JUDGMENT NO. 178 YEAR 2015

In this case the Court considered two referral orders challenging legislation which extended the suspension of collective bargaining rounds and pay increases for public sector workers on the grounds that it violated "the principles of equality, protection of work, the proportionality of the remuneration of work carried out and freedom of collective bargaining". In a mixed judgment, the Court dismissed most of the objections raised by the referring courts, but struck down the legislation as unconstitutional on a supervening basis (in the sense that the restrictions were first legitimate when enacted, but only on the strength of their transient nature, and subsequently became unlawful when extended and put on a structural footing).

[omitted]

THE CONSTITUTIONAL COURT

[omitted]

gives the following

JUDGMENT

in proceedings concerning the constitutionality of Article 9(1), (2-bis), (17), first sentence, and (21), last sentence, of Decree-Law no. 78 of 31 May 2010 (Urgent measures on financial stabilisation and economic competitiveness), converted with amendments into Article 1(1) of Law no. 122 of 30 July 2010 and Article 16(1)(b) and (c) of Decree-Law no. 98 of 6 July 2011 (Urgent provisions on financial stabilisation), converted with amendments into Article 1(1) of Law no. 111 of 15 July 2011, initiated by the *Tribunale di Roma* by the referral order of 27 November 2013 and by the *Tribunale di Ravenna* by the referral order of 1 March 2014, registered respectively as no. 76 and no. 125 in the Register of Referral Orders 2014 and published in the Official Journal of the Republic no. 22 and no. 35, first special series 2014.

Considering the entries of appearance by FLP – *Federazione lavoratori pubblici e funzioni pubbliche* [Federation of Public Sector Workers and Civil Servants] and another, Graziella Nardini and others and the intervention by the President of the Council of Ministers and the Federation GILDA-UNAMS, the CONFEDIR –

Confederazione autonoma dei dirigenti, quadri e direttivi della pubblica amministrazione [Independent Confederation of Directors, Managers and Executives from the Public Administration] and the CSE – *Confederazione indipendente sindacati europei* [Independent Confederation of European Trade Unions];

having heard the judge rapporteur Silvana Sciarra at the public hearing of 23 June 2015;

having heard Counsel Tommaso De Grandis for the Federation GILDA-UNAMS, Counsel Sergio Galleano for the CONFEDIR, Counsel Michele Lioi for the CSE, Counsel Michele Lioi, Counsel Stefano Viti and Counsel Michele Mirenghi for the FLP and another, Counsel Pasquale Lattari for Graziella Nardini and others and the State Counsel [*Avvocato dello Stato*] Vincenzo Rago for the President of the Council of Ministers.

[omitted]

Conclusions on points of law

1.– The *Tribunale di Roma*, sitting as a labour court, questions the constitutionality of Article 9(1) and (17), first sentence, of Decree-Law no. 78 of 31 May 2010 (Urgent measures on financial stabilisation and economic competitiveness), converted with amendments into Article 1(1) of Law no. 122 of 30 July 2010, and Article 16(1) of Decree-Law no. 98 of 6 July 2011 (Urgent provisions on financial stabilisation), converted with amendments into Article 1(1) of Law no. 111 of 15 July 2011, with reference to Articles 2, 3(1), 35(1), 36(1), 39(1) and 53 of the Constitution.

The contested legislation, which makes provision in respect of the workers falling under Article 2(2) of Legislative Decree no. 165 of 30 March 2001 (General provisions on the regulation of employment in the public administrations) for an extension of the suspension of negotiations and ordinary pay dynamics, is claimed to violate the principles of equality, protection of work, the proportionality of the remuneration for work carried out and freedom of collective bargaining.

The limitations imposed by the legislator for the period 2010-2014 are claimed to introduce unreasonable and disproportionate rules, discriminating against public sector workers compared to private sector workers for a period that is anything but transitory and exceptional.

2.– The *Tribunale di Ravenna*, sitting as a labour court, questions the constitutionality of Article 9(1), (2-bis), (17), first sentence, and (21), last sentence, of Decree-Law no. 78 of 2010 and Article 16(1)(b) and (c) of Decree-Law no. 98 of 2011, with reference to Articles 2, 3(1), 35(1), 36(1), 39(1) and 53 of the Constitution.

The referring court asserts that the "freezing" of the remuneration of the public sector workers falling under the collective bargaining regime, which has been extended for the 2010-2014 period without any possibility for recovery, violates the Constitution on various grounds.

This legislation, which is intended to apply for a considerable period of time, is claimed to compromise irreparably the operation of collective bargaining procedures and the right of public sector workers, who are subject to an increasingly onerous workload, to receive remuneration that is proportionate with the work carried out.

The contested provisions, which extend beyond the limits of the transitory and exceptional – according to the position stated in the case law of the Constitutional Court as applied to measures to contain costs – are claimed to introduce a tax levy against public sector employees in breach of the universal duty of economic solidarity (Article 2 of the Constitution) and the principle that sacrifices should be imposed in a gradual manner (Article 53 of the Constitution).

The legislation under examination is claimed to discriminate against public sector workers compared to private sector workers and to introduce arbitrary unequal treatment also between the various classes of public sector employee.

3.– The State Counsel has countered the objections raised by the referring courts by invoking the exceptional nature of the legislative measure which, in line with the requirements imposed by constitutional law to safeguard budgetary stability, in any case apply for a limited period of time and impose a reasonable sacrifice on collective autonomy and the rights protected under Article 36(1) of the Constitution, without introducing any tax levy and without establishing any discrimination whatsoever between different classes of worker.

4.– Since the questions are homogeneous in nature and the objections are closely related, the two proceedings must be joined for decision in a single judgment.

5.– As a preliminary matter, it is necessary to confirm the order read out at the public hearing, which is annexed to this Judgment, ruling admissible the intervention by

the *Confederazione indipendente sindacati europei* (CSE) and inadmissible the interventions by the Federation GILDA-UNAMS and the *Confederazione autonoma dei dirigenti, quadri e direttivi della pubblica amministrazione* (CONFEDIR) in the proceedings registered as no. 76 in the Register of Referral Orders 2014.

6.– The contested legislation as set out by the referring courts concerns the provisions of Decree-Law no. 78 of 2010 and Decree-Law no. 98 of 2011 insofar as they sacrifice the right of access to collective bargaining procedures and subject any increase in the remuneration of public sector workers to strict limits.

Decree-Law no. 78 of 2010 provides that "contractual and bargaining procedures relating to the three-year period 2010-2012 shall not be initiated", with no possibility for recovery, "for the staff falling under Article 2(2) […] of Legislative Decree no. 165 of 30 March 2001, as amended" whilst safeguarding the payment of the non-renewal indemnity "to the extent provided for with effect from 2010 pursuant to Article 2(35) of Law no. 203 of 22 December 2008" (Article 9(17)).

The suspension of "contractual and bargaining procedures" is accompanied by a provision on the "freezing" of salary elements which, for the years 2011, 2012, 2013, may not exceed "the remuneration ordinarily due for the year 2010", not even with regard to ancillary elements (Article 9(1)).

Ancillary staff salary elements, including those of managers, and career advancement remunerative elements are also subject to drastic limits, which have been specifically challenged by the *Tribunale di Ravenna*.

As regards the ancillary staff element, Article 9(2-bis) of Decree-Law no. 78 of 2010 provides that it "may not exceed the corresponding amount for the year 2010 and shall in any case be automatically reduced in proportion with the reduction of personnel in service".

Article 9(21) of Decree-Law no. 78 of 2010 vests career advancement for the year 2011, 2012 and 2013 with an exclusively legal value.

Decree-Law no. 98 of 2011 was enacted to extend the effects of those cost containment measures, pursuing the objective of securing the consolidation of measures to rationalise and contain spending on public sector employment adopted as part of the fiscal package for the years 2011-2013, indicating additional savings in terms of net deficit reaching through to 2016 (Article 16(1)).

Within that perspective, the legislator has authorised the adoption of one or more regulations, to be issued pursuant to Article 17(2) of Law no. 400 of 23 August 1988 (Provisions governing the activity of the Government and the organisation of the Office of the President of the Council of Ministers), acting on a proposal by the Minister for the Public Administration and Innovation and the Minister for the Economy and Finance, which shall make provision to "defer until 31 December 2014 the applicable provisions limiting growth in financial remuneration, including ancillary remuneration, of staff from the public administrations provided for under such provisions" (Article 16(1)(b)), and to set "the arrangements applicable to the calculation of the disbursement of the non-renewal indemnity for the years 2015-2017" (Article 16(1)(c)).

Presidential Decree no. 122 of 4 September 2013 (Regulation on the extension of the freeze on collective bargaining and automatic salary increases for public sector employees, adopted pursuant to Article 16(1), (2) and (3) of Decree-Law no. 98 of 6 July 2011, converted with amendments into Law no. 111 of 15 July 2011) follows the approach taken in this legislation.

Article 1(1)(a) extends until 31 December 2014 the provisions laid down by Article 9(1), (2-bis) and (21) of Decree-Law no. 78 of 2010 on individual financial remuneration, ancillary remuneration and career advancement. Article 1(1)(c) clarifies that "the contractual and collective bargaining procedures pertaining to the years 2013-2014 for employees of the public administrations as specified in Article 1(2) of Law no. 196 of 31 December 2009, as amended, shall be pursued solely with respect to the legislative aspect and without any possibility for recovery of the financial aspect".

As regards the non-renewal indemnity, Article 1(1)(d) provides that no increases shall be due for the period 2013-2014. For the 2015-2017 round, the indemnity shall be due "according to the arrangements and parameters designated in the applicable protocols and legislation".

The regulatory provisions have been transposed into a source of law with legislative status (Law no. 147 of 27 December 2013 laying down "Provisions on the formation of the annual and multi-year budget of the state – Stability Law 2014") with regard to the non-renewal indemnity for the 2015-2017 period (Article 1(452)), the suspension of bargaining procedures relating to the financial aspect for the 2013-2014 period (Article 1(453)) and the amount of ancillary remuneration (Article 1(456)). As a result of Article

1(254) of Law no. 190 of 23 December 2014 (Provisions on the formation of the annual and multi-year budget of the state – Stability Law 2015), the suspension of bargaining procedures is to be extended, with regard to the financial aspect, until 31 December 2015.

That suspension is not accompanied by any increase in the non-renewal indemnity, which will be anchored until 2018 to the figures valid on 31 December 2013 (Article 1(255) of Law no. 190 of 2014).

7.– The questions of constitutionality must be examined with reference to the legislative framework set out above, which is comprised of legislation enacted at different points in time but bound together by an evident nexus of continuity, with the aim of pursuing the stated objective of containing expenditure.

7.1.– The state representative has formulated several preliminary objections.

As regards the non-interlocutory status objected to, it must be pointed out that both proceedings will not be settled solely through a finding that the contested legislation is unconstitutional.

In the proceedings pending before the *Tribunale di Roma*, the trade union organisations have sought not only confirmation of the right of access to collective bargaining processes, but also an order requiring ARAN to launch negotiations. In the dispute before the *Tribunale di Ravenna* the court has been apprised of questions concerning claims to remuneration of applicant workers, along with claims seeking the payment of indemnities and compensation.

From these considerations it may be concluded that the remedy sought in the main proceedings in both cases has greater scope that the subject matter of the question of constitutionality and touches upon a more complex area of investigation, which will require the referring courts to focus the procedural debate on different aspects after resolving the question of constitutionality. Thus, in the proceedings before the lower court, it is not evident that the remedy sought in the main proceedings overlaps precisely with the object of the proceedings before the Constitutional Court (see Judgment no. 84 of 2006), which would undermine the interlocutory nature of the proceedings.

7.2.– In the proceedings registered as no. 125 in the Register of Referral Orders 2014, the state representative asserts in outline that the applicant trade union

organisations lack interest to sue, which is inferred from the failure to challenge the harmful acts when they were called upon to apply the contested provisions.

This argument cannot be endorsed.

It is clear that the applicant organisations have an interest in claiming effective protection for the constitutional prerogatives vested in them, which it is considered were put at risk by the contested provisions.

7.3.– The state representative objects in the supplementary written statements filed on 29 May 2015 that the referring courts failed to consider whether it was feasible to interpret the legislation in a manner compliant with the requirements of the Constitution and to provide exhaustive reasons in support of the relevance of the question.

The referral orders pass muster as regards their admissibility also from this perspective. The questions of constitutionality are directed against legislation with an unequivocal literal and systematic meaning, which does not offer any scope for an alternative interpretation that respects the principles laid down in the Constitution.

8.– Nevertheless, the referral orders do not appear to be free of all gaps, which render some of the questions proposed inadmissible.

8.1.– First and foremost, certain aspects of the objections relating to the non-renewal indemnity are inadmissible.

In challenging Article 16(1)(c) of Decree-Law no. 98 of 2011, the referring courts do not explain why legislation relating specifically to the procedures for calculating the disbursement of the non-renewal indemnity for the years 2015-2017 is relevant *ratione temporis*, in the light of the claims brought by the trade unions and the workers.

Moreover, the referral orders do not clarify the issue of non-manifest unfoundedness in relation to the violation of Article 36(1) of the Constitution.

In their examination of the legislation on the determination of the non-renewal indemnity and the exclusion of any increases in this item until 2017 (and subsequently, whilst the proceedings were already pending, until 2018), the referring courts do not explain how the legislation contrasts with the requirement that remuneration must be proportional (Article 36(1) of the Constitution).

According to the settled case law of this Court, compliance of remuneration with the requirements of proportionality and sufficiency laid down by Article 36(1) of the

Constitution must be assessed with regard to overall remuneration, and not its individual components (see *inter alia* Judgments no. 366 of 2006 and no. 164 of 1994).

The referral orders do not provide an overall assessment of this type.

8.2.– With regard to the violation alleged of Article 35(1) of the Constitution, the referral orders do not offer any self-standing arguments in support of the questions of constitutionality raised that could release the reference to the principle of constitutional law from its ancillary function vis-a-vis the objections based on Articles 36(1) and 39(1) of the Constitution.

8.3.– The questions raised by the *Tribunale di Roma* with reference to Article 53 of the Constitution are also inadmissible.

In that regard, the referral order does not provide any circumstantiated references and – as the state representative has not failed to point out – is limited to a reference to the constitutional principle in the operative part, without providing exhaustive argumentation concerning the reasons for the contrast with the provisions invoked.

9.– Having thereby delineated the scope of the proceedings, it is now necessary to examine the objections which assert that the legislative provisions restricting contractual and salary dynamics for public sector employees are unlawful at root, without giving any significance to the duration of such measures.

9.1.– The *Tribunale di Ravenna* argues that the legislation is unconstitutional by virtue of the reference to Article 53 of the Constitution, construing the measure, for the purposes of the present case, as a tax levy to all intents and purposes. The referring court links up the principles "that sacrifices should be imposed in a gradual manner", of progressive taxation and of capacity to pay tax (Article 53 of the Constitution) with the more general duty of solidarity required under Article 2 of the Constitution.

When articulated in this manner, the objections are based on the mistaken interpretative prerequisite that the "blocking" mechanism is ultimately tantamount to the imposition of a levy.

The characteristics of the contested provisions, which entail a mere cost saving and do not purport to impose a definitive curtailment of the assets of the taxpayer as an authoritative act with expropriating effect, which is aimed at securing resources for the treasury, differ from the distinctive elements of a tax levy (see *inter alia* Judgment no. 70 of 2015, section 4 of the Conclusions on points of law).

The essential characteristics of taxation, as set out in the settled case law of this Court, consist on the one hand in the existence of legal regulation, which is essentially intended to bring about a reduction in the assets of the taxpayer, and does not involve any alteration of reciprocal relations. On the other hand, the teleological aspect contributes to the definition of a tax.

In particular, the resources derived obtained the levy that are associated with a financially significant basis for taxation, which is suitable for indicating capacity to pay tax, must be destined to "assist public spending" (see Judgment no. 310 of 2013, section 11 of the Conclusions on points of law). Having refuted the premise that it is a tax, the objections alleging a violation of Article 53 of the Constitution also lose their consistency.

9.2.– Other objections share the common feature of the reference to Article 3(1) of the Constitution, which has been invoked by the *Tribunale di Roma* also in relation to the duties of solidarity under Article 2 of the Constitution, and point in the first instance to an unjustified difference in treatment between public sector work and private sector work.

For its part, the *Tribunale di Ravenna* highlights other inequalities with reference to various public sector employees, following the caesura on the one hand between public sector work that is subject to contractual bargaining, and on the other hand public sector work that is excluded from such regulation. Differences in treatment are also claimed to be apparent between the different sectors of public sector work regulated by contractual bargaining.

These objections are also unfounded.

The contested legislation, which does not leave unscathed personnel from the diplomatic corps (see Judgment no. 304 of 2013), which are mentioned as a point of reference by the *Tribunale di Ravenna*, pursues the objective of cost savings which "applies to all public sector work, within a dimension of solidarity – albeit subject to the differentiations made necessary by the different professional status of the constituent categories" (see Judgment no. 310 of 2013, section 13.5 of the Conclusions on points of law).

The referring courts do not take account of the diverse nature of the professional status of the categories of public sector worker and compare dissimilar situations which cannot operate as a valid point of comparison.

Public sector work and private sector work cannot be treated as equivalent to each other in all respects (see Judgments no. 120 of 2012 and no. 146 of 2008) and the differences, albeit moderate, remain also following the extension of collective bargaining to a vast area of work performed by employees of the public administrations.

That heterogeneous nature itself of the terms under comparison is characteristic of the area of public sector work governed by collective contracts and the area of public sector work that is detached from contractual regulation. This heterogeneity precludes any plausible comparative assessment with reference to Article 3(1) of the Constitution and is further heightened by the irreducible specificity of certain sectors (armed forces, judiciary personnel), which are not governed by the logic of contractual bargaining but have nonetheless been used by the *Tribunale di Ravenna* as comparators. In this way, the function rooted in solidarity of the measures adopted, which is closely related to the exceptional nature of the general economic climate, has been adopted in full accord with the requirements of Article 2 of the Constitution.

As regards the different treatment reserved to workers from the schools sector, the *Tribunale di Ravenna* does not offer further information of any kind in relation to the special nature of those regulations and the inherent unreasonableness of the differences between the *genus* of public sector work, which is governed by collective contracts, and the *species* of the schools sector which retains that special status, albeit within the common collectively bargained framework governing the relationship.

10.– Having cleared the field of the objections premised on the indiscriminate unconstitutionality of the suspension of bargaining procedures, the analysis must consider each individual legislative measure and establish the respective rationales and purposes, with the aim of assessing their compatibility with the constitutional parameters referred to.

10.1.– The starting point has thus been the case law of this Court since the rulings on the constitutionality of Article 7(3) of Decree-Law no. 384 of 19 September 1992 (Urgent measures on social security, healthcare and public sector employment, and tax

provisions), converted with amendments into Law no. 438 of 14 November 1992 (see Judgment no. 245 of 1997, Order no. 299 of 1999).

When examining legislation which, for the year 1993, refused any increase in remuneration, this Court weighed up the particular goals that had inspired that measure to contain spending. The measures adopted at that time did not exceed the limits of arbitrariness precisely because they were limited to one year (see Judgment no. 245 of 1997, section 3 of the Conclusions on points of law).

10.2.– As regards the legal restrictions on collective autonomy intended to guarantee "compatibility with the general objectives of economic policy", this Court has upheld it as legitimate, justifying the restriction of the freedom protected under Article 39(1) of the Constitution in "exceptional" and eminently transitory situations, provided that the "safeguarding of higher general interests" is at stake (see Judgment no. 124 of 1991, section 6. of the Conclusions on points of law).

These findings are also based on a particular assessment, carried out on a case by case basis, and do not endorse the theory that any measure that precludes salary increases howsoever defined for a particular period of time and blocks the conduct of bargaining procedures will be *ipso facto* unconstitutional.

10.3.– This assessment is focused on the balancing of rights protected under Articles 36(1) and 39(1) of the Constitution with "the collective interest of containing public spending", which must be adequately weighed up "within the context of the progressive deterioration of the equilibria of the public finances" (see Judgment no. 361 of 1996, section 3 of the Conclusions on points of law).

Today's measures are more stringent, following the introduction into the Constitution of the requirement of a balanced budget (Article 81(1) of the Constitution, as replaced by Article 1 of Constitutional Law no. 1 of 20 April 2012 on the "Introduction into the Constitution of the principle of a balanced budget").

The system of collective bargaining within public sector work, understood as a whole, involves the planning of the burdens associated with its operation over time according to a dynamic model that is "consistent with the parameters provided for under the programming and budgetary instruments falling under Article 1-bis of Law no. 468 of 5 August 1978, as amended and supplemented" (Article 48(1) of Legislative Decree no. 165 of 2001).

11.– In view of the above, the analysis must start with the provisions of Article 9 of Decree-Law no. 78 of 2010, which is eloquently entitled, "Containing expenditure in public sector employment" and, in keeping with that policy line, excludes any increase in the overall financial remuneration for individual employees for the years 2011, 2012, 2013 (paragraph 1) along with any financial effect of career advancement (paragraph 21), and – for the period falling between 1 January 2011 and 31 December 2013 – prohibits any increase in the overall amount of the resources destined each year for the ancillary staff element (paragraph 2-bis).

The choice to adopt restrictive provisions culminates in the suspension of the conduct of "contractual and bargaining" procedures for the 2010-2012 three-year period (paragraph 17).

12.– The provisions under examination withstand the challenges made by the referring courts.

12.1.– This Court has already had the opportunity to engage with the legislative framework laid down by Article 9 of Decree-Law no. 78 of 2010 (see Judgments no. 219 of 2014 and no. 310 of 2013).

Albeit from specific angles, the judgments cited rejected the objections that the measures contained in Decree-Law no. 78 of 2010 were unconstitutional, following an argumentative path which points towards the solution to the questions of constitutionality considered in these proceedings.

It was clarified on that occasion that the necessarily multi-year perspectives of the budgetary cycle do not permit analogies to be drawn with situations from the past in which the objectives of financial initiatives were limited in time. In this regard, this Court has drawn on "[t]he recent reform of Article 81 of the Constitution implemented by Law no. 243 of 24 December 2012 (Provisions on the implementation of the principle of a balanced budget pursuant to Article 81(6) of the Constitution) with the introduction, *inter alia*, of rules on spending, and Article 97(1) of the Constitution, respectively by Articles 1 and 2 of Constitutional Law no. 1 of 20 April 2012 (Introduction into the Constitution of the principle of a balanced budget), but prior to the introduction of the new paragraph one of Article 119 of the Constitution" (see Judgment no. 310 of 2013, section 13.4. of the Conclusions on points of law).

Also Directive no. 2011/85/EU of 8 November 2011 (Council Directive on requirements for budgetary frameworks for the Member States) corroborates the need to consider budgetary policies within a multi-year perspective, specifying that "most fiscal measures have budgetary implications that go well beyond the annual budgetary cycle" and that "[a] single-year perspective therefore provides a poor basis for sound budgetary policies" (recital no. 20).

In the light of these findings, this Court has recognised the reasonableness of a system of measures involving a structural projection, which excludes at root any possibility of resuming bargaining procedures during the relevant period (see Judgment no. 189 of 2012, section 4.1 of the Conclusions on points of law).

The multi-year nature of budgetary policies, which was expressly considered in the precedents cited, reflects the three-year duration of contractual rounds in the terms enshrined in the "Agreement on the application of the framework agreement on the reform of contractual structures of 22 January 2009 to contractual units from the public sector", signed in Rome on 30 April 2009 by the competent ministers and several trade union organisations (see in particular Article 2(a)).

This thereby foreshadows a heightened programmatic dimension to collective bargaining in relation to both the normative and the financial elements. As confirmation of a dynamic nature typical of the mechanisms to renew collective agreements, it may be observed how they interact with the three-year public finance initiative at the intervals provided for under Article 11(1) of Law no. 196 of 31 December 2009 (Law on public accounts and finance) and according to the criteria specified in Article 17(7) of the Law.

It is for the stability law to indicate for each of the years falling within the multi-year budget the maximum amount destined for the renewal of contracts for public sector employees (Article 11(3)(g) of Law no. 196 of 2009, pursuant to Article 48(1) of Legislative Decree no. 165 of 2001).

12.2.– The measures set out above derive their legitimacy not only from the programmatic perspective described above but also from the reasonable basis to their general guidelines.

These are indeed measures which, whilst being configured in different terms, apply to the public sector as a whole and impose general limits and restrictions, within a

dimension which this Court has construed in terms of solidarity (see Judgment no. 310 of 2013, section 13.5 of the Conclusions on points of law, cited above).

The measures adopted are also reasonable on account of the particular seriousness of the economic and financial situation at the time the legislation was enacted.

These contingent data are confirmed both by official sources (half-yearly ARAN report on the remuneration of public sector employees, June 2010), as well as the preparatory works. The debate held during parliamentary procedures relating to the conversion of the Decree into law in the Senate polarised attention on the "particular seriousness of the international economic and financial situation" and the "repercussions on the national economy" (sitting of the Fifth Senate Committee – Budget Committee – of 16 June 2010).

For its part, the Court of Auditors focused on the urgent need to intervene with measures to contain remuneration (Court of Auditors, joint divisions sitting as a review body, 2012 report on the coordination of the public finances, and Court of Auditors, joint divisions sitting as a review body, 2011 report on the coordination of the public finances).

The reasonableness of the overall legislative framework may also be appreciated by the impact of the measures on a public remunerative dynamic, which is founded "on values that are more solid than those encountered in the private sectors of the economy" (see the ARAN half-yearly report, June 2010, cited above). It was stressed at the sitting of the Fifth Senate Committee (Budget Committee) held on 16 June 2010 that over the last decade the remuneration of public sector employees has seen "an increase for the public administration which is as a matter of fact significantly higher than that of the other two sectors" of industry and market services. This figure is consistent with the finding made by the joint review divisions of the Court of Accounts in the 2012 report on the coordination of the public finances.

The general nature of the measures enacted in Decree-Law no. 78 of 2010, which were incorporated into a comprehensive plan featuring a programmatic dimension and articulated over a three-year period, meets the requirement of governing a significant public expenditure item, which had registered unchecked growth, overtaking the increase in private sector remuneration.

Thus, the objections alleging the violation of Articles 36(1) and 39(1) of the Constitution may be disregarded as the sacrifice of the right to remuneration that is commensurate with the work carried out and the right to access collective bargaining procedures is, within the framework set out above, neither unreasonable nor disproportionate.

13.– As regards the provisions introduced by Article 16(1)(b) of Decree-Law no. 98 of 2011, which authorised the adoption of a regulation to extend until 31 December 2014 the applicable provisions limiting increases in financial remuneration, including ancillary elements, of the employees of the public administrations, it must be pointed out that constitutional review may not disregard the provisions of the Stability Law for 2014, which elevated the previous regulations to the status of primary legislation (Presidential Decree no. 122 of 2013), having been initially enacted in order to specify and complete the regulatory content of the statutory provisions (see Judgment no. 1104 of 1988, section 6 of the Conclusions on points of law). In particular, the provisions of that law concern the suspension of bargaining procedures relating to the financial aspect for the period 2013-2014 (Article 1(453) of Law no. 147 of 2013) and the limitation of the amount of ancillary remuneration (Article 1(456) of Law no. 147 of 2013).

There is thus an inseparable link between the provisions of Decree-Law no. 98 of 2011, which have been specifically challenged, and those of the Stability Law for 2014 (see Judgments no. 186 of 2013 and no. 310 of 2010).

14.– In the first place, it is necessary to examine the challenges relating to the extension until 31 December 2014 of the provisions intended to block any increases in the overall financial remuneration of individual employees and the overall amount of the resources destined for ancillary remuneration and the financial effects of career advancement (Article 1(1)(a) of Presidential Decree no. 122 of 2013), which is claimed to violate first and foremost Article 36(1) of the Constitution.

In that regard, the objections formulated against the extension of the restrictive measures beyond the temporal limits originally put in place prove to be unfounded, in the same manner as those relating to the original provisions of Decree-Law no. 78 of 2010.

14.1.– Both referring courts fear the ramifications of a prolonged freeze of bargaining procedures on the proportionality of remuneration.

The *Tribunale di Ravenna* in particular infers a violation of the principle of proportionality from the failure to adjust remuneration in line with the cost of living and the fact that remuneration does not reflect the level of professional expertise acquired by workers and the more onerous nature of the work carried out, due to the block on staff turnover.

However, these arguments are also not persuasive in establishing the questions of constitutionality to be well founded.

It must be reiterated as a matter of principle that, whilst the economic emergency may justify the freeze in collective bargaining procedures, it cannot validate an unreasonable prolongation of the "block" on remuneration. This would be tantamount to casting aside the criterion of proportionality of remuneration, having regard to the quantity and quality of the work performed (see Judgment no. 124 of 1991, section 6 of Conclusions on points of law).

This criterion is closely related also to the appreciation of merit, as a task of collective bargaining, and is destined to engender positive effects on the proper conduct of the public administration (Article 97 of the Constitution).

Nevertheless, the assessment of conformity with the principle laid down in Article 36 of the Constitution cannot be made with reference to individual institutes or limited to brief periods of time, as it is necessary to assess the entire body of items comprising the overall remuneration of workers over a period of time of some significant length, in the light of the principle of all-inclusive remuneration (see Judgment no. 154 of 2014). The referral order does not engage with this overall assessment.

When considering such a period of time – in line with the case law of this Court – it must be noted first and foremost that the contested provisions ceased to apply with effect from 1 January 2015.

The Stability Law for 2015 did not extend their effect, as it laid down provisions concerning exclusively the extension until 31 December 2015 of the "block" on financial bargaining (Article 1(254) of Law no. 190 of 2014) whilst excluding the increases in the non-renewal indemnity (Article 1(255) of Law no. 190 of 2014). It is thus clear that the restrictive measures cited operate within a limited horizon.

Secondly, the relevant factors which must be assessed within a longer period of time must include the previous dynamic of remuneration for public sector work which,

having achieved levels higher than those available in other sectors, subsequently required measures to contain public spending.

In this regard, the referral order from the *Tribunale di Ravenna* does not provide a detailed demonstration of the "macroscopic and unreasonable deviation" which, according to the case law of this Court (see Judgment no. 126 of 2000, section 5. of Conclusions on points of law), given the absence of a binding requirement of the constant alignment of remuneration, indicates that the Law is at odds with the principle laid down in Article 36(1) of the Constitution.

The argument evoking the "block" on turnover associated with the specific nature of the justice sector and the actual local circumstances as analysed in the aforementioned referral order cannot establish a violation of the constitutional principles invoked by legislation that is to apply – in a general and abstract manner – to a broader class of public sector employees.

However, it cannot be inferred from the increase in outstanding issues along with the reduction in the number of employees that there has thereby been an increase in workload such as to render the remuneration received fundamentally disproportionate.

An inference such as that hypothesised could only be recognised as having any empirical foundation in the event that working methods and organisational arrangements remained unchanged, without generating any effects on the work of the offices and if the administration of business occurred according to the same time-scales, consequently imposing a greater workload on employees.

In the present case accordingly, in line with the assessment which must necessarily be projected over a longer period of time and the non-decisive nature of the arguments on which the objections were based, it has not been demonstrated that the principle of proportionality of remuneration has been unreasonably sacrificed.

14.2.– Since the objections focused on Article 36(1) of the Constitution are unfounded, as a corollary any claims to damages or indemnities are likewise unfounded.

15.– On the other hand, the objections raised with reference to Article 39(1) of the Constitution against the regime providing for the suspension of contractual and bargaining procedures with regard to the financial aspect are well founded insofar as set out below. They are focused on the extension of the "block" on bargaining, which has been so prolonged over time as to result in a clear violation of trade union freedom.

15.1.– The provisions contested by the referring courts and the subsequently enacted legislation contained in the Stability Law for 2015 apply on an uninterrupted basis, precisely because they share an analogous purpose.

This articulation over time precludes, with reference to Article 39(1) of the Constitution, any consideration of the "block" on financial bargaining in isolation for the period 2013-2014, without reference to the subsequent extension. As is clear from the provisions which, through their intersection define the overall duration, the "block" can only be construed from a unitary perspective.

This is also clear from the literal wording of Article 1(254) of Law no. 190 of 2014, which extends the "block" until 2015 and is thus destined to impinge upon the proceedings in progress.

15.2.– According to a unitary examination of the measures providing for the "block" on collective bargaining, they may be arranged against a less narrow and contingent horizon, thereby throwing light on their impact – which is anything but occasional – on the constitutional values involved.

The assessment of these problematic issues is also clear from the parliamentary debate preceding the adoption of the governmental regulation (Joint Committees I, Constitutional Affairs, Office of the President of the Council of Ministers and Interior Ministry, and XI, Public and Private Sector Employment, of the Chamber of Deputies, opinion given on 19 June 2013).

Moreover, the entry into force of the provisions of the Stability Law for 2015 has the effect of putting the measures introduced by Presidential Decree no. 122 of 2013 and Law no. 147 of 2013 on a structural footing.

The fact that these measures were destined to remain in force over time is clear from Article 1(255) of Law no. 190 of 2014, which froze the amount of the non-renewal indemnity at the values applicable on 31 December 2013 until 2018.

It cannot be argued that the measures do not have a structural nature and that there has been no consequential violation of bargaining autonomy solely because the freedom to engage in bargaining procedures relating to the legislative aspect has been safeguarded for the 2013-2014 round (Article 1(1)(c) of Presidential Decree no. 122 of 2013).

The bargaining procedure must allow a comprehensive position to be stated regarding every aspect pertaining to the determination of employment conditions, which invariably also impinge upon the significant issue of financial aspects.

The multiple contracts referred to by the state representative, which do not establish that there has been any departure from the suspension of bargaining procedures concerning the specifically financial aspect of the employment relationship and the most characteristic features of that area, do not appear to be decisive in precluding a violation of Article 39(1) of the Constitution.

On the contrary, the extension until 2015 of the measures that preclude financial bargaining, which had already been defined as exceptional for 2013-2014, points to a lasting structure of extensions. On account of the ultimate intention to give structural effect to the "blocking" regime, it has become increasingly clear that this regime itself violates the principle of trade union freedom enshrined in Article 39(1) of the Constitution.

16.– Trade union freedom is protected under Article 39(1) of the Constitution in its twofold individual and collective manifestation, and its necessary complement is bargaining autonomy (see *inter alia*, Judgments no. 697 of 1988, section 3 of Conclusions on points of law, and no. 34 of 1985, section 4 of Conclusions on points of law).

Numerous international sources support the definition of a functional link between a collectively exercisable right, such as collective bargaining, and trade union freedom. Accordingly, the interpretation of the national constitutional source is synchronically linked to the evolution of supranational sources and gains further coherence from them.

These sources include the International Labour Organisation (ILO) Convention no. 87, signed in San Francisco on 17 June 1948, concerning Freedom of Association and Protection of the Right to Organise, ILO Convention no. 98, done in Geneva on 8 June 1949, concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, both ratified and implemented by Law no. 367 of 23 March 1958, and, with specific reference to public sector work, ILO Convention no. 151, Convention concerning Protection of the Right to Organise and Procedures for Determining Conditions of Employment in the Public Service, adopted in Geneva on 27 June 1978 at

the 64th session of the General Conference, ratified and implemented by Law no. 862 of 19 November 1984.

A relationship of mutual implication between trade union freedom and collective bargaining is clear within the evolution of the case law of the European Court of Human Rights on trade union freedom, which interprets broadly Article 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), signed in Rome on 4 November 1950 and ratified and implemented by Law no. 848 of 4 August 1955 (Grand Chamber, judgment of 12 November 2008in *Demir and Baykara v. Turkey* concerning the right to conclude collective contracts of public service employees).

It is also necessary to cite Article 6 of the European Social Charter, revised, with appendix, done in Strasbourg on 3 May 1996, ratified and implemented by Law no. 30 of 9 February 1999, which complements the collective exercise of the right to bargaining with the collective complaints procedure governed by the Additional Protocol to the Charter from 1995.

The "right to negotiate and conclude collective agreements" is also recognised by Article 28 of the Charter of Fundamental Rights of the European Union, proclaimed in Nice on 7 December 2000 and adopted at Strasbourg on 12 December 2007, which now has "the same legal value as the Treaties" pursuant to Article 6(1) of the Treaty on European Union (TEU), as amended by the Lisbon Treaty signed on 13 December 2007, ratified and implemented by Law no. 130 of 2 August 2008, which entered into force on 1 December 2009.

Finally, within a framework seeking to recognise and promote the role of the social partners, and to favour dialogue between them, whilst respecting their autonomous status, it is necessary to recall Article 152(1) of the Treaty on the Functioning of the European Union (TFEU) introduced by the Lisbon Treaty.

17.– The repeated extension of the block on financial bargaining procedures alters the negotiational dynamic within a sector which assigns a central role to the collective labour agreement (see Judgment no. 309 of 1997, sections 2.2.2, 2.2.3 and 2.2.4 of Conclusions on points of law). Within the limits laid down by mandatory statutory provisions (Article 2(2), second sentence, and (3-bis) of Legislative Decree no. 165 of 2001), the collective labour agreement has the status of a mandatory source of rules,

which also governs financial remuneration (Article 2(3) of Legislative Decree no. 165 of 2001), with regard to its fundamental and ancillary elements (Article 45(1) of Legislative Decree no. 165 of 2001), and "the rights and obligations relevant to the employment relationship, along with matters concerning trade union relations" (Article 40(1), first sentence, of Legislative Decree no. 165 of 2001).

As part of a constant dialectic with the law, which has over the years been required to regulate increasingly detailed aspects (Article 40(1), second and third sentences, of Legislative Decree no. 165 of 2001), the collective labour agreement reconciles the countervailing interests of the parties in an effective and transparent manner and contributes to achieving the tangible implementation of the principle of proportionality of remuneration, operating on the one hand as an instrument for guaranteeing equal treatment for workers (Article 45(2) of Legislative Decree no. 165 of 2001) and on the other hand as a factor for promoting productivity and merit (Article 45(3) of Legislative Decree no. 165 of 2001).

The collective labour agreement that regulates work in the employment of the public administrations is inspired by the duties of solidarity rooted in Article 2 of the Constitution, precisely due to these peculiar characteristics which guarantee its subjective general effect.

These aspects take account both of the multiple functions performed by collective bargaining within public sector employment, involving a complex interplay of constitutional values (Articles 2, 3, 36, 39 and 97 of the Constitution), within a framework of protection which – as noted above – is also guaranteed by numerous provisions of supranational law, as well as the points of disharmony and critical issues which an extended suspension of bargaining procedures risks engendering.

Whilst the periods during which "bargaining and contractual" procedures are suspended cannot be subject to the strict deadline of one year identified within the case law of this Court in relation to various measures within a different emergency context (see Judgment no. 245 of 1997, Order no. 299 of 1999), it is equally undeniable that these periods must in any case be defined and may not be extended at will.

This approach has also been endorsed by the European Court of Human Rights, which has stressed the need for "a 'fair balance' between the requirements of general interest of the community and the need to protect the fundamental rights of the

individual" and has upheld the measures adopted by Portuguese law – on the reduction of pensions – on the strength of the key feature of the time limit applicable to it (second section, judgment of 8 October 2013, *António Augusto da Conceiçao Mateus and Lino Jesus Santos Januário v. Portugal*, paragraphs 23 et seq of the conclusions on points of law).

The now systematic nature of this suspension has thus crossed the line, thereby now striking an unreasonable balance between trade union freedom (Article 39(1) of the Constitution), which is indissolubly related to other values of constitutional standing and already subject to legislative limits and far-reaching auditory controls (Articles 47 and 48 of Legislative Decree no. 165 of 2001), and the requirements relating to the rational distribution of resources and control of spending within a coherent financial programme (Article 81(1) of the Constitution).

Precisely for this reason, the sacrifice of the fundamental right protected under Article 39 of the Constitution is no longer tolerable.

It is only now that the structural nature of the suspension of bargaining procedures has been made fully evident that it may hence be concluded that it has become unconstitutional on a supervening *ex post* basis, the effects of which will apply following publication of this judgment.

18.– Having removed with future effect the limits applicable to the conduct of bargaining procedures in relation to the financial aspect, it will be for the legislator to provide a new impulse to the ordinary contractual dialectic, choosing the arrangements and forms that best reflect its nature, in a manner detached from any requirement as to the result.

The essentially dynamic and procedural nature of collective bargaining may only be redefined by the legislator, in accordance with spending constraints, and will be without prejudice to the financial effects resulting from the provisions examined for the period that has already elapsed.

ON THESE GROUNDS

THE CONSTITUTIONAL COURT

hereby,

1) *declares* the supervening unconstitutionality, with effect from the day after this Judgment is published in the Official Journal of the Republic and insofar as specified in the substantive part, of the regime governing the suspension of collective bargaining resulting from: Article 16(1)(b) of Decree-Law no. 98 of 6 July 2011 (Urgent provisions on financial stabilisation), converted with amendments into Article 1(1) of Law no. 111 of 15 July 2011, as specified by Article 1(1)(c), first sentence of Presidential Decree no. 122 of 4 September 2013 (Regulation on the extension of the freeze on collective bargaining and automatic salary increases for public sector employees, adopted pursuant to Article 16(1), (2) and (3) of Decree-Law no. 98 of 6 July 2011, converted with amendments into Law no. 111 of 15 July 2011); Article 1(453) of Law no. 147 of 27 December 2013 (Provisions on the formation of the annual and multi-year budget of the state – Stability Law 2014) and Article 1(254) of Law no. 190 of 23 December 2014 (Provisions on the formation of the annual and multi-year budget of the state – Stability Law 2015);

2) *rules* that the questions concerning the constitutionality of Article 16(1)(c) of Decree-Law no. 98 of 2011, as specified by Article 1(1)(d) of Presidential Decree no. 122 of 2013, and Article 1(452) of Law no. 147 of 2013, initiated with reference to Article 36(1) of the Constitution by the *Tribunale di Roma*, sitting as a labour court, and by the *Tribunale di Ravenna*, sitting as a labour court, by the referral orders mentioned in the headnote, are inadmissible;

3) *rules* that the questions concerning the constitutionality of Article 9(1) and (17), first sentence, of Decree-Law no. 78 of 31 May 2010 (Urgent measures on financial stabilisation and economic competitiveness), converted with amendments into Article 1(1) of Law no. 122 of 30 July 2010 and Article 16(1)(b) of Decree-Law no. 98 of 2011, as specified by Article 1(1)(a), first sentence, of Presidential Decree no. 122 of 2013, with regard to the limitation on the overall financial remuneration of individual employees, and by Article 1(1)(c), first sentence, of Presidential Decree no. 122 of 2013 and Article 1(453) of Law no. 147 of 2013 with regard to the suspension of the contractual and bargaining procedures concerning the financial aspect for the period 2013-2014, raised, with reference to Articles 35(1) and 53(1) and (2) of the Constitution, by the *Tribunale di Roma*, sitting as a labour court, by the referral order mentioned in the headnote, are inadmissible;

4) *rules* that the questions concerning the constitutionality of Article 9(1), (2-bis), (17), first sentence, and (21), last sentence, of Decree-Law no. 78 of 2010, and Article 16(1)(b) of Decree-Law no. 98 of 2011, as specified by Article 1(1)(a), first sentence, of Presidential Decree no. 122 of 2013, with regard to the limitation on the overall financial remuneration of individual employees, ancillary remuneration and the financial effects of career advancement, by Article 1(456) of Law no. 147 of 2013 with regard to the limitation of ancillary remuneration, by Article 1(1)(c), first sentence, of Presidential Decree no. 122 of 2013 and by Article 1(453) of Law no. 147 of 2013, with regard to the suspension of contractual and bargaining procedures concerning the financial aspect for the period 2013-2014, initiated with reference to Article 35(1) of the Constitution by the *Tribunale di Ravenna*, sitting as a labour court, by the referral order mentioned in the headnote, are inadmissible;

5) *rules* that the questions concerning the constitutionality of Article 9(1) and (17), first sentence, of Decree-Law no. 78 of 2010, raised with reference to Articles 2, 3(1), 36(1) and 39(1) of the Constitution by the *Tribunale di Roma*, sitting as a labour court, by the referral order mentioned in the headnote, are unfounded;

6) *rules* that the questions concerning the constitutionality of Article 16(1)(b) of Decree-Law no. 98 of 2011, as specified by Article 1(1)(a), first sentence, of Presidential Decree no. 122 of 2013, with regard to the limitation on the overall financial remuneration of individual employees, by Article 1(1)(c), first sentence, of Presidential Decree no. 122 of 2013, and by Article 1(453) of Law no. 147 of 2013 with regard to the suspension of the contractual and bargaining procedures concerning the financial aspect for the period 2013-2014, raised, with reference to Articles 2, 3(1) and 36(1) of the Constitution, by the *Tribunale di Roma*, sitting as a labour court, by the referral order mentioned in the headnote, are unfounded;

7) *rules* that the questions concerning the constitutionality of Article 9(1), (2-bis), (17), first sentence, and (21), last sentence, of Decree-Law no. 78 of 2010, raised with reference to Articles 2, 3(1), 36(1), 39(1) and 53(1) and (2) of the Constitution by the *Tribunale di Ravenna*, sitting as a labour court, by the referral order mentioned in the headnote, are unfounded;

8) *rules* that the questions concerning the constitutionality of Article 16(1)(b) of Decree-Law no. 98 of 2011, as specified by Article 1(1)(a), first sentence, of

Presidential Decree no. 122 of 2013, with regard to the limitation on the overall financial remuneration of individual employees, ancillary remuneration and the financial effects of career advancement, by Article 1(456) of Law no. 147 of 2013 with regard to the limitation of ancillary remuneration, by Article 1(1)(c), first sentence, of Presidential Decree no. 122 of 2013, and by Article 1(453) of Law no. 147 of 2013, with regard to the suspension of contractual and bargaining procedures concerning the financial aspect for the period 2013-2014, initiated with reference to Articles 2, 3(1), 36(1) and 53(1) and (2) of the Constitution by the *Tribunale di Ravenna*, sitting as a labour court, by the referral order mentioned in the headnote, are unfounded.

Decided in Rome at the seat of the Constitutional Court, *Palazzo della Consulta*, on 24 June 2015.

Signed:

Alessandro CRISCUOLO, President

Silvana SCIARRA, Author of the Judgment

Gabriella Paola MELATTI, Registrar

Filed in the Court Registry on 23 July 2015.

The Registrar

Signed: Gabriella Paola MELATTI

ANNEX:

ORDER READ OUT AT THE HEARING OF 23 JUNE 2015

ORDER

Considering the case file relating to the constitutionality proceedings initiated by the referral order of the *Tribunale di Roma*, sitting as a labour court, filed on 27 November 2013 (Register of Referral Orders no. 76 of 2014);

having found that, by an intervention filed on 6 June 2014 the Federation GILDA-UNAMS and, by an intervention filed on 10 June 2014, the *Confederazione indipendente sindacati europei* (CSE) and the *Confederazione autonoma dei dirigenti, quadri e direttivi della Pubblica amministrazione* (CONFEDIR) intervened in those proceedings;

that the parties mentioned above were not parties to the proceedings before the lower court;

that according to the settled case law of this Court (see *inter alia* the referral orders annexed to Judgments no. 37 of 2015, no. 162 of 2014, no. 231 of 2013, no. 272 of 2012 and no. 349 of 2007), participation in proceedings before the Constitutional Court is reserved, as a rule, to the parties to the proceedings before the lower court, along with the President of the Council of Ministers and, in cases involving regional legislation, the President of the Regional Executive (Articles 3 and 4 of the Supplementary rules on proceedings before the Constitutional Court);

that exceptions may be made to these provisions – without thereby violating the interlocutory nature of proceedings before the Constitutional Court – only for third parties vested with a qualified interest that is directly related to the substantive right averred in the proceedings, and not simply governed, in the same manner as any other, by the contested provision or provisions;

that accordingly, the impact on the individual interests of the intervener must not result, as for all other substantive interests governed by the contested Law, from the ruling of the Court on the constitutionality of the Law itself, but rather from the immediate effect which the Court's ruling will have on the substantive relationship averred in the proceedings before the lower court;

that GILDA-UNAMS and CONFEDIR do not have the status of a third party in the proceedings out of which the questions of constitutionality currently under discussion originate that could entitle them to participate in the proceedings before this Court;

that in fact GILDA-UNAMS and CONFEDIR would only be affected by the reflex effects of the ruling of this Court, in the same manner as the other trade unions in an analogous situation to that of the bodies (*Federazione lavoratori pubblici-FLP* and *Federazione italiana lavoratori pubblici-FIALP*) which initiated the proceedings before the lower court;

that furthermore, the trade unions lack any link whatsoever with the substantive relationship averred in the proceedings before the lower court concerning the conclusion of the contracts applied to staff from the Office of the President of the Council of Ministers and the ministries and the staff of non-economic public entities;

that in actual fact GILDA-UNAMS asserts that it is the most representative trade union of the different sector of school workers and CONFEDIR has not demonstrated its participation in the same bargaining procedures that involved the trade unions that were applicants in the main proceedings (FLP and FIALP), having documented signature of the national collective labour agreement for managerial staff in the different sectors of the regions and local authorities (area II) and the national health service;

that it must be concluded on the other hand that the intervention by CSE, the non-profit inter-category trade union organisation of which FLP and FIALP, which were applicants in the main proceedings, are members is admissible;

that the intervener CSE signed along with FLP, an applicant trade union in the main proceedings, the national collective labour agreement for staff from the Office of the President of the Council of Ministers for the 2006-2009 four-year period (2006-2007 financial two-year period) and the collective agreement for the same sector for the 2008-2009 financial two-year period;

that accordingly, as a representative organisation pursuant to Article 43 of Legislative Decree no. 165 of 30 March 2001 (General provisions on the regulation of employment in the public administrations) and a signatory of the contracts relevant in the proceedings before the lower court, CSE has a qualified interest, which is different from the general interest of the broader class of trade union organisations;

that in this case there is an interest directly related to the individual interest averred in the proceedings by FLP, in consideration of the unitary nature of the substantive situation of the trade unions eligible to participate in the same collective bargaining procedure that have also signed the same contract.

ON THESE GROUNDS

THE CONSTITUTIONAL COURT

1) *rules* that the interventions by GILDA-UNAMS and CONFEDIR (*Confederazione autonoma dei dirigenti, quadri e direttivi della Pubblica amministrazione*) in the constitutionality proceedings registered as number 76 in the Register of Referral Orders 2014 are inadmissible;

2) *rules* that the intervention in these constitutionality proceedings by CSE (*Confederazione indipendente sindacati europei*) is admissible.