

**Request for a preliminary ruling from the Tribunale Amministrativo Regionale per il Lazio (Italy)
lodged on 19 December 2016 — Hitachi Rail Italy Investments Srl v Commissione Nazionale per le
Società e la Borsa (Consob)**

(Case C-655/16)

(2017/C 121/14)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale per il Lazio

Parties to the main proceedings

Applicant: Hitachi Rail Italy Investments Srl

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

Question referred

Is the proper application of the second subparagraph of Article 5(4) of Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids, ⁽¹⁾ in the light of the general principles laid down in Article 3(1) thereof, and in the light of the proper application of the general principles of European law relating to legal certainty, protection of legitimate expectations, proportionality, reasonableness, transparency and non-discrimination, prevented by a provision of national law such as Article 106(3)(d)(2) of Legislative Decree No 58 of 24 February 1998 (consolidating all provisions in the field of financial intermediation within the meaning of Articles 8 and 21 of Law No 52 of 6 February 1996), as subsequently amended, and Article 47 *octies* of the Decision of the Commissione Nazionale per le Società e la Borsa — Consob No 11971 of 14 May 1999 (Order implementing Legislative Decree No 58 of 24 February 1998 laying down rules applicable to offerees), as subsequently amended, in so far as those provisions authorise Consob to increase the takeover bid as referred to in Article 106 where the condition that ‘there has been collusion between the offeror or the persons acting in concert with it and one or more sellers’ is fulfilled, without identifying the specific actions which constitute such a situation, and thus without determining clearly the conditions and criteria under which Consob is authorised to adjust upwards the price of the takeover bid?

⁽¹⁾ OJ 2004 L 142, p. 12.

**Request for a preliminary ruling from the Tribunale Amministrativo Regionale per il Lazio (Italy)
lodged on 19 December 2016 — Finmeccanica SpA v Commissione Nazionale per le Società e la
Borsa (Consob)**

(Case C-656/16)

(2017/C 121/15)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale per il Lazio

Parties to the main proceedings

Applicant: Finmeccanica SpA

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

Question referred

Is the proper application of the second subparagraph of Article 5(4) of Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids,⁽¹⁾ in the light of the general principles laid down in Article 3(1) thereof, and the proper application of the general principles of European law relating to legal certainty, protection of legitimate expectations, proportionality, reasonableness, transparency and non-discrimination, prevented by a provision of national law such as Article 106(3)(d)(2) of Legislative Decree No 58 of 24 February 1998 (consolidating all provisions in the field of financial intermediation within the meaning of Articles 8 and 21 of Law No 52 of 6 February 1996), as subsequently amended, and Article 47 *octies* of the Decision of the Commissione Nazionale per le Società e la Borsa — Consob No 11971 of 14 May 1999 (Order implementing Legislative Decree No 58 of 24 February 1998 laying down rules applicable to offerees), as subsequently amended, in so far as those provisions authorise Consob to increase the takeover bid as referred to in Article 106 where the condition that ‘there has been collusion between the offeror or the persons acting in concert with it and one or more sellers’ is fulfilled, without identifying the specific actions which constitute such a situation, and thus without determining clearly the conditions and criteria under which Consob is authorised to adjust upwards the price of the takeover bid?

⁽¹⁾ OJ 2004 L 142, p. 12.

**Request for a preliminary ruling from the Tribunale Amministrativo Regionale per il Lazio (Italy)
lodged on 19 December 2016 — Bluebell Partners Limited v Commissione Nazionale per le Società e
la Borsa (Consob)**

(Case C-657/16)

(2017/C 121/16)

Language of the case: Italian

Referring court

Tribunale Amministrativo Regionale per il Lazio

Parties to the main proceedings

Applicant: Bluebell Partners Limited

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

Question referred

Is the proper application of the first and second subparagraphs of Article 5(4) of Directive 2004/25/EC of the European Parliament and of the Council of 21 April 2004 on takeover bids,⁽¹⁾ in the light of the general principles laid down in Article 3(1) thereof, and in the light of the proper application of the general principles relating to the protection of legitimate expectations, proportionality, reasonableness, transparency and non-discrimination, prevented by a provision of national law such as Article 106(3)(d)(2) of Legislative Decree No 58 of 24 February 1998 (consolidating all provisions in the field of financial intermediation within the meaning of Articles 8 and 21 of Law No 52 of 6 February 1996), as subsequently amended, and Article 47 *octies* of the Decision of the Commissione Nazionale per le Società e la Borsa — Consob No 11971 of 14 May 1999 (Order implementing Legislative Decree No 58 of 24 February 1998 laying down rules applicable to offerees), as subsequently amended, in so far as those provisions, in authorising Consob to increase the price of the takeover bid as referred to in Article 106 where collusion is found to have taken place between, on the one hand, the offeror or the persons acting in concert with it and, on the other hand, one or more sellers, simply refer to the criterion of the ‘price ascertained’ without specifying the parameters and criteria for such a finding?

⁽¹⁾ OJ 2004 L 142, p. 12.