

3. Consequently, must not Article 53 of Directive 2013/36/EU⁽²⁾ of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (text with EEA relevance), and the provisions of national law that reflect it, be reconciled with the remaining rules and principles of European law, as set out in the first question, to the effect that access may be granted, where requested after the banking institution has been placed in compulsory liquidation, including where the request for access is not made exclusively in the context of civil or commercial proceedings that have actually been brought to protect the financial interests that have been prejudiced because the banking institution has been placed in compulsory liquidation, but also where the request is addressed to a judicial body authorised by the national State to safeguard the right of access and transparency, specifically in order to determine the actual possibility of bringing such civil or commercial proceedings, before they are in fact instituted, with a view to protecting in full the rights of defence and the right to bring proceedings, with specific reference to the request of a saver who has already suffered the effects of burden sharing in connection with the winding up of the credit institution with which he deposited his savings?

⁽¹⁾ OJ 2013 L 287, p. 63.

⁽²⁾ OJ 2013 L 176, p. 338.

**Request for a preliminary ruling from the Corte suprema di cassazione (Italy) lodged on
23 November 2016 — Enzo Di Puma v Commissione Nazionale per le Società e la Borsa (Consob)**

(Case C-596/16)

(2017/C 063/20)

Language of the case: Italian

Referring court

Corte suprema di cassazione

Parties to the main proceedings

Appellant: Enzo Di Puma

Respondent: Commissione Nazionale per le Società e la Borsa (Consob)

Questions referred

1. Is Article 50 of the Charter of Fundamental Rights of the European Union to be interpreted as meaning that, when a court has delivered a final judgment finding a defendant not to have committed the criminal offence alleged, this precludes the initiation or prosecution of further proceedings based on the same facts with a view to the imposition of penalties which, on account of their nature and severity, may be regarded as criminal penalties, without it being necessary for the national court to make any further assessment?
2. In assessing the effectiveness, proportionality and dissuasiveness of penalties, in the context of determining whether there has been a breach of the principle *ne bis in idem* referred to in Article 50 of the Charter of Fundamental Rights of the European Union, must the national court take into account the limits for sanctions laid down in Directive 2014/57/EU? ⁽¹⁾

⁽¹⁾ Directive 2014/57/EU of the European Parliament and of the Council of 16 April 2014 on criminal sanctions for market abuse (market abuse directive) (OJ 2014 L 173, p. 179).