

(2002/C 229 E/060)

WRITTEN QUESTION E-0110/02**by Patricia McKenna (Verts/ALE) to the Commission**

(29 January 2002)

Subject: Free movement of workers in the EU

An Irish citizen, working in Brussels, recently contacted me to say he was served with a police order to leave Belgium on 7 January 2002. The man is employed with a Belgian-registered company. His only offence is that he had forgotten to return a long-term 'attestation patronale' (proof of employment) form to his local commune. (He had submitted such a form to the same commune the previous year and was issued with a six-months residence permit, which expired on 17 December 2001, as a result).

Although the matter appears to have been resolved in the interim, the surrounding issues raise serious questions about Belgium's commitment to the principle of free movement of workers.

Does the Commission agree that the issuing of such orders, when clearly no criminal offence has occurred, runs counter to the various agreements on the free movement of workers within the European Union?

Is the Commission aware of such orders being issued in any other member state and, if so, what action does it propose to take to ensure that the practise ceases?

Will the Commission contact the Belgian authorities, urging that its legislation be altered so that its police can no longer issue orders to a citizen of one EU state to leave another EU state?

Answer given by Mr Vitorino on behalf of the Commission

(28 February 2002)

Workers who are citizens of the Union have the right to reside in the Member State where they work, a right which is conferred on them directly by the EC Treaty. The residence permit merely evidences this right. However, it should be made clear that the free movement of Union citizens within the Union is not an absolute but a conditional right. Where a Union citizen does not meet all the conditions required by Community law to enjoy the right of residence in a Member State other than the one of which he is a national, the host Member State can request him to leave the country. But the mere failure to complete the legal formalities concerning the residence of aliens (in the case in point, presentation of proof of employment) does not justify a decision ordering expulsion⁽¹⁾. A clear distinction must be made between this situation and the expulsion of a Union citizen on grounds of public policy, public security or public health⁽²⁾.

Only Belgian legislation makes provision for an order to leave the country if the Union citizen fails to present the supporting documents needed to establish his right of residence in Belgium within five months of issue of a valid registration certificate.

On 7 May 2001 the Commission contacted the Belgian authorities in connection with the issuing of orders to Union citizens to leave the country. The Belgian Government replied by letter dated 24 July 2001. The Commission intends to send the Belgian authorities a reasoned opinion on the matter.

⁽¹⁾ Court of Justice judgment of 8 April 1976 in Case 48-75 Royer [1976] ECR 497, paragraph 38.

⁽²⁾ Council Directive 64/221/EEC of 25 February 1964 on the coordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health. OJ B 56, 4.4.1964.