Corte costituzionale

ORDER NO. 241 OF 2009

Francesco AMIRANTE, President

Giuseppe FRIGO, Author of the Judgment

JUDGMENT NO. 241 YEAR 2009

In this case the Court considered a jurisdictional dispute raised by the Chamber of Deputies concerning the prosecution of a member of Parliament who at the relevant time was also a minister, challenging the right of a court to rule that the offence concerned was not of a ministerial nature, thereby circumventing the requirement to obtain authorisation from the House before proceeding with the prosecution. The Court ruled that the House had not been notified of the decision to discontinue proceedings, as required under law, and ordered the judicial bodies concerned to carry out the omitted acts.

THE CONSTITUTIONAL COURT

composed of: President: Francesco AMIRANTE; Judges: Ugo DE SIERVO, Paolo MADDALENA, Alfio FINOCCHIARO, Franco GALLO, Luigi MAZZELLA, Gaetano SILVESTRI, Sabino CASSESE, Maria Rita SAULLE, Giuseppe TESAURO, Paolo Maria NAPOLITANO, Giuseppe FRIGO, Alessandro CRISCUOLO, Paolo GROSSI,

gives the following

JUDGMENT

in proceedings concerning a jurisdictional dispute between branches of state arising following the measure of 31 March-4 April 2005 of the Court for Ministerial Offences [*Collegio per Reati Ministeriali*] at the *Tribunale di Firenze* by which that body, within the ambit of criminal proceedings against the then Minister Altero Matteoli, ruled that it lacked functional jurisdiction to try offences considered not to be ministerial offences and ordered the transmission of the case file to the Public Prosecutor's Office at the competent court, as well as the measure of 4 December 2006, by which the *Tribunale di Livorno*, Cecina division, restated its view that in the case before it there was no requirement to request authorisation to proceed from the relevant House of Parliament, commenced by application of the Chamber of Deputies served on 15 February 2008, filed in the Court Registry on 3

March 2008 and registered as No. 9 in the Register of disputes between branches of state 2007, merits stage.

Considering the entry of appearance by the Senate of the Republic;

having heard the Judge Rapporteur Ugo De Siervo in the public hearing of 7 July 2009, who has been replaced for the drafting of the judgment by the Judge Giuseppe Frigo;

having heard counsel Roberto Nania for the Chamber of Deputies and Massimo Luciani for the Senate of the Republic.

The facts of the case

1. – By application of 28 June 2007, filed in the Registry of this Court on 2 July, the Chamber of Deputies in the person of the President *pro tempore*, pursuant to resolutions of the President's Office and subsequently of the Chamber of Deputies adopted on 16 May, initiated a jurisdictional dispute between branches of state against the Court for Ministerial Offences (the so-called Ministers' Court) established at the *Tribunale di Firenze* pursuant to Article 7 of constitutional law No. 1 of 16 January 1989 (Amendments to Articles 96, 134 and 135 of the Constitution and to constitutional law No. 1 of 11 March 1953, and provisions governing proceedings for offences pursuant to Article 96 of the Constitution), as well as the ordinary *Tribunale di Livorno*, Cecina division, in relation to acts carried out during prosecutions for the offences of the disclosure of official secrets (Article 326 of the Criminal Code) and aiding and abetting (Article 378 of the Criminal Code), concerning events which allegedly occurred in August 2003, in which the Minister for the Environment at the time, Altero Matteoli, a member of the Chamber of Deputies – when the proceedings were dealt with by the Ministers' Court – and subsequently a Senator, was placed under investigation and subsequently charged.

As is clear from the case file and the documents filed with the application, the prosecution (with Senator Matteoli himself notifying the Office of the President of the Chamber of Deputies by letters of 18 April 2005 and 14 July 2006 of the fact that it was

pending and had subsequently been commenced) had originated from a note, sent on 10 August 2004 by the Public Prosecutor's Office of Genoa to the Public Prosecutor's Office of Florence in which it was stated that, within the ambit of investigations concerning other individuals, certain incriminating evidence had emerged against the Minister Matteoli which – it was considered – fell under the jurisdiction of the *Tribunale di Firenze*. On 12 January 2005, "after having drawn up charges, and without carrying out any investigation", the addressee public prosecutor referred the case file to the local Court for Ministerial Offences, which subsequently carried out investigations, hearing both persons with knowledge of the case, individuals accused in the related proceedings, as well as Mr Matteoli himself. On conclusion of the investigations, finding that "the question as to whether the conduct attributed to the Minister Matteoli" was "to be included in the category of 'ministerial offences' pursuant to Article 96 of the Constitution" was "a preliminary matter compared to any other assessment on the merits", the Court for Ministerial Offences – agreeing with the position of the public prosecutor – ruled that this was not the case, "since [the conduct was] not objectively and materially related to the functions inherent to the institutional office … held by the person under investigation". Therefore, applying Article 2(1) of law No. 219 of 5 June 1989 (New provisions to regulate ministerial offences and offences provided for under Article 90 of the Constitution), by measure of 31 March 2005 – which was not formally classified under the relevant type of judicial measure, but which was in any case filed on 4 April 2005 – it ruled that it lacked functional jurisdiction and ordered the transmission of the case file to the Public Prosecutor's Office of Pisa, which forwarded them to that of Leghorn [*Livorno*].

Here, following the partial rejection by the judge for preliminary investigations of the request for discontinuation by the public prosecutor (accepted only for the charge concerning the offence of the disclosure of official secrets), the prosecution of the accused was initiated in oral proceedings before the *Tribunale di Livorno* with a sole judge presiding, Cecina division, for the residual charge of aiding and abetting. During the introductory stage of the oral proceedings, the defence counsel raised, *inter alia*, two preliminary questions, which were both rejected by order of 4 December 2006: the first

question sought to obtain the interlocutory referral to the Constitutional Court of a question concerning the constitutionality of Article 2(1) of law No. 219 of 1989, due to violation of Article 8(1) of constitutional law No. 1 of 1989, since it does not provide that where the Ministers' Court has ruled that it lacks functional jurisdiction following a finding that the offences charge do not have 'ministerial' status, it must transmit the case file to the public prosecutor for immediate presentation to the President of the House of Parliament competent to issue the authorisation to proceed pursuant to Article 96 of the Constitution; the second question requested the Court, having found the residual offence at issue in the trial to be of "ministerial" status (contrary to the view of the Ministers' Court), to rule that the Court was not competent to proceed pursuant to Articles 23 and 28 of the Code of Criminal Procedure.

The same order also rejected an application that the oral stage be postponed "in order to permit Parliament to carry out a preliminary evaluation of the facts charged against the former Minister Matteoli in order to avoid a potential infringement of its constitutional prerogatives".

In the meantime, the Parliamentary procedure had been activated, which concluded in the application under examination before this Court.

2. – In the opinion of the Chamber of Deputies, the decisions of the Ministers' Court of Florence and the *Tribunale di Livorno*, Cecina division, infringed its own constitutional prerogatives laid down by Article 96 of the Constitution and Articles 5, 8 and 9 of constitutional law No. 1 of 1989, as a result of the application of Article 2(1) law No. 219 of 1989, which was done in such a way as to prevent the exercise of these powers, including in particular with regard to assessments of the "ministerial" status of the offences, as well as – in the event that they do have "ministerial" status – on the granting or refusal of authorisation to proceed. This was stated to have occurred as a result of the fact that, in the first place, the Ministers' Court declined its functional jurisdiction in favour of that of the ordinary courts, ordering the transmission of the case file to the public prosecutor at the latter for the continuation of proceedings, without any prior "involvement" of the Chamber of Deputies as the body competent to authorise this; secondly, the *Tribunale di Livorno*,

before which the public prosecutor initiated the prosecution only for the offence of aiding and abetting, initiated the oral proceedings without taking into account that lack of "involvement" and in fact expressly finding that it was not required.

In the opinion of the Applicant, in the event that Article 2(1) of law No. 219 of 1989 was correctly applied as a basis for these determinations, the Court should rule the provision unconstitutional, on the grounds that it is liable to render the exercise of Parliament's powers provided for under Article 96 of the Constitution impracticable whenever the special investigative body established by the Ministers' Court orders the discontinuation of proceedings, finding that the conduct amounts to an offence different from those specified under Article 96; accordingly the Court should place before itself the relative interlocutory question of constitutionality.

In contrast to all others contemplated by the same statutory provision, which provide for the conclusion of proceedings and preclude the exercise of the prosecution, this particular form of discontinuation on the other hand implies the continuation of the same proceedings before the ordinary courts, which could therefore impose a discretionary paralysis on the Houses of Parliament in relation to ministerial offences, "circumventing" the power to grant authorisations, in contrast with the requirements of certainty in the attribution of constitutional powers as well as the principle of loyal cooperation between branches of state, once the power of the Houses has been "unreasonably [annulled] following a unilateral evaluation made by the judicial authority". A further ground for unconstitutionality may also be found in the fact that a provision with the status or ordinary legislation (specifically, that contained in law no. 219 of 1989) would modify the constitutional law concerning the relations between prosecutions of ministers and the powers of the Houses of Parliament to grant authorisations to the detriment of the latter, impinging upon the balancing of interests made under Article 96 of the Constitution and substantially depriving the Houses of their powers. For this reason, the provision is claimed to be unconstitutional.

However, the Applicant also considers that the provision concerned is open to an interpretation that is compatible with the Constitution, premised on the "indispensable

involvement of the House whenever a minister is prosecuted, irrespective of the manner in which the judicial authority classifies the relative offence (as ministerial or non ministerial) on conclusion of its investigations", specifying moreover that the Houses are not claimed to have the power "to assess on an exclusive basis the ministerial nature of the offence, as rather that to be able to express, according to the appropriate procedural time-scales, an independent assessment in this regard". This should entail, even in the event that the offence is considered not be of a ministerial status, the submission of the case file to the House competent to exercise these prerogatives.

The failure in the case before the Court to carry out this procedural step is claimed to result in "the automatic and consequential finding that a violation has occurred", since "otherwise" this Court could not "refrain from placing before itself the question of constitutionality" mentioned above.

In effect, the application requests in conclusion that "the Constitutional Court – raising the question of the constitutionality of Article 2(1) of law No. 219/1989 *in parte qua*, with a view to issuing a declaration that the aforementioned statutory provision is unconstitutional – order that in the case before it the Ministers' Court of Florence was not entitled to transfer to the ordinary criminal court with territorial jurisdiction the proceedings commenced pursuant to Article 96 of the Constitution without having previously requested the authorisation of the House and, in any case, without having previously transmitted the case file of the proceedings to the Chamber of Deputies in such a manner as to permit it to assess whether the prerequisites for the activation of the guarantee function concerned had been fulfilled; it also requests an order that the *Tribunale di Livorno*, Cecina division, was not entitled to continue the proceedings on the grounds that it did not consider it necessary in the case before it to request authorisation to proceed and that the Chamber of Deputies may in any case participate in the proceedings". The Applicant also requests the annulment of the measure of 31 March-4 April 2005 of the Ministers' Court of Florence and the order of 4 December 2006 of the *Tribunale di Livorno*, Cecina division.

3. – By order No. 8 of 2008, filed on 18 January 2008, this Court ruled the application admissible pursuant to Article 37(3) of law No. 87 of 11 March 1953, albeit reserving the

right to make contrary or additional rulings on this issue, ordering the service of the application and of the order on the Ministers' Court of Florence and the *Tribunale di Livorno*, Cecina division, as well as the Senate of the Republic, "given the identical nature of the constitutional position of the two Houses of Parliament in relation to the questions of principle to be considered".

By writ of 27 February 2008, filed on 29 February, the Senate intervened in the proceedings requesting – subject to confirmation of the admissibility of the application – that the question be accepted, and that a resulting order be made that the judicial authority was not entitled to adopt the contested acts and annulling the same.

In view of and shortly before the public hearing for discussion, both the applicant as well as the intervener filed written statements, developing the arguments set out respectively in the application and in the writ of intervention, and restating the conclusions.

Conclusions on points of law

1. – In relation to the case file for the prosecution of the offences of the disclosure of official secrets and aiding and abetting, in relation to facts which allegedly occurred in August 2003, in which the Minister for the Environment at the time was placed under investigation and subsequently charged, the Chamber of Deputies has initiated a jurisdictional dispute between branches of state against the Court for Ministerial Offences (the so-called Ministers' Court) established at the *Tribunale di Firenze* and the ordinary *Tribunale di Livorno*, Cecina division, due to the infringement of its prerogatives – laid down by Articles 96 of the Constitution and 5, 8 and 9 of constitutional law No. 1 of 16 January 1989 (Amendments to Articles 96, 134 and 135 of the Constitution and to constitutional law No. 1 of 11 March 1953, and provisions governing proceedings for offences pursuant to Article 96 of the Constitution) – with regard to the evaluation of the prerequisites for and, subsequently, the exercise of the power to grant authorisation to proceed.

On conclusion of the preliminary investigations carried out pursuant to Article 8(1) of constitutional law No. 1 of 1989, holding that the facts did not fulfil the prerequisites of the ministerial offences contemplated, but rather of common offences, the Ministers' Court issued a measure declining its own functional jurisdiction, limiting itself to ordering the transmission of the case file to the Public Prosecutor's Office at the ordinary court considered to have territorial jurisdiction, without either carrying out or ordering the performance of any act aimed at bringing the matter to Parliament's attention, and thereby enabling a possible initiative by the branch of Parliament competent pursuant to Article 96 of the Constitution and constitutional law No. 1 of 1989. This is claimed to have resulted in the first violation of Parliament's prerogatives.

At a later stage in the proceedings, following the commencement of a prosecution only for one of the two offences originally alleged, having accepted in turn the argument regarding the “non ministerial” nature of the said offence, the judge sitting alone of the *Tribunale di Livorno*, Cecina division, held that there was no requirement for any parliamentary “passage”, ordering the continuation of oral proceedings and also rejecting a request that they be stayed pending the a decision by the Chamber of Deputies, even though it had [already] been informed of this through another channel. This is claimed to have resulted in the second violation of Parliament's prerogatives.

In the opinion of the Applicant and the intervener the Senate, the said violation originated from a reading of the combined provisions of Article 8(1) and (2) of constitutional law No. 1 of 1989 and Article 2(1) of law No. 219 of 5 June 1989 (New provisions to regulate ministerial offences and offences provided for under Article 90 of the Constitution) which precluded the transmission of the case file to the Public Prosecutor's Office for immediate referral to the President of the competent House and in any case any “involvement” of that House in the event of discontinuation: not only therefore where the discontinuation puts and end to the proceedings, and which are enumerated under the general rules of ordinary procedural law, pursuant to Articles 408 and 411 of the Code of Criminal Procedure (namely, the groundlessness of the report of the criminal offence, the lack of a necessary precondition for the prosecution, the classification of the offence as no

longer punishable, the fact that the relevant conduct is not regarded as an offence under law or that the suspect did not commit it), but also in the event – which is distinct from the institute of discontinuation, but is treated jointly with the former pursuant to Article 2(1) of law No. 219 of 1989 – that the conduct is considered to amount to an "offence other than those indicated under Article 96 of the Constitution"; this is a situation which necessarily implies a procedural follow-up, for which provision is made for "the transmission of the case file to the competent judicial authority".

2. – Since this reading results in an infringement of Parliament's powers, the result is that Article 2(1) of law No. 219 of 1989 violates the Constitution, and therefore the Applicant asks that this Court place the matter before itself as the object of an interlocutory question of constitutionality. However, although in the concluding part of the application it may appear that the request that the complaint in the jurisdictional dispute be upheld is subject to this "self-referral" and the resulting recognition of the said unconstitutionality, passages from the argument contained in the application itself unequivocally clarify that this request is made in the alternative, made in the event that any other possible and constitutionally informed reading of the legislation concerned is rejected; in particular, the argument made by the applicant (and shared by the intervener) regarding the requirement that the case file be placed before parliament in order for it to carry out evaluations and reach a decision regarding its jurisdiction in all circumstances other than a genuine full discontinuation of proceedings, [is] the only one capable of excluding further proceedings.

3. – As a preliminary matter, removing all reservations, the Court holds that the jurisdictional dispute proposed is admissible, since the subjective and objective requirements therefor are satisfied, both for the reasons already expressed in the order issued during the preliminary stage, and also, with regard to the possible residual doubts concerning the latter, due to the description of the remedy sought made in paragraph 2 above.

4.1. – On the merits the application is well founded within the terms specified below.

4.2. – It is necessary first and foremost to set out the legislative framework within which the decision on this jurisdictional dispute must be taken.

Article 96 of the Constitution, in the text as amended by constitutional law No. 1 of 1989, provides that: “The President of the Council of Ministers and ministers, even if no longer in office, are subject to ordinary courts for offences committed in the exercise of their duties only in those cases authorised by the Senate or the Chamber of Deputies according to procedures laid down under constitutional law”.

The same constitutional law which introduced the new text of Article 96 of the Constitution established at the court of the main city within the Court of Appeal district with territorial jurisdiction a Court for Ministerial Offences to which the Public Prosecutor's Office must transmit the reports, files and statements relating to the offences specified under Article 96 of the Constitution, along with his requests, without carrying out any investigations.

It the Court for Ministerial Offences does not consider that discontinuation must be ordered, it transmits the case file along with a reasoned opinion to the Public Prosecutor's Office for immediate referral to the President of the President of the competent House (Article 8(1)). Otherwise, following consultation with the public prosecutor, it discontinues proceedings by order not subject to appeal (Article 8(2)). The Public Prosecutor's Office gives notice of the fact of discontinuation to the President of the competent House (Article 8(4)).

Law No. 219 of 1989 specifies (Article 2(1)) the cases in which, having carried out the necessary investigations, the Court for Ministerial Offences must order discontinuation. These include the situation in which the conduct amounts to an offence different from those specified under Article 96 of the Constitution. In these cases, the law provides that the Court for Ministerial Offences also order, at the same time as discontinuation, the transmission of the case file to the judicial authority competent to take cognisance of the different offence.

4.3. – It is possible to infer from the legislative framework set out above the intention of the framers of the constitutional law concerned to provide the President of the Council of Ministers and the ministers with a special guarantee.

This does not however imply the establishment of a special jurisdiction for so-called ministerial offences, as was provided for under the Constitution prior to the 1989 reform, but rather subjects them to the jurisdiction of the ordinary courts, introducing at the same time a series of procedural rules intended to balance the guarantee of a functional government against the quality of all citizens before the law.

In order to strike a reasonable balance between these two principles, both the constitutional rules as well as those stipulated under ordinary law seek to place both the courts as well as the political authorities in a condition to protect, within their reciprocal relations, with regard to the former the power-duty to prosecute offences committed by any citizen, irrespective of the office held, and with regard to the latter the power-duty to implement tangible terms the guarantee provided for under Article 96 of the Constitution.

The result mentioned above is achieved on the one hand by maintaining the power of the ordinary judicial authorities to carry out the necessary investigations into reports of criminal offences allegedly committed by ministers, whilst on the other hand by guaranteeing the competent House, pursuant to Article 5 of constitutional law No. 1 of 1989, adequate and timely information regarding the developments and outcome of prosecutions of members of the Government.

To this end the law provides (Article 8(1) of constitutional law No. 1 of 1989) that, in the event that the Ministers' Court considers that discontinuation should not be ordered, it must transmit the case file to the Public Prosecutor's Office for its immediate referral to the competent House, in order to enable the latter to rule on the authorisation provided for under Article 96 of the Constitution.

Parliamentary “involvement” is also provided for in the event that proceedings are discontinued. In fact, Article 8(4) provides that the Public Prosecutor's Office notify the President of the competent House of the fact of discontinuation, both in order that the parliamentary body may take note of the outcome of the proceedings, as well as, in the event that such an outcome is considered unsatisfactory, in order to enable it to adopt the measures permitted under the Constitution and under applicable law in order to protect the Government's integrity and functioning.

4.4. – Article 2(1) of law No. 219 of 1989 specifies as one of the situations in which the Court for Ministerial Offences must order the discontinuation of proceedings that where the alleged offence is not classified as one of those indicated under Article 96 of the Constitution. This is actually a form of discontinuation that is, so to speak, anomalous and in any case asymmetrical since it does not put an end to the proceedings and does not imply a ruling that the criminal prosecution should not be pursued, but rather in fact implies further proceedings according to the ordinary procedures, which means that the measure simply amounts to a ruling by the Ministers' Court that it lacks functional jurisdiction.

It is clear that also, and above all, in this situation, the competent House has a constitutionally protected interest in receiving timely information through institutional channels and in an official form of the fact that proceedings have been discontinued, as is required, without exceptions, under Article 8(4) of constitutional law No. 1 of 1989. This communication is moreover the only instrument which enables the House to evaluate whether or not the discontinuation concerned will result in a complete conclusion, or by contrast a continuation of proceedings under a different legal classification of the offence, and accordingly to exercise its own powers in this regard.

The parliamentary body cannot in fact be deprived of [the right to make] its own self-standing evaluation as to whether or not the offence at issue in the judicial investigation is of a ministerial nature or not, nor no less – where it does not accept the conclusion of the Ministers' Court that the offences are not of a ministerial nature – of the possibility of initiating a jurisdictional dispute before the Constitutional Court, claiming that the effect of the judiciary's decision was to infringe the power granted to it under Article 96 of the Constitution.

4.5. – In the specific case placed before the Court for judgment in this dispute, it is noted that the Ministers' Court of Florence ruled, by measure of 31 March-4 April 2005, that it lacked functional jurisdiction, holding that the offences which the Minister is alleged to have committed did not fall under those indicated in Article 96 of the Constitution and ordered the transmission of the case file to the Public Prosecutor's Office at the *Tribunale di Pisa*. Subsequently, by order of 4 December 2006, the *Tribunale di Livorno* – which was

identified as the court with territorial jurisdiction instead of the *Tribunale di Pisa* – declared that the objection of unconstitutionality raised by the accused was manifestly groundless due to the fact that Article 2(1) of law No. 219 of 1989 requires the transmission of the case file only to the competent authority and not also to the competent House as well as the conclusion that, in the event that the offence is re-classified as non-ministerial, authorisation to proceed by the parliamentary body is not necessary. In addition moreover, when asked to make its own assessment on the ministerial status of the offence and accordingly to raise an objection of jurisdiction before the Court of Cassation pursuant to Articles 23 and 28 of the Code of Criminal Procedure, it rejected the request.

However, both the Ministers' Court of Florence as well as the *Tribunale di Livorno* disregarded the fact that Article 8(4) of constitutional law No. 1 of 1989 requires that the Public Prosecutor's Office notify any measure ordering the discontinuation of proceedings to the President of the competent House. Since Article 2(1) of law No. 219 of 1989 requires discontinuation in the event that the offence at issue in the prosecution is "not of a ministerial nature", the constitutionally correct consequence would have been for the Ministers' Court of Florence to transmit the case file to the Public Prosecutor's Office, notwithstanding the *nomen iuris* given to its own measure, in order to enable it to notify the same to the competent House, thereby permitting it to adopt the initiatives considered necessary. It does not appear that this requirement has been complied with. This omission resulted in the infringement of the powers granted under constitutional law to the Chamber of Deputies which, should it wish, could initiate a jurisdictional dispute before this Court in the event that it considered that the alleged undue classification of the alleged offence prevented the competent House from being able to enforce the guarantee contained in Article 96 of the Constitution.

As regards the *Tribunale di Livorno*, Cecina division, it failed to take note of the fact that the Public Prosecutor's Office had not made the required communication relating to the previous discontinuation order by which jurisdiction had been declined due to the "non ministerial" nature of the offences, and also failed to adopt any resulting measure in order to enable the Chamber of Deputies to carry out its own evaluations, as mentioned above,

and to take the resulting initiatives. These omissions also resulted in the infringement of the powers of the Chamber of Deputies guaranteed under constitutional law.

4.6. – Article 2(1) of law No. 219 of 1989 does not violate the provisions of constitutional law which govern such matters, since it is limited to stipulating that, in the event that proceedings are discontinued due to a different classification of the offence, the transmission of the case file to the competent judicial authority "likewise" be ordered. This is notwithstanding in any case (and therefore, also in this case) the obligation laid down by Article 8(4) of constitutional law No. 1 of 1989, from which the provision of ordinary law cited above did not intend to create any exception, laying down only supplementary legislation governing the procedural matters under examination. Therefore, leaving aside any other possible consideration, the prerequisites for this Court to place before itself the question of the constitutionality of the aforementioned legislative provision, as requested in the alternative by the Applicant, are in any case not satisfied.

4.7. – The Applicant – here too with the support of the intervener – also asks that, as a result of the infringements complained of, the Court order the annulment of the measure of 31 March-4 April 2005 of the Ministers' Court of Florence and the order of 4 December 2006 of the *Tribunale di Livorno*, Cecina division.

This Court does not consider it necessary to accept this part of the application. The infringements recognised result essentially from the omissions indicated above, which could still be remedied by carrying out the omitted acts. As regards the more strictly procedural consequences, if any, it will be a matter for the competent judicial authority to ascertain and declare them.

ON THOSE GROUNDS

THE CONSTITUTIONAL COURT

rules that:

a) the Court for Ministerial Offences at the *Tribunale di Firenze* was not entitled not to transmit the case file to the Public Prosecutor's Office in order to enable the latter to notify the President of the Chamber of Deputies, pursuant to Article 8(4) of constitutional law No. 1 of 16 January 1989 (Amendments to Articles 96, 134 and 135 of the Constitution and to constitutional law No. 1 of 11 March 1953, and provisions governing proceedings for offences pursuant to Article 96 of the Constitution), of the measure of 31 March-4 April 2005, by this the said Court for Ministerial Offences ruled that the offences alleged to have been committed by the accused were not of a ministerial nature, limiting itself to ordering the transmission of the case file to the competent judicial authority;

b) the *Tribunale di Livorno*, Cecina division, was not entitled not to rule that the aforementioned measure of the Court for Ministerial Offences at the *Tribunale di Firenze* had not been communicated by [should read 'to'] the Public Prosecutor's Office and [that it must] adopt the resulting measures within its powers in order to remedy the failure to notify.

Decided in Rome, at the seat of the Constitutional Court, *Palazzo della Consulta*, on 9 July 2009.

Signed:

Francesco AMIRANTE, President

Giuseppe FRIGO, Author of the judgment

Roberto MILANA, Registrar

Filed in the Court Registry on 24 July 2009.

The Registrar

Signed: MILANA