WRITTEN QUESTION E-0784/04
by Proinsias De Rossa (PSE) to the Commission
(11 March 2004)

Subject: Family reunification

Is the Commission monitoring the implications of the Irish Government's recent decision to discontinue the practice of routinely granting family reunification to parents of Irish/EU child citizens who are seeking to be joined in Ireland by other family members?

Has the Commission been in contact with the Irish Government over the necessity to establish a coherent system for applications for family reunification from parents of Irish/EU citizens and non-refugee third country nationals legally resident in Ireland? Does the Commission agree that preventing third-country nationals, legally resident in the EU, from reuniting with their families, constitutes a lack of respect for international human rights standards?

Answer given by Mr Vitorino on behalf of the Commission
(22 April 2004)

The Honourable Member's question refers to family reunification in Ireland of third-country nationals and Irish EU citizens.

Family reunification of third-country nationals is the subject of the Directive on the right to family reunification of 22 September 2003, which lays down common rules on the admission of family members. The Directive must be transposed by the end of 2005 in all Member States, with the exception of Denmark, Ireland and the United Kingdom, which, pursuant to the respective protocols applying to them, do not take part in the common immigration policy.

Secondary Community legislation on residence provides that family members of Union citizens who are nationals of third countries may rejoin the Union citizen where the latter is either a worker or has sufficient resources not to become a burden on the social security system of the host Member State during his stay, together with full sickness insurance cover. This applies only to ascendants dependent on the Union citizen. It can be assumed that, as a rule, the parents of minors are not usually dependent on the latter.

In Case C-413/99 Baumbast and R[2002]ECRI-7091 (judgment given on 17 September 2002), the Court of Justice nevertheless upheld the principle set out in Case C-60/00 Carpenter[2002]ECRI-6279 (judgment given on 11 July 2002), whereby the provisions of Community law on the free movement of persons must be interpreted in the light of the requirement to respect family life, laid down in Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms as one of the fundamental rights recognised by Community law.

In accordance with this principle, the Court concluded that, where children enjoy the right of residence in a Member State in order to undergo there general educational courses under Article 12 of Regulation (EEC) No 1612/68 (1), this provision, so as not to be without effect, must be taken to mean that the parent who has custody of the children, irrespective of his/her nationality, is entitled to reside with them in order to facilitate the exercise of the said right, notwithstanding the fact that the parents have divorced in the meantime or that the parent who has the status of a Union citizen is no longer a migrant worker in the host Member State.

From this judgment it follows that the parent, irrespective of his/her nationality, who has custody of the children, even if not engaging in an economic activity in the host Member State, is entitled to stay there without being obliged to prove that he/she has adequate resources and sickness insurance because his/her right of residence is based on Article 12 of Regulation (EEC) No 1612/68, which does not lay down such conditions.

Another case relating to the right of residence of parents deriving from the situation of their children is being examined by the Court of Justice (Case C-200/02 Chen). It concerns the right of residence of the Chinese mother of an Irish child. The Chinese mother gave birth in Ireland to a child who acquired Irish
nationality. She travelled to the United Kingdom, where she invoked Community law to claim right of residence there. The Court of Justice must rule whether the minor is entitled to reside in the United Kingdom under Community law and whether the mother can obtain right of residence in the United Kingdom through her child although she is not a dependent of the child.

Admission of foreign family members of nationals who have not exercised their right to freedom of movement is governed by the national law of each Member State and, for the moment, not by Community rules.


WRITTEN QUESTION E-0789/04

by Cristiana Muscardini (UEN), Sergio Berlato (UEN), Roberta Angelilli (UEN), Roberto Bigliardo (UEN), Antonio Mussa (UEN), Sebastiano Musumeci (UEN), Mauro Nobilia (UEN), Adriana Poli Bortone (UEN) and Franz Turchi (UEN) to the Commission

(11 March 2004)

Subject: International wine piracy — amendment of Regulation (EC) No 753/2002

On 10 February 2004, the Management Committee for Wines reconfirmed, by a narrow majority, the vote of 24 January 2004 approving an opinion on amendments to Regulation (EC) No 753/2002 (1) and, more specifically, to the chapter on the description, designation, presentation and protection of certain products. This opinion was recently approved by the Commission (2). The new rules will apply from 15 March 2004.

Commission Regulation (EC) No 316/2004 (3) amending Regulation (EC) No 753/2002, among other things, relaxes the rules on the international use of 17 traditional Italian wine terms, which can be used, from 15 March 2004, for wines produced in non-Community countries, provided that it is shown under set criteria that the term had been used in the past.

It will no longer be necessary, however, for the same term to be recognised or protected in a national legislative framework, as required by the previous rules. The result of the decision is a free-for-all, or at least making it easier to market wine not produced in Italy internationally using traditional Italian terms.

In view of the above, does the Commission agree that:

– the proposed new rules conflict with European legislation on labelling and consumer protection;

– the term used on a wine label should indicate the characterisation, ageing, quality and colour of the wine obtained by specific production methods in a geographical area inextricably linked with the history and the culture of the wine described by the label;

– the amendments to Regulation (EC) No 753/2002 contained in Regulation (EC) No 316/2004 contradict the objective of combating food piracy, which is a fundamental part of the WTO agreement to guarantee fair trade and to protect traditional production from international counterfeiting, to the benefit of local development in all countries;