



Press Office of the Constitutional Court

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WASTE MANAGEMENT: REGIONS CANNOT DELEGATE THE FUNCTIONS CONFERRED UPON THEM BY THE ENVIRONMENTAL CODE TO MUNICIPALITIES

According to the Constitution's current distribution of competences concerning waste management – a task falling within the subject-matter of environmental protection – Regions cannot delegate, to municipalities, the administrative functions conferred upon them by the State, based on the allocation established in the Environmental Code. Therefore, Lazio Region was not entitled to delegate to municipalities – as, instead, it had sought to do with Law No. 27/1998 – the functions of approving projects for the disposal and recovery of waste deriving from demolition of automobiles and trailers, or from scrapping deteriorated and obsolete machinery and equipment, nor the power to authorize construction of these plants. Nor could it delegate the approval of projects for substantial variations to the plants and the associated power to authorize execution of those projects. Likewise, Lazio Region could not delegate the power to authorize the performance of disposal and recovery of said waste.

This was held by the Constitutional Court in [Judgment No. 189](#), filed today (Author of the Judgment: Maria Rosaria San Giorgio), in which it declared the unconstitutionality of Article 6, paragraph 2, letters b) and c) – in the latter case, with sole reference to letter b) – of Lazio's regional law on waste management. In particular, the provisions were deemed to contrast with Article 117(2)(s) of the Constitution.

In the case before the Court, two automobile scrapping companies had sought authorization, from *Roma Capitale*, to conduct the activities of disposal and recovery of hazardous waste. Their application was denied. The companies had appealed this decision before the *Tribunale amministrativo regionale* of Lazio.

The Court specified that its ruling of unconstitutionality runs from 29 April 2006, the date when the Environmental Code entered into force. Through this legislation, the principles pertaining to the reform of Title V of the Constitution – introduced subsequently to the legal provisions at issue in this case – resulted in a detailed regulation of the allocation of administrative functions, bringing about a discrepancy in the distribution of competences established by the challenged regional law.

Rome, 7 October 2021