



30.1.2015

NOTICE TO MEMBERS

Subject: Petition No 2506/2013 by N.W. (Irish) on free movement of EU citizens and their family members

1. Summary of petition

The petitioner who is an EU national is married to a non-EU national. Upon their arrival at the Dublin airport his wife (non-EU citizen, holding a non-EU passport) had to go to the line for non EU citizens and wait there for almost an hour to have her passport stamped, to a distress of their 18 months old baby. The petitioner believes his rights and those of his wife have been breached. He believes that current processing of persons both EU and non-EU through the Irish Immigration system needs to be amended.

2. Admissibility

Declared admissible on 24 October 2014. Information requested from Commission under Rule 216(6).

3. Commission reply, received on 30 January 2015

Article 21(1) of the Treaty on the Functioning of the European Union stipulates that every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in the Treaties and by the measures adopted to give them effect. The respective limitations and conditions are to be found in Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (hereafter: the Directive).

Provided the conditions of the Directive are met, EU citizens have the right to enter the host Member State, and their family members - irrespective of their nationality - have the same

right.

The fundamental right of free movement guaranteed by EU law to EU citizens and their family members is the most cherished right in the European Union and is considered as practically synonymous with Union citizenship. EU citizens feel understandably distressed when facing obstacles and difficulties where there should be none.

Setting up dedicated queues for EU citizens and their family members can speed up the process of border-crossing as EU citizens and their family members enjoy legally distinct rights in comparison with other non-EU travellers.

The Directive, however, does not lay down specific rules obliging Member States to set up at their borders queues reserved for EU citizens and their family members. For air borders, such rules are contained in Article 9(2)(a) of the Schengen Borders Code¹, by which Ireland is however not bound and which does not apply to Ireland².

Conclusion

While it is desirable that Ireland set up dedicated queues for EU citizens and their non-EU family members, Ireland is not under an EU law obligation to do so. It is, nevertheless, incumbent upon the Irish authorities to take the measures necessary to facilitate the achievement of the European Union's tasks, including those related to the right of EU citizens to move and reside freely.

¹ Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (*Schengen Borders Code*), as amended.

² In accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen acquis.