

Request for a preliminary ruling from the Corte dei conti — Sezione regionale di controllo per la Campania (Italy) lodged on 10 March 2021 — Comune di Camerota

(Case C-161/21)

(2021/C 217/34)

Language of the case: Italian

Referring court

Corte dei conti — Sezione regionale di controllo per la Campania (Court of Auditors — Regional Audit Division for Campania, Italy)

Parties to the main proceedings

Applicant: Comune di Camerota (Municipality of Camerota, Italy)

Questions referred

1. Do Articles 2 (with particular regard to the principle of the rule of law) and 19 TEU, Article 47 of the Charter of Fundamental Rights of the European Union, Articles 120(1) and 126(1) TFEU, Articles 3(1), 6(1)(b) and 12 of Directive 2011/85/EU,⁽¹⁾ Article 5 of Regulation (EU) No 473/2013,⁽²⁾ the EU law principles of proportionality, sincere cooperation and effectiveness stemming from Articles 4 and 5 TEU preclude national emergency legislation, such as that laid down in Article 53(8) of Decree-Law No 104 of 14 August 2020, converted, with amendments, into Law No 126 of 13 October 2020, from being interpreted and applied as meaning that that national emergency legislation prevents, even on a temporary basis (from 15 August 2020 to 30 June 2021, and therefore well beyond the period of duration of the state of emergency), the effective and timely judicial review of compliance with fiscal rules which is conferred on, in accordance with the internal constitutional and legislative legal framework, an independent court specialised in accountancy, such as the Corte dei conti (Court of Auditors), by suspending, in particular, judicial review functions over local authorities which are in a situation of severe structural imbalance capable of causing their failure and have started a long term consolidation path and need — for that very reason, and because of the difficulties stemming from the health emergency — more than other entities, to be subject to an independent, effective and timely, monitoring, which prevents the financial crisis from worsening and the deviation from the consolidation path from becoming irreversible and leading to the failure of that authority?
2. Do Article 3(3) TEU, Articles 3(1)(b), 119(1) and (2) and 120 TFEU, Articles 1 and 4 of Directive 2011/7/EU,⁽³⁾ and Protocol (No 27) on the internal market and competition preclude national emergency legislation, such as that laid down in Article 53(9) of Decree-Law No 104 of 14 August 2020, converted, with amendments, into Law No 126 of 13 October 2020, from being interpreted and applied as meaning that that national emergency legislation allows a further suspension from 15 August 2020 to 30 June 2021 of creditors' enforcement procedures against entities whose rebalancing plan has been approved and which is based solely on the health emergency and is additional to the suspension that those entities obtained under the combined provisions of Articles 243-bis(4) and 243-quarter(5) of Consolidated Law on local authorities (TUEL), without that suspension giving rise to a collective procedure offering creditors an alternative procedure, and with the consequences entailed by that additional and long suspension of enforcement procedures in terms of further worsening of delays in payments by public authorities and, therefore, in terms of protection of competition as well as of competitiveness of creditor undertakings?

⁽¹⁾ Council Directive 2011/85/EU of 8 November 2011 on requirements for budgetary frameworks of the Member States (OJ 2011 L 306, p. 41).

⁽²⁾ Regulation (EU) No 473/2013 of the European Parliament and of the Council of 21 May 2013 on common provisions for monitoring and assessing draft budgetary plans and ensuring the correction of excessive deficit of the Member States in the euro area (OJ 2013 L 140, p. 11).

⁽³⁾ Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions (OJ 2011 L 48, p. 1).