

- it cannot be accepted that contracting authorities that are not signatories to the framework agreement refrain from determining the quantity of services that may be required when they conclude contracts pursuant to the framework agreement or determine that quantity by reference to their usual requirements, because, if they do so, the principles of transparency and equal treatment of economic operators with an interest in the conclusion of that framework contract will be infringed.

⁽¹⁾ OJ C 277, 21.8.2017.

Judgment of the Court (Grand Chamber) of 19 December 2018 (request for a preliminary ruling from the Consiglio di Stato — Italy) — Silvio Berlusconi, Finanziaria d'investimento Fininvest SpA (Fininvest) v Banca d'Italia, Istituto per la Vigilanza Sulle Assicurazioni (IVASS)

(Case C-219/17) ⁽¹⁾

(Reference for a preliminary ruling — Approximation of laws — Prudential supervision of credit institutions — Acquisition of a qualifying holding in a credit institution — Procedure governed by Directive 2013/36/EU and by Regulations (EU) No 1024/2013 and No 468/2014 — Composite administrative procedure — Exclusive decision-making power of the European Central Bank (ECB) — Action brought against preparatory acts adopted by the national competent authority — Claim that the force of res judicata attaching to a national decision has been disregarded)

(2019/C 65/06)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Applicants: Silvio Berlusconi, Finanziaria d'investimento Fininvest SpA (Fininvest)

Defendants: Banca d'Italia, Istituto per la Vigilanza Sulle Assicurazioni (IVASS)

Third parties: Ministero dell'Economia e delle Finanze, Banca Mediolanum SpA, Holding Italiana Quarta SpA, Fin. Prog. Italia di E. Doris & C. s.a.p.a., Sirefid SpA, Ennio Doris

Operative part of the judgment

Article 263 TFEU must be interpreted as precluding national courts from reviewing the legality of decisions to initiate procedures, preparatory acts or non-binding proposals adopted by competent national authorities in the procedure provided for in Articles 22 and 23 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, in Articles 4(1)(c) and 15 of Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions and in Articles 85 to 87 of Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities (SSM Framework Regulation). It is immaterial in that regard that a specific action for a declaration of invalidity on the ground of alleged disregard of the force of res judicata attaching to a national judicial decision has been brought before a national court.

⁽¹⁾ OJ C 283, 28.8.2017.