



Ministero dell'Interno

Concorso pubblico, per titoli ed esami, a 250 posti per l'assunzione a tempo indeterminato di personale altamente qualificato per l'esercizio di funzioni di carattere specialistico, appartenente al profilo professionale di funzionario amministrativo, area funzionale terza, posizione economica F1, del ruolo del personale dell'Amministrazione civile dell'interno, da destinare esclusivamente alle Commissioni territoriali per il riconoscimento della protezione internazionale ed alla Commissione nazionale per il diritto di asilo, indetto con decreto ministeriale del 26 aprile 2017, pubblicato nella Gazzetta Ufficiale della Repubblica Italiana 4^a Serie Speciale "Concorsi ed Esami" numero 33 del 2 maggio 2017

Art. 10, comma 3, lett. a) del Bando di Concorso - *READING AND USE OF ENGLISH*

READING AND USE OF ENGLISH II

SOME AREAS OF JURISDICTION OF THE CONSTITUTIONAL COURT

European Constitutional Courts are generally assigned broad jurisdiction: they not only review the constitutionality of laws but also, for instance, solve conflicts between the central government and subnational states, as happens in Germany, or between the State and the Regions. This last is the Italian case. Moreover, there are systems, such as the Spanish or German ones and many others of Central-Eastern Europe, that allow direct recourse to the Court in cases of infringement of citizens' fundamental rights and liberties. Comparing the Italian Constitutional Court with many of its European counterparts, the adjudicatory authority of the former is not very broad. Looking at Art. 134 of the Constitution, and Art. 2 of the Constitutional Law of March 11, 1953, we may single out four areas of jurisdiction.

1. CONFLICTS OF ATTRIBUTIONS

The Italian Constitution, based on the idea of a strong institutional pluralism, establishes complex relationships between the branches of government. Due to this complexity, the Constitutional Court settles "conflicts of attributions" - that is to say disputes regarding which body is entitled to exercise a certain power - which may arise among the different powers of the State. These conflicts find their way to the Constitutional Court when they are not resolved through political mediation, and may derive from the horizontal allocation of state powers among the constitutional organs of the State (*conflitti interorganici*), and from the vertical allocation of powers between State and Regions and among Regions (*conflitti intersoggettivi*). In the first case, the Court has jurisdiction over conflicts "arising between organs entitled to take the final decision from the branch of government to which they belong and to establish the amount of their power as provided by the Constitution" (Art. 37 par. 1, Law n. 87/1953).

The word "organs" has been given a broad interpretation and includes, for example: the Chamber of Deputies, the Senate, the President of the Republic, the Prime Minister and, according to a relatively recent case, even a single Minister. Other State institutions may also be included, such as the High Council of the Judiciary (*Consiglio Superiore della Magistratura*) and the Court of Audit (*Corte dei Conti*). In the case of conflicts of attributions between constitutional organs, the Constitutional Court must determine the sphere of competence conferred upon the State powers by constitutional provisions, and it must declare to which

organ the challenged power belongs. When the Court concludes that an act has been adopted by a body that is not competent to do so under its constitutional allocation of powers, the Court must annul that act.

As regards conflicts between State and Regions or among Regions, it must be remembered that the Constitution provides for a strong decentralization of many functions from the State to the Regions and that the Constitution has been specifically amended to strengthen that decentralization even further. If the State invades the sphere of autonomy attributed to the Regions or if a Region exceeds its own sphere, the Constitutional Court has original jurisdiction over the conflict. Obviously, the parties to the controversy are the State and the Regions that stand before the Court respectively in the persons of the Prime Minister and the President of the Regional Government (*Giunta regionale*).

2. CHARGES AGAINST THE PRESIDENT OF THE REPUBLIC

The Constitutional Court also has jurisdiction over charges against the President of the Republic. The President of the Republic is not responsible for acts performed in his executive role, and can be prosecuted only for high treason or offenses against the Constitution. In such cases, he shall be impeached by an absolute majority of the members of Parliament sitting in joint session, and then tried by the Constitutional Court. When judging a Presidential impeachment, 16 lay judges enlarge the composition of the Court.

3 ADMISSIBILITY OF REFERENDA

According to Art. 75 of the Constitution, a popular referendum can be held when 500,000 electors or five Regional Councils request it, in order to totally or partially repeal a law. The Constitutional Court is given the authority to decide on the admissibility of a referendum, based on the fact that, under Art. 75 of the Constitution, tax or budgetary laws, laws for amnesty or general pardon, or laws authorizing the ratification of international treaties cannot be subject to referendum. Whereas in the above-mentioned categories of jurisdiction and in the case of legislative review the Constitutional Court plays a quintessentially judicial role, in the referendum process its role is different. Here, the Court performs its duties *ex officio*, due to its position as a constitutional body *super partes*. Nevertheless, since the Court has to decide whether a law falls within one of the “prohibited” categories of Art. 75, the judgment over the admissibility of a referendum can be difficult.

4. JUDICIAL REVIEW OF LEGISLATION

Finally, there is the power of the Court to review the constitutional validity of laws. Indeed, the power of judicial review used to be by far the most important power of the Court, but, following the constitutional amendments of Articles 123 and 127 of the Constitution, implemented through two important constitutional laws of 1999 and 2001, the conflicts of attribution between the State and the Regions have gained more importance. In fact, after these constitutional reforms, which reassessed the balance between the central State and the Regions’ respective legislative powers, the Court has increasingly been called upon to resolve issues of the allocation of power and authority (division of competences) among different levels of government rather than to guarantee fundamental rights through the exercise of judicial review.



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READING AND USE OF ENGLISH II

After reading the text, answer the following questions:

1. What are the four areas of jurisdiction of the Italian Constitutional Court described in the text?
2. What is meant by "conflicts of attributions"?
3. In the case of conflicts of attributions between constitutional organs, what must the Constitutional Court do?
4. As regards conflicts between State and Regions or among Regions, what does the Constitution provide for?
5. In which cases can the President of the Republic be prosecuted?
6. What does it happen in those cases where the President of the Republic is prosecuted?
7. According to Art. 75 of the Constitution, when is it possible to hold a popular referendum?
8. What is the role of the Constitutional Court in the referendum process?
9. What is the role of the Constitutional Court in the judicial review of legislation?
10. After the constitutional reforms of 1999 and 2001, what has the Constitutional Court increasingly been called upon to do?