

WRITTEN QUESTION E-3399/06

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to the Commission

Subject: Breach of the principle of free competition in the field of the professional activity of reviewing, inspecting or verifying the fulfilment of statutory requirements relating to the safety of installations

The review or verification of the fulfilment of the safety conditions of installations, specified in normative provisions of a regulatory type, is a relevant part of the activity performed by engineers in the free exercise of their profession in EU Member States.

However, although the Spanish Law on Industry holds that qualified professionals may carry out the activity of maintaining or verifying installations, the Regulations approved by the Spanish Government during the last years with regard to the safety of installations (to mention a few: electrical installations of low tension [Royal Decree 842/2002, of 2 August], fire safety installations [Royal Decree 2267/2004, of 3 December] or heat installations in buildings [Royal Decree 1751/1998 of 31 July, amended in Royal Decree 1218/2002, of 22 November]) assign the tasks of verifying, maintaining or inspecting only to specific private bodies named Authorised Control Bodies, ruling out the possibility of free and qualified individual professionals, individuals carrying out such activities.

To obtain the necessary administrative authorisation to carry out the activity of maintaining installations, the Authorised Control Bodies (private bodies) must fulfil certain conditions (prove technical expertise and economic solvency, take out a civil liability insurance policy, etc.). among which the only condition that a qualified professional, by definition, does not fulfil in the free exercise of his or her profession is that of having the status of legal entity.

In the previous situation, which was reported to the Commission, professional individuals were forbidden from exercising activities for which they are qualified on the sole grounds that they did not work in the form of a company, and this situation breeds a real oligopoly by forcing owners of installations to have such installations maintained by a few bodies which set their prices, hence breaching the principle which prohibits establishing any restraints on free competition.

Is the Commission aware of this situation? What measures does the Commission intend to take with regard to this?