

**Question for written answer E-003422/2020
to the Commission**

Rule 138

Aldo Patriciello (PPE)

Subject: Protecting the market and free competition

The Commission, by issuing the note Ares (2019) 7568166 - 09/12/2019, has closed the complaint about the tendering procedure for the votive illumination at public cemeteries, but will subsequently evaluate whether or not the Regional Administrative Tribunal (TAR) decision complies with Article 72 of Directive 2014/24/EU and Article 43 of Directive 2014/23 /EU.

The municipality of Naples, applying the public procurement code, has excluded one economic operator, without complying with the requirements laid down by the aforementioned Article 57 of Directive 2014/24/EU.

In order to ensure market opening and free competition, Directive 2014/24/EU strictly lists the cases in which changes to existing contracts are considered substantial and therefore cannot be made without a new tender procedure being carried out beforehand.

In light of all the above, will the Commission say:

1. By virtue of the principle of sincere cooperation referred to in Article 4 (3) TEU, should it not actively cooperate and intervene in the pending proceedings, rather than merely indicating to the national judge the issues of EU law to be addressed?
2. Does this not represent a violation of the principles of proportionality and presumption of innocence referred to in Article 3 of Directive 2016/343/EU (Article 48 of the EU Charter of Rights)?