

WRITTEN QUESTION E-2300/02
by Guido Bodrato (PPE-DE)
to the Commission

Subject: Free movement and identity documents

In reply to the questions by Mr Speroni and Mr Gobbo of 22 October 2001 (P-2996/01 and P-3010/01¹) the Commission confirms that valid identity cards or passports are the only documents recognised by all Member States when Union citizens leave their own country for a Member State other than the one of which they are a national. This is perfectly acceptable. The problem, however, according to European citizens themselves, concerns more specifically the situation of European citizens who settle in a Member State of which they are not a national and obtain from that State an identity document (residence permit) under the terms of Directive 68/360/EEC² of 15 October 1968. Why should this document not be considered valid, when the person in question goes to, or passes through, another Member State, to prove that he or she is a citizen of the European Union and hence enjoys the right to freedom of movement?

The Court of Justice's ruling of 21 September 1999 in Case C-378/97 (Wijsenbeek) shows that the Member States retain the right to carry out identity checks to ascertain whether the person being checked is a citizen of a Member State and therefore has the right to move freely within the territory of the Member States.

Given that Community law overrides national law, why should an official document issued under a Community act not be sufficient to prove a person's identity when that person – a holder of an identity document issued by the country in which he or she has settled – is temporarily in another Member State on holiday or for family reasons? Is there not a contradiction between the right to freedom of movement and the refusal to recognise the validity of a document issued by virtue of an act which confirms that right to freedom of movement?

¹ OJ C 115 E, 16.5.2002, p. 211

² OJ L 257, 19.10.1968, p. 13