



Public Information Office of the Constitutional Court

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THE HIGH COURT CALLS FOR RESPECT FOR REPRESENTATIVE DEMOCRACY, AND OPENS A DOOR FOR APPLICATIONS BY INDIVIDUAL MEMBERS OF PARLIAMENT

Individual Members of Parliament are entitled to a set of prerogatives that are constitutionally distinct from those that fall to them as members of the Assembly (i.e. the right to speak, to make proposals, and to vote), which they may exercise autonomously and independently, and which they may defend before the Constitutional Court by means of the tool of the jurisdictional dispute. However, in order to survive the preliminary scrutiny of admissibility, a violation of these prerogatives must be immediately and clearly apparent. For challenges that deal exclusively with violations or incorrect applications of Parliamentary regulations or practices, the Houses themselves offer internal remedies as part of their exercise of their autonomy.

These important new developments are found in Constitutional Court Order no. 17, issued today (Judge Rapporteur Marta Cartabia), on the jurisdictional conflict between powers of the State raised by thirty-seven Senators of the PD [*Partito Democratico*], concerning the Senate approval process of the 2019 Budget Law. In the concrete case, the appeal was declared inadmissible because, as stated in the Order, “there is no clear abuse of legislative procedure that would amount to one of the manifest violations of the constitutional prerogatives of members of Parliament,” thus meeting the admissibility requirement for conflicts of this kind.

The Court noted a series of constraints on the parliamentary process behind the 2019 Budget Law, which severely compressed the debate both in the Committee and in the Senate, further aggravating already problematic aspects of the decades-long practice of adopting *maxi-emendamenti* [major reforms] approved with a vote of confidence. However, in the Court’s view the proceeding of the working sessions was also influenced by a series of factors overlooked by the applicants, like the extended dialogue with European institutions, the first application of the reform of

Senate regulations for budget approval, and the fact that, in any case, the *maxi-emendamento* was, in part, the outcome of work of the Parliament up until that point. The Court stressed the need for the role reserved to the Parliament by the Constitution in proceedings to form the laws must not only be formally observed, but also respected in its substantive meaning, in order to safeguard representative democracy, under which elected members of Parliament must have the effective possibility to contribute to the formation of legislative will. This applies all the more to budget laws, which contain a concentration of basic policy choices and which determine the amount of the citizens' contribution to State revenue as well as the allocation of public resources. These are decisions which require "the broadest participation of all political actors in drafting them."

In light of these considerations, the Court concluded the Order by advising that, "in other situations a similar compression of the constitutional function of the members of Parliament could lead to different outcomes."

Rome, 8 February 2019