



Angelo Raffaele Salerno

CONSTITUTION AND PUNITIVE POWER: CHANGES IN ITALIAN CONSTITUTIONAL JURISPRUDENCE

MPIL Agora

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In the last years, after long decades of constitutional jurisprudence in which the legislative discretion in criminal matters was traditionally considered unquestionable under many profiles, the Italian constitutional judges seem to have adopted a new approach: The scrutiny made by the Corte costituzionale is now incomparably stricter than in the past, especially for what concerns the constitutional legitimacy of the penalties. In short, in this jurisprudence, there are a series of symptoms that seem to underline a change of the latitude of the legislative power in criminal matters.

The noble justification for this change of paradigm of the constitutional judges has been explicitly declaimed as the protection of fundamental rights. However, it does not seem a coincidence that this new approach matures in a legal and political context characterised by the isolation of the court in the national and European judge-made system on the one hand and by the irruption of populist politics on the other.

For this presentation, Angelo Raffaele Salerno will discuss the main symptoms of this reduction of the legislative discretion latitude, analysing the most important lines of the constitutional jurisprudence of the last years and focusing on the consequences of this innovative approach for the constitutional order.



About the Speaker

Angelo Raffaele Salerno is a Ph.D. candidate in 'Diritto dei mercati europei e globali. Crisi, diritti, regolazione' at the University of Tuscia and guest researcher at the Max-Planck-Institut für ausländisches öffentliches Recht und Völkerrecht. He graduated in law from the University of Rome 'La Sapienza' and holds a postgraduate diploma in constitutional justice and judicial protection of rights from the University of Pisa (11th edition of the course 'Alessandro Pizzorusso'). He is author of several articles on

public and constitutional law topics, especially on fundamental rights issues, and is a member of the editorial board of the journal *Diritto e Salute*. Angelo also is admitted to practice as a lawyer to the Italian bar. He is currently writing his doctoral thesis on the legislative discretion in criminal matters in Italian constitutional jurisprudence.

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