

WHEN COOPERATION MEANS REQUEST FOR CLARIFICATION, OR BETTER FOR “REVISITATION” THE ITALIAN CONSTITUTIONAL COURT REQUEST FOR A PRELIMINARY RULING IN THE TARICCO CASE

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The day after having struck down some significant parts of the electoral law, the Italian Constitutional Court (hereinafter “ICC”) has released another keenly awaited decision in the *Taricco* saga. The Court has referred (back..) to the Court of Justice of the European Union (hereinafter “CJEU”) a case that the judges sitting in Luxembourg had already heard before. By the order no. 24, in fact, the ICC has asked the CJEU to clarify whether the decision taken on September 2015 in *Taricco* (C-105/14) does actually leave national courts the power to disregard the same to the extent the effects of that decisions would be (like, in the view of the Court, are) in contrast with a fundamental principle of the Constitution (namely, the principle of legality).

In the case at hand, in fact, the ICC had been requested, among others, to exercise this power in accordance with the counter-limits doctrine in order to prevent the enforcement of the CJEU ruling in *Taricco*. By the counter-limits doctrine (that dates back to the 1973 ICC judgment in

Frontini), the ICC reserved itself the competence to call into question the application of EU law when it comes to measures that are likely to affect the supreme principles of the constitutional order.

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