

EN

E-003084/2024

Answer given by Executive Vice-President Séjourné
on behalf of the European Commission
(20.3.2025)

Directive 2014/23/EU¹ applies to the award of concession contracts within the meaning of Article 5(1) of that Directive with a value exceeding the thresholds laid down in that same Directive. Under Article 43 of Directive 2014/23/EU, concessions may be modified during their term without a new procurement procedure only provided that the conditions laid down exhaustively in the first two paragraphs of that provision are met.

In the case at hand, based on the elements available, it is unclear whether the contract referred to in the Honourable Members' question can be qualified as a concession within the meaning of Directive 2014/23/EU or whether it should rather be considered as an authorisation for the pursuit of an economic activity falling outside the scope of that Directive.

However, should the contract referred to by the Honourable Members fall within the scope of Directive 2014/23/EU, the national review bodies laid down under the Directives on remedies in public procurement (Directive 89/665/EEC² and Directive 92/13/EEC³, as amended by Directive 2007/66/EC⁴ and Directive 2014/23/EU) are in the best position to assess, according to the facts of each case, whether these requirements are met in the specific dispute, and therefore whether contracting authorities and contracting entities respected their obligations under EU law.

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0023>

² <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:01989L0665-20140417>

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:31992L0013>

⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32007L0066>