

Operative part of the order

The principle of equality of treatment and the duty of transparency, as implemented by Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, must be interpreted as precluding the exclusion of a tenderer from a procedure for the award of a public works contract as a result of the tenderer's failure to comply with a requirement to indicate clearly in the tender the business charges relating to safety and security at work — for which the penalty for non-compliance is exclusion from the procedure — a requirement which arises, not expressly from the procurement documents or from national legislation, but from an interpretation of that legislation and the filling of gaps in those documents by the national court adjudicating at last instance. The principles of equality of treatment and of proportionality must also be interpreted as not precluding such a tenderer from being afforded the opportunity of remedying the situation and satisfying that requirement within a time-limit set by the awarding authority.

⁽¹⁾ OJ C 200, 6.6.2016.

Order of the Court (Ninth Chamber) of 15 November 2016 (request for a preliminary ruling from the Administrativen sad — Varna (Bulgaria)) — ‘MIP-TS’ OOD v Nachalnik na Mitnitsa Varna

(Case C-222/16) ⁽¹⁾

(Reference for a preliminary ruling — Commercial policy — Regulation (EC) No 1225/2009 — Article 13 — Circumvention — Implementing Regulation (EU) No 791/2011 — Open mesh fabrics of glass fibres originating in the People’s Republic of China — Anti-dumping duties — Implementing Regulations (EU) No 437/2012 and (EU) No 21/2013 — Consignment from Thailand — Extension of anti-dumping duties — Temporal scope — Community Customs Code — Post-clearance recovery of import duties)

(2017/C 063/16)

Language of the case: Bulgarian

Referring court

Administrativen sad — Varna

Parties to the main proceedings

Applicant: ‘MIP-TS’ OOD

Defendant: Nachalnik na Mitnitsa Varna

Operative part

Article 1(1) of Council Implementing Regulation (EU) No 791/2011 of 3 August 2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain open mesh fabrics of glass fibres originating in the People’s Republic of China must be interpreted as meaning that the definitive anti-dumping duty established by that provision is applicable to imports of open mesh fabrics of glass fibres, referred to in that provision, declared as having originated in Thailand and carried out prior to the entry into force of Regulation (EU) No 437/2012 of 23 May 2012 initiating an investigation concerning the possible circumvention of anti-dumping measures imposed by Implementing Regulation No 791/2011, and making those exports subject to registration, such as the imports at issue in the main proceedings, where it is established that those open mesh fabrics of glass fibres in fact originate in the People’s Republic of China.

⁽¹⁾ OJ C 243, 4.7.2016.