

DECISION 2001-454 DC OF 17 JANUARY 2002
Corsica Act

On 20 December 2001 the Constitutional Council received a referral from Mr Jean-Louis DEBRÉ, Mr Philippe DOUSTE-BLAZY, Mr Jean-François MATTEI, Mr Bernard ACCOYER, Ms Michèle ALLIOT-MARIE, Mr René ANDRÉ, Mr Philippe AUBERGER, Mr Pierre AUBRY, Mr Jean AUCLAIR, Ms Martine AURILLAC, Mr Jean BARDET, Mr Léon BERTRAND, Mr Jean-Yves BESSELAT, Mr Jean BESSON, Mr Franck BOROTRA, Mr Bruno BOURG-BROC, Mr Michel BOUVARD, Mr Philippe BRIAND, Mr Bernard BROCHAND, Mr Christian CABAL, Mr Gilles CARREZ, Ms Nicole CATALA, Mr Richard CAZENAVE, Mr Henri CHABERT, Mr Jean-Paul CHARIÉ, Mr Jean CHARROPPIN, Mr Jean-Marc CHAVANNE, Mr Olivier de CHAZEAX, Mr François CORNUTGENTILLE, Mr Alain COUSIN, Mr Charles COVA, Mr Henri CUQ, Mr Arthur DEHAINE, Mr Patrick DELNATTE, Mr Yves DENIAUD, Mr Patrick DEVEDJIAN, Mr Guy DRUT, Mr Jean-Michel DUBERNARD, Mr Jean-Pierre DUPONT, Mr Nicolas DUPONT-AIGNAN, Mr François FILLON, Mr Roland FRANCISCI, Mr Yves FROMION, Mr Robert GALLEY, Mr Henri de GASTINES, Mr Jean de GAULLE, Mr Hervé GAYMARD, Mr Michel GIRAUD, Mr Jacques GODFRAIN, Mr Lucien GUICHON, Mr François GUILLAUME, Mr Gérard HAMEL, Mr Christian JACOB, Mr Didier JULIA, Mr Alain JUPPÉ, Mr Jacques KOSSOWSKI, Mr Robert LAMY, Mr Pierre LASBORDES, Mr Pierre LELLOUCHE, Mr Jean-Claude LEMOINE, Mr Lionnel LUCA, Mr Alain MARLEIX, Mr Jean MARSAUDON, Mr Philippe MARTIN, Mr Jacques MASDEU-ARUS, Ms Jacqueline MATHIEU-OBADIA, Mr Gilbert MEYER, Mr Jean-Claude MIGNON, Mr Pierre MORANGE, Mr Jean-Marc NUDANT, Mr Patrick OLLIER, Ms Françoise de PANAFIEU, Mr Jacques PÉLISSARD, Mr Etienne PINTE, Mr Serge POIGNANT, Mr Robert POUJADE, Mr Didier QUENTIN, Mr Jean-Bernard RAIMOND, Mr Jean-Luc REITZER, Mr André SCHNEIDER, Mr Bernard SCHREINER, Mr Philippe SÉGUIN, Mr Frantz TAITTINGER, Mr Michel TERROT, Mr Jean-Claude THOMAS, Mr Georges TRON, Mr Léon VACHET, Mr François VANNSON, Mr Roland VUILLAUME, Ms Marie-Jo ZIMMERMANN, Mr Pierre ALBERTINI, Mr Pierre-Christophe BAGUET, Mr Jacques BARROT, Mr Jean-Louis BERNARD, Mr Claude BIRRAUX, Mr Emile BLESSIG, Ms Marie-Thérèse BOISSEAU, Ms Christine BOUTIN, Mr Loïc BOUVARD, Mr Jean BRIANE, Mr Yves BUR, Mr Dominique CAILLAUD, Mr Hervé de CHARETTE, Mr Jean-François CHOSSY, Mr Charles de COURSON, Mr Yves COUSSAIN, Mr Marc-Philippe DAUBRESSE, Mr Francis DELATTRE, Mr Léonce DEPREZ, Mr Jean-Pierre FOUCHER, Mr Claude GAILLARD, Mr Germain GENGENWIN, Mr Gérard GRIGNON, Mr Hubert GRIMAULT, Mr Pierre HÉRIAUD, Mr Patrick HERR, Mr Francis HILLMEYER, Ms Anne-Marie IDRAC, Ms Bernadette ISAAC-SIBILLE, Mr Jean-Jacques JÉGOU, Mr Christian KERT, Mr Edouard LANDRAIN, Mr Jacques Le NAY, Mr Maurice LEROY, Mr Roger LESTAS, Mr Maurice LIGOT, Mr François LOOS, Mr Christian MARTIN, Mr Pierre MENJUCQ, Mr Pierre MICAUX, Mr Hervé MORIN, Mr Jean-Marie MORISSET, Mr Henri PLAGNOL, Mr Jean-Luc PRÉEL, Mr Marc REYMANN, Mr François ROCHEBLOINE, Mr Rudy SALLES, Mr François SAUVADET, Mr Michel VOISIN, Mr Pierre-André WILTZER, Mr François d'AUBERT, Mr Dominique BUSSEREAU, Mr Pierre CARDO, Mr Pascal CLÉMENT, Mr Georges COLOMBIER, Mr Bernard DEFLESSELLES, Mr Nicolas FORISSIER, Mr Gilbert GANTIER, Mr Claude GATIGNOL, Mr Claude GOASGUEN, Mr Philippe HOUILLON, Mr Pierre LEQUILLER, Mr Yves NICOLIN, Mr Xavier DENIAU, Mr Jean UEBERSCHLAG and Mr Jean VALLEIX, Deputies, and on 21 December 2001, from Mr Paul GIROD, Mr Nicolas ABOUT, Mr Pierre ANDRÉ, Mr Philippe ARNAUD, Mr Jean ARTHUIS, Mr Jean-Yves AUTEXIER,

Mr Denis BADRÉ, Mr Gérard BAILLY, Mr Jacques BAUDOT, Mr Michel BÉCOT, Mr Joël BILLARD, Mr Claude BIWER, Mr Maurice BLIN, Ms Annick BOCANDÉ, Mr Joël BOURDIN, Mr Jean BOYER, Mr Gérard BRAUN, Mr Dominique BRAYE, Ms Paulette BRISEPIERRE, Mr Jean-Claude CARLE, Mr Gérard CÉSAR, Mr Jean CLOUET, Mr Christian COINTAT, Mr Gérard CORNU, Mr Jean-Patrick COURTOIS, Mr Xavier DARCOS, Mr Jean-Paul DELEVOYE, Mr Fernand DEMILLY, Mr Marcel DENEUX, Mr Gérard DÉRIOT, Mr Michel DOUBLET, Mr Paul DUBRULE, Mr Alain DUFAUT, Mr André DULAIT, Mr Ambroise DUPONT, Mr Jean-Léonce DUPONT, Mr Louis DUVERNOIS, Mr Daniel ECKENSPIELLER, Mr Jean-Paul ÉMIN, Mr Jean FAURE, Ms Françoise FÉRAT, Mr André FERRAND, Mr Hilaire FLANDRE, Mr Jean-Pierre FOURCADE, Mr Bernard FOURNIER, Mr Serge FRANCHIS, Mr Philippe FRANÇOIS, Mr Yves FRÉVILLE, Mr Yann GAILLARD, Mr Christian GAUDIN, Ms Gisèle GAUTIER, Mr Patrice GÉLARD, Mr Alain GÉRARD, Ms Jacqueline GOURAULT, Mr Alain GOURNAC, Mr Adrien GOUTEYRON, Mr Louis GRILLOT, Mr Georges GRUILLOT, Mr Charles GUENÉ, Mr Pierre HERISSON, Ms Françoise HENNERON, Mr Jean-François HUMBERT, Mr Jean-Jacques HYEST, Mr Alain JOYANDET, Mr Jean-Marc JUILHARD, Mr Joseph KERGUERIS, Mr Jean-Philippe LACHENAUD, Mr Alain LAMBERT, Mr Gérard LARCHER, Mr André LARDEUX, Mr Patrick LASSOURD, Mr Jean-René LECERF, Mr Jacques LEGENDRE, Mr Philippe LEROY, Mr Paul LORIDANT, Mr Roland du LUART, Mr Max MAREST, Mr Jean-Louis MASSON, Mr Serge MATHIEU, Mr Louis MOINARD, Mr René MONORY, Mr Aymeri de MONTESQUIOU, Mr Georges MOULY, Mr Bernard MURAT, Ms Nelly OLIN, Mr Joseph OSTERMANN, Ms Monique PAPON, Mr Michel PELCHAT, Mr Jacques PELLETIER, Mr Jean PÉPIN, Mr Bernard PLASAIT, Mr Ladislas PONIATOWSKI, Mr Jean-Pierre RAFFARIN, Mr Henri de RAINCOURT, Mr Charles REVET, Mr Henri REVOL, Mr Victor REUX, Mr Philippe RICHERT, Mr Josselin de ROHAN, Mr Bernard SAUGEY, Mr Jean-Pierre SCHOSTECK, Mr Bruno SIDO, Mr Louis SOUVET, Mr Jacques VALADE, Mr Serge VINÇON, Mr Jean-Paul VIRAPOULLE and Mr François ZOCCHETTO, Senators, pursuant to the second paragraph of Article 61 of the Constitution, for constitutional review of the Corsica Act;

THE CONSTITUTIONAL COUNCIL,

Having regard to the Constitution;

Having regard to Ordinance 58-1067 of 7 November 1958 laying down the Institutional Act on the Constitutional Council, as amended, and in particular Chapter II of Title II thereof;

Having regard to the General Code of Territorial Units;

Having regard to the Education Code;

Having regard to the Town and Country Planning Code;

Having regard to the Social Security Code;

Having regard to the Environment Code;

Having regard to the Act 85-30 of 9 January 1985 on the Mountains Development and Protection;

Having regard to Act 97-179 of 28 February 1997 on the examination of licences to carry out works affecting the visibility of classified or listed buildings and in protected areas;

Having regard to the observations of the Government, registered on 10 January 2002;

Having regard to the observations by way of rejoinder submitted by the Senators making the second referral, registered on 14 January 2002;

Having heard the rapporteur;

On the following grounds:

1. The Deputies making the referral object to sections 1 and 7 of the Act referred; the Senators making the referral further challenge the legislative procedure followed and sections 9, 12, 13, 17, 18, 19, 23, 24, 25, 26, 28, 43 and 52;

ON THE LEGISLATIVE PROCEDURE:

2. The Senators making the referral submit that the legislative procedure by which the Act referred was enacted was vitiated in that “after the rejection of two alternative forms of wording for section 1, the Chair of the Joint Committee concluded that the Committee could not agree on a common text and recorded the failure of the Committee”; according to the authors of the referral, “formal rejection by the Joint Committee of the text adopted for this section by the National Assembly at first reading and of an alternative form of words proposed by the rapporteur for the Senate should be interpreted as manifesting the Committee’s wish that section 1 be deleted, which could not exclude further discussion of the other provisions still outstanding”;

3. Under the second paragraph of Article 45 of the Constitution, the Joint Committee’s task is to “propose a text on the provisions still under discussion”; where the Committee does not agree on the drafting or the deletion of one of the provisions still under discussion, it must accordingly be regarded as not having succeeded “in adopting a common text” for the purposes of the fourth paragraph of Article 45; its failure may therefore be recorded for the entirety of the provisions still under discussion; such was the case in the instant case on account of the persistent disagreement on section 1; by concluding that the committee had failed in these circumstances, the Chair did not violate the constitutional rules governing the legislative procedure;

4. It follows from the foregoing that the objection based on the irregularity of the legislative procedure must be rejected;

ON SECTION 1:

5. Section 1 of the Act referred amends sections L 4424-1 and L 4424-2 of the General Code of Territorial Units; and it adds a new section L 4424-2-1 to it;

Regarding the new section L 4424-1 of the General Code of Territorial Units:

6. The new section L 4424-1 of the General Code of Territorial Units provides: “The Assembly shall conduct the affairs of Corsica. It shall control the Executive Council. – The Assembly shall vote on the budget, adopt the administrative account and adopt the plan for the sustainable planning and development of Corsica”; the Senators making the referral object that this provision violates the powers conferred on the communes and departments by Article 72 of the Constitution;

7. Although the provision criticised does not state that the Corsican Assembly conducts the affairs of the territorial unit of Corsica alone, it cannot be interpreted in any other way; it follows that it does not subject the communes and departments of Corsica to the authority of a superior territorial unit; the objection accordingly fails on the facts;

Regarding the new section L 4424-2 of the General Code of Territorial Units:

• *Section L 4424-2(I):*

8. The new section L 4424-2(I) of the General Code of Territorial Units provides: “The Corsican Assembly may, of its own motion or at the request of the Executive Council or of the Prime Minister, present proposals for the amendment or adaptation of regulatory provisions in force or in the process of elaboration as regards the powers, organisation and operation of all the territorial units in Corsica and all regulatory provisions concerning the economic, social and cultural development of Corsica. – Proposals adopted by the Corsican Assembly under the preceding paragraph shall be addressed to the President of the Executive Council, who shall convey them to the Prime Minister and to the Representative of the State in the territorial unit of Corsica”;

9. These provisions merely specify the procedure whereby the Corsican Assembly may present propositions for the amendment or adaptation of regulatory provisions by the relevant authorities of the State; they do not, therefore, in themselves, transfer to this new body any component of the power to make regulations;

• *Section L 4424-2(II):*

10. The new section L 4424-2(II) of the General Code of Territorial Units provides: “The power to make regulations for the territorial unit of Corsica shall be exercised in accordance with powers conferred by statute. –Without prejudice to the preceding provisions, in compliance with Article 21 of the Constitution, and to give effect to the powers conferred on it by the legislative part of this Code, the territorial unit of Corsica may ask the legislature to delegate powers to it to determine rules matching specific circumstances in the island, except in matters affecting the exercise of an individual freedom or a fundamental right. – The request provided for in the preceding paragraph shall be made by reasoned decision of the Corsican Assembly, at the initiative of the Executive Council or of the Corsican Assembly after it has received a report from that Council. It shall be transmitted by the President of the Executive Council to the Prime Minister and to the representative of the State in the territorial unit of Corsica”;

11. The authors of the two referrals argue that these provisions entail the devolution of a general power to make regulations to the territorial unit of Corsica; this, they argue, is contrary to Article 21 of the Constitution, whereby the Prime Minister is to ensure the implementation of legislation and, subject to Article 13, exercises the power to make regulations; for the Senators making the referral, the devolution of the power to make regulations to which they object also violates the principle of equality; and they submit that the provisions criticised are drafted in such vague terms that they are vitiated by failure to exercise powers to the full;

12. Article 21 of the Constitution provides: “The Prime Minister... ensures the implementation of legislation. Subject to Article 13, he shall have power to make regulations...”; but Article 72 provides: “The territorial units of the Republic... shall be self-governing through elected councils and in the manner provided by statute”; these provisions enable the legislature to empower a certain category of territorial units, within the limits of the powers conferred on them, to lay down certain rules for the implementation of a statute; but the principle of self-government of territorial units cannot have the effect that the fundamental conditions for the exercise of public freedoms and consequently of the guarantees attaching to them will depend on decisions of territorial units and will therefore not be the same throughout the territory of the Republic;

13. On the one hand, the new section L 4424-2(II) of the General Code of Territorial Units must be interpreted as restating the rule that the power to make regulations enjoyed by a territorial unit subject to compliance with legislation and regulations cannot be exercised outside the scope of the powers conferred on it by statute; it has neither the object nor the

effect of constraining the power to make regulations for the implementation of statutes conferred by Article 21 of the Constitution on the Prime Minister subject to the powers conferred on the President of the Republic by Article 13 of the Constitution;

14. On the other hand, the second and third paragraphs of section L 4424-2(II) merely specify the procedure to be followed and the conditions to be complied with by the territorial unit of Corsica when asking the legislature to confer on it the power to determine rules for the application of a statute where it is necessary to adapt the provisions of national regulations to the specific circumstances of the island; in particular, they state that the request for conferment of powers can concern only such powers as are conferred on this territorial unit by the legislative part of the General Code of Territorial Units; they accordingly exclude the possibility of such a request where the adaptation sought is such as to affect the exercise of an individual freedom or a fundamental right;

15. It follows that, subject to the reservation expressed at paragraph 13, the new section L 4424-2(II) of the General Code of Territorial Units is not contrary to Articles 21, 34 and 72 of the Constitution or to the principle of equality before the law; the objections to it must therefore be rejected;

• *Section L 4424-2(III):*

16. The new section L 4424-2(III) of the General Code of Territorial Units provides: “The Corsican Assembly may, of its own motion or at the request of the Executive Council or of the Prime Minister, present proposals for the amendment or adaptation of legislative provisions in force or in the process of elaboration as regards the powers, organisation and operation of all the territorial units in Corsica and all legislative provisions concerning the economic, social and cultural development of Corsica. – Proposals adopted by the Corsican Assembly under the preceding paragraph shall be addressed to the President of the Executive Council, who shall convey them to the Prime Minister and to the Representative of the State in Corsica”;

17. These provisions merely specify the procedure whereby the Corsican Assembly may present propositions for the amendment or adaptation of legislation applicable to Corsica; they do not, therefore, in themselves, transfer to this territorial unit any matter that is to be governed by statute;

• *Section L 4424-2(IV):*

18. The new section L 4424-2(IV) of the General Code of Territorial Units provides: “Where the Corsican Assembly considers that legislative provisions in force or in the process of elaboration as regards the powers of the territorial unit raise difficulties of application related to the specific circumstances of the island, it may ask the Government to have the legislature give it the possibility of conducting experiments possibly involving exceptions from the rules in force, for the subsequent adoption by Parliament of appropriate legislative provisions. – The request provided for by the preceding paragraph shall be made in the form of a reasoned decision of the Corsican Assembly, taken on the initiative of the Executive Council or of the Corsican Assembly after hearing a report from that Council. It shall be transmitted by the President of the Executive Council to the Prime Minister and the Representative of the State in the territorial unit of Corsica. – The nature and scope of such experiments, and the cases, conditions and timelimits in which the territorial unit may avail itself of these provisions shall be determined by statute. The same statute shall determine the procedures for informing Parliament of their implementation. The ongoing evaluation of the experiment shall be entrusted by each Assembly to a committee on which the parliamentary parties shall be

represented proportionally. The committee shall present evaluation reports, on the basis of which the legislature may decide to put an end to the experiment before the scheduled time. – The experimental measures taken by the territorial unit of Corsica shall cease to have effect at the end of the prescribed period if Parliament, on the basis of the evaluation report laid before it, has not adopted them”;

19. For the authors of the two referrals, these provisions confer on the territorial unit of Corsica powers that are part of the power to enact legislation; this violates the principle of national sovereignty and Articles 3 and 34 of the Constitution; by empowering a territorial unit to exercise the power to enact legislation, the legislature has delegated its powers in a situation not provided for by the Constitution; they also plead a violation of the principle of equality before the law and the indivisibility of the Republic; the Senators making the referral added that the procedure challenged violates the right of initiative conferred on members of Parliament by Article 39 of the Constitution; and they object to the provision entrusting to a Parliamentary committee other than the standing committees provided for by Article 43 of the Constitution “the ongoing evaluation” of experimental measures taken by the territorial unit of Corsica under the provisions criticised;

20. Article 3 of the Constitution provides: “National sovereignty shall belong to the people, who shall exercise it through their representatives and by means of referendum. No section of the people nor any individual may arrogate to itself, or to himself, the exercise thereof”; by the first paragraph of Article 34: “Statutes shall be passed by Parliament”; apart from the cases provided for by the Constitution, it is solely for Parliament to take measures on matters that are to be regulated by statute; in particular, under Article 38, only the Government, in order to carry out its programme, “may ask Parliament for authorisation, for a limited period, to take measures by ordinance that are normally a matter for statute”; the legislature cannot delegate its powers in cases not provided for by the Constitution;

21. In the present case, by giving the legislature, even for a derogatory experiment with limited duration, the possibility of empowering the territorial unit of Corsica to take measures on matters that fall to be regulated by statute, the Act referred has intervened in a matter that is for the Constitution; the new section L 4424-2(IV) of the General Code of Territorial Units, the provisions of which constitute an inseverable entity, must accordingly be declared unconstitutional; the words “and (IV)” in section 2 of the Act referred must likewise be declared unconstitutional;

ON SECTION 7:

22. Section 7 of the Act referred inserts in the Education Code a new section L 312-11-1, which reads as follows: “The Corsican language shall be one of the subjects taught during normal school hours in pre-primary and primary classes in Corsica”;

23. According to the authors of the two referrals, this provision as a matter of fact obliges all school children to learn the Corsican language; this is allegedly contrary to the principle of equality;

24. The teaching of the Corsican language is provided for “during normal school hours in pre-primary and primary classes”, but this does not make it compulsory for pupils or for teachers; nor can the effect be to release pupils from the rights and obligations applicable to all users of establishments providing or associated with the public education service;

25. It follows that, if the teaching of the Corsican language is optional as a matter of principle and in practice, section 7 is not contrary to the principle of equality or to any other principle or rule of constitutional status;

ON SECTIONS 12 AND 13:

26. Section 12 of the Act referred inserts in the General Code of Territorial Units seven sections relating to the application of town and country planning law in Corsica; the first of these sections establishes a “sustainable plan for the development of Corsica” to replace the plan for the development of Corsica provided for by sections L 144-1 to L 144-6 of the Town and Country Planning Code; these sections are accordingly repealed by section 13 of the Act referred;

27. The Senators making the referral complain that sections 12 and 13 have removed from the Town and Country Planning Code the sections that relate specifically to Corsica, but it is not for the Constitutional Council to assess the legislature’s codification option; the option taken here is not contrary to the constitutional objective of intelligibility and accessibility of legislation or any other constitutional requirement;

ON THE PROVISIONS DETERMINING THE POWERS OF THE TERRITORIAL UNIT OF CORSICA:

28. Section 9 of the Act referred provides that the territorial unit of Corsica “shall determine and implement the cultural policy of Corsica... “; section 12 entrusts to the Corsican Assembly the task, “having regard to the volume of tourism at certain sites and to the need to preserve the environment, of determining the areas within the coastal strip as defined in section L 146-4(III) of the Town and Country Planning Code in which ... light installations and nonpermanent constructions to receive the public, excluding all forms of accommodation, may be authorised on the terms set out in the plan subject to respect for the countryside and for the specific characteristics of the site”; section 17 provides that the territorial unit of Corsica is to determine the amount and the rules for granting direct and indirect aids to firms; section 18 makes the territorial unit responsible for setting “general orientations for the development of the island as a tourist destination” and “policy on tourism”; under section 19, the Corsican Assembly is to classify tourist centres mentioned in sections L 2231-1 and L 2231-3 of the General Code of Territorial Units; under section 23, the Board of Sites in Corsica exercises in Corsica the functions entrusted to the regional heritage and sites commission by section 1 of the Act of 28 February 1997, to the special commission for new tourist units by section 7 of the Act of 9 January 1985 and to the departmental commission for sites, views and the countryside by section L 341-16 of the Environment Code; section 24 confers on the territorial unit of Corsica a variety of powers in matters of the environment relating to air quality, the classification of nature reserves, the inventory of natural monuments and sites, fisheries and shooting grounds; section 25 empowers it to determine rules for the organisation and operation of the mountain range committees provided for by the Act of 9 January 1985; section 26 authorises it to determine the procedure for preparing the structure plan and the water-use plan; that section also makes it responsible for determining the membership and modus operandi of the committee for the Corsican basin and the “local water commission”; under section 28 it is responsible for setting the rules and procedures for preparing, publishing and revising waste-disposal; by section 43, the territorial unit of Corsica, in the absence of decisions to the contrary, takes over from and supersedes the tourist office and agency;

29. All these provisions transfer to the territorial unit of Corsica only limited powers in matters that are not for statute; they define their scope, rules for their exercise and the bodies responsible with precision, in compliance with the rule in Article 34 of the Constitution which provides: “Statutes shall determine the fundamental principles of ... the self-government of territorial units, their powers and their resources”; these powers will have to be exercised in compliance with rules and principles of constitutional status and with statutes and regulations

from which the legislature has not explicitly authorised exceptions; none of the provisions challenged can be regarded as violating the indivisibility of the Republic, the integrity of the territory or national sovereignty; they do not affect the fundamental principles of the self-government of territorial units or any of the matters determined by Article 34 of the Constitution to be matters for statute; in particular none of them violates the powers conferred on the communes and departments or establishes a power of supervision of one territorial unit over another; given the geographic and economic characteristics of Corsica, its special status within the Republic and the fact that none of the powers thus conferred affects the essential conditions for giving effect to public freedoms, the differences of treatment generated by these provisions between persons residing in Corsica and persons residing elsewhere in France would not constitute violations of the principle of equality;

30. It follows from the foregoing that the objection by the Senators making the referral that the material provisions in whole or in part violate Article 6 of the Declaration of 1789 and Articles 20, 21, 34 et 72 of the Constitution must be rejected;

ON SECTION 52:

31. Section 52(I) of the Act referred provides: “Employers of agricultural labour installed in Corsica at the time of promulgation of this Act may, if they are liable to pay employers’ contributions to the basic compulsory social security scheme for agricultural workers for periods prior to 1 January 1999, receive State aid, up to 50% of the amount of the contributions due from them”; section 52(II) and (III) determines the conditions on which payment of the aid depends; section 52(IV) provides: “For the purposes of paragraphs I, II and III, proceedings shall be dropped upon the conclusion of a debt payment schedule with the agricultural mutual provident scheme”;

32. The Senators making the referral consider this aid to be contrary to the principle of equality on the grounds that there is no specific situation justifying its being available solely to farmers in Corsica;

33. On the one hand, section 52 does not release employers of agricultural labour installed in Corsica from their debts to the social security scheme for agricultural workers; the aid, as is clear from paragraph II of the section referred, can be seen as a part subrogation of the State to the employers, limited to those who are up to with their contributions relating to periods after 31 December 1998 and confined to half the amount of the contributions due for periods prior to 1 January 1999; those entitled must have paid to the agricultural mutual provident scheme for Corsica “either at least 50% of the debt relating to employers’ social security contributions for the period prior to 1 January 1999 or amounts due by way of these contributions for at least the first eight years of the plan, where the scheme has allowed debt repayments to be spread over a period of no more than fifteen years”; they must also be “up to date with the employers’ social security contributions to which the aid applies or commit full payment by agreeing a schedule signed for no more than two years between the farmer and the scheme”;

34. On the other hand, the measure is taken for the purpose of restoring a sound situation in agriculture in Corsica, which the legislature considers to be in a parlous state on the basis of objective indicators such as average income per farm;

35. It follows from the foregoing that the aid established by section 52 is based on objective and rational criteria related to the general-interest objective pursued by the legislature; the objective that the principle of equality is violated in favour of employers of agricultural labour installed in Corsica must accordingly be rejected;

36. There are no grounds for the Constitutional Council to raise other questions of constitutionality of its own motion;

Has decided as follows:

Article 1

The following are unconstitutional:

- section L. 4424-2(IV) of the General Code of Territorial Units as drafted by section 1 of the Act referred;
- the words “and (IV)” in section 2 of that Act.

Article 2

The following are constitutional:

- the other provisions of section 1 of the Act referred, subject to the reservations set out at paras 13;
- section 7, subject to the reservations set out at paras 24 and 25.

Article 3

This decision shall be published in the *Journal officiel de la République française*.

Deliberated by the Constitutional Council at its sitting of 17 January 2002, attended by Mr Yves GUÉNA, President, Mr Michel AMELLER, Mr Jean-Claude COLLIARD, Mr Olivier DUTHEILLET de LAMOTHE, Mr Pierre JOXE, Mr Pierre MAZEAUD, Ms Monique PELLETIER, Ms Dominique SCHNAPPER and Ms Simone VEIL.