

WRITTEN QUESTION E-1671/03
by Bartho Pronk (PPE-DE)
to the Commission

Subject: Follow-up question to question E-3529/02 on statutory regulation of holiday pay

In its answer to written question E-3529/02¹, the Commission states that Belgian legislation defers the actual exercise of entitlement to annual leave to the following calendar year. The Commission considers that this is in accordance with Article 7 of Directive 93/104/EC². However, the Article in question expressly states that every (!) worker is entitled to paid annual (!) leave of at least four weeks. In COM(2000) 787 the Commission itself notes that workers cannot take any paid leave during the first year of their employment. The only conclusion that may be drawn from this is that not all workers are entitled to paid annual leave in Belgium, as is explicitly required under Directive 93/104/EC. Article 7(2) of the Directive expressly states that the minimum period of paid annual leave may not be replaced by an allowance in lieu. That means that it is not possible to derogate from paragraph 1.

1. Does the Commission agree that not all workers are entitled to paid annual leave in Belgium, as is noted in COM(2000) 787, and that this is the case in particular for those who are in their first year in employment? How does this accord with the provision in the Directive stating that all workers have this right? The Commission is expressly requested to take account of its communication COM(2000) 787 in its answer.

2. The Commission also did not address, in its earlier answer, the question concerning to what extent the Belgian regulation constitutes an obstacle to free movement of workers and, accordingly, may be in contravention of Article 39 of the Treaty. The Commission is expressly requested to comment on this question.

¹ OJ C

² OJ L 307, 13.12.1993, p. 18