

**Question for written answer P-002815/2014
to the Commission**
Rule 117
Pier Antonio Panzeri (S&D)

Subject: Motorway management concessions in Italy

Current Italian framework legislation regarding subcontracting by the holders of motorway management concessions (Article 253(25) of the Public Procurement Code, Legislative Decree 163/2006 implementing Directive 2004/17/EC and Directive 2004/18/EC) authorises the holders of concessions acquired prior to 30 June 2002, including those subsequently renewed or extended, to carry out up to 40% of the works in house without putting them out to tender.

This relates mainly to private concession holders which, as such, do not function in the same way as public administrations, the concessions in question having all been acquired or extended in the absence of a competitive tendering procedure.

In connection with one specific instance – Auto-Brennero Spa – the matter has already been raised in Question for written answer E-002576/2013 addressed to the Commission, which replied that, the extension of the duration or the renewal of a concession generally amounts to the direct award of a new contract without prior tendering procedures, which is contrary to EU law on public procurement and concessions.

The provisions of Article 253(25), authorising the direct award of contracts, raise serious doubts as to compliance with EU competition rules, enabling a directly selected concession holder to subcontract in turn to directly selected companies, regardless of public procurement requirements.

In view of this:

1. Can the Commission indicate whether the provisions of Article 253(25) of the Public Procurement Code are compatible with the EU Treaty insofar as they allow the holders of 'upstream' motorway concessions obtained without a competitive tendering procedure to have up to 40% of the works carried out 'in house'?
2. What measures does it intend to take if necessary to remedy this motorway concession management anomaly arising from continued non-compliance in Italy?