

Press Release – 11 January 2019

**FINANCIAL RELATIONSHIPS WITH REGIONAL AND LOCAL AUTHORITIES: THE STATE'S MARGIN OF DISCRETION IS LIMITED BY THE EFFECTS OF CONSTITUTIONAL JUDGMENTS**

In the context of financial relationships between the central State and regional and local authorities, the “*ragione erariale*” [the need to receive funds from the Regions to address the public debt] cannot be an overriding principle. To the contrary, in adopting budgetary policies, the legislator’s margin of discretion is “limited” by the effects of the Constitutional Court’s judgments. In this regard, the legislator is required to implement such judgments expeditiously upon their publication, and in any event before the first subsequent budget package.

On the basis of these principles, and after having issued several calls to the legislator to introduce rationality and proportionality in local and regional authorities’ participation in the achievement of objectives and in the observance of obligations relating to public finance, the State Budget Law’s provisions on the financial relationship with the Autonomous Region of Sardinia in the three-year period 2018-2020 were declared unconstitutional.

In Judgment No. 6, handed down today (author of the judgment: Aldo Carosi), the Constitutional Court ruled Article 1(851) of Law No. 205 of 2017 unconstitutional “insofar as, for the three-year period 2018-2020, it does not provide for the allocation of adequate resources to allow the Autonomous Region of Sardinia to conduct ordinary financial planning, pending the conclusion – in conformity with the Constitution – of negotiations on the public finance agreement”.

This is an innovation in case law that is consistent with the Court’s previous rulings on the requirement, for the State, to establish loyal cooperation with local and regional authorities in the management of budgetary policy.

The Judgment censures, *inter alia*, the delay in the State’s implementation of the Court’s previous rulings. The Court stated that implementation cannot be delayed at will, but, rather, must occur promptly upon publication of a judgment, and in any event before the first subsequent budget package.

It is “precisely the mechanism of the ‘priority of financial intervention’, which arises as a result of the rulings [of the] Court”, states the Judgment, “that denotes the principle of dynamic equilibrium as the proper reconciliation – in financial matters – between the precepts of Article 81 of the Constitution, the protection of legislative discretion and the effectiveness of the rulings of the Constitutional Court”.

To ensure the effectiveness of its judgment, the Court drew upon constitutional legislation, implementing case law and indications in its own judgments to enucleate the criteria to be applied in establishing the contributions due to the Autonomous Region of Sardinia for the three-year period 2018-2020, pending conclusion of the final agreement between the State and said Region. The criteria are the following: 1) the scale of the Region’s finances, compared to public finances; 2) the functions actually performed and the related costs; 3) the permanent structural disadvantages, the costs of insularity and the levels of per capita income; 4) the average entity of the contributions to the stability of extended public finance that are required of public authorities within the same time frame; 5) the financing of essential levels of services relating to civil and social rights.

Finally, the Judgment makes a new call – addressed not only to the parties before the Court but to all parties to judgments relating to financial matters – on the need for transparency in public accounts, reiterating in particular the need to respect “numerical fiscal rules” as defined by the European Union.

Rome, 11 January 2019