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E-000504/2025

Answer given by Executive Vice-President Ribera
on behalf of the European Commission
(14.4.2025)

The Commission does not have detailed information on the case, thus, a reply can be only general. Direct awards of public contracts or concessions, without a public call for tender, might infringe EU competition law or other applicable provisions of EU legislation, namely Directive 2014/23/EU¹, Directive 2014/24/EU² or Directive 2014/25/EU³, depending on the nature, the subject matter and the value of the contract.

Port services are subject to Regulation (EU) 2017/352⁴, which applies to all maritime ports of the trans-European transport network. Under Article 6(4) of the Port Services Regulation, where the managing body of the port, or the competent authority, decides to limit the number of providers of a port service, it shall follow a selection procedure which shall be open to all interested parties, non-discriminatory and transparent.

Under EU competition law, a case-by-case assessment is required. Failure to comply with a legislation adopted by a Member State cannot constitute a *per se* violation of Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU). However, the behaviour arising out of such failure to comply with a national legislation might also cause an infringement of Articles 101 and 102 TFEU.

If a State measure causes an infringement of EU competition law, the Commission may start proceedings pursuant to Article 106 TFEU in conjunction with Articles 101 and/or 102 TFEU. Similarly, in case of finding of a breach of the applicable EU rules on the award of public contracts or concessions, the Commission may initiate an infringement procedure against a member State under Article 258 TFEU for failure to comply with its obligations under EU law.

¹ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts, OJ L 94, 28.3.2014, p. 1–64.

² 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 L 94, 28.3.2014, p. 65–242.

³ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC, OJ L 94, 28.3.2014, p. 243–374.

⁴ Regulation (EU) 2017/352 of the European Parliament and of the Council of 15 February 2017 establishing a framework for the provision of port services and common rules on the financial transparency of ports, OJ L 57, 3.3.2017, p. 1–18.