Although the Commission refers that the long processing time of the applications is mainly due to national administration systems and that the main responsibility to remedy the situation lies with the managing authorities of the Member State and with the monitoring committees of the programmes, it is the intention of the Commission to bring the issue up in the next annual review meetings between the Commission and the Member State, at the meetings of the respective monitoring committees as well as at other occasions.


WRITTEN QUESTION E-0444/04
by Margrietus van den Berg (PSE) to the Commission
(18 February 2004)

Subject: Compliance with legislation on health and safety at work

On 26 January 2004, I made an official visit to six companies in Emmen in the province of Drenthe, Netherlands. There I spoke to employees and works councils about the implications of the European Framework Directive 89/391/EEC (1) for Netherlands law, as well as the Netherlands Law on Working Conditions. It emerged from these discussions that the Law on Working Conditions contravenes European legislation on safety, health and welfare services, according to the judgment of the European Court of Justice of 22 May 2003. The Netherlands Law on Working Conditions compels companies to enlist external safety, health and welfare services. The European Directive states that competent personnel should first be sought from within the company.

1. Do companies now have to comply with the judgment of the Court or with the Netherlands Law on Working Conditions?

2. Are discussions ongoing with the Netherlands Government to amend the Netherlands Law on Working Conditions as soon as possible?


Answer given by Mr Dimas on behalf of the Commission
(5 April 2004)

1. Article 228 of the EC Treaty requires Member States to fulfil their obligations resulting from Court of Justice judgments and to take any necessary measures for this purpose.

According to consistent case-law, the importance of immediate and uniform application of Community law means that the process of compliance must be initiated at once and completed as soon as possible (judgment of 4 July 2000, Commission v. Greece, C-387/97, ECR p. I-5047, paragraph 82).

However, this does not prevent companies from contacting the competent national authorities in the meantime, where appropriate.

2. As the Kingdom of the Netherlands has not yet adopted the necessary provisions to comply with the judgment delivered by the Court of Justice on 22 May 2003 in case C-441/01, the Commission has started infringement proceedings under Article 228 of the EC Treaty and will pursue those proceedings until the Kingdom of the Netherlands complies with the said judgment. It should be noted in this connection that the authorities of the Kingdom of the Netherlands, in their reply to the letter of formal notice under Article 228 of the EC Treaty, have indicated that they are in the process of preparing the measures need to comply with the judgment.