WRITTEN QUESTION P-1383/01
by Elly Plooij-van Gorsel (ELDR) to the Commission
(26 April 2001)

Subject: Development aid in the form of State aid

In some cases, an EU Member State provides aid to a developing country in the form of a grant towards an investment order which the developing country wishes to place.

If a Member State awards a grant as a contribution to an investment order to a business established in that Member State which then carries out the order for the developing country, should this be regarded as State aid?

If so, is this a form of State aid which is compatible with the Treaty?

Do European rules on tendering apply to such awards?

Answer given by Mr Monti on behalf of the Commission
(18 June 2001)

The question raised relates to a category which is generally referred to as ‘tied aid’. It would appear that this category in fact contains a very large range of types of practices, which are operated by the different Member States. Although it cannot be excluded that some of these practices may in fact constitute State aid, it is however not possible, without an indication of the specific facts of a case, to establish which of these practices could constitute State aid within the meaning of the relevant provisions of the EC Treaty. Equally, it is not possible to establish whether, without prejudice to the qualification of these practices as State aid, they could be declared compatible with the common market.

Attention is also drawn to the fact that questions of ‘tied aid’ to which reference is made may equally raise aspects of internal market, and more specifically of public procurement. On this basis the Commission is currently examining a number of complaints which have been lodged in this field.

WRITTEN QUESTION P-1410/01
by Rosemarie Müller (PSE) to the Commission
(3 May 2001)

Subject: ‘Natural-style’ bathing ponds

A growing number of artificial, ‘natural-style’ bathing ponds have been created in recent years as an alternative to natural bathing areas and artificial swimming pools. These mostly consist of a bathing pond, with a purification pond some distance away in which the water is purified naturally by means of water plants and shore plants. As operators point out, this means not only that the water quality is easier to monitor than is the case with many natural bodies of water which are contaminated by industrial pollution, but also that there is no need for chlorination as with conventional swimming pools. Apart from the health advantages of not using chlorine, the purification process using plants is also cheaper.

However, there is apparently a great deal of legal uncertainty in this area, which is acting as a brake on investment in bathing ponds. In particular it is not clear whether such natural-style bathing ponds are covered by the current EU bathing water directive (76/160/EEC 1), and to what extent the Member States are entitled to set higher hygiene standards for bathing ponds than for conventional chlorinated swimming pools.
In the light of the above, I should like to ask the Commission the following question: Are natural-style bathing ponds covered by the current bathing water directive, and if it is not clear whether this is the case, will the Commission specifically include such bathing ponds within the scope of the revised proposal for a bathing water directive shortly to be submitted?


Answer given by Mrs Wallström on behalf of the Commission

(5 June 2001)

The natural-style bathing ponds described are, as a rule, sealed artificially against groundwater or other waters and so there is no interchange with those waters. To that extent they can be compared with artificial swimming pools and thus, in general, are not covered by the existing bathing water Directive (1).

The rules applying to bathing water quality under Community law are based on Article 175 (former Article 130a) of the EC Treaty. The Member States are thus free to lay down further-reaching or more stringent protective measures at national level that also apply to bathing water quality, if such action is compatible with the Treaty (Article 176 (former Article 130t of the Treaty)).

The Commission will propose as exact a definition as possible of the term ‘bathing waters’ in its forthcoming proposal concerning a new bathing water Directive. This is also one of the aims of the current consultation procedure in accordance with the Commission communication on bathing water policy (1), including the Conference on bathing water quality of 24-26 April 2001. A general inclusion into the Commission proposal of all natural-style bathing ponds, as described in the enquiry, is not foreseeable.


(2001/C 340 E/261) WRITTEN QUESTION E-1413/01
by Paul Rübig (PPE-DE) to the Commission

(14 May 2001)

Subject: Tax discrimination against the employment of personnel leased from other parts of the Community

Up to now, in Austria, in the case of personnel leasing companies, the municipal taxes payable to local authorities have been calculated on the basis of the wages paid.

As of 1 January 2001, on the basis of Article 20 of Federal accompanying law 2001, BGBL 1, 142/2000, firms which have been supplied with staff by a personnel leasing agency are obliged to pay municipal taxes of 70 % of the placement fee. As additional costs and a profit margin are thereby included in the basis of assessment, the effect is to at least double the amount payable in municipal taxes.

A worker leased by a personnel leasing agency based in another Community country to an Austrian firm to carry out work inside Austria is treated far less favourably when it comes to paying municipal taxes than a worker employed directly by the same Austrian-based company.

Even if the Austrian-based firm in question commissioned another Austrian-based electrical engineering firm, for example, to carry out repairs, a much smaller amount of municipal taxes would have to be paid than if the job was carried out by an electrician provided by a personnel leasing company based in another Community country.

Is this discrimination, and the placing at a competitive disadvantage of personnel leasing companies based in other Community countries, permissible under Community law?