



Press Office of the Constitutional Court

---

*Press release of 31 January 2020*

---

## JUDGMENT ON THE ELECTORAL LAW REFERENDUM FILED TODAY: A DELEGATING PROVISION'S MEANING HAD BEEN RADICALLY CHANGED

Today, Judgment no. 10 of 2020 was filed (Judge Rapporteur – Daria de Pretis), in which the Constitutional Court declared the inadmissibility of the proposed referendum question on the “Abolition of the proportional method of allocation of seats in multi-member constituencies, in the electoral system currently in force for the Chamber of Deputies and the Senate of the Republic”. The request had been submitted by the Regional Councils of Veneto, Piedmont, Lombardy, Friuli Venezia-Giulia, Sardinia, Abruzzo, Basilicata and Liguria (see the press release of 16 January 2020).

In the Italian constitutional system, referenda only serve the aim to repeal: entire laws or entire provisions, but also individual sentences or even words. However, the text resulting from the repeal cannot be radically different from, extraneous to or broader in legal scope than, the original.

If the referendum question concerns electoral law that applies to a constitutional body or that is of constitutional significance, settled constitutional case law establishes that in case of repeal, the resulting legal framework must be self-executing, that is, capable of allowing elections to be held immediately. Otherwise, the referendum result risks paralyse the ordinary activity of the bodies in question.

In the case decided by means of today's judgment, the referendum question concerned the two laws governing elections to means the Senate and to the Chamber of Deputies. In particular, the parties proposing the referendum sought to repeal the textual references to multi-member constituencies, for the purpose of eliminating the quota of seats allocated through the proportional method. This

would have transformed the current electoral system into a wholly single-member, majority system.

In case of repeal, therefore, it would have been necessary to redraw the boundaries of the electoral constituencies, to convert them all into single-member constituencies.

To this end, the applicants also proposed a partial repeal of the delegation of powers to the Executive established in Law no. 51 of 2019. That delegation served the different purpose of implementing the constitutional amendment to reduce the number of members of the houses of Parliament.

The proposal, however, meant that the referendum question would have “radically altered” the meaning and scope of the delegation of powers, also making it amenable to application in connection with the potential change in the electoral system that could result from the referendum.

Indeed, all of the “somatic traits” of the original delegation of powers (object, timing, principles and criteria) would change, to the point of giving rise to a new delegation, that could potentially be exercised in two ways (implementing the constitutional amendment to reduce the number of members of the houses of Parliament, and implementing the electoral law resulting from the referendum).

This would have given rise to an excessive and therefore inadmissible manipulation of the original text of the delegating law.

For this reason, which absorbs all others, the Court declared the referendum question inadmissible.

Rome, 31 January 2019