

EN

E-000615/2025

Answer given by Executive Vice-President Séjourné
on behalf of the European Commission
(24.4.2025)

The Commission recalls that according to the principle of free administration by public authorities enshrined in Article 2 of Directive 2014/23/EU¹, Member States authorities may choose to perform their public interest tasks with their own resources, or in cooperation with other authorities or to confer them upon economic operators.

As illustrated in the answer given to written question E-005180/2021, a concession within the meaning of Directive 2014/23/EU, such as the A22 motorway concession referred to by the Honourable Members, may be awarded without a call for tenders if the in-house requirements under Article 17 of that Directive are fulfilled. However, if the in-house requirements, including the absence of private capital in the concessionaire company, were not all fulfilled, the concession would have to be awarded via a call for tenders ensuring fair competition under the rules set out in that Directive.

According to the principles of non-discrimination and equal treatment as enshrined in the EU public procurement rules, it is of utmost importance that any eventual participation of the incumbent concessionaire in the tendering procedure should be accompanied by the adoption of the appropriate mitigation measures to ensure that competition is not distorted.² In the case at hand, the project financing award procedure providing for a pre-emption right for the incumbent concessionaire raises serious concerns with regard to its compatibility with EU law. The Commission is in touch with the Italian authorities and closely monitors the file.

¹ Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 094 28.3.2014, p. 1).

² Ibid., articles 3, 35; Directive 2014/24/EU, articles 18, 41.