

WRITTEN QUESTION E-1740/02

by Bartho Pronk (PPE-DE), Maria Martens (PPE-DE), Karla Peijs (PPE-DE) and Albert Maat (PPE-DE)  
to the Commission

Subject: Follow-up question to Written Question E-1022/02 on the free movement of ships' captains and first officers

The Commission's answer to Written Question E-1022/02<sup>1</sup> is incomprehensible. The Commission based its answer on Article 39(3) and (4). In Cases C-114/97 and C-283/99, the Court of Justice clearly indicated the limits of those provisions, which are, of course, also applicable to the matter at issue here. The Court also explicitly uses the words: 'whatever the duties of the employee'. Accordingly, the Commission incorrectly refers to 'the special functions [to be performed] due to the special characteristics of maritime navigation'. Of course, no two sets of duties are absolutely identical, and there is, therefore, no such requirement in any legal order for reference to be made to case-law. It is quite understandable that the Commission wants to review its opinion in the light of the ruling in the Anave case, but it is incorrect in law. Proceedings before the Court can take years, and the ruling is relevant only at the time when it is handed down, not before. A kind of vacuum period may not exist. Finally, the Commission failed to answer questions 3 and 5 at all, and it answered questions 1, 2 and 4 in general and not in detail.

1. Can the Commission give as detailed an answer as possible to each and every individual question tabled in Written Question E-1022/02?
2. Can it indicate the timetable for and the background to the Anave case?

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