

7. If the answer to Question 5 is that the national court is to assess, separately for each case, whether the legitimate objectives of ensuring effective legal protection may justify the application of the legal rule for the minimum amount of remuneration, what criteria must the court use to assess the proportionality of the minimum amount of remuneration in the specific case if it considers that a minimum amount is regulated with the objective of ensuring effective legal protection at national level?
8. Must Article 101(1) TFEU, in conjunction with the third paragraph of Article 47 of the Charter of Fundamental Rights, be interpreted as meaning that, for the purpose of assessing Question 7, account must be taken of rules, approved by the executive, on the remuneration payable by the State to court-appointed lawyers which constitutes — by virtue of a statutory reference — the maximum amount that can be reimbursed to successful parties represented by an in-house legal adviser?
9. Must Article 101(1) TFEU, in conjunction with Article 47 of the Charter of Fundamental Rights, be interpreted as meaning that the national court, for the purpose of assessing Question 7, is required to specify a level of remuneration which is sufficient to achieve the objective of ensuring high-quality legal protection and which it must compare with the level of remuneration resulting from the legal rule, and to state the reasons for the level which it has determined using its discretion?
10. Must Article 101(2) TFEU, in conjunction with the principles of the effectiveness of domestic procedural remedies and the prohibition of abuse of rights, be interpreted as meaning that, where a national court finds that a decision of an association of undertakings infringes the prohibitions on the restriction of competition by fixing minimum tariffs for its members, without there being any valid reasons for allowing such interference, it is obliged to apply the minimum tariff rates laid down in that decision, since they reflect the actual market prices of the services to which the decision relates, because all persons providing the service in question are required to be members of that association?

⁽¹⁾ EU:C:2017:890.

⁽²⁾ Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ 2003 L 1, p. 1).

Request for a preliminary ruling from the Varhoven administrativen sad (Bulgaria) lodged on 5 July 2022 — Zamestnik-ministar na regionalното razvitie i blagoustroystvoto i rakovoditel na Upravlyavashtia organ na operativna programa ‘Regioni v rastezh’ 2014-2020 v Obshtina Razgrad

(Case C-441/22)

(2022/C 408/40)

Language of the case: Bulgarian

Referring court

Varhoven administrativen sad

Parties to the main proceedings

Appellant in the appeal on a point of law: Zamestnik-ministar na regionalното razvitie i blagoustroystvoto i rakovoditel na Upravlyavashtia organ na operativna programa ‘Regioni v rastezh’ 2014-2020

Respondent in the appeal on a point of law: Obshtina Razgrad

Questions referred

1. Does Article 72(1)(e) of Directive 2014/24, ⁽¹⁾ in conjunction with Article 72(4)(a) and (b) thereof, permit a national rule, or practice of interpreting and applying that rule, according to which a breach of the rules on substantial modifications of public contracts can be invoked only where the parties have signed a written agreement/annex amending the contract?
2. If the first question is answered in the negative, does Article 72(1)(e) of Directive 2014/24, in conjunction with Article 72(4)(a) and (b) thereof, permit a national rule, or practice of interpreting and applying that rule, according to which an unlawful modification of public contracts may take place not only by means of a written agreement signed by the parties but also by joint acts of the parties which are contrary to the rules on the modification of contracts, and are expressed in communications and the associated paper trail (such as that in the main proceedings), from which a common intention regarding that modification can be inferred?

3. Does Article 72(1)(e) of Directive 2014/24, in conjunction with Article 72(4)(a) and (b) thereof, permit a national rule, or practice of interpreting and applying that rule, according to which, in a case such as that in the main proceedings (where a maximum time frame and the deadline for performance of the contract were specified in the contract documents; the time frame also serves as an indicator in the methodology for evaluating tenders; performance of the contract actually exceeded the maximum time frame and the deadline laid down in the documents, without there being any unforeseeable circumstances, and the contracting authority accepted the performance without any complaints and did not seek to enforce a penalty for delay), performance of the contract in a manner contrary to the conditions in the part of the contract and contract documents which relates to the time frame, without there being any unforeseeable circumstances or complaints on the part of the contracting authority, is to be interpreted only as a form of improper performance of the contract and not as an unlawful substantial modification of the contract concerning the part relating to the time frame for performance?

(¹) 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).

Request for a preliminary ruling from the Varhoven administrativen sad (Bulgaria) lodged on 5 July 2022 — Zamestnik ministar na regionalното развие i blagoustroystvoto i rakovoditel na Natsionalnia organ po programa ‘INTERREG V-A Romania-Bulgaria 2014-2020’ v Obshtina Balchik

(Case C-443/22)

(2022/C 408/41)

Language of the case: Bulgarian

Referring court

Varhoven administrativen sad

Parties to the main proceedings

Appellant in the appeal on a point of law: Zamestnik ministar na regionalното развие i blagoustroystvoto i rakovoditel na Natsionalnia organ po programa ‘INTERREG V-A Romania-Bulgaria 2014-2020’

Respondent in the appeal on a point of law: Obshtina Balchik

Questions referred

1. Does Article 72(1)(e) of Directive 2014/24, (¹) in conjunction with Article 72(4)(a) and (b) thereof, permit a national rule, or practice of interpreting and applying that rule, according to which a breach of the rules on substantial modifications of public contracts can be invoked only where the parties have signed a written agreement/annex amending the contract?
2. If the first question is answered in the negative, does Article 72(1)(e) of Directive 2014/24, in conjunction with Article 72(4)(a) and (b) thereof, permit a national rule, or practice of interpreting and applying that rule, according to which an unlawful modification of public contracts may take place not only by means of a written agreement signed by the parties but also by joint acts of the parties which are contrary to the rules on the modification of contracts, and are expressed in communications and the associated paper trail (such as that in the main proceedings), from which a common intention to effect the modification can be inferred?
3. Does the concept of ‘diligent preparation of the ... award’ within the meaning of recital [109] of Directive 2014/24, in the part relating to the period for performance of the works, cover an assessment of the risks arising from ordinary weather conditions which could have an adverse effect on the performance of the contract within the time frame, as well as an assessment of statutory prohibitions on the performance of works during a certain period which falls within the period of performance of the contract?