



Press Office of the Constitutional Court

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LAWYERS AND DISTRICT ELECTIONS: THE MAXIMUM LIMIT OF TWO CONSECUTIVE TERMS APPLIES TO TERMS PREVIOUSLY SERVED

The conditions of equality that Article 51 of the Constitution places at the basis of access to “elected positions” may be compromised if election processes – such as those governing the selection of bar association councillors – are open to individuals who have already served two (or more) consecutive terms, and were thus able to forge a strong bond with a part of the electorate. In addition, a ban on a third consecutive terms fosters natural turnover within the body in question, introducing “fresh energy” into the representative system and preventing the risk that it might crystallise. Thus, the ban complies with the principle of good administration, and particularly with its manifestations in the forms of impartiality and transparency. The ban also makes it possible to protect the authoritativeness of a profession that receives particularly close attention on the part of the legislator, given its relevance for the administration of justice and the right of defence. Moreover, comparable limitations may be found in the laws regulating other professions. After all, once one term after the two mandates has expired, the would-be councillors may again run for two more consecutive mandates.

This, in brief, is the reasoning underlying Judgment no. 173, filed today (Judge Rapporteur: Mario Rosario Morelli), in which the Constitutional Court declared unfounded the questions of constitutionality raised by the National Bar Association (*Consiglio nazionale forense*, CNF) with regard to Law no. 113 of 12 July 2017, insofar as it prohibits councillors of district bar associations from running for a third consecutive term. The Court also declared unfounded the question on the interpretative provision according to which the ban on election for more than two consecutive terms also applies to terms begun prior to the entry into force of Law no. 113 of 2017.

The judgment states that the provision is not retroactive in a strict sense, in that it merely confirms, for future candidacies, the position adopted by the Joint Chambers of the Court of Cassation in Judgment no. 32781 of 19 December 2018. Actually, the rule challenged by the CNF does not introduce a new framework regulating past events, but rather provides “for the future”. It is only in this respect that it immediately attributes importance to the two consecutive terms served prior to running for re-election, turning them into a limiting condition.

Rome, 10 July 2019