

**ABUSE OF OFFICE AND THE MAGISTRATE’S LIABILITY
IN THE INTERPRETATION AND APPLICATION
OF THE RULE OF LAW**

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ABSTRACT: *The law gives the judge the power of choosing, after his appreciation, from several possible solutions, the one that he thinks best fits the concrete case to his judgment. The lack of predictability and clarity is an aspect of the very existence of the legal norm, instead, when it is obvious that a legal norm has lost its substance, for example affected by a decision that establishes its unconstitutionality in its application, the judge has the obligation to find that it has no "precise and rigorous rules" before, but indefinite terms with such a general meaning that the legal norm no longer guarantees that the reasons, object and purpose pursued by the legislator can be attained by applying that legal rules. A person in a criminal case cannot be condemned by the very fact that the legal norm is subjected to a subjective interpretation that comes to move the reasoning principle in dubio pro reo. Even more, this problem becomes irrelevant if we are faced with a constitutional abrogation by a Constitutional Court decision. In the latter case, if the judge refuses to implement the decision of the Constitutional Court he is guilty of denial of justice.*

KEYWORDS: *abuse of office; liability; constitutional abrogation; justice denial; judicial power*

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