

WRITTEN QUESTION E-0922/01
by Reinhold Messner (Verts/ALE)
to the Commission

Subject: Pedemontana Lombarda

In its 'comprehensive transport plan' the Italian Government has stated its intention of building the 'Pedemontana Lombarda' motorway to connect Varese to Como and Bergamo. The Lombardy administration supports this plan, and by means of the agreement of 13 March 2000 began a process of institutional negotiation with a view to establishing the project's specifications and route.

Both the government and the regional administration assume that this piece of infrastructure should be built by the concessionaire company Pedemontana Lombarda SpA. In fact, this company has been officially involved in all stages of the negotiation process.

However, it appears that the motorway concession in question was awarded to Pedemontana Lombarda SpA without any invitation to tender being issued. The contract relating to the project was approved by ANAS (the National Roads Authority) on 29 May 1990, and subsequently confirmed by interministerial decree No 1524 of 31 August 1990 – i.e. over a month after the deadline for the automatic entry into force of the obligation contained in European Directive 89/440/EEC¹ to award motorway concessions through restricted invitation to tender.

It should also be noted that:

although it is over ten years since it entered into force, no part of the contract has ever been implemented²;
the route currently under discussion is very different to that which was contained in the contract³.

In view of the above, can the Commission state:

whether, under Community legislation, the concession awarded to Pedemontana Lombarda SpA is unlawful?

whether, therefore, Decree 1524/90 and subsequent legal documents relating to this award provide grounds for initiating European infringement proceedings;

whether it does not consider that backing such a policy in favour of motorway concessionaire firms amounts to a negation of the European Union's priority of rebalancing the share of different modes of transport between road and rail?

¹ OJ L 210, 21.7.1989, p. 1.

² As not even one metre of motorway has been built so far, any dispute with the concessionaire can only be quantified in terms of the costs of the studies and designs completed to date (approximately 10 billion lire, received from the State on a non-refundable basis). Currently, approximately 240 billion lire is available for design, of which 100 billion was allocated to ANAS by the financial law for 2000. Disbursement of these funds would presumably lead to an immediate increase in the financial significance of the dispute.

³ The State Legal Advisory Office has expressed the opinion that the concession can be considered valid, since there has been no change to the place-names of the key points along the route – i.e. Dalmine and the Gaggiolo pass to the north of Varese. In the option currently under discussion, however, the Gaggiolo pass is reached via a section of the Varese bypass which is not linked to the main motorway, as this leads to the airport of Malpensa, approximately 40 km from the pass itself.