JUDGMENT NO. 196 YEAR 2018

In this case, the Court heard a referral order from the Court of Auditors challenging regional legislation on the creation of a special category of civil service director, and the reallocation of budgetary resources in order to pay such staff. The Court reasserted the standing of the Court of Auditors to challenge the constitutionality of legislation within budgetary compliance procedures. The Court upheld the questions, ruling the legislation unconstitutional, finding that the region had acted *ultra vires* in establishing a new special category of civil service director, and in reallocating spending in order to remunerate such staff. Specifically, the Court held that legislative competence in this area lay with the state, as a matter falling under private law (over which the state has exclusive jurisdiction).

[omitted]

THE CONSTITUTIONAL COURT

[omitted]

gives the following

JUDGMENT

in proceedings concerning the constitutionality of Article 10 of Liguria Regional Law no. 10 of 28 April 2008 (Provisions relating to the Finance Law 2008), and Article 2 of Liguria Regional Law no. 42 of 24 November 2008 (Urgent provisions on staffing levels, energy certification, mountain communities and miscellaneous provisions), initiated by the Court of Auditors, Regional Control Division for Liguria, within the budgetary compliance proceedings concerning the general closing statement for financial year 2016 of Liguria Region, by the referral order of 27 December 2017, registered as no. 34 in the Register of Referral Orders 2018 and published in the *Official Journal* of the Republic no. 9, first special series 2018.

[omitted]

Conclusions on points of law

1.– The Court of Auditors, Regional Control Division for Liguria, within budgetary compliance proceedings concerning the general closing statement for Liguria Region for financial year 2016, and in particular the heading concerning staff expenditure, to which the spending item relating to regional deputy directors *[vice-dirigenza*] is allocated, questions the constitutionality of Article 10 of Liguria Regional Law no. 10 of 28 April 2008 (Provisions relating to the Finance Law 2008), insofar as it established the category of regional deputy director, thereby making provision in relation to a matter reserved to the exclusive competence of the State pursuant to Article 117(2)(l) of the Constitution, and of Article 2 of Liguria Regional Law no. 42 of 24 November 2008 (Urgent provisions on staffing levels, energy certification, mountain communities and miscellaneous provisions), which provided for an increase in the fund for ancillary staff payments (paragraph 1) and for it to be allocated to funding the basic and performance-related remuneration of deputy directors (paragraph 2), in breach of the provisions of national and sectoral collective bargaining agreements, to which State legislation refers.

The fact that the last-mentioned provision is unconstitutional is also argued to result in a violation of Article 81(4) of the Constitution (as in force prior to the amendments introduced by Constitutional Law no. 1 of 20 April 2012 on the "Introduction into the Constitution of the principle of a balanced budget") as the unlawful nature of the intended use of the increase in the fund for ancillary staff

payments in order to finance the remuneration of deputy directors results in a violation of the requirement of financial coverage.

In particular, the referring court states that, according to an analysis of the documentation sent by Liguria Region, the category of deputy director, *inter alia*, was remunerated with resources from the fund for human resource development policies and to promote the productivity of staff from the segment pursuant to Article 15 of the National Collective Labour Agreement (NCLA), regions and local government segment, signed on 1 April 1999) designated for ancillary remuneration and bonuses in 2016, payable in 2017 but awarded in 2016.

The attention of the Court of Auditors – within budgetary compliance proceedings – is focused mainly on the expenditure to increase the fund pursuant to Article 2 of Liguria Regional Law no. 42 of 2008, which however requires that consideration be given – in order to assess whether its coverage is lawful – to the provision that resulted in that spending, namely that establishing the category of deputy director. That spending is at odds with the provision of State legislation and national collective bargaining, which operates on the basis of the guidelines issued by the Representative Agency for the Public Administrations within Bargaining Procedures (*Agenzia per la rappresentanza negoziale delle pubbliche amministrazioni*, ARAN), also with regard to the maximum amount available for allocation to local bargaining.

Thus, in this specific case, the objection that the principle of constitutional law according to which the State has exclusive competence in the area of civil law must be considered before the examination of the objection alleging a violation of the requirement for spending coverage.

2.– As a preliminary matter, it is necessary to examine the objection that the questions referring to Article 117(2)(l) of the Constitution are inadmissible, an objection formulated by counsel for Liguria Region on the grounds that the Regional Control Division of the Court of Auditors, within budgetary compliance proceedings concerning the general closing statement for the region, lacks standing to raise questions of constitutionality in relation to parameters other than Article 81 of the Constitution.

2.1.– The objection is unfounded.

2.1.1.– This Court has long since stated its position concerning the admissibility of questions of constitutionality within budgetary compliance proceedings. It is therefore necessary to refer to this case law.

As early as Judgment no. 165 of 1963, this Court ruled admissible – and resolved on the merits with reference to Article 81(1) of the Constitution – a question of constitutionality raised by the Joint Divisions of the Court of Auditors within budgetary compliance proceedings concerning the closing statements for the administrative bodies *Cassa depositi e prestiti* [Savings and Loans Fund] and social security institutes pursuant to Articles 38 et seq of Royal Decree no. 1214 of 12 July 1934 (Approval of the consolidated text of laws on the Court of Auditors).

That position was confirmed in the later Judgment no. 121 of 1966. In that case – budgetary compliance proceedings concerning the general closing statement for Sicily Region – this Court held that the prerequisites laid down by Article 1 of Constitutional Law no. 1 of 9 February 1948 (Provisions on proceedings before the Constitutional Court and guarantees on the independence of the Constitutional Court) for the referral of interlocutory questions of constitutionality were met since "the overriding public interest in legal certainty (which would be undermined by doubts regarding the constitutionality of legislation) along with the interest in compliance with the

Constitution prevents any distinction between the various categories of proceedings and trials (considering moreover that the boundaries between these categories are often uncertain and conflicting) resulting in consequences as serious as the exclusion of the power to raise questions of constitutionality" (Judgment no. 121 of 1966, section 1 of the *Conclusions on points of law*).

The salient features of these particular proceedings are already sketched out in the decision referred to, which concludes with a ruling adopted "according to the formal requirements of litigious jurisdiction" (pursuant to Article 40 of the consolidated text, which carried over the rules contained in Article 32 of Law no. 800 of 14 August 1862 laying down the "Law on the establishment of the Court of Auditors for the Kingdom of Italy", and in Article 84 of Royal Decree no. 884 of 5 October 1862 laying down provisions "On the jurisdiction of and litigious proceedings before the Court of Auditors"), "following discussion in a public hearing, with the involvement of the prosecutor general and the representatives of the administration respectively", which ruling it was stipulated should be definitive and ineligible for review.

Moreover, also the *ex ante* review of legality – which applies to all acts, including those related to spending laws and the very law approving the budget – had been attracted into the purview of this Court, which had recognised the standing of the Court of Auditors to raise questions concerning the constitutionality of the spending laws concerned also during such proceedings.

As regards the prior review of the legality of acts, in acknowledging the standing of the Court of Auditors to raise questions of constitutionality (specifically in relation to Articles 76 and 81 of the Constitution), this Court observed that "solely for the purposes of Article 1 of Constitutional Law no. 1 of 1948 and Article 23 of Law no. 87 of 1953", the function performed within these proceedings is, in various respects, similar to that of the judiciary in that it is aimed at assessing the compliance of the acts comprising the subject matter of the proceedings with the provisions of objective law, conducting a review that is "external, rigorously neutral and disinterested", thereby "qualifying for review by the Constitutional Court laws that (…) it might otherwise be more difficult to submit to it" (Judgment no. 226 of 1976).

The legislative framework on the basis of which the above Judgments were adopted has changed.

The reform of the legislation governing the State budget introduced by Law no. 468 of 5 August 1978 (Reform of certain provisions governing the general accounts of the State in relation to budgetary matters) – and specifically the amendments subsequently made – had already created a new structural framework for the budget which – as was recognised by this Court in Judgment no. 244 of 1995 – is "comprised of a variety of complementary legislative provisions with parallel effect" and "pursues, *inter alia*, the goals of better programming, defining and controlling public revenue and spending in order to ensure financial equilibrium and substantial compliance, over a timescale exceeding the individual year, with the principles laid down by Article 81 of the Constitution".

In keeping with these changes, this Court held that the Court of Auditors had standing to raise questions of constitutionality within budgetary compliance proceedings "due to the violation of Article 81(4) of the Constitution", in relation to any "laws that lead to tangible and actual changes in the configuration of the State budget by virtue of these having impinged on a global level on the constituent elements of the budget, that

is on the headings that have knock-on effects for balanced management" (Judgment no. 244 of 1995).

The expansion of budgetary compliance proceedings to consider also the legality of the closing statements of the State results moreover from the adoption of Article 3(1) of Law no. 20 of 14 January 1994 (Provisions on the jurisdiction and control powers of the Court of Auditors), which circumscribed the review of the legality of acts (initially of the Government, and subsequently also of the regions governed by special statute) to a limited number of typical scenarios, thereby breaking the relationship of general priority between the prior review of legality (within which, as noted above, this Court had already recognised standing to raise questions concerning the constitutionality of the statute underlying the administrative act) and budgetary compliance proceedings.

That expansion culminated in the adoption of Decree-Law no. 174 of 10 October 2012 (Urgent provisions on the financing and operation of local government bodies, and further provisions to benefit the areas affected by the earthquake of May 2012), converted with amendments into Law no. 213 of 7 December 2012 which, in parallel with the entry into force of Constitutional Law no. 1 of 20 April 2012 (Introduction into the Constitution of the principle of a balanced budget), laid down provisions aimed at ensuring effective compliance with more stringent financial parameters, supplemented by the principles that may be inferred from EU law.

The most important point to stress at this juncture is that budgetary compliance proceedings, which were established initially only for the State and for the regions governed by special statute (in relation to the approval of general closing statements, for which the standing of the Court of Auditors to raise questions of constitutionality with reference to Articles 81(1) and (4) and 117(3) of the Constitution has also been expressly recognised: Judgment no. 213 of 2008), have now been extended to the regions governed by ordinary statute.

Within this perspective, it has been established that the regional review divisions may make findings concerning economic and financial imbalances, the lack of coverage for spending, and the violation of provisions aimed at ensuring proper financial management (Article 1(7) of Decree-Law no. 174 of 2012): in essence all "irregularities liable to impair, even potentially, the economic and financial equilibria of public bodies" (Article 1(3) of Decree-Law no. 174 of 2012).

In the light of these developments, this Court has recognised the admissibility of the questions of constitutionality raised by the regional control divisions of the Court of Auditors within budgetary compliance proceedings concerning regional closing statements.

All of the preconditions for entitlement to raise questions of constitutionality have been established in this regard: a) the application of legislative parameters; b) justiciability of the measure in relation to any individual subjective interests of the local government body that may be involved (pursuant to Article 1(12) of Decree-Law no. 174 of 2012), in consideration of the fact that the interest in financial legality pursued by the controlling body, which is linked to that of taxpayers, is separate and distinct from the interest of the bodies subject to control, and this interest might be unlawfully sacrificed – without any form of redress – were the courts unable to raise questions concerning the provisions that they are required to apply but which they consider to be unconstitutional; c) full oral proceedings both within the budgetary compliance proceedings conducted by the review division of the Court of Auditors as well as within any proceedings launched on the initiative of one of the local government bodies that is

subject to the budgetary compliance proceedings, which is guaranteed also by the involvement of the public prosecutor, in order to protect the objective general interest of the proper management of the finances and assets of the local government body (Article 243-*quater*(5) of Legislative Decree no. 267 of 18 August 2000 laying down the "Consolidated text of laws on the organisation of the local authorities") (Judgment no. 89 of 2017).

It has also been asserted that, when exercising such a well-defined judicial function, the regional control divisions of the Court of Auditors have standing to raise questions concerning the constitutionality of any "statutory provisions that, within the context of the structure and management of the budget, give rise to effects that are incompatible with the principles adopted in order to protect economic and financial equilibria" and with any "other constitutional principles intended to ensure healthy financial management (*ex plurimis*, Judgments no. 213 of 2008 and no. 244 of 1995)" (Judgment no. 181 of 2015).

2.1.2.– The referring Court of Auditors asserts that the contested provision has encroached upon the exclusive legislative competence of the State over the area of civil law.

The questions are admissible.

The standing of the Court of Auditors [to refer questions to the Constitutional Court] within budgetary compliance proceedings has – as mentioned above – already been acknowledged with reference to the constitutional parameters adopted in order to protect the economic and financial equilibrium. These must, for the limited purposes of these proceedings and in the light of their special nature, be considered in conjunction with the parameters that vest exclusive legislative competence in the State, since in those cases the Region by definition does not have any power to allocate resources. Thus, within these areas, any regional initiative that results in spending inevitably and immediately interferes with the criteria laid down by the legal system in order to ensure the proper management of the public finances in a broad sense. The contested legislation, which allocates new resources without any parties with a direct countervailing interest being apparent, could not easily be brought before this Court for review through any means other than budgetary compliance proceedings. The need to dispel any doubts as to the scope of constitutional review, which has been asserted by this Court as a constituent element of the system of constitutional justice, also has implications for the criteria used for assessing the admissibility of questions, and specifically within the case under discussion here.

Moreover, it is not possible to argue that the questions proposed are not relevant, as the referring court has asserted that the provisions, the constitutionality of which is questioned due to a violation of Articles 117(2)(l) and 81(4) of the Constitution, have resulted in spending for the deputy director's allowance, coverage for which (Article 2 of Liguria Regional Law no. 42 of 2008) results from an increase in the fund for local bargaining, and an allegedly unlawful allocation of that increase. That spending results in fact from the establishment of regional deputy directors (Article 10 of Liguria Regional Law no. 10 of 2008) in breach of state legislation and without any indication to do so in national collective bargaining, upon which local bargaining is dependent.

In other words, the Regional Control Division of the Court of Auditors argues that the provisions considered to be unconstitutional impinge both upon the structure of spending as well as the amounts actually spent, since one of the provisions (Article 10 of Liguria Regional Law no. 10 of 2008) establishes the legal positions of deputy

directors, for which there would otherwise be no basis for remuneration, whereas the other (Article 2 of Liguria Regional Law no. 42 of 2008) gives rise to an increase in spending by increasing the resources allocated to the ancillary remuneration by which the Region is alleged to have unlawfully remunerated individuals – deputy directors – who could not otherwise have been able to aspire to such remuneration.

Thus, were those provisions to be applied, the referring Division would be forced to endorse an improper administrative result consisting in expenditure resulting from the unlawful creation of the role of deputy director, coverage for which has been identified by increasing the fund for ancillary staff payments, and by unlawfully allocating that increase, an outcome at odds with national collective bargaining for the sector.

Since the task of the Court of Auditors within budgetary compliance proceedings concerning the general closing statement for the Region is to establish any "irregularities liable to impair, even potentially, the economic and financial equilibria of public bodies" (Article 1(3) of Decree-Law no. 174 of 2012), in this case the referring court takes the view that it is unable to endorse the expenditure heading under examination and has referred the question of constitutionality on the basis that it could only be possible to prevent the item from being endorsed, with the resulting elimination of the contested spending, if the question [of constitutionality] were to be accepted.

The proceedings are therefore limited to considerations relating to the actual existence of spending, and not to the manner in which funds are spent.

It must therefore be concluded that the questions of constitutionality raised by the referral orders mentioned in the headnote are admissible, having regard both to the standing of the referring body as well as the relevance of the questions raised for the purposes of the main proceedings.

2.2.– As a preliminary matter, it must also be stressed that, as noted in the referral order itself, Liguria Region enacted [Regional] Law no. 22 of 7 August 2017 laying down "Amendments to Regional Law no. 10 of 28 April 2008 (Provisions relating to the Finance Law 2008) and resulting implementing provisions" whilst the budgetary compliance proceedings were pending, which provided for the repeal of Article 10 of Liguria Regional Law no. 10 of 2008 (by Article 1) and for the amendment, in a manner intended to ensure compliance with the objections, of Article 2 of Liguria Regional Law no. 42 of 2008 by providing for a reduction in the fund for human resource development policies and to promote the productivity of staff from the segment "in an amount corresponding to the resources used in order to finance the basic and performance-related remuneration of the deputy directors as at the date of entry into force of this Law".

However, that Law entered into force on 12 August 2017, with the result that the repeal of Article 10 of Liguria Regional Law no. 10 of 2008 and the amendment of Article 2 of Liguria Regional Law no. 42 of 2008 do not impinge upon the questions concerning the constitutionality of the provisions in question, which were raised within budgetary compliance proceedings concerning the general closing statement of Liguria Region for financial year 2016, in relation to which those provisions remain applicable. However, it may be of benefit to stress that these provisions only apply in relation to budgetary compliance proceedings for the general closing statement of Liguria Region for financial year 2016 with regard to the spending item (for deputy directors) the endorsement of which is still outstanding as a result of the decision by the referring division. Thus, were the questions of constitutionality raised against those provisions to be accepted, the ruling would only take effect in relation to those proceedings.

2.3. – Finally, it is necessary to examine the objections brought by the Region that the challenges concerning in particular Article 2 of Liguria Regional Law no. 42 of 2008 are inadmissible due to a failure to state reasons and due to the contradictory nature of the remedy sought.

According to Liguria Region, the question has been raised in an incorrect manner as there is no overlap between the challenges brought – which relate exclusively to the institute of deputy director and the provision for the resources allocated to it – and the contested provisions – which only relate to that institute in the second part of paragraph 2 and in paragraphs 3 and 4 of Article 2.

It is also argued to have been brought in a contradictory manner since, were the question to be accepted, it would result in the removal of the entire provision stipulating the allocation of funds for the purposes provided for under Article 15 of the NCLA signed on 1 April 1999 along with the procedures to be followed when using the resources, with the result that no amounts would be available in future for the various purposes provided for under Article 15 of the NCLA and the aim of the referring body would not be pursued, namely that of removing from the fund only the allocations relating to the institute of deputy director, which is considered to be unconstitutional.

2.3.1. – Both of the objections are unfounded.

First and foremost, it is easy to infer from the referral order that the referring court objects to Article 2 of Liguria Regional Law no. 42 of 2008 only insofar as it allocates the increase in the fund for ancillary staff payments "on a priority basis" to "funding the basic and performance-related remuneration of the deputy directors" (second part of paragraph 2), the arrangements for the disbursement of which it regulates in paragraphs 3 and 4.

The question must therefore be deemed to be limited – as is moreover stated in the alternative by the Region itself – to the second part of paragraph 2 (where it provides that the local resources are to be used "on a priority basis to fund the basic and performance-related remuneration of the deputy directors") and to paragraphs 3 and 4 of Article 2.

It follows that also the objection that the challenge is contradictory (on the grounds that, were the question to be accepted, it would result in the removal of the only provision that allocates part of the increases in the fund for human resource development policies and to promote the productivity of staff from the segment pursuant to Article 15 of the NCLA signed on 1 April 1999 to financing the deputy director's allowance) is devoid of any foundation. In other words, the fund would only be reduced by the amount of the resources allocated to the deputy director's allowance. This is what is stipulated with future effect by the amendment made to Article 2 by Article 2(1) of Liguria Regional Law no. 22 of 2017, as confirmation that the prohibited expenditure was only applied on a temporary basis.

3.– It is necessary at this stage to review the merits of the questions of constitutionality raised.

These questions, which have been posed in relation to two distinct provisions of two different regional laws and in relation to two different provisions of constitutional law, must be examined jointly, taking account of the logical connection between them.

As noted above, in challenging the constitutionality of Article 10 of Liguria Regional Law no. 10 of 2008, which established the position of regional deputy director in breach of the State's exclusive competence over the area of "civil law", the regional control division of the Court of Auditors objects that an increase in the fund for human

resource development policies and to promote the productivity of staff from the segment pursuant to Article 15 of the NCLA signed on 1 April 1999 without any stipulation to that effect in national collective bargaining for the sector, along with the allocation of that increase, were subsequently ordered by another regional provision (Article 2(2), second sentence, and (3) and (4) of Liguria Regional Law no. 42 of 2008) in order to finance spending on the deputy director's allowance.

Accordingly, the alleged encroachment on the legislative powers of the State results – given the noted connection and the special circumstances of the case – in a violation of the principle laid down by Article 81(4) of the Constitution as the unlawful establishment of the role of regional deputy director has resulted in an increase in regional spending, which is linked to the payment of the deputy director's allowance, coverage for which has been unlawfully obtained from the allocation for that purpose of the increase in the fund for ancillary staff payments to regional personnel, in a manner at odds with national collective bargaining for the sector.

3.1. The questions are well founded.

According to the settled case law of the Constitutional Court, "following the privatisation of public-sector employment [i.e. the regulation of such employment under private law rather than public law], the regulation of the legal and financial remuneration of public-sector employees – which, pursuant, to Article 1(2) of Legislative Decree no. 165 of 30 March 2001 (General provisions on the regulation of employment in the public administrations) also include the employees of the regions – falls exclusively to the State legislator, as it falls within the area of 'civil law' (*ex multis*, Judgments no. 72 of 2017; no. 257 of 2016; no. 180 of 2015; no. 269, no .211 and no. 17 of 2014)" (Judgment no. 175 of 2017). It is therefore "governed by the provisions of the Civil Code and collective bargaining" (Judgment no. 160 of 2017), to which the State law refers.

In this case, by Article 10 of Liguria Regional Law no. 10 of 2008, the region established the role of regional deputy directors and then, a few months later, made provision concerning their basic and performance-related remuneration (Article 2(3) and (4) of Liguria Regional Law no. 42 of 2008), obtaining the necessary resources from an increase in the fund for human resource development policies and to promote the productivity of staff from the segment pursuant to Article 15 of the NCLA signed on 1 April 1999 (paragraph 2, second sentence, of Regional Law no. 42 of 2008), which constituted a breach of the legislation enacted by the State when exercising its exclusive competence.

In fact, by Article 7(3) of Law no. 145 of 15 July 2002 (Provisions on the reorganisation of public-sector managers and to promote the exchange of experience and interaction between the public and private sectors), the State legislator had introduced an Article 17-bis into Legislative Decree no. 165 of 2001, by which it reserved the establishment of a dedicated deputy director's area to collective bargaining, on the basis of guidelines to be issued by the Ministry of Public Administration to the ARAN. In particular, a further prerequisite for the creation of this position was stipulated for the bodies falling under Article 17-bis(2) (regions and other local authorities), specifically the issue of a decree by the Ministry of Public Administration, acting in concert with the Ministry for the Economy and Finance, in order to establish the equivalence of positions between the state segment and the regional segment.

That provision – which was applicable at the time the contested regional provisions entered into force, although was subsequently repealed by Article 5 of

Decree-Law no. 95 of 6 July 2012 (Urgent measures to review public spending with no effect on services for citizens), converted with amendments into Law no. 135 of 7 August 2012 – rendered the creation of the status of deputy director conditional upon the establishment of the area in question under national collective bargaining for the segment in question, as was subsequently clarified by the provision of authentic interpretation laid down by Article 8 of Law no. 15 of 4 March 2009 (Delegation of power to the Government to optimise productivity within public-sector employment along with the efficiency and transparency of the public administrations and provisions to supplement the functions vested in the National Council for the Economy and Labour [*Consiglio nazionale dell'economia e del lavoro* – CNEL] and the Court of Accounts).

This Court, which ruled on the provisions in question in Judgment no. 214 of 2016, clarified that "[a]ccording to the implementing provision laid down by Article 10(3) of Law no. 145 of 2002, the legislation establishing the status of deputy director was to be 'reserved' to collective bargaining arrangements, to be conducted on the basis of guidelines issued by the Ministry for the Civil Service to the Representative Agency for the Public Administrations within Bargaining Procedures (*Agenzia per la rappresentanza negoziale delle pubbliche amministrazioni*, ARAN), including with regard to the maximum level of financial resources to be allocated". Considering that Article 17-bis has never been applied and that neither ministerial guidelines nor national collective agreements for the segment as required under State legislation have ever been adopted, it must be concluded that the status of deputy director has never been established, and that consequently the regions were not able to establish it.

It is therefore evident that the initiative taken by the Liguria legislator in providing for spending without any legislative cover is unlawful, and hence violates Article 81(4) of the Constitution as it concerns an item (that concerning the allowance for regional deputy directors) associated with the establishment of a role for regional staff which occurred without the necessary basis in collective bargaining and in breach of the state's exclusive competence in the area of "civil law".

It is not superfluous to recall that local collective bargaining (to which the determination of the ancillary remuneration intended to implement horizontal salary increases and to support initiatives aimed at enhancing productivity and the efficiency and efficacy of services pursuant to Article 4(1) and (2) of the NCLA for 1998/2001 may be delegated) cannot regulate matters that have not been allocated to it under national bargaining, and cannot make any provision that contrasts with the national collective agreement.

The two levels of bargaining are in fact hierarchically related, especially within the area of public-sector employment, as subordinate, local bargaining may only be launched following the issue of guidelines on the allocation of funds by the Ministry for the ARAN, in accordance with the requirements of national collective bargaining.

Therefore, both Article 10 of Liguria Regional Law no. 10 of 2008 and Article 2(2), with regard solely to the phrase "on a priority basis to fund the basic and performance-related remuneration of the deputy directors", and 2(3) and 2(4) of Liguria Regional Law no. 42 of 2008 must be declared unconstitutional.

ON THESE GROUNDS

THE CONSTITUTIONAL COURT

1) *declares* that Article 10 of Liguria Regional Law no. 10 of 28 April 2008 (Provisions relating to the Finance Law 2008) is unconstitutional;

2) *declares* that Article 2(2), with regard solely to the phrase "on a priority basis to fund the basic and performance-related remuneration of the deputy directors" and Article 2(3) and (4) of Liguria Regional Law no. 42 of 24 November 2008 (Urgent provisions on staffing levels, energy certification, mountain communities and miscellaneous provisions) are unconstitutional.

Decided in Rome at the seat of the Constitutional Court, *Palazzo della Consulta*, on 11 October 2018.