

EN

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Answer given by Executive Vice-President Séjourné
on behalf of the European Commission
(7.9.2026)

Spain's Under-Secretariat of Foreign Affairs did not inform the Commission of the award of file 2024SWs0014 (the contract).

Under Article 28(1)(a) of the Foreign Subsidies Regulation (FSR)¹, a foreign financial contribution in public procurement is notifiable where the estimated contract value, net of Value Added Tax, is at least EUR 250 million. The contract did not reach that threshold. Therefore, no notification was required under Article 29 of the FSR, and, consequently, none was required pursuant to Article 4(3) of the Treaty on European Union² either.

Cuba is neither a Party to the World Trade Organization Agreement on Government Procurement³ – which would otherwise apply to the case mentioned by the Honourable Member – nor does it have any bilateral agreement with the EU on public procurement. Therefore, national contracting authorities are still allowed to award contracts to Cuban bidders, since there is currently no EU provision forbidding it. Indeed, according to the principles established in the *Kolin* judgment of the Court of Justice of the EU⁴, it is for the individual contracting authority, and not its Member State, to decide whether or not third country bidders can participate in a procurement procedure in the absence of any international agreement guaranteeing that right.

Transfers of personal data to third countries may be carried out only in compliance with the General Data Protection Regulation (GDPR)⁵. The GDPR sets a governance system which tasks national supervisory authorities to ensure its monitoring and enforcement. Thus, the Spanish data protection authority would seem the competent one to ensure compliance with it, including the processing of applicants' sensitive personal data.

¹ Regulation (EU) 2022/2560 of 14 December 2022 on foreign subsidies distorting the internal market, <https://eur-lex.europa.eu/eli/reg/2022/2560/oj>.

² Treaty on European Union, <https://eur-lex.europa.eu/eli/treaty/teu/2016/oj/eng>.

³ World Trade Organization Government Procurement Agreement, https://www.wto.org/english/docs_e/legal_e/rev-gpr-94_01_e.pdf.

⁴ Judgment of 22 October 2024, *Kolin İnşaat Turizm Sanayi ve Ticaret AŞ v Državna komisija za kontrolu postupaka javne nabave*, C-652/22, EU:C:2024:910, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62022CJ0652>.

⁵ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC, <https://eur-lex.europa.eu/eli/reg/2016/679/oj/eng>.