

- a) describes the claim simply by assigning a specific amount to it without stating the date on which that claim arose (for example, as a 'claim by the subcontractor JSV Slawomir Kubica in respect of the carrying out of roadworks');
- b) does not state the date on which the claim arose in the claims form itself, but such a date may be inferred from the annexes submitted with that form (for example, on the basis of the date stated on the invoice submitted)?

Question 3b:

Is Article 41 of Council Regulation (EU) No 1346/2000 of 29 May 2000 on insolvency proceedings (the Insolvency Regulation) to be interpreted as not precluding the application of national provisions — for example those relating to the requirement to state the day on which a claim arose — which are more favourable in the particular case to the creditor lodging the claim, who is established in a Member State other than the State of the opening of proceedings?

⁽¹⁾ OJ 2012 L 351, p. 1.

⁽²⁾ OJ 2000 L 160, p. 1.

**Request for a preliminary ruling from the Tribunale Amministrativo Regionale per il Lazio (Italy)
lodged on 29 January 2018 — Antonio Pasquale Mastromartino v Commissione Nazionale per le
Società e la Borsa (Consob)**

(Case C-53/18)

(2018/C 142/40)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale per il Lazio (Italy)

Parties to the main proceedings

Applicant: Antonio Pasquale Mastromartino

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

Questions referred

1. Is a 'tied agent' covered by the harmonisation provided for in Directive No 2004/39/EC of the European Parliament and of the Council, of 21 April 2004, ⁽¹⁾ and from what aspects;
2. Is the correct application of Directive No 2004/39/EC of the European Parliament and the Council of 21 April 2004, in particular Articles 8, 23 and 51 of that directive, and of the principles and rules of the Treaties with regard to non-discrimination, proportionality, freedom to provide services and the right of establishment precluded by provisions of national law, such as those in Article 55(2) of Legislative Decree No 58 of 24 February 1998 (Consolidated Law on provisions on financial intermediation pursuant to Articles 8 and 21 of Law No 52 of 6 February 1996), as amended, and also Article 111, paragraph 2 of the Resolution No 16190 of the Commissione Nazionale per le Società e la Borsa — Consob of 29 October 2007 (Regulation laying down the rules implementing Legislative Decree No 58 of 24 February 1998 on intermediaries), that:
 - a) allows the 'discretionary' prohibition of the exercise of the activity of a 'tied agent' (adviser authorised to offer offsite services — formerly financial planner) in relation to actions not entailing the loss of good repute, as defined by national law, and at the same time do not concern compliance with the provisions implementing the Directive;

- b) allows the 'discretionary' prohibition for up to one year of the exercise of the activity of 'tied agent' (consultant authorised to provide offsite services — formerly financial [Or. 13] planner) in proceedings seeking to prevent the 'strepitus' deriving from the charge in criminal proceedings whose duration is as a rule much longer than a year'?

⁽¹⁾ Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ 2004 L 145, p. 1).

**Request for a preliminary ruling from the Tribunale Amministrativo Regionale per il Piemonte (Italy)
lodged on 29 January 2018 — Cooperativa Animazione Valdocco S.C.S. Impresa Sociale Onlus v
Consorzio Intercomunale Servizi Sociali di Pinerolo, Azienda Sanitaria Locale To3 di Collegno e
Pinerolo**

(Case C-54/18)

(2018/C 142/41)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale per il Piemonte

Parties to the main proceedings

Applicant: Cooperativa Animazione Valdocco S.C.S. Impresa Sociale Onlus

Defendants: Consorzio Intercomunale Servizi Sociali di Pinerolo, Azienda Sanitaria Locale To3 di Collegno e Pinerolo

Questions referred

1. Do the European rules on the rights of defence, due process and effective substantive operation of the protection afforded, in particular, by Articles 6 and 13 of the ECHR, Article 47 of the Charter of Fundamental Rights of the European Union and Article 1(1) and (2) of Directive 89/665/EEC ⁽¹⁾ preclude a provision of national law, such as Article 120(2-bis) of the Codice del Processo amministrativo (Italian Code of Administrative Procedure), which requires an operator taking part in a tendering procedure to challenge the admission of/failure to exclude another entity, within a period of 30 days of the communication of the decision to admit/exclude participants?
2. Do the European rules on the rights of defence, due process and effective substantive operation of the protection afforded, in particular, by Articles 6 and 13 of the ECHR, Article 47 of the Charter of Fundamental Rights of the European Union and Article (1) and (2) of Directive 89/665/CEE, preclude a provision of national law, such as Article 120(2-bis) of the Codice del Processo amministrativo (Italian Code of Administrative Procedure), which prevents an economic operator from claiming, upon conclusion of the procedure, even by cross-appeal, that the decision to admit other operators is unlawful, in particular the one awarded the contract or the applicant in the main action, if they had not previously challenged the decision to admit in the manner set out in the preceding question?

⁽¹⁾ Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (OJ 1989 L 395, p. 33).