



C/2024/1538

26.2.2024

**Request for a preliminary ruling from the Consiglio di Stato (Italy) lodged on 13 December 2023 —
Mara soc. coop. arl v Ministero della Difesa, Gruppo Samir Global Service Srl**

(Case C-769/23, Mara)

(C/2024/1538)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties to the main proceedings

Appellant: Mara soc. coop. arl

Respondents: Ministero della Difesa, Gruppo Samir Global Service Srl

Questions referred

Do the principles of freedom of establishment and freedom to provide services, referred to in Articles 49 and 56 of the Treaty on the Functioning of the European Union (TFEU), the [EU] principle of proportionality and Article 67(2) of Directive 2014/24/EU ⁽¹⁾ preclude the application of national legislation on public procurement, such as the Italian legislation in Article 95(3)(a) and (4)(b) of Legislative Decree No 50 of 18 April 2016, and in Article 50(1) of that legislative decree, as also arising from the principle of law laid down by the Plenary Session of the Council of State in judgment No 8 of 21 May 2019, according to which, in the case of contracts concerning services with standardised characteristics and, which are, at the same time, labour-intensive, the contracting authority is prohibited from providing for, as an award criterion, the lowest price, even where the tender rules provide for the reduction only on the premium or potential profit of the undertaking, without prejudice to the labour costs?

⁽¹⁾ 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 (OJ 2014 L 94, p. 65).