

(1999/C 182/091)

**WRITTEN QUESTION E-3363/98****by Viviane Reding (PPE) to the Commission**

(16 November 1998)

*Subject:* Qualibat – French barrier to the freedom to provide services under public works contracts

When tenders are invited for public works, it is customary for the client and the contracting authority to ask candidates to provide certain information essential for the award of the contracts so that the quality of the services provided by the undertaking concerned may be determined.

This procedure, though fairly transparent by and large, is often extended by contracting authorities to include additional minimum requirements, such as the conformity of the undertaking's services with the qualification certificates issued by the French industrial association Qualibat (under the supervision of the Minister for Public Works). As foreign undertakings without a registered place of business in France are automatically excluded from the Qualibat qualification, they are at a major competitive disadvantage. Even though the Qualibat certificate is not, strictly speaking, compulsory for participation in a call for tenders, Luxembourg undertakings come up against a lack of transparency when faced with the opinions expressed by the contracting authorities. In practice, these undertakings have less room for manoeuvre when it comes to gaining access to public contracts in France.

Does the Commission know about these barriers to the freedom to provide services? What does it intend to do to prevent such barriers in the guise of quality guarantees from impeding the freedom to provide services?

**Answer given by Mr Monti on behalf of the Commission**

(14 January 1999)

The Commission is aware of the problem raised by the Honourable Member, a problem which is in fact double-sided.

If there are no European or international standards covering the field concerned by an invitation to tender, the contracting authority may refer to systems such as Qualibat or Qualiferlec, provided that it is clearly stated that these are indications and the authority accepts equivalent systems in other Member States on each occasion. In failing to observe these conditions, it is indeed in violation of Community regulations governing the freedom to provide services and the principle of mutual recognition which the Court of Justice has developed from these regulations.

When there are European or international standards covering the field concerned by an invitation to tender, the contracting authority is obliged to refer to them, pursuant to the Community Directives applying to the award of public contracts. The authority is also, however, obliged to accept the validity of equivalent qualification certificates issued in other Member States, in accordance with the afore-mentioned principle of mutual recognition.

The Commission has referred this matter to the Court of Justice (case C-225/98 Commission v. France, currently pending).

(1999/C 182/092)

**WRITTEN QUESTION E-3364/98****by Alexandros Alavanos (GUE/NGL) to the Council**

(16 November 1998)

*Subject:* Revision of the Geneva Convention on refugees

The Austrian Presidency has issued a strategy document on migration and asylum policy. The document contains proposals to revise or abrogate the provisions of the 1951 Geneva Convention on refugees concerning the legal obligation on the Member States to provide persons in need with international protection.