
Prime Minister's Decrees and involvement of the Chamber. Amendment establishing a new mode of Government- Parliament relations

While the health situation is monitored constantly to adjust reopenings following those already in place, the economy now appears to be the government's biggest challenge. It is necessary to ensure that the measures adopted are fully operational with a commitment to enact as soon as possible the Decree Law envisaging large-scale measures, combined with actions to unblock bureaucratic constraints that would otherwise risk thwarting the efforts undertaken at budgetary level with an unprecedented mobilisation of resources. Unfortunately, the "April Decree" became the "May decree" due to a cumbersome process and subsequent delays. *After the inevitable bottleneck of Phase 1, Phase 2 saw the re-emergence of sector-specific interests of political parties and financial stakeholders.* This intertwined development risks once again sidelining the needs of families. So much for change, ideological tensions involve the areas of justice and immigration, which resurfaced as grounds for confrontation both within and outside the political majority, although everything, including economic evidence, testifies to the need for effective regularization. Finding a suitable compromise is objectively a very difficult task, all the more so since it involves dealing with a European context whose decisive importance for Italy is increasingly evident and which, however, is continuously subject to unresolved tensions and insidious setbacks. In such a delicate situation, the focus on institutional balances is not a matter for pundits. At a time when Government and Parliament are called upon to take decisions that directly and systematically affect citizens' lives, *The procedures by which such decisions are taken must be made increasingly transparent.* In this respect, the proposed amendment to Decree-Law No. 19 (the "Covid Decree"), now under discussion in the Chamber for its definitive conversion into law, is significant. The amendment provides for a new mode of relations between Government and Parliament with respect to the promulgation of Prime Minister's Decrees, which virtually all Italians are well acquainted with by now. The new regulation, fruit of an agreement between the political majority and with the go-ahead from the government, is based on procedures designed to involve Parliament in the meetings of the European Council. Accordingly, the Prime Minister reports to both Chambers on the position he will endorse therein, while the Chambers, following a debate, express non-binding guidelines that the Government will clearly have to take into account. Thus, a similar step will also be envisaged for the Presidential Decrees, with the exception of circumstances of extreme urgency requiring parliamentary scrutiny at a later date. MPs were due to vote on the amendment this week, but conflict with opposition forces that contested the Government's very use of Presidential Decrees, resulted in a postponement. At this point, it seems unlikely that the decree incorporating the new regulation will be converted into law before the next Prime Minister's Decree, anticipated in view of the May 17 deadline, but the Prime Minister could voluntarily announce the new procedure by submitting the new measures to Parliament in advance. This would also signal the onset of a new phase emerging after the tragic circumstances of the health emergency. To grasp the relevance of this innovation, mention must be made of the heated - at times controversial - debate surrounding the Decree of the Italian Prime Minister and Parliament's non-involvement in the new emergency measures over the last few months. Prime Ministerial Decrees are administrative acts normally adopted to enforce the provisions of a law. This instrument has been used since the beginning of the pandemic (which falls under the sole responsibility of the Prime Minister without the involvement of other institutional subjects) so as to ensure immediate and swift action in responding to the emergency situation. *However, the problem arose when the Prime Ministerial Decrees restricted the exercise of certain constitutional rights which the Constitution allows for in exceptional circumstances provided that this is done in compliance with the law.* This is why (also after the discrete and informal intervention of Italy's President - so-called moral suasion) the mechanism was "remedied" by means of two Decree-Laws, i.e. norms of primary

legislation, which incorporated the first measures adopted and provided the grounds for subsequent "implementing provisions" (in fact, it is the name given to the Prime Ministerial Decrees). This was done specifying specific content and time limitations as stipulated by legislation on exceptional measures. As required by law, these decree laws were subsequently submitted to Parliament for final conversion into law. Thus the Chambers were in fact involved in the legislative procedure. *Yet, why not resort directly and exclusively to Decree-Laws, i.e. the instruments specifically provided for in the Constitution "in extraordinary cases of necessity and urgency"?* This is a very serious objection, although it should be raised - in the opposite direction - every time governments enact decree-laws in situations that have nothing to do with necessity and urgency. This has been happening for years with governments of the entire political spectrum. The answer to this objection, however, must be sought in the specific nature of the situation. Having to act repeatedly and with continuous updates or adjustments, it would have resulted in a succession of decree-laws submitted to Parliament but lacking the possibility of being converted into law as they were bound to be swiftly replaced by others, resulting in a complex maze of overlapping regulations far worse than that which also occurred in part with the Prime Ministerial Decrees. This procedure appears to be formally correct, but in fact disrespectful of all the involved institutions, first and foremost Parliament itself. These seem to be merely technical issues on which it is obviously legitimate to have different opinions. *But since criticism went so far as to describe the government as having liberticidal intents, with a Premier seeking "full power", it would be wise for the discussion to recover good sense,* especially at a time when citizens are being requested increased responsibility. Perhaps the idea of incorporating in the Constitution a specific mechanism for the "state of exception", as envisaged in other European countries, should be reconsidered with a clear mind and with due consideration, also drawing on the experience of the past few months. In the meantime, let us hold on tight to our democracy, which is also withstanding this epochal ordeal.

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