme to consolidate and develop healthcare spending, may not finance non-compulsory expenditure. With regard to the possible inclusion of innovative drugs in providing basic levels of healthcare, the Court clarified that "a decision on the merits of choices of treatment from the point of view of their suitability could not be based on assessments" linked to "the political discretion of the legislator. Instead, it should envisage the development of guidelines based on the verification of the state of scientific knowledge and experimental evidence acquired".

In its **Judgment No 228**, the Court declared unconstitutional a provision of Decree-Law No 146/2021 as it breached Articles 24 and 111 of the Constitution. The provision established the unfeasibility of executive actions and the ineffectiveness of foreclosures against Calabrian healthcare institutions until 31 December 2025. The Court found that this resulted in an excessive reduction of the right of action of eligible creditors and an unjustified alteration of the equality of the parties in the enforcement phase.

JUSTICE

With regard to protecting the victims of crime, **Judgment No 173**, declared an article of the Code of Criminal Procedure unconstitutional insofar as it does not provide for the court, when pronouncing a judgment of acquittal due to the particularly trivial nature of the offence, to rule on the request for restitution and compensation for damages advanced by the civil party.

In **Judgment No 10**, the Court ruled that legal aid must be provided for those who cannot afford it, even in cases where mandatory mediation is successful. Additionally, in **Judgment No 149**, the Court reaffirmed the fundamental principle of *ne bis in idem*, which applies even in cases where an individual has already faced administrative sanctions for the same offence and is subsequently tried in a criminal court.

On the subject of access to alternative procedures, in **Judgment No 243** the Court declared certain provisions of the Code of Criminal Procedure unconstitutional. These provisions were interpreted to mean that if a defendant is granted a time limit for defence in a direct trial (*giudizio direttissimo*), they may not request a summary trial (*giudizio abbreviato*) or plea bargaining in the first hearing following the expiration of the time limit.



On the right of an innocent defendant to be acquitted on the merits of the charge, in **Judgment No 111** the Court declared unconstitutional another provision of the Code of Criminal Procedure, interpreted to mean that an appeal to the Court of Cassation by a defendant against a pre-trial appellate judgment declaring that proceedings should be discontinued due to the statute of limitations on the offence is inadmissible if it was made without a hearing.

In November, the Court examined the constitutionality of life sentences without parole after two adjournments (Orders No 97/2021 and No 122/2022) were ordered to allow Parliament the time to address the issue. The question was referred by the Court of Cassation. Following the entry into force of Decree-Law No 162 of 31 October 2022, which contains urgent measures on the subject under consideration, the Court decided to return the case to the referring court with Order No 227.

With **Judgment No 18**, the Court addressed another issue concerning the forms of legal protection granted to persons subjected to special conditions of detention, stating that Article 41-*bis* of the Prisons Law, which (according to the interpretation of the Court of Cassation) provides for the mandatory censorship of correspondence between detainees subjected to the enhanced surveillance regime and their lawyers, infringes the right of defence enshrined in the Constitution.

And still on the subject of life sentences without parole, **Judgment No 20** clarified that, in order to submit an admissible request for conditional release, it is legitimate to distinguish the case of the detainee who can ‘objectively’ cooperate with justice but ‘subjectively’ does not wish to from that of the detainee who ‘subjectively’ wants to cooperate but ‘objectively cannot’ (reluctantly silent).

In **Judgment No 22**, the Court issued a ‘warning’ to Parliament regarding the application of the current rules concerning residential facilities for the enforcement of psychiatric security orders (*REMS – residenze per l’esecuzione delle misure di sicurezza*). The Court stated that, with respect to offenders suffering from psychiatric disorders, the norms present numerous areas of conflict with constitutional principles.

In **Judgment No 180**, the Court declared inadmissible the questions concerning a Prefect’s power to exclude economic disqualifications and prohibitions resulting from anti-mafia information. This applies in cases where the addressee of the measure and their family lack means of subsistence. While noting the impracticability of an upholding pronouncement with a high rate of manipulation in an area entrusted to parliamentary discretion, the Court once again admonished the legislature to reconsider the rules in question. The Court envisaged a different outcome if the matter were to be referred to it again.

LOCAL GOVERNMENT BODIES

With regard to public corporations, **Judgment No 201** determined that local authorities may directly undertake the management of business activities only if (and to the extent that) they are capable of doing so under more favourable terms than those offered by the market.

MORTGAGES

In its **Judgment No 263**, the Constitutional Court reiterated Italy's obligation to comply with the preliminary rulings of the Court of Justice of the European Union. In its *Lexitor* ruling, the CJEU interpreted Directive 2008/48/EC on consumer credit agreements to mean that, if a loan is repaid early, the consumer is entitled to a proportional reduction in the total cost of credit, including the costs incurred at the time the contract was entered into. In 2021, a provision was introduced in Italian law that restricted the effectiveness of the principle to contracts concluded after the law came into effect. As a result of the Court's decision, consumers are entitled to a refund of all costs associated with their consumer credit agreement, even if they entered into the contract pursuant to the law implementing Directive 2008/48/EC before 2021.

PENSIONS

On the subject of pensions, in **Judgment No 162** the Constitutional Court ruled that the survivor's allowance cannot be reduced by more than the total amount of the beneficiary's additional income when combined with other incomes. Hence, the survivor's pension is intended to be partially enjoyed by family members even after the death of the pension holder.

In **Judgment No 88** on the matter of survivors' pensions, the Court extended its benefits to grandchildren who are of age, orphans and unfit for work. The Court reasoned that the family bond between a grandparent and grandchild of age is identical to that between a grandparent and an underage grandchild. Both types of relationships share the conditions of diminished capacity and dependency at the time of death.

In **Judgment No 234**, the Court ruled that the provision for non-cumulation of the early retirement pension, known as 'quota 100', with income from intermittent work not exceeding 5,000 euros gross per year is constitutional, unlike the provision for occasional self-employment income of the same amount.



PROCUREMENT

In **Judgment No 198**, the Court ruled on the constitutionality of requiring a provisional deposit for tender procedures. The decision highlighted the incorrect interpretation made by the referring court, which erroneously viewed the provisional deposit – mandated by the Public Contracts Code – as a punitive measure. In reality, the deposit serves as a guarantee of the “serious intentions and reliability of the tender submitted by the bidder”. This safeguards the integrity of the tender process and ensures its timely and proper completion in accordance with the principles of impartiality and good administrative conduct.

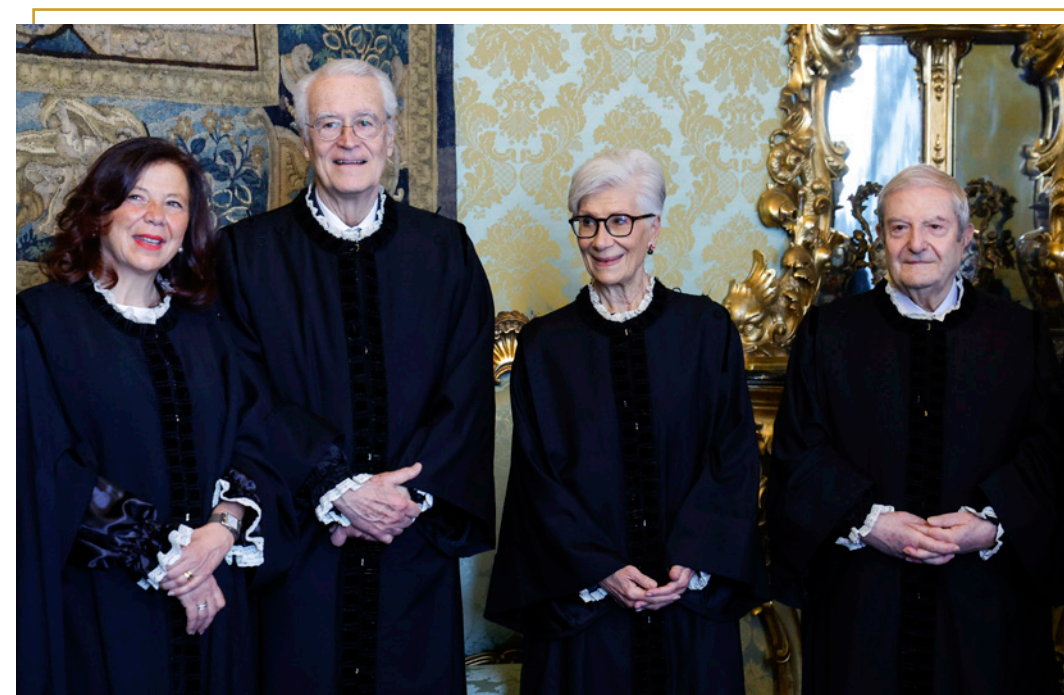
REFERENDUMS

In 2022, the Court examined eight requests for abrogative referendums, declaring five of them admissible with **Judgments No 56, No 57, No 58, No 59 and No 60**, which concern the repeal of the provisions on incandidability, the limitation of supervision measures, the separation of the roles of judges and prosecutors, the extension of the competences of lay members of the Governing Council of the Court of Cassation and the Judicial Councils, the elimination of the lists of presenters for the election of members to the Judicial Council respectively. At the close of the meeting in chambers, which took place on 15 and 16 February 2022, President Giuliano Amato held a press conference to explain the reasons for the Court’s decisions. The Court had ruled the questions regarding consensual homicide, narcotic or psychotropic substances, and the civil liability of judges and prosecutors inadmissible.

In three separate press releases, published when the rulings on the inadmissibility of the three referendum questions were filed on 2 March 2022, the Court provided further details on the decisions taken in February. In **Judgment No 49** on the direct civil liability of judges and prosecutors, the Court explained that the manipulative technique of cutting specific wording in relation to referendums is not permitted. This technique is not authorised if its application does not merely abrogate existing legislation but instead proposes a substantially new legal provision not intended by the legislator. The referendum question sought to apply the text-cutting technique to create a way, through the resulting legislation, for individuals to directly sue judges and prosecutors for damages.

The referendum on the partial repeal of Article 579 of the Criminal Code, which concerns the killing of a consenting person, was deemed inadmissible, as legalising the unlawful killing of someone who has

given valid consent would affect the basic protection of life guaranteed by law. This is the core of **Judgment No 50**. In its reasoning, the Court affirmed that the referendum question would have made it lawful to kill a person with their consent by repealing fragments of the wording of Article 579 of the Criminal Code and subsequently fusing together the resulting text. This would have applied to cases other than those concerning “invalid consent” provided for in the third paragraph of Article 579 itself, namely in cases where consent is given by minors under the age of 18, persons who are mentally infirm, or persons with mental impairment due to another infirmity or the abuse of alcohol or narcotics, or when consent is extorted by violence, threat or undue influence, or obtained by deception. In other words, the Court argued that approval of the referendum would



make it lawful to kill anyone who gives their valid consent, regardless of the reasons for which that consent is given, the forms in which it is expressed, the role of the perpetrator, or the manner in which death is brought about. The Court stated that when the “paramount” good of human life is at stake, the “freedom of self-determination can never unconditionally prevail over the reasons for protecting the same good”. Instead, “a balancing act is always a constitutional requirement to ensure its basic protection”. Therefore, in the Court’s opinion, the legislator can amend or replace a provision such as Article 579 of the Criminal Code, but it cannot be simply repealed

without compromising the constitutionally required basic level of protection of human life.

The referendum question on the “abrogation of criminal provisions and administrative sanctions on the cultivation, production, and illegal trafficking of narcotic drugs or psychotropic substances” was deemed inadmissible because it was contrary to international conventions and European regulations on the subject, lacked clarity and intrinsic coherence, and was ultimately unfit for purpose.

In **Judgment No 51**, the Court justified its decision by stating that the legislation resulting from decriminalising the cultivation of cannabis would have made the cultivation of plants from which hard drugs (such as opium poppy and coca leaves) are extracted no longer a criminal offence. The Court reasoned that the referendum request would have led to the decriminalisation of the cultivation of all plants from which hard or soft drugs are extracted, thereby contravening international obligations. Additionally, the result envisaged by the promoters of the referendum would not have been achieved since other provisions that penalise the cultivation of the cannabis plant and any other plant from which narcotic substances can be extracted (Articles 26 and 28 of the Consolidated Law on Narcotics) would remain in place.

TAXATION

Regarding the payment of the municipal property tax (*IMU – imposta municipale unica*) on a primary residence, the Court stated that the exemption always applies to the possessor who resides and habitually lives there, regardless of their household. In **Judgment No 209**, the Court held that the Italian legal system cannot accommodate fiscal measures that penalise those who choose to marry or enter into a civil union. It is increasingly common for individuals joined in marriage or civil union to agree to live in separate locations.

THE ENVIRONMENT

Also in 2022, the year in which Parliament enshrined the protection of the environment and biodiversity into the Constitution, integrating it with the existing protection of the landscape and explicitly referencing “the interest of future generations”, the Court’s decisions reinforced an approach where the environment is always regarded as an organic entity, intrinsically linked to a primary and absolute constitutional interest.

In **Judgment No 121**, the Court reiterated the principle of the impor-

tance, both nationally and internationally, of promoting renewable energy as a means of combatting climate change. In **Judgment No 221**, the Court reaffirmed the fundamental principle of balancing the need for renewable energy development with the protection of territories in terms of their landscape, historical-cultural, and biodiversity aspects. Furthermore, in **Judgment No 77**, again concerning renewable energy, the Court underscored the obligation of the Regions to adhere to the fundamental principles established by the State concerning authorisation processes for power plants.



With its **Judgment No 24**, the Court reaffirmed that the unique nature of the environment as a legal good, which includes the landscape, has repercussions even on Regions with special statutes or Autonomous Provinces. However, it clarified that in these cases, it is necessary to consider special statutes and their implementing rules.

Judgments No 21 and **No 108** confirmed the classification of the provisions of the Code of Cultural Heritage and Landscape, particularly those concerning landscape authorisation, as economic and social reform norms that also bind special statute territorial autonomies. The decisions on environmental matters have had an impact and repercussions in many fields. For example, in **Judgment No 251**, the Court declared unconstitutional a provision of a law of the Lombardy Region that allowed the expansion of buildings for agritourism activities in the absence of a landscape plan jointly developed by the State and the Region.

With its **Judgment No 252**, the Court declared unconstitutional a provision in a law of the Sicily Region that had reopened the terms of an amnesty for illegal building works carried out in areas subject to hydrogeological and landscape constraints. Essentially, through these two judgments, the Court aimed to reassert that decisions regarding the preservation of the landscape must be made collaboratively, to avoid undermining the State's jurisdiction as established under Article 117(2)(s) of the Constitution.

In **Judgment No 254**, the Court contested the Lombardy Regional Law that restricted the hunting ban on mountain passes frequented by migratory birds to only those within the most protected wildlife area of the Alps. In contrast, the national legislation does not differentiate between kinds of passes and enforces a hunting ban within a thousand metres of all passes used by migratory wildlife.

THE FAMILY AND MINORS

Judgment No 79 reaffirmed the necessity of ensuring that all adopted children receive recognition of the family relationships that result from adoption. Even in cases known as 'adoption in special cases', the adopted child retains the status of son or daughter and must not be deprived of the ties of kinship that allow them to grow up in a stable environment protected by family ties, including those with siblings and grandparents. In other words, the Court determined that such a delicate matter as a child's development and stability cannot be regulated by referring to the rules governing adult adoption, an institution "underpinned by requirements relating to

purely financial concerns and questions of inheritance". In its continued efforts to safeguard children's rights, the Court addressed the issue of automatically assigning the father's surname to a child, determining that this practice results in "the mother being disregarded" and perpetuates inequality between parents, which "can affect the child's sense of identity".

In **Judgment No 131**, the Court declared unconstitutional Article 262(1) of the Civil Code "insofar as it provides that, in the case of simultaneous recognition by both parents, the child must assume the father's surname rather than providing that the child must assume the surnames of both parents in the order that the parents agree upon, unless an agreement was made at the time of recognition to attribute only one of their surnames". The provisions governing the attribution of a surname to a child born within marriage and to an adopted child were also declared unconstitutional.

THE THIRD SECTOR

In its **Judgment No 72**, the Court affirmed that the system of Third Sector entities is an expression of social pluralism, rooted in the fundamental principles of the Constitution, and the activities of general interest carried out on a non-profit basis by these entities also realise "a new and indirect form of contribution to public expenditure".

DISPUTES BETWEEN STATE INSTITUTIONS

In 2022, the Court issued 11 orders (**Nos 15, 32, 35, 80, 151, 154, 157, 208, 212, 250, and 261**) to decide on the admissibility stage of disputes between State institutions. Four cases were deemed admissible, while seven were judged inadmissible. In five of the orders, the Court reiterated the stringent conditions for the admissibility of disputes brought by individual Members of Parliament seeking to protect their area of authority. The only decision handed down at the merits stage (**Judgment No 241**) upheld a dispute promoted by a lower court and, as a result, annulled the decision of the Chamber of Deputies on the indisputability of opinions expressed by a Member of Parliament.



Next page, the Panel of Judges, presided over by Silvana Sciarra since 20 September 2022, on the second-floor internal terrace of Palazzo della Consulta



Report on the Court's initiatives in 2021

The Constitutional Court continued its work also in 2021, despite the widespread Covid-19 pandemic. Not only did the pandemic fail to interrupt the Court's activity, but it gave a decisive impetus to reforming the way constitutional proceedings are held. Computerised proceedings, in fact, have been in full swing since December 2021 with the adoption of the e-Cost platform and have become consolidated as a tool through which lawyers, State Counsels, judges, registrars, and parties to constitutional proceedings can send and exchange documents and files by digital means. The Court continued its efforts to open up towards society in 2021. It expanded

its Podcast Library with new episodes and activated a strong collaboration with schools, hosting virtual classes and meetings between judges and students.

With regard to the static aspects of the Court's activities, the report presented by President Giuliano Amato at the Extraordinary Meeting on 7 April 2022 showed, among other things, a slight but consistent decrease in the number of pending proceedings. However, there was a slight increase in the time taken to reach a decision in incidental proceedings, while the duration of main proceedings decreased. As for the types of decisions, the decreasing trend in the number of orders,

which are generally of inadmissibility, and the gradual increase in judgments (78.3% of the total) was confirmed.

With regard to the topics of constitutional review for the year 2021, the annual report, referring to the volume prepared by the Studies Department for further analysis, outlined three main areas: social rights, the family and minors, and the criminal and penitentiary system.

In addition to these three thematic areas, there is a 'cross-cutting' theme, namely the decisions relating to the measures to contain the Covid-19 pandemic.

The section of the report dedicated to the dialogue between the Court and Parliament was also extensive. The number of 'warnings' has steadily increased: there

were 29 in 2021, compared to 25 in 2020, 20 in 2019, and 10 in 2018. In certain instances, the Court discerned aspects of the regulations under examination that, while not rising to the level of unconstitutionality, nonetheless warranted further scrutiny and prompted the Court to call for a review of the regulations in question. In other instances, on the other hand, the Court identified grounds for unconstitutionality in the regulations under review but determined that it was unable to provide a solution due to the broad margin of discretion afforded to the legislature.

The 2021 Report on the Court's activities was marked by a significant event that occurred in late February 2022. As described by President Amato, this event has had



The Panel of Judges, chaired until 28 January 2022 by Giancarlo Coraggio, in the Sala Pompeiana at Palazzo della Consulta



The Panel of Judges, chaired until 18 September 2022 by Giuliano Amato, in the hall in front of the Conference Room at Palazzo della Consulta

“numerous tragic consequences and has raised concerns for the future, including the resilience of European constitutional orders. The ongoing conflict in Ukraine has also influenced the venues and modes of cooperation between the courts. The withdrawal of the Russian Federation from the Council of

Europe, for instance, may have implications for the participation of the Russian Court in the representative forums of these courts”. According to President Amato, the aggression against Ukraine has underscored the importance of maintaining cooperation among courts within the

European Union. He stated that “our Court has consistently striven to ensure that potential conflicts with the European Court of Justice are resolved through the promotion of convergent interpretations of European law, rather than by establishing so-called national counter-limits”.

“This delicate transition”, President Amato summed up, “represents one of the fundamental junctures upon which the fabric of our Union rests”. He continued, “not all constitutional courts have followed this path, and our strong and urgent wish is that they too should do so”.

Press conferences

In 2022, the Constitutional Court held four press conferences. The first took place on 29 January, following the election of President Giuliano Amato at the end of President Emeritus Giancarlo Coraggio's nine-year term as a constitutional judge.

On 16 February 2022, the Court held a second press conference. In the words of President Amato, this event revived a tradition from “years gone by”. The aim was to provide the media and public with insight into the Court’s reasoning behind its decisions on requests for abrogative referendums, only some of which were deemed admissible.

Then, on 7 April 2022, the Constitutional Court held an Extraordinary Meeting at which President Amato presented the Report on the activities of the Constitutional Court in 2021 in the presence of Head of State Sergio Mattarella. Both the Extraordinary Meeting and the subsequent press conference were broadcast live on the

RAI State broadcasting channels and streamed on the Court’s website.

The fourth and final press conference of 2022 took place on 20 September, following the election of Silvana Sciarra as President of the Court. As the first woman elected as a constitutional judge by Parliament, her inaugural act as President was to confirm Vice-Presidents Daria de Pretis and Nicolò Zanon. In response to questions from journalists, President Sciarra frequently addressed the issue of the protection of rights. She quoted the late US judge Ruth Ginsburg, who passed away in 2020: “Fight for the things that you care about, but do it in a way that will lead others to join you”. President Sciarra will serve until 11 November 2023, when her nine-year term as a constitutional judge comes to an end.

Full video coverage of all the 2022 press conferences, as well as those of previous years, are available on the Court’s website.



President Giuliano Amato during the inaugural press conference



President Silvana Sciarra during the inaugural press conference

New rules for hearings

The art of dialectic enters the courtroom

2022 marked another historic development in the life of the Constitutional Court. As is already the case in European and common law countries, the hearing on 21 June 2022 introduced dialectics into the courtroom at Palazzo della Consulta through close dialogue between constitutional judges and lawyers.

These changes were implemented through the “Supplementary Rules – Rules of Procedure of the Constitutional Court of the Italian Republic”, approved by the Court in May 2022, published in the *Official Journal of the Italian Republic* on 31 May 2022, and completed by a decree from President Giuliano Amato.

What are the main changes?

Five days before each hearing, judge rapporteurs may address written questions to the lawyers in their case.

The initial report of the hearing has been replaced by a brief introduction from the judge rapporteur, typically lasting no longer than five minutes.

During the hearing, each lawyer or defense counsel is typically allotted 15 minutes to present their defence and respond to the judge rapporteur’s written questions.

Any judge – not only the judge rapporteur – may engage directly with the lawyers, even interrupting them with questions and objections, further enriching the discussion of the case.

Law clerks

Law clerks, who may come from either the judiciary or academia, play a crucial role in preparing and examining the cases on the agenda. Every two weeks prior to the hearing, all the clerks convene to discuss the issues before the Court. Each one then reports to their respective judge, providing them with a comprehensive understanding of all the cases to be discussed and decided upon during the hearing.

The first public hearing after the introduction of the new rules for dialogue between constitutional judges and lawyers



Law clerks before the meeting

Computerised proceedings



Between its launch on 3 December 2021 and 31 December 2022, the e-Cost platform for computerised constitutional proceedings processed a total of 271 cases, broken down as follows:

- 165 incidental proceedings
- 87 main proceedings
- 4 disputes between State and Regions or between Regions
- 13 disputes between State institutions, 3 of which up to the merits stage

- 2 judgments of admissibility concerning 6 of the 2022 referendums

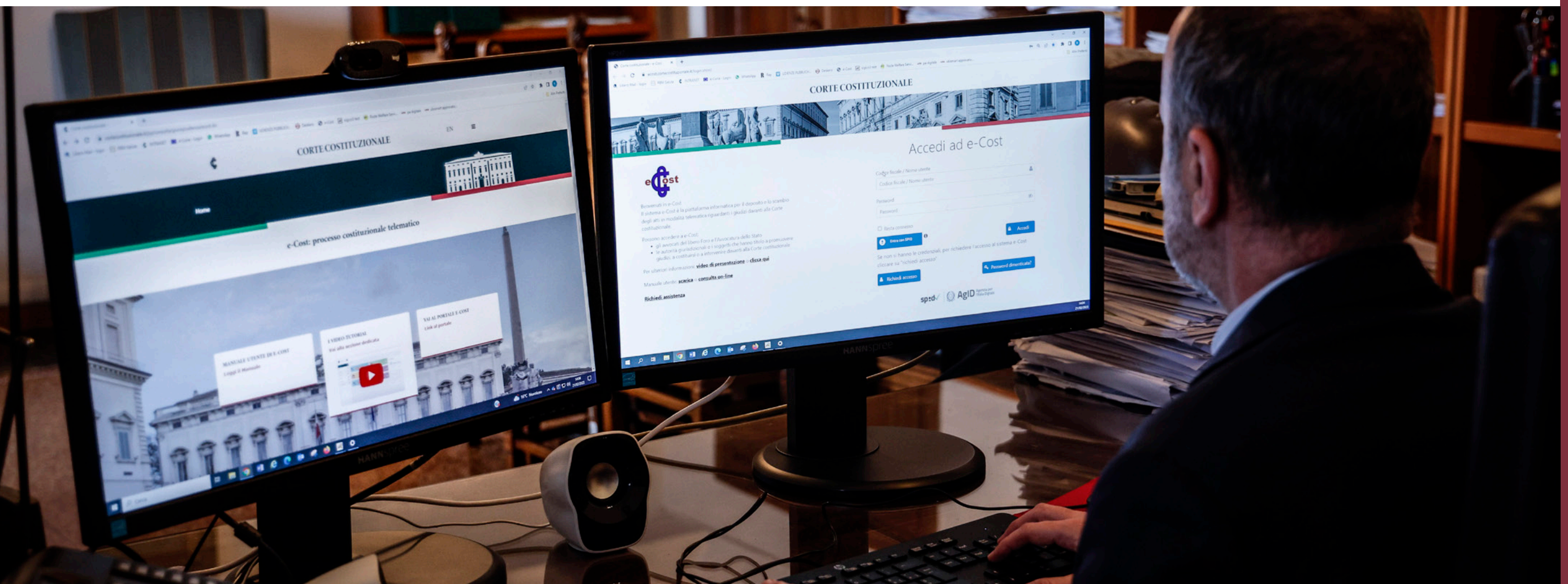
In total, the e-Cost platform processed over 7,000 documents. Some of these, such as the files pertaining to the proceedings for the referring court, contained multiple documents. For the Court and its external interlocutors, the e-Cost platform has meant faster and more streamlined management of document flow. This innova-

tion has enabled near real-time access to procedural documentation for the Registry, the judges' secretariats, and authorised parties. The platform has automated many steps that were previously performed manually on paper.

The e-Cost system is continuously evolving as feedback from both internal and external users is carefully evaluated and incorporated into its development. This ensures that the platform remains responsive to the needs of its users. To

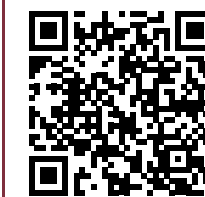
support this process, the Registry provides ongoing assistance to users who may encounter difficulties when working with e-Cost for whatever reason.

The next steps in the evolution of this system include analysing and implementing direct integration with the information systems of referring authorities. This will allow for a more fluid and automatic transmission of documents through the programs used by external users.



Life-changing judgments

Go to
the relevant page



After the *Incontri* series in 2021, the Court's podcasts in 2022 continued to explore another fundamental topic in constitutional culture through its *Sentenze che ci hanno cambiato la vita* (*Life-Changing Judgments*) series.

The new 2022 podcast series features the voices of constitutional judges discussing some of the Court's decisions that profoundly affected the lives of people and institutions between 1956 and 2022. These decisions represent milestones in Italy's growth thanks to the implementation of the Constitution and its values. The series began on 28 January 2022, one year after Judgment No 37/2021 on how

the pandemic had been managed. The first episode featured President Emeritus Giancarlo Coraggio discussing the subject on the eve of the end of his term of office. There followed a further sixteen podcasts including "The revolution of the role of the third sector in Judgment No 131/2020" by President Emeritus Giuliano Amato. The series went on to include episodes such as "The mother's surname in the Court's decisions from 1988 to 2021" by Vice-President Daria de Pretis, who enriched the topic with the next episode, "Judgment No 131/2022 on double surnames". Among the other episodes were "The right of disabled people to study prevails over budgetary constraints according to Judgment No

275/2016" by Giulio Prosperetti and "The protection of children starting from Judgment No 162/2014 on assisted fertilisation" by President Silvana Sciarra. Additional episodes in the series include "Judgment No 152/2020 on the rights of the totally disabled" by Luca Antonini, "Judgment No 203/1989 and freedom of religion" by Franco Modugno, "The Court and vaccines" by Stefano Petitti, "Judgment No 27/1975 on abortion" by Vice-President Nicolò Zanon, "Judgment No 119/2015 on national civilian service by foreigners" by Giovanni Amoroso, and "The door opened to women by Judgment No 33/1960" by Maria Rosaria San Giorgio. Further episodes were "Judgment No 40/2019 on drugs and the proportion-

ality of punishment" by Francesco Viganò, "Judgment No 420/1994 on pluralism of information" by Augusto Barbera, "Judgment No 151/1986 and the dialogue between the Constitutional Court and Parliament on the environment" by Angelo Buscema, "From compensation for biological damage to non-pecuniary damage: Three revolutionary judgments" by Emanuela Navarretta, and "Judgment No 79/2022 on adoptions" by Filippo Patroni Griffi.

Original music, entitled *In cammino*, was specially composed and performed by Maestro Riccardo Cimino with Tommaso Orioli and Andrea Giovalè as the soundtrack for the *Life-Changing Judgments* series.



GIANCARLO CORAGGIO
JUDGMENT NO 37/2021 AS A GUIDING
LIGHT IN THE HANDLING OF THE PANDEMIC



GIULIANO AMATO
THE REVOLUTION OF THE ROLE OF THE
THIRD SECTOR IN JUDGMENT NO 131/2020



DARIA DE PRETIS
THE MOTHER'S SURNAME IN THE COURT'S
DECISIONS FROM 1988 TO 2021



GIULIO PROSPERETTI
THE RIGHT OF DISABLED PEOPLE TO STUDY
PREVAILS OVER BUDGETARY CONSTRAINTS
ACCORDING TO JUDGMENT NO 275/2016



SILVANA SCIARRA
THE PROTECTION OF CHILDREN START-
ING FROM JUDGMENT NO 162/2014 ON
ASSISTED FERTILISATION



LUCA ANTONINI
JUDGMENT NO 152/2020 ON THE RIGHTS
OF THE TOTALLY DISABLED



FRANCO MODUGNO
JUDGMENT NO 203/1989 AND
FREEDOM OF RELIGION



STEFANO PETITTI
THE COURT AND VACCINES



NICOLÒ ZANON
JUDGMENT NO 27/1975 ON ABORTION



GIOVANNI AMOROSO
JUDGMENT NO 119/2015 ON NATIONAL
CIVILIAN SERVICE BY FOREIGNERS



MARIA ROSARIA SAN GIORGIO
THE DOOR OPENED TO WOMEN
BY JUDGMENT NO 33/1960



FRANCESCO VIGANÒ
JUDGMENT NO 40/2019 ON DRUGS AND
THE PROPORTIONALITY OF PUNISHMENT



AUGUSTO BARBERA
JUDGMENT NO 420/1994 ON PLURALISM
OF INFORMATION



ANGELO BUSCEMA
JUDGMENT NO 151/1986 AND THE DIALOGUE
BETWEEN THE CONSTITUTIONAL COURT
AND PARLIAMENT ON THE ENVIRONMENT



EMANUELA NAVARRETTA
FROM COMPENSATION FOR BIOLOGICAL
DAMAGE TO NON-PECUNIARY DAMAGE:
THREE REVOLUTIONARY JUDGMENTS



FILIPPO PATRONI GRIFFI
JUDGMENT NO 79/2022 ON ADOPTIONS

Court interviews

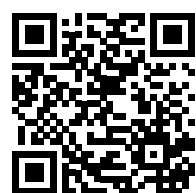


The Constitutional Court enriched its Podcast Library with interviews from leading figures of the European institutions and academia.



Armin von Bogdandy

“Constitutional Courts as protagonists of European society” is the title of the interview with Armin von Bogdandy, Director of the Max Planck Institute for Comparative and International Public Law. The Professor answered questions at the conference held for the presentation of the volume *Changing the Structure of Public Law in Europe and Creating a Democratic European Society*, which took place at Palazzo della Consulta on 21 March 2022.



Robert Spano

“Human rights and vulnerable people” was the subject of the interview with the President of the European Court of Human Rights, Robert Spano, given on the sidelines of the keynote lecture held in Rome, at La Sapienza University, on 22 April 2022, with the Rector Antonella Polimeni, the President of the Constitutional Court Giuliano Amato, the Vice-President Silvana Sciarra, Professors Massimo Luciani and Giuseppe Palmisano.



Stephan Harbarth

“The risk of political exploitation must not influence the decisions of the courts”. These were the words of Stephan Harbarth, President of the German Federal Constitutional Court, in an interview given on the sidelines of a study meeting between the Italian Constitutional Court and a delegation from the German Federal Constitutional Court. The meeting took place at Palazzo della Consulta on 22 June 2022 and covered topics such as the protection of national identities and prerogatives before the Court of Justice of the European Union and the application of the Charter of Fundamental Rights of the Union by national constitutional courts.



Koen Lenaerts

“Cooperation between the High Courts is essential to democracy and the European project – Let us help citizens understand our judgments”. This is the title of an interview with Koen Lenaerts, President of the Court of Justice of the European Union. During the interview, he answered questions from Donatella Stasio on the sidelines of a study meeting between the Italian Constitutional Court and a delegation from the Court of Justice of the European Union. The meeting was held at Palazzo della Consulta on 5 September 2022 and covered topics such as the national identity of Member States and the primacy of EU Law and rule of law and independence of national judges.



The four guests taking part in the Constitutional Court interviews:
Top left, Armin von Bogdandy. Then, clockwise, Stephan Harbarth with Giuliano Amato, President of the Constitutional Court, Robert Spano, and Koen Lenaerts with Dr Donatella Stasio, Head of Communications at the Italian Constitutional Court from 2017 to 2022

The 22 July concert

A stage erected between the Quirinale and the Court.
Piovani's music celebrates the Constitution.

The dress rehearsal for Nicola Piovani's concert *Il sangue e la parola* (*Blood and the Word*)



Blood and the Word is the title of a cantata composed by Maestro Nicola Piovani, with lyrics co-written by Paola Conti. It premiered on the evening of 22 July 2022 and was performed by the orchestra and chorus of the Teatro dell'Opera di Roma, with sopranos Maria Agresta and Maria Rita Combattelli and the reciting voice of Andrea Pennacchi.

The concert, promoted by the Constitutional Court and organised in collaboration with the RAI national broadcasting company and the Teatro dell'Opera di Roma, was attended by President Sergio Mattarella, high-ranking State officials, and numerous representatives from the academic and artistic communities.

The concert was a truly unique event, drawing inspiration from Aeschylus'

Eumenides, the Italian Constitution, and the work of the Constituent Assembly. In *Eumenides*, the playwright celebrates the principles of a civilisation governed by law when, in 621 B.C., Athens established its first court of law and a new order based on reason and dialectics. It was the distant prelude to the principles later reaffirmed in post-war Italy by Italy's founding mothers and fathers, principles that would form the heart of the Italian Constitution.

These were the words spoken by Giuliano Amato, President of the Constitutional Court, during his introductory speech at the concert:

"The *Eumenides*, written 2,500 years ago, tells the story of the first trial based on reason rather than revenge, justice rather than curses, and the logos rather than blood crying out for

blood. The Erinyes, terrifying upholders of the old ways, lose the trial on the Areopagus. Not only are they defeated, but they accept the new world and become the Eumenides, the kindly ones. The rule of law in Italy, the civilisation that our Constitution, along with others, helped to build in Europe after the Second World War, came into being after the vengeful excesses of wounded nationalisms, the violence of arms, and the savage madness of racism had once again caused the bloodshed of millions of innocents in a story that seemed closed forever. We were aware, when the idea for the concert was conceived, that the Erinyes had not disappeared. However, we believed that the primacy of the *logos* – of words over blood – was firmly established in the world, particularly in our part of the globe. Then came the bloodshed in Ukraine, and the relevance of the *Eumenides* became even more tragically apparent.

There is still a great need for rationality if the Erinyes are to be prevented from spreading death and destruction in our cities”.

Once the cantata was over, Maestro Piovani treated the audience to a performance of symphonic suites from the films *La notte di San Lorenzo* (1982) by the Taviani brothers and *La vita è bella* (1997) by Roberto Benigni. The latter earned him an Oscar for Best Original Score.



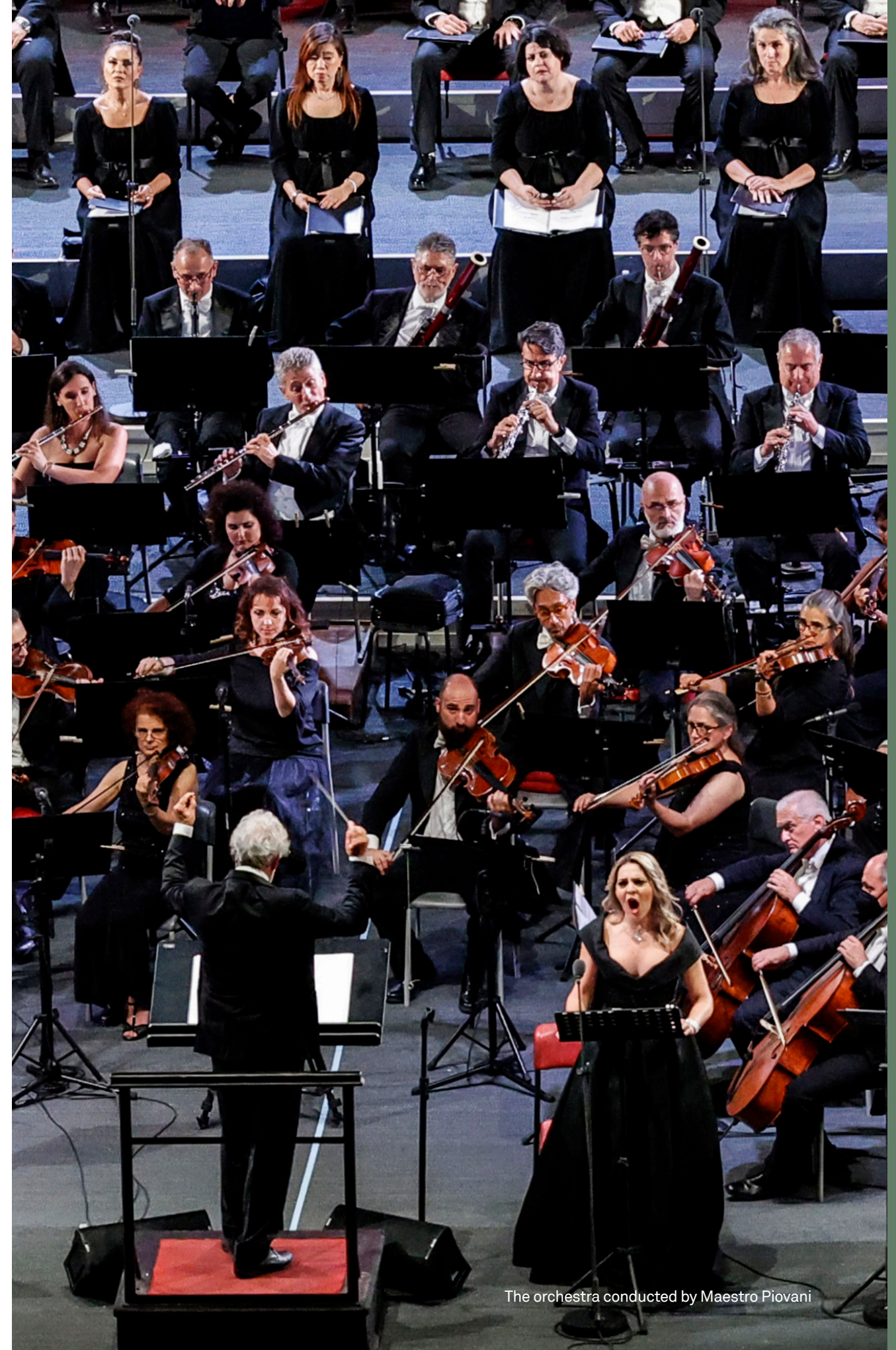
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the relevant page



View of Piazza del Quirinale from the fifth-floor terrace of Palazzo della Consulta on the night of the concert



President of the Republic Sergio Mattarella and President of the Constitutional Court Giuliano Amato with Nicola Piovani



The orchestra conducted by Maestro Piovani

The year's events

In 2022, the Constitutional Court hosted a series of significant meetings and events both nationally and internationally, facilitating dialogue between courts and jurists from around the globe. Additionally, the Court launched various initiatives to promote and disseminate constitutional culture to a wider audience, including younger generations.

2022



21 FEBRUARY 2022

In Paris, the *Conference of the Heads of the Supreme Courts of the Member States of the European Union*. Judge Francesco Viganò represented the Italian Constitutional Court.

13 MAY 2022

The meeting entitled *That Door Open to Women* was organised by the Constitutional Court to highlight the importance of women in the judiciary, 62 years after the historic Judgment No 33/1960.



20 MAY 2022

The Birth and Application of the Constitution: primary school children invited to Palazzo della Consulta discuss the topic.

1 JUNE 2022

Josep Delfi Guardia Canela, President of the Constitutional Tribunal of the Principality of Andorra, at Palazzo della Consulta.



10 JUNE 2022

Judge Luca Antonini delivers a speech at a conference on *Constitutional Tax Law from a Third Millennium Perspective*, held at Luiss University in Rome.

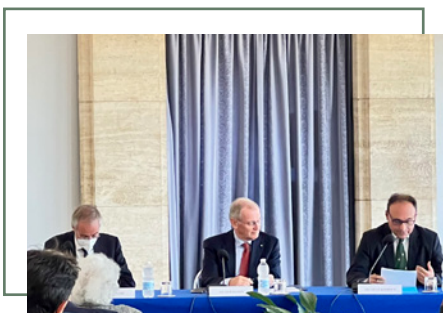
18 JUNE 2022

Vice-President Daria de Pretis speaks at the Italian-German colloquium on public law hosted at Palazzo della Consulta.



8 SEPTEMBER 2022

Presentation at the Constitutional Court of the Italian translation of the Babylonian Talmud as a tool for intercultural inclusion.



20 SEPTEMBER 2022

A conference on *Constitutional Duties* in memory of Professor Giorgio Lombardi held at Palazzo della Consulta.



7 OCTOBER 2022

President Silvana Sciarra addresses the Conference of the Constitutional Courts of the European States in Brussels.



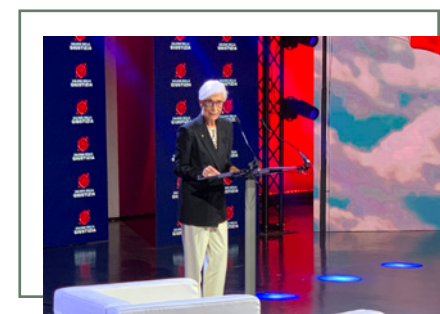
14 OCTOBER 2022

Vice-President Nicolò Zanon at the 35th congress of the Associazione Nazionale Magistrati: *Rights and Jurisdiction at the Time of Recovery*. Vice-President Zanon also took part in the round table entitled *The Constitutional Physiognomy of Judges and Prosecutors: Reforms and Self-government*.



21 OCTOBER 2022

President Silvana Sciarra in Florence at the ceremony to name the Centro studi per la storia del pensiero giuridico moderno (Study Centre for the History of Modern Legal Thought) after Paolo Grossi.



4-6 DECEMBER 2022

President Silvana Sciarra attended the 70th anniversary of the Court of Justice of the European Union in Luxembourg, where a special meeting of judges was held on the theme of "Bringing justice closer to the citizen".

20 OCTOBER 2022

An international conference on the *Role of Constitutional Courts in New Democracies* was held in Tirana to mark the 30th anniversary of the Constitutional Court of the Republic of Albania. Vice-President Nicolò Zanon represented the Italian Constitutional Court at the event.



25 OCTOBER 2022

President Silvana Sciarra delivered the opening speech at the 2022 *Salone della Giustizia*.



2023

All events attended by judges are published on the institutional website in the events section.

The Institution and its Offices

The Secretary General

The Secretary General is the head of the Administration, which he or she represents. Duties include assisting the President, the President's Bureau, and judges in organising and running the Court and supervising all the Services and Offices. In November 2021, Councillor Umberto Zingales was appointed Secretary General of the Court.

The Docket Office

The Docket Office reports directly to the President. Its task is to carry out preliminary studies regarding referral orders and applications for constitutional review. It assists the President in assigning cases to judges and scheduling their hearings.

The *Ufficio del Massimario*

This office compiles the summaries of the decisions of the Court's proceedings and orders. It draws up and publishes the Official Reports of judgments and orders (*Raccolta ufficiale delle sentenze e delle ordinanze*).

The Registry

This is where constitutional proceedings begin, as it is here that referral orders and applications for constitutional review are submitted (as of 3 December 2021 via the e-Cost platform). The Registry, which reports directly to the President, handles the subsequent formalities.

The Studies Department

The Studies Department carries out systematic and documentary research on constitutional case law and scholarship of constitutional interest, also at the international level.

The Library Service

The Library Service promotes, purchases, and preserves books and publications in addition to providing bibliographic descriptions and catalogues. It currently houses 140,000 volumes.

The Accounting Department

The Accounting Department manages the Court's budget and oversees administration and accounting related to contracts, expenditure, and measures concerning personnel.

The General Affairs and Personnel Service

This is the administrative office for the Court's permanent, temporary, and retired staff.

The Press and Communications Office

This office is responsible for communications and relations with the press also via the Court's institutional website and social networks. It operates in accordance with the President's directives.

The Ceremonial Office

This office is responsible for the participation of the President, Vice-Presidents, Judges, and the Secretary General in public events and ceremonies, in addition to courtesy and official visits.

The Procurement Service

The Procurement Service drafts contracts relating to the functioning of the Court, as well as its operations and activities. It is also responsible for the routine maintenance of the Court's premises and artistic and historical heritage.

The Carabinieri Command at the Constitutional Court

The Command provides protection services for the President of the Court and surveillance and security services for the constitutional judges during institutional activities and at the various premises of the Constitutional Court.

Staying connected

Through its communications and its various platforms, the Court makes its news available as it happens, so anyone can stay informed and understand what is happening in real time.

THE WEBSITE

The primary means of connection with the public is the Court's website, which is constantly updated. In 2022, the website counted over 820,000 users, totalling more than 1.4 million sessions.

THE APP

Launched in September 2020, the App has proved to be a very efficient tool for staying connected with the Constitutional Court and receiving news on rulings, press releases, hearings, the agenda of proceedings, and summaries of Court's decisions. Currently, the App is used by over 18,000 users and allows immediate access to the Court's activities.

INSTAGRAM

After a significant increase in followers between 2020 and 2021 (+300% in one year), the Constitutional Court's Instagram profile continues to inform an ever-growing number of users, currently exceeding 61,000 followers. Of these, 52% are women and 48% are men. There is a high level of interest among young people: 68% of followers are between the ages of 18 and 34, a percentage that rises to 76% when considering only women. The profile offers a wide range of content and information, from moments in the life of the Court to important announcements, institutional events, and historical occasions.

TWITTER

The Constitutional Court's Twitter profile, which has been active for three years, is growing steadily and is followed by over 15,000 users. It provides updates on all press releases, podcasts, and major events involving the Court.

YOUTUBE

The official YouTube channel of the Court has been active for four years and has over 1,800 subscribers and nearly 400 videos. The channel features informational content, podcasts, annual reports, highlights from school visits, and other media about the Constitutional Court. To date, the channel has received over 170,000 views (totalling nearly 10,000 hours), with over 40,000 views in the past year alone.

PODCAST

The public can also learn about the Constitution, the Court, and its decisions through its podcasts. As one of the first institutions in Italy to use podcasts, the Court is followed by thousands of listeners in Italy and abroad: Austria, Brazil, the United States, Germany, and Spain. Since 2020, the Court's Podcast Library has been providing audio recordings featuring judges discussing contemporary issues from a constitutional perspective.





Detail of the grotesques in the Sala Pompeiana of Palazzo della Consulta, painted by Bernardino Nocchi in 1788

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of the Constitutional Court, see:
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Twitter, Instagram and YouTube

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