JUDGMENT NO. 39 YEAR 2014

In this case the Court heard a direct application from two self-governing regions and the Province of Trento (also self-governing) concerning controls by the Court of Accounts over the spending of the autonomous self-government bodies, which were essentially intended to ensure compliance with EU deficit and spending limits. The autonomous territories objected that the provisions breached two basic principles, namely that the only controls permissible were those provided for under the special statutes for the territories concerned (and the related implementing legislation) and that all forms of control must in any case be based on cooperation. In a complex judgment, the Court essentially ruled that, whilst the Court of Accounts can lawfully be granted such a power of review, it cannot take any binding action against the autonomous bodies, even in the event that their budgets or closing accounts do not comply with the budgetary requirements.

[omitted]

THE CONSTITUTIONAL COURT

[omitted]

gives the following

JUDGMENT

in proceedings concerning the constitutionality of Articles 1(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12) and (16), 3(1)(e), 6(1), (2) and (3) and 11-bis of Decree-Law no. 174 of 10 October 2012 (Urgent provisions on the financing and operation of local government bodies, and further provisions to benefit the areas affected by the earthquake of May 2012), converted with amendments into Article 1(1) of no. 213 of 7 December 2012, raised by the Autonomous Region of Friuli-Venezia Giulia, the autonomous province of Trento and the Autonomous Region of Sardinia by the applications served on 5 February 2013, filed with the Court Registry on 8, 12 and 15 February 2013 and registered respectively as nos. 17, 18 and 20 in the Register of Applications 2013.

Considering the entries of appearance by the President of the Council of Ministers;

having heard the judge rapporteur Sergio Mattarella at the public hearing of 3 December 2013;

having heard Counsel Giandomenico Falcon for the Autonomous Region of Friuli-Venezia Giulia and for the autonomous province of Trento, Tiziana Ledda for the Autonomous Region of Sardinia and the State Counsel [*Avvocato dello Stato*] Maria Gabriella Mangia for the President of the Council of Ministers.

[omitted]

Conclusions on points of law

1.– By three applications (registered respectively as nos. 17, 20 and 18 of 2013), the autonomous regions of Friuli-Venezia Giulia and Sardinia and the autonomous province of Trento raised questions concerning the constitutionality of various provisions of Decree-Law no. 174 of 10 October 2012 (Urgent provisions on the financing and operation of local government bodies, and further provisions to benefit the areas affected by the earthquake of May 2012), converted with amendments into Article 1(1) of no. 213 of 7 December 2012.

The contested provisions include: Article 1(1) to (8) (concerning the enhancement of the role of the Court of Auditors in the control of the financial management of the regions), (9) and (10) to (12) (concerning controls of council groups within the regional councils), and (16) (concerning the arrangements for bringing the law applicable to the regions governed by special statute and the autonomous provinces into line with the provisions of Article 1); Article 3(1)(e) (concerning external controls over local authorities); Article 6 (concerning controls of economic and financial management in order to ensure the application of the reviewed level of public spending of the local authorities); and Article 11-bis (on the safeguard clause for the regions governed by special statute and the autonomous provinces).

The Autonomous Region of Friuli-Venezia Giulia objects that Articles 3, 24, 113, 116, 117, 118, 119, 127 and 134 of the Constitution, Articles 4, nos. 1) and 1-bis), 12, 13, 16, 18, 21, 48-57, 41, 63 and 65 of Constitutional Law no. 1 of 31 January 1963 (Special Statute for Friuli-Venezia Giulia Region), Articles 33 and 36 of Presidential Decree no. 902 of 25 November 1975 (Adjustments and supplements to the provisions implementing the Special Statute for Friuli-Venezia Giulia Region) and Articles 3, 4, 6

and 9 of Legislative Decree no. 9 of 2 January 1997 (Provisions implementing the Special Statute for Friuli-Venezia Giulia Region on the organisation of the local authorities and the constituent districts) have been violated, whilst also alleging that Article 27 of Law no. 42 of 5 May 2009 (Delegation of power to the government in the area of tax federalism, implementing Article 119 of the Constitution) and Article 1(154) and (155) of Law no. 220 of 13 December 2010 (Provisions on the formation of the annual and multi-year budget of the state – stability law 2011) have been breached.

The autonomous province of Trento objects that Articles 54, no. 5), 69-86, 103, 104, 107, 108 and 109 of Presidential Decree no. 670 of 31 August 1972 (Approval of the consolidated text of constitutional laws concerning the special status of Trentino-Alto Adige), along with Article 2 of Presidential Decree no. 473 of 28 March 1975 (Provisions implementing the Statute for Trentino-Alto Adige Region in the area of local finance), Articles 2 and 4 of Legislative Decree no 266 of 16 March 1992 (Provisions implementing the Special Statute for Trentino-Alto Adige concerning the relationship between state legislative acts and regional and provincial laws, and the state's power of direction and coordination), Articles 16 and 17 of Legislative Decree no. 268 of 16 March 1992 (Provisions implementing the Special Statute for Trentino-Alto Adige in the area of regional and provincial financing), Articles 2 and 6 of Presidential Decree no. 305 of 15 July 1988 (Provisions implementing the Special Statute for Trentino-Alto Adige Region on the establishment of the sections at the Court of Auditors charged with controlling Trento and Bolzano and on the staff attached to them), as amended by Legislative Decree no. 166 of 14 September 2011 (Provisions implementing the Special Statute for Trentino-Alto Adige Region amending and supplementing Presidential Decree no. 305 of 15 July 1988 on control by the Court of Auditors) have been violated.

Sardinia Region complaints that Articles 3, 116, 117, 118, 119 and 127 of the Constitution, Articles 3, 4, 5, 6, 7, 8, 15, 16, 19, 23, 24, 26, 33, 34, 35, 37, 46, 50, 54 and 56 of Constitutional Law no. 3 of 26 February 1948 (Special Statute for Sardinia), and Articles 1, 4, 5 and 10 of Presidential Decree no. 21 of 16 January 1978 (Provisions implementing the Special Statute for Sardinia on controls over the acts of the Region) have been violated.

These proceedings relate solely to the challenge to the provisions of Decree-Law no. 174 of 2012 indicated above, whilst the consideration of the questions raised by the applicants in relation to further provisions of Decree-Law no. 174 of 2012 will be reserved for other rulings.

Given the evident connection between the three applications, which relate to the same area of law and are based on identical grounds, the relative proceedings as delineated above must be joined to be decided upon in a single ruling.

2.– As a preliminary matter, the resolution of the questions set out above is premised on the identification of the area of law under which the contested provisions may be classified. According to the settled case law of the Constitutional Court, the contested provisions relate to the area of law consisting in the "harmonisation of public budgets and the coordination of the public finances" (Article 117(3) of the Constitution), according to which it falls to the state legislator to lay down the fundamental reference principles (see *inter alia*, Judgments no. 60 of 2013, no. 229 of 2011, no. 179 of 2007, no. 267 of 2006 and no. 29 of 1995).

In fact, this Court has asserted on various occasions that the legislation enacted by the state legislator in relation to controls over local government bodies has taken on greater significance in the wake of the restrictions resulting from Italy's membership of the European Union, including in particular the obligation imposed on the Member States to respect a specific overall equilibrium within the national budget. These restrictions are centrally related to the national legislation on the “internal stability pact”, which applies to the regions and the local authorities in order to ensure fulfilment of the public finance objectives resulting from the European restrictions referred to above. Whilst these restrictions have been formulated differently over the years in the legislation, they have been classified throughout as "fundamental principles relating to the coordination of the public finances pursuant to Articles 117(3) and 119(2) of the Constitution" (see Judgment no. 267 of 2006).

Before resolving certain questions raised by the autonomous regions of Friuli-Venezia Giulia and Sardinia and the autonomous province of Trento, it is necessary to make certain clarifications regarding the relations between the various forms of compliance with the obligations resulting from Italy's membership of the European

Union and the internal stability pact, which some of the provisions contained in Decree-Law no. 174 of 2012 are intended to implement.

The requirement to abide by the restrictions imposed by European law follows directly not only from the principles governing the coordination of the public finances, but also from Article 117(1) of the Constitution and Article 2(1) of Constitutional Law no. 1 of 20 April 2012 (Introduction into the Constitution of the principle of a balanced budget) which, in the paragraph introduced at the start of Article 97 of the Constitution, requires the public administrations as a whole to ensure that a balanced budget is achieved and that the public debt is sustainable, in accordance with EU law (see Judgment no. 60 of 2013). This is the reason why a distinction is drawn between the controls of propriety and legitimacy of the accounting records carried out by the Court of Auditors in order to avoid budgetary imbalances and the controls established by the local government bodies with autonomous powers over the accounting records of the bodies operating within their territory and, more generally, over public finances of regional interest. Whilst the latter controls are carried out in the interest of the regions and autonomous provinces themselves, the controls carried out by the Court of Auditors are essential in ensuring compliance with the obligations taken on by the state towards the European Union in the area of budgetary policy. Within this perspective, which is conducive to furthering the principles of the coordination and harmonisation of the public finances, they may also be associated with measures capable of preventing practices that run contrary to the principles of advance coverage and balanced budgets (see Judgments no. 266 and no. 60 of 2013), which are fully justified in view of the neutral and independent nature of the control of the lawfulness of spending carried out by the Court of Auditors (see Judgment no. 226 of 1976). These controls may result in one of two outcomes, in the sense that they must decide whether or not the budgets and closing accounts of local government bodies comply with the stability pact and the principle of a balanced budget (see Judgments no. 60 of 2013 and no. 179 of 2007). Nonetheless, they do not impinge upon the discretionary power vested in the particular local government bodies subject to those controls, and are intended solely to guarantee sound financial management and to prevent or combat practices that do not comply with the principles of constitutional law referred to above.

Within this framework, it is necessary to establish first and foremost whether the contested provisions of state law lay down fundamental principles that are capable of binding the regional and provincial legislators, even if they have special autonomous powers. In this regard, it is necessary to refer to the settled case law of this Court, which has clarified that the fundamental principles laid down by the state legislation on the "coordination of the public finances" – which is intended to ensure also compliance with the requirement of the economic unity of the Republic (see Judgments no. 104, no. 79, no. 51, no. 28 of 2013, no. 78 of 2011) and to prevent budgetary imbalances (see Judgment no. 60 of 2013) – are also applicable to the regions governed by special statute and the autonomous provinces (see inter alia, Judgments no. 229 of 2011; no. 120 of 2008, no. 169 of 2007). This is due to the need to maintain the economic and financial equilibrium of the public administrations overall, as is required under constitutional law (Articles 81, 119 and 120 of the Constitution) and the restrictions resulting from Italy's membership of the European Union (Articles 11 and 117(1) of the Constitution): this equilibrium and restrictions – which confirm that the principles governing the coordination of the public finances extend to local government bodies with autonomous powers – are today even more pressing within the framework laid down by Article 2(1) of Constitutional Law no. 1 of 2012 which, as noted above, refers in the paragraph introduced at the start of Article 97 of the Constitution to the need for the public administrations as a whole to ensure that a balanced budget is achieved and that the public debt is sustainable, in accordance with EU law (see Judgment no. 60 of 2013).

When confronted with the enactment of state legislation on the coordination of the public finances in relation to the regions, and thus in an area of law over which jurisdiction is shared, it is natural that is will lead to a restriction - albeit partial - of the scope for the exercise of legislative and administrative powers by the regions and the autonomous provinces, as well as the autonomy vested in them in relation to expenditure (see *inter alia* Judgments no. 159 of 2008, no. 169 and no. 162 of 2007, no. 353 and no. 36 of 2004).

On the basis of the case law of this Court referred to, as a preliminary matter the arguments made by the State Counsel concerning the classification of the contested provisions as rules on the "coordination of the public finances, in particular between

national and regional government", specifically with regard to "compliance with the financial obligations resulting from Italy's membership of the European Union" must be accepted.

3.– For the purposes of this decision, it should also be noted that the challenges brought by the applicants are based on two fundamental premises:

1) the controls governed by the provisions of the special statutes and the related implementing legislation constitute the full extent of the controls vested in the Court of Auditors under the legal systems of the local government bodies vested with autonomous powers;

2) all forms of control over local government bodies regulated by national legislation must under all circumstances be based on cooperation, notwithstanding that the state legislator is free to charge the Court of Auditors with carrying out any other form of control, provided that such a control is justified under constitutional law (see *inter alia*, Judgments no. 29 of 1995; and no. 179 of 2007, no. 267 of 2006).

The first assumption made by the applicants is incorrect. This Court has in fact held that the controls which the Court of Auditors is required to carry out, which are governed by provisions of state law analogous to those that have been contested, do not coincide with the functions and tasks reserved to the local government bodies with autonomous powers under the provisions of the statutes and the implementing legislation invoked as a reference parameter, as the former – as moreover the provisions contested in these proceedings – regulate controls, the stated purpose of which is to ensure the sound financial management of the local authorities, to prevent budgetary imbalances and to guarantee compliance with the internal stability pact and the restriction relating to deficits imposed by the last paragraph of Article 119 of the Constitution (see *inter alia*, Judgments no. 60 of 2013 and no. 179 of 2007), and also to protect the economic unity of the Republic and coordinating the public finances.

The second argument on which the applicants base their claims must be regarded in principle as sound, subject to the clarification – as has already been asserted by this Court, also with express reference to some of the powers of control vested in the Court of Auditors by the contested provisions – that the nature of the controls over the local authorities and health authorities must not in itself have the effect that such controls interfere with the plan of controls to be carried out by the authorities and bodies vested

with special autonomous powers. This is because "Article 1(166) to (172) of Law no. 266 of 2005 and Article 148-bis of Legislative Decree no. 267 of 2000, introduced by Article 3(1)(e) of Decree-Law no. 174 of 2012, made provision for further types of control extending to local authorities and national health service bodies in general, which could by contrast be classified as controls of a preventive nature aimed at avoiding irreparable harm to the budgetary equilibrium. For this reason they operate on a different level compared to controls over administrative management, at least as regards the results of the powers of control vested in the Court of Auditors regarding the legitimacy and propriety of the accounts" (see Judgment no. 60 of 2013). This is due to the different interest in constitutional-financial legality and the protection of the economic unity of the Republic which is pursued by the said controls – not only with reference to Article 100 of the Constitution, but also Articles 81, 119 and 120 of the Constitution – compared to those vested in the local government bodies with autonomous powers. In fact, as regards the criterion and goals pursued, the powers of the local government bodies may be distinguished from the powers of control vested in the Court of Auditors, as an external independent guarantee body, which pursue the aim of protecting the objectives related to the coordination of the public finances (see Judgment no. 29 of 1995; and Judgments no. 60 of 2013; no. 179 of 2007; no. 267 of 2006).

4.– Therefore, the constitutionality of the contested provisions must be reviewed in the light of the findings contained in the case law of this Court referred to.

4.1.– As a matter of logical priority, it is first necessary to examine the challenges − raised by the autonomous regions of Friuli-Venezia Giulia and Sardinia − concerning Article 11-bis of Decree-Law no. 174 of 2012. In fact, in providing that "The regions governed by special statute and the autonomous provinces of Trento and Bolzano shall implement the provisions set forth in this Decree in the manner prescribed by their respective self-government statutes and the respective implementing legislation", this Article makes provision for a safeguard clause in favour of the regions governed by special statute regulating, in general terms, the relationship between those bodies and Decree-Law no. 174.

4.2.− The applicants object in particular that, by failing to refer not only to the "forms" but also to the limits which the special statutes and the respective implementing

legislation place on the implementation of the provisions of Decree-Law by the autonomous local government bodies, and by stipulating that these bodies must implement the "provisions" rather than the principles of the Decree (Autonomous Region of Friuli-Venezia Giulia), or by failing to make express provision "that the areas falling within the jurisdiction of the regions governed by special statute shall under no circumstances be affected by the application of Decree-Law no. 174 of 2012" (Autonomous Region of Sardinia), the contested Article 11-bis provides that the provisions of the Decree-Law must also be implemented in the event that they contrast with the statutes of the applicant regions or the respective implementing legislation. This means that the contested clause is incapable of safeguarding effectively the special autonomy of the two applicant regions and consequently that it violates Article 116(1) of the Constitution, which recognises that autonomy (Autonomous Region of Friuli-Venezia Giulia), and the principles laid down in the Constitution and in the regional statutes which have allegedly been violated by the implementation of the provisions of Decree-Law in the two regions (respectively, for the Autonomous Region of Friuli-Venezia Giulia, Articles 4, nos. 1) and 1-bis), 12, 13, 19, 41, of Title IV and Article 65 of Constitutional Law no. 1 of 31 January 1963 laying down the "Special Statute for Friuli-Venezia Giulia Region", and, for the Autonomous Region of Sardinia, Articles 3, 4, 5, 6, 7, 8, 15, 16, 19, 33, 34, 35, 46, 50 and 54 of Constitutional Law no. 3 of 26 February 1948 laying down the "Special Statute for Sardinia", Articles 3, 117, 118 and 119 of the Constitution and the principle of reasonableness).

4.3.− The questions are unfounded.

In fact, this Court recently clarified in Judgment no. 219 of 2013 − ruling on the constitutionality of other provisions of the same Decree-Law, which had been challenged by the three applicants in these proceedings (in addition to the autonomous region of Valle d'Aosta) by the same applications registered as nos. 17, 18 and 20 of 2013 − that the contested Article 11-bis provides that the provisions of the Decree-Law in question do not apply to local government bodies vested with special powers, except where individual provisions of the Decree make express provision to the contrary. By endorsing the view that Article 11-bis is fully capable of protecting the prerogatives of the autonomous local government bodies, according to that interpretation, the autonomous regions of Friuli-Venezia Giulia and Sardinia cannot be required to

implement any provisions of the Decree that are at odds with their respective special statutes or with the respective implementing legislation, which means that the questions raised by the applicants are unfounded by virtue of the fact that the interpretative assumption on which they are based is false.

5.− Consequently, the examination of the questions relating to the other contested provisions of Decree-Law no. 174 must be carried out on the basis of a preliminary verification as to whether that general safeguard clause effectively applies with regard to the said provisions − which would require the rejection at the outset of the questions raised as the contested provisions would not be applicable to the applicant autonomous local government bodies − or whether exceptions to the aforementioned clause have been put in place, which expressly provide that these provisions are by contrast applicable to the regions and provinces governed by special statute. Derogations to this effect have in fact been put in place with regard to all of the other provisions contested by the applicants.

6.− The autonomous regions of Friuli-Venezia Giulia and Sardinia and the autonomous province of Trento have contested first and foremost various paragraphs of Article 1 of Decree-Law no. 174 which − as indicated in the title of that Article − reinforce the controls by the Court of Auditors over the financial management of the regions. Specifically: a) the Autonomous Region of Friuli-Venezia Giulia has contested paragraphs 2 to 7, 9, 10, 11, 12 and 16; b) the Autonomous Region of Sardinia has contested paragraphs 1 to 8, 9, 10, 11, 12 and 16; and c) the autonomous province of Trento has contested only paragraph 16.

6.1.− Paragraph 16 − which provides that: "The regions governed by special statute and the autonomous provinces of Trento and Bolzano shall bring their legal systems into line with the provisions of this Article within one year of the date of entry into force of this Decree" − governs the relationship between the autonomous local government bodies and the provisions of Article 1 of Decree-Law no. 174 of 2012 in a specific manner compared to the general safeguard clause laid down by Article 11-bis of the Decree.

In fact, in laying down an obligation for the regions governed by special statute and the autonomous provinces to bring their legal systems into line with the provisions of Article 1 (within one year of its entry into force), that paragraph logically presupposes

that – contrary to the general rule set forth in Article 11-bis of the Decree-Law − those provisions are to apply to the applicant bodies.

It also needs to be clarified, again in this regard, that the adaptation provided for under paragraph 16 ("bring... into line") will involve the drafting − evidently by the bodies to which the obligation to adapt applies − of any regional or provincial legislation or regulations that may be necessary in order to implement the provisions of Article 1 of the Decree-Law (irrespective of whether or not they are compatible with the special statutes and the respective implementing legislation) within the local government bodies vested with special powers.

It follows from the above that the general safeguard clause provided for under Article 11-bis of Decree-Law no. 174 of 2012 does not apply with regard to the provisions of Article 1 of the Decree.

It must finally be clarified that the obligation to comply with the provisions of Article 1 evidently only arises if the legal system of the autonomous local government body cannot already be deemed to be fully compliant with them, and this will occur specifically in situations in which controls that are entirely equivalent to those introduced by that Article have already been put in place by the statute of the body or the respective implementing legislation. In such cases no obligation to comply could arise, as the controls would already be operative (and could continue to operate), in accordance with the provisions put in place under the said local government legislation.

6.2.− As mentioned above, all three applicants have challenged paragraph 16 of Article 1 of Decree-Law no. 174 of 2012.

The Autonomous Region of Friuli-Venezia Giulia and la autonomous province of Trento complain that this provision "violates their [respective] constitutional prerogatives". This is first and foremost on the grounds that it requires them to bring their legal systems into line with provisions of state law to which such an obligation cannot apply, as they establish a control with binding status − which is clear from the stipulation of obligations to ensure compliance and the "penalties" provided for under paragraphs 7, 11 and 12 of Article 1 − over the financial management of the Region and the Province which is not provided for under the respective special statutes or the provisions implementing the statutes. In the alternative, they object that, even if it were necessary to bring their legal systems into line with the provisions stipulating forms of

control such as those introduced by Article 1 of Decree-Law no. 174, the contested paragraph 16 does not provide that such adaptation must entail the adoption of provisions implementing the statute (or according to the procedures applicable to its amendment), as the only source of law capable of supplementing the provisions applicable to controls by the Court of Auditors over the management of the Region and the Province, laid down respectively by Legislative Decree no. 125 of 15 May 2003 (Provisions implementing the Special Statute for Friuli-Venezia Giulia Region amending and supplementing Presidential Decree no. 902 of 25 November 1975 on the control functions of the regional division of the Court of Auditors) and Presidential Decree no. 305 of 15 July 1988 (Provisions implementing the Special Statute for Trentino-Alto Adige Region on the establishment of the sections at the Court of Auditors charged with controlling Trento and Bolzano and on the staff attached to them). In addition, "even if it were to refer to the implementing provisions", it would "purport to have binding influence upon them both in terms of substantive content […, and also insofar as it imposed […] an unlawful time limit, given that the consultation procedures leading to the adoption of implementing provisions cannot be subject to a time limit under ordinary legislation". The applicants argue secondly that, even if it were concluded that the provisions of Article 1 of Decree-Law no. 174 of 2012 do not concern "relations between the state and the Region [or between the state and the Province] and in particular [to the] area of controls" − as they claim − but the "coordination of the public finances", the contested paragraph 16 would in any case violate first and foremost the principle − which is laid down, for the Autonomous Region of Friuli-Venezia Giulia, in Title IV and Article 65(5) of its special statute, and for the autonomous province of Trento, in Title VI and Articles 79 and 104 of its special statute and Legislative Decree no. 268 of 16 March 1992, (Provisions implementing the Special Statute for Trentino-Alto Adige in the area of regional and provincial financing), and, for both, in Article 27 of Law no. 42 of 5 May 2009 (Delegation of power to the government in the area of tax federalism, implementing Article 119 of the Constitution) − according to which the provisions governing financial relations between the state and the autonomous regions or provinces must be included within the special statute or the provisions implementing the statute, or otherwise result from an agreement between the state and the said autonomous local government bodies. It is

also claimed that it would also violate other principles not specified in any further detail because, even assuming that the provisions on the controls introduced by Article 1 of Decree-Law no. 174 did not fall within the scope of implementing legislation, it would not be possible to impose a requirement on the Region and the Province to bring their legal systems into line with the "provisions" laid down by that Article, but only with the principles contained in it.

According to the autonomous region of Sardinia, the contested paragraph 16 violates Articles 54 and 56 of its own special statute: it is claimed to violate Article 54 because this provides that any amendments to the Statute must be adopted by a constitutional law (or, for Title III of the Statute, by ordinary law "acting on a proposal by the Government or the Region, and under all circumstances after consulting the region"); it is claimed to violate Article 56 as this provides for a specific procedure applicable to the adoption of provisions implementing the statute. The applicant also claims that it violates Article 116 of the Constitution because the requirement specified to bring the legal system of the Region into line with the provisions of Article 1 of Decree-Law no. 174 would necessarily entail the amendment, if not of the Special Statute of the Region, then at least of the provisions implementing the statute, including in particular Presidential Decree no. 21 of 16 January 1978 (Provisions implementing the Special Statute for Sardinia on controls over the acts of the Region), and would therefore impose limits and conditions on that form of legislation implementing the Statute. The contested provision is also claimed to violate "indirectly" Articles 7, 8, 15, 19, 26, 33 and 35 of the Special Statute for Sardinia and Articles 117 and 119 of the Constitution in that it requires the Region to suffer encroachments on the powers granted to it under constitutional law and the Statute, which are guaranteed by the principles highlighted in the objections brought against the other provisions of Article 1 of Decree-Law no. 174 of 2012, with which the regional legal system must be aligned.

6.2.1.− The President of the Council of Ministers has asserted that the questions raised by the autonomous province of Trento concerning Article 1(16) of Decree-Law no. 174 are inadmissible "because the applicant should also have contested the other provisions contained in Article 1 (specifically those with which the province is required to comply) as the encroachment on its constitutional prerogatives objected to does not result […] from the safeguard clause alone but rather from the combined provisions of

that clause and the provisions to which it refers, […] as it is those provisions − and not the safeguard clause, which by virtue of its neutrality is favourable to the Province − that encroach upon the powers contained in the statute, on the applicant's [own] account".

The objection is well founded.

In fact, a provision such as the contested paragraph 16 of Article 1 of Decree-Law no. 174 requiring a body to bring its legal system into line with other provisions cannot in itself encroach upon the powers of that body, but only insofar as the other provisions with which it must comply constitute encroachment. This is confirmed − as is noted by the government representative − in the very application made by the autonomous province of Trento which, after declaring with regard to the provisions with which Article 1(16) requires them to bring their legal systems into line that "these are not challenged", goes on to base its objections against that paragraph precisely on the contents of the provisions with which it is required to comply. It follows that the autonomous province of Trento was not entitled to limit its objection to paragraph 16 of Article 1 only, but should have contested that provision along with the other paragraphs of the same Article with which paragraph 16 required compliance. It follows from the above that the questions raised by the autonomous province of Trento against Article 1(16) under examination are inadmissible.

6.2.2.− In contrast to the autonomous province of Trento, the autonomous regions of Friuli-Venezia Giulia and Sardinia have contested not only paragraph 16 of Article 1, but also numerous provisions of that Article with which that paragraph required compliance of their legal systems. This means that the questions raised by those autonomous regions against paragraph 16 are admissible.

These autonomous regions (as also the autonomous province of Trento) have objected that the obligation of compliance imposed on them by the contested paragraph 16 is unconstitutional not in itself, but in relation to the contents of the provisions of the other paragraphs of Article 1 challenged by them, with which paragraph 16 requires them to comply. Besides, as noted above in section 6.2.1., a violation of the regions' powers could result not from the mere provision for an obligation to comply with certain rules, which is in itself neutral, but only from the actual content of these rules.

Therefore, these questions may only be reviewed after examining those concerning the other paragraphs of that Article.

6.3.− Having clarified the above, it is now necessary to examine the questions raised by the autonomous regions of Friuli-Venezia Giulia and Sardinia concerning paragraphs 2 to 7, 9, 10, 11 and 12 (Autonomous Region of Friuli-Venezia Giulia) and 1 to 8, 9, 10, 11 and 12 (Autonomous Region of Sardinia) of Article 1 of Decree-Law no. 174 of 2012.

6.3.1.− As a preliminary matter it is necessary to examine *ex officio* the admissibility of the questions raised by the Autonomous Region of Sardinia concerning paragraphs 1 to 8 of Article 1 of Decree-Law insofar as those challenges are directed without distinction against all eight paragraphs – i.e. provisions governing controls by the Court of Auditors over the financial management of the regions, which are heterogeneous as to their object, criteria and result – without specifying in which manner each of them is alleged to have violated individually the parameters invoked (on the inadmissibility of questions raised in relation to provisions with heterogeneous content where there is connection between the arguments contained in the application and the individual contested provisions, see *inter alia* Judgment no. 249 of 2009).

6.3.1.1.− By the first of those questions, the Autonomous Region of Sardinia complains that paragraphs 1 to 8 of Article 1 of the Decree-Law violate Articles 7 and 8 of its Special Statute and Article 119 of the Constitution in that, by establishing "a new *ex ante* and *ex post* control of the legality of the budget", which is liable to cause "serious consequences in terms of punitive content", they thereby deprive it of effective autonomy over its budgetary choices, which amounts to a "core element" of the financial autonomy vested in the Region by the parameters invoked.

The question is inadmissible. In fact, the applicant has generically objected to paragraphs 1 to 8 of Article 1 of Decree-Law no. 174 without specifying either which of them established the contested *ex ante* and *ex post* controls of the legality of the budget, which may result in the "serious consequences in terms of punitive content" mentioned in the complaint, or how each of those contested paragraphs breaches the parameters laid down in the statute and constitutional law that have been invoked.

6.3.1.2.− By the second of these questions, the Autonomous Region of Sardinia has asserted that the restriction of financial autonomy objected to in the first question entails

also an encroachment on the legislative powers vested in the Region pursuant to Article 117(3) of the Constitution over the "coordination of the public finances", since that competence is the "logical consequence" of the recognition of such financial autonomy.

Also that question – by which the applicant limits itself to asserting that the violation objected to in the first question entails a violation also of another parameter of constitutional law − is inadmissible due to its generic nature for the same reasons as those indicated as grounds for the inadmissibility of the first question.

6.3.1.3.− By the third of the questions raised against paragraphs 1 to 8 of Article 1 of Decree-Law no. 174, the Autonomous Region of Sardinia asserts that they violate: Articles 3, 4 and 5 of its own Special Statute, which set forth the respectively exclusive, shared and supplementary/implementing legislative competence of the Region; Article 117(3) and (4) of the Constitution which, "in view of the clause contained in Article 10 of Constitutional Law no. 3 of 2001", grant the Region further shared or residual legislative powers; and Article 6 of the special statute, which provides that the Region shall exercise the administrative functions in the areas in which it has legislative power, and Article 118 of the Constitution, also "with reference to Article 10 of Constitutional Law no. 3 of 2001" on the grounds "the prohibition on the 'implementation of expenditure programmes'" imposed as a sanction in the event of non-compliance with the obligations imposed on the Region, "has the effect that it is impossible to carry out the public functions vested in the Region under the statute and the Constitution by the provisions […] invoked".

According to the wording of that challenge, it is clear that, whilst it is purportedly directed against all of paragraphs 1 to 8 of Article 1 of Decree-Law no. 174 of 2012, it in actual fact relates only to paragraph 7 of that Article. That conclusion may be reached unequivocally from the express reference made in the applicant's compliant to the prohibition on the implementation of expenditure programmes, provided for under paragraph 7. Having thereby limited its object, the question must be deemed to be admissible.

6.3.1.4.− By the fourth of the questions under consideration, the Autonomous Region of Sardinia has argued that, in providing for a further control over the regional law approving the budget, the contested provisions alter the "regional law regime" as defined under Article 33 of its special statute − which provides for the notification of

the law approved by the Regional Council to the Government of the Republic prior to promulgation as the sole form of *ex ante* control over the laws of the Autonomous Region of Sardinia − and Article 127 of the Constitution which, "pursuant to Article 10 of Constitutional Law no. 3 of 2001", has "now moved beyond" that *ex ante* control, with the consequence that "also and above all this parameter […] has been violated".

It is thus evident when reading also that question that the applicant's objection relates not to all of paragraphs 1 to 8 of Article 1 of Decree-Law no. 174 – as was asserted – but *de facto* exclusively to paragraphs 3, 4 and 7 of that Article, that is to the provisions which introduce the contested control of the regional law approving the budget and govern the results of that control (albeit limited to the part of those provisions relating to the control of the budgetary documentation of the Region, as the applicant's objections do not concern the controls, also introduced by paragraphs 3, 4 and 7, of the budgetary documents of the bodies comprising the National Health Service). This question must also be deemed to be admissible, after the object has been limited as stated above.

6.3.1.5.− By the fifth question raised against paragraphs 1 to 8 of Article 1 of Decree-Law no. 174, the Autonomous Region of Sardinia has argued that, in providing for forms of control over the financial management of the Region, and in particular over the regional budget, in addition to and different from those provided for under its own statute and the respective implementing legislation, and given the failure to apply the procedures governing amendments to the Statute or the adoption of provisions implementing it (that is the only sources of law that may regulate such controls), the contested provisions violate Articles 54 and 56 of its Special Statute – the former providing that the Statute may only be amended by a constitutional law, and the latter laying down the procedure applicable to the adoption of provisions implementing the statute – in conjunction with Article 10 of Presidential Decree no. 21 of 1978, which contains the provisions implementing the Statute of Sardinia regulating the control of the regional budget by the Court of Auditors, as well as Article 116 of the Constitution.

By asserting that the state is unable to make provision unilaterally for any control over the financial management of the Region in addition to or different from those provided for under the Statute and the respective implementing legislation without applying the procedures governing the adoption of amendments to the Statute or the

adoption of provisions implementing the statute, this challenge is directed indiscriminately against all of the forms of control introduced by paragraphs 1 to 8 of Article 1 of Decree-Law no. 174. It must therefore be examined on the merits.

6.3.1.6.− Finally, by the sixth of the questions under examination, the Autonomous Region of Sardinia asserts that, in enacting detailed legislation providing for a control not based on cooperation that is liable to result in consequences involving "sanctions and punishment" − such as the transmission of the reports of the general regional control sections of the Court of Auditors provided for thereunder to the Office of the President of the Council of Ministers and the Ministry for the Economy and Finance "for the decisions falling within their remit" and the bar on the implementation of expenditure programmes that have been certified to lack financial coverage or certified as not financially sustainable (which is moreover, in the former case, carried out by non-independent parties belonging "to the bureaucratic ministerial structure of the state" and, in the latter case, is liable to compromise the public functions vested in the Region) – the contested paragraphs 1 to 8 of Article 1 of Decree-Law no. 174 of 2012 violate: a) Articles 7 and 8 of its Special Statute and Article 119 of the Constitution, which "assure the Region qualified financial autonomy"; b) Article 117(3) of the Constitution, in relation to the "coordination of the public finances", given that "the state legislation extends well beyond the setting of the fundamental principles applicable to that coordination, by introducing […] detailed rules)"; c) Article 116 of the Constitution, Articles 54 and 56 of its Special Statute and Article 10 of Presidential Decree no. 21 of 1978, "which provide for enhanced economic and financial autonomy for Sardinia Region (at least) through provision for a special procedure for implementing the statute"; and d) Articles 3, 4, 5 and 6 of its special statute and Article 117 of the Constitution, "which vest the Region with public functions that would be impaired by the blocking of expenditure programmes".

As regards this question, it is clear that the applicant's challenge in actual fact relates exclusively to paragraphs 7 and 8 of Article 1 of Decree-Law no. 174, that is to the provisions stipulating the consequences involving "sanctions and punishment" objected to of the transmission of the reports of the general regional control sections of the Court of Auditors to the Office of the President of the Council of Ministers and the Minister for the Economy and Finance "for the decisions falling within their remit"

(paragraph 8) and the bar on the implementation of expenditure programmes that have been certified to lack financial coverage or certified as not financially sustainable (paragraph 7, last sentence). This question must also be deemed to be admissible, after the object has been limited as stated above.

6.3.2.− Turning to the merits of the questions relating to the provisions of Article 1 of Decree-Law no. 174 with which, pursuant to paragraph 16 of that Article, the applicant autonomous regions must bring their legal systems into line, it is necessary primarily to scrutinise the objection by which the Autonomous Region of Sardinia asserted (as noted in section 6.3.1.5.) that paragraphs 1 to 8 of Article 1 of the Decree-Law violate Articles 54 and 56 of its Special Statute, in conjunction with Article 10 of Presidential Decree no. 21 of 1978 and Article 116 of the Constitution on the grounds that they provide for forms of control by the Court of Auditors over the financial management of the Region which, owing to the fact that they come "in addition to and [are] different from" those regulated by the Statute and the respective implementing legislation, could only be have been adopted by an amendment of the Statute or through legislation implementing the Statute, both of which may only be adopted in accordance with the procedures respectively defined under Articles 54 and 56 of Constitutional Law no. 3 of 1948.

The question is unfounded.

By the contested paragraphs 2 to 8 of Article 1 of Decree-Law no. 174 (in addition to paragraphs 9, 10, 11 and 12 of that Article), the state legislator adjusted the control by the Court of Auditors over the financial management of the regions provided for under Article 3(5) of Law no. 20 of 14 January 1994 (Provisions on the jurisdiction and control powers of the Court of Auditors), and Article 7(7) of Law no. 131 of 5 June 2003 (Provisions to bring the legal system of the Republic into line with Constitutional Law no. 3 of 18 October 2001), with the twofold goal – specified in paragraph 1 of Article 1 – of enhancing the coordination of the public finances and guaranteeing compliance with the financial obligations resulting from Italy's membership of the European Union. As noted in section 2., the provisions governing these external controls over the financial management of the regions relate to the area of law falling under shared jurisdiction of the "harmonisation of public budgets and coordination of the public finances" (Article 117(3) of the Constitution), within which it is for the state

to lay down the fundamental principles which, as has been stressed by this Court on various occasions "may be […] invoked [also] against" autonomous local government bodies as the financing of those bodies also forms part of public financing in a broad sense (see Judgment no. 60 of 2013; see also Judgments no. 219 of 2013, no. 198 of 2012 and no. 179 of 2007). Moreover – as noted above in section 3 and as indicated in paragraph 1 itself of Article 1 of Decree-Law no. 174 − the powers of the Court of Auditors over the control of the financial management of the public administrations are grounded not only in Article 100(2) of the Constitution (the reference within which to the control by the Court of Auditors "over the management of the state budget" must now be deemed to extend to control over the budgets of all bodies which, overall, comprise the public finances in a broad sense), but also in the requirement to uphold the principles of sound administration (Article 97(1) of the Constitution), the principle of the responsibility of public officials (Article 28 of the Constitution), the general goal of a balanced budget (Article 81 of the Constitution) and the coordination of the regional finances with those of the state, the provinces and the municipalities (Article 119 of the Constitution), that is principles which also relate to all bodies comprising the public finances in a broad sense. This confirms that the said powers of the Court of Auditors must be imposed uniformly − in such a manner naturally as is proper for legislation laying down principles − throughout the entire country, without "encountering any special limits owing to self-government" (see Judgment no. 219 of 2013; on this point, see also Judgment no. 198 of 2012). It must therefore be concluded that, when exercising its power to lay down fundamental principles in relation to the "harmonisation of public budgets and coordination of the public finances", the state may indeed provide for forms of control by the Court of Auditors in addition to those already provided for under the special statutes and the respective implementing legislation. Besides, in this case, no contrast is apparent with the provisions of the statutes or the legislation implementing the statutes. This means that the question raised by the Autonomous Region of Sardinia is unfounded.

6.3.3.− The Autonomous Region of Friuli-Venezia Giulia challenges also paragraph 2 of Article 1 of Decree-Law no. 174 of 2012, which makes provision for a quarterly report by the regional division of the Court of Auditors to the regional councils on the types of financial coverage adopted under regional laws and the techniques used for

quantifying financial liabilities. The applicant objects to a violation of its financial autonomy – which is protected under Article 116 of the Constitution and Title IV of its own statute – and Article 65 of the Statute (which lays down the procedure governing the adoption of provisions implementing the Statute) and the respective implementing legislation (including in particular Article 33(4) of Presidential Decree no. 902 of 25 November 1975 – Adjustments and supplements to the provisions implementing the Special Statute for Friuli-Venezia Giulia Region) on the grounds that they fall outside the type of control power vested in the Court of Auditors under the legal system of the autonomous region, according to which such controls may only be carried out "upon request by the regional council".

The question is unfounded.

The control established has a foundation in constitutional law and is based on cooperation. This Court has expressly asserted – also in relation to local government bodies vested with special autonomous powers – that the legislator is free to allocate to the Court of Auditors any other form of control with these characteristics (see *inter alia*, Judgments no. 29 of 1995; and no. 179 of 2007, no. 267 of 2006), given the independent and neutral status of the Court of Auditors in the service of the state as a whole, as an impartial guarantor of the economic and financial equilibrium of the public sector overall and the proper management of resources (see Judgment no. 60 of 2013).

In the light of the aforementioned case law, the institution governed by the contested provision is conducive on the one hand to expanding the framework of information instruments available to the Council, in order – as observed by the State Council – to enable more effectively calibrated political assessments to be formulated by the highest representative body of the Region, also with a view to activating “self-correction” processes within the exercise of legislative and administrative powers (see Judgment no. 29 of 1995; and Judgment no. 179 of 2007), and on the other hand to prevent budgetary imbalances (see *inter alia* Judgments no. 250 of 2013; no. 70 of 2012). Whilst it is stipulated as an obligation, the semestral report to the regional councils on the type of financial coverage adopted under regional laws and on the techniques used for quantifying financial liabilities thus remains within the ambit of controls based on cooperation and in any case those intended to prevent budgetary imbalances, and cannot be deemed to violate the parameters invoked given that,

notwithstanding that the assessment of the financial effects of regional laws operates on the same level, the functions vested in the regional division of the Court of Auditors respectively by Article 33(4) of Presidential Decree no. 902 of 1975 on the one hand and the contested Article 1(2) of Decree-Law no. 174 on the other are exercised on different levels. It follows from this that the question is unfounded.

6.3.4.− The autonomous regions of Friuli-Venezia Giulia and Sardinia have contested paragraphs 3, 4 and 7 of Article 1 of Decree-Law no. 174 of 2012.

Paragraph 3 makes provision for an audit by the regional control division of the Court of Auditors of the (annual and multi-year) budgets and of the closing accounts of the regions and the bodies comprising the National Health Service. This control involves an examination of those budgets and closing accounts – which are transmitted to the competent regional divisions by the presidents of the regions along with a report by the latter − with a view to "verifying compliance with the annual targets set by the stability pact, compliance with the requirement applicable to deficit levels under Article 119(6) of the Constitution, the sustainability of the deficit and establishing that there are no irregularities liable to upset, even potentially, the economic and financial equilibria of the bodies". The contested provision refers − solely however for the purposes of the "arrangements and […] procedures" applicable to the examination − to paragraphs 166 et seq of Article 1 of Law no. 266 of 23 December 2005 (Provisions on the formation of the annual and multi-year budget of the state – Finance Law 2006), which introduced the obligation for the economic and financial auditing bodies of the local authorities to send a report on the budget and the closing statement for the relevant financial year to the regional divisions of the Court of Auditors with the aim of upholding the economic unity of the Republic and the coordination of the public finances.

Paragraph 4 provides that, for the purposes of the control provided for under paragraph 3, the regional control divisions of the Court of Auditors shall also ensure that these closing accounts take account also of equity interests held in companies controlled by the public sector, which are charged with the management of public services for the regional public and essential services for the Region, as well as the definitive results of the management of National Health Service bodies. That paragraph stipulates the continuing applicability of the legislation on the control of bodies from the healthcare sector provided for under Article 2(2-sexies) of Legislative Decree no. 502 of

30 December 1992 (Rearrangement of the legislation applicable to healthcare, enacted pursuant to Article 1 of Law no. 421 of 23 October 1992), Article 2(12) of Law no. 549 of 28 December 1995 (Measures on the rationalisation of the public finances) and Article 32 of Law no. 449 of 27 December 1997 (Measures on the stabilisation of the public finances).

Paragraph 7 regulates the outcome to the controls provided for under paragraphs 3 and 4, stipulating that, in the event that the competent regional division establishes economic or financial imbalances, a lack of coverage for expenditure, the violation of rules intended to guarantee proper financial management or the failure to comply with the objectives laid down in the internal stability pact, the adoption by it of such findings shall establish an "obligation" for the administrations concerned to adopt "measures suitable for resolving the irregularities and restoring the budgetary equilibria" within sixty days of notice of the issue of such a ruling. It also provides that, if the Region (or more correctly, the administration concerned, as it may also relate to bodies from the National Health Service) does not arrange for the aforementioned measures to be transmitted, or if their verification by the regional control division results in a negative finding, "it shall not be possible to implement expenditure programmes that have been certified to lack financial coverage or certified as not financially sustainable".

It should be observed that the controls introduced by the contested paragraphs 3, 4 and 7 are *ex post* in nature, as they are carried out with reference to budgetary documents that have already been approved. The following arguments unequivocally point to this conclusion: the phrase "budgets and […] closing accounts" (paragraph 3) must, absent any further specification, be deemed to refer to budgets and closing accounts that have been approved; the bar on the implementation of expenditure programmes (provided for under paragraph 7) can only refer to programmes capable of being implemented, a status which is only possible on the basis of approved budgetary documents; the reference, again in paragraph 7, to "measures" suitable for resolving the irregularities and restoring the budgetary equilibria presupposes once again the existence of budgets and approved closing accounts (in fact, had the provision applied to budgets and closing accounts pending approval, the legislation would have referred to “interventions” and not to “corrective measures”). In effect, various regional control divisions of the Court of Auditors have concluded that the controls at issue are *ex post*

in nature (see for example the regional control division for Lazio, resolution no. 243/2013/FRG of 21 October - 5 November 2013).

According to the Autonomous Region of Friuli-Venezia Giulia, in laying down provisions that depart from Article 33 of Presidential Decree no. 902 of 1975, i.e. the legislation implementing the Statute, to which competence relating to controls of the Region by the Court of Auditors is reserved, and in particular in providing for a control based not on cooperation but on "constraint" − as it may give rise to the "obligations to ensure compliance and [the] specific penalties" provided for under paragraph 7 − "which is not permitted either under the Statute and its implementing legislation or under Title V of part two of the Constitution, which abolished the controls with preclusive legal effect that were previously applicable", the contested paragraphs violates [sic.] not only Article 33 of Presidential Decree no. 902 of 1975, but also Article 116 of the Constitution, the financial autonomy vested in the Region under Title IV of its Special Statute and Article 65 of the Statute, which lays down the procedure applicable to the adoption of legislation implementing the Statute.

The two applicants go on to argue that, in providing for a control by the Court of Auditors of the regional law approving the regional budget – which, according to the Autonomous Region of Friuli-Venezia Giulia, could in some cases be constitutional in that it would be based on the parameters laid down in "Article 81, Article 119 (6), the restrictions of the stability pact" − which "overlaps with the powers of the Constitutional Court (Articles 127 and 134 of the Constitution)", in addition to those of the Court of Auditors itself in relation to the approval of the regional closing accounts (Autonomous Region of Friuli-Venezia Giulia) or which "results in an alteration to the regional law regime […] which has been established by provisions with constitutional status and cannot be altered by ordinary legislation" (Autonomous Region of Sardinia; see also section 6.3.1.4.), according to the Autonomous Region of Friuli-Venezia Giulia these paragraphs violate Articles 127 and 134 of the Constitution and Articles 33 and 36 of Presidential Decree no. 902 of 1975; according to the Autonomous Region of Sardinia, they violate Article 33 of its own Special Statute and Article 127 of the Constitution (moreover, whilst referring also to Article 33 of its Statute, the Autonomous Region of Sardinia correctly asserts that it is rather subject − pursuant to Article 10 of Constitutional Law no. 3 of 2001 − to Article 127 of the Constitution

since, in providing that the review of the constitutionality of regional laws is to be conducted on an *ex post* basis, that provision establishes a broader form of autonomy in that regard compared to that already vested in the Region under Article 33 of the Statute, which by contrast provides that the review is to be conducted *ex ante*).

The applicants then specifically challenge paragraph 7 of Article 1 of the Decree-Law.

According to the Autonomous Region of Friuli-Venezia Giulia, paragraph 7 violates the "legislative and financial autonomy of the region" in that, by providing for the sanction of a bar on the implementation of expenditure programmes approved by regional legislation, it "impinges on the effectiveness of regional sectoral legislation, which is stipulated under constitutional law and cannot be altered by ordinary legislation".

In the opinion of the Autonomous Region of Sardinia, as noted above respectively in sections 6.3.1.3. and 6.3.1.6., the contested paragraph 7 violates: a) Articles 3, 4 and 5 of its Special Statute (which set forth the legislative areas respectively under exclusive regional jurisdiction, shared jurisdiction or over which the Region has jurisdiction to implement/supplement state legislation), Article 117(3) and (4) of the Constitution (which, "in view of the clause contained in Article 10 of Constitutional Law no. 3 of 2001", vests the Region with further shared or residual legislative powers), and Article 6 of the Special Statute (which provides that the Region is to exercise the administrative functions in the areas in which it has legislative powers) and Article 118 of the Constitution, also "with reference to Article 10 of Constitutional Law no. 3 of 2001", because the bar on the implementation of expenditure programmes provided for thereunder "means that it is impossible to exercise the public functions vested in the Region" under the provisions of the Statute and of the Constitution invoked; b) Articles 7 and 8 of the Sardinia Special Statute and Article 119 of the Constitution (which "assure the Region qualified financial autonomy"), Article 117(3) of the Constitution, in relation to the "coordination of the public finances", Article 116 of the Constitution, Articles 54 and 56 of the Special Statute and Article 10 of Presidential Decree no. 21 of 1978 ("which provide for enhanced economic and financial autonomy for Sardinia Region [at least] through provision for a special procedure for implementing the Statute"), Articles 3, 4, 5 and 6 of the Special Statute for Sardinia and Article 117 of the

Constitution ("which vest the Region with public functions that would be impaired by the blocking of expenditure programmes"), in that it makes provision through detailed legislation for a control not based on cooperation that is liable to result in consequences involving "sanctions and punishment", along with the bar referred to on the implementation of expenditure programmes that have been certified to lack financial coverage or certified as not financially sustainable.

Finally, the Autonomous Region of Friuli-Venezia Giulia asserts that, if paragraph 7 of Article 1 of Decree-Law no. 174 of 2012 is to be construed to the effect that there are to be no instruments providing judicial protection against any rulings of the Court of Auditors establishing irregularities or finding that regional measures aimed at resolving such irregularities and restoring budgetary equilibria are inadequate, then it will violate Articles 24 and 113 of the Constitution.

6.3.4.1.− The challenges raised against all three paragraphs 3, 4 and 7 of Article 1 of Decree-Law no. 174 must be examined separately with regard, on the one hand, to paragraphs 3 and 4, and on the other hand to paragraph 7. In fact, in regulating respectively the parties, the object and scope of the control (paragraphs 3 and 4) and the action which the bodies subject to the control are required to carry out following the adoption of such a ruling and the consequences of the failure to take such action (paragraph 7), these provisions enact self-standing legislation which is open to be assessed differently, including with regard to its constitutionality.

6.3.4.2.− Insofar as they relate to paragraphs 3 and 4, these challenges are unfounded.

6.3.4.2.1.− First, the challenges raised by the Autonomous Region of Friuli-Venezia Giulia - according to which the contested paragraphs: a) encroach upon an area reserved to jurisdiction over legislation implementing the Special Statute; b) provide for a control based not on cooperation but on "constraint" - must be rejected.

In fact, as regards the former aspect, it has been noted above in section 6.3.2. that, when exercising the shared legislative power in relation to the "harmonisation of public budgets and coordination of the public finances", the state may make provision, with the aim of realising interests protected under constitutional law, for forms of control by the Court of Auditors in addition to those already provided for under the special statutes and the respective implementing legislation, provided that they do not contrast in detail

with those provisions of the special statutes or implementing the statutes. Moreover, that limit has not been breached in this case, as the *ex post* control of the financial management of the regions provided for under the contested provisions patently operates on a different level both from control over management *stricto sensu* (see Judgment no. 179 of 2007) as well as the approval of the general closing accounts of the Region – which, in a manner analogous to the control of the general closing accounts of the state, to the provisions governing which Article 33(3) of Presidential Decree no. 902 of 1975 refers, amounts to an *ex ante* control of the measures (which concludes with the decision to approve) and not an *ex post* control of financial management − provided for under Articles 33 and 36 of Presidential Decree no. 902 of 1975, which have been invoked.

Moreover, as regards the fact objected to that the control provided for is not based on cooperation, it is sufficient to note that the control over the budgets and closing accounts of the regions and the bodies comprising the National Health Service referred to under the contested paragraphs 3 and 4, if considered in itself – that is irrespective of the provisions laid down (exclusively) by paragraph 7 on the obligations resulting from the decision concerning the control and the consequence of the failure to comply with these provisions – involves a mere examination of those budgets and closing accounts by the competent regional control divisions of the Court of Auditors for the purposes specified under paragraph 3 (that is, "verifying compliance with the annual targets set by the stability pact, compliance with the requirement applicable to deficit levels under Article 119(6) of the Constitution, the sustainability of the deficit and establishing that there are no irregularities liable to upset, even potentially, the economic and financial equilibria of the bodies"); such an examination is capable of highlighting any potential improper functioning revealed, but does not in itself imply any constraint on the activities of the body subject to the control (see Judgment no. 179 of 2007).

6.3.4.2.2.− The objections by which the applicant autonomous regions have objected that the said provisions stipulate a control by the Court of Auditors which, insofar as it relates to the budgets and closing accounts of the regions − both of which are approved by a regional law − encroach upon the competence of this Court as the only body in which Articles 127 and 134 of the Constitution vest the power to review the constitutionality of regional laws (Autonomous Region of Friuli-Venezia Giulia)

and alter the system of constitutional review for laws laid down by Article 127 of the Constitution (Autonomous Region of Sardinia), are unfounded, again insofar as they relate to paragraphs 3 and 4 of Article 1 of the Decree-Law. It should be observed in this regard that a doubt regarding the commission of such violations could only arise in the event that the power to review regional laws approving the budgets and closing accounts of the regions vested in the Court of Auditors by the contested paragraphs 3 and 4 were liable to generate legal effects that precluded the efficacy of those laws, as is the case (under Article 136 of the Constitution) for the review of the constitutionality of regional laws pursuant to an application by the government, which lies with this Court pursuant to Articles 127 and 134 of the Constitution. As noted in section 6.3.4.2.1., when considered in themselves, the contested paragraphs 3 and 4 provide for a review of the budgets and closing accounts of the regions which, given that its outcome is merely to report any improper functioning that may have been revealed by the regional control divisions of the Court of Auditors, is incapable of altering the efficacy of the regional laws approving those budgets and closing accounts. This consideration is sufficient to exclude the conclusion that the contested paragraphs 3 and 4 introduced as such a form of review of the constitutionality of the laws approving the regional budgets that would be capable of impinging upon the rules governing the review of the constitutionality of regional laws laid down by Articles 127 and 134 of the Constitution and on the powers of this Court.

6.3.4.3.− The challenges relating to paragraph 7 of Article 1 of the Decree-Law must be examined separately with regard to the element of that paragraph concerning the control of the budgets and closing accounts respectively of the regions and of the bodies comprising the National Health Service. Indeed, the fact that the budgets and closing accounts of the regions are approved by a (regional) law, in contrast to those of the bodies comprising the National Health Service, implies that the controls over these bodies amount to controls over legislation, which raises special problems in relation to their constitutionality.

6.3.4.3.1.− Starting with the challenges concerning the contested paragraph 7, insofar as it relates to the control of the budgets and closing accounts of the regions, it is necessary to examine first and foremost those – which it is important to consider together within one single context − by which the applicants alleged an infringement of

the "legislative […] autonomy of the region" (Autonomous Region of Friuli-Venezia Giulia) and the legislative power guaranteed under Articles 3, 4 and 5 of its Special Statute and Article 117(3) and (4) of the Constitution (Autonomous Region of Sardinia) along with Articles 127 and 134 of the Constitution, on the grounds that the contested paragraph introduced a constitutional review of the laws approving the budgets and closing accounts of the regions which "overlapped" with that vested in this Court (Autonomous Region of Friuli-Venezia Giulia) and Article 127 (only) of the Constitution on the grounds that paragraph 7 altered the system governing the control of the constitutionality of regional laws provided for under Article 127 (Autonomous Region of Sardinia).

These questions are well founded insofar as specified below.

Paragraph 7 of Article 1 of Decree-Law no. 174 of 2012 regulates the actions which the bodies subject to control, including the regions, are required to carry out following the decision on the control by the Court of Auditors pursuant to paragraphs 3 and 4 and the consequences of the failure to take such action. In particular, according to that provision, the ruling adopted by the competent regional control divisions of the Court of Auditors may give rise to an "obligation to adopt […] measures suitable for resolving the irregularities and restoring the budgetary equilibria", i.e. in this case the obligation to amend the law approving the budget or the closing accounts by way of the legislative or other measures that are necessary in order to resolve the irregularities and to restore the budgetary equilibria. If notice of such measures is not given, or if the regional control division of the Court of Auditors considers that they are inadequate, a bar is imposed ("it shall not be possible") on the implementation of expenditure programmes that have been certified to lack financial coverage or certified as not financially sustainable, which is essentially equivalent to associating such failures or judgments or inadequacy with a genuine bar on the efficacy of the regional law on the basis of which the expenditure programmes, the implementation of which has been blocked, are to be realised.

The contested provision thus associates the rulings on decisions and controls of the regional control divisions of the Court of Auditors with the effect on the one hand of conditioning the substantive content of the legislation enacted by the regions, which are obliged to amend their budgetary laws, and on the other hand of depriving such laws of

any effect in the event of non-compliance with that obligation (due to the failure to transmit the measures amending the legislation or on the grounds that they are inadequate). These effects cannot be inferred from a ruling by the Court of Auditors, the control functions of which cannot be stretched so far as to condition the substantive content of legislation or to render it ineffective. In fact, the control powers of the Court of Auditors are limited by the legislative jurisdiction of the regional councils which, according to the framework of powers laid down by the Constitution, exercise that jurisdiction in full political autonomy, whereby the acts expressing that power cannot be conditioned or deprived of effect by bodies distinct from the region (subject obviously to the constitutional review of regional laws by the Constitutional Court). Besides, the Court of Auditors is a body which − as is generally the case for the courts and the administrative authorities − is subject to the law (including state law and regional laws); the rule that a decision taken by the regional control divisions of that Court could have the effect of depriving a law of any effect is thus patently foreign to our constitutional order and breaches the legislative power of the regions.

Thus, insofar as it relates to the control of the budgets and closing accounts of the regions, the contested paragraph 7 of Article 1 of Decree-Law no. 174 of 2012 is thus at odds first and foremost with the parameters of constitutional law and of the special statutes invoked which guarantee legislative power to the regions in the matters falling under their jurisdiction.

As regards the objections alleging the violation of Articles 127 and 134 of the Constitution, it must be recalled that the control by the competent regional divisions of the Court of Auditors over regional laws approving the budgets and closing accounts of the regions is – according to the provision under examination – aimed at "verifying compliance with the annual targets set by the stability pact, compliance with the requirement applicable to deficit levels under Article 119(6) of the Constitution, the sustainability of the deficit and establishing that there are no irregularities liable to upset, even potentially, the economic and financial equilibria of the bodies" (Article 1(3) of the Decree-Law). This control is thus based at least in part on constitutional law, including specifically, alongside Article 119(6) of the Constitution which is expressly indicated, also Article 81 of the Constitution, which provides the constitutional guarantee of the "economic and financial equilibria" referred to, also of the regions.

Thus, at least insofar as it conducted with reference to constitutional law, the control carried out by the competent regional divisions of the Court of Auditors amounts to a review of the constitutionality of regional laws approving budgets and closing accounts, with which the contested paragraph 7 associates the potential bar on the efficacy of those laws. In this way, the contested provision introduced a new form of constitutional review of legislation, which has been unlawfully added to that carried out by the Constitutional Court, in which Article 134 of the Constitution vests the exclusive task of guaranteeing the constitutionality of legislation (including regional legislation), adopting judgments capable of ending the legal effect of laws ruled unconstitutional (in accordance with the principle of unique jurisdiction over constitutional law, "which does not tolerate any exceptions or mitigation of any kind": see Judgment no. 31 of 1961, and Judgments no. 6 of 1970, no. 21 of 1959 and no. 38 of 1957 on the jurisdiction of the High Court for Sicily Region). This means that Article 134 of the Constitution has also been violated, thereby restricting the constitutional powers of the regions, given that the constitutional review which the contested provision vests in the regional control divisions of the Court of Auditors - in breach of Article 134 of the Constitution - relates specifically to the laws by which the regions approve their own budgets and closing accounts.

Article 1(7) of Decree-Law no. 174 must therefore be ruled unconstitutional insofar as it relates to the control of the budgets and closing accounts of the regions. It must be clarified that, since this declaration is based also on the violation of the Constitution, as regards the application of that provision its effect extends to all of the regions, irrespective of whether governed by ordinary or special statute, as well as the autonomous provinces of Trento and Bolzano.

The further questions raised by the applicants against that provision are moot insofar as they relate to the control of the budgets and closing accounts of the regions.

6.3.4.3.2.− Moving now to an examination of the challenges against paragraph 7 of Article 1 of the Decree-Law insofar as it relates to the control of the budgets and closing accounts of the bodies comprising the National Health Service, it is necessary first and foremost to examine those by which the applicants objected to paragraph 7 with reference: a) to Article 33 of Presidential Decree no. 902 of 1975, to Article 116 of the Constitution, to the financial autonomy recognised to the autonomous region of Friuli-

Venezia Giulia under Title IV of its Special Statute and to Article 65 of the Special Statute on the grounds that it provides for a control different from that defined under the applicable implementing legislation (Article 33 of Presidential Decree no. 902 of 1975) and based not on cooperation but on "constraint" without following the procedure prescribed by the special statute for the adoption of legislation implementing the statute (Article 65) (Autonomous Region of Friuli-Venezia Giulia); b) to the legislative and administrative powers guaranteed to the autonomous region of Sardinia respectively by Articles 3, 4 and 5 of its Special Statute and Article 117(3) and (4) of the Constitution, as well as Article 6 of the Special Statute and Article 118 of the Constitution because the bar on the implementation of expenditure programmes provided for thereunder "means that it is impossible to exercise the public functions vested in the Region" under those provisions of the statute and of the Constitution (autonomous region of Sardinia); c) to Articles 7 and 8 of the Special Statute for Sardinia and to Article 119 of the Constitution (which "assure the Region qualified financial autonomy"), Article 117(3) of the Constitution, in relation to the "coordination of the public finances", Article 116 of the Constitution, Articles 54 and 56 of the Special Statute and Article 10 of Presidential Decree no. 21 of 1978 (which provide for enhanced economic and financial autonomy for Sardinia Region [at least] through provision for a special procedure for implementing the statute"), Articles 3, 4, 5 and 6 of the Special Statute for Sardinia and Article 117 of the Constitution ("which vest the Region with public functions that would be impaired by the blocking of expenditure programmes"), in that it makes provision through detailed legislation (in relation to the "coordination of the public finances"), for a control not based on cooperation that is liable to result in consequences involving "sanctions and punishment".

The questions are unfounded.

The Autonomous Region of Friuli-Venezia Giulia argues first and foremost that the state cannot provide for controls different from those defined under the applicable implementing legislation without following the procedure prescribed by the special statute for the adoption of legislation implementing the statute.

This objection is unfounded for the reasons set out in sections 3., 6.3.2. and 6.3.4.2.1. It was noted in fact in those sections that, when exercising its power to lay down fundamental principles in relation to the "harmonisation of public budgets and

coordination of the public finances", the state may indeed make provision, with the aim of realising interests protected under constitutional law, for forms of control by the Court of Auditors in addition to those already provided for under the special statutes and the respective implementing legislation, unless they contrast in detail with those provisions of the special statutes or implementing the statutes. This contrast − in particular with Article 33 of Presidential Decree no. 902 of 1975 − is, as noted in section 6.3.4.2.1., non-existent in this case.

The applicant autonomous regions go on to complain that, in breach of the parameters invoked, the results of the control carried out by the competent regional divisions of the Court of Auditors provided for under paragraph 7 of Article 1 of Decree-Law no. 174 and based not on cooperation but on "constraint" (Autonomous Region of Friuli-Venezia Giulia) and result in consequences involving "sanctions and punishment" (Autonomous Region of Sardinia). The autonomous region of Sardinia adds that these results could have the consequence that "it will be impossible to exercise the public functions vested in the Region".

These complaints are unfounded.

As has been repeatedly held by this Court (see Judgments no. 60 of 2013, no. 198 of 2012, no. 179 of 2007), the power of financial control vested in the Court of Auditors and, in particular, that which it is called upon to carry out over the budgets and closing accounts of the local authorities and the bodies comprising the National Health Service, must be classified under the category of a review as to their legality and regularity – to be construed as a control of the compliance of the (overall) management by those bodies with accounting and financial rules – and has the purpose, operating within a context that is no longer static (as was the traditional review of legality-regulatory) but dynamic, of comparing the actual circumstances against the parameter invoked with the aim of adopting effective corrective measures aimed at guaranteeing budgetary equilibrium and compliance with the accounting and financial rules.

In order to ensure that this purpose is effectively achieved, the contested paragraph 7 provided − as noted above in section 6.3.4.3.1. in relation to the part of that paragraph concerning the results of the controls of the regions' budgets − that any finding by the regional divisions of the Court of Auditors establishing the more serious shortcomings listed in that paragraph will give rise to an obligation for the body subject to the control

to adopt the measures to adjust its budget or closing accounts that are necessary in order to resolve the irregularity and to restore the budgetary equilibria. Paragraph 7 also provides − as noted above in section 6.3.4.3.1. − that non-compliance with that obligation owing to the failure to give notice of the corrective measures or a finding that they are inadequate will have the effect of barring the implementation of the expenditure programmes that have been certified to lack financial coverage or certified as not financially sustainable. Therefore, these effects − associated by the contested provision with the decisions of the Court of Auditors − which are clearly binding on the bodies comprising the National Health Service and, in the event of non-compliance with the obligations imposed on them, preclude *pro parte* the efficacy of the budgets approved by them.

The results of the control on the legitimacy and propriety of the accounts of the bodies comprising the National Health Service are intended to avoid irreparable harm to the budgetary equilibria of those bodies. The evidently entail a limitation of the autonomy of the bodies comprising the National Health Service, which − as this Court already noted as an incidental matter in Judgment no. 60 of 2013 − is however justified "due to the different interest in constitutional-financial legality and the protection of the economic unity of the Republic which is pursued […] with reference to Articles 81, 119 and 120 of the Constitution", also in consideration of the requirements to comply with the restrictions imposed by EU law. Since the results of the financial control by the Court of Auditors over the budgets of the bodies comprising the National Health Service provided for under the contested paragraph 7 – which enable compliance with the constitutional interests mentioned to be guaranteed even when the body under control does not take action on its own account – are reasonable (from the perspective of the protection of the interest of constitutional and financial legality and the economic unity of the Republic), the complaints made by the applicants against the "constraint" and the fact that the consequences involve "sanctions and punishment" are unfounded. This conclusion is moreover even more valid following the imposition on all public administrations under Constitutional Law no. 1 of 2012 of the fundamental rule requiring a balanced budget (Article 97(1) of the Constitution, as amended by Constitutional Law no. 1), respect for which is essentially safeguarded by the principles of financial coverage and sustainability of expenditure.

Finally, the Autonomous Region of Sardinia complains that the contested paragraph 7 reaches beyond the limits of a fundamental principle concerning the "coordination of the public finances" in that it enacts detailed provisions.

This complaint is also unfounded.

This Court has constantly asserted that it is possible for the state legislator, exercising its own legislative competence to lay down fundamental principles concerning the "coordination of the public finances", to make provision for forms of financial control by the Court of Auditors over the local authorities and the bodies comprising the National Health Service, which are based, as in this case (see section 6.3.2.), on Articles 28, 81, 97(1) 100(2) and 119 of the Constitution (see Judgments no. 219 and no. 60 of 2013, no. 198 of 2012, no. 179 of 2007, no. 267 of 2006, no. 29 of 1995). This legislative competence of the state also includes the power to stipulate the results of the aforementioned controls and, in particular, to specify the effects of the rulings adopted by the Court of Auditors upon conclusion of the control procedure as an integral part of that procedure. The Court of Auditors is moreover an institution which, whilst working in the service of the state as a whole and not simply of the national government (see Judgments no. 60 of 2013, no. 198 of 2012, no. 267 of 2006, no. 29 of 1995), nonetheless belongs to the state legal system (see Judgment no. 224 of 1999): this means that the content and effects of its rulings cannot be governed by regional legislation. Thus, in stipulating the results of the control by the Court of Auditors over the budgets and closing accounts of the bodies comprising the National Health Service, the contested paragraph 7 lays down a fundamental principle in relation to the "coordination of the public finances".

6.3.4.3.3.− Again in relation to the challenge brought against paragraph 7 of Article 1 of Decree-Law no. 174 insofar as it relates to the control of the budgets and closing accounts of the bodies comprising the National Health Service, it is necessary finally to examine the objection by which the Autonomous Region of Friuli-Venezia Giulia complains that, if it is construed to the effect that no forms of judicial relief are provided against rulings of the Court of Auditors that make a finding of irregularities or that find the steps taken by the regions to be inadequate, this provision violates Articles 24 and 113 of the Constitution.

As noted in section 6.3.4.3.2., with the purpose of ensuring effective financial control by the Court of Auditors, the contested paragraph vested the decisions of the regional control divisions of that Court provided for thereunder with effects that were not merely based on cooperation – such as those requiring the bodies controlled to adopt measures necessary in order to resolve the irregularities or failures reported – but that had mandatory force against the bodies comprising the National Health Service and, in the event of non-compliance with the obligations stipulated, imposed a block on administrative action by the bodies concerned. These rulings by the regional divisions of the Court of Auditors are thus liable to impinge upon the individual interests of the bodies comprising the National Health Service. It follows that − contrary to the assertions made by the applicant Autonomous Region of Friuli-Venezia Giulia − the guarantee of judicial relief secured by the fundamental principle laid down in Article 24 of the Constitution cannot be precluded in respect of those individual legal interests. (see Judgment no. 470 of 1997). Thus, it is not the existence of such protection that may be discussed but only the arrangements applicable to it. However, the identification of that protection amounts to a problem concerning the interpretation of applicable legislation, the resolution of which obviously falls beyond the remit of this judgment. The question raised by the Autonomous Region of Friuli-Venezia Giulia is therefore unfounded, as the contested provision does not cause any violation to the right to initiate court action, which must by contrast be deemed to be guaranteed.

6.3.5.− The Autonomous Region of Friuli-Venezia Giulia also challenges paragraph 4 of Article 1 of Decree-Law no. 174 of 2012.

According to the applicant, in regulating "the structure of the closing accounts of the region", the contested provision violates Article 4, no. 1) of the Special Statute – which vests the Region with primary legislative power over the "organisation and structure of the Offices", which "includes regional accounting" − or Article 117(4) of the Constitution, "if deemed to be more favourable".

The question is unfounded.

As stated in section 2., the provisions of Article 1 of Decree-Law no. 174 lay down statements of principle concerning the "harmonisation of budgets and coordination of the public finances", which may also be raised in opposition against bodies with special self-governing powers. It follows that the state legislator may legitimately enact

provisions containing statements of principle which stipulate that the controls of closing accounts introduced shall also include those of companies in which an equity interest is held that are charged with the management of public services for the regional public and services necessary for the Region, as well as the results of the management of the bodies comprising the National Health Service, without thereby encroaching upon the competence reserved to the primary legislative powers of the Region. This complies first and foremost with the requirement, which has been reiterated on various occasions by this Court, of putting in place principles that are capable of ensuring the harmonisation of the budgets and accounts of local government bodies that are expressly rooted in the competence established by Article 117(3) of the Constitution, and may therefore be raised in opposition also against legislators with special self-governing powers. Thus, beyond these general principles, such bodies are not bound as to the manner in which closing accounts are drawn up, nor has the primarily legislative jurisdiction of such bodies been violated. According to the case law of this Court, that harmonisation is also aimed at enabling a comparison between the public budgets of local government bodies, especially in order to prevent budgetary imbalances with reference to Articles 81 and 119 of the Constitution and to guarantee respect for the public finance objectives applicable also to local government bodies with autonomous powers (see *inter alia*, Judgments no. 60 of 2013 and no. 425 of 2004).

There is thus no violation as alleged.

6.3.6.– Paragraph 5 of Article 1 of Decree-Law no. 174, which provides that the general closing accounts of the Region must be approved by the regional control division of the Court of Auditors pursuant to Articles 39 and 41 of the consolidated text approved by Royal Decree no. 1214 of 12 July 1934 (Approval of the consolidated text of laws on the Court of Auditors), has also been contested. The Autonomous Region of Friuli-Venezia Giulia has invoked Article 116 of the Constitution, Title IV of the Special Statute and Article 33(3) of Presidential Decree no. 902 of 1975 which, *inter alia*, vests the regional control division of the Court of Auditors with the power to adopt decisions approving the general closing accounts of the Region pursuant to Articles 39 and 41 of Royal Decree no. 1214 of 1934; the Autonomous Region of Sardinia has invoked Articles 7 and 8 of the Special Statute (governing the financial autonomy of the Region) and Article 119 of the Constitution (also in relation to Article 10 of Presidential

Decree no. 21 of 1978, which regulates the “decision on the verification” on the general closing accounts of the Region by the regional division of the Court of Auditors).

The question is unfounded.

In the case under examination, the contested provision does not violate the autonomy of the region and the provisions of constitutional law and of the Special Statute invoked since the autonomous regions of Friuli-Venezia Giulia and Sardinia have already introduced substantially analogous legislation on the approval of the general closing accounts of the Region as provided for under Articles 39 and 41 of the consolidated text approved by Royal Decree no. 1214 of 1934, in accordance with a procedural model which is essentially analogous to that introduced by the provision under examination. It follows from the above that there is no obligation for the applicant regions to bring their legislation into line with the contested paragraph 5 of Article 1 of Decree-Law no. 174 of 2012 as a consequence of paragraph 16 of that Article.

6.3.7.– The Autonomous Region of Friuli-Venezia Giulia also challenged paragraph 6 of Article 1 of Decree-Law no. 174, which provides that "the president of the region shall transmit a report every twelve months to the regional control division of the Court of Auditors concerning the propriety of management and the efficacy and adequacy of the system of internal controls adopted on the basis of the guidelines approved by the self-government division of the Court of Auditors within thirty days of the date on which the law converting this Decree enters into force. The report shall also be sent to the president of the regional council".

The applicant alleges a violation of Article 4, no. 1) of its own Special Statute, which vests the region with primary legislative powers over the "organisation and structure of the Offices and the bodies dependent on the Region and the legal and financial status of the staff attached to them", of Article 33(1) of Presidential Decree no. 902 of 1975 (which governs the controls by the Court of Auditors in Friuli-Venezia Giulia Region), and a violation of "regional organisational autonomy".

The applicant region observes that the “Guidelines” referred to appear to relate not to the annual report, but the system of internal controls, and it is thus possible that the state legislator may have committed a *lapsus calami* (stating "adopted" in the masculine form where it should rather have stated "adopted" in the feminine form); if this is not the case, in the opinion of the Autonomous Region of Friuli-Venezia Giulia, since the

provision in question falls within the area of law pertaining to regional organisation, it violates Article 4, no. 1) of its Special Statute or Article 117(4) of the Constitution, "if considered more favourable" pursuant to Article 10 of Constitutional Law no. 3 of 2001.

The question is unfounded.

As was observed by the applicant in the written statement filed on 8 November 2013, the contested paragraph 6 was implemented by resolution no. 5 of 11 February 2013 of the self-government division of the Court of Auditors, which laid down "Guidelines on the annual report by the president of the region concerning the propriety of management and the efficacy and adequacy of the system of internal controls pursuant to Article 1(6) of Decree-Law no. 174 of 10 October 2012, converted with amendments into Law no. 213 of 2012". The contested provision must therefore be interpreted to the effect that the “Guidelines” do not relate to the system of internal controls, but the annual report by the president of the region, in accordance moreover with the preparatory works. It follows that the contested provision is not affected by the applicant's objection.

The question raised in the alternative with reference to Article 33(1) of Presidential Decree no. 902 of 1975 is unfounded.

Far from encroaching upon the competence retained over the area invoked, the aforementioned report by the president of the region to the regional control division of the Court of Auditors concerning the propriety of management and the efficacy and adequacy of the system of internal controls is a mechanism intended to guarantee linkage between internal and external controls with the aim of guaranteeing compliance with constitutional law and those contained in EU law (see *inter alia*, Judgments no. 267 of 2006, no. 181 of 1999, no. 470 of 1997, no. 29 of 1995), which may also be extended to local government bodies with autonomous powers (see Judgments no. 60 of 2013 and no. 179 of 2007).

6.3.8.– The Autonomous Region of Sardinia also objects to paragraph 8 of Article 1 of Decree-Law no. 174 of 2012, which provides that the reports drawn up by the regional control divisions of the Court of Auditors shall be "forwarded to the Office of the President of the Council of Ministers and the Ministry for the Economy and Finance for the decisions falling within their remit", objecting that this violates Articles 7 and 8 of its Special Statute and Article 119 of the Constitution (which guarantee "qualified

financial autonomy" to the Region), Article 117(3) of the Constitution (which regulates the legislative power of the region over the "coordination of the public finances"), Articles 3, 4, 5 and 6 of the Statute and Article 117 of the Constitution (which vest the Region with legislative and administrative powers), insofar as the contested provision makes provision for a control not based on cooperation that is liable to result in consequences involving "sanctions and punishment", such as the forwarding of the reports by the regional control divisions of the Court of Auditors of the Office of the President of the Council of Ministers and the Ministry for the Economy and Finance for the decisions falling within their remit".

The question is inadmissible.

The objection, which is in fact directed against paragraph 8 along with the contested paragraph 7, is based on generic grounds not supported by adequate argumentation, given that the applicant Autonomous Region of Sardinia does not explain in any way what the "decisions falling within [the] ... remit" of the Office of the President of the Council of Ministers and the Ministry for the Economy and Finance objected to are and the alleged consequences involving "sanctions and punishment" which are claimed to violate the autonomy of the Region.

It is a consolidated principle within the case law of this Court that a direct application must not only "identify precisely the question in legislative terms", indicating "the provisions of constitutional and ordinary law, the resolution of the compatibility or incompatibility between which is the object of the question of constitutionality", but must also "contain even summary arguments in support of the request for a ruling that a law is unconstitutional" (see *inter alia*, Judgments no. 40 of 2007, no. 139 of 2006; and Order no. 123 of 2012), as the requirement to provide adequate reasons in support of the challenge is "even more pressing in proceedings in which the Court is seized directly compared to interlocutory proceedings" (see, *inter alia*, Judgments no. 139 of 2006 and no. 450 of 2005; and Order no. 123 of 2012). It follows from the above that the question is inadmissible (see, *inter alia*, Judgments no. 41 of 2013; no. 114 of 2011; no. 310 of 2010).

6.3.9.– The applicant autonomous regions of Friuli-Venezia Giulia and Sardinia also challenge Article 1, paragraphs 9, 10, 11 and 12, of Decree-Law no. 174, which regulate proceedings for controls of council groups in the regional councils.

As noted in section 6.3.2., it must be reiterated first and foremost that, in enacting the contested paragraphs, the state legislator adjusted the control by the Court of Auditors over the financial management of the Regions provided for under Article 3(5) of Law no. 20 of 1994 and Article 7(7) of Law no. 131 of 2003 with the twofold aim – specified under paragraph 1 of Article 1 of the Decree-Law – of reinforcing the coordination of the public finances and guaranteeing compliance with the financial obligations resulting from our country's membership of the European Union. It follows from the above that the challenges brought by the applicants are unfounded with reference to all parameters of constitutional law (Article 116 of the Constitution), the regional statutes and the respective implementing legislation invoked (Articles 54 and 56 of the Special Statute for Sardinia), which are based on the mistaken assumption that these are the only sources of law that can regulate the controls in question.

As regards the other parameters invoked by the applicants with the aim of more clearly framing the questions brought before the Court for examination, it must be observed that the objections raised by the autonomous regions of Friuli-Venezia Giulia and Sardinia are based on the assumption that they have exclusive jurisdiction to enact provisions regulating council groups in the regional council (and the related controls), which may be inferred from the parameters invoked concerning the legislative and administrative autonomy of the Region (Article 117 of the Constitution and Articles 3, 4, 5 and 6 of the Special Statute for Sardinia), from the financial autonomy of the Region (Article 119 of the Constitution and Articles 7 and 8 of the Special Statute for Sardinia, of which the autonomy in relation to accounting matters of the regional council is claimed to be a direct consequence), from the Special Statute and the reservation of competence laid down thereunder in favour of laws on the Regional Statute, of which the legislation laid down by the regional council concerning groups is claimed to be a direct emanation (Articles 16, 17 and 18 of the Special Statute of Friuli-Venezia Giulia and Article 5 of Law on the Regional Statute no. 17 of 2007 of Friuli-Venezia Giulia; Article 15 of the Special Statute for Sardinia, which reserves to regional law the power to determine the form of government, which can be deemed to cover the activity of the council groups and the regulation of the contributions paid to them; Article 26 of the Special Statute for Sardinia, which reserves to regional law the power to set the allowance for service in office of the individual councillors, an area which can

be deemed to cover also the disbursement of contributions and controls over council groups in order to ensure the independence of councillors pursuant to Articles 23 and 24 of the Statute), and from the substantive matters reserved to implementing provisions, which constitute the full extent of the controls over council groups that are permitted under constitutional law (Article 33 of the Statute per la Sardinia and Article 127 of the Constitution; Article 56, in conjunction with Article 7, of the Statute per la Sardinia; Article 116 of the Constitution and Articles 4 and 5 of Presidential Decree no. 21 of 1978).

6.3.9.1.– The premises on which the applicants base their reasoning cannot be endorsed. As regards the organisational and accounting autonomy of the regional councils, it is settled case law of this Court that the position and functions of the bodies comprising the national Parliament are different from those of the other elected assemblies (see *inter alia* Judgments no. 306 and no. 106 of 2002). This view was expressly developed with regard to various aspects relating to the position of the legislative assemblies within the constitutional system and their organisation, as well as to the controls carried out and decisions made by the Court of Auditors. In this regard, it has for example been asserted that "it is not possible […] to consider that the exception from the general subjection to the jurisdiction of the Court of Auditors extends to the regional councils since, for historical reasons and due to the requirement to safeguard the full constitutional autonomy of supreme bodies, its jurisdiction has been deemed to cover the houses of Parliament, the President of the Republic and the Constitutional Court" (see Judgment no. 292 of 2001, with references also to Judgments no. 110 of 1970 and no. 129 of 1981).

It follows that, in view of the case law of this Court, the elective assemblies of the Regions differ from the parliamentary assemblies also in terms of their full autonomy over organisational and accounting matters, given that, under constitutional law, the regional councils enjoy certain prerogatives analogous to those vested in Parliament but that, leaving aside these express provisions, they cannot be treated as equivalent to it, especially for the purposes of extending legislative arrangements which were already exceptional in nature (see Judgments no. 292 of 2001 and no. 81 of 1975). Whilst it nonetheless asserts the independence of the regional council, also Judgment no. 143 of

1968, which was referred to by the Autonomous Region of Friuli-Venezia Giulia, held that these bodies cannot be treated as equivalent.

In the light of the case law of this Court referred to, it is now necessary to review the contested provisions, distinguishing between the objections directed against the individual paragraphs contested (9, 10, 11 and 12 of Article 1).

6.3.9.2.– Paragraph 9 of Article 1 of the Decree-Law regulates the annual closing accounts of council groups and the relative structuring, providing that each council group must approve annual closing accounts structured according to the guidelines approved by the Standing Assembly for relations between the state, the regions and the autonomous provinces of Trento and Bolzano as implemented by the decree of the President of the Council of Ministers of 21 December 2012 (Adoption of the guidelines on the reporting of the annual closing accounts approved by council groups of the regional councils pursuant to Article 1(9) of Decree-Law no. 174 of 10 October 2012, converted with amendments into Law no. 213 of 7 December 2012); the purpose of this is to ensure the correct reporting of information relating to the management and the proper keeping of accounts (indicating the resources transferred and the reasons for the transfers).

The questions relating to paragraph 9 of Article 1 of the Decree-Law are unfounded.

In the light of the settled case law of the Court, the contested provision does not violate the parameters of constitutional law and the special statutes invoked by the applicants, which have been enacted to safeguard the autonomy of the regions, of which the council is the principal representative manifestation.

It must be pointed out in this regard that the closing accounts reporting the expenses of the council groups are a necessary part of the regional closing accounts, in that the amounts acquired by those groups and those repaid must be reconciled with the figures reported in the regional budget. To that effect, the legislator has made provision for this mandatory documentary analysis which, whilst not entering into the merits of the use of the amounts concerned, controls the evidence that they have actually been used, without encroaching upon the political autonomy of the groups subject to the control. In fact, the review by the Court of Auditors is based on the principle that the closing accounts must be compliant with the model adopted by the Standing Assembly, and must therefore be based on a documentary examination, as it is not possible to enter into the merits of

discretionary choices, which are a matter for the political autonomy of the groups, acting within the limits of their institutional mandate.

The parameters invoked by the applicants retain a sphere of competence to self-government legislation which is not in any way infringed by the type of controls introduced, which are merely “external” and based on a documentary examination. It follows from this that the questions are unfounded.

6.3.9.3.– Moving now to an examination of the specific objections, the autonomous region of Friuli-Venezia Giulia challenges Article 1(9) of Decree-Law no. 174 of 2012, also with reference to Article 117(6) of the Constitution which, in reserving to the state the power to enact laws only in areas falling under its exclusive legislative jurisdiction, establishes "a prohibition on the enactment of secondary state legislation in relation to regional matters", given that, in providing that the structure of the closing accounts of the council groups is to be established by the “Guidelines” adopted by the Standing Assembly for relations between the state, the regions and the autonomous provinces of Trento and Bolzano as implemented by decree of the President of the Council of Ministers, the contested provision delegates to those bodies a power that is "essentially normative" rather than enacting legislation.

The question is unfounded.

The contested provision was implemented by the decree of the President of the Council of Ministers of 21 December 2012. However, this decree was devoid of any normative content and simply indicated the criteria and technical rules aimed at satisfying the requirements of homogeneity in the preparation of the annual closing accounts of council groups.

This Court has repeatedly held in this regard that these requirements for harmonising the drafting of accounting documents are essential in order to enable accounts to be compared with one another properly (see *inter alia*, Judgment no. 138 of 2013); this is because "the codification of standardised parameters" is essential in order to consolidate, from an accounting perspective, "the results of all regional accounts in a uniform and transparent manner in such a way as to ensure not only reliable complex and comparative financial data, but to provide information instruments enabling an effective coordination of the public finances", which is inseparably linked to the "provisions laying down accounting rules which, within the ambit of the public finances

in a broad sense, further the state's function of monitoring and oversight of compliance with complex objectives" (see *inter alia*, Judgments no. 309 and no. 176 of 2012; no. 52 of 2010).

There is thus no violation as alleged.

6.3.9.4.– The autonomous regions of Friuli-Venezia Giulia and Sardinia contest specifically paragraphs 10 and 11 of Article 1 of the Decree-Law insofar as they vest powers in the President of the Regional Executive relating to the transmission of the closing accounts of the council groups to the competent regional control division of the Court of Auditors, averring respectively a violation of Article 12 of the Statute of Friuli-Venezia Giulia, which reserves the enactment of legislation governing relations between the various regional bodies to a law on the Regional Statute, and Articles 15 and 35 of the Statute for Sardinia Region – albeit limited to the contested paragraph 10 – which regulates the relationship between the President of Sardinia Region and the Regional Council, arguing that the relationship between the two bodies has been “overturned”.

The question is well founded insofar as set out below.

The contested provisions designate the President of the Executive as the regional body vested with particular functions, consequently violating the parameters laid down in the special statute invoked by the applicants. In fact, according to the settled case law of this Court, the state legislator cannot designate which body from a region is vested with particular functions, even where - such as in the case under examination - it does so for the sole purpose of collecting and transmitting the documents in question (see *inter alia*, Judgments no. 22 of 2012, section 6 of the Conclusions on points of law and no. 201 of 2008 and no. 387 of 2007).

It is therefore necessary to declare unconstitutional:

– paragraph 10, first sentence, insofar as it provides for the involvement of the President of the Executive in the procedure relating to the transmission of the closing accounts of the council groups to the competent regional control division of the Court of Auditors, with regard to the phrase "which it shall transmit to the president of the region";

– paragraph 10, second sentence, insofar as it provides that the involvement of the President of the Executive in the procedure relating to the transmission of resolutions concerning the controls carried out by the regional division of the Court of Auditors to

the council groups, with regard to the phrase "to the president of the region for subsequent transmission" (in accordance, *inter alia*, with Judgments no. 50 of 2013; no. 52 of 2012; no. 217 of 2011; no. 269 of 2007; no. 85 of 1990).

6.3.9.5.– As regards the challenges directed against paragraph 11, first sentence, insofar as it designates the President of the Executive as the addressee of any observations made by the competent regional control division of the Court of Auditors following the checks of the closing accounts of the council groups, it must be noted that the sources of self-government legislation and provisions of the special statutes invoked, along with the council regulations, which have been expressly referred to by the applicants, designate the president of the regional council as the only official entitled to represent the elective assembly, *inter alia* as the guarantor of the autonomy of the council.

The question is well founded insofar as set out below.

It has been the settled position of this Court that the Court of Auditors performs an auxiliary function – in particular when exercising the functions of “controlling and reporting” – vis-à-vis the elective assemblies, also with specific reference to local government bodies with autonomous powers (see *inter alia*, Judgment no. 267 of 2006).

It follows that, considering the case law of this Court referred to, the state legislator may legitimately designate the president of the regional council as the official vested with functions relating to the transmission of the closing accounts of each group to the competent regional control division of the Court of Auditors.

Accordingly, paragraph 11, first sentence, must be declared unconstitutional insofar as it designates the “president of the region” rather than the “president of the regional council” as the addressee of the communication in order that, in the event that any irregularities are ascertained, he or she will ensure the rectification of the closing accounts of the council group previously transmitted.

6.3.9.6.– The autonomous regions of Friuli-Venezia Giulia and Sardinia challenge paragraphs 11 and 12 of Article 1 of the Decree-Law, objecting that they violate the additional parameters referred to in section 6.3.9.

Before reviewing the contested provisions, a distinction must be drawn between the challenges directed against the different sentences contained in the contested paragraphs.

The question concerning the first and second sentences of paragraph 11 is unfounded.

Insofar as they regulate the procedures governing the conduct of controls by the regional division of the closing accounts of the council groups – subject to the decision contained above in sections 6.3.9.4. and 6.3.9.5. – the contested provisions remain within the ambit staked out within the case law of this Court, which has been referred to on various occasions, on the necessity for such controls, which may also include purely documentary controls of the closing accounts of the council groups.

Also the last sentence of paragraph 11 withstands the objections raised by the applicant regions, insofar as it introduces the obligation to repay the amounts received in the event that irregularities are established during the controls of the closing accounts.

Contrary to the sanction of the forfeiture of the right to receive resources during the following financial year, the obligation to repay may in fact be regarded primarily as a general principle of public accounting rules. It is strictly related to the duty to provide an account of the manner in which public money is spent in accordance with the rules governing the management of funds and their relevance for the institutional functions performed by council groups.

The said obligation is limited by the contested provision to money received out of the budget of the regional council, which must therefore be repaid if it is not reported in the closing accounts, as resources the management of which has not been correctly accounted for according to the rules governing the preparation of the closing accounts. It follows that the obligation to repay results directly from the irregularities established in the closing accounts. Consequently – on the basis of the said causal link – the obligation to repay results from the control procedure referred to, which was lawfully established by the legislator. It follows from the above that, for the same reasons as those stated in section 6.3.9.2., there are no violations as alleged.

6.3.9.7.– It is now necessary to review paragraph 11 of the contested Article 1 of Decree-Law no. 174, with regard solely to the third sentence, which provides that, if any irregularities are ascertained by the regional control division of the Court of Auditors, in the event that the council group fails to rectify the closing accounts within the time limit

specified, it shall forfeit the right to receive resources from the regional council for the current year (i.e. the year after that covered by the closing accounts).

The State Counsel avers that the forfeiture of the right to receive resources from the regional council in the event that a council group has not rectified their closing accounts timeously is an element of the indispensable function of oversight aimed at ensuring that controls are effective (referring once again to Judgment no. 179 of 2007). This argument cannot be accepted.

The question is well founded.

The contested paragraph 11 introduces a punitive measure which undoubtedly amounts to a sanction applicable by operation of law, and does not allow the Court of Auditors to mitigate the sanction in line with the seriousness of the deficiency established within the closing accounts, or allow the bodies subject to the control to adopt corrective measures. This means that it is not possible to maintain the necessary separation between the control function and the administrative activity of the bodies subject to control which, according to the case law of this Court, is a fundamental prerequisite for the constitutionality of the provisions establishing the controls carried out by the Court of Auditors (see, *inter alia*, Judgment no. 179 of 2007).

Council groups have been classified within the case law of this Court as council bodies and emanations of the political parties within the regional assembly (see Judgments no. 187 of 1990 and no. 1130 of 1988), or as offices necessary and essential for the formation of the internal bodies within the council (see Judgment no. 1130 of 1988). Since it introduces a sanction which, by excluding all funding, potentially risks compromising the public functions vested in council groups, the contested provision risks undermining the proper functioning of the regional assembly itself, even on the basis of marginal accounting irregularities, and even where there has been no misuse of the contributions allocated. It follows that the constitutional parameters enacted to safeguard the legislative and financial autonomy of the applicant regions (Articles 117 and 119 of the Constitution) have been violated.

The following must therefore be declared unconstitutional:

– Article 1(11), third sentence, of Decree-Law no. 174;

– Article 1(11), fourth sentence, of Decree-Law no. 174 of 2012 insofar as it stipulates that the obligation to repay amounts received out of the budget of the regional

council that have not been reported results in the "forfeiture provided for under this paragraph", rather than the failure to comply pursuant to paragraph 11;

– Article 1(12) of Decree-Law no. 174 of 2012 insofar as it provides that "The forfeiture and repayment obligation under paragraph 11 result in" rather than "The repayment obligation under paragraph 11 results in" (following, *inter alia*, Judgments no. 222 and no. 93 of 2013);

It must be clarified that, since this declaration is based on the violation of the Constitution, as regards the application of that provision its effect extends to all of the regions, irrespective of whether governed by ordinary or special statute, as well as the autonomous provinces of Trento and Bolzano.

The further questions raised by the autonomous region of Sardinia against paragraphs 11 and 12 of Article 1 of Decree-Law no. 174 are moot.

6.3.9.8.– The autonomous region of Friuli-Venezia Giulia challenges paragraphs 11 and 12 of Article 1 of Decree-Law no. 174 of 2012 , also with specific reference to Articles 24 and 113 of the Constitution, on the grounds that the contested provisions do not guarantee appropriate forms of judicial relief against a notice of irregularity (paragraph 11) and a finding of irregularity (paragraph 12), and the resulting forfeiture of the right to receive the contribution, which is claimed to violate the autonomy of the regional council and of council groups.

The question is unfounded.

Leaving aside the legal status of council groups, any immediate and direct harm caused to individual legal interests must inevitably – given the silence of the provision – give rise to a right of the bodies subject to the control to exercise the ordinary forms of judicial relief provided for by law on the basis of the fundamental constitutional guarantees laid down by Articles 24 and 113 of the Constitution, which have been expressly classified by this Court as supreme principles of the legal order (see *inter alia*, Judgments no. 26 of 1999, section 3.1. of the Conclusions on points of law; and no. 526 of 2000; no. 266 of 2009; no. 10 of 1993; no. 232 of 1989; no. 18 of 1982; no. 98 of 1965).

It follows that − contrary to the assertions made by the applicant autonomous region of Friuli-Venezia Giulia − the guarantee of judicial relief secured by the fundamental principle laid down in Article 24 of the Constitution cannot be precluded for council

groups by the contested provisions. (see Judgment no. 470 of 1997). The only matter open to discussion is thus not the existence but rather the configuration of that protection, the definition of which, as a problem concerning the interpretation of applicable legislation, obviously falls beyond the object of these proceedings. The question raised by the autonomous region of Friuli-Venezia Giulia is therefore unfounded, as the contested provision does not cause any violation to the right to initiate court action, which must by contrast be deemed to be guaranteed.

6.3.10.− Turning to the questions raised against Article 1(16) of Decree-Law no. 174 by the autonomous regions of Friuli-Venezia Giulia and Sardinia, the applicants argue − as noted in greater detail in section 6.2. − that this paragraph is unconstitutional on the grounds that it obliges them to bring their legal systems into line with provisions of state law which, in consideration of the controls introduced by them, which are not provided for either under their respective special statutes or the relative implementing legislation: a) would require, for the purposes of that adaptation, the adoption of legislation implementing the special statute (if not the actual review of the special statutes), which may only occur on the basis of cooperation and cannot be enforced unilaterally by the state or subjected to time limits (both applicants), or in any case on the basis of legislation agreed upon between the state and each region (autonomous region of Friuli-Venezia Giulia); b) could only be imposed on the local government bodies vested with special powers with regard to the principles identified therein (autonomous region of Friuli-Venezia Giulia); and c) would entail a violation of the powers granted under the Constitution and the Special Statute owing to the requirement to bring these into line with the provisions of state legislation, which have already been challenged in the objections brought against each of them (autonomous region of Sardinia).

The first two grounds for challenge are unfounded. In fact, as was pointed out at length in sections 2., 3., 6.3.2., 6.3.4.3.2., the provisions with which the contested paragraph 16 requires the regions governed by special statute to bring their legal systems into line: a) are a manifestation of the exercise of the state's competence to lay down fundamental principles concerning the "harmonisation of public budgets" and the "coordination of the public finances"; b) may be raised in opposition also against

autonomous local government bodies because also the finances of those bodies form part of the public finances construed broadly.

By the third ground for challenge, the Autonomous Region of Sardinia complaints – as noted above in section 6.2.2. – that paragraph 16 of Article 1 of Decree-Law no. 174 of 2012 is unconstitutional insofar as it requires them to bring their legal systems into line with a provisions of Article 1 (including specifically paragraphs 1 to 8, 9, 10, 11 and 12), which are in turn unconstitutional and which it has, for that reason, contested as a self-standing challenge. Considering the question as framed in these terms, whether or not it may be deemed to be well founded, will depend upon whether or not the questions raised by the Autonomous Region of Sardinia against the other paragraphs of Article 1 under examination that have been contested by it are respectively accepted or rejected. In this regard, as noted above, the questions raised by the region against the following provisions have been accepted: a) paragraph 7 insofar as it relates to the control of the budgets and closing accounts of the regions; b) paragraph 10, first sentence, with regard to the phrase "which it shall transmit to the president of the region"; c) paragraph 10, second sentence, with regard to the phrase "to the president of the region for subsequent transmission"; d) paragraph 11, third sentence; e) paragraph 11, fourth sentence, insofar as it stipulates that the obligation to repay amounts received out of the budget of the regional council that have not been reported results in the "forfeiture provided for under this paragraph", rather than the failure to comply pursuant to paragraph 11; and paragraph 12, insofar as it provides that "The forfeiture and repayment obligation under paragraph 11 result in" rather than "The repayment obligation under paragraph 11 results in";

Accordingly, paragraph 16 of Article 1 of Decree-Law no. 174, contested by the autonomous region of Sardinia, must be ruled unconstitutional insofar as it requires the regions governed by special statute and the autonomous provinces of Trento and Bolzano to bring their legal systems into line with those provisions. The question raised by the Autonomous Region of Sardinia against paragraph 16 of Article 1 of Decree-Law no. 174 must on the other hand be rejected with regard to the part of that paragraph that requires the autonomous local government bodies to bring their legal systems into line with the provisions of Article 1 - the questions concerning which provisions, which were raised by the region, have been rejected - and thus insofar as it requires the said

bodies to bring their legal systems into line with paragraphs 1, 2, 3, 4, 5, 6, 7 of Article 1 of Decree-Law no. 174, the last paragraph solely insofar as it refers to the control of the budgets and closing accounts of the bodies comprising the National Health Service.

7. – The autonomous regions Sardinia and Friuli-Venezia Giulia contest Article 3(1)(e) of Decree-Law no. 174, which replaces Article 148 of Legislative Decree no. 267 of 18 August 2000 (Consolidated text of laws on the organisation of the local authorities) with Articles 148 and 148-bis, which provide that:

– the regional divisions of the Court of Auditors shall regularly verify the legitimacy and propriety of management and the operation of internal controls in order to ensure compliance with accounting rules and the budgetary equilibrium of each local authority by a procedure involving the mayor and the president of the province and, where provided for, the director general (or the secretary of bodies in which no provision has been made for a director general) on the basis of the "guidelines" adopted by the self-government division of the Court of Auditors, which provides for the submission of reports also to the president of the municipal or provincial council (Article 148(1), as amended, of Article 3(1)(e) of Decree-Law no. 174 of 2012);

– the Department of the General State Accounting Office at the Ministry for the Economy and Finance may carry out checks into the propriety of administrative and accounting management pursuant to Article 14(1)(d) of Law no. 196 of 31 December 2009 (Law on public accounts and finance) in the event, in addition to the other situations provided for by law, that a body reports, including through SIOPE entries (Computer System for the Operations of Public Bodies), any financial imbalance with reference to specific indicators (Article 148(2) as amended by Article 3(1)(e) of Decree-Law no. 174);

– sanctions shall be imposed against the directors in the event that they fail to apply the control instruments and methodologies put in place for the local authorities (Article 148(4) of the Consolidated text of laws on the organisation of the local authorities, as amended by Article 3(1)(e) of Decree-Law no. 174);

– the regional divisions of the Court of Auditors shall examine the budgets and closing accounts of the local authorities with a view to ascertaining whether there are any specific elements liable to upset the economic and financial equilibria of the bodies, taking account also of companies owned by the local authority, the turnover of which is

earned mainly from operations essential for the body or from the provision of public services and, in the event of the failure to adopt measures suitable for resolving the irregularities and restoring the budgetary equilibria, a bar on the implementation of expenditure programmes that have been certified to lack financial coverage or certified as not financially sustainable (Article 148-bis, of Legislative Decree no. 267 of 2000, as amended by Article 3(1)(e) of Decree-Law no. 174).

7.1. – The autonomous region of Sardinia directs the same challenges against all of the contested provisions, alleging a violation: of Article 3(1)(b) in conjunction with Article 46 of its Special Statute (which reserve the power to review the acts of the local authorities to the regional authorities in accordance with the procedures and subject to the limits laid down by regional legislation, in line with the principles stipulated by laws adopted by the state, thus bringing the organisation of the local authorities within the legislative power of the Region) and Article 6 of the Statute (which reserves to the Region administrative powers within the areas in which it has legislative power), as the contested provisions are claimed to vest bodies from outside the regional legal system with administrative functions relating to the direct implementation of provisions falling within the substantive legislative competence of the autonomous region of Sardinia.

7.2. – The Autonomous Region of Friuli-Venezia Giulia challenges paragraph 2 of Article 148 of Legislative Decree no. 267 of 2000, as amended by Article 3(1)(e) of Decree-Law no. 174 of 2012, which grants the Department of the General State Accounting Office at the Ministry for the Economy and Finance the power to carry out the checks referred to, alleging that it violates Article 4, no. 1-bis of its own Special Statute (which vests the region with primary legislative power over the "organisation of the local authorities") and Articles 3, 4, 6 and 9 of Legislative Decree no. 9 of 2 January 1997 (Provisions implementing the Special Statute for Friuli-Venezia Giulia Region on the organisation of the local authorities and the constituent districts) on the grounds that the contested provision grants the state powers of administrative control over the local authorities (in relation to financial and accounting organisation), thereby encroaching upon the competence over the "organisation of the local authorities" established under the Special Statute.

7.3. – In this regard, it is not possible to accept the arguments submitted by the State Counsel which stress that the controls introduced by the contested provisions are merely

cooperative in nature, asserting also that they amount to provisions on the coordination of the public finances.

The question concerning paragraph 2 of Article 148 of Legislative Decree no. 267 of 2000, as amended by Article 3(1)(e) of Decree-Law no. 174 is well founded as specified below.

This Court has repeatedly upheld the constitutionality of state legislation aimed at acquiring data and information from local government bodies that is useful above all for the coordination of the public finances (see *inter alia* Judgments no. 35 of 2005; no. 36 of 2004; no. 376 of 2003), including in relation to local government bodies vested with special powers of autonomy (see Judgment no. 425 of 2004).

Nevertheless, in the case under examination, the contested provision exceeds the limits of legitimate intervention by state legislation, which have been circumscribed by this Court to the right to regulate obligations relating to the transmission by the regional offices of information considered to be sensitive in that it establishes a power of control over the full spectrum of the administrative and financial activities of the local authorities not in an independent judicial body such as the Court of Auditors but rather in the government direct, thereby unlawfully removing it from the area reserved to the primary legislative competence of the applicant autonomous regions of Friuli-Venezia Giulia and Sardinia, in breach of the parameters invoked from the special statutes and the respective implementing legislation.

By Judgment no. 219 of 2013 (section 16.5. of the Conclusions on points of law), this Court ruled unconstitutional Article 5 of Legislative Decree no. 149 of 6 September 2011 (Punitive and incentive mechanisms for the regions, provinces and municipalities, enacted pursuant to Articles 2, 17 and 26 of Law no. 42 of 5 May 2009), in the version introduced by Article 1-bis(4) of Decree-Law no. 174 of 2012, which granted the Department of the General State Accounting Office at the Ministry for the Economy and Finance the power to carry out checks into the propriety of administrative and accounting management by local government bodies analogous to those established by the provision contested in these proceedings. This provision also exceeds the limits permitted under the case law of this Court referred to. In keeping with the provision reviewed in the precedent referred to (see Judgment no. 219 of 2013), the contested provision vests inspectors from the central administration with powers to control the

overall administrative and financial activities of the local authorities, consequently violating the parameters from the special statutes and the respective implementing legislation invoked by the applicant autonomous regions of Friuli-Venezia Giulia and Sardinia.

Moreover, this conclusion is not precluded by the argument that, if interpreted in relation to paragraph 3 of Article 148 of Legislative Decree no. 267 of 2000, the aim of the contested provision is to reinforce the intervention by the Court of Auditors, given that the regional control divisions may only indirectly engage the inspection procedures governed by the contested paragraph 2, which thus remain under the full control of the central state administration.

Therefore, paragraph 2 of Article 148 of Legislative Decree no. 267 of 2000, as amended by Article 3(1)(e) of Decree-Law no. 174, must be declared unconstitutional with reference to Article 4, no. 1-bis) of the Special Statute of Friuli-Venezia Giulia, also in relation to Articles 3, 4, 6 and 9 of Legislative Decree no. 9 of 1997, and with reference to Article 3(1)(b) in conjunction with Article 46 of the Special Statute for Sardinia. The further grounds for challenge are moot.

7.4. – Consequently, for the same reasons, paragraph 3 of Article 148 of Legislative Decree no. 267 of 2000, as amended by Article 3(1)(e) of Decree-Law no. 174 – contested by the Autonomous Region of Sardinia only – which provides that the regional control divisions of the Court of Auditors may activate the procedures provided for under paragraph 2, must also be declared unconstitutional.

It must be stressed that, since the declaration that paragraphs 2 and 3 of Article 148 of Legislative Decree no. 267 of 2000, as amended by Article 3(1)(e) of Decree-Law no. 174, are unconstitutional is based on the parameters invoked from the special statutes and the respective implementing legislation, its effect with regard to the application of the said provisions is limited to the autonomous regions of Friuli-Venezia Giulia and Sardinia.

7.5. – The autonomous Region of Sardinia also contests Article 148(1) and (4) and Article 148-bis of Legislative Decree no. 267 of 2000, as amended by Article 3(1)(e) of Decree-Law no. 174.

The challenge directed against paragraph 4 of Article 148 is inadmissible due to the generic nature of the grounds, which have not been supported by adequate

argumentation, as the application is limited to asserting, without further specification, that the provision under examination violates the parameters from the special statute invoked in relation to the other paragraphs of the contested Articles 148 and 148-bis, as amended by Article 3(1)(e) of Decree-Law no. 174 of 2012, without sufficiently illustrating why the violations alleged have been caused (see inter alia, Judgments no. 41 of 2013; 114 of 2011; no. 310 of 2010; and Order no. 123 of 2012).

7.5.1. – The question raised in relation to paragraph 1 of Article 148 of Legislative Decree no. 267 of 2000, as amended by Article 3(1)(e) of Decree-Law no. 174 is unfounded.

In fact, the contested provision is limited to regulating the procedures applicable to the interaction between the external controls based on cooperation carried out by the regional divisions of the Court of Auditors, with which this Court has already associated the regular checks of the legitimacy and propriety of economic and financial management, including with express reference to local government bodies with autonomous powers (see *inter alia*, Judgment no. 179 of 2007), and the internal controls intended to guarantee compliance with accounting and budgetary equilibrium rules within each local authority. The aim of this is to ensure the fundamental interlinkage between external controls and internal constraints in order to guarantee compliance with public finance objectives, the constitutional parameters relating to budgetary equilibrium and the restrictions imposed by EU law (see *inter alia*, Judgments no. 267 of 2006, no. 181 of 1999, no. 470 of 1997, no. 29 of 1995), which may also be extended to local government bodies with autonomous powers (see Judgments no. 60 of 2013 and no. 179 of 2007).

The controls regulated by the contested provision thus operate on a different level compared to those regulated by the parameters invoked from the special statute and the respective implementing legislation (see Judgment no. 60 of 2013): in fact, the former are carried out with reference to constitutional parameters (Articles 81 and 119 of the Constitution), including also the requirement to comply with the obligations resulting from Italy's membership of the European Union (Articles 11 and 117(1) of the Constitution), which are distinct from the parameters with reference to which the controls regulated within the area reserved to provisions implementing the special statute are carried out (see Judgment no. 60 of 2013).

When interpreted in these terms, the contested provision withstands the objections of the applicant Autonomous Region of Sardinia in that it does not violate either the parameters invoked from the special statute, which are not capable of delineating the scope of the controls that may be lawfully vested under state legislation in the Court of Auditors (Article 3(1)(b) in conjunction with Article 46 of the Statute), or Article 6 of the Statute (which reserves to the Region the power to exercise administrative functions within the areas in which it has legislative powers), given that the vesting of such controls in a body representing the state as a whole which is independent and impartial – as the Court of Auditors has been found to be within the settled case law of this Court – is fully justified.

7.5.2. – The question relating to Article 148-bis of Legislative Decree no. 267 of 2000, as amended by Article 3(1)(e) of Decree-Law no. 174 is unfounded.

The applicant Autonomous Region of Sardinia alleges a violation of the same parameters invoked with reference to the contested provisions contained in Article 148 of Legislative Decree no. 267 of 2000, as amended by Article 3(1)(e) of Decree-Law no. 174.

As regards the objections directed against paragraph 2 of Article 148-bis, which expands the checks introduced over the closing accounts of the local authorities also to companies in which an equity interest is held that have been charged with the management of public services for the local general public and essential services for the body, it must be noted that this extension is intended first to guarantee the harmonisation of public budgets and secondly to prevent budgetary imbalances.

As regards the objections directed against paragraphs 1 and 3 of Article 148-bis, this Court has already asserted, when ruling first on the provisions establishing the financial controls (Article 1(166) to (172) of Law no. 266 of 2005) – which are expressly referred to by the contested provisions – and subsequently on the contested Article 148-bis, that the control is aimed at ensuring sound financial management by local government bodies overall (including those vested with special powers of autonomy) in order to protect the economic unity of the Republic and the coordination of the public finances, consequently operating on a level different from the controls governed by "special" legislation enacted by autonomous bodies (see *inter alia*, Judgments no. 60 of 2013; no. 179 of 2007; no. 267 of 2006).

In ruling on the constitutionality of the provisions governing that type of control over local authorities and bodies comprising the National Health Service (Article 1(166) to (172) of Law no. 266 of 2005), this Court also asserted that it "may be classified as a review of legality and propriety, which is complementary to the control of administrative management" (see Judgment no. 179 of 2007).

Building on this consolidated case law, in Judgment no. 60 of 2013 this Court asserted that "Article 1(166) to (172) of Law no. 266 of 2005 and Article 148-bis of Legislative Decree no. 267 of 2000, introduced by Article 3(1)(e) of Decree-Law no. 174 of 2012, made provision for further types of control extending to local authorities and national health service bodies in general, which could by contrast be classified as controls of a preventive nature aimed at avoiding irreparable harm to the budgetary equilibrium". These controls therefore do not violate the matters reserved to provisions implementing the special statute as they operate on a different level compared to the controls governed by “special” legislation enacted by autonomous bodies, "at least as regards the results of the powers of control vested in the Court of Auditors regarding the legitimacy and propriety of the accounts" (see Judgment no. 60 of 2013), under which the provisions contested by the applicant Autonomous Region of Sardinia may be classified.

There is thus no violation as alleged.

8. – The autonomous regions Sardinia and Friuli-Venezia Giulia and the autonomous province of Trento (the last two with respect to paragraphs 1, 2 and 3 only) also challenge Article 6 of Decree-Law no. 174 of 2012, which:

– regulates the enhancement of the instruments available for the analysis of public spending by the local government bodies subject to the Extraordinary Commissioner for the Rationalisation of Public Spending for the Procurement of Goods and Services, established by Article 2 of Decree-Law no. 52 of 7 May 2012 (Urgent provisions on the rationalisation of public spending), converted with amendments into Article 1(1) of Law no. 94 of 6 July 2012, including through the public finance inspection services of the General State Accounting Office;

– charges the said inspection services with the conduct of random analyses of the efficiency of the organisation and sustainability of budgets on the basis of specific financial imbalance indicators and according to modes of assessment agreed upon

between the General State Accounting Office and the Commissioner (Article 6(1) and (2) of Decree-Law no. 174 of 2012) to facilitate the controls and verifications carried out by the regional divisions of the Court of Auditors;

– charges the self-government sections of the Court of Auditors with the task of: defining the methodologies necessary in order to carry out controls to verify the implementation of the measures aimed at rationalising public spending by local government bodies, following consultation with the regions and the autonomous provinces of Trento and Bolzano; adopting the guideline resolution with which the regional divisions must comply in the event of differing interpretations of the provisions relevant for the control or consultation activity (Article 6(3) and (4) of Decree-Law no. 174 of 2012).

8.1. – The challenges raised by the Autonomous Region of Friuli-Venezia Giulia may be subdivided into two groups.

As regards the alleged exclusive reservation to the regional administration of powers of control over the local authorities, with particular reference to local finance, the applicant alleges that the following provisions have been violated: Article 4, no. 1-bis) of the Special Statute and Article 9 of Legislative Decree no. 9 of 1997, which vest the Region with legislative power over, respectively, the "organisation of the local authorities" and "local finance"; Article 60 of the Special Statute (which reserves the control over the acts of local authorities to regional bodies); Article 33(1) of Presidential Decree no. 902 of 1975, which provides that the Court of Auditors may only control the local authorities with regard to their management construed narrowly; Title IV and of Article 63(5) of the Special Statute, which regulate the special financial autonomy of the Region; Article 27 of Law no. 42 of 2009 and the principle of agreement governing financial relations between the state and the regions governed by special statute; Article 1(154) and (155) of Law no. 220 of 13 December 2010 (Provisions on the formation of the annual and multi-year budget of the state – stability law 2011), adopted following the agreement between the state and the Autonomous Region of Friuli-Venezia Giulia in accordance with the principle that the financial relations between the state and autonomous local government bodies are regulated on the basis of agreement; and Articles 3, 4, 6 and 9 of Legislative Decree no. 9 of 1997, referred to above, which are

claimed to reserve powers of control over the local authorities exclusively to the Region.

8.2. – By a second group of challenges, the applicant argues that its powers over regional administrative organisation have been infringed, construing paragraphs 1, 2 and 3 of Article 6 of Decree-Law no. 174 as establishing that paragraph 3 directs the controls referred to thereunder also at the regions (including both the ordinary regions and those governed by special statute) and that "consequently, paragraphs 1 and 2 are directed also against the regions governed by special statute". It follows – in the opinion of the Autonomous Region of Friuli-Venezia Giulia – that Article 4, no. 1) of the Special Statute, which vests it with legislative power over the "organisation and structure of the Offices and the bodies dependent on the Region and the legal and financial status of the staff attached to them" has been breached, or alternatively Article 117(4) of the Constitution, "if considered more favourable".

8.3. – Also the challenges raised by the autonomous province of Trento against the contested provisions may be subdivided into two groups. As regards the violation objected to on the powers of control over the local authorities and local finance, which are allegedly reserved to the autonomous province, the applicant invokes the following parameters: Article 79(3) of the Special Statute for Trentino-Alto Adige; the "special financial autonomy of the Province, as established under Article 79 and Article 104 of the Statute, Legislative Decree no. 268 of 1992, Article 27 of Law no. 42 of 2009 and the principle of consensus applicable to financial relations between the state and the regions governed by special statute"; Article 6(3-bis) of Presidential Decree no. 305 of 15 July 1988 (Provisions implementing the Special Statute for Trentino-Alto Adige Region on the establishment of the sections at the Court of Auditors charged with controlling Trento and Bolzano and on the staff attached to them), which set out the powers of control over the economic and financial management of the local authorities, all of which are vested in the autonomous province; Articles 80 and 81 of the Special Statute for Trentino-Alto Adige – which respectively reserve legislative competence to the Province over "local finance" (Article 80) and provide that the Province shall provide "the municipalities [with] adequate financial means" (Article 81); Article 17 of Legislative Decree no. 268 of 16 March 1992 (Provisions implementing the Special Statute for Trentino-Alto Adige in the area of regional and provincial financing), which

governs the power of oversight of the Province of Trento over the local authorities, precluding other controls by the Court of Auditors; Article 4(1) of Legislative Decree no. 266 of 16 March 1992 (Provisions implementing the Special Statute for Trentino-Alto Adige concerning the relationship between state legislative acts and regional and provincial laws, and the state's power of direction and coordination), which provides that the state legislator may not vest state bodies with administrative functions, including those involving oversight, administrative policing and the establishment of administrative violations, other than those falling to the state under the terms of the Special Statute and the respective implementing legislation, considering that Article 6(2) of Decree-Law no. 174 of 2012 vests the public finance inspection services of the General State Accounting Office with administrative functions in the area, which in actual fact falls under the competence of the Autonomous Region of Trentino-Alto Adige or the autonomous province of Trento, of "coordination of the public finances and […] local finance".

8.4. – By a second group of challenges, the applicant argues that its powers over provincial administrative organisation have been infringed, construing paragraphs 1, 2 and 3 of Article 6 of Decree-Law no. 174 as establishing that the contested paragraph 3 directs the controls referred to thereunder also at the regions (including both the ordinary regions and those governed by special statute) and that "consequently, paragraphs 1 and 2 are directed also against the regions governed by special statute". In the opinion of the applicant, it follows that its competence over internal organisation, legislative power over which is reserved to the autonomous province, has been violated, given that this legislative power is also claimed to include the power to regulate the regional [and provincial] budget and accounting checks. It also claims that Article 3 of the Constitution has been violated on the grounds that the legislation is "unreasonable and contradictory" as it subjects the regions and the autonomous provinces of Trento and Bolzano to checks on administrative and accounting propriety "pursuant to Article 14(1)(d) of Law no. 196 of 31 December 2009", a provision which stipulates that such checks are to be carried out "except [against] the regions and autonomous provinces of Trento and Bolzano" (a violation which impinges upon the autonomy of the Region, considering also that the contested paragraphs concern "regional organisation or

otherwise relations between the state and the region or the coordination of the public finances").

8.5. – The autonomous region of Sardinia objects that the following parameters have been violated: Article 3(1)(b) of the Special Statute for Sardinia, which vests the Region with legislative power over the "organisation of local authorities", including external controls over local finances; Article 46 of the Statute, which reserves the control over the acts of local authorities to regional bodies; Article 6 of the Statute, which empowers the Region to exercise administrative functions in the areas in which it has legislative power in that it vests "non-regional bodies with administrative functions in this area"; Articles 3(1)(b), 6 and 46 of the Special Statute, in conjunction with Articles 54 and 56 of the Statute, which lay down the procedure applicable respectively to amendments to the Statute and the adoption of provisions implementing the Statute; Article 116 of the Constitution, which recognises special autonomy to Sardinia Region "guaranteed also by the provisions implementing the Statute"; Article 1 of Presidential Decree no. 21 of 1978, given that, by granting the self-government division of the Court of Auditors the possibility to adopt a "guideline resolution" on the control of the local authorities, paragraph 4 of Article 6 of Decree-Law no. 174 of 2012 *de facto* provides that the regulations governing the control of the local authorities of the Region may be adopted by a branch of that Court.

8.6. – It must be pointed out first and foremost that Article 2 of Decree-Law no. 52 of 2012, which is expressly referred to by the contested provisions, was repealed by Article 49-bis(9) of Decree-Law no. 69 of 21 June 2013 (Urgent provisions to relaunch the economy), converted with amendments into Article 1(1) of Law no. 98 of 9 August 2013.

The provision establishing the Commissioner for the Review of Public Spending, who is vested with the functions regulated by the contested paragraphs 1 and 2 of Article 6 of Decree-Law no. 174, was thus expressly repealed, and the contested provisions presumably did not apply during the limited period falling between the entry into force of Decree-Law no. 52 of 2012, which made provision for the Commissioner (11 October 2012), and the entry into force of Decree-Law no. 69 of 2013 (22 June 2013), as the "modes of assessment" essential for the purposes of analysing public spending as provided for under paragraphs 1 and 2, which should have been approved

by the self-government division of the Court of Auditors on the basis of an agreement between the Commissioner and the General State Accounting Office, were not adopted. Moreover, the parties have not provided any indications regarding this matter.

Nevertheless, whilst paragraph 9 of Article 49-bis of Decree-Law no. 69 of 2013 repealed Article 2 of Decree-Law no. 52 of 2012 establishing the Commissioner for the Review of Public Spending, paragraphs 2 to 7 regulate the functions of the body in question as follows: "2. For the purposes of the rationalisation of spending and the coordination of the public finances, the President of the Council of Ministers may, acting on a proposal by the Ministry for the Economy and Finance, nominate an Extraordinary Commissioner by decree, who shall have the task of formulating guidelines and proposals, which may include legislation, in the areas and for the subjects specified in the third sentence of paragraph 1 (in relation to the rationalisation and review of the spending of the public administrations falling under Article 1(2) of Law no. 196 of 31 December 2009, public sector bodies and companies controlled directly or indirectly by public administrations that do not issue financial instruments traded on regulated markets, with particular reference to the review of expenditure programmes and the regulations governing transfers to businesses, the rationalisation of the activities and services offered, the downsizing of facilities, the reduction in the cost of procuring goods and services, the optimisation of the use of real estate and the other matters specified in the directive of the President of the Council of Ministers of 3 May 2012). 3. The Extraordinary Commissioner shall operate in full autonomy and independently of any assessments or valuations and need not be a member of the public administration but must have proven experience and expertise in economics and administrative organisation. 4. The decree of the President of the Council of Ministers referred to under paragraph 2 shall stipulate: a) the duration of the appointment, which may not under any circumstances exceed three years; b) the allowance payable to the Extraordinary Commissioner, subject to the limits laid down under Article 23-ter of Decree-Law no. 201 of 6 December 2011, converted with amendments into Law no. 214 of 22 December 2011; and c) the human and material resources of the Ministry for the Economy and Finance, which the Extraordinary Commissioner may use during the exercise of his or her functions, without incurring any new or increased burdens for the public finances. 5. The Extraordinary Commissioner shall be entitled to correspond with

all persons referred to in the third sentence of paragraph 1 and to ask them to provide information in documents, in addition to cooperating in the performance of his or her functions. In particular, the Extraordinary Commissioner shall have the power to request the public administrations falling under Article 1(2) of Law no. 196 of 31 December 2009 to provide access to all databases established or operated by them. When performing his functions, the Extraordinary Commissioner may order the conduct of inspections and checks by the Inspectorate of the Public Administration and the Department of the General State Accounting Office and request cooperation by the tax police [*Guardia di Finanza*], subject to agreement pursuant to Article 3(1) of Legislative Decree 19 March 2001. 6. Within twenty days of appointment, the Extraordinary Commissioner shall present a work programme to the inter-ministerial committee provided for under paragraph 1 setting out the objectives and methodological approach to the public spending review. During the course of the appointment, the Extraordinary Commissioner, may present updates and supplements to the programme, including upon request by the inter-ministerial committee, for approval by the committee. The programme and any updates and supplements shall be transmitted to the Houses of Parliament. 7. If so requested, the Extraordinary Commissioner shall conduct hearings before the competent parliamentary committees".

Therefore, in the light of the applicable provisions governing the Extraordinary Commissioner for the Review of Public Spending, which have been quoted verbatim, given that these do not alter the "legislative substance" (see *inter alia*, Judgments no. 193 of 2012 and no. 147 of 2012) of the repealed provision (Article 2 of Decree-Law no. 52 of 2012), which governed functions of the body that were analogous to those provided for under the paragraphs from Article 49-bis of Decree-Law no. 69 of 2013 set out above, since the amendments introduced by subsequent legislation to the provisions concerning the Commissioner for the Review of Public Spending related to the contested provisions, the challenges brought by the applicants against paragraphs 1 and 2 of Article 6 of Decree-Law no. 174 must be deemed to relate to the legislation in force referred to concerning that body as the holder of functions entirely equivalent to those provided for under Article 2 of Decree-Law no. 52 of 2012 referred to by the contested provisions, which has been repealed.

It must then be pointed out that the contested paragraphs 1 and 2 charge the Commissioner for the Review of Public Spending with the task of analysing the public spending of the local authorities. This analysis is to be carried out, using also the public finance inspection services of the General State Accounting Office, albeit limited to "random" analyses of the rationalisation, efficiency and value for money of the organisation and budgetary sustainability, on the basis of modes of assessment agreed upon between the Accounting Office and the Commissioners in situations in which there are “indications” of financial imbalance pursuant to Article 14(1)(d) of Law no. 196 of 2009 (repeated use of cash advances; structural imbalance within the current budget items; anomalous form of management of the service on behalf of third parties; unjustified increase in the spending of institutional political bodies), with a view to giving notice of the results of the inspection to the regional control divisions of the Court of Auditors and the self-government division.

Paragraph 3 charges the self-government division of the Court of Auditors with the task of defining the methodologies necessary in order to carry out controls of the local authorities, following consultation with the regions and the autonomous provinces. It follows that, by virtue of an express legislative derogation from the safeguard clause established in Article 11-bis of Decree-Law no. 174, the contested provisions are also applicable to the regions governed by special statute and the autonomous provinces.

It is thus necessary to review the constitutionality of paragraphs 1, 2 and 3 of Article 6 of Decree-Law no. 174 of 2012, which have been contested by the applicant autonomous regions of Friuli-Venezia Giulia and Sardinia and the autonomous province of Trento.

The question concerning Article 6(1) and (2) of Decree-Law no. 174 of 2012 is unfounded.

Paragraphs 1 and 2 are limited to regulating the aforementioned functions of analysis of the public spending of the local authorities pursuant to Article 14(1)(d) of Law no. 196 of 2009 in situations involving the aforementioned “indications” of financial imbalance, and stipulate that the data acquired must be notified to the Commissioner for the Review of Public Spending, the regional control division of the Court of Auditors with territorial competence and the self-government division in order for it to be processed and to enable a more fruitful application of the methodologies

necessary for the conduct of controls to verify the implementation of the measures aimed at rationalising the public spending of local government bodies.

8.7. – The first group of challenges, which were brought respectively by the Autonomous Region of Friuli-Venezia Giulia and the autonomous province of Trento and the challenges brought by the Autonomous Region of Sardinia with reference to the numerous parameters of constitutional law and the special statutes invoked, complain of a violation of competence over controls of local authorities and local finance, which is allegedly reserved to the local government bodies with autonomous powers.

The applicants start from the assumption that the application of the contested provisions to the local authorities of the autonomous regions and the autonomous province is unlawful both as they are not controls based on cooperation but controls amounting to an expression of the state's supremacy over local government bodies, which is not provided for or accepted under the statutes and the implementing legislation, and also because they allegedly establish a power of control over the local authorities which is parallel to and concurrent with that expressly vested in the regions and the autonomous province, in breach of the statutes and the implementing provisions invoked as parameters (or of Article 117(4) of the Constitution, "if considered more favourable").

This assumption must be deemed to be mistaken and cannot therefore be endorsed by this Court.

Indeed, as regards the allegation that they are not based on cooperation, the contested provisions do not impair the autonomy of the regions and of the provinces as they do not stipulate the imposition of punitive measures and sanctions against the bodies subject to control, and leave it to the administrations subject to control to take corrective action in relation to any critical management situations identified by the regional divisions of the Court of Auditors (Article 6(3) of Decree-Law no. 174 of 2012).

It follows that the legislation enacted by the contested provisions remains within the ambit of controls based on cooperation as they are limited to the application of methodologies for controlling the public spending of local government bodies – moreover on an occasional basis – with the aim of ensuring sound financial management by local government bodies overall (including those vested with special

powers of autonomy: see Judgment no. 425 of 2004) in order to protect the economic unity of the Republic and the coordination of the "public finances in a broad sense", and compliance with the internal stability pact and the governmental public spending objectives agreed upon with the European authorities (see *inter alia*, Judgments no. 219 of 2013, in which the Court held that such controls were not innovative; no. 60 of 2013; no. 179 of 2007; no. 267 of 2006).

Moreover, as regards the first group of challenges brought repeatedly by the autonomous region of Friuli-Venezia Giulia and the autonomous province of Trento regarding the allegedly exclusive powers of the regions and autonomous provinces to control the local authorities, it cannot be asserted that Article 60 of the Statute of Friuli-Venezia Giulia Region and Article 33 of Presidential Decree no. 902 of 1975 on the one hand, and Article 79(3) of the Statute of Trentino-Alto Adige and Article 4 of Legislative Decree no. 266 of 1992 on the other hand, have been violated.

It has already been clarified in this respect - through the ruling that the questions concerning Article 1(2), (3), (4), (5), (6) and (8) of Decree-Law no. 174 of 2012 (sections 6.3.3. to 6.3.8.), to which the reasons provided in support of the applications expressly refer, insofar as the applicants challenge also paragraphs 1, 2 and 3 of Article 6, are unfounded - that the parameters invoked by the applicants do not assert the full extent of the controls and checks that state legislation may lawfully allocate to the Court of Auditors (or which are otherwise essential for the performance of the functions of the control body).

On the other hand, as regards the alleged violation of the "special financial autonomy" of the autonomous province of Trento and the Autonomous Region of Friuli-Venezia Giulia – consisting in Articles 79 and 104 of the Trentino Statute and the implementing provisions invoked, and Title IV and Article 63(5) of the Statute of Friuli-Venezia Giulia, Article 27 of Law no. 42 of 2009 and the principle of agreement regulating the financial relations between the state and the local government bodies with autonomous powers, manifesting itself for this last region in Article 1(154) and (155) of Law no. 220 of 2010 – this Court has asserted, *inter alia* in the Judgments referred to by the applicants, that "agreement is the instrument […] for reconciling and regulating through negotiation […] the contribution to the public finance initiative of the regions governed by special statute" (see Judgments no. 60 of 2013; no. 118 of 2012 and no. 82

of 2007), the implementation of which is directly covered by the parameters invoked in these proceedings from the special statutes and the respective implementing legislation.

It follows that the positively decisive manner in which the autonomous region of Friuli-Venezia Giulia and the autonomous province of Trento reach agreement with the Ministry for the Economy and Finance concerning public finance objectives and exercise their relative functions of cooperation and oversight over the finances of the local authorities do not establish any exclusive powers for the autonomous region and the autonomous province over the conduct of the relevant control and oversight functions (see Judgment no. 60 of 2013).

As has already been asserted by this Court in relation to analogous provisions, the checks and controls regulated by the contested provisions operate on a different level from the functions of control and oversight over administrative management vested in the applicant regions and the autonomous province of Trento, as no exclusive power over the conduct of the functions of control and oversight of public finance objectives - at which the public spending analysis procedures governed by the contested provisions are stated to be directed - can be inferred from the provisions of the statutes and the respective implementing legislation invoked as parameters in these proceedings.

It must moreover be noted that, whilst the method of "random" analysis which the contested provisions stipulate for the public finance inspection services of the General State Accounting Office (which are in any case conducive to the controls by the regional divisions of the Court of Auditors) is not systematic in nature, it amounts to one of the necessary methodologies which this Court has held, albeit with exclusive reference to the Court of Auditors, to be characteristic of control over management construed narrowly, by which it is not possible to extend checks to the public administrations in general, but rather "'random' controls aimed at [an examination of] the areas of law, sectors and forms of management regarded as crucial" (see Judgment no. 29 of 1995).

8.8. – By the second group of challenges brought respectively by the autonomous region of Friuli-Venezia Giulia and the autonomous province of Trento and the challenge brought by the autonomous region of Sardinia – insofar as the last region alleges a violation of Article 3(1)(b) of its Special Statute, which vests the region with legislative power over the "organisation of the local authorities" – the applicants

complain of a violation of their competence over the internal organisation of local government bodies vested with special powers of autonomy and the inherent unreasonable and contradictory nature of the contested provisions, which are claimed to apply to the regions governed by special statute and the autonomous provinces of Trento and Bolzano certain checks concerning administrative and accounting propriety intended only for the ordinary regions, thereby impinging upon the special powers of autonomy.

It must be pointed out in this regard that, in Judgment no. 219 of 2013, this Court already ruled on a provision equivalent to that at issue in the present proceedings – namely Article 5 of Legislative Decree no. 149 of 2011, in the version introduced by Article 1-bis(4) of Decree-Law no. 174 of 2012, which vests the Department of the General State Accounting Office with powers of inspection and control over the propriety of administrative and accounting management also in relation to the regions governed by special statute and the autonomous provinces, pursuant to Article 14(1)(d) of Law no. 196 of 2009 – asserting that Article 14 of Law no. 196 of 2009 (which regulates the said procedures) "shall continue to regulate a typical scenario, with regard to purposes extraneous to accounting control".

This ruling is well suited also to the case under examination, as also the provisions as issue in these proceedings refer to Article 14 of Law no. 196 of 2009 and the relative controls by the inspection services of the Accounting Office "with the sole purpose – as this Court asserted in relation to the analogous circumstances – of expanding the power of oversight through to the use of public finance inspection services", equipping the bodies from the central state administration with a more far-reaching general power of access to regional offices. However – also in the case under examination – that power naturally results in the activation of powers of control lying with the Court of Auditors, in this sense also "extending further than the provisions of Article 14 of Law no. 196 of 2009", thereby ensuring that "the contested provision […] is not manifestly contradictory or unreasonable, as had been objected by Friuli-Venezia Giulia Region and the autonomous province of Trento with reference to Article 3 of the Constitution" (see Judgment no. 219 of 2013, section 16. of the Conclusions on points of law).

When interpreted in these terms, also the provisions contested in these proceedings withstand the objections brought by the applicant Autonomous Region of Friuli-

Venezia Giulia and the applicant autonomous province of Trento, given that the powers of inspection referred to above are essential for the performance of the control functions of the Court of Auditors; in addition, the applicants have not objected to the role of the Extraordinary Commissioner.

8.9. – It is now necessary to review paragraph 3 of Article 6 of Decree-Law no. 174 of 2012.

The contested provision stipulates that, following consultation with the regions and the autonomous provinces of Trento and Bolzano, the self-government division of the Court of Auditors shall define the methodologies necessary for the conduct of controls to verify the implementation of the measures aimed at rationalising the public spending of local government bodies, and then charge the regional divisions with the task of carrying out the relative controls and, in situations involving critical management issues, of setting a deadline for the administrations concerned within which the necessary corrective action is to be taken, and thereafter to report to Parliament concerning the results of the controls carried out.

It must be specified first and foremost that, even though the title of Article 6 refers its provisions to the local authorities and that Article is located within Title II of Decree-Law no. 174 ("Provinces and municipalities"), by referring the aforementioned methodologies defined by the self-government division of the Court of Auditors to the analysis of the public spending of "local government bodies", the literal wording of the provision must be deemed to apply also to the regional administrations. A similar conclusion is reached if a logical and systematic approach is followed, given that the contested provision provides that the report on the controls carried out is to be sent to Parliament, and thereby evidently refers that activity also to the regional administrations. In fact, were this activity to be limited to the local authorities only, the legislator could naturally have made provision for the report to be sent also to the regional councils.

It is the settled position of this Court that the interpretation of a law or certain provisions of a law as having a particular meaning cannot be based solely on the formal assertions of the legislator, but must also be closely mirrored in the effective nature of the provisions concerned, as may be inferred from their legislative content, their object, their scope and their impact on other provisions within the legal order (see *inter alia*,

Judgments no. 200 and no. 164 of 2012 and no. 85 of 1990). Therefore, if self-classification is not in itself decisive, the definition contained in the title to the contested Article - which literally relates to the "Development of instruments of control of financial management directed at the application of the spending review to local authorities and the role of the Court of Auditors" - will *a fortiori* be irrelevant.

On the merits, the question is unfounded.

Since they are essential for various types of control activity, the legislation enacted by the contested provisions remains within the ambit of controls based on cooperation and controls of legitimacy-propriety established in order to ensure compliance with the obligations resulting from EU law, as they are limited to the application of methodologies for controlling the public spending of local government bodies with the aim of ensuring sound financial management by local government bodies overall (including those vested with special powers of autonomy: see Judgment no. 425 of 2004) in order to protect the economic unity of the Republic and the coordination of the "public finances in a broad sense", and compliance with the internal stability pact and the governmental public spending objectives agreed upon with the European authorities (see *inter alia*, Judgments no. 219 of 2013, in which the Court held that such controls were not innovative; no. 60 of 2013; no. 179 of 2007; no. 267 of 2006).

8.10. – It is finally necessary to examine paragraph 4 of Article 6 of Decree-Law no. 174 of 2012, contested by the autonomous region of Sardinia.

The applicant objects to a violation of the parameters contained in the Special Statute and the respective implementing legislation (invoked in section 8.5.) intended to maintain the competence over controls of local authorities and local finance, which is allegedly reserved exclusively to the autonomous region.

In particular, the autonomous region of Sardinia complains of a violation of Article 1 of Presidential Decree no. 21 of 1978, which reserves the power to control the legitimacy of the administrative acts of the Region to the competent regional division of the Court of Auditors, given that, by allowing the self-government division of the Court of Auditors the possibility to adopt a "guideline resolution" on the control of the local authorities, the contested provision *de facto* provides that the regulations governing the control of the local authorities of the Region may be adopted by a branch of that Court.

The question is unfounded.

In granting the possibility to adopt a "guideline resolution" on the control of the local authorities, the contested provision does not vest any legislative power of control over the local authorities in the self-government division of the Court of Auditors. The provision grants that division a function of guaranteeing the uniform interpretation of the law in the event of discordant interpretations by the regional divisions of the Court of Auditors and does not therefore encroach upon the autonomy of the region in any manner.

ON THESE GROUNDS

THE CONSTITUTIONAL COURT

reserves for separate rulings the decision on the further questions concerning the constitutionality of Decree-Law no. 174 of 10 October 2012 (Urgent provisions on the financing and operation of local government bodies, and further provisions to benefit the areas affected by the earthquake of May 2012), converted with amendments into Article 1(1) of no. 213 of 7 December 2012, raised by the autonomous regions of Friuli-Venezia Giulia and Sardinia and the autonomous province of Trento by the referral orders mentioned in the headnote;

hereby,

1) declares that Article 1(7) of Decree-Law no. 174 of 2012 is unconstitutional insofar as it refers to the prior control of the budgets and closing accounts of the regions;

2) declares that Article 1(10), first sentence, of Decree-Law no. 174 of 2012 is unconstitutional with regard to the phrase "which it shall transmit to the president of the region";

3) declares that Article 1(10), second sentence, of Decree-Law no. 174 of 2012 is unconstitutional with regard to the phrase "to the president of the region for subsequent transmission";

4) declares that Article 1(11), first sentence, is unconstitutional insofar as it refers to the "president of the region", rather than the "president of the regional council";

5) declares that Article 1(11), third sentence, of Decree-Law no. 174 of 2012 is unconstitutional;

6) declares that Article 1(11), fourth sentence, of Decree-Law no. 174 of 2012 is unconstitutional insofar as it stipulates that the obligation to repay amounts received out

of the budget of the regional council that have not been reported results in the "forfeiture provided for under this paragraph", rather than the failure to comply pursuant to paragraph 11;

7) declares that Article 1(12) of Decree-Law no. 174 of 2012 is unconstitutional insofar as it provides that "The forfeiture and repayment obligation under paragraph 11 result in" rather than "The repayment obligation under paragraph 11 results in";

8) declares that the following provisions are unconstitutional: Article 1(16) of Decree-Law no. 174 of 2012 insofar as it requires the regions governed by special statute and the autonomous provinces of Trento and Bolzano to bring their legal systems into line with the provisions of paragraph 7 insofar as it relates to the control of the budgets and closing accounts of the regions; Article 1(10), first sentence, with regard to the phrase "which it shall transmit to the president of the region"; Article 1(10), second sentence, with regard to the phrase "to the president of the region for subsequent transmission"; Article 1(11), first sentence, insofar as it refers to the "president of the region", rather than the "president of the regional council"; Article 1(11), third sentence; Article 1(11), fourth sentence, insofar as it stipulates that the obligation to repay amounts received out of the budget of the regional council that have not been reported results in the "forfeiture provided for under this paragraph", rather than the failure to comply pursuant to paragraph 11; Article 1(12), insofar as it provides that "The forfeiture and repayment obligation under paragraph 11 result in" rather than "The repayment obligation under paragraph 11 results in";

9) declares that Article 148(2) and (3) of Legislative Decree no. 267 of 18 August 2000 (Consolidated text of laws on the organisation of the local authorities), as amended by Article 3(1)(e) of Decree-Law no. 174 of 2012, is unconstitutional vis-à-vis the autonomous regions Friuli-Venezia Giulia and Sardinia;

10) rules that the questions concerning the constitutionality of Article 1(1) to (8) of Decree-Law no. 174 of 2012, raised by the Autonomous Region of Sardinia with reference to Articles 7 and 8 of Constitutional Law no. 3 of 26 February 1948 (Special Statute for Sardinia) and Articles 117(3) and 119 of the Constitution, by referral order no. 20 of 2013, are inadmissible;

11) rules that the question concerning the constitutionality of Article 1(8) of Decree-Law no. 174 of 2012, raised by the Autonomous Region of Sardinia with

reference to Articles 117 and 119 of the Constitution and Articles 3, 4, 5, 6, 7 and 8 of Constitutional Law no. 3 of 1948, by referral order no. 20 of 2013, is inadmissible;

12) rules that the questions concerning the constitutionality of Article 1(16) of Decree-Law no. 174 of 2012, raised by the autonomous province of Trento with reference to its own "constitutional prerogatives" and to the principle according to which the rules governing the financial relations between the state and the regions or the autonomous provinces are a matter for the special statute, or for the provisions implementing the special statute, or must otherwise be agreed between the state and the said autonomous local government bodies, by referral order no. 18 of 2013, are inadmissible;

13) rules that the question concerning the constitutionality of Article 148(4) of Legislative Decree no. 267 of 2000, as amended by Article 3(1)(e) of Decree-Law no. 174 of 2012, raised by the Autonomous Region of Sardinia with reference to Articles 3(1)(b), 6 and 46 of Constitutional Law no. 3 of 1948, by referral order no. 20 of 2013, is inadmissible;

14) rules that the questions concerning the constitutionality of Article 11-bis of Decree-Law no. 174 of 2012 initiated by the autonomous regions Friuli-Venezia Giulia and Sardinia, alleging a violation of Articles 3, 116, 117, 118 and 119 of the Constitution and the principle of reasonableness, and Articles 4, no. 1) and no. 1-bis), 12, 13, 19 and 41 of Title IV, and Article 65 of Constitutional Law no. 1 of 31 January 1963 (Special Statute for Friuli-Venezia Giulia Region), and Articles 3, 4, 5, 6, 7, 8, 15, 16, 19, 33, 34, 35, 46, 50 and 54 of Constitutional Law no. 3 of 1948, by the referral orders registered respectively as no. 17 of 2013 and no. 20 of 2013, are unfounded;

15) rules that the question concerning the constitutionality of Article 1(2) of Decree-Law no. 174 of 2012, initiated by the autonomous region of Friuli-Venezia Giulia, alleging a violation of Article 116 of the Constitution, Title IV and Article 65 of Constitutional Law no. 1 of 1963, and Article 33 of Presidential Decree no. 902 of 25 November 1975 (Adjustments and supplements to the provisions implementing the Special Statute for Friuli-Venezia Giulia Region), by referral order no. 17 of 2013, is unfounded;

16) rules that the question concerning the constitutionality of Article 1(4) of Decree-Law no. 174 of 2012, initiated by the autonomous region of Friuli-Venezia

Giulia with reference to Article 117(4) of the Constitution and Article 4, no. 1) of Constitutional Law no. 1 of 1963, by referral order no. 17 of 2013, is unfounded;

17) rules that the question concerning the constitutionality of Article 1(5) of Decree-Law no. 174 of 2012, initiated by the autonomous regions Friuli-Venezia Giulia and Sardinia with reference to Articles 116 and 119 of the Constitution, Title IV of Constitutional Law no. 1 of 1963, Article 33 of Presidential Decree no. 902 of 1975, Articles 7 and 8 of Constitutional Law no. 3 of 1948 and Article 10 of Presidential Decree no. 21 of 16 January 1978 (Provisions implementing the Special Statute for Sardinia on controls over the acts of the Region), by the referral orders registered respectively as no. 17 of 2013 and no. 20 of 2013, is unfounded;

18) rules that the question concerning the constitutionality of Article 1(6) of Decree-Law no. 174 of 2012, initiated by the autonomous region of Friuli-Venezia Giulia with reference to Article 4, no. 1) of Constitutional Law no. 1 of 1963, and Article 33(1) of Presidential Decree no. 902 of 1975, by referral order no. 17 of 2013, is unfounded;

19) rules that the question concerning the constitutionality of Article 1(1)-(8) of Decree-Law no. 174 of 2012, initiated by the autonomous region of Sardinia with reference to Article 119 of the Constitution, Articles 54 and 56 of Constitutional Law no. 3 of 1948, in conjunction with Article 10 of Presidential Decree no. 902 of 1978 and Article 116 of the Constitution, by referral order no. 20 of 2013, is unfounded;

20) rules that the questions concerning the constitutionality of Article 1(3) and (4) of Decree-Law no. 174 of 2012, initiated by the autonomous regions Friuli-Venezia Giulia and Sardinia, with reference to Title IV and Article 65 of Constitutional Law no. 1 of 1963, Articles 33 and 36 of Presidential Decree no. 902 of 1975, Article 33 of Constitutional Law no. 3 of 1948 and Articles 116, 127 and 134 of the Constitution, by the referral orders registered respectively as no. 17 of 2013 and no. 20 of 2013, are unfounded;

21) rules that the questions concerning the constitutionality of Article 1(7) of Decree-Law no. 174 of 2012, insofar as it refers to the control of budgets and closing accounts of the bodies comprising the national health service, initiated by the autonomous regions of Friuli-Venezia Giulia and Sardinia, alleging a violation of Articles 24, 113, 116, 117(3) and (4), 118 and 119 of the Constitution, Title IV and

Article 65 of Constitutional Law no. 1 of 1963, Article 33 of Presidential Decree no. 902 of 1975, Articles 3, 4, 5, 6, 7, 8, 54 and 56 of Constitutional Law no. 3 of 1948 and Article 10 of Presidential Decree no. 21 of 1978, by the referral orders registered respectively as no. 17 of 2013 and no. 20 of 2013, are unfounded;

22) rules that the questions concerning the constitutionality of Article 1(9) of Decree-Law no. 174 of 2012, initiated by the autonomous regions of Friuli-Venezia Giulia and Sardinia with reference to Articles 116, 117(3) 119 and 127 of the Constitution, Articles 16, 18 and 21 of Constitutional Law no. 1 of 1963, Article 5 of the Law on the Regional Statute no. 17 of 18 June 2007 (Determination of the form of government of Friuli-Venezia Giulia Region and the regional electoral system, enacted pursuant to Article 12 of the Self-Government Statute), Articles 3, 4, 5, 6, 7, 8, 15, 19, 26, 33, 54 and 56 of Constitutional Law no. 3 of 1948 and Articles 1, 4 and 5 of Presidential Decree no. 21 of 1978, by the referral orders registered respectively as no. 17 of 2013 and no. 20 of 2013, are unfounded;

23) rules that the questions concerning the constitutionality of Article 1(10), (11) and (12) of Decree-Law no. 174 of 2012 are unfounded solely insofar as they regulate the arrangements governing the preparation and control of the annual closing accounts of the council groups, initiated by the autonomous regions of Friuli-Venezia Giulia and Sardinia with reference to Articles 116, 117(3) 119 and 127 of the Constitution, Articles 16, 18 and 21 of Constitutional Law no. 1 of 1963, Article 5 of the Law on the Regional Statute no. 17 of 2007, Articles 3, 4, 5, 6, 7, 8, 15, 19, 26, 33, 54 and 56 of Constitutional Law no. 3 of 1948 and Articles 1, 4 and 5 of Presidential Decree no. 21 of 1978, by the referral orders registered respectively as no. 17 of 2013 and no. 20 of 2013;

24) rules that the questions concerning the constitutionality of Article 1(16) of Decree-Law no. 174 of 2012 insofar as it requires the regions governed by special statute and the autonomous provinces of Trento and Bolzano to bring their legal systems into line with the provisions of paragraphs 1, 2, 3, 4, 5, 6 and 7, with regard to this last paragraph solely insofar as it relates to the control of the budgets and closing accounts of the bodies from the national health service, initiated by the autonomous regions of Friuli-Venezia Giulia and Sardinia with reference to Articles 7, 8, 15, 19, 26, 33, 35, 54 and 56 of Constitutional Law no. 3 of 1948, the "constitutional prerogatives" of the

autonomous region of Friuli-Venezia Giulia, Title IV and Article 65 of Constitutional Law no. 1 of 1963 and Article 27 of Law no. 42 of 5 May 2009 (Delegation of power to the government in the area of tax federalism, implementing Article 119 of the Constitution), and Articles 116, 117 and 119 of the Constitution, by the referral orders registered respectively as no. 17 of 2013 and no. 20 of 2013, are unfounded;

25) rules that the question concerning the constitutionality of Article 148(1) of Legislative Decree no. 267 of 18 August 2000 (Consolidated text of laws on the organisation of the local authorities), as amended by Article 3(1)(e) of Decree-Law no. 174 of 2012, raised by the autonomous region of Sardinia with reference to Articles 3(1)(b), 6 and 46 of Constitutional Law no. 3 of 1948, by referral order no. 20 of 2013, is unfounded;

26) rules that the questions concerning the constitutionality of Article 148-bis, of Legislative Decree no. 267 of 2000, as amended by Article 3(1)(e) of Decree-Law no. 174 of 2012, raised by the autonomous region of Sardinia, alleging a violation of Articles 3(1)(b), 6 and 46 of Constitutional Law no. 3 of 1948, by the referral order registered as no. 20 of 2013, are unfounded;

27) rules that the questions concerning the constitutionality of Article 6 of Decree-Law no. 174 of 2012, raised by the autonomous regions of Friuli-Venezia Giulia and Sardinia and the autonomous province of Trento, with reference to Articles 3, 116 and 117(4) of the Constitution, Articles 4, no. 1) and no. 1-bis) of Title IV and Articles 60, 63(5) of Constitutional Law no. 1 of 1963, Articles 3, 4, 6 and 9 of Legislative Decree no. 9 of 2 January 1997 (Provisions implementing the Special Statute for Friuli-Venezia Giulia Region on the organisation of the local authorities and the constituent districts), Article 33(1) of Presidential Decree no. 902 of 1975, Article 27 of Law no. 42 of 2009 and the principle of agreement which regulates financial relations between the state and the regions governed by special statute; Article 1(154) and (155) of Law no. 220 of 13 December 2010 (Provisions on the formation of the annual and multi-year budget of the state – stability law 2011), Articles 3(1)(b), 6, 46, 54 and 56 of Constitutional Law no. 3 of 1948, Article 1 of Presidential Decree no. 21 of 1978, Articles 79, 80, 81 and 104 of Presidential Decree no. 670 of 31 August 1972 (Approval of the consolidated text of constitutional laws concerning the special status of Trentino-Alto Adige), Article 16 of Legislative Decree no. 268 of 16 March 1992 (Provisions implementing the Special

Statute for Trentino-Alto Adige in the area of regional and provincial financing), Article 6(3-bis) of Presidential Decree no. 305 of 15 July 1988 (Provisions implementing the Special Statute for Trentino-Alto Adige Region on the establishment of the sections at the Court of Auditors charged with controlling Trento and Bolzano and on the staff attached to them), Article 17 of Legislative Decree no. 268 of 16 March 1992 (Provisions implementing the Special Statute for Trentino-Alto Adige in the area of regional and provincial financing), Article 4(1) of Legislative Decree no. 266 of 16 March 1992 (Provisions implementing the Special Statute for Trentino-Alto Adige concerning the relationship between state legislative acts and regional and provincial laws, and the state's power of direction and coordination), by the referral orders registered respectively as no. 17, no. 20 and no. 18 of 2013, are unfounded.

Decided in Rome at the seat of the Constitutional Court, *Palazzo della Consulta*, on 26 February 2014.