

(English version)

**Question for written answer E-002705/24
to the Commission**

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(29 November 2024)

Subject: 'Urgency' (but only of a secular nature) of the procurement procedure without publication of an EU contract notice for the Rome incinerator

The contract for conformity testing of the technical and economic feasibility plans for the incinerator in Rome exceeds the threshold laid down in Directive 2014/24. It was awarded ⁽¹⁾ by negotiated procedure without publication of a contract notice. The directive permits procurement procedures without publication of a contract notice 'for reasons of extreme urgency brought about by events unforeseeable by the contracting authority'. This 'urgency' has been claimed in relation to the Rome incinerator ⁽²⁾ on account of the timeline set in Rome's waste management plan ⁽³⁾, according to which the incinerator should become operational in 2027.

All three things — the plan, the timeline and the ensuing 'urgent' procurement procedure — have the same person behind them: the Special Government Commissioner for the Catholic Church's Jubilee, who has also been made responsible for Rome's waste ⁽⁴⁾ for the duration of his term (until 31 December 2026) ⁽⁵⁾.

The incinerator (for which, as things stand, there are still no working drawings or specifications in place) cannot be put into operation in the jubilee year. And yet the jubilee was certainly not unforeseeable, since it is a regular event that has been recurring since the 15th century ⁽⁶⁾. The only 'urgency' prompting the Special Commissioner to award the contract for conformity testing the plans for the incinerator without publishing an EU contract notice stems from a date he himself set.

In light of the above, can the Commission answer the following:

1. Was the procurement procedure for conformity testing of the plans for the incinerator in Rome consistent with Directive 2014/24?
2. If not, what action does the Commission intend to take?

Submitted: 29.11.2024

Answer given by Executive Vice-President Séjourné on behalf of the European Commission
(19 March 2025)

Based on the information provided in the written question, it is unclear whether Directive 2014/24/EU ⁽¹⁾ would apply to the award of the contract referred to by the Honourable Members.

In any event, national courts and review bodies referred to in the directives on remedies in public procurement (Directive 89/665/EEC ⁽²⁾ and Directive 92/13/EEC ⁽³⁾), as amended by Directive 2007/66/EC ⁽⁴⁾ and Directive 2014/23/EU ⁽⁵⁾) are best placed to assess in the first place, according to the facts of each case, whether contracting authorities and contracting entities respected their obligations under EU law as transposed into national law in a specific award procedure.

¹ Annex 1.

² https://commissari.gov.it/media/v2waavsi/ordinanza_30_2024_rm_4434_project_financing.pdf.

³ https://commissari.gov.it/media/2336/piano_gestione_rifiuti.pdf; timeline: Table 18.2

⁴ Legislative Decree 17/05/2022, No 50, <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2022-05-17;50>; see Article 13.

⁵ Law 30/12/2021 No 234, <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2021-12-30;234>, see Article 1(421).

⁶ Recurs every 25 years by decision of Pope Paul II (1464-1471).

⁽¹⁾ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02014L0024-20240101>

⁽²⁾ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:01989L0665-20140417>

⁽³⁾ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:31992L0013>

⁽⁴⁾ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32007L0066>

⁽⁵⁾ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014L0023>