In its ruling (sentence number 96) on 3 July 2025, the Italian Constitutional Court declared inadmissible the constitutional questions raised about Article 14(2) of Legislative Decree No 286 of 1998. The challenges were made in relation to Articles 13(2) and 117(1) of the Italian Constitution, as well as Article 5(1) of the European Convention on Human Rights. The issues were brought forward by the Justice of the Peace of Rome, who was tasked with validating detention orders for foreigners held in a Centro di Permanenza per i Rimpatri (CPR) or repatriation detention centres.

The Justice of the Peace argued that the detention process lacked primary legal regulation, violating the principle of absolute legal reserve under Article 13(2) of the Constitution. They also raised concerns about the absence of minimum legal safeguards, resulting in unequal treatment compared to inmates in prisons who benefit from the protection of the penitentiary system. The Constitutional Court reaffirmed that detention in CPRs involves "physical subjugation to another's power", affecting personal liberty. It recognised a gap in the law regarding the absolute legal reserve, as the existing legal provisions did not sufficiently define the conditions of detention or the rights of detainees.

These aspects are largely governed by regulatory norms and discretionary administrative measures. The Court emphasised that it is the responsibility of the legislator to establish a comprehensive legal framework that ensures the respect for detainees' fundamental rights and dignity. The court declared inadmissible the questions related to Articles 2, 3, 10(2), 24, 25(1), 32, and 111(1) of the Constitution, citing incomplete legal analysis. It also clarified that judicial remedies, such as preventive protection under Article 700 of the Civil Procedure Code, could be applied against violations of fundamental rights experienced by those detained in CPRs. However, this area remains inadequately addressed by current immigration laws.

Source(s)

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