

must be interpreted as meaning that

a joint undertaking which, although not a legal person, has the form of a firm governed by the national legislation of a Member State, which appears on the commercial register of that Member State, which may have been set up on either a temporary or a permanent basis and all the joint partners of which are active on the same market as that joint undertaking and are jointly and severally liable for the proper performance of the obligations which it has entered into, must provide the contracting authority with only its own European Single Procurement Document (ESPD) when it intends to participate, on an individual basis, in a public procurement procedure or to submit a tender if it shows that it can perform the contract in question using only its own personnel and materials. If, on the other hand, for the performance of a public contract, that joint undertaking considers that it must seek the own resources of certain partners, it must be regarded as having recourse to the capacities of other entities, within the meaning of Article 63 of Directive 2014/24, and must then submit not only an ESPD for itself, but also an ESPD for each of the partners whose capacities it intends to use.

⁽¹⁾ OJ C 24, 17.1.2022.

Judgment of the Court (Eighth Chamber) of 10 November 2022 — Laboratoire Pareva v Biotech3D Ltd & Co. KG, European Commission, French Republic, European Chemicals Agency

(Case C-702/21 P) ⁽¹⁾

(Appeal — Biocidal products — Regulation (EU) No 528/2012 — Delegated Regulation (EU) No 1062/2014 — Active substance PHMB (1415; 4.7) — Refusal of approval as an existing active substance for use in biocidal products of product-types 1, 5 and 6 — Approval as an existing active substance for use in biocidal products of product-types 2 and 4 — Teratogenic effect — Human health risk assessment)

(2023/C 7/15)

Language of the case: English

Parties

Appellant: Laboratoire Pareva (represented by S. Englebert, M. Grunchar and M. Ombredane, avocats, P. Sellar, advocaat, and by K. Van Maldegem, avocat)

Other parties to the proceedings: Biotech3D Ltd & Co. KG, European Commission (represented by R. Lindenthal and K. Mifsud-Bonnici, acting as Agents), French Republic (represented by G. Bain and J.-L. Carré, acting as Agents), European Chemicals Agency (ECHA) (represented by C. Buchanan, M. Heikkilä and T. Zbihlej, acting as Agents)

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders Laboratoire Pareva to pay the costs;
3. Orders the French Republic to bear its own costs.

⁽¹⁾ OJ C 64, 7.2.2022.