

**Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 23 July 2019 —  
Consorzio Italian Management, Catania Multiservizi SpA v Rete Ferroviaria Italiana SpA**

**(Case C-561/19)**

(2019/C 357/27)

*Language of the case: Italian*

**Referring court**

Consiglio di Stato

**Parties to the main proceedings**

*Appellants:* Consorzio Italian Management, Catania Multiservizi SpA

*Respondent:* Rete Ferroviaria Italiana SpA

**Questions referred**

1. In accordance with Article 267 TFEU, is a national court whose decisions are not amenable to appeal required, in principle, to make a reference for a preliminary ruling on a question concerning the interpretation of EU law even where the question is submitted to it by one of the parties to the proceedings after that party has lodged its initial pleading, or even after the case has been set down for judgment for the first time, or indeed even after a reference has already been made to the Court of Justice of the European Union for a preliminary ruling?
2. ... are Articles 115, 206 and 217 of Legislative Decree No 163/2006, as interpreted by national administrative case-law, in so far as they exclude price review in the case of contracts relating to 'special sectors' and, in particular, in the case of contracts that have a different object from those to which Directive 2004/17/EC <sup>(1)</sup> refers but are functionally linked to one of those objects, consistent with EU law (in particular, Articles 4(2), 9, 101(1)(e), 106, 151, 152, 153 and 156 TFEU, the European Social Charter signed at Turin on 18 October 1961 and the 1989 Community Charter of the Fundamental Social Rights of Workers, referred to in Article 151 TFEU, Articles 2 and 3 TEU and Article 28 of the Charter of Fundamental Rights of the European Union)?
3. ... are Articles 115, 206 and 217 of Legislative Decree No 163/2006, as interpreted by national administrative case-law, in so far as they exclude price review in the case of contracts relating to 'special sectors' and, in particular, in the case of contracts that have a different object from those to which Directive 2004/17/EC refers but are functionally linked to one of those objects, consistent with EU law (in particular, Article 28 of the Charter of Fundamental Rights of the European Union, the principle of equal treatment enshrined in Articles 26 and 34 TFEU, and the principle of freedom to conduct a business enshrined in Article 16 of the Charter of Fundamental Rights of the European Union)?

---

<sup>(1)</sup> Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (OJ 2004 L 134, p. 1).