



C/2025/374

27.1.2025

**Request for a preliminary ruling from the Curtea de Apel Cluj (Romania) lodged on 23 August 2024 –
Sof Medica S.A. v Spitalul Clinic Județean de Urgență Cluj-Napoca**

(Case C-568/24, Sof Medica)

(C/2025/374)

Language of the case: Romanian

Referring court

Curtea de Apel Cluj

Parties to the main proceedings

Appellant and applicant at first instance: Sof Medica S.A.

Respondent and defendant at first instance: Spitalul Clinic Județean de Urgență Cluj-Napoca

Questions referred

1. Must the principle of transparency, referred to in Article 18(1) of Directive 2014/24/EU, in conjunction with Articles 49 and 2(1)(13) of Directive 2014/24/EU, ⁽¹⁾ be interpreted as precluding the exclusion of a tenderer on the basis of certain technical specifications, justified by 'objective need', where that need is defined by the contracting authority only after publication of the contract notice and the procurement documents?
2. May the provisions of Article 42(1), (3)(b) and (4) of Directive 2014/24/EU be interpreted as meaning that the assessment of the restrictive nature of the technical specifications, which requires the words 'or equivalent' in the procurement documentation, is also carried out by means of a cumulative analysis of all the requirements of the procurement documentation?
3. If the answer to the first two questions is in the affirmative, can the principle of equal treatment and the principle of non-discrimination, referred to in Article 18(1) of Directive 2014/24/EU, be interpreted as meaning that the assessment of the restrictive nature of the technical specifications must be linked to the contracting authority's 'objective need' prior to the publication of the contract notice and the procurement documentation?

⁽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).