

3. Article 38(1) of Directive 2014/23, as amended by Delegated Regulation 2019/1827, read in conjunction with point 7 (b) of Annex V to and recital 4 of that directive, and with Article 4 and point III.1.1 of Annex XXI to Commission Implementing Regulation (EU) 2015/1986 of 11 November 2015 establishing standard forms for the publication of notices in the field of public procurement and repealing Implementing Regulation (EU) No 842/2011,

must be interpreted as meaning that

a contracting authority may require, as criteria for the selection and qualitative assessment of candidates, that economic operators be enrolled on a trade register or on a professional register, provided that an economic operator can rely on being enrolled on a similar register in the Member State in which it is established.

4. Article 38(1) of Directive 2014/23, as amended by Delegated Regulation 2019/1827, read in conjunction with Article 27 of that directive and Article 1 of Regulation (EC) No 2195/2002 of the European Parliament and of the Council of 5 November 2002 on the Common Procurement Vocabulary (CPV),

must be interpreted as

precluding a contracting authority, which requires economic operators to be enrolled on the trade register or the professional register of a Member State of the European Union, from referring not to the Common Procurement Vocabulary (CPV) made up of CPV codes, but to the NACE Rev. 2 nomenclature, as established by Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains.

5. Article 38(1) to (2) of Directive 2014/23, as amended by Delegated Regulation 2019/1827, read in conjunction with Article 26(2) of that directive,

must be interpreted as meaning that

a contracting authority may not, without infringing the principle of proportionality guaranteed by the first subparagraph of Article 3(1) of that directive, require each of the members of a temporary business association to be enrolled, in a Member State, on the trade register or the professional register with a view to the pursuit of the activity of renting and leasing of cars and light motor vehicles.

(¹) OJ C 471, 22.11.2021.

Judgment of the Court (Fifth Chamber) of 10 November 2022 (request for a preliminary ruling from the High Court (Ireland) — Ireland) — Eircom Limited v Commission for Communications Regulation

(Case C-494/21) (¹)

(Reference for a preliminary ruling — Electronic communications networks and services — Universal service and users' rights — Directive 2002/22/EC (Universal Service Directive) — Article 12 — Costing and financing of universal service obligations — Single universal service provider and multiple telecommunications services providers operating in the market — Determination as to whether an unfair burden exists)

(2023/C 7/13)

Language of the case: English

Referring court

High Court (Ireland)

Parties to the main proceedings

Plaintiff: Eircom Limited

Defendant: Commission for Communications Regulation

Notice parties: Vodafone Ireland Limited, Three Ireland (Hutchison) Limited, Three Ireland Services (Hutchison) Limited

Operative part of the judgment

Articles 12 and 13 of Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive),

must be interpreted as requiring the competent national regulatory authority, in order to determine whether the net cost of universal service obligations represents an unfair burden on an operator entrusted with such obligations, to examine the characteristics particular to that operator, taking account of its situation relative to that of its competitors in the relevant market.

⁽¹⁾ OJ C 431, 25.10.2021.

Judgment of the Court (Eighth Chamber) of 10 November 2022 (request for a preliminary request from the Gerechtshof's-Hertogenbosch — Netherlands) — Taxi Horn Tours BV v gemeente Weert, gemeente Nederweert, Touringcars VOF

(Case C-631/21) ⁽¹⁾

(Reference for a preliminary ruling — Procedures for the award of public works contracts, public supply contracts and public service contracts — Directive 2014/24/EU — Award of contracts — Article 2(1)(10) — Concept of an 'economic operator' — Inclusion of a general partnership without legal personality — Article 19(2) and Article 63 — Joint undertaking or reliance on the capacities of other entities of persons linked with that undertaking — Article 59(1) — Obligation to submit one or several European Single Procurement Documents (ESPD) — Purpose of the ESPD)

(2023/C 7/14)

Language of the case: Dutch

Referring court

Gerechtshof's-Hertogenbosch

Parties to the main proceedings

Applicant: Taxi Horn Tours BV

Defendants: gemeente Weert, gemeente Nederweert, Touringcars VOF

Operative part of the judgment

Article 59(1) of 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, read in conjunction with Article 2(1)(10) and Article 63 of that directive, and with Annex 1 to Commission Implementing Regulation (EU) 2016/7 of 5 January 2016 establishing the standard form for the European Single Procurement Document,