Furthermore, non-discrimination and improvement of the situation of people with disabilities is also consonant with the principles recognised by the Charter of Fundamental Rights of the European Union (Articles 21 and 26 of the Charter of Fundamental Rights of the European Union).

The Commission will launch a study of the situation in institutions in both present and future Member States. Final results are expected in mid 2005.

On the basis of Article 13 of the EC Treaty, the Council adopted Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (1), which prohibits discrimination, be it direct or indirect, against a person with a disability. In addition, this Directive obliges employers to take appropriate measures to enable people with disabilities to participate in employment, unless this would constitute a disproportionate burden on the employer. This Directive forms part of the ‘acquis communautaire’, which will have to be transposed by the Candidate Countries by the date of accession.

The Commission considers that the European Year 2003 for People with Disabilities should help to raise awareness and Candidate Countries are encouraged to prepare adequate national actions. Indeed, several Candidate Countries are planning national events within that context.

The necessary steps have also been made to allow the participation of the Candidate Countries in the Community programme against discrimination, which provides for the promotion of measures to combat discrimination based inter alia on disability. There is also a specific assistance programme in this field funded under PHARE.

The improvement of the situation of people with intellectual disability would require the development of co-ordinated and integrated policies and strategies. It would entail in particular the improvement of the social welfare infrastructure, the mainstreaming of a disability perspective into all relevant sectors of policy formulation, the enacting of comprehensive anti-discrimination legislation and an awareness-raising of the public.

The Commission will continue to support preparations for accession in the area of non-discrimination. Moreover, in view of the proper implementation of the relevant Commission Directives on non-discrimination, the Commission has launched a study to examine the situation in the Candidate Countries concerning the legal provisions at national level further regarding discrimination on grounds of, inter alia, disability. The final results are expected in June 2003.


(2004/C 88 E/0600)

WRITTEN QUESTION E-0113/03
by Mogens Camre (UEN) to the Commission
(28 January 2003)

Subject: Migrant workers from the new Member States

In connection with the forthcoming accession of ten new Member States to the EU, a number of European research institutes have tried to assess how many migrant workers the current EU countries can expect from the new Member States. The Commission has drawn up a summary of the most comprehensive studies in its information note of 6 March 2001 entitled 'The Free Movement of Workers in the Context of Enlargement'. It concludes that the majority of migrant workers will be concentrated in mainly Germany and Austria.

These studies, however, are very incomplete, since they overlook the fact that a seven-year transitional arrangement will be in place for Germany and Austria. The earlier studies also fail to take account of the fact that the EC/EU has never before been enlarged to include so many less-prosperous countries. They generally point out that in the course of the 1980s the Community accepted Spain, Portugal and Greece as new members, and that these countries were not quite as well off as the other Member States. However, they ignore the fact that the then EC countries in practice introduced transitional regulations for the free movement of workers from the new Member States.
On 9 December 2002 the Danish weekly ‘Ugebrevet A4’ published a Gallup poll showing that some 150,000 Poles and 70,000 Estonians are planning to look for work in Denmark as soon as their countries join the EU. This was the first study published in Denmark which took account of the fact that Germany and Austria will be introducing 7-year transitional regulations on the free movement of workers. These figures diverge considerably from earlier studies which did not take account of the situation in Germany and Austria.

Will the Commission therefore provide an assessment of the consequences, in terms of the number of migrant workers from the new Member States, of the announcement by German and Austria that they intend to make use of the right to introduce 7-year transitional arrangements, so that workers from the 10 new Member States will not be able to seek work in these two countries for the first 7 years of their countries’ membership? In its reply, can the Commission also assess whether the workers who would have sought employment in these two countries will look for it in other existing Member States instead?

Answer given by Mr Verheugen on behalf of the Commission

(28 February 2003)

The Commission has carefully studied all available scientific information regarding potential migration flows from candidate countries following accession and has also commissioned a study that has been carried out by a group of independent research Institutes. Furthermore the Commission prepared the information note referred to by the Honourable Member (‘The free movement of workers in the context of enlargement’). The purpose of this information note was to provide factual information as well as options for an orientation debate on this issue in the context of the Accession Negotiations. The note took fully into account the precedents of the accessions of Spain and Portugal. As a result of all information available the Commission concluded that migration flows can hardly be predicted with scientific methods and that comparable historical evidence was rare. While past experience shows that the removal of barriers to free movement in the case of accession of southern countries had only a moderate impact, the Commission explicitly took into account the large income difference between the present Member States and the Candidate Countries as well as the fact that the income differential is in the case of Eastern Enlargement larger than in any other enlargement round and that Germany and Austria seem to be the most affected. As a result the Commission advised the Council to follow a prudent, but flexible approach in the Enlargement Negotiations and presented a transitional arrangement for all central and Eastern candidate countries, which was accepted and which forms now part of the Accession Treaty. This transitional arrangement allows all current Member States to control and regulate the access of workers from the new Member States to their national labour markets under national rules for a maximum of seven years. As a result, no current Member State is put in a position where it is unable to fully respond to its own needs. The only provision which is specific to Germany and Austria indicates that these two countries have the right to apply national flanking measures to address serious disturbances or the threat thereof, in specific sensitive services sectors (such as construction or industrial cleaning) on their labour markets, which could arise in certain regions from cross-border provision of services involving the posting of workers.

For the moment the Commission has not received any official information from current Member States how they intend to apply the transitional arrangement after accession. However, a declaration to the Accession Treaty will state that current Member States shall endeavour to grant increased labour market access under national law, with a view to speeding up the approximation to the ‘acquis’ and even an encouragement to improve access before accession.

Since each Member State has the opportunity to choose to which extent it wishes to liberalise free movement of workers vis-à-vis new Member States the Commission is not yet in a position to assess the effects of the Member States’ choices on other Member States’ labour markets. Moreover, even if the migration policies of individual Member States during the transitional periods is known, comparable data on migration stocks and flows would not exist for all Member States or only for short periods of time, which seriously hinders the estimation of econometric models at the level of the EU-15. Finally the impact of enlargement itself cannot be estimated at this stage. Enlargement will strengthen further growth and employment opportunities in the future Member States and past experiences suggest that people either not migrate or may even return to their country of origin after the accession of their country to the Union.
The Commission does not consider opinion polls as a suitable instrument for a quantitative assessment of the migration potential. Answers are usually subjective and indicate intentions, not choices. This is one of the lessons of the German Socio-Economic-Panel (GSOEP), where every year the population in Eastern Germany is asked whether they intend to move to Western Germany. The results show that only around five per cent of those who announced their intention to move to Western Germany in the early 1990s did indeed move there five years later.

(2004/C 88 E/0601)
WRITTEN QUESTION E-0130/03
by Margrietus van den Berg (PSE) to the Commission
(28 January 2003)

Subject: Implementing paragraph 6 of the Doha Declaration on TRIPS and public health

Paragraph 4 of the Doha declaration states that ‘... the TRIPs Agreement does not and should not prevent members from taking measures to protect public health’ and that ‘the [TRIPs] Agreement can and should be interpreted and implemented in a manner supportive of WTO members’ right to protect public health and, in particular, to promote access to medicines for all.

Furthermore, paragraph 5(b) of the Declaration reaffirms the right to grant compulsory licences and the freedom of each WTO Member to determine the grounds upon which such licences are granted.

Does the Commission recognise that neither the Doha Declaration nor the TRIPs Agreement restricts the application of these principle to certain types of public health problem, to the exclusion of others; nor do they limit eligibility to certain types of country?

Does the Commission recognise the intention of paragraph 6 of the Doha Declaration to ensure that WTO members without adequate manufacturing capacity benefit in full from the provisions of that declaration, on the same terms as WTO members who do have such capacity?

Does the Commission therefore recognise that to impose additional or new constraints as part of the solution to the paragraph 6 problem would violate the spirit of the Doha Declaration, and be justifiably seen by developing countries as evidence of bad faith?

Answer given by Mr Lamy on behalf of the Commission
(25 February 2003)

The Doha Declaration on the Trade Related Intellectual Property Rights (TRIPs) Agreement and Public Health confirmed and clarified the existing flexibilities under the TRIPs Agreement, especially compulsory licences and parallel import, and re-affirmed the importance of Articles 7 and 8 of the TRIPs Agreement in its interpretation. It has an important legal value as it gives guidance to the interpretation of the TRIPs Agreement.

Paragraph 6 of the Declaration deals with an issue that could not be resolved in Doha, and for which the TRIPs Agreement does not provide a tailor-made solution. So, strictly speaking, paragraph 6 is not about implementing the Doha Declaration. The Doha Declaration in itself can be implemented by all members without need for further international legal instruments. Paragraph 6 is about adding an additional layer of flexibility to the TRIPs Agreement and to the Doha Declaration. It purports to creating new possibilities under the TRIPs Agreement in order to resolve the problems of countries without manufacturing capacities in the pharmaceutical sector, by allowing them to have effective recourse to compulsory licensing.

The major difference with compulsory licensing as already provided for under the TRIPs Agreement is that production takes place in one country, and that the entirety of the production is then exported to another country (under the current rules of TRIPs, production and consumption of a predominant part of the production must take place in the same country). Therefore, the conditions attached to the use of such licences must be adapted to this reality. So this is not a question of imposing additional and burdensome