

must be interpreted as precluding national rules or practice under which, when the contracting authority terminates early a public contract awarded to a group of economic operators on account of significant or persistent deficiencies which have resulted in the non-performance of a substantive requirement in relation to that contract, each member of that group is automatically entered on a list of unreliable suppliers and thereby temporarily prevented, in principle, from participating in new public procurement procedures.

2. Article 18(1) and Article 57(4)(g) of Directive 2014/24

must be interpreted as meaning that an economic operator which is a member of a group which submitted the successful tender for a public contract may, in the event that contract is terminated early for failure to comply with a substantive requirement, rely, for the purpose of demonstrating that its entry on a list of unreliable suppliers is unjustified, on any factor, including any factor concerning third parties, such as the lead partner of that group, which is capable of showing that it was not the cause of the deficiencies which resulted in the early termination of that contract and that it could not reasonably be required to do more than it did in order to remedy those deficiencies.

3. Article 1(1) and (3) of Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts, as amended by Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014,

must be interpreted as meaning that a Member State which provides, when laying down conditions for the application of the optional ground for exclusion provided for in Article 57(4)(g) of Directive 2014/24, that the members of a group of economic operators which submitted a successful tender for a public contract are, in the event of early termination of that contract for failure to comply with a substantive requirement, entered on a list of unreliable suppliers and accordingly temporarily excluded, in principle, from participating in new public procurement procedures, must ensure the right of those operators to bring an effective action against their entry on that list.

(<sup>1</sup>) OJ C 84, 21.2.2022.

**Order of the Court (Tenth Chamber) of 17 January 2023 (request for a preliminary ruling from the Sąd Okręgowy w Słupsku — Poland) — KL and Others v Skarb Państwa — Sąd Okręgowy w Koszalinie, Sąd Rejonowy w Szczecinku and Others**

(Case C-410/22) (<sup>1</sup>)

**(Reference for a preliminary ruling — Article 53(2) and Article 94 of the Rules of Procedure of the Court of Justice — Requirement to state the reasons justifying the need for an answer from the Court — Lack of sufficient information — Manifest inadmissibility)**

(2023/C 94/09)

Language of the case: Polish

**Referring court**

Sąd Okręgowy w Słupsku

**Parties to the main proceedings**

*Applicants:* KL and Others

*Defendants:* Skarb Państwa — Sąd Okręgowy w Koszalinie, Sąd Rejonowy w Szczecinku and Others

**Operative part of the order**

The request for a preliminary ruling from the Sąd Okręgowy Wydział Cywilny w Słupsku (Regional Court, Słupsk, Poland), made by decision of 17 September 2021, is manifestly inadmissible.

(<sup>1</sup>) Date lodged: 20.6.2022.