

# The Esaprojekt case

C-387/14

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# Symbolic case

## **Contracting Authority**

- How should the contracting authority handle the evaluation phase?
- What to ask if the documents submitted do not meet the requirements?
- What minimum requirements should be requested?

## **Tenderer**

- How can I find a capacity provider?
- What experience should I look for?
- What happens if the bidder does not understand what documents to submit?

# Answers and questions

- No new capacity provider may be introduced after the deadline for submission of applications during the evaluation period.
  - What happens if the capacity provider has made a false declaration? (Case C-210/20 Rad Service)
- If the contract cannot be divided it is not allowed to combine the knowledge and experience of two entities.
  - What if the contract notice does not mention it?
- It is not allowed to use a reference if the completion of the contract was provided by several entities.
  - What if the consortia leader has performed nearly 99% of the contract?
- It is allowed to exclude the economic operator guilty of serious misrepresentation?
  - What happens if the economic operator provides false information in the ESPD ?
- Depending on the requirement of the contracting authority, it is allowed to include experience from several contracts as a single contract.
  - What happens if the Contracting Authority forgets to mention this possibility in the contract notice?

## Life after the Esaprojekt case



- More detailed contract notices
- More detailed regulation
- Less eligibility criteria
- More capacity organisations, less capabilities of tenderers
- More responsibility on the CA's side, risk-aversion
- Self-cleaning
- EU funded projects – more rigorous monitoring

# Thank you for your attention!

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