ECLI:EU:C:2023:563

Provisional text

JUDGMENT OF THE COURT (First Chamber)

13 July 2023 (*)

(References for a preliminary ruling – Second paragraph of Article 19(1) TEU – Obligation on Member States to provide remedies sufficient to ensure effective legal protection in the fields covered by EU law – Economic policy – Regulation (EU) No 549/2013 – European system of national and regional accounts in the European Union (ESA) – Directive 2011/85/EU– Requirements for budgetary frameworks of the Member States – National legislation limiting the jurisdiction of the audit court – Principles of effectiveness and equivalence – Article 47 of the Charter of Fundamental Rights of the European Union)

In Joined Cases C-363/21 and C-364/21,

TWO REQUESTS for a preliminary ruling under Article 267 TFEU from the Corte dei conti (Court of Auditors, Italy), made by decisions of 3 and 10 June 2021, received at the Court on 9 and 10 June 2021 respectively, in the proceedings

Ferrovienord SpA

v

Istituto Nazionale di Statistica – ISTAT (C-363/21),

intervening parties:

Procura generale della Corte dei Conti,

Ministero dell'Economia e delle Finanze,

and

Federazione Italiana Triathlon

v

Istituto Nazionale di Statistica – ISTAT,

Ministero dell'Economia e delle Finanze (C-364/21),

intervening parties:

Procura generale della Corte dei Conti,

THE COURT (First Chamber),

composed of A. Arabadjiev, President of the Chamber, P.G. Xuereb, T. von Danwitz, A. Kumin (Rapporteur) and I. Ziemele, Judges,

Advocate General: M. Campos Sánchez-Bordona,

Registrar: C. Di Bella, Administrator,

having regard to the written procedure and further to the hearing on 19 October 2022,

after considering the observations submitted on behalf of:

– Ferrovienord SpA and the Federazione Italiana Triathlon, by D. Lipani, J. Polinari and F. Sbrana, avvocati,

– the Procura generale della Corte dei conti, by A. Canale, procuratore generale, A. Corsetti and A. Iadecola, vice procuratori generali,

– the Italian Government, by G. Palmieri, acting as Agent, and by G. De Bellis and P. Garofoli, avvocati dello Stato,

– the European Commission, by C. Biz, F. Blanc, S. Delaude and F. Moro, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 12 January 2023,

gives the following

Judgment

1 These requests for a preliminary ruling concern the interpretation of Regulation (EU) No 549/2013 of the European Parliament and of the Council of 21 May 2013 on the European system of national and regional accounts in the European Union (OJ 2013 L 174, p. 1), Council Directive 2011/85/EU of 8 November 2011 on requirements applicable for budgetary frameworks of the Member States (OJ 2011 L 306, p. 41), the principles of equivalence and effectiveness, Article 19 TEU and Article 47 of the Charter of Fundamental Rights of the European Union ('the Charter').

2 The requests have been made in two sets of proceedings between, first, in Case C-363/21, Ferrovienord SpA and the Istituto Nazionale di Statistica – ISTAT (National Institute of Statistics, Italy) and, second, in Case C-364/21, the Federazione Italiana Triathlon (Italian Triathlon

Federation, Italy) (‘FITRI’), on the one hand, and ISTAT and the Ministero dell’Economia e delle Finanze (Ministry of Economy and Finance, Italy), on the other, with regard to the inclusion, for the year 2020, of Ferrovienord and FITRI on the list of government units in the consolidated income statement of the public authorities (‘the ISTAT list’).

Legal context

European Union law

Directive 2011/85

3 According to recitals 3, 4 and 23 of Directive 2011/85:

‘(3) Complete and reliable public accounting practices for all sub-sectors of general government are a precondition for the production of high-quality statistics that are comparable across Member States. Internal control should ensure that existing rules are enforced throughout the sub-sectors of general government. Independent audits conducted by public institutions such as courts of auditors or by private auditing bodies should encourage best international practices.

(4) The availability of fiscal data is crucial to the proper functioning of the budgetary surveillance framework of the Union. The regular availability of timely and reliable fiscal data is the key to proper and well timed monitoring, which in turn allows prompt action in the event of unexpected budgetary developments. A crucial element in ensuring the quality of fiscal data is transparency, which must entail the regular public availability of such data.

…

(23) Provisions of the budgetary surveillance framework established by the TFEU and in particular the [Stability and Growth Pact (SGP)] apply to general government as a whole, which comprises the sub-sectors central government, state government, local government, and social security funds, as defined in [Council] Regulation (EC) No 2223/96 [of 25 June 1996 on the European system of national and regional accounts in the Community (OJ 1996 L 310, p. 1)].’

4 Article 1 of that directive provides:

‘This Directive lays down detailed rules concerning the characteristics of the budgetary frameworks of the Member States. Those rules are necessary to ensure Member States’ compliance with obligations under the TFEU with regard to avoiding excessive government deficits.’

5 Article 2 of that directive provides:

‘For the purposes of this Directive, the definitions of “government”, “deficit” and “investment” set out in Article 2 of the Protocol (No 12) on the excessive deficit procedure annexed to the TEU and to the TFEU shall apply. The definition of sub-sectors of general government set out in point 2.70 of Annex A to Regulation (EC) No 2223/96 shall also apply.

In addition, the following definition shall apply:

“budgetary framework” means the set of arrangements, procedures, rules and institutions that underlie the conduct of budgetary policies of general government …

…’

6 Article 3(1) of Directive 2011/85 is worded as follows:

‘As concerns national systems of public accounting, Member States shall have in place public accounting systems comprehensively and consistently covering all sub-sectors of general government and containing the information needed to generate accrual data with a view to preparing data based on the [European system of national and regional accounts in the European Community, adopted by Regulation No 2223/96 (“the ESA 95”)]. Those public accounting systems shall be subject to internal control and independent audits.’

7 Under Article 5 of that directive:

‘Each Member State shall have in place numerical fiscal rules which are specific to it and which effectively promote compliance with its obligations deriving from the TFEU in the area of budgetary policy over a multiannual horizon for the general government as a whole. Such rules shall promote in particular:

(a) compliance with the reference values on deficit and debt set in accordance with the TFEU;

(b) the adoption of a multiannual fiscal planning horizon, including adherence to the Member State’s medium-term budgetary objective.’

8 Article 6(1)(b) of the directive provides:

‘Without prejudice to the provisions of the TFEU concerning the budgetary surveillance framework of the Union, country-specific numerical fiscal rules shall contain specifications as to the following elements:

…

(b) the effective and timely monitoring of compliance with the rules, based on reliable and independent analysis carried out by independent bodies or bodies endowed with functional autonomy vis-à-vis the fiscal authorities of the Member States;’

Regulation (EU) No 473/2013

9 Article 2(1) and (2) of 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) provides as follows:

‘1. For the purposes of this Regulation, the following definitions shall apply:

(a) “independent bodies” means bodies that are structurally independent or bodies endowed with functional autonomy vis-à-vis the budgetary authorities of the Member State, and which are underpinned by national legal provisions ensuring a high degree of functional autonomy and accountability, …

…

2. The definitions of “general government sector” and of “subsectors of the general government sector”, set out in point 2.70 of Annex A to Regulation [No 2223/96] shall also apply to this Regulation.’

10 Article 5(1)(b) of that regulation is worded as follows:

‘Member States shall have in place independent bodies for monitoring compliance with:

…

(b) numerical fiscal rules as referred to in Article 5 of Directive [2011/85].’

Regulation No 549/2013

11 The European System of Integrated Economic Accounts (ESA) is the statistical tool and legal instrument adopted by the European Union to ensure that comparable information exists on the structure of the Member States’ economies and their development. An initial ESA, namely the ESA 95, was established by Regulation No 2223/96. The ESA 2010, which was introduced by Regulation No 549/2013, succeeded the ESA 95.

12 Recitals 3 and 14 of Directive No 549/2013 state:

‘(3) Citizens of the Union need economic accounts as a basic tool for analysing the economic situation of a Member State or region. For the sake of comparability, such accounts should be drawn up on the basis of a single set of principles that are not open to differing interpretations. The information provided should be as precise, complete and timely as possible in order to ensure maximum transparency for all sectors.

…

(14) The ESA 2010 is gradually to replace all other systems as a reference framework of common standards, definitions, classifications and accounting rules for drawing up the accounts of the Member States for the purposes of the Union, so that results that are comparable between the Member States can be obtained.’

13 Article 1(1) and (2) of that regulation is worded as follows:

‘1. This Regulation sets up the [ESA 2010].

2. The ESA 2010 provides for:

(a) a methodology (Annex A) on common standards, definitions, classifications and accounting rules that shall be used for compiling accounts and tables on comparable bases for the purposes of the Union, together with results as required under Article 3;

(b) a programme (Annex B) setting out the time limits by which Member States shall transmit to the [European] Commission (Eurostat) the accounts and tables to be compiled in accordance with the methodology referred to in point (a).’

14 Article 3 of that regulation provides:

‘1. The Member States shall transmit to the Commission (Eurostat) the accounts and tables set out in Annex B within the time limits specified therein for each table.

2. Member States shall transmit to the Commission the data and metadata required by this Regulation in accordance with a specified interchange standard and other practical arrangements.

…’

15 Chapter 1 of Annex A to that regulation, which presents the general features and basic principles of the ESA 2010, contains, inter alia, paragraph 1.57, which is worded as follows:

‘Institutional units are economic entities that are capable of owning goods and assets, of incurring liabilities and of engaging in economic activities and transactions with other units in their own right. For the purposes of the ESA 2010 system, the institutional units are grouped together into five mutually exclusive domestic institutional sectors:

(a) non-financial corporations;

(b) financial corporations;

(c) general government;

(d) households;

(e) non-profit institutions serving households.

The five sectors together make up the total domestic economy. Each sector is also divided into subsectors. The ESA 2010 system enables a complete set of flow accounts and balance sheets to be compiled for each sector, and subsector, as well as for the total economy. Non-resident units can interact with these five domestic sectors, and the interactions are shown between the five domestic sectors and a sixth institutional sector: the rest of the world sector.’

16 Annex A to Regulation No 549/2013 includes Chapter 2, entitled ‘Units and groupings of units’, which contains paragraphs 2.111 and 2.113; they provide the following:

‘2.111 Definition: the general government sector … consists of institutional units which are non-market producers whose output is intended for individual and collective consumption, and are financed by compulsory payments made by units belonging to other sectors, and institutional units principally engaged in the redistribution of national income and wealth.

…

2.113 The general government sector is divided into four subsectors:

(a) central government (excluding social security funds) …

(b) state government (excluding social security funds) …

(c) local government (excluding social security funds) …

(d) social security funds …’

17 Annex A to that regulation contains Chapter 20, entitled 'The government accounts', which includes paragraphs 20.05 to 20.07; they read as follows:

'20.05 The general government sector … consists of all government units and all non-market non-profit institutions (NPIs) that are controlled by government units. It also comprises other non-market producers as identified in paragraphs 20.18 to 20.39.

20.06 Government units are legal entities established by political process which have legislative, judicial or executive authority over other institutional units within a given area. Their principal function is to provide goods and services to the community and to households on a non-market basis and to redistribute income and wealth.

20.07 A government unit usually has the authority to raise funds through compulsory transfers from other institutional units. In order to satisfy the basic requirements of an institutional unit, a government unit must have funds of its own either raised by income from other units or received as transfers from other government units, and must have the authority to disburse such funds in the pursuit of its policy objectives. It must also be able to borrow funds on its own account.'

Italian law

The Constitution of the Italian Republic

18 The second paragraph of Article 103 of the Costituzione della Repubblica Italiana (Constitution of the Italian Republic) provides that the Corte dei conti (Court of Auditors, Italy) is to have jurisdiction in respect of public accounts.

Law No 196 – Provisions on government finances and accounting

19 Article 1(1) to (3) of legge n. 196 – Legge di contabilità e finanza pubblica (Law No 196 – Provisions on government finances and accounting) of 31 December 2009 (GURI No 303 of 31 December 2009, Ordinary Supplement No 245), in the version applicable to the facts in the main proceedings, provides:

'1. General government shall contribute to the achievement of the government finance targets set at national level in accordance with the procedures and criteria laid down by the European Union and shall share the resulting responsibilities. Participation in the achievement of those objectives shall take place in accordance with the fundamental principles of harmonisation of public accounts and coordination of government finances.

2. For the purposes of applying the provisions on government finances, government units shall mean, for the year 2011, the entities and persons designated for statistical purposes in the list communicated by [ISTAT] on 24 July 2010, published on the same date in the *Gazzetta ufficiale della Repubblica italiana* No 171 and, from 2012 onwards, the entities and persons designated each year for statistical purposes by [ISTAT] in the list communicated by [ISTAT] on 30 September 2011, published on the same date in the *Gazzetta ufficiale della Repubblica italiana* No 228 and its successive updates, pursuant to paragraph 3 of this article, on the basis of the definitions set out in the specific regulations of the European Union …, the independent authorities and, in any event, the authorities designated in Article 1(2) of Legislative Decree No 165 of 30 March 2001, as amended.

3. ISTAT shall designate the government units mentioned in paragraph 2 by decision published in the *Gazzetta ufficiale* by 30 September each year.'

Law No 243 – Provisions for implementing the principle of a balanced budget

20 Article 2(1)(a) of legge « rinforzata » n. 243 – Disposizioni per l'attuazione del principio del pareggio di bilancio ai sensi dell'articolo 81, sesto comma, della Costituzione ('strengthened' Law No 243 – Provisions for implementing the principle of a balanced budget for the purposes of the sixth paragraph of Article 81 of the Constitution) of 24 December 2012 (GURI No 12 of 15 January 2013, p. 14), defines the term 'government units' as follows:

'"government units" means the entities designated in accordance with the procedures and instruments provided for, in a manner consistent with EU law …, by government finance and accounting rules, broken down in the subsectors of central government, local government and national social security bodies'.

21 Article 20 of that law, entitled 'Review functions of the Court of Auditors over the budgets of government units', provides, inter alia, that the Corte dei conti (Court of Auditors) is to review *ex post* the management of the budgets of government units, for the purposes of coordinating government finances and fiscal balance in the manner and in accordance with the procedures laid down by law.

Law No 161 – Provisions for fulfilling the obligations arising from Italy's membership of the European Union

22 Article 30 of legge n. 161 Disposizioni per l'adempimento degli obblighi derivanti dall'appartenenza dell'Italia all'Unione europea Legge europea 2013–bis (Law No 161 – Provisions for fulfilling the obligations arising from Italy's membership of the European Union – European Law 2013 bis) of 30 October 2014 (GURI No 261 of 10 November 2014, Ordinary Supplement No 83) provides in paragraph 1:

'In order to implement fully, for the parts that are not directly applicable, Directive [2011/85] and Regulation [No 473/2013], with particular regard to the monitoring of compliance with fiscal rules, the [Corte dei conti (Court of Auditors)], as part of its audit functions, shall verify that the fiscal data of general government complies with the accounting rules …'

Law No 228 of 24 December 2012

23 Article 1 of legge n. 228 – Disposizioni per la formazione del bilancio annuale e pluriennale dello Stato (Law No 228 – Provisions for the formation of the State's annual and multiannual budget) of 24 December 2012 (GURI No 302 of 29 December 2012, Ordinary Supplement No 212), provides, in paragraph 169, the following:

'Acts by which ISTAT designates the government units each year … may be appealed before the combined chambers of the Corte dei conti (Court of Auditors) sitting in special formation, in accordance with the second paragraph of Article 103 of the Constitution'.

The Code of Accounting Procedure

24 Article 11(6)(b) of Annex 1 to decreto legislativo n. 174 – Codice di giustizia contabile, adottato ai sensi dell'articolo 20 della legge 7 agosto 2015, n. 124 (Legislative Decree No 174 –

Code of Accounting Procedure, adopted pursuant to Article 20 of Law No 124 of 7 August 2015) of 26 August 2016 (GURI No 209 of 7 September 2016, Ordinary Supplement No 41) ('the Code of Accounting Procedure'), provided as follows:

'The combined chambers [of the Corte dei conti (Court of Auditors)] sitting in special formation, exercising their exclusive jurisdiction in matters of public accounting, shall decide at first and final instance on proceedings:

…

(b) involving the recognition of government units by ISTAT'.

Decree-law No 137/2020

25 Article 23-quater of decreto-legge n. 137 – Ulteriori misure urgenti in materia di tutela della salute, sostegno ai lavoratori e alle imprese, giustizia e sicurezza, connesse all'emergenza epidemiologica da COVID-19 (Decree-Law No 137 – Other urgent measures on health protection, aid to workers and businesses, justice and security in connection with the COVID-19 epidemiological emergency) of 28 October 2020 (GURI No 269 of 28 October 2020), as amended by legge n. 176 (Law No 176) of 18 December 2020 (GURI No 319 of 24 December 2020, Ordinary Supplement No 43) ('Decree-Law No 137/2020'), provides the following:

'1. The entities designated in list 1, annexed to the present decree, as units which, in accordance with the criteria laid down by the European system of national and regional accounts in the European Union (ESA 2010) provided for in Regulation [No 549/2013], contribute to determining the government finance balances in the consolidated income statement of the general government, shall in any event apply the provisions on fiscal balance and sustainability of general government debt … and [the provisions] on obligations to report data and relevant information on government finances.

2. The following is added to Article 11(6)(b) of the Code of Accounting Procedure, which appears in Annex 1 to Legislative Decree No 174 of 26 August 2016, after the words "effected by ISTAT": "solely for the purposes of applying the national rules on the limitation of government expenditure".'

The disputes in the main proceedings and the questions referred for a preliminary ruling

26 In particular, in accordance with Regulation No 549/2013, Ferrovienord and FITRI (together, 'the applicants in the main proceedings') were included by ISTAT on the ISTAT list published on 30 September 2020.

27 By actions brought before the Corte dei conti (Court of Auditors), the referring court, the applicants in the main proceedings challenge their inclusion on the ground that the conditions required for that purpose are not satisfied.

28 It is apparent from the orders for reference that, until 2012, decisions concerning the inclusion of an entity on the ISTAT list could be challenged before the administrative courts. Subsequently, two legislative amendments were made.

29 First, in 2012, in accordance with Article 1(169) of Law No 228 of 24 December 2012, the jurisdiction to review the merits of the designation of entities as government units and their

inclusion on the ISTAT list was conferred on the Corte dei conti (Court of Auditors). That jurisdiction rule was reproduced in Article 11(6)(b) of the Code of Accounting Procedure, which provided that 'the combined chambers of the Corte dei conti [Court of Auditors] sitting in special formation shall rule at first and final instance, when exercising their exclusive jurisdiction in matters of public accounting, on actions … relating to the designation of government units by ISTAT'.

30 The referring court states that the review which the audit court was then required to perform had to be carried out on the basis of the criteria taken from Regulation No 549/2013, which, under Italian legislation, constitute the conditions on the basis of which an entity is included on the ISTAT list. Furthermore, that court notes that such a listing creates specific obligations, in particular accounting obligations, for the entities concerned which, once entered on that list, contribute to determining the government finance balances in the consolidated income statement of the general government, pursuant to Article 23-quater(1) of Decree-Law No 137/2020. Thus, according to the referring court, the review of the status of government units, within the meaning of Regulation No 549/2013, is the accounting operation preceding the preparation of the balances on the basis of which financial relations between Member States develop, in particular under Article 126 TFEU and Protocol No 12 on the excessive deficit procedure, annexed to the Treaties ('Protocol No 12').

31 Second, in 2020, the scope of the review carried out by the audit court, concerning the lawfulness of an inclusion on the ISTAT list, was restricted by Article 23-quater(2) of Decree-Law No 137/2020, which amended Article 11(6)(b) of the Code of Accounting Procedure, which now provides, in essence, that the combined chambers of the Corte dei conti (Court of Auditors) are to rule, on appeals relating to the designation of government units carried out by ISTAT, solely for the purposes of applying the national rules on the limitation of government expenditure.

32 It is apparent from the orders for reference that the parties to the main proceedings disagree as to the interpretation to be given to Article 11(6)(b) of the Code of Accounting Procedure, as amended by Article 23-quater of Decree-Law No 137/2020.

33 Thus, according to the Procura generale della Corte dei conti (Public Prosecutor's Office at the Court of Auditors, Italy), if it were interpreted as restricting the possibility of contesting the ISTAT list solely for the purposes of applying the national rules on the limitation of government expenditure, Article 23-quater would not be consistent with EU law – in particular with Regulation No 549/2013 or with the principles of effectiveness and equivalence – in that it would not guarantee effective judicial protection for the entities concerned. Those entities would then no longer be able to seek judicial review of their inclusion as government units on the ISTAT list. The applicants in the main proceedings share that view.

34 However, ISTAT and the Ministry of Economy and Finance (together 'the defendants in the main proceedings') consider that Article 23-quater of Decree-Law No 137/2020, while restricting the jurisdiction of the Corte dei conti (Court of Auditors), at the same time extends the jurisdiction of the administrative courts, so that the applicants in the main proceedings enjoy full judicial protection of their interests. In any event, according to the defendants in the main proceedings, the determination of the term 'government unit' should fall within the sole jurisdiction of the administrative courts, given that it concerns aspects which do not pertain to issues of an accounting nature. Consequently, Article 23-quater of Decree-Law No 137/2020 is consistent with EU law.

35 In response to that argument, the Procura generale della Corte dei conti (Public Prosecutor's Office at the Court of Auditors) also stated that, even if the interpretation of Article 23-quater advocated by the defendants in the main proceedings were to be followed, that provision would not,

however, comply with the principles of effectiveness and equivalence of legal remedies. Such an interpretation would lead to a risk of prolonged proceedings and conflicting judgments given that the entities concerned would then have to bring two separate actions before two different courts in order to assert their rights.

36 According to the referring court, the amendment to Article 11(6)(b) of the Code of Accounting Procedure results in an absolute lack of judicial protection for entities in a situation similar to that of the applicants in the main proceedings. Thus, first of all, in the absence of a court having jurisdiction to ensure compliance with EU law as regards government status and the obligations attaching thereto, there will be no verification that the Italian State has complied with the rules of EU law relating to that status, provided for under Regulation No 549/2013, and therefore no verification of the government finance balances, for the purposes of Article 126 TFEU, Protocol No 12 and the Stability and Growth Pact.

37 Next, that court considers that the limitation of the effects of decisions given by the audit court 'solely for the purposes of applying the national rules on the limitation of government expenditure' would effectively eliminate any possibility of independent review by that court of the fiscal authorities and the lawfulness of the methods of calculating the balances of government finances which serve to verify compliance with the medium-term budgetary objective referred to in Article 5(b) of Directive 2011/85. Therefore, Article 23-quater of Decree-Law No 137/2020 does not appear to comply with the rule, laid down in Regulation No 473/2013 and Directive 2011/85, requiring a separation between the fiscal authorities and the audit bodies, the latter being able to take judicial form.

38 Lastly, according to that court, since government status, for the purposes of EU law, gives rise, for the entities concerned, to obligations and limitations on their rights, the right to an effective remedy in order to be able to challenge that status should be recognised, in accordance with Article 19 TEU and Article 47 of the Charter.

39 In that regard, the referring court notes, first, that, although it is for the domestic legal system, in accordance with the principle of procedural autonomy, to designate the courts and tribunals having jurisdiction and to lay down the detailed procedural rules governing actions, the effectiveness of the action is reduced, in the present case, given that the decision which that court may adopt cannot fully constitute a declaration that the classification of the entity concerned in the government sector for the purposes of EU law is unlawful. Moreover, the action, as provided for in Article 23-quater of Decree-Law No 137/2020, is subject to extraordinary procedural rules which completely depart from those of the remedies laid down by the Italian legal system for similar situations. Thus, under Italian law, all questions concerning the recognition of a status come under an independent action for a declaration brought before a court having jurisdiction whose decision is binding as regards the effects associated with that status. Therefore, the referring court doubts whether Article 23-quater complies with the principles of effectiveness and equivalence.

40 Secondly, the referring court is of the opinion that, even if the interpretation of Article 23-quater proposed by the defendants in the main proceedings were adopted, doubt would remain as to whether that article complies with the principle of effective judicial protection in so far as, in the short time frame of the financial year during which the applicants in the main proceedings, after being included on the ISTAT list, are required to fulfil the obligations arising from that listing, those applicants would then have to bring two separate actions before two different courts in order to assert their rights, which would risk undermining the principle of legal certainty as regards their status. Similarly, if that interpretation is followed, doubt remains as to whether Article 23-quater is consistent with the principle of equivalence of legal remedies, given that the Constitution of the

Italian Republic designates the audit court as having jurisdiction over the correct determination of the budgetary balances of the Italian State.

41 In those circumstances, the Corte dei conti (Court of Auditors) decided to stay the proceedings and to refer the following questions to the Court for a preliminary ruling:

'(1) Does the rule of direct applicability of the [ESA 2010] and the principle of the effectiveness of [Regulation No 549/2013] and of Directive [2011/85] preclude national legislation which limits the jurisdiction of the competent national court in respect of the correct application of the ESA 2010 solely for the purposes of national legislation on controlling public expenditure, undermining the effectiveness of the rules [of EU law], particularly with regard to the verification of transparency and reliability of budgetary balances as a means of assessing [the Italian Republic's] convergence towards the [medium-term budgetary objective (MTO)]?

(2) Does the rule of the direct applicability of the ESA 2010 and the principle of the effectiveness of [Regulation No 549/2013] and of Directive 2011/85, on the point of organisational separation between budgetary authorities and audit bodies, preclude national legislation which limits the effects of the ruling of the competent national court in respect of the correct application of the [ESA 2010] solely for the purposes of national legislation on controlling public expenditure, by preventing any independent audit of the subjective scope of the accounts of the Italian Government (as defined for the purposes [of EU law]) as a means of verifying [the Italian Republic's] convergence towards the MTO?

(3) Does the principle of the rule of law, in the form of effective judicial protection and the equivalence of remedies, preclude national legislation which:

(a) prevents any judicial review of the correct application of the ESA 2010 by [ISTAT] for the purpose of defining the scope of sector S.13 and thus the accuracy, transparency and reliability of budgetary balances, as a means of verifying [the Italian Republic's] convergence towards the MTO (infringement of the principle of effective protection)?

(b) or exposes the applicant – should the defendant's interpretation of the rule be deemed correct, whether by a law governing its authentic interpretation or otherwise – to the burden of two separate legal challenges and the consequent risks of conflicting rulings as to the existence of a legal status under [EU] law, making impossible the effective protection of its right within the time allowed for fulfilment of the ensuing obligations (in other words, the financial year) and undermining the legal certainty as to the existence of general government status?

(c) provides that – should the defendant authority's interpretation of the rule be deemed correct, whether by a law governing its authentic interpretation or otherwise – the correct definition of the budgetary scope should be determined by a different court to that which has jurisdiction in matters of budgetary law under the Italian Constitution?'

Procedure before the Court

42 By decision of the President of the Court of 12 August 2021, Cases C-363/21 and C-364/21 were joined for the purposes of the written and oral parts of the procedure and the judgment.

43 Moreover, the referring court asked the Court to apply an expedited procedure to the present cases, pursuant to Article 105(1) of the Rules of Procedure of the Court of Justice.

44 That provision provides that, at the request of the referring court or tribunal or, exceptionally, of his or her own motion, the President of the Court may, where the nature of the case requires that it be dealt with within a short time, after hearing the Judge-Rapporteur and the Advocate General, decide that a reference for a preliminary ruling is to be determined pursuant to an expedited procedure derogating from the provisions of the Rules of Procedure.

45 In support of its request that the present cases be dealt with under the expedited procedure, the referring court submits that the questions referred concern its jurisdiction in budgetary matters. According to that court, if that jurisdiction were not exercised within the period of time corresponding to the accounting cycle concerned, that is to say, 2020, the rules laid down by EU law would have no practical effect. Thus, the determination, for 2020, of the entities to be regarded as government units, the result of which must be taken into consideration in the consolidated income statement of those units, must be made before the expiry of that accounting cycle.

46 In that regard, it must, first of all, be recalled that it follows from the Court's case-law that the fact that the referring court is required to do everything possible to ensure that the case in the main proceedings is settled rapidly is not in itself sufficient to justify the use of an expedited procedure pursuant to Article 105(1) of the Rules of Procedure (see, to that effect, judgment of 13 October 2022, *Gmina Wieliszew*, C-698/20, EU:C:2022:787, paragraph 50 and the case-law cited).

47 Next, it is settled case-law that the reliance on economic interests, including those likely to have an impact on public finances, however important and legitimate they may be, cannot, in itself, justify recourse to the expedited procedure (judgment of 28 April 2022, *Phoenix Contact*, C-44/21, EU:C:2022:309, paragraph 15 and the case-law cited).

48 Lastly, the Court has already stated that the risk of an infringement of EU law and its effectiveness being undermined, which arises in a large number of cases that are the subject of requests for a preliminary ruling, is not capable, in itself, of justifying the use of the expedited procedure provided for in Article 105(1) of the Rules of Procedure, given the nature of that procedure as a derogation (order of the President of the Court of 13 July 2017, *Anodiki Services EPE*, C-260/17, EU:C:2017:560, paragraph 11).

49 Furthermore, the referring court does not specify whether a reply from the Court of Justice within a short period would enable it to resolve the cases which it is hearing before the end of the accounting cycle concerned.

50 In those circumstances, the President of the Court decided, on 12 August 2021, after hearing the Judge-Rapporteur and the Advocate General, that there was no need to grant the request referred to in paragraph 43 above, on the ground that the circumstances relied on by the referring court in the present cases do not permit the inference that the conditions laid down in Article 105(1) of the Rules of Procedure are satisfied.

Consideration of the questions referred for a preliminary ruling

Admissibility of Questions 1, 2 and 3(a)

51 According to the Italian Government, Questions 1, 2 and 3(a) are inadmissible in that they are based on the incorrect premiss that the legislative amendment introduced by Article 23-quater of Decree-Law No 137/2020 leads to a lack of judicial review of the merits of the inclusion of an entity on the ISTAT list. The Italian Government submits, in that regard, that the limitation of the jurisdiction of the Corte dei conti (Court of Auditors) resulting from that amendment was followed

by an extension of the general jurisdiction of the administrative courts, which are the 'natural' courts to rule on acts of the administration.

52 It must be borne in mind in that regard that, according to the Court's settled case-law, in the context of the cooperation between the Court of Justice and the national courts provided for in Article 267 TFEU, it is solely for the national court, before which the dispute has been brought and which must assume responsibility for the subsequent judicial decision, to determine in the light of the particular circumstances of the case both the need for a preliminary ruling in order to enable it to deliver judgment and the relevance of the questions which it submits to the Court. Consequently, where the questions submitted concern the interpretation of EU law, the Court is, in principle, bound to give a ruling (judgment of 25 May 2023, *WertInvest Hotelbetrieb*, C-575/21, EU:C:2023:425, paragraph 29 and the case-law cited).

53 It follows that questions on the interpretation of EU law referred by a national court in the factual and legislative context which that court is responsible for defining and the accuracy of which is not a matter for the Court of Justice to determine, enjoy a presumption of relevance. The Court may refuse to rule on a question referred by a national court only where it is quite obvious that the interpretation of EU law that is sought is unrelated to the actual facts of the main action or its object, where the problem is hypothetical, or where the Court does not have before it the factual or legal material necessary to give a useful answer to the questions submitted to it (judgment of 25 May 2023, *WertInvest Hotelbetrieb*, C-575/21, EU:C:2023:425, paragraph 30 and the case-law cited).

54 Furthermore, it should be recalled that, in accordance with settled case-law of the Court, in the context of the procedure provided for in Article 267 TFEU, which is based on a clear separation of functions between the national courts and the Court of Justice, the latter does not have jurisdiction to interpret national law and only the national courts may establish and assess the facts of the dispute in the main proceedings and determine the exact scope of national laws, regulations or administrative provisions (judgment of 28 April 2022, *SeGEC and Others*, C-277/21, EU:C:2022:318, paragraph 21and the case-law cited).

55 The Court of Justice is only empowered to rule on the interpretation or validity of EU law in the light of the factual and legal situation as described by the referring court, and cannot call that situation into question or determine its accuracy (judgment of 9 September 2021, *Real Vida Seguros*, C-449/20, EU:C:2021:721, paragraph 13 and the case-law cited).

56 Therefore, the answer to Questions 1, 2 and 3(a) must be based on the premiss, set out in the orders for reference, that Article 23-quater of Decree-Law No 137/2020 resulted in a lack of judicial review of the application, by ISTAT, of Regulation No 549/2013 for the purposes of defining the general government sector.

57 That said, as is clear from the wording of Question 3(b) and (c), the referring court takes into account the interpretation of national law as proposed by the defendants in the main proceedings. Thus, there is nothing to prevent the Court from interpreting the relevant rules of EU law by also taking into consideration that interpretation of national law.

58 The Court of Justice, which is called on to provide answers of use to the national court, while confining itself to an interpretation of EU law, may provide guidance based on the documents relating to the main proceedings and on the written and oral observations which have been submitted to it, in order to enable the national court to give judgment (see, to that effect, judgment

of 28 April 2022, *SeGEC and Others*, C-277/21, EU:C:2022:318, paragraph 22 and the case-law cited).

59 In those circumstances, Questions 1, 2 and 3(a) are admissible.

Substance

60 By its first to third questions, which it is appropriate to examine together, the referring court asks, in essence, whether Regulations No 473/2013 and No 549/2013, Directive 2011/85 and the second subparagraph of Article 19(1) TEU, read in the light of Article 47 of the Charter and the principles of equivalence and effectiveness, must be interpreted as precluding national legislation which limits the jurisdiction of the audit court to rule on the merits of the inclusion of an entity on the list of government units.

61 According to that court, the limitation of jurisdiction introduced by Article 23-quater of Decree-Law No 137/2020, according to which the Corte dei conti (Court of Auditors) may hear disputes relating to the designation of government units by ISTAT 'solely for the purposes of applying the national rules on the limitation of government expenditure', resulted in a lack of judicial review of the merits of the designation of entities, such as the applicants in the main proceedings, as government units. Consequently, that limitation effectively excludes, first, the correct application of the EU accounting and fiscal rules referred to in both Regulation No 549/2013 and Directive 2011/85 and, therefore, compliance with the requirements set out in Article 126 TFEU and Protocol No 12, second, any independent review of the national budgetary authorities, as provided for by that directive and Regulation No 473/2013, and, third, the guarantee of effective judicial protection guaranteed by Article 19 TEU and Article 47 of the Charter.

62 In addition, the referring court states that even if the interpretation of Article 23-quater proposed by the defendants in the main proceedings and referred to in paragraph 34 above were adopted, doubt would remain as to whether that article complies, inter alia, with the principle of effective judicial protection, since the applicants in the main proceedings would then have to bring two separate actions before two different courts in order to assert their rights, which would risk undermining the principle of legal certainty as regards the determination of their status in view of the implementation of Regulation No 549/2013.

63 Therefore, it is necessary to ascertain, first, whether the fact that it is not possible to challenge the validity of the inclusion of an entity as a government unit on the ISTAT list, as follows, according to the referring court, from Article 23-quater of Decree-Law No 137/2020, is contrary to the requirements arising from Regulations No 473/2013 and No 549/2013, and Directive 2011/85 and, therefore, the effectiveness of those provisions and the requirement for effective judicial protection imposed by EU law. Second, it is necessary to examine whether Article 23-quater, as interpreted by the defendants in the main proceedings, complies with the requirement of such effective judicial protection.

64 First, as regards the question whether national legislation, in the present case Article 23-quater, as interpreted by the referring court, complies with the requirements arising from Regulation No 549/2013, it must be pointed out that it is clear from recital 14 of that regulation that, for the purposes of the European Union, and in particular for the formulation and monitoring of its economic and social policies, the ESA 2010 establishes a reference framework intended for the drawing up of the accounts of the Member States. In that regard, as stated in recital 3 of that regulation, those accounts should be drawn up on the basis of a single set of principles that are not open to differing interpretations, so that comparable results can be obtained (judgment of 3 October

2019, *Fonds du Logement de la Région de Bruxelles-Capitale*, C-632/18, EU:C:2019:833, paragraph 32).

65 As is apparent from Article 1 of that regulation, the ESA 2010 lays down a methodology, set out in Annex A, relating, in particular, to common accounting definitions and rules, intended to enable national and regional accounts and tables on comparable bases for the purposes of the European Union to be drawn up. In accordance with Article 3 of Regulation No 549/2013, those accounts are to be transmitted by the Member States to the Commission (Eurostat).

66 In that regard, paragraph 1.57 of Chapter 1 of that annex provides that every institutional unit – which is defined as an economic entity that is capable of owning goods and assets, of incurring liabilities, and of engaging in economic activities and transactions with other units in its own right – is to be allocated to one of the six main sectors identified by the ESA 2010, that is to say, non-financial corporations, financial corporations, general government, households, non-profit institutions serving households and the rest of the world (judgment of 3 October 2019, *Fonds du Logement de la Région de Bruxelles-Capitale*, C-632/18, EU:C:2019:833, paragraph 33).

67 The ‘general government’ sector is defined in paragraph 2.111 of Chapter 2 and in paragraph 20.05 *et seq.* of Chapter 20 of Annex A to Regulation No 549/2013.

68 Having regard to Articles 1 and 3 of that regulation, and to the objective which it pursues, as recalled in paragraph 64 above, the Member States, when drawing up their national and regional accounts for the purposes of the European Union, must determine the sector relating to ‘general government’ by applying that definition.

69 In order to ensure that, when classifying a ‘government’ entity for the purposes of Regulation No 549/2013, the competent national authority complies with the relevant definition of EU law by which it is bound, its decision must be open to challenge and be subject to judicial review. If it were not possible to challenge that classification, the effectiveness of EU law would not be guaranteed.

70 Consequently, the effectiveness of that regulation precludes national legislation which effectively excludes any possibility of judicial review of the merits of the classification of an entity as a government unit.

71 Second, as regards the question whether national legislation, such as Article 23-quater of Decree-Law No 137/2020, complies with the requirements arising from Directive 2011/85, it should be recalled that, in accordance with Article 1 thereof, that directive lays down detailed rules relating to the characteristics of the budgetary frameworks of the Member States. Those rules are necessary to ensure that Member States comply with their obligations under the TFEU with regard to avoiding excessive government deficits.

72 The term ‘budgetary framework’ is defined in Article 2 of that directive as referring to the set of arrangements, procedures, rules and institutions that underlie the conduct of budgetary policies of general government. Furthermore, the first paragraph of Article 2 of that directive provides that the definition of the term ‘sub-sectors of general government’, set out in paragraph 2.70 of Annex A to Regulation No 2223/96 (identical to the one in paragraph 2.113 of Annex A to Regulation No 549/2013), is to apply for the purposes of that directive. In that regard, it should also be noted that, in accordance with recital 23 of Directive 2011/85, the provisions of the budgetary surveillance framework established by the TFEU, in particular, the Stability and Growth Pact, apply to general government as a whole, which comprises those subsectors.

73 It follows from the foregoing that the requirements applicable to the budgetary frameworks of the Member States, which appear in that directive, apply, on the basis of the national implementing measures, to general government as a whole.

74 In addition, according to Article 5 of Directive 2011/85, each Member State must have in place numerical fiscal rules which are specific to it and which effectively promote compliance with its obligations deriving from the TFEU in the area of budgetary policy over a multiannual horizon for the general government as a whole. Such rules are to promote in particular compliance with the reference values on deficit and debt set in accordance with the TFEU and the adoption of a multiannual fiscal planning horizon, including adherence to the Member State's medium-term budgetary objective.

75 In those circumstances, the numerical fiscal rules relating to the general government contribute to the budgetary discipline of the Member State to which those authorities belong.

76 In addition, it should be noted that recital 4 of Directive 2011/85 states that the availability of fiscal data is crucial to the proper functioning of the budgetary surveillance framework of the European Union, that regular availability of timely and reliable fiscal data is the key to proper and well-timed monitoring, which in turn allows prompt action in the event of unexpected budgetary developments, and that a crucial element in ensuring the quality of fiscal data is transparency, which must entail the regular public availability of such data.

77 Thus, although, as the Commission has stated, that directive imposes obligations on the general government only through national transposing measures, the fact remains that the object, purpose and effectiveness of that directive could be jeopardised if, in the absence of any possibility of judicial review of 'government' status, budget data of entities were published and transmitted to the Commission (Eurostat) where those entities did not have that status.

78 Consequently, an interpretation of Directive 2011/85 capable of preserving its effectiveness precludes national legislation that excludes any possibility of judicial review of the merits of designating an entity as a government unit.

79 Third, as regards the question whether national legislation, such as Article 23-quater of Decree-Law No 137/2020, complies with the requirement of independent review of the fiscal authorities of the Member State concerned, arising from Regulation No 473/2013 and Directive 2011/85, it should be noted, as the Advocate General did, in essence, in point 80 of his Opinion, that those EU instruments leave the Member States free to determine the independent bodies responsible for monitoring the national public accounting systems or effective compliance with the budgetary discipline incumbent on those States.

80 Thus, first of all, in accordance with Article 3(1) of Directive 2011/85, read in conjunction with recital 3 thereof, those national systems must be subject to internal control and independent audits, which may be carried out by one or more public institutions, such as, for example, courts of auditors or by private auditing bodies. As regards internal control, this should make it possible to ensure that the existing public accounting rules are implemented in all the subsectors of general government.

81 Next, Article 6(1)(b) of that directive provides that the country-specific numerical fiscal rules must, inter alia, contain specifications as to the arrangements for effective and timely monitoring of compliance with the rules, based on reliable and independent analysis carried out by independent

bodies or bodies endowed with functional autonomy vis-à-vis the fiscal authorities of the Member States.

82 Finally, Article 2(1)(a) of Regulation No 473/2013 defines the term 'independent bodies'. It means bodies that are structurally independent or bodies endowed with functional autonomy vis-à-vis the budgetary authorities of the Member State, and which are underpinned by national legal provisions ensuring a high degree of functional autonomy and accountability. Article 5(1)(b) of that regulation states that the Member States are to have in place independent bodies for monitoring compliance with the numerical fiscal rules as referred to in Article 5 of Directive 2011/85.

83 Thus, Directive 2011/85 and Regulation No 473/2013, as the Advocate General observed in points 83 and 85 of his Opinion, require the establishment of independent bodies only for the purposes of compliance with EU numerical fiscal rules, but leave the Member States free to limit the scope of the judicial review of their courts of auditors as regards the application of Regulation No 549/2013.

84 Fourth, as regards the question whether national legislation, such as Article 23-quater of Decree-Law No 137/2020, complies with the requirement of effective judicial protection imposed by EU law, it must be recalled that the second subparagraph of Article 19(1) TEU obliges Member States to provide remedies sufficient to ensure effective legal protection for individual parties in the fields covered by EU law (judgment of 21 December 2021, *Randstad Italia*, C-497/20, EU:C:2021:1037, paragraph 56 and the case-law cited).

85 The Court also pointed out that the principle of the effective legal protection of individual parties' rights under EU law thus referred to in that provision is a general principle of EU law stemming from the constitutional traditions common to the Member States, which has been enshrined in Articles 6 and 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950, and which is now reaffirmed by Article 47 of the Charter (judgment of 21 December 2021, *Randstad Italia*, C-497/20, EU:C:2021:1037, paragraph 57 and the case-law cited).

86 In addition, it should be borne in mind that, under Article 51(1) of the Charter, its provisions are addressed to Member States only when they are implementing EU law.

87 In that regard, it should be noted that, as is apparent from paragraphs 64 to 78 above, the legal situation at issue in the main proceedings is governed, from a substantive point of view, by Regulation No 549/2013 and Directive 2011/85, which impose accounting and fiscal rules on the Member State concerned, compliance with which must be capable of being required of entities, such as the applicants in the main proceedings, before a court. In those circumstances, the provisions of the Charter are applicable.

88 That said, neither that regulation nor that directive lays down the detailed procedural rules governing legal actions which ensure their effectiveness, and does not specify, in particular, which national court must ensure effective judicial protection.

89 However, in the absence of EU rules on the matter, it is, in accordance with the principle of procedural autonomy, for the national legal order of each Member State to establish procedural rules for the remedies referred to in paragraph 84 above, on condition, however, that those rules are not – in situations governed by EU law – less favourable than in similar domestic situations (principle of equivalence) and that they do not make it impossible in practice or excessively difficult to exercise the rights conferred by EU law (principle of effectiveness) (judgment of

21 December 2021, *Randstad Italia*, C-497/20, EU:C:2021:1037, paragraph 58 and the case-law cited).

90 The examination of Article 23-quater of Decree-Law No 137/2020 in the light of the principles of equivalence and effectiveness must be carried out taking into account the fact that, as is apparent from paragraphs 32 to 35 above, that provision is interpreted differently by the parties at issue in the main proceedings, which the referring court formally noted in the questions referred for a preliminary ruling. In addition, at the hearing, the Italian Government submitted that, in accordance with that provision, the Corte dei conti (Court of Auditors) could rule indirectly on the validity of ISTAT's decisions concerning the inclusion of an entity on the ISTAT list, if necessary by disregarding those decisions.

91 As regards the principle of equivalence, it should be noted that the Court of Justice does not have before it any evidence capable of raising doubts as to whether the national legislation at issue in the main proceedings complies with that principle.

92 As regards the principle of effectiveness, it should be borne in mind that EU law does not have the effect of requiring Member States to establish remedies other than those established by national law, unless it is apparent from the overall scheme of the national legal system in question that no legal remedy exists that would make it possible to ensure, even indirectly, respect for the rights that individuals derive from EU law, or the sole means of obtaining access to a court is effectively for individuals to break the law (judgment of 21 December 2021, *Randstad Italia*, C-497/20, EU:C:2021:1037, paragraph 62 and the case-law cited).

93 In addition, it must be underlined that, in accordance with the Court's case-law, every case in which the question arises as to whether a national procedural provision makes the application of EU law impossible or excessively difficult must be analysed by reference to the role of that provision in the procedure, its operation and its particular features, viewed as a whole, before the various national bodies. In that context, it is necessary to take into consideration, where relevant, the principles which lie at the basis of the national legal system, such as the protection of the rights of the defence, the principle of legal certainty and the proper conduct of the proceedings (judgment of 17 November 2022, *Harman International Industries*, C-175/21, EU:C:2022:895, paragraph 68 and the case-law cited).

94 In the present case, having regard to the case-law cited in paragraphs 92 and 93 above, if the national court were to find that the entry into force of Article 23-quater of Decree-Law No 137/2020 results in the absence of any judicial review of ISTAT's decisions relating to the listing of entities in the general government sector, as defined in Regulation No 549/2013, it would then be necessary to find that that provision makes the application of that regulation impossible or excessively difficult and, therefore, does not ensure the effectiveness of Directive 2011/85. In such a situation, those entities would not be able to apply to any court to seek review of the measures taken by ISTAT pursuant to that regulation.

95 On the other hand, if the interpretation of Article 23-quater of Decree-Law No 137/2020 advocated by the defendants in the main proceedings and, at the hearing, by the Italian Government were to be adopted by the referring court, namely that only the administrative court has the power to annul the inclusion of an entity on the ISTAT list and that the audit court may only review the legality of that inclusion indirectly when it rules on the application of the national legislation on the limitation of government expenditure, the view cannot be taken that that provision undermines the principle of effectiveness or that it reveals something that would indicate an infringement of the second subparagraph of Article 19(1) TEU.

96 In such a situation, there is a legal remedy that makes it possible to ensure the review of the measures taken by ISTAT pursuant to Regulation No 549/2013 and Directive 2011/85.

97 Furthermore, as the Italian Government stated at the hearing and subject to verification by the referring court, the entities included on the ISTAT list that wish to challenge their designation as government units are not required to bring two separate actions, that is to say, an action before the administrative court and one before the Corte dei conti (Court of Auditors). Thus, first, they could apply to the administrative court for the annulment *erga omnes* of the decision which included them on that list. Second, before the Corte dei conti (Court of Auditors), they could challenge the consequences of their inclusion on that list and, if necessary, obtain, indirectly, an order that their inclusion should be disregarded.

98 That being so, in the situation referred to in paragraph 95 above, there is a risk that contradictory judgments as to the merits of the inclusion of an entity on the ISTAT list may be adopted, which would give rise to a situation of legal uncertainty. However, the mere possibility that such divergences may arise is not sufficient to conclude that Article 19 TEU, read in the light of Article 47 of the Charter and the principle of effectiveness, has been infringed, provided that an entity challenging the classification decision relating to that entity can simply bring a single action in order to have its application examined. Nevertheless, it is for the Italian legal system to lay down detailed rules for the exercise of legal remedies in such a way as not to affect disproportionately the right to an effective remedy referred to in Article 47 of the Charter (see, to that effect, judgment of 12 January 2023, *Nemzeti Adatvédelmi és Információszabadság Hatóság*, C-132/21, EU:C:2023:2, paragraph 51 and the case-law cited).

99 Furthermore, where there is an action before an independent court for a ruling on the dispute in the main proceedings, which it is for the referring court to ascertain, the fact that the court having jurisdiction, namely, according to the defendants in the main proceedings, the administrative court, is not, as the referring court states, the one designated by the Constitution of the Italian Republic as the court having jurisdiction in budgetary matters is irrelevant from the point of view of EU law.

100 In the light of all the foregoing considerations, the answer to the first to third questions is that Regulations No 473/2013 and No 549/2013, Directive 2011/85 and the second subparagraph of Article 19(1) TEU, read in the light of Article 47 of the Charter and the principles of equivalence and effectiveness, must be interpreted as not precluding national legislation which limits the jurisdiction of the audit court to rule on the merits of the inclusion of an entity on the list of government units, provided that the effectiveness of those regulations and of that directive and the effective judicial protection required by EU law are guaranteed.

Costs

101 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the national court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (First Chamber) hereby rules:

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, Regulation (EU) No 549/2013 of the European Parliament and of the Council of 21 May 2013 on the European system of national and regional accounts in the European Union, Council Directive

2011/85/EU of 8 November 2011 on requirements applicable for budgetary frameworks of the Member States and the second subparagraph of Article 19(1) TEU, read in the light of Article 47 of the Charter of Fundamental Rights of the European Union and the principles of equivalence and effectiveness,

must be interpreted as not precluding national legislation which limits the jurisdiction of the audit court to rule on the merits of the inclusion of an entity on the list of government units, provided that the effectiveness of those regulations and of that directive and the effective judicial protection required by EU law are guaranteed.

[Signatures]

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* Language of the case: Italian.