WRITTEN QUESTION P-1980/03
by Toine Manders (ELDR) to the Commission
(10 June 2003)

Subject: Ban on smoking in establishments in the hotel, restaurant and catering sector in the Netherlands

Under Section 11a of the amended Netherlands Tobacco Act (Stb. 2002, 201), employers are required to provide their employees with a smoke-free workplace. In this connection, the Ministry of Public Health, Welfare and Sport recently announced that it wanted to abolish the derogation currently granted to the hotel, restaurant and catering sector. Accordingly, as from 1 January 2005, a general ban on smoking will apply throughout the hotel, restaurant and catering sector in the Netherlands. Trade associations estimate that a ban on smoking in establishments in the hotel, restaurant and catering sector will result in at least 50,000 jobs being put at risk. The estimated loss in turnover will amount to EUR 1.3 billion. Establishments in the hotel, restaurant and catering trade near the borders of the Netherlands will be hit disproportionately hard by the measures. Potential clients of the establishments in the hotel, restaurant and catering sector near the borders in the Netherlands will simply cross into Germany or Belgium, while Belgian and German clients will shun establishments in the hotel, restaurant and catering sector in the Netherlands en masse.

Since hotel, restaurant and catering sector hospitality may be regarded as a service, freedom to provide services is also at issue here. The introduction of national legislation may, therefore, be regarded as causing a distortion of the single market.

1. Is the Commission aware of the amended Netherlands Tobacco Act?

2. Does the Commission acknowledge the implications set out above of the ban on smoking for the hotel, restaurant and catering sector?

3. Does the Commission share my view that the unilateral introduction of a ban on smoking will impair the operation of the single market?

4. Does the Commission intend to take action to prevent this distortion of the single market?

Answer given by Mr Byrne on behalf of the Commission
(18 July 2003)

The measures referred to by the Honourable Member seem to be in line with the Council Recommendation of 2 December 2002 on the prevention of smoking and on initiatives to improve tobacco control (1). Paragraph 4 of the Recommendation invites Member States to implement legislation and/or other effective measures in accordance with national practices and conditions at the appropriate governmental or non-governmental level that provide protection from exposure to environmental tobacco smoke in indoor workplaces, enclosed public places, and public transport.

The Recommendation reflects the results of research carried out in recent years, which shows that exposure to environmental tobacco smoke in workplace can cause lung cancer and heart disease. It can also cause or exacerbate respiratory problems.

The Commission understands that the establishments in the hospitality sector, such as hotels, restaurants and catering companies, are concerned about the economic impact of smoking restrictions on their incomes. However, the Commission would like to point out that studies carried out namely in the United States show that revenues of hospitality businesses are not reduced by smoke-free laws and ordinances, and, in most cases, they increase following passage of such laws (2).

By contrast, the Commission does not know the basis on which the trade associations base their estimations. Therefore, the Commission can neither appreciate nor comment on the accuracy of their estimations.
The information advanced by the Honourable Member is not enough to enable the Commission to assess whether the introduction of a ban on smoking throughout the hotel, restaurant and catering sector in the Netherlands would impair the operation of the single market. The Commission will continue to monitor the development of tobacco control policies in line with the requirements of the Treaties.


(2004/C 11 E/269)

WRITTEN QUESTION E-1990/03

by Marco Cappato (NI), Benedetto Della Vedova (NI), Emma Bonino (NI), Gianfranco Dell’Alba (NI), Olivier Dupuis (NI), Marco Pannella (NI) and Maurizio Turco (NI) to the Commission

(16 June 2003)

Subject: Exercising the right to religious freedom

Two events have been brought to the Commission’s attention in recent months which, in quite different contexts and ways, have seriously endangered the exercise of the right to religious freedom: the adoption by the Cambodian Ministry for Religious Affairs of a Directive banning all public proselytising activities, and the approval by the Legislative Assembly of the Indian state of Gujarat of a Freedom of Religion Bill, which allows the possibility of religious conversion only when authorised by a magistrate.

The Commission’s answers seem to differ in terms of the thinking behind them. In the first, on the situation in Cambodia, the Commission states: ‘In the absence of an in-depth analysis at this stage, the Directive as well as measures adopted until now by the Ministry of Cults and Religious Affairs, which are put in place to avoid the risks of religious conflicts, do not appear to violate the Universal Declaration on Human Rights nor the provisions of the Cambodian Constitution,’ concluding that ‘the Commission does not find any reason, at present, to believe that the government will use this Directive to discriminate against any particular religious groups’. In the second, on the situation in India, the Commission expresses its concern that this kind of state legislation could have the potential to restrict the Indian population’s right to religious freedom. In conclusion it pledges that the Commission will ‘deal with this matter in the same way that it deals with all other questions concerning democracy and human rights in India’.

Can the Commission answer the following:

— given that these two responses are profoundly at odds, can the Commission state which line of reasoning it intends to follow in order to uphold the principle of the secularity of institutions, wherever they may be, as a fundamental bastion of the freedom of every individual;

— does the Commission intend to accept highly restrictive interpretations of the right to religious freedom solely on the grounds that governments use them in order to avoid religious conflict, as it has done with Cambodia;

— or does the Commission intend, as it has pledged in India’s case, to monitor the situation in, and, if need be, exert diplomatic pressure on, those countries that choose democratically to impose conditions on their citizens’ rights to express their own beliefs freely and to promote awareness and the dissemination of these beliefs, also freely?