

Abstract

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*Legislator's discretion and Constitution's safeguards.
Legislator's omissions and inaction before the Constitutional Court"*

This work analyses the recent and most relevant changes that characterize the Italian constitutional justice, taking into account the legislative discretion in the judicial review.

The first two chapters are focused on the theories of the Constitutional Court's limits in judging normative choices discretionally identified by the legislator. Here, those assumptions, which have allowed the progressive departure from this theoretical model, are also analysed.

The third chapter focuses more specifically on the passage of time in the constitutional legitimacy judgment, which is often a condition for sanctioning excessive legislative inertia. This is the consequence of having a law in the system that has already deemed illegitimate, even if the Court has not formally declared its constitutional illegitimacy.

These circumstances are leading to the consolidation of an unprecedented jurisprudential trend: the Court tends more and more to free itself from the presence of a single constitutionally obliged solution to adopt decisions of a highly manipulative nature, especially when the questions of constitutional legitimacy are related to personal freedom. The fourth chapter analyses this recent and controversial trend deepening the new technique of the referral order with the identification of a specific date, which represents the attempt to reduce time of a legislative action when a law has already been found unconstitutional.

The fifth chapter focuses on the temporal mobility of the boundaries separating the area of the legislative function from that of the constitutional guarantee. Indeed, this is expressed in granting *priority* to an act of the legislator, without perpetually sacrificing the *primacy* of constitutional legality.