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Answer given by Mr Síkela
on behalf of the European Commission
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The eligibility rules applicable to procurement contractors under Global Gateway are laid down in Regulation (EU) 2021/947¹. Accordingly, when the Commission implements EU funds directly or through partner countries in indirect management, entities established in China are not eligible, unless China participates in the concerned EU-funded action as a donor or as a beneficiary of the action.

When EU funds are implemented in indirect management with pillar-assessed entities², such entities apply their own eligibility rules on access to procurement. Therefore, depending on the rules of the pillar-assessed entities, companies established in China may be eligible.

Where the procurement procedure is carried out by the Commission or by a partner country, the provisions on abnormally low tenders and foreign subsidies of the Financial Regulation³ also apply. Under the same legal framework, entities that are subject to a final judgment or final administrative decision finding them guilty of fraud, corruption, or any other crime or misconduct⁴ shall be excluded from participating or implementing EU funds and they shall be rejected from a procurement award. Other related entities such as beneficial owners, affiliated entities, persons exercising powers of representation, decision or control, persons assuming liability for the excluded entity, etc. may also be excluded.

In case of funds entrusted in indirect management to pillar-assessed entities and before signing contribution or guarantee agreements, the rules of the partners must have been positively assessed by the Commission, in accordance with the Financial Regulation⁵, ensuring that implementing partners have, among others, equivalent rules for procurement and exclusion from access to funding.

¹ Regulation (EU) 2021/947 of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, amending and repealing Decision No 466/2014/EU and repealing Regulation (EU) 2017/1601 and Council Regulation (EC, Euratom) No 480/2009, OJ L 209, 14.6.2021, p. 1-78, <http://data.europa.eu/eli/reg/2021/947/oj>.

² Such as the World Bank or other international finance institutions.

³ Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council of 23 September 2024 on the financial rules applicable to the general budget of the Union (recast), OJ L, 2024/2509, 26.9.2024, <http://data.europa.eu/eli/reg/2024/2509/oj>.

⁴ Article 138 of Regulation (EU, Euratom) 2024/2509.

⁵ Article 157(4) of Regulation (EU, Euratom) 2024/2509.