What steps will the Commission take to ensure that Directive 92/104/EEC is properly transposed in Spain and, specifically, to make the Spanish authorities repeal Article 2(4) of Royal Decree 1389/1997 of 5 September 1997?

Answer given by Mrs Diamantopoulou on behalf of the Commission
(26 May 2000)


This conclusion remains unaffected by the fact that under Real Decreto 1389/1997, which transposes Directive 92/104/EEC on surface and underground mineral-extracting industries into Spanish law, tunneling activities of all kinds are subject to the minimum requirements applicable to the mining sector. Indeed, Real Decreto 1389/1997 states that this provision is without prejudice to the rules applicable to the construction sector, i.e. provisions transposing Council Directive 92/57/EEC on temporary or mobile construction sites.

Insofar as Directive 92/57/CEE was adopted on the basis of Article 137 of the EC Treaty (ex Article 118A), it lays down ‘minimum requirements’ in the field of health and safety to be implemented on temporary or mobile construction sites. The expression ‘minimum requirements’ indicates that the Member States are at liberty to maintain or introduce measures more stringent that those which form the subject of the Directive, in accordance with Article 137(5) of the EC Treaty. This means that a Member State may extend the scope of application of the minimum requirements laid down for the mining sector to include activities in the construction sector provided that the minimum requirements established for this sector by Directive 92/57/EEC are not compromised.

An examination of Spanish legislation has shown that the application of the minimum requirements for the mining sector to some construction activities such as tunnelling has increased the level of protection for workers as laid down by Directive 92/57/EEC.

It is the responsibility of the Member States to ensure proper checks and monitoring of the national provisions transposing directives. In this connection, the appointment of the competent authorities is entirely a matter for the Member States.

(2001/C 26 E/199)

WRITTEN QUESTION P-1236/00
by Giuseppe Nisticò (PPE-DE) to the Council
(10 April 2000)

Subject: Medicinal herbs and plants

Because of the widespread distribution and abuse of medicinal herbs, without proper controls over either the marketing or prescribing of these products, this highly sensitive sector needs to be regulated as a matter of urgency, bearing in mind the possible effects on human health.

International scientific literature on the subject has revealed, as widely reported in the media recently in both the United States and Europe, that some of these medicinal herbs, when used without medical supervision, are responsible for thousands of cases of fatal poisoning, as well as causing a series of unwanted or toxic side-effects in the form of allergies or affecting the cardiovascular system, the kidneys, the central nervous system and other systems or organs.
Unfortunately, as a result of subtle and deceitful propaganda by the industries and operators concerned, the belief has taken root that herbs, being natural products, are useful and harmless and produce no toxic effects.

The uncontrolled use of medicinal herbs is dangerous for the following reasons:

- the concentrations and/or doses of the active principles present in herbs freely sold by herbalists are not properly standardised, with the result that it is never possible to be sure what dose has been taken;
- it is not known whether pollutants such as herbicides, pesticides or heavy metals may be present;
- little is yet known about interactions between herbs and other drugs or foodstuffs or caused by the administering of several herbs at the same time, with the result that the taking of some medicinal herbs may produce unforeseeable toxic effects;
- there is a danger that the use of medicinal herbs thought to be effective and innocuous by uninformed patients may lead to their abandoning conventional treatments such as antineoplastic drugs with serious consequences for their health.

Consumer protection is needed in the following areas:

- consumers must be informed of the active principles and possible pollutants present in the medicinal herbs they are taking;
- consumers must be aware of the exact dose they are taking;
- consumers must be informed of interactions between herbs and other drugs or foodstuffs;
- consumers must be informed of risks deriving from the toxicity of the active principles and possible pollutants.

In the light of the above considerations, what steps does the Council plan to take to protect public health? Will it review the rules governing the marketing of medicinal herbs in the light of the documented scientific findings? Will it ask the EMEA to assess the information available on individual plants and herbs and provide the guidelines needed for the proper dispensing of these products, which are currently administered with hardly any controls?

**Reply**

(26 June 2000)

The Council shares the concerns expressed by the Honourable Member about the uncontrolled use of medicinal plants and herbs and the advisability of protecting the consumer against the risks of abusing these products.

It was with this in mind that the Council, on 20 December 1995, adopted a resolution on medicinal plant preparations in which it invited the Commission to study, in close collaboration with the Member States, the problems posed in this context (1). The Commission has yet to respond to this invitation.


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(2001/C 26 E/200) WRITTEN QUESTION E-1254/00
by Armando Cossutta (GUE/NGL) to the Council
(27 April 2000)

Subject: Murder of the Irish lawyer, Rosemary Nelson

On 15 March last year the solicitor, Rosemary Nelson, died of injuries sustained in a car bomb attack.