JUDGMENT NO. 262 YEAR 2017

In this case, the Court considered two applications from the Supreme Court of Cassation alleging jurisdictional disputes between branches of State with regard to the Senate of the Republic and the President of the Republic. The applications challenged rules adopted by both constitutional bodies that created internal dispute resolution bodies to handle disputes with members of their staffs, and determined that this kind of dispute was to be adjudicated internally. Since this removed labor disputes from the jurisdiction of the ordinary Courts, the Supreme Court of Cassation considered the rules to violate the staff members' rights to legal protection and an impartial judge, as well as an encroachment on its own sphere of competences, since it was prevented from performing judicial review of such cases. Both applications asked the Constitutional Court for a holding on the foundations and the exact delimitation of the powers of self-adjudication pertaining to the two constitutional bodies. Since the terms of the disputes largely overlapped, the Court joined and decided them as part of a single judgment. After recalling that, in cases concerning jurisdictional disputes between branches of State, the Court does not assess questions of the constitutionality of individual regulations, but rather looks at whether they encroach upon another branch of States' constitutionally granted sphere of powers, the Court held both applications to be unfounded. It declared that the Senate of the Republic and the President of the Republic were entitled to adopt the challenged rules in the parts in which they reserved the adjudication of labor disputes brought by their own staff members to internal adjudicatory bodies. This, it held, was a logical extension of the autonomy granted them by the Constitution. Moreover, the resulting compression in the right to a judge did not amount to a denial of this right, since the specific procedures in question established adjudicatory bodies with mechanisms in place to guarantee impartiality and competency in adjudication.

[omitted]

THE CONSTITUTIONAL COURT

[omitted]

gives the following

JUDGMENT

in proceedings concerning a conflict between branches of state, initiated by the Joint Civil Divisions of the Supreme Court of Cassation, following the adoption by the Senate of the Republic of Articles 72 through 84 of Title II (Disputes) of the Consolidated Text of the Rules of the Administration concerning the staff of the Senate of the Republic and following the President of the Republic's adoption of Articles 1 and following of Presidential Decree no. 81 of 24 July 1996, supplemented by Presidential Decree no. 89 of 9 October 1996 and modified by Presidential Decree no. 34 of 30 December 2008, with Applications of 19 December 2014 and 19 January 2015, served on 13 July 2015, filed with the Registry on 16 July 2015, and registered as no. 1 and 2 of the 2015 Register of Disputes Between Branches of State, merits phase.

Considering the entries of appearance of the Senate of the Republic and the President of the Republic, as well as the interventions of the Chamber of Deputies and of P.L.;

having heard from Judge-Rapporteur Giuliano Amato during the public hearing of 19 April 2016;

having heard from State Counsel Massimo Massella Ducci Teri on behalf of the President of the Republic, Federico Basilica on behalf of the Senate of the Republic, and Ruggero Di Martino on behalf of the Chamber of Deputies, as well as Counsel Stefano Battini and Aldo Sandulli on behalf of P.L.;
having heard again from Judge-Rapporteur Giuliano Amato, who has been replaced by Judge Nicolò Zanon for the drafting of the judgment, during the public hearing of 26 September 2017, rescheduled due to the intervening change in the composition of the Court;
having heard again from State Counsel Massimo Massella Ducci Teri on behalf of the President of the Republic, Federico Basilica on behalf of the Senate of the Republic, and Ruggero Di Martino on behalf of the Chamber of Deputies, and Counsel Aldo Sandulli on behalf of P.L.

[omitted]

Conclusions on points of law

1.– The Joint Civil Divisions of the Supreme Court of Cassation, with an order of 19 December 2014 (registered at no. 1 of the 2015 Register of Disputes Between Branches of State), raises a jurisdictional dispute between branches of state concerning the Senate of the Republic's approval of Articles 72 to 84 of Title II (Disputes) of the Consolidated Text of the Rules of the Administration concerning the staff of the Senate of the Republic.
The Applicant states, as a preliminary matter, that it received the case on appeal, brought by a Senate employee under Article 111 of the Constitution, to overturn the 29 September 2011 decision, handed down on appeal, by the Senate Guarantee Committee [*Consiglio di garanzia*], during compliance proceedings stemming from a labor dispute.
The Supreme Court of Cassation alleges that the specified regulatory provisions, by entrusting disputes with the Senate administration, which pertain to the status and to the careers, in terms of legal and financial affairs, of Senate staff members, to decision-making bodies within that branch of the Parliament, bars these employees' access to full legal protection. This allegedly compromises the constitutionally established scope of the judicial power, in violation of Articles 3(1), 24(1), and 102(2) (the lattermost taken together with the sixth Transitory and Final Provision), 108(2), and 111(1) and (2) of the Constitution.
The applicant court underscores, in the first place, that the letter of the Constitution provides for true self-adjudication only in Article 66, according to which each House has the power to adjudicate matters concerning the legality of the admission of its members and any emerging issues of ineligibility and incompatibility. Consequently, it holds that the Senate regulatory provisions – which, on the contrary, designate that even decisions concerning disputes with its employees are to be reserved to internal decision-making bodies – are in conflict with the principles of equality (Article 3(1) of the Constitution), as well as the right of all people to take judicial action to protect their individual rights and legitimate interests (Article 24(1) of the Constitution).
The Applicant also alleges that Article 102(2), which prohibits the institution of extraordinary or special judges, has been violated. The Applicant maintains that this parameter should be taken together with the sixth Transitory and Final Provision of the Constitution, according to which the special jurisdictional bodies that existed at that time should have been revised within five years of its entry into force. In light of this constitutional scheme, the Dispute Settlement Commission [*Commissione contenzioso*] and the Guarantee Committee [*Consiglio di garanzia*] (independently established by the

Senate's autonomous rules as, respectively, the first and appellate level of judgment for disputes initiated by employees against the Senate administration), which were established after the Constitution entered into force, allegedly amount to illegitimate special judges with respect to the ordinary jurisdiction.

Should continuity with the self-adjudicatory structure of the pre-republican system be found, the failure to revise the Senate's self-adjudicatory bodies also allegedly amounts to the violation of Article 111 of the Constitution, which lays down the principle of due process (section 1) and the requirement that adversarial proceedings be carried out before a third-party and impartial judge (section 2), since proceedings carried out "before a judge embedded in one of the parties" could not be considered to be in compliance with these principles.

For the same reason, the principle of the independence of special judges laid down by Article 108(2) of the Constitution is also allegedly not upheld.

According to the Applicant, the violation of these principles and, in particular, of the fundamental right to legal protection, results "not in a defect of unconstitutionality, but rather in a violation of or interference with the judicial power." The sub-regulatory scheme approved by the Senate thus allegedly intrudes upon the powers allotted to the judiciary.

Finally, the Supreme Court of Cassation alleges that the "closed and circumscribed nature of the Senate's system of self-regulation" precludes the possibility of making an extraordinary appeal as provided by Article 111(7) of the Constitution. Even if Senate self-adjudicatory bodies are held to be special jurisdictional bodies, which existed prior to the entry into force of the Constitution of the Republic, and the revision process laid down by the sixth Transitory and Final Provision of the Constitution is held to have taken place, so that the canons of due process and the requirements of impartiality, independence, and third-party status of the judge are met, in any case, and conceding all else, this allegedly still leaves the violation of Article 111(7) and Article 3(1) of the Constitution.

The Applicant thus asks, as an alternative, that if this is to be the case, the Application be accepted in that the specified regulatory provisions do not allow for appeal to the Supreme Court of Cassation for violations of law, as provided by Article 111(7) of the Constitution, against decisions handed down by the self-adjudicatory bodies.

2.– In another dispute, raised with an application of 19 January 2015 (registered as no. 2 of the 2015 Register of Disputes Between Branches of State), the Joint Civil Chambers of the Supreme Court of Cassation ask this Court to declare that the President of the Republic did not have the authority to approve Presidential Decree no. 81 of 24 July 1996, supplemented by Presidential Decree no. 89 of 9 October 1996 and modified by Presidential Decree no. 34 of 30 December 2008, which establish and provide rules for the bodies charged with adjudicating claims brought by personnel of the General Secretariat of the President of the Republic within the Office of the President.

The Applicant states that it was invested with jurisdiction over a claim brought under Article 111(7) of the Constitution by employees of the General Secretariat of the Office of the President of the Republic, appealing the 17 April 2012 decision of the Appellate College [*Collegio d'appello*] of the Office of the President of the Republic, in proceedings brought by the same employees seeking recognition of their entitlement to certain sums of money in the form of compensatory allowances and posting allowances earned during their work for the General Secretariat.

The Supreme Court of Cassation maintains that the aforementioned presidential decrees, in violation of Articles 3(1), 24(1), 102(2), together with the sixth Transitory and Final Provision of the Constitution and Articles 108(1) and 111(1) of the Constitution, deny employees of the General Secretariat of the Office of the President of the Republic access to the legal protection that is generally available in labor disputes, amounting, therefore, to a "violation or disruption of the judicial power."

The Applicant court states, as an initial matter, that the existence of "real and proper" self-adjudication in the area of disputes initiated by staff of the Office of the President of the Republic against that office was denied by the ordinary judiciary up until Judgment no. 6529 of 17 March 2010 of the Joint Civil Chambers of the Supreme Court of Cassation. The Applicant states that that judgment registered the President of the Republic's choice to establish internal bodies to settle such disputes beginning in 1996. As interpreted by the Applicant court, that judgment pointed out, first of all, that this choice was indirectly constitutionally grounded in the power to self-organize and the financial autonomy of that constitutional body; and, second, that bodies established in this way fulfill the requirements set forth by the European Court of Human Rights (ECtHR) in the case of *Savino and others v. Italy* (28 April 2009).

The Supreme Court of Cassation observes that it was against this backdrop that this Court handed down Judgment no. 120 of 2014, claiming that the principles found therein ought also to apply to the self-adjudicatory procedures of the Office of the President of the Republic for disputes concerning the status and careers, in terms of legal and financial affairs, of the staff of that constitutional body.

The Joint Chambers hold that the self-adjudication mechanism of the President of the Republic conflicts with the principle of equality (Article 3(1) of the Constitution) and with the right to take judicial action to protect one's individual rights and legitimate interests (Article 24(1) of the Constitution), reasoning that the fundamental right to judicial protection to which all staff members of that organ are entitled cannot be entirely sacrificed, even if balanced against the President of the Republic's constitutionally guaranteed independence.

The Supreme Court of Cassation further alleges that the challenged provisions violate the prohibition on establishing special judges found in Article 102(2) of the Constitution and in Transitory and Final provision VI, which provides that, within five years of the Constitution coming into effect, the special jurisdictional bodies still in existence had to be revised. Indeed, the Court assumes that the First-level Adjudicatory College [*Collegio giudicante di primo grado*] and the Appellate College [*Collegio d'appello*], which hear claims brought by staff members of the General Secretariat of the Office of the President of the Republic, and which were provided for in the aforementioned presidential decrees, do, in fact, amount to special jurisdictional bodies as opposed to ordinary jurisdiction, and ones that were illegally established after the Constitution had entered into effect.

Alternatively, the Applicant court observes that, were the internal judicial bodies within the Office of the President of the Republic to be held to be legitimate special judges, the denial of access to judicial review in the form of an extraordinary appeal under Article 111(7) of the Constitution and Article 360(4) of the Code of Civil Procedure would still be relevant, with a resulting, unjustified disparity in treatment (Article 3(1) of the Constitution) between staff members of the Office of the President of the Republic and other public employees. It, therefore, asks this Court to accept this dispute and to affirm that one may make an extraordinary appeal to the Court of Cassation to strike down

decisions at the final level or at the single level of the internal adjudicatory system within the Office of the President of the Republic.

In conclusion, the questions concerning the constitutionality of the regulatory provisions regarding self-adjudication – and, above all, the alleged violation of the right to judicial protection to which staff members of the General Secretariat of the Office of the President of the Republic – results in an invasion or disruption of the judicial power of the Supreme Court of Cassation, which was blocked from carrying out the judicial review requested by the appellants.

3.– The proceedings concerning jurisdictional disputes between branches of State initiated by the Joint Civil Divisions of the Supreme Court of Cassation with regard to the Senate of the Republic and the President of the Republic, respectively, both deal with the regulatory measures through which these constitutional bodies regulate disputes with members of their staffs, providing that this kind of dispute is to be adjudicated internally. Both applications ask this Court for a holding on the foundations and the exact delimitation of the powers of self-adjudication pertaining to the two constitutional bodies.

Since the terms of the disputes largely overlap, they must be joined and decided as part of a single judgment (Judgment no. 129 of 1981).

4.– As a preliminary matter, the intervention by P.L., the complainant in the proceedings initiated before the Supreme Court of Cassation (in the proceedings registered as no. 1 of the 2015 Register of Disputes Between Branches of State), must be declared admissible.

In proceedings concerning jurisdictional disputes between branches of States, interventions by parties other than those entitled to initiate or defend against proceedings are generally not permitted to intervene. This rule, however, does not apply when the holding of the constitutional proceedings could impede judicial protection of the legal entitlements claimed by the intervening party (see, most recently, Judgments no. 52 of 2016, 144 of 2015, and 222 and 221 of 2014). This is the situation that applies to P.L. in the proceedings in question, since rejecting the appeal would prevent the intervening party from taking legal action before the ordinary jurisdiction in order to protect one of its legal rights. Therefore, it is necessary to permit P.L. to present arguments before this Court.

5.– The proceedings initiated by the Supreme Court of Cassation are also admissible under Article 37 of Law no. 87 of 11 March 1953 (Provisions concerning the constitution and the functioning of the Constitutional Court), as this Court previously held in its initial and summary judgment, with Orders no. 137 and 138 of 2015, as the prerequisites of both *ratione personae* and *ratione materiae* have been met.

5.1.– Concerning personal jurisdiction, it bears reiterating that the Supreme Court of Cassation may legitimately participate in jurisdictional disputes between branches of state, in light of the well-established case law of this Court, which grants this entitlement to every competent judicial organ, with the full independence granted by the Constitution, to ultimately declare, in the exercise of their functions, the will of the power to which they belong (see, among many, with specific reference to the legitimacy of the Supreme Court of Cassation, Judgments no. 29 and 24 of 2014, 320 of 2013, and 333 of 2011).

Nor does well-established case law leave any doubt as to the qualification of the Senate of the Republic and the President of the Republic as branches of the State (see, among

many, Order no. 139 of 2016 concerning the Senate, and, among many, Judgment no. 1 of 2013 concerning the President of the Republic).

5.2.– The jurisdictional disputes are likewise admissible in terms of subject matter jurisdiction, since both applications describe disputes "to delimit the fixed sphere of powers attributed to the various constitutional powers" (Article 37(1) of Law no. 87 of 1953).

The State Counsel's Office [*Avvocatura Generale dello Stato*] alleges, with regard to both disputes, that the Supreme Court of Cassation has based its conclusions on a misinterpretation of this Court's Judgment no. 120 of 2014. It is the State Counsel's Office's view that the regulatory power with which the internal adjudicatory bodies were established cannot be called into question by means of a jurisdictional dispute, which allegedly may only examine its exact scope, proper exercise, and proportionality "with regard to the prerogatives of other bodies that act as repositories of the system's values (separation of powers; protection of fundamental rights)" through the denunciation of individual "acts that violate constitutionally inalienable rights," as well as, with regard to the independence of the Chambers and of the President of the Republic, the "responsiveness to the criterion of the existence of a functional link" of the judgment passed on the individual labor controversy by the internal dispute body. If these criteria are not met, an inappropriate overlap supposedly occurs between the two types of judgments, that concerning constitutionality and that concerning conflict of powers, because this overlap would invoke a decision regarding aspects that go beyond the objective scope of a dispute (and which had been, moreover, already scrutinized in proceedings on constitutional legitimacy).

The objection is unfounded.

The individual implementing measures adopted by a constitutional source of law are nothing more than the consequence of that source's provisions granting internal bodies the authority to decide labor controversies involving their own employees. The Applicant claims that the approval of these sources itself violates its sphere of constitutionally attributed powers. Thus, these constitutional sources of law are the object of both disputes, in that it is the Applicant's view that they alter the constitutional order of powers to the detriment of the competences of the Supreme Court of Cassation

According to this Court's well-established case law, this matter involves sources of law that are not subject to review as part of constitutional proceedings on an interlocutory basis (Judgments no. 120 of 2014 and 154 of 1985). Nevertheless, this same body of case law has acknowledged that these sources are capable of giving rise to conflicts of powers if they invade competences constitutionally attributed to a different constitutional body.

Therefore, the conflicts here in question are admissible, because the Supreme Court of Cassation – despite placing emphasis on the alleged violation of the fundamental rights of private individuals by the challenged regulations – alleges that the autonomous source of law wrongly removes a portion of its jurisdictional authority from the Supreme Court of Cassation.

The other objections of inadmissibility made by the State Counsel's Office in the memoranda submitted at the time of the public hearing, which concern the allegedly contradictory quality of the claims contained in the application, must also be denied. Indeed, this alleged contradiction touches on aspects of the merits of the case, and should be evaluated together with them.

6.– Finally, another preliminary matter that bears noting is that this Court, in proceedings for conflicts between branches of State, is not called upon to adjudicate individual questions concerning the constitutionality of regulations, raised in relation to specific constitutional parameters, but rather to ensure a constitutional distribution of competences among the conflicting bodies. The challenges raised by the Applicant, which concern the violation of individual rights, that is, concerning the violation of specific constitutional parameters, must be evaluated in light of the type of proceedings initiated before this Court, which are intended to verify whether the Senate of the Republic and the President of the Republic are entitled to pass regulations giving internal bodies jurisdiction over disputes brought by their own staff members, removing them from judicial jurisdiction, to the detriment, therefore, of its sphere of competence.

For this reason, although in both its applications the Applicant complains that multiple constitutional parameters have been breached, above all Article 24 of the Constitution – essentially pertaining to the scope of the right to bring an individual legal action on the part of the complainants in the underlying proceedings – what matters for purposes of the present case concerning conflict is that the Applicant took care to justify the impact of the alleged violations on the basis of its own sphere of constitutional competence. It is on the alleged violation of this sphere that this Court must pass judgment.

7.– Both applications are unfounded.

7.1.– Self-adjudication – presented here in the form of the power of constitutional bodies to use internal bodies to adjudicate disputes pertaining to the status and careers, in terms of legal and financial affairs, of their staff members, in application of apposite regulatory schemes established by the constitutional bodies themselves – is a traditional manifestation of the sphere of autonomy granted to constitutional bodies, and is strictly bound to how constitutional experience plays out in concrete terms.

This Court must take into consideration the circumstances that led the constitutional bodies in question to consider the practice of self-adjudication one of the conditions for the extension of their autonomy – on the basis of a longstanding tradition for the Parliament and in virtue of more recent developments regarding the President of the Republic – and, therefore, for the free and efficient execution of their functions. In light of this, it is in question here whether the exception to the common jurisdiction implied by self-adjudication (in particular the removal of disputes between the bodies in question and their staff members from the common jurisdiction) violates the constitutional ordering of powers.

7.2.– It is well known that the autonomy granted by the Constitution to constitutional bodies – the Parliament and the President of the Republic, for present purposes – becomes evident, first of all, at the regulatory level. The Constitution only makes explicit mention of this in reference to the Houses, conferring up on each one the power to adopt their own Rules (Article 64 of the Constitution). Nevertheless, this Court has already recognized that the rules adopted by the President of the Republic are supported by an implicit constitutional foundation, which attributes to the law in which they are found (Law no. 1077 of 9 August 1948, providing "Establishment of the salary and endowment of the President of the Republic and establishment of the General Secretariat of the Office of the President of the Republic") a merely declaratory character (Judgment no. 129 of 1981).

In addition, constitutional case law has had occasion to delineate the limits of the rule-making autonomy that the Constitution assigns to both the Parliament and the President of the Republic. Concerning the Parliament, this Court has affirmed that the autonomy

in question is not limited only to regulating legislative processes, for the portion not directly regulated by the Constitution, but also applies to their internal organization (Judgment no. 120 of 2014). As concerns the President of the Republic, this Court has pointed out that this constitutional body necessitates its own organizational apparatus, not only in order to manage the goods associated with the Presidential endowment, but also to allow for the free and efficient exercise of that office's functions, thus guaranteeing the independence of the President with respect to other State powers (Judgment no. 129 of 1981).

Referring to both constitutional bodies, this Court has definitively explained that the regulatory authority in question puts these constitutional bodies in the necessary conditions to provide for the "production of specific legal rules to govern the structure and functioning of their bureaucracies" (Judgment no. 129 of 1981).

Thus, rule-making autonomy logically carries over to organizational aspects, including matters related to the functioning of the administrative bureaucracies, which allow the constitutional bodies to carry out their constitutional functions freely and in an efficient way.

This same foundation supports the authority of constitutional bodies to adopt labor rules for their employment relationship with their staff members. Indeed, good exercise of the high constitutional functions granted to the constitutional bodies in question depends to a crucial degree on how their personnel is selected, regulated, organized, and managed.

On the other hand, this regulatory autonomy has a foundation that also represents its limit: if constitutional bodies are permitted to regulate their employment relationship with their staff members, they are not, however, entitled as a matter of principle to appeal to their own regulatory authority either to regulate legal relationships with third parties or to reserve to their own self-adjudicatory bodies jurisdiction over potential disputes involving their rights and entitlements (consider, for example, disputes relating to tender procedures and provision of services used by the administrations of constitutional bodies). Moreover, these kinds of disputes, although they deal with relationships that are not unrelated to the exercise of constitutional bodies' functions, in principle do not concern purely internal matters and, therefore, cannot be removed from the common jurisdiction.

7.3.– Constitutional case law has long acknowledged that the autonomy of constitutional bodies "is not entirely spent in the creation of rules, but also includes (as is logical) the application of those rules, including making choices concerning the concrete adoption of measures suitable for ensuring compliance with them" (Judgment no. 129 of 1981 and, in the same sense, Judgments no. 120 of 2014 and 379 of 1996). This time of application, which precisely describes the self-adjudication under discussion here, therefore amounts to an exercise of the regulatory autonomy that the Constitution explicitly or implicitly grants to the Parliament and the President of the Republic.

All of this is necessarily valid as concerns direct regulation of the primary constitutional functions allotted to the systems' highest bodies: think, for example, of parliamentary voting procedures, which not only fall entirely under the defining capacity of the rules of Parliament, to the exclusion of any alternative defining authority on the part of ordinary law, but are also excluded from any "external" powers of fact-finding and interpretation, particularly by the judiciary (Judgment no. 379 of 1996). This is also true for the interpretation and application of rules applying to employment relationships, in

cases of disputes between employees and the constitutional body by which they are employed (in this case the Parliament and the President of the Republic).
In other words, the Parliament and the President of the Republic have provided for the regulation of their employment relationships with their staff members through their own sources of law, considering this choice to be in service of maximally guaranteeing their respective autonomy. The resulting reservation of the interpretation and application of these sources to their own self-adjudicating bodies does not amount to an alteration of the constitutional order of powers nor, in particular, a violation of the powers of the Applicant judicial authority. Rather, it amounts to the logical fulfillment of the organizational autonomy of the constitutional bodies in question, in relation to their necessary bureaucracies, the organization and management of which is thus removed from any external interference.
In line with this reasoning, the reservation expressly stated by this Court in Judgment no. 120 of 2014, which dubbed the limits and foundations of self-adjudication a "disputed issue" must, therefore, be eliminated: it does not violate the constitutionally allotted competences of others inasmuch (and only inasmuch) as it concerns the employment relationships with staff members.
If, on the contrary, this Court granted that constitutional bodies could, by dint of the autonomy they are granted, regulate for themselves their relationships with their employees, only to then permit the bodies of the common jurisdiction to interpret and apply these special regulations, it would amount to cutting in half the very autonomy it is intended to guarantee.
7.4.– It, therefore, falls to self-adjudicatory bodies to adjudicate staff members' legal entitlements, rather than to the "common" judicial authorities.
This means, first of all, that the legal entitlements of staff members are not bereft of protection, as the applicant alleges.
In cases in which such protection was, in fact, nonexistent, this Court has recognized, and here may only reiterate, that the "supreme principle" of the right to a judge and to effective legal protection of one's rights, as one of the choices that belongs among the great principles of present-day civilization, cannot tolerate exceptions (Judgment no. 238 of 2014).
Nevertheless, in the case at bar, the protection of the legal entitlements of staff members, in disputes against the constitutional body, is ensured by the establishment of internal bodies and procedural safeguards that are structured in a variety of ways, in a context that, at once, removes the interpretation and application of the specific rules adopted by the constitutional organs for such matters from external interference.
The protection of employees is thus assured not through a special judge as described in Article 102 of the Constitution, but rather through internal bodies that do not belong to the judiciary, that are both justified by and geared toward better guaranteeing the autonomy of the constitutional body.
Tasking an internal board with the role of interpreting and applying the rules governing the employment relationships of staff members with the constitutional organs that employ them, as well as the removal of any decisions made by these boards from the common jurisdiction, is decidedly a reflection of the autonomy of these constitutional bodies.
Since the self-regulatory bodies were not structured as special judges, it is not possible to configure the appeal to overturn their decisions under Article 111(7) of the Constitution.

As a second point, and the one that carries the most weight for purposes of recognizing the existence of effective protection in this case, it bears emphasizing that the internal rules adopted by the Parliament and the President of the Republic have established self-adjudicatory bodies which, although "internal" and separate from the judicial system, have been established according to rules intended to guarantee their independence and impartiality, as the constitutional principles found in Articles 3, 24, 101, and 111 of the Constitutional demand with regard to the function of adjudication, and as the European Court of Human Rights (ECtHR) has called for, particularly in its 28 April 2009 judgment in *Savino and others v. Italy*.

Specifically, the Parliamentary rules currently provide an adequate degree of incompatibility, intended to prevent a situation in which the same person can contemporaneously take part in both the administrative body that oversees personnel (the Counsel of the President of the Senate and the Office of the President of the House) and the self-adjudicatory bodies at the first or appellate level. Moreover, although providing that the members of these bodies must be chosen, in large part, from among the members of Parliament, the same rules require that they possess certain technical skills, based on the correct assumption that their professional qualifications may contribute to their independent execution of the role (Judgment no. 177 of 1973).

For its part, the Office of the President of the Republic established first- and appellate-level bodies, made up only of magistrates, appointed by presidential decree after being proposed by the Secretary General, and upon nomination by the Presidents of the respective adjudicatory bodies.

Nor should it be overlooked that, in the cases of both constitutional bodies, judgments at both the first and appellate level are to be carried out according to procedural forms that are substantially judicial in nature, and appropriate for guaranteeing the right of defense and an effective adversarial process.

All this serves to further confirm that the exception to judicial jurisdiction at bar, which is reflected in the corresponding limitation of the right to a judge, does not amount to the total denial of this right. Indeed, the limitation is compensated for by the presence of internal remedies entrusted to bodies which, although created within the context of the contested administrations, nevertheless guarantee, as far as the nomination procedure and competency are concerned, that the adjudication of these disputes is taken on in compliance with the principle of impartiality, and, at the same time, ensure that decision-makers have specialized competency in deciding disputes presenting elements within a particular area of expertise (an expertise recognized, moreover, by the private party that intervened in these proceedings in support of this Court's upholding of the action).

Thus, one may affirm that the self-adjudicatory bodies are intended to settle disputes between the administration of a constitutional body and its staff members from a *super partes* position and according to procedural forms that are judicial in character. They are, therefore, intended to carry out functions that are objectively judicial, to decide cases in which the legal entitlements of employees are at stake. Not by chance, this Court has already acknowledged that the objectively judicial character of the activities of the self-adjudicatory bodies, situated in a position of independence, makes them judges for purposes of their legitimate ability to raise questions of the constitutionality of the legal rules to which the sources of law refer (Judgment no. 213 of 2017; earlier, for the qualification of similar situations, Judgments no. 376 of 2001 and 12 of 1971).

8.– For the reasons laid out above, the approval by the Senate of the Republic and the President of the Republic, of the challenged rules does not amount to a violation of the allocated powers of the Applicant, the Joint Civil Divisions of the Supreme Court of Cassation. The applications for proceedings for conflict of power among branches of State brought by it must, therefore, be rejected.

ON THESE GROUNDS

THE CONSTITUTIONAL COURT

having joined the judgments,

declares that the Senate of the Republic and the President of the Republic were entitled to adopt the rules challenged by the applications listed in the Headnote, in the parts in which they reserve the adjudication of labor disputes brought by their own staff members to internal adjudicatory bodies.

Decided in Rome, at the seat of the Constitutional Court, *Palazzo della Consulta*, on 26 September 2017.