JUDGMENT NO. 6 YEAR 2018

In this case, the Constitutional Court considered referral orders from the Joint Divisions of the Supreme Court of Cassation as well as from two administrative courts (TARs) which raised questions as to the constitutionality of a labor law provision that gave exclusive jurisdiction over certain public-sector employment matters to the administrative courts, provided, however, that they were filed by a date certain, on pain of being time-barred. The referring courts argued that the provision created an obstacle that amounted to a denial of the right of access to courts, protected by the European Convention (as interpreted by the European Court of Human Rights in the *Mottola* and *Staibano* cases), the provisions of which are incorporated into the Italian Constitution by constitutional provision. The Constitutional Court rejected the question raised by the Supreme Court of Cassation as inadmissible for lack of relevance, since the Court of Cassation itself lacked the authority to hear the case. The Joint Divisions of the Supreme Court of Cassation, which has authority to review challenges concerning jurisdiction under limited scenarios, argued that its recent "evolutive" and "dynamic" interpretation of the concept of jurisdiction allowed it to review not only the provisions that identify the prerequisites for jurisdictional authority, but also those that establish the forms of protection through which jurisdiction is expressed. The Joint Divisions also argued that certain extreme scenarios, in which the administrative courts make "anomalous" or "abnormal" decisions, could also be subject to its review concerning jurisdiction. The Constitutional Court, after clarifying that its purpose was to verify that appeal to the Supreme Court of Cassation had been properly made on a question inherent to jurisdiction – the prerequisite for the legitimate initiation of the pending proceedings before the Joint Divisions – held that the constitutional provision allowing appeals to the Supreme Court of Cassation against decisions by the Council of State and the Court of Auditors "only" for reasons of jurisdiction could not be interpreted to allow appeals for reasons other than jurisdiction, and that any such interpretation was unconstitutional and also called into question the basic choice of the Constituents to institute a pluralist jurisdictional structure. The Court found that the Constitution intended to establish different jurisdictions with appeal on the merits possible to the highest court in each jurisdiction, but not across jurisdictions, even where the issues were important, and that the Supreme Court of Cassation could only review questions that strictly regarded jurisdiction itself. Thus, appeals to the Supreme Court of Cassation could be made against excesses of judicial authority for reasons pertaining to jurisdiction, in the sense that an administrative or Court of Auditors judge asserts jurisdiction over an area assigned to a different body, or denies jurisdiction based on an erroneous assumption. The claim that "anomalous" or "abnormal" judgments that radically misinterpreted legal provisions could be reviewed by the Supreme Court of Cassation as an extension of its power to review jurisdictional matters was rejected by the Court, since the qualitative measure of the seriousness of the error was irrelevant and could not altar the definition of the spheres of competence. The Court also rejected the question raised by the TAR of Campania as inadmissible, for its failure to provide adequate reasoning in support of its request for an additive ruling. Lastly, the Court rejected the question raised by the TAR of Lazio as unfounded, since its assumption that the challenged provision conflicted with interposed international provisions was incorrect. Here

the Court took issue with the interpretation of the provision by the European Court of Human Rights, pointing out that the ECtHR had been working with incomplete information due to a flawed presentation of the Italian jurisdictional framework by the defendant State of Italy in the *Mottola* and *Staibano* cases. The Court concluded that the provision established a time limit that was based on a legitimate and reasonable purpose and did not effectively deny the right to access courts, including in light of other provisions not considered by the international court.

[omitted]

THE CONSTITUTIONAL COURT

[omitted]

gives the following

JUDGMENT

in proceedings concerning the constitutionality of Article 69(7) of Legislative Decree No. 165 of 30 March 2001 (General provisions on the regulation of employment in the public sector), initiated by the Supreme Court of Cassation, Joint Civil Divisions, with a referral order of 8 April 2016, by the Regional Administrative Court of Campania, with a referral order of 24 May 2016, and by the Regional Administrative Court of Lazio, with a referral order of 26 April 2016, registered as Nos. 107, 218, and 260, respectively, of the 2016 Register of Referral Orders and published in the *Official Journal* of the Republic Nos. 22, 44, and 52, first special series 2016.

Having regard to the entries of appearance filed by A.N., the *Istituto Nazionale della Previdenza Sociale* [the National Social Welfare Institution] (INPS), the *Università degli Studi di Napoli Federico II* [the University of Naples Federico II], by the Region of Campania, and M.C. P. and G. R., the last of which was filed after the deadline;

after hearing Judge Rapporteur Giancarlo Coraggio at the public hearing of 5 December 2017;

after hearing Counsel Sabatino Rainone on behalf of A. N., Maria Morrone on behalf of INPS, Angelo Abignente on behalf of the *Università degli Studi di Napoli Federico II*, and Rosanna Panariello on behalf of the Region of Campania.

[omitted]

Conclusions on points of law

1.− The Joint Civil Divisions of the Supreme Court of Cassation raise a question as to the constitutionality of Article 69(7) of Legislative Decree No. 165 of 30 March 2001 (General provisions on the regulation of employment in the public sector), "insofar as it provides that disputes arising from issues pertaining to the employment period prior to 30/06/98 fall under the exclusive jurisdiction of the administrative courts, only provided that they are brought by 15 September 2000, on pain of being time-barred." The referring court alleges that the provision infringes Article 117(1) of the Constitution, in relation to the interposed provisions of Article 6(1) of the European Convention on Human Rights (ECHR), signed in Rome on 4 November 1950, ratified and implemented by Law No. 848 of 4 August 1955, and of Article 1 of the Protocol No. 1 to the Convention.

The challenged provision stipulates that, "[t]he ordinary courts, in their capacity as labor courts, have jurisdiction over the disputes described at Article 63 of this decree, with regard to questions pertaining to periods of employment post-dating 30 June 1998. Disputes relating to questions pertaining to employment periods prior to that date

remain under the exclusive jurisdiction of the administrative courts only provided that they are brought by 15 September 2000, on pain of being time-barred."

The referring court points out that, when it comes to disputes involving matters pertaining to employment periods prior to 30 June 1998 initiated after 15 September 2000, an approach had developed in the case law according to which, in principle, they fell under the jurisdiction of the ordinary courts. Over time, however, a different approach was adopted both by the Supreme Court of Cassation and the Council of State (with the approval of the Constitutional Court), which considered the deadline to be an absolute bar to bringing one's case before the courts.

The referring court alleges that the challenged provision, interpreted in this way, violates the right of access to the courts, protected by Article 6(1) ECHR, and the ban on unlawful interference with private property contained in Article 1 of Protocol No. 1 to the Convention. This conclusion is allegedly supported by the judgments of the European Court of Human Rights [ECtHR] in *Mottola and Others v. Italy* and *Staibano and others v. Italy* of 4 February 2014 (hereinafter the *Mottola* and *Staibano* judgments), according to which the time limit in question creates "a procedural obstacle that amounts to a substantive denial of the right invoked" and prevents "a fair balance between the public and private interests at stake."

2.– Recalling the referral order of the Joint Divisions of the Supreme Court of Cassation and following its reasoning, the Regional Administrative Court of Lazio and the Regional Administrative Court of Campania have raised questions as to the constitutionality of the same provision.

While the referral order of the former, however, contains an identical request and refers to the same interposed provisions as the question raised by the Joint Divisions, the latter challenges Article 69(7) of Legislative Decree No. 165 of 2001, "insofar as it fails to allow an ordinary court to bring matters arising from facts having to do with employment periods prior to 30/6/1998 after 15/9/2000 without the claims being time-barred," and only in relation to Article 6(1) of the ECHR.

3.– In consideration of the partial overlap of the subject matter and provisions invoked , as well as the arguments adopted in support of the alleged infringement, the cases must be joined and decided jointly.

4.– As a preliminary matter, the appearance of the private parties M.C. P. and G. R. in the case registered as No. 107 of 2016 in the Register of Referral Orders must be declared inadmissible.

The intervention was filed on 9 November 2017, after the peremptory time limit established by Article 3 of the Supplementary rules for proceedings before the Constitutional Court, which is twenty days from the publication of the referral order in the *Official Journal* (see, among many, Judgments Nos. 102 of 2016 and 220 and 128 of 2014, and the Order attached to Judgment No. 173 of 2016), which date fell, in the present case, on 1 June 2016.

5.– The question as to constitutionality raised by the Joint Divisions of the Supreme Court of Cassation is inadmissible.

6.– The referring court, in arguing that its referral is relevant, recalls that it is a consolidated principle of its own case law that the review exercised by the Supreme Court of Cassation of decisions of the Council of State, under Article 362(1) of the Code of Civil Procedure and Article 110 of Legislative Decree No. 104 of 2 July 2010 (Implementation of Article 44 of Law No. 69 of 18 June 2009 delegating to the government the power to reorganize the law on proceedings before the administrative

courts), is permitted only where what is requested is to ascertain the potential overstepping of the external limits of jurisdiction, due to perceived defects concerning the essence of the judicial function, and not the way it has been exercised, while any form of review of internal limits, which include any errors of merit or procedure, is excluded.

Under this line of interpretation, therefore, the grounds that may be brought before the court include only the scenarios which involve allegations of the violation of the scope of jurisdiction in general – as having been asserted over the sphere reserved to the legislator or to administrative discretion or, on the contrary, as having been denied, on the erroneous assumption that the question absolutely cannot become the object of judicial functions (so-called rejection of jurisdiction) – or allegations of having ruled in an area attributed to the ordinary courts or to another special court, or of having denied having jurisdiction on the wrong assumption that it falls to another court (so-called denial of jurisdiction).

The referring court, however, adds that (in recent years) its case law has adopted an "evolutive" and "dynamic" interpretation of the concept of jurisdiction, which allows it to review not only the provisions that identify "the prerequisites for the attribution of jurisdiction," but also those that establish "the forms of protection" through which jurisdiction is expressed.

This broad concept of jurisdiction has, according to the court, been used to overturn a decision of the Council of State that had interpreted certain domestic law provisions in a way that conflicted with the law of the European Union, as a later ruling by the Court of Justice confirmed.

The present case is allegedly analogous to that one, with the difference that, since it deals with ECHR rules, the referring court argues that it is only by raising a question of constitutionality that the judgment under review can be prevented from causing effects that clash with the supranational rules that the Italian State must apply.

The referring court also maintains that the situation under examination falls into the extreme scenarios in which the administrative courts make an "anomalous or abnormal" decision, omitting the exercise of judicial authority for *errores in iudicando* or *in procedendo*, which cause the overstepping of external limits and become reviewable for reasons inherent to jurisdiction.

7.– The *Policlinico dell'Università degli Studi di Napoli Federico II* (hereinafter: the University of Naples) and the *Istituto nazionale di previdenza sociale* (INPS) have objected that the question raised lacks relevance, arguing that the referral for reasons pertaining to jurisdiction in reality conceals an inadmissible referral for infringement of the law, which is not reviewable by the Supreme Court of Cassation under Article 111(7) and (8) of the Constitution: under this view, the applicants' intention is not to obtain a ruling on jurisdiction from the Joint Divisions, so much as a higher level of appeal, meant to strike down an alleged *error in iudicando.*

The extension of the concept of external limit with a view toward "dynamic" interpretation or the effectiveness of judicial protection carried out by the referring court cannot be endorsed, including under the well-established case law of the Supreme Court of Cassation itself, according to which the evolution of the concept of jurisdiction does not justify appeals against the decisions of the Council of State, under Article 111(8) of the Constitution, when, as in the present case, the situation is not one of an *a priori* denial of jurisdiction, but the protection is presumed to have been denied by the special court as a result of errors of judgment committed in relation to the specific case before

it.

INPS also argues that the decision in the present case does not amount to an "anomalous or abnormal" one.

8.– This Court is, thus, called on to verify, upon the specific objection of the parties to the incidental judgment, the ruling of the Joint Divisions (as the body that regulates jurisdiction, and not in the exercise of its nomophylactic function) concerning the existence of a reason for appeal inherent to jurisdiction, as a prerequisite for the legitimate initiation of the pending proceedings.

9.– This verification must be carried out taking into account the fact that the present case is not an ordinary question of jurisdiction, since its object is the nature of the legal entitlement at stake, but the interpretation and application of constitutional provisions, in particular Article 111(8) of the Constitution.

The question, then, falls under the natural competence of this Court, as the ultimate interpreter of constitutional provisions and – in the present case – of the provisions that regulate the limits and overall structure of the judicial complex.

10.– The objection is well founded.

11.– The hypothesis that appeal to the Supreme Court of Cassation for reasons pertaining to jurisdiction, under Article 111(8) of the Constitution, against rulings by the Council of State and the Court of Auditors, may also include review of procedural and substantive errors cannot be classified as an evolutive interpretation, since it is not compatible with the spirit and the letter of the constitutional rule.

The provision draws its meaning and significance from its contrast with the preceding paragraph (7), which makes appeals to the Supreme Court of Cassation against the decisions of other courts generally available for violations of the law. This contrast is highlighted by the language specifying that appeals against the decisions of the Council of State and the Court of Auditors are permitted "only" for reasons of jurisdiction.

It follows that any interpretation of these reasons that, falling outside their traditional spheres, leads to their more or less total overlap, must be held to be inadmissible.

Moreover, at the systemic level, the interpretation carried out by the referring court, which equates the two remedies, calls into question the basic choice of the Constituent Assembly to institute a pluralist jurisdictional structure.

12.– The correct interpretation of Article 111(8) of the Constitution and its determinative role, for purposes of the constitutional positioning of the administrative court and the Court of Auditors in the broader organization of jurisdictions, has been clearly laid out by this Court.

In Judgment No. 204 of 2004, the Court pointed out that unity of function does not imply the organizational unity of the jurisdictions, and that the Constituent Assembly decided that it was necessary to keep in place the pre-constitutional structure, a structure that granted the administrative courts jurisdiction over legitimate expectations and, in cases of exclusive jurisdiction, the rights inextricably connected to them.

In the same judgment, the Court observed that the working sessions of the Constituent Assembly clearly reveal that this entailed rejecting the "subjection of the decisions of the Council of State and the Court of Auditors to the Supreme Court of Cassation's review on the basis of lawfulness" and its limitation "only to 'excess of judicial power,' consistent with a "judicial unity that is not organizational, but rather

functional, which does not prohibit, but, on the contrary, implies the division of the various types of courts into different systems, autonomous systems, each one of which stands on its own" (Mortati, afternoon session of 27 November 1947)."

In Judgment No. 77 of 2007, which dealt with *translatio iudicii*, this Court added that, "even the judgments of the supreme authority over matters of jurisdiction – the Court of Cassation – may, pursuant to Article 111(8) of the Constitution, require the Council of State and the Court of Accounts only to find that they have jurisdiction to hear the dispute, though it may certainly not bind them in any sense as regards the (substantive or procedural) contents [of] such decisions."

13.– The prevailing case law of the Joint Divisions of the Supreme Court of Cassation itself demonstrates an awareness of all of this, and consistently holds that, "[t]he wrongful exercise of its jurisdiction by a court, which proceeds to rule because it has it, and, therefore, assuming that its jurisdiction exists and, nevertheless, in exercising it, applies the rules of judgment that lead it to deny protection to the legal status in question, ends up in the mere hypothetical commission of an error within the jurisdiction;" and that, "the distinction between the ordinary jurisdiction and the special jurisdictions necessarily implies that each jurisdiction is exercised, with the task of oversight and pronouncing the final word on the correctness of law and facts of all the evaluations that are necessary to rule on a dispute assigned to the highest body within the jurisdiction, aside from those that entail the abstract rejection of legal protection before the special jurisdiction and any other jurisdiction (rejection) or those that, together with the denial of jurisdiction, indicate another jurisdiction (denial). Therefore, it is not possible to hypothesize that, outside these two cases, the way in which such scrutiny is exercised by the highest court of the special jurisdiction, even if, in the concrete, it resulted in the mistaken denial of protection for the legal status in question, is subject to review by the Joint Divisions" (Supreme Court of Cassation, Joint Divisions, No. 13976 of 6 June 2017; similarly, among the most recent decisions, see Joint Divisions No. 21617 of 19 September 2017 and 8117 of 29 March 2017).

14.– The opposing trend in its case law bases its reasoning on considerations that are either lacking in foundation or unrelated to questions that can be categorized as truly jurisdictional, in that they recall fundamental principles like the primacy of EU law, the effectiveness of protections, fair trials, and the functional unity of jurisdiction.

The reference to this last principle is lacking in foundation, given the opposite conclusions, highlighted above, which this Court has reached concerning the lack of overlap between unity of function and unity of the organ.

As far as the effectiveness of protections and fair trials are concerned, while it is beyond doubt that these must be assured, this falls to judicial organs entrusted with this task by the Constitution, and not to jurisdiction-related review.

Nor can the expansion of the concept of jurisdiction be justified by the presumption that the scenarios of exclusive jurisdiction have expanded excessively, since, as is well known, this Court has contained them within the boundaries drawn by the Constitution (Judgment No. 191 of 2006 and 204 of 2004). At the same time, "the very same Constitution also envisages that rulings that address rights concerning which, in respecting the 'singularity' of the matter in the sense described above, the legislator gives exclusive jurisdiction to the administrative courts, are excluded from the Court of Cassation's scrutiny of lawfulness" (Judgment No. 204 of 2004).

14.1.– The Joint Divisions' intervention, as a part of its review of jurisdiction, cannot be justified even by the infringement of EU or ECHR provisions, since it is

unclear, from the referral order as well as the case law cited above, if this is always the case or only in the event of a supervening judgment by the Court of Justice or the Strasbourg Court. In any case, once again, the review of jurisdiction is made to encompass grounds of unlawfulness (albeit with a singular classification). It does not merit repeating that the present case lacks any such grounds.

The fact remains that, especially in the event that the international courts hand down a decision to the contrary in the interim, the issue is undoubtedly a real one, but it is one that must be resolved within each jurisdiction, potentially even through reopening a case under Article 395 of the Code of Civil Procedure, an outcome this Court has encouraged in reference to the judgments of the ECtHR (Judgment No. 123 of 2017).

15.– "Exceeding judicial authority," which may be contested by means of appeal to the Supreme Court of Cassation for reasons pertaining to jurisdiction, as it has always been understood both before and after the Constitution, thus refers exclusively to two types of scenarios: those characterized by a total lack of jurisdiction, that is, when the Council of State or the Court of Auditors asserts its own jurisdiction over the area reserved to the legislator or the administration (a so-called invasion or encroachment), or when, on the contrary, it denies jurisdiction on the erroneous assumption that the subject matter cannot, absolutely speaking, be the object of its judicial review (so-called abstention), as well as those scenarios with flaws relating to jurisdiction, when an administrative or Court of Auditors judge asserts jurisdiction over a subject matter attributed to a different jurisdiction or, on the contrary, denies it on the erroneous assumption that it belongs to other courts.

16.– The concept of jurisdictional review, thus laid out in its precise terms, does not allow for intermediate solutions, like the one proposed in the referral order, according to which the broad reading should be limited to cases that involve "abnormal" or "anomalous" judgments or an "upending," sometimes defined as radical, of the "provisions of reference."

Attributing importance to the qualitative measure of the seriousness of the error is, on the theoretical level, incompatible with the definition of the spheres of competence and, on the factual level, a harbinger of uncertainty, in that it falls to the work of contingent and subjective appraisals.

17.– In line with the scope of review on the "external limits" of jurisdiction, as defined above, it is impermissible to challenge judgments where the administrative court or Court of Auditors has adopted an interpretation of a procedural or substantive rule in such a way that the full merits of the case are not subject to adjudication.

As a consequence, in the present case, the question raised is inadmissible due to lack of relevance, given the illegitimacy of the authority of the court in the pending proceedings.

18.– The question as to constitutionality raised by the TAR of Campania is, likewise, inadmissible.

Unlike the Supreme Court of Cassation, the Administrative Court does not request a (partial) ablation of the challenged provision, but rather an additive ruling that confers jurisdiction upon the ordinary courts over disputes related to public-sector employment relationships (also) for facts prior to 30 June 1998 brought after 15 September 2000.

The referring court, however, in providing the reasons for its request, simply states that this would be in line with the purpose of concentrating the matter before a single court – the purpose underlying the reform contained in Legislative Decree No. 165 of 2001 – and with the requirement not to involve the administrative courts for too

long in a jurisdiction that is no longer theirs.

The scanty reasoning says nothing about why the addition requested is considered to be required under the Constitution, in particular given that the jurisdiction that it would attribute to the ordinary courts allegedly also concerns matters relating to employment with the public administration for the time period prior to the entry into force of Legislative Decree No. 29 of 3 February 1993 (Re-ordering of the organization of the public authorities and revision of the regulatory scheme in the area of public employment, in compliance with Article 2 of Law No. 421 of 23 October 1992), when, that is, the employment relationship was still defined as public law and, therefore, and as is well known, characterized by legal statuses entailing legitimate interests, which would thus be diverted from their natural forum, which is the administrative courts (Judgment No. 140 of 2007).

19.– The question as to constitutionality raised by the TAR of Lazio is unfounded.

20.– The starting assumption of the referring court, that Article 69(7), in time-barring the action, clashes with interposed provisions, as confirmed by the *Mottola* and *Staibano* judgments and, through them, also with Article 117(1) of the Constitution, is incorrect.

20.1.– As this Court has already stated, the judgments of the ECtHR "established in the first place that the applicants' right to a fair trial had been violated, as they had not specifically been allowed access to a court of law, given that the time limit provided for under Article 69(7) of Legislative Decree No. 165 of 2001 had initially been interpreted by the courts as a time limit for bringing an action before the administrative courts, without prejudice to the right of action before the ordinary courts, but had subsequently been found to be a substantive cut-off date. According to the ECtHR, the change in the case law (and not the time limit laid down by the provision, which was 'intended to achieve the proper administration of justice' and was 'not excessively short *per se*') prevented the appellants from securing relief, in spite of the fact that they had 'applied to the administrative courts in absolute good faith on the basis of a plausible interpretation of the provisions on the division of competences'" (Judgment No. 123 of 2017).

Still according to the Strasbourg Court, on the basis of this interpretation – according to which Article 69(7) does not stipulate a cut-off date for bringing an action, but is a mere temporal divide between jurisdictions – plaintiffs who erroneously started proceedings in the administrative courts could "take up again" or pursue the judgment before an ordinary court; however, following a "jurisdictional alteration," the Council of State allegedly prevented applicants "from benefitting from this important protection."

20.2.– It is not out of place here to point out, first of all, how a more complete reconstruction of the domestic case law can create doubts that, in the case that gave rise to the *Mottola* and *Staibano* cases, the good faith "surprise" of the appellants, which they rely upon, truly existed.

Indeed, the rulings in question appear to ignore that the case law of the Supreme Court of Cassation, at least that of 2001 (Joint Civil Divisions Nos. 139 of 27 March 2001; 8089 of 4 June 2002; 1511 of 30 January 2003; 9101 of 3 May 2005; 21289 of 3 November 2005; 4846 of 27 February 2013; and 20566 of 30 September 2014), holds that Article 69(7) does not establish jurisdictional allocations, but rather a time limit for bringing an action, and, as a consequence, the court tasked with regulating jurisdiction has always refused review by ordinary courts over the controversies in question.

According to the University of Naples, which complains that it was not able to

take part in the ECtHR proceedings, this incomplete reconstruction of the domestic case law is due to a flawed presentation of the facts by the State of Italy, the only party (aside from the applicants) to the case before the ECtHR (this Court has already highlighted the serious problem of the lack of participation by third parties in those proceedings in the aforementioned Judgment No. 123 of 2017).

20.3.– In any case, what is not in question in the ECtHR decision is the compliance of the provision challenged by the referring courts with the ECHR provisions, because it, in and of itself, establishes a time limit based on a legitimate and (more than) reasonable purpose, which, clearly, also means that it is not unconstitutional.

Moreover, questions as to the constitutionality of Article 69(7), raised on the basis of different domestic provisions – which, in substance, overlap with the ECHR provisions relied upon by the referring court – have always been rejected by this Court (Orders Nos. 197 of 2006, 328 and 213 of 2005, and 214 of 2004).

The underlying assumption of the ECtHR – that is, the effect of surprise owing to the jurisdictional shift in the interpretation of the rule – could potentially lead, where the prerequisites are met, to the application of the institution of waiving the time limit for forgivable error, currently regulated by Article 37 of Legislative Decree No. 104 of 2010, according to which, "the court may, even on its own motion, order the waiver of time limits where there are objective reasons of doubt on matters of law or serious practical impediments."

ON THESE GROUNDS

THE CONSTITUTIONAL COURT

having joined the proceedings,

1) *declares* that the question as to the constitutionality of Article 69(7) of Legislative Decree No. 165 of 30 March 2001 (General provisions on the regulation of employment in the public sector), raised by the Joint Civil Divisions of the Supreme Court of Cassation in reference to Article 117(1) of the Constitution, with the referral order indicated in the Headnote, is inadmissible;

2) *declares* that the question as to the constitutionality of Article 69(7) of Legislative Decree No. 165 of 2001, raised by the Regional Administrative Court of Campania in reference to Article 117(1) of the Constitution, with the referral order indicated in the Headnote, is inadmissible;

3) *declares* that the question as to the constitutionality of Article 69(7) of Legislative Decree No. 165 of 2001, raised by the Regional Administrative Tribunal of Lazio in reference to Article 117(1) of the Constitution, with the referral order indicated in the Headnote, is unfounded.

Decided in Rome, at the seat of the Constitutional Court, *Palazzo della Consulta*, 5 December 2017.

Signed by:

Paolo GROSSI, President

Giancarlo CORAGGIO, Author of the Judgment