



Reports of Cases

Case C-594/16

Enzo Buccioni
v
Banca d'Italia

(Request for a preliminary ruling from the Consiglio di Stato)

(Reference for a preliminary ruling — Approximation of laws — Directive 2013/36/EU — Article 53(1) — Obligation of professional secrecy on national authorities charged with prudential supervision of credit institutions — Credit institution which is being compulsorily wound up — Disclosure of confidential information in civil or commercial proceedings)

Summary — Judgment of the Court (Fifth Chamber), 13 September 2018

1. *Economic and monetary policy — Economic policy — Supervision of the EU financial sector — Single supervisory mechanism — Prudential supervision of credit institutions — Exchange of information between competent authorities — Obligation of professional secrecy — Subject-matter*

(European Parliament and Council Directive 2013/36, Art. 53(1))

2. *Economic and monetary policy — Economic policy — Supervision of the EU financial sector — Single supervisory mechanism — Prudential supervision of credit institutions — Exchange of information between competent authorities — Obligation of professional secrecy — Scope — Disclosure of information to a third party seeking to institute civil or commercial proceedings with a view to protecting proprietary interests which were prejudiced as a result of the compulsory liquidation of a credit institution — No infringement — Conditions*

(European Parliament and Council Directive 2013/36, Art. 53(1))

1. The effective implementation of the prudential supervision regime for credit institutions that the EU legislature established by adopting Directive 2013/36, through supervision within a Member State and the exchanging of information by the competent authorities of several Member States, as briefly described in the preceding paragraphs, requires that both the supervised credit institutions and the competent authorities can have confidence that the confidential information provided will, in principle, remain confidential (see, by analogy, judgment of 19 June 2018, *Baumeister*, C-15/16, EU:C:2018:464, paragraph 31). The absence of such confidence is liable to compromise the smooth transmission of the confidential information that is necessary for prudential monitoring (see, by analogy, judgment of 19 June 2018, *Baumeister*, C-15/16, EU:C:2018:464, paragraph 32). Therefore, in order to protect not only the specific interests of the credit institutions directly concerned, but also the public interest linked, in particular, to the stability of the financial system within the European Union, Article 53(1) of Directive 2013/36 imposes, as a general rule, the obligation to maintain professional secrecy (see, by analogy, judgment of 19 June 2018, *Baumeister*, C-15/16, EU:C:2018:464, paragraph 33). Finally, the specific cases in which the general rule that disclosure of confidential

information held by the competent authorities is prohibited, laid down in Article 53(1) of Directive 2013/36, does not, exceptionally, preclude their communication or use, are exhaustively set out in that directive (see, by analogy, judgment of 19 June 2018, *Baumeister*, C-15/16, EU:C:2018:464, paragraph 38).

(see paras 27-30)

2. Article 53(1) of Directive 2013/36/EU 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, must be interpreted as not precluding the competent authorities of the Member States from disclosing confidential information to a person who so requests in order to be able to institute civil or commercial proceedings with a view to protecting proprietary interests which were prejudiced as a result of the compulsory liquidation of a credit institution. However, the request for disclosure must relate to information in respect of which the applicant puts forward precise and consistent evidence plausibly suggesting that it is relevant for the purposes of civil or commercial proceedings, the subject matter of which must be specifically identified by the applicant and without which the information in question cannot be used. It is for the competent authorities and courts to weigh up the interest of the applicant in having the information in question and the interests connected with maintaining the confidentiality of the information covered by the obligation of professional secrecy, before disclosing each piece of confidential information requested.

(see para. 40, operative part)