

### Questions referred

1. Are Articles 56, 57 and 52 of the Treaty on the Functioning of the European Union, the case-law of the Court of Justice on gambling and betting services, particularly the judgments in *Gambelli* (Case C-243/01), *Placanica* (Case C-338/04), *Costa and Cifone* (Joined Cases C-72/10 and C-77/10) and *Laezza* (Case C-375/14), and on tax discrimination, particularly the judgments in *Lindman* (Case C-42/02), *Commission v Spain* (Case C-153/08) and *Blanco and Fabretti* (Joined Cases C-344/13 and C-367/13), and the principles of equal treatment and non-discrimination under EU law, having regard also to the judgment of the Italian Constitutional Court of 23 January 2018, to be interpreted as precluding national legislation, such as the Italian legislation at issue, which makes national intermediaries transmitting gambling data on behalf of bookmakers established in a different EU Member State, and particularly those sharing the characteristics of the company Stanleybet Malta Ltd, and possibly those bookmakers jointly with their national intermediaries, liable to the single tax on betting and pools provided for in Articles 1 to 3 of D.Lgs. 23.12.1998 n. 504 (Legislative Decree No 504 of 23 December 1998), as amended by Article 1(66)(b) of the Legge di Stabilità 2011 (Italian Stability Law 2011)?
2. Are Articles 56, 57 and 52 of the Treaty on the Functioning of the European Union, the case-law of the Court of Justice on gambling and betting services, particularly the judgments in *Gambelli* (Case C-243/01), *Placanica* (Case C-338/04), *Costa and Cifone* (Joined Cases C-72/10 and C-77/10) and *Laezza* (Case C-375/14), and on tax discrimination, particularly the judgments in *Lindman* (Case C-42/02), *Commission v Spain* (Case C-153/08) and *Blanco and Fabretti* (Joined Cases C-344/13 and C-367/13), and the principles of equal treatment and non-discrimination under EU law, having regard also to the judgment of the Italian Constitutional Court of 23 January 2018, to be interpreted as precluding national legislation, such as the Italian legislation at issue, which makes national intermediaries transmitting gambling data on behalf of bookmakers established in a different EU Member State, and particularly those sharing the characteristics of the company Stanleybet Malta Ltd, and not the national intermediaries transmitting gambling data on behalf of State-licensed bookmakers involved in the same activity, liable to the single tax on betting and pools provided for in Articles 1 to 3 of Legislative Decree No 504 of 23 December 1998, as amended by Article 1(66)(b) of the Stability Law 2011?
3. Do Articles 52 and 56 et seq. of the Treaty on the Functioning of the European Union, the case-law of the Court of Justice on gambling and betting services, and the principles of equal treatment and non-discrimination, having regard also to the judgment of the Italian Constitutional Court of 23 January 2018, preclude national legislation such as the Italian legislation enshrined in Article 1(644)(g) of L. 190/2014 (Law No 190/2014), which requires national intermediaries transmitting gambling data on behalf of bookmakers established in a different EU Member State, particularly those sharing the characteristics of the company Stanleybet Malta Ltd, and possibly those bookmakers jointly with their national intermediaries, to pay the single tax on betting provided for in Legislative Decree No 504/1998, on a flat-rate taxable amount corresponding to three times the average amount collected in the province where the business or collection point is located, as inferred from the data recorded in the national totaliser for the tax period preceding the reference period?

---

**Request for a preliminary ruling from the Tribunale Amministrativo Regionale per il Lazio (Italy)  
lodged on 12 December 2018 — AQ and Others v Corte dei Conti and Others**

(Case C-789/18)

(2019/C 112/30)

Language of the case: Italian

### Referring court

Tribunale Amministrativo Regionale per il Lazio

**Parties to the main proceedings**

*Applicants:* AQ and Others

*Defendants:* Corte dei Conti, Presidenza del Consiglio dei Ministri, Ministero dell'Economia e delle Finanze, Imps-Gestione

**Questions referred**

1. Do Article 3(2) and (3) TEU, Articles 9, 45, 126, 145, 146 and 147 TFEU and the first paragraph of Article 151 TFEU, Article 15(2) of the Charter of Fundamental Rights of the European Union, and Articles 3 and 5 of the European Pillar of Social Rights preclude a provision of national legislation, such as Article 1(489) of Law No 147/2013, in so far as that provision encourages Italian public administrative authorities to give preference, when recruiting or when awarding contracts, only to workers who already hold a pension provided by Italian public social security bodies?
2. Do Articles 106(1) and 107 TFEU preclude a provision of national legislation, such as Article 1(489) of Law No 147/2013, which permits Italian public administrative authorities engaged in economic activity, subject to compliance with Article 101 et seq. TFEU, to make use of the work of persons who have agreed to waive, in full or in part, the corresponding remuneration, thereby obtaining a cost saving likely to place those administrative authorities at a competitive advantage in relation to other economic operators?
3. Do Articles 2, 3 and 6 TEU, Article 126 TFEU and the first paragraph of Article 151 TFEU, Article 15(2) of the Charter of Fundamental Rights of the European Union, and Articles 3 and 7(a) of the European Pillar of Social Rights preclude a provision of national legislation, such as Article 1(489) of Law No 147/2013, which, under the conditions laid down therein, accepts that a worker may validly waive remuneration, in full or in part, even if that waiving is solely in order to avoid losing work?
4. Do Articles 2, 3 and 6 TEU, Articles 14, 15(1) and 126 TFEU and the first paragraph of Article 151 TFEU, Article 31(1) of the Charter of Fundamental Rights of the European Union, and Articles 5, 6 and 10 of the European Pillar of Social Rights preclude a provision of national legislation, such as Article 1(489) of Law No 147/2013, which, under the conditions laid down therein, enables a person to work for an Italian public administrative authority while waiving, in full or in part, the corresponding remuneration, even if no provision is made for any change in the working arrangements in the light of such waiving, either in terms of working time or from the perspective of the quantity and quality of work required and the resulting responsibilities, and thus even if the partial waiving of remuneration entails a significant change to the mutual working agreement, both from the point of view of the correlation between the remuneration and the quality and quantity of work provided and because the worker is thereby ultimately compelled to carry out his activities under sub-optimal working conditions, which lay the foundations for a lower degree of commitment to the work and for a reduced level of efficiency on the part of the administrative authority?
5. Do Articles 2, 3 and 6 TEU, Article 126 TFEU and the first paragraph of Article 151 TFEU, Article 15(2) of the Charter of Fundamental Rights of the European Union, and Article 6 of the European Pillar of Social Rights preclude the combined provisions of Article 1(489) of Law No 147/2013 and Article 23b(1) of Decree-Law No 201/2011, converted into Law No 214/2011, in so far as those provisions enable/require an Italian public administrative authority, including while the employment or working relationship is ongoing, to reduce the remuneration due to the worker on the basis of fluctuations in the remuneration ceiling to which Article 23b(1) of Decree-Law No 201/2011, converted into Law No 214/2011, refers, and thus as a result of an unforeseeable event, and in any case by applying a mechanism that is not immediately comprehensible and regardless of the information provided to the worker at the beginning of the employment relationship?
6. Do Articles 2, 3 and 6 TEU, Articles 8 and 126 TFEU, Articles 20 and 21 of the Charter of Fundamental Rights of the European Union, and Articles 10 and 15 of the European Pillar of Social Rights preclude a provision of national legislation, such as Article 1(489) of Law No 147/2013, which, under the conditions laid down therein, requires Italian public administrative authorities to reduce the remuneration due to their employees and workers who hold a pension provided by a public social security body, penalising such workers for reasons connected with the availability of other sources of income, thereby discouraging the extension of working life, private economic initiative and the creation and accumulation of private income, even though these are valuable national resources?