

9. Is the third subparagraph of Article 9(2) of Directive 2016/943 to be interpreted as meaning that, after rejecting the applicant's claim for disclosure of confidential information of the other party to the dispute, the court should of its own motion assess the significance of the data whose loss of confidentiality is requested and the data's effects on the lawfulness of the public procurement procedure?
10. May the ground for exclusion of suppliers which is laid down in Article 57(4)(h) of Directive 2014/24, regard being had to the judgment of the Court of Justice of 3 October 2019, *Delta Antrepriză de Construcții și Montaj* 93, <sup>(5)</sup> be applied in such a way that the court, when examining a dispute between a supplier and the contracting authority, may decide of its own motion, irrespective of the assessment of the contracting authority, that the tenderer concerned, acting intentionally or negligently, submitted misleading, factually inaccurate information to the contracting authority and therefore had to be excluded from public procurement procedures?
11. Is Article 57(4)(h) of Directive 2014/24, applied in conjunction with the principle of proportionality set out in Article 18(1) of that directive, to be interpreted and applied in such a way that, where national law provides for additional penalties (besides exclusion from procurement procedures) in respect of the submission of false information, those penalties may be applied only on the basis of personal responsibility, in particular where factually inaccurate information is submitted only by a proportion of the joint participants in the public procurement procedure (for example, one of several partners)?

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<sup>(1)</sup> 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 (OJ 2014 L 94, p. 65).

<sup>(2)</sup> ECLI:EU:C:2017:338.

<sup>(3)</sup> 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 (OJ 1989 L 395, p. 33).

<sup>(4)</sup> Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (OJ 2016 L 157, p. 1).

<sup>(5)</sup> C-267/18, ECLI:EU:C:2019:826.

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**Request for a preliminary ruling from the Conseil du Contentieux des Étrangers (Belgium) lodged on 20 December 2019 —  
X v Belgian State**

**(Case C-930/19)**

(2020/C 77/41)

*Language of the case: French*

**Referring court**

Conseil du Contentieux des Étrangers

**Parties to the main proceedings**

Applicant: X

Defendant: Belgian State

**Question referred**

Does Article 13(2) of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States <sup>(1)</sup> infringe Articles 20 and 21 of the Charter of Fundamental Rights of the European Union, in that it provides that divorce, annulment of marriage or termination of a registered partnership does not entail loss of the right of residence of a Union citizen's family members who are not nationals of a

Member State where, inter alia, this is warranted by particularly difficult circumstances, such as having been a victim of domestic violence while the marriage or registered partnership was subsisting, but only on the condition that the persons concerned show that they are workers or self-employed persons or that they have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the host Member State during their period of residence and have comprehensive sickness insurance cover in the host Member State, or that they are members of the family, already constituted in the host Member State, of a person satisfying these requirements, whereas Article 15(3) of Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, <sup>(2)</sup> which makes the same provision for the right of residence to continue, does not make its continuation subject to that condition?

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<sup>(1)</sup> Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ 2004, L 158, p. 77).

<sup>(2)</sup> OJ 2003, L 251, p. 12.

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**Request for a preliminary ruling from the Conseil d'État (France) lodged on 30 December 2019 — Les Chirugiens-Dentistes de France, Confédération des Syndicats médicaux français, Fédération des Syndicats pharmaceutiques de France, Syndicat des Biologistes, Syndicat des Médecins libéraux, Union dentaire, Conseil national de l'Ordre des Chirugiens-Dentistes, Conseil national de l'Ordre des Masseurs-Kinésithérapeutes, Conseil national de l'Ordre des Infirmiers v Ministre des Solidarités et de la Santé, Ministre de l'Enseignement supérieur, de la Recherche et de l'Innovation, Premier ministre**

**(Case C-940/19)**

(2020/C 77/42)

*Language of the case: French*

### **Referring court**

Conseil d'État

### **Parties to the main proceedings**

*Applicants:* Les Chirugiens-Dentistes de France, Confédération des Syndicats médicaux français, Fédération des Syndicats pharmaceutiques de France, Syndicat des Biologistes, Syndicat des Médecins libéraux, Union dentaire, Conseil national de l'Ordre des Chirugiens-Dentistes, Conseil national de l'Ordre des Masseurs-Kinésithérapeutes, Conseil national de l'Ordre des Infirmiers

*Defendants:* Ministre des Solidarités et de la Santé, Ministre de l'Enseignement supérieur, de la Recherche et de l'Innovation, Premier ministre

### **Question referred**

Does Article 4f(6) of Directive 2005/36/EC of 7 September 2005 <sup>(1)</sup> preclude a Member State from introducing the possibility of partial access to one of the professions covered by the mechanism for the automatic recognition of professional qualifications laid down by the provisions of Chapter III of Title III of that directive?

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<sup>(1)</sup> Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications (OJ 2005 L 255, p. 22).