

WRITTEN QUESTION E-0996/04
by Bartho Pronk (PPE-DE)
to the Commission

Subject: Restrictive measures planned by Switzerland contrary to the right of equal treatment granted by the EU

The forthcoming accession of the countries of Central and Eastern Europe requires the extension to the new Member States of the bilateral agreement on free movement of persons between the European Community and Switzerland. However, Switzerland seems unwilling to accept the basic EC rule of equal treatment by requiring the application of a completely different legal regime to the new Member States, namely the transitional period laid down in the Accession Treaty between the EU and the newcomers.

1. What is the exact position taken by the Commission during the negotiations in the Joint Committee on Free Movement of Persons? Will the Commission insist on equal treatment of the nationals of the current and of the new Member States?
2. Alternatively, might a legal basis exist for an arrangement that results in discrimination between nationals of EC Member States in relation to a third country? Is the Commission prepared to go for such a solution? What will happen if the new Member States do not approve such a discriminatory arrangement?

On the basis of the *pacta sunt servanda*, the current Member States are obliged to provide for the unconditional free movement of Swiss nationals. On the other hand, the principle of Community preference requires them to give preference to the nationals of the new Member States over third country nationals.

3. How is the Commission going to solve this legal contradiction? (Please answer my question precisely, even if you hope that an agreement will be reached. I am determined to secure an insight into this legal circumvention.)
4. On what legal basis may a Member State grant full access to third-country nationals while restricting the same rights of those of another Member State?