

EN

P-001533/2026

Answer given by Executive Vice-President Séjourné
on behalf of the European Commission
(28.5.2026)

The Commission is in general not aware of the details of individual cases, such as the one referred to by the Honourable Member as it is not the best placed to investigate on individual tendering procedures. The Commission notes that national courts and review bodies referred to in the directives on remedies in public procurement¹ are primarily responsible to assess whether, according to the relevant legal and factual circumstances of each individual case, contracting authorities and contracting entities respected their obligations under EU law.

Nonetheless, the Commission takes the opportunity to recall that, as illustrated in its reply to written question E-000615/2025² and confirmed by the Court of Justice of the European Union in the judgment referred by the Honourable Member, the principles of non-discrimination and equal treatment, as enshrined in the EU public procurement rules, are contrary to the provision of a pre-emption right in favour of the promoter such as the one that was foreseen under Article 183(15) of Legislative Decree No 50/2016. Preliminary rulings are binding both on the referring court and on all courts in Member States and it is for the authorities of the Member State concerned to take the general or particular measures necessary to ensure that EU law is complied with within that state.

¹ Directive 89/665/EEC and Directive 92/13/EEC, as amended by Directive 2007/66/EC and Directive 2014/23/EU.

² https://www.europarl.europa.eu/doceo/document/E-10-2025-000615-ASW_EN.html.