



Judgment of the Court (Tenth Chamber) of 23 November 2023 (request for a preliminary ruling from the Verwaltungsgerichtshof — Austria) — EVN Business Service GmbH, Elektra EOOD, Penon EOOD

(Case C-480/22, (1) EVN Business Service and Others)

(Reference for a preliminary ruling — Public contracts — Review procedures relating to the award of public contracts — Directive 2014/25/EU — Article 57(3) — Contracting entity having its head office in a Member State other than that of the head office of a central purchasing body acting in its name and on its behalf — Access to the review procedures — Applicable procedural rules and jurisdiction of review bodies)

(C/2024/612)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Applicants: EVN Business Service GmbH, Elektra EOOD, Penon EOOD

Operative part of the judgment

- Article 57(3) of Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC

must be interpreted as meaning that a centralised purchasing activity, in the context of the joint award of contracts by contracting entities of different Member States, is carried out by a central purchasing body 'located in another Member State' where the contracting entity has its head office in a Member State other than that in which the central purchasing body is established, irrespective, as the case may be, of the location of the head office of a third entity controlling one or other of those entities.

- Article 57(3) of Directive 2014/25, read in the light of recitals 78 and 82 of that directive,

must be interpreted as meaning that the conflict-of-law rule laid down in that provision, under which the provision of centralised purchasing activities of a central purchasing body is to be conducted in accordance with the national provisions of the Member State where that central purchasing body is located, extends to review procedures, within the meaning of Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors, as amended by Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts, relating to those activities, in so far as that central purchasing body is responsible for the conduct of the contract award procedure.

(1) OJ C 368, 26.9.2022.