

Press Release of 10 March 2022

SMALL MUNICIPALITIES: ELECTION CANDIDATE LISTS THAT DO NOT GUARANTEE A GENDER BALANCE MUST BE REJECTED

The failure to provide for the rejection of lists of election candidates that do not include both male and female candidates in municipalities with fewer than 5,000 inhabitants is unconstitutional.

This ruling was issued by the Constitutional Court in [judgment no. 62](#), filed today (author Vice President Daria de Pretis).

The inclusion of candidates of both sexes within lists of municipal election candidates is a minimum guarantee of equal opportunities in access to elected office. This requirement also applies to municipalities with fewer than 5,000 inhabitants; however, the legislation governing the presentation of lists of election candidates does not provide for any sanction for any violation within elections to these bodies. The rule providing for balanced gender representation in the smallest municipalities – which account for 17% of the Italian population – is thus ineffective, and as such is incapable of fulfilling the requirement laid down by Article 51(1) of the Constitution, which provides that the Republic shall adopt specific measures to promote equal opportunities between women and men.

Article 71(3-bis) of Legislative Decree no. 267 of 2000 and Article 30(1)(d-bis) and (e) of Decree of the President of the Republic no. 570 of 1960, which regulate the presentation of lists of election candidates for elections in municipalities with fewer than 5,000 inhabitants, are accordingly unconstitutional insofar as they do not provide for any remedies in the event that the lists do not ensure representation for both men and women.

Having identified the violation, the Constitutional Court concluded that the rejection of those lists that do not comply with the constraint is an appropriate remedy under constitutional law. This solution is in fact provided for under the same legislation both in the event that a list does not comply with the minimum gender quota in a larger municipality, and also in the event

that a list does not include the minimum number of candidates in a municipality with fewer than 5,000 inhabitants.

It can therefore be incorporated consistently into the existing legislative framework, without interfering in particular with the criterion of municipality size, according to which that framework is structured.

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