

SUMMARY

ECJ 30 January 2020, case C-395/18 (Tim), Miscellaneous

Tim SpA – Direzione e coordinamento Vivendi SA – v – Consip SpA, Ministero dell’Economia e delle Finanze, Italian case

Please note that our Academic Board Member Niklas Bruun (University of Helsinki), has written an Academic Board Insight about this judgment. You can find it [here](#).

Question

Do Directive 2014/24 and the principle of proportionality preclude national legislation under which the contracting authority is required automatically to exclude an economic operator from the contract award procedure where the ground for exclusion referred to in Article 57(4)(a) of that directive is found in respect of one of the subcontractors mentioned in that operator’s tender?

Ruling

Article 57(4)(a) 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 does not preclude national legislation under which the contracting authority has the option, or even the obligation, to exclude the economic operator who submitted the tender from participation in the contract award procedure where the ground for exclusion referred to in that provision is established in respect of one of the subcontractors mentioned in that operator’s tender. However, that provision, read in conjunction with Article 57(6) of that directive, and the principle of proportionality preclude national legislation providing for the automatic nature of such an exclusion.

Creator: European Court of Justice (ECJ)

Verdict at: 2020-01-30

Case number: C-395/18