



Reports of Cases

Case C-15/13

Technische Universität Hamburg-Harburg

and

Hochschul-Informationssystem GmbH

v

Datenlotsen Informationssysteme GmbH

(Request for a preliminary ruling from the Hanseatisches Oberlandesgericht Hamburg)

(Public supply contracts — Directive 2004/18/EC — Award of a contract without initiating a tendering procedure — In-house award — Contractor legally separate from the contracting authority — Condition of ‘similar control’ — Contracting authority and contractor not linked by a relationship of control — Third party public authority exercising partial control over the contracting authority and control over the contractor which could be qualified as ‘similar’ — ‘Horizontal in-house transaction’)

Summary — Judgment of the Court (Fifth Chamber), 8 May 2014

Approximation of laws — Procedure for the award of public works contracts, public supply contracts and public service contracts — Directive 2004/18 — Scope — Contracts awarded by a contracting authority to an entity partly owned by a third party public authority exercising partial control over the contracting authority, albeit legally distinct from the latter — Included

(European Parliament and Council Directive 2004/18, Art. 1(2)(a))

Article 1(2)(a) of Directive 2004/18 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 a contract for the supply of products concluded between (i) a university which is a contracting authority and whose purchases of products and services are controlled by a German Federal State, and (ii) an undertaking under private law, owned by the Federation and by Federal States, including the abovementioned Federal State, constitutes a public contract for the purposes of that provision, and must therefore be subject to the public procurement rules laid down in that directive.

(see para. 36, operative part)