

EN
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Answer given by Mr Breton
on behalf of the European Commission
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The Treaty provisions on the fundamental freedoms of free movement of goods and the freedom to provide services (Articles 34 and 56 of the Treaty on the Functioning of the EU^{1,2}) apply to measures adopted by Member States' authorities and bodies established under public law as 'public bodies'. All contracting authorities and contracting entities should adhere to EU law in their activities subject to the public procurement Directives (Directive 2014/23/EU³, Directive 2014/24/EU⁴ and Directive 2014/25/EU⁵). They should refrain from actions that may put in question full adherence to the principles of equal treatment, non-discrimination, proportionality and transparency, enshrined in the said Directives. These principles are the most important elements for ensuring the effective use of public funds by increasing competition and minimising the risk of public funds being wasted.

National courts are usually in the best position to assess in specific disputes whether contracting authorities and contracting entities respect their obligations under EU law. The Directives on remedies in public procurement (Directive 89/665/EEC⁶ and Directive 92/13/EEC⁷) provide economic operators with rapid review procedures to challenge discriminatory specifications to tender, discriminatory contract documents or contract award decisions based on them, in the case at stake, before the *Catalan Court of Public Sector Contracts*⁸. The Commission could also consider taking action if it received evidence of a systematic problem of illegal award of contracts that are subject to the public procurement Directives.

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12016E034>

² <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12008E056>

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014L0023>

⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014L0024>

⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014L0025>

⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:01989L0665-20140417>

⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:31992L0013>

⁸ <https://contractacio.gencat.cat/ca/contacte/tccsp/index.html>