WRITTEN QUESTION P-0954/08
by Amalia Sartori (PPE-DE)
to the Commission

Subject: Discrimination between public and private shareholders under Italian administrative law

Pursuant to a recent Court of Auditors' interpretation, Italian law on administrative responsibility now also applies to private companies in which the State or other public bodies hold shares, even if the holding is a minority one. This is at odds with the principle of equal treatment of economic operators in the European Union, in that public shareholders in a Member State are being given favoured treatment, irrespective of the size of their shareholding. Furthermore, the administrative responsibility system, as applied by the Italian authorities, is incompatible with Community law because it seriously restricts the free movement of capital (Article 56 of the ECT) and the right of establishment (Article 43 of the ECT) and has a discriminatory effect on shareholders and a dissuasive effect on investment (both direct and portfolio investments), and this extension involves major derogations from the general rules of company law and seriously undermines the smooth operation of the internal market. This distortion of the market is damaging to European citizens as savers and end-users of services.

Does the Commission view the above as a distortion of competition? How does it intend to ensure that in all Member States company law is applied fully and equally to all companies operating on the market, irrespective of whether they have public or private shareholders?