Question for written answer E-003636/2017
to the Commission
Rule 130
Werner Langen (PPE) and Alain Lamassoure (PPE)

Subject: Deutsche Bahn procurement practice with regard to its subsidiary DB Bahnbau Gruppe GmbH

In 2010, the DB Bahnbau Gruppe GmbH (BBG) was established as a wholly owned subsidiary of DB Netz AG (DBN) and the two companies entered into a Control and Profit Loss Transfer Agreement. DBN is in turn also tied to Deutsche Bahn (DB) through a similar agreement. Since 1 January 2016, Deutsche Bahn has been managing BBG directly, rather than indirectly through DBN. Deutsche Bahn, for its part, is a State-owned undertaking.

This business structure protects BBG against insolvency, in that it can always cover its losses. BBG is not required to make any similar payments in return.

In addition, DB awards repair and building contracts without competitive tendering procedures to BBG through DBN. These contracts represent at least 10% of BBG’s total turnover, although the company website makes no mention of them.

Furthermore, through the DB Group Treasury BBG secures more favourable financing terms than those available to private building companies on the capital markets. BBG can therefore always offer lower prices than its competitors.

Are these arrangements consistent with EU competition and public procurement law?