WRITTEN QUESTION E-2729/99
by Pervenche Berès (PSE) to the Commission

(18 January 2000)

Subject: Recognition of the seniority of civil servants from EEA countries

The recognition within the Community of the diplomas and professional experience of non-Community nationals is an extremely complex matter.

For example, the seniority of a Norwegian national working as a teacher in France cannot be recognised for regrading purposes because Note No FP/3 No 3916 of 5 May 1995 issued by the Public Service Ministry stipulates that only seniority acquired in the French civil service may be taken into account for such purposes. However, seniority acquired in the country of origin is taken into account for the purpose of admission to competitions organised within the French civil service.

1. What exactly is EU’s legal position on the recognition of the professional experience gained by a national of an EEA country employed in an EU Member State?

2. In particular, does a legal instrument providing that only the time spent in the service of the State in question may be taken into account when determining a civil servant’s seniority comply with the spirit of Community law or, indeed, the case law on public service-related matters established by the Court of Justice?

Answer given by Mrs Diamantopoulou on behalf of the Commission

(25 February 2000)

This problem can exist for workers of Member States and also workers of European economic area (EEA) Member States.

The Commission is aware of the difficulties these workers, who have worked for a number of years in the public sector of a Member State, are encountering when recruited into the public service of another Member State, in that their previous experience is not taken into account for the purposes of determining their grade and seniority. Consequently such workers lose their years of previous experience and must restart their career from the beginning when they are recruited.

The Court of justice has ruled that comparable employment completed in the public service of another Member State must be taken into account for determining seniority (1).

The Commission has started infringement proceedings against several Member States, including France, on the basis of Article 226 (ex-Article 169) of the EC Treaty.

The right of free movement for workers established within the Community under Article 39 (ex-Article 48) of the EC Treaty is extended to nationals of Iceland, Liechtenstein and Norway through Article 28 of the EEA agreement. Sub-paragraph 2 makes it clear that such freedom of movement entails the abolition of any discrimination based on nationality as regards conditions of work and employment.