



Reports of Cases

Order of the Court (Eighth Chamber) of 30 September 2022 – EDIENS & KM.LV

(Case C-592/21)

(Reference for a preliminary ruling – Article 99 of the Rules of Procedure of the Court – Public procurement – Directive 2014/24/EU – Conduct of the procedure – Choice of participants – Selection criteria – Technical and professional capacities – Article 58(4) – Forms of evidence – European Single Procurement Document – Article 59 – Reliance on the capacities of other entities – Article 63(1) – Group of economic operators – Condition relating to professional experience to be satisfied by the member of the group responsible, in the event of the award of the contract, for performing the activities requiring that experience – Condition not provided for in the procurement documents – Status of general partnership unaffected by the system of joint and several liability)

1. *Questions referred for a preliminary ruling – Answer admitting of no reasonable doubt – Questions the answer to which may be clearly deduced from the Court’s existing case-law – Application of Article 99 of the Rules of Procedure*

(Rules of Procedure of the Court of Justice, Art. 99)

(see paragraphs 18, 19)

2. *Approximation of laws – Procedures for the award of public works contracts, public supply contracts and public service contracts – Directive 2014/24 – Award of contracts – Qualitative selection criteria – Technical and professional capacity – Possibility to rely on the capacities of other entities – Conditions – Professional experience – Condition that must be fulfilled by the sole member responsible, within the group of economic operators, for performing the activities requiring that experience – Whether permissible*

(European Parliament and Council Directive 2014/24, Arts 58(4), 59 and 63(1), second subpara.)

(see paragraphs 25-29, 34, operative part)

3. *Approximation of laws – Procedures for the award of public works contracts, public supply contracts and public service contracts – Directive 2014/24 – Award of contracts – Qualitative selection criteria – Technical and professional capacity – Possibility to rely on the capacities of other entities – Conditions – Lack of detail in the procurement documents – Effect*

(European Parliament and Council Directive 2014/24, Art. 19(2), second subpara.)

(see paragraphs 30, 31)

Operative part

Article 63(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 59 thereof,

must be interpreted as meaning that where it is established that, in the event of the award of a public service contract to a group of economic operators, the performance of the activities for which experience is required will be entrusted to a single member of the group, the tendering group may rely, in order to demonstrate that it satisfies a condition relating to experience imposed by the contracting authority in accordance with Article 58(4) of that directive, solely on the experience of that member of the group, even if the procurement documents do not expressly provide that the members of a group of economic operators must individually satisfy that condition.