



C/2025/1204

3.3.2025

Judgment of the Court (Third Chamber) of 9 January 2025 (request for a preliminary ruling from the Nejvyšší správní soud – Czech Republic) – Česká republika – Generální finanční ředitelství v Úřad pro ochranu hospodářské soutěže

(Case C-578/23, ⁽¹⁾ Česká republika – Generální finanční ředitelství)

(Reference for a preliminary ruling – Public contracts – Directive 2004/18/EC – Article 31(1)(b) – Negotiated procedure without prior publication of a contract notice – Conditions – Technical reasons – Reasons connected with the protection of exclusive rights – Attributable to the contracting authority – Factual and legal circumstances to be taken into consideration)

(C/2025/1204)

Language of the case: Czech

Referring court

Nejvyšší správní soud

Parties to the main proceedings

Applicant: Česká republika – Generální finanční ředitelství

Defendant: Úřad pro ochranu hospodářské soutěže

Operative part of the judgment

Article 31(1)(b) of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts

must be interpreted as meaning that in order to justify the use of the negotiated procedure without prior publication of a contract notice, within the meaning of that provision, the contracting authority may not invoke the protection of exclusive rights where the reason for such protection is attributable to it. The attributing of such a reason is to be assessed on the basis not only of the factual and legal circumstances surrounding the conclusion of a contract for an initial service, but also of all those which characterise the period between the date of concluding that contract and the date on which the contracting authority chooses the procedure to be followed for the award of a subsequent public contract.

⁽¹⁾ OJ C C/2023/1291.