



Communications and Press Office of the Constitutional Court

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A “RADICALLY OBSCURE” LAW IS INCOMPATIBLE WITH THE CONSTITUTION

“Irremediably obscure” laws, which cause “intolerable uncertainty when applied in concrete cases”, are contrary to the principle of reasonableness enshrined in Article 3 of the Italian Constitution.

So held the Constitutional Court in its [Judgment No 110](#), published today (judge rapporteur Francesco Viganò), which upheld the Government’s application by declaring a provision contained in a law of Molise Region unconstitutional.

The provision established the admissibility of unspecified “interventions” within “buffer zones” contained in “plan areas”, without specifying to which plans it referred. The admissibility of such interventions was envisaged “subject to a V.A. of the topic which produced the buffer zone”. This wording was deemed incomprehensible by the Court, also considering the fact that in its own submissions the Region had assigned two different meanings to the acronym “V.A.”, namely “valutazione ambientale” and “verifica di ammissibilità” (literally “environmental assessment” and “verification of admissibility”). Finally, the provision failed to fit into any pre-existing law, thus remaining “suspended in a vacuum”, which made it impossible to even attempt to interpret its requirements in the light of a specific regulatory framework.

After recalling, in particular, its previous judgments on the necessary degree of precision in criminal provisions and laws limiting fundamental individual rights, the Court observed that, also in relation to provisions governing the relations between the public administration and citizens, “every citizen has a legitimate expectation that legal provisions define *ex ante*, and in a reasonably reliable manner, the limits within which their rights and legitimate interests are protected”.

On the other hand, the Court continued, “a radically obscure provision only apparently binds the administrative and judicial branches of power, thus violating the principles of legality and of the separation of powers; it inevitably creates the conditions for unequal application of the law, in breach of the principle of equality, which is at the heart of the safeguard enshrined in Article 3 of the Constitution”.

The Court pointed out that in other legal systems similar to the Italian one, such as in France and Germany, radically obscure laws have also long been considered unconstitutional, insofar as they do not meet the minimum standards of legality proper to a State governed by the rule of law.

In light of these criteria, the Court concluded that the contested regional law was unconstitutional for two reasons. First, it failed to provide “any reliable guiding criteria for the public administration to assess whether or not to authorise a given intervention requested by a private individual”. Second, it made it difficult for a private individual “to exercise their right of defence in legal proceedings against any decision not to grant such an authorisation by the public administration, precisely because of the vagueness of the requirements of the law which should protect them against the arbitrary use of administrative discretion”.

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