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Answer given by Ms Roswall
on behalf of the European Commission
(4.11.2025)

The Commission recalls that the precautionary principle informs the Strategic Environmental Assessment (SEA)¹ and Environmental Impact Assessment (EIA)² Directives. The two Directives aim to ensure that the potential negative effects of plans, programmes and projects are assessed and adequately addressed and provide for public information and participation. In addition, the EIA Directive also includes access to justice provisions.

Without prejudice to the Commission's role as guardian of the Treaties, the obligation to ensure compliance with EU law lies primarily with the administrative and judicial authorities of the Member States. The Commission notes that national judicial proceedings have been initiated on the matter in question.

The Commission also notes that Article 32 of Directive 2014/24/EU³ sets out the conditions for the use of the negotiated procedure without prior publication. However, the implementation of acts of EU law is in the first place the responsibility of the Member States, that shall provide remedies sufficient to ensure effective legal protection in the relevant fields⁴. It is therefore for national courts and review bodies, as laid down under the Directives on remedies in public procurement⁵, to assess according to the legal and factual circumstances of each case, whether these requirements are met, and therefore whether contracting authorities and entities complied with their obligations under EU law.

¹ Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment, OJ L 197, 21.7.2001, p. 30–37.

² Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (codification), OJ L 26, 28.1.2012, p. 1–21; Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment, OJ L 124, 25.4.2014, p. 1–18.

³ 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, pp. 65–242.

⁴ Article 291(1), Treaty on the Functioning of the European Union, OJ C 326, 26.10.2012, p. 173–173 read in conjunction with Article 19(1), Treaty on European Union, OJ C 202, 7.6.2016, p. 27–27.

⁵ Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts, OJ L 395, 30.12.1989, pp. 33–35; Council Directive 92/13/EEC of 25 February 1992 coordinating the laws, regulations and administrative provisions relating to the application of Community rules on the procurement procedures of entities operating in the water, energy, transport and telecommunications sectors, OJ L 76, 23.3.1992, pp. 14–20.