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Unconstitutionality of Pecuniary Reparation in Public Administration Crimes for Disproportionality

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ABSTRACT
By judgment No. 108 of 18 June 2026, the Italian Constitutional Court struck down Article 322-quater of the Criminal Code, extending the declaration of unconstitutionality to its 2019 amendment and to Article 165, paragraph 4, of the Criminal Code. This article analyses the Court's classification of pecuniary reparation as an essentially punitive measure with ultra-compensatory effects, distinct from both civil damages and restorative confiscation. It then examines the proportionality test under Article 3 of the Italian Constitution and Article 49(3) of the EU Charter of Fundamental Rights, distinguishing the binding ratio decidendi concerning rigid, non-graduable statutory quantification from mere cumulative imposition with equivalent confiscation under Article 322-ter. Finally, the analysis addresses the operational consequences for pending trials, plea bargaining, and final convictions at the enforcement stage.

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Unconstitutionality of Pecuniary Reparation in Public Administration Crimes for Disproportionality

Critical analysis of Italian Constitutional Court Judgment no. 108 of 18 June 2026: punitive nature, proportionality under Article 49(3) CFREU, and the survival of value-based confiscation

CASE DOSSIER

COURT
Italian Constitutional Court

DECISION
Judgment no. 108 of 18 June 2026

KEY PROVISIONS
Italian Criminal Code, Article 322-quater • Italian Criminal Code, Article 322-ter • Italian Criminal Code, Articles 2(4), 133, 165(4), 185, 314, 318, 321, and 323-bis

HOLDING
upheld; declares Article 322-quater c

KEY TAKEAWAYS

01 Punitive nature and ultra-compensatory function
Pecuniary reparation under Article 322-quater c.p. serves neither restitution nor compensation, but operates as a punitive sanction subject to Article 3 of the Constitution and Article 49(3) CFREU.

02 Rigid statutory quantum and proportionality test
The Constitutional Court censures the automatic formula barring judicial graduation according to offence gravity, co-offender contribution, and financial capacity.

03 Consequential invalidation without protection gaps
Full invalidation removes both the 2015 and 2019 wordings and Article 165(4) c.p., while leaving imprisonment, confiscation under Article 322-ter c.p., and civil or public-accounting damages intact.

04 Impact on pending trials and final convictions
Striking down the statute requires ex officio removal as an unlawful penalty in pending cases and opens enforcement-stage revocation for final convictions.

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LEGAL PRINCIPLE / EDITORIAL HEADNOTE

The mandatory fixed pecuniary reparation under Article 322-quater of the Criminal Code, together with Article 165(4) of the Criminal Code, violates Articles 3, 11, and 117(1) of the Italian Constitution in conjunction with Article 49(3) CFREU as a punitive sanction that the court cannot individualize.

ABSTRACT By Judgment no. 108 of 18 June 2026, the Italian Constitutional Court declared the **unconstitutionality of pecuniary reparation** under Article 322-quater of the Criminal Code, striking down consequentially its 2019 amendment and Article 165(4) of the Criminal Code. This article first examines the classification of the measure as having a **punitive nature** with ultra-compensatory effects, distinct from both civil damages and restorative confiscation. It then reconstructs the **proportionality review** under Article 3 of the Italian Constitution and Article 49(3) of the EU Charter of Fundamental Rights, isolating the binding *ratio decidendi* from over-simplified readings on cumulative **value-based confiscation** under Article 322-ter. Finally, the study assesses the impact of **consequential unconstitutionality** on pending proceedings, plea bargaining, and final convictions at the enforcement stage.

COMPARATIVE & EU FRAMING **Institutional & EU Nexus:** The Italian Constitutional Court applies the autonomous European notion of a "criminal/punitive sanction" alongside Article 49(3) of the EU Charter of Fundamental Rights (triggered under Article 51(1) by EU anti-corruption instruments) to strike down fixed cumulative financial penalties (*riparazione pecuniaria*) that exceed restorative disgorgement of illicit profits. **Comparative Common Law Lens:** Unlike UK Proceeds of Crime confiscation orders or US criminal forfeiture—which are bounded by statutory benefit calculations or Eighth Amendment Excessive Fines scrutiny—Italy's repealed Article 322-quater stacked an automatic 100% surcharge atop mandatory confiscation and double reputational damages before the Court of Auditors (*Corte dei conti*), without allowing judicial tailoring to culpability or ability to pay.

01. INTRODUCTION: ITALIAN CONSTITUTIONAL COURT JUDGMENT NO. 108/2026

The boundary between **restorative disgorgement** and **punitive sanction** sustains the entire structure of Italian Constitutional Court Judgment no. 108 of 18 June 2026[1], which declares the unconstitutionality of pecuniary reparation under Article 322-quater of the Criminal Code for offences against public administration. Whenever a financial exaction exceeds recovery of illicit enrichment to pursue additional deterrence, it enters the constitutional and European statute of punitive measures, and no formal civil label can shield legislative automatism.

§2 For over a decade, the mechanism introduced by Law no. 69 of 27 May 2015 and amended by Law no. 3 of 9 January 2019 operated as a rigid gear alongside imprisonment, confiscation, and civil damages. The Constitutional Court removes a measure imposed ex officio in a **fixed statutory amount**, devoid of any judicial valve to adjust it to the offence or the offender's resources. Invalidation consequentially sweeps away both the 2019 amendment and the **conditional suspension requirement** under Article 165(4) of the Criminal Code.

§3 Reducing the decision to a mere ban on cumulative financial obligations would misread its genuine dogmatic scope. The selective threshold lies in the **proportionality of sanctions** and in separating measures that restore the prior financial position from those that punish. Upon that threshold rest the effects on pending trials, plea bargaining, and final convictions at enforcement.

02. PROCEDURAL HISTORY AND INTERPRETIVE ATTEMPTS BY THE SUPREME COURT OF CASSATION

§4 The constitutional referral arose from a case modest in figures yet emblematic of **automatic duplication** in financial confiscation. A Guardia di Finanza officer stood convicted of bribery for the exercise of public functions under Article 318 c.p. after accepting EUR 5,000 during a tax audit[1]. Having rejected the grounds on evidence, intent, and the mitigating circumstance under Article 323-bis c.p. in its referral order of 7 November 2025, the Supreme Court faced the double financial order entered below: alongside **confiscation of the bribe** of EUR 5,000 under Article 322-ter c.p., the lower courts had ordered an additional EUR 5,000 in pecuniary reparation to the military administration.

§5 Ever since Law no. 69/2015 took effect, the Supreme Court of Cassation had sought to contain the provision through procedural filtering and its classification as a punitive **ancillary civil sanction**. In Criminal Division Judgment no. 12541/2019[2], the Court excluded pecuniary reparation from plea bargaining—including extended plea bargains—quashing without remand a EUR 330,000 order in favour of a local health authority, since imposition outside statutory bounds constituted an **unlawful penalty** appealable under Article 448(2-bis) c.p.p. Along the same line, Criminal Division

Judgment no. 33260/2021[3] declared inadmissible the prosecutor's appeal seeking to make conditional suspension under Article 165(4) c.p. dependent on reparation in a plea bargain.

§ 6 Tension persisted, however, over cumulative orders and the allocation of funds between the State Treasury and the injured public body. Criminal Division Judgment no. 37084/2021[4] quashed the release of assets seized under Article 322-ter c.p., noting that reparation belongs to the **injured administration** whereas confiscation and restitution under Article 444(1-ter) c.p.p. accrue to the State. In ordinary trial proceedings, Criminal Division Judgment no. 10052/2023[5] upheld reparation in an EUR 86,795.20 embezzlement case as independent of a private settlement with the concessionaire, while warning of **sanctioning excess** if stacked with confiscation.

§ 7 Subsequent efforts to exclude reparation through **constitutionally conforming interpretation** whenever confiscation applied or damages had been paid collided with the mandatory wording of the statute. The referral order of 7 November 2025 noted that joint mandatory imposition barred ordinary courts from disapplying the rule, leaving centralized constitutional review as the only viable path.

DECISION / COURT	HOLDING	CORE LEGAL PRINCIPLE
Italian Constitutional Court, Judgment no. 108/2026	Struck Down	Declares Article 322–quater c.p. (2015 and 2019 wordings) and Article 165(4) c.p. unconstitutional for disproportionality of a non-graduable punitive sanction.
Supreme Court of Cassation, Criminal Division, Judgment no. 31834/2026	Consistent	Removes reparation retroactively imposed on a briber as an unlawful penalty detectable ex officio and cites intervening Constitutional Court Judgment no. 108/2026.
Supreme Court of Cassation, Criminal Division, Judgment no. 10052/2023	Applied / Warning	Upholds reparation in embezzlement absent confiscation, while flagging proportionality tensions when stacked with other financial measures.
Supreme Court of Cassation, Criminal Division, Judgment no. 37084/2021	Distinguishing	Bars releasing assets seized under Article 322–ter c.p. to the municipality, separating State confiscation from reparation.
Supreme Court of Cassation, Criminal Division, Judgment no. 33260/2021	Protective	Excludes Article 165(4) c.p. from plea bargaining because reparation presupposes a conviction judgment proper.
Supreme Court of Cassation, Criminal Division, Judgment no. 12541/2019	Foundational	Classifies pecuniary reparation as a punitive ancillary civil sanction and bars its application in extended plea bargaining.

03. GROUNDS FOR THE UNCONSTITUTIONALITY OF PECUNIARY REPARATION

3.1 — Statutory Construction of Article 322–quater c.p. and Its Punitive Nature

§ 8 Judgment no. 108/2026[1] begins by dissociating the statutory *nomen iuris* from the measure's actual operational design. Under Article 322-quater c.p., upon conviction "the payment of a sum equivalent to the price or profit of the offence is always ordered". Payment runs "by way of pecuniary reparation in favour of the injured administration", expressly "without prejudice to the right to compensation for damages". The statutory text immediately refutes any apparent compensatory neutrality.

§ 9 Dogmatically, the Constitutional Court sharply distinguishes **onerous impact** from **punitive nature**. Burdensome interferences with individual rights do not become punitive when they serve preventive hazard neutralization or a **restorative function** returning assets to the *status quo ante*. Article 322-ter c.p. belongs to that sphere, where "confiscation of the assets constituting the profit or price is always ordered", including by equivalent value, removing unjust enrichment without worsening the offender's lawful pre-offence patrimony.

§ 10 Article 322-quater c.p., by contrast, severs every link with patrimonial restoration for two structural reasons. First, it applies **ex officio** in criminal proceedings without any claim by the injured agency, unlike Article 38 of the 1889 Zanardelli Code and Article 12 of Press Law no. 47/1948. Second, the statutory sum—equal to what was received in 2015 or to price or profit from 2019 onward—ignores actual harm suffered by the administration, which in Article 318 c.p. bribery may sustain no direct financial shortfall.

§ 11 Equally decisive is the savings clause preserving full compensation for damages. Rejecting restrictive judicial readings, the Court holds that the statute mandates **full cumulation** with civil claims under Article 185 c.p. and public-accounting actions before the Court of Auditors, stacking the payment atop fiscal liability and reputational damages presumed at double the bribe under Article 1(1-sexies) of Law no. 20/1994. That **ultra-compensatory purpose**, coupled with equivalent confiscation, inflicts a net patrimonial deprivation and brings the measure under **punitive substance** and its constitutional guarantees.

3.2 — Proportionality Test Under Article 3 of the Constitution and Article 49 CFREU

§ 12 Once pecuniary reparation is brought within the punitive statute, scrutiny turns to the principle of **proportionality of sanctions** under Article 3 of the Italian Constitution and Article 49(3) CFREU. Domestically, the Court separates the constitutional basis of formal criminal penalties from broader punitive sanctions: formal penalties engage Article 27 of the Constitution, providing that "criminal responsibility is personal" and punishments "must aim at rehabilitating the convicted person", whereas other punitive sanctions fall under Article 3, leaving the Article 27 challenge absorbed.

§ 13 Article 322-quater c.p. fails reasonableness because it embeds a **rigid predetermination** inside an already multiplying sanctioning architecture. Combining confiscation under Article 322-ter c.p., pecuniary reparation, and presumed double reputational damages exposes the offender to an outlay reaching at least **four times the illicit proceeds**, atop imprisonment, accessory penalties, and further accounting or disciplinary liabilities, with no statutory tool allowing the criminal judge to reduce the sum.

§ 14 Such rigidity breaches two core corollaries of any lawful punitive sanction. The first demands **individualization of the punitive response** according to objective gravity, subjective culpability, and each co-offender's actual contribution—whereas the 2019 wording exposed every accomplice to

paying the entire price or profit. The second requires tailoring the financial burden to the offender's **economic and patrimonial conditions** at conviction, avoiding unsustainable automatisms that under Article 165(4) c.p. even foreclosed **conditional suspension**.

> ***Once financial deprivation surpasses recovery of illicit enrichment, the absence of judicial graduation turns an ancillary measure into a punitive automatism incompatible with constitutional and European proportionality.***

3.3 — Demarcating Ratio Decidendi, Obiter Dicta, and the Choice of Full Invalidation

§ 15 Sound doctrinal reading requires separating the **binding ratio decidendi** from simplified summaries circulated right after filing. The Constitutional Court rejects the referring court's premise that cumulating distinct financial liabilities is per se unconstitutional, thereby qualifying the incidental summary offered by Criminal Division Judgment no. 31834/2026[6] regarding confiscation under Article 322-ter c.p. The defect struck down is the combination of an **incremental burden** and the total lack of judicial graduation, whereas the invitation for Parliament to consider future proportionate fines remains mere *obiter dictum*.

§ 16 In its operative holding, the unconstitutionality of pecuniary reparation takes the form of **full invalidation** rather than a manipulative rewrite. Additive replacement is warranted only where repeal would create intolerable protection gaps for primary legal interests, whereas these offences remain backed by severe prison terms, **mandatory confiscation**, and civil and public-accounting remedies. The same structural defect triggers **consequential unconstitutionality** under Article 27 of Law no. 87/1953 for both the 2019 reform and Article 165(4) c.p., which conditioned suspended sentences on paying the invalidated sum.

THE BOUNDARY BETWEEN LAWFUL CUMULATION AND UNCONSTITUTIONAL AUTOMATISM

Judgment no. 108/2026 does not bar Parliament from pairing confiscation of profits with an additional punitive financial sanction, but requires that the amount not be mechanically frozen to the value of the proceeds and remain open to judicial tailoring based on offence gravity, individual culpability, and financial capacity.

04. DIALOGUE BETWEEN COURTS, VALUE-BASED CONFISCATION, AND RELATED PRECEDENTS

4.1 — Multilevel Interaction Between the Constitutional Court, CJEU, and Strasbourg

§ 17 In Judgment no. 108/2026[1], the Constitutional Court anchors the supranational benchmark in a precise nexus with the **Charter of Fundamental Rights** of the European Union. Even absent express argument in the referral order, the Court establishes that prosecuting corruption implements Union law under Article 51(1) CFREU, citing the 1995 PIF Convention, Framework Decision 2003/568/JHA, Directive (EU) 2017/1371, and Directive (EU) 2026/1021 of 29 April 2026. **Article 49(3) CFREU** thus applies, and its direct effect does not preclude centralized constitutional review.

§ 18 Under the European Convention, the constitutional judges adopt the Strasbourg line separating disgorgement of illicit profit from an **excessive punitive sanction**: so long as the levy merely neutralizes unjust enrichment, it resembles civil restitution and does not activate criminal-law guarantees. That friction had already surfaced in Criminal Division Judgment no. 10052/2023[5] on embezzlement, which saved the measure solely because the sentence stood at the statutory minimum without a **confiscation order**, while warning of collision with **proportionality** and substantive **ne bis in idem**.

LEGAL DIMENSION	PRIOR FRAMEWORK	FRAMEWORK AFTER JUDGMENT NO. 108/2026
Order under Article 322-quater c.p.	Mandatory ex officio payment equal to sums received (2015) or price/profit (2019), extended to private bribers.	Provision struck down in full; no pecuniary reparation order may be imposed.
Conditional suspension (Article 165(4) c.p.)	Benefit mandatorily conditioned on paying the reparation sum without any ability-to-pay review.	Consequential invalidation under Article 27 of Law no. 87/1953; ordinary Article 165 c.p. rules remain.
Confiscation (Article 322-ter c.p.) and damages	Cumulated with confiscation, civil damages under Article 185 c.p., and accounting reputational damages up to fourfold.	Restorative confiscation and civil or public-accounting damages survive; fixed punitive surcharge falls.
Plea bargaining (Article 444 c.p.p.)	Reparation already excluded by case law, while full restitution under paragraph 1-ter remained required.	Full operation of Article 444(1-ter) c.p.p. confirmed as an admissibility condition for plea bargains.

4.2 — Confiscation Under Article 322-ter c.p. and Asset Proportionality in Public Administration Crimes

§ 19 With pecuniary reparation excised, the asset-recovery architecture in public administration offences rests on Article 322-ter of the Criminal Code. The rule requires **direct confiscation** or, subsidiarily, "confiscation of assets at the offender's disposal for a value corresponding" to the price or profit. That restorative nature holds so long as deprivation stays within **actual illicit enrichment**; beyond that line, the measure turns into a financial penalty.

§ 20 Instructive in this regard is Criminal Division Judgment no. 31834/2026[6] concerning **value-based confiscation** up to EUR 467,962.36. From fees collected in preventive proceedings (EUR 926,324.47), the lawful portion (EUR 441,562.00) had been carved out to isolate the excess. Defence counsel contested disproportionality of the lien on shares in Legal Gest Consulting s.r.l. (EUR 256,718.00) and on real estate in Palermo, yet the Bench rejected the claim because the property was the sole remaining asset, deferring substitution with already collected **rental income** to enforcement.

§ 21 This reasoning connects directly with our prior commentary on proportionality of value-based confiscation over real estate[D1]. In tax-crime cases, the ban on excessive deprivation allows convicted defendants to offer sufficient alternative assets, seek cash conversion, or recover sale surpluses; in Judgment no. 31834/2026, dismissal rested instead on remand preclusions, confirming in both arenas that **enforcement proportionality** guards against excessive realization.

§ 22 A parallel convergence emerges on preventive seizure in relation to our study of preventive seizure in offences against public administration[D2] focusing on the duty to justify **periculum in mora**. That safeguard aligns with Criminal Division Judgment no. 37084/2021[4], which annulled the lifting of an Article 322-ter seizure meant to pay a municipality ahead of a plea bargain: while the precautionary lien secures State confiscation, courts cannot divert funds toward local claims.

§ 23 Removing pecuniary reparation restores Article 322-ter c.p. to its genuine function, clearing proceedings of fixed duplications. In so-called **offences within a contract**, verifying that profit calculations exclude lawful consideration remains decisive so that selectivity of the **confiscation threshold** prevents covert punitive drift.

05. BOUNDARY CASES, PLEA BARGAINING, AND DEFENCE AT THE ENFORCEMENT STAGE

5.1 — Challenging Final Reparation Orders and Residual Limits of Res Judicata

§ 24 In pending proceedings, the declaration of unconstitutionality requires **immediate removal of the measure** even ex officio, whereas for already final convictions the convicted party may file an enforcement motion seeking revocation given the punitive nature of the ancillary sanction. By contrast, restitution duties assumed in plea bargaining under Article 444(1-ter) c.p.p. remain untouched.

§ 25 In non-final cases, the unconstitutionality of pecuniary reparation immediately sweeps away every order grounded in Article 322-quater c.p. and suspended-sentence conditions. Right after Judgment no. 108/2026[1], Criminal Division Judgment no. 31834/2026[6] reiterated that undue reparation constitutes an **unlawful penalty** detectable at any stage, quashing without remand an order to pay EUR 98,906.25 to the Ministry of Justice on grounds of **non-retroactivity** under Article 2(4) c.p. for pre-2019 facts while noting the supervening constitutional ruling.

§ 26 With respect to final convictions, the Constitutional Court's punitive classification opens a clear breach in **enforcement-stage res judicata**. Among the guarantees recalled in the reasoning stands the **derogation from *res judicata*** whenever a punitive ancillary sanction is declared unconstitutional: residual enforcement of an order stripped of statutory basis cannot proceed, allowing defence counsel to seek revocation of unpaid sums and removal of the suspension condition via an enforcement motion.

§ 27 A precise *distinguishing* is nevertheless required for convictions entered by plea bargain. Unlike ordinary or abbreviated trials, neither measure applied to plea bargains under Criminal Division Judgments no. 12541/2019[2] and no. 33260/2021[3], since Parliament required a conviction judgment proper rather than an assimilated ruling. Conversely, the **full restitution requirement** under Article 444(1-ter) c.p.p. survives as distinct from confiscation under Judgment no. 37084/2021[4].

5.2 — Grey Areas and Defence Strategies Across Criminal and Public-Accounting Litigation

§ 28 Beyond eliminating pending orders, two **operational grey areas** of immediate practical weight remain open. The first boundary case concerns sums already paid before 18 June 2026 to satisfy the suspension condition under Article 165(4) c.p.: once the statutory basis falls, those disbursements lack legal cause, raising both civil claims for **restitution of undue payment** against the recipient agency and offset arguments in pending public-accounting liability trials.

§ 29 A second open question defines the corridor available to Parliament should it accept the invitation to enact new **proportionate financial penalties**. The judgment sets no numerical caps to prevent renewed imbalance, censuring only the absence of discretionary criteria; if a future fine is not coordinated with the statutory doubling of **reputational damages** under Article 1(1-sexies) of Law no. 20/1994, sanctioning excess will resurface intact, proving that removing automatism alone does not guarantee overall balance.

§ 30 From an **operational defence perspective**, litigation now shifts squarely onto the confiscable quantum under Article 322-ter c.p. At trial, counsel must immediately challenge unlawful reparation and suspension conditions while discharging the **evidentiary burden** on carving out lawful revenues, since tardy accounting arguments on costs or taxes face remand preclusions; at enforcement, criminal revocation must be coordinated with double-recovery defences before the Court of Auditors.

DEFENCE REMEDIES BETWEEN TRIAL AND ENFORCEMENT
Striking down Article 322-quater c.p. calls on defence counsel to pursue enforcement-stage revocation of final orders and focus trial advocacy on defining net confiscable profit under Article 322-ter c.p., preventing procedural bars on differential calculations between lawful performance and illicit gain.

06. CONCLUSIONS

§ 31 The declaration of unconstitutionality of pecuniary reparation issued by Italian Constitutional Court Judgment no. 108/2026[1] restores the dividing line between restorative tools and punitive sanctions in offences against public administration. Both wordings of Article 322-quater c.p. and Article 165(4) c.p. fall together, confirming that no civil label can insulate an ultra-compensatory rigid levy from the **proportionality** review mandated by Article 3 of the Constitution and Article 49(3) CFREU, replacing automatism with **selective sanctioning**.

§ 32 In practice, the decision preserves remedies confined to patrimonial restoration or proven compensation. As promptly confirmed by Criminal Division Judgment no. 31834/2026[6], excising the punitive surcharge leaves **value-based confiscation** under Article 322-ter c.p. intact over proven illicit profits, alongside the restitution duty conditioning plea bargains, consolidating a binary asset-recovery model faithful to constitutional and European limits.

§ 33 Enforcement courts and Parliament now face the transition following invalidation. In pending cases removal operates without residue, whereas final orders and prior payments open the arena of revocation and public-accounting coordination, reminding legislators that any future financial penalty must respect **judicial individualization**.

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I. STATUTORY PROVISIONS

Italian Criminal Code, Article 322-quater – pecuniary reparation in offences against public administration
Italian Criminal Code, Article 322-ter – mandatory direct and value-based confiscation of price or profit
Italian Criminal Code, Articles 2(4), 133, 165(4), 185, 314, 318, 321, and 323-bis – succession of laws, conditional suspension, and public-official offences
Constitution of the Italian Republic, Articles 3, 11, 27, and 117(1) – equality, proportionality, and rehabilitative purpose of punishment
Charter of Fundamental Rights of the European Union, Articles 49(3) and 51(1) – prohibition of disproportionate penalties and scope of EU law
Italian Code of Criminal Procedure, Articles 444(1-ter), 445(2), and 448(2-bis) – plea bargaining rules and appeal against unlawful penalties
Law no. 69 of 27 May 2015 and Law no. 3 of 9 January 2019 – enactment and amendment of Article 322-quater c.p.
Law no. 87 of 11 March 1953, Article 27, and Law no. 20 of 14 January 1994, Article 1(1-sexies) – consequential unconstitutionality and presumed reputational damages

II. CASE LAW CITED

[1] **Italian Constitutional Court, Judgment no. 108 of 18 June 2026** OUTCOME: upheld; declares Article 322-quater c.p. (2015 and 2019 wordings) and Article 165(4) c.p. unconstitutional. PARA.: §§ 3–9 on the ultra-compensatory punitive nature and breach of proportionality under Article 3 of the Constitution and Article 49(3) CFREU.

[2] **Italian Supreme Court of Cassation, Criminal Division, Judgment no. 12541 of 20 March 2019** OUTCOME: quashed without remand as to pecuniary reparation, which is eliminated. PARA.: §§ 2–4 on punitive ancillary civil nature, unlawful penalty status, and inapplicability to extended plea bargains.

[3] **Italian Supreme Court of Cassation, Criminal Division, Judgment no. 33260 of 8 September 2021** OUTCOME: declared inadmissible. PARA.: § 2 on inapplicability of pecuniary reparation and Article 165(4) c.p. to plea-bargain judgments.

[4] **Italian Supreme Court of Cassation, Criminal Division, Judgment no. 37084 of 12 October 2021** OUTCOME: quashed without remand. PARA.: §§ 3–4 distinguishing the beneficiary of reparation from the State as recipient of confiscation under Article 322-ter c.p. and restitution under Article 444(1-ter) c.p.p.

[5] **Italian Supreme Court of Cassation, Criminal Division, Judgment no. 10052 of 9 March 2023** OUTCOME: dismissed. PARA.: § 3 on autonomy of pecuniary reparation from private settlements and proportionality tensions when cumulated with confiscation.

[6] **Italian Supreme Court of Cassation, Criminal Division, Judgment no. 31834 of 24 August 2026** OUTCOME: quashed without remand in part (eliminating pecuniary reparation) and declared inadmissible as to the remainder. PARA.: §§ 1.1 and 1.2 on ex officio removal for non-retroactivity of Law no. 3/2019, reference to Judgment no. 108/2026, and limits on value-based real-estate confiscation.

III. LEGAL SCHOLARSHIP CITED

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