

Judgment of the Court (Fourth Chamber) of 3 February 2021 (requests for a preliminary ruling from the Consiglio di Stato — Italy) — Federazione Italiana Giuoco Calcio (FIGC), Consorzio Ge.Se.Av. S. c. arl v De Vellis Servizi Globali Srl

(Joined Cases C-155/19 and C-156/19) ⁽¹⁾

(Reference for a preliminary ruling — Public procurement — Public procurement procedure — Directive 2014/24/EU — Article 2(1)(4) — Contracting authority — Bodies governed by public law — Concept — National sports federation — Meeting of needs in the general interest — Supervision of the federation's management by a body governed by public law)

(2021/C 110/04)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Applicants: Federazione Italiana Giuoco Calcio (FIGC), Consorzio Ge.Se.Av. S. c. arl

Defendant: De Vellis Servizi Globali Srl

Intervening parties: Consorzio Ge.Se.Av. S. c. arl, Comitato Olimpico Nazionale Italiano (CONI), Federazione Italiana Giuoco Calcio (FIGC)

Operative part of the judgment

1. Article 2(1)(4)(a) of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC must be interpreted as meaning that an entity entrusted with tasks of a public nature exhaustively defined by national law may be regarded as having been established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character, within the meaning of that provision, even though it was established not in the form of a public authority but of an association governed by private law and some of its activities, for which it enjoys a self-financing capacity, are not public in nature.
2. The second part of the alternative referred to in Article 2(1)(4)(c) of Directive 2014/24 must be interpreted as meaning that where a national sports federation has management autonomy under national law, that federation may be regarded as being subject to management supervision by a public authority only if it emerges from an overall analysis of the powers which that authority has in relation to that federation that there is active management control which, in practice, calls into question that autonomy to such an extent as to allow the authority to influence the federation's decisions with regard to public contracts. The circumstance that the various national sports federations exert an influence over the activity of the public authority concerned on account of their majority participation in that authority's main deliberative and collegiate bodies is relevant only if it can be established that each federation, considered individually, is in a position to exert a significant influence over the public supervision exercised by that authority over it with the result that that supervision would be offset and such a national sports federation would thus regain control over its management, notwithstanding the influence of the other national sports federations in a similar situation.

⁽¹⁾ OJ C 206, 17.6.2019.