

WRITTEN QUESTION E-1935/07
by Harlem Désir (PSE)
to the Commission

Subject: Freedom of movement of HIV-positive people within and outside the EU

There is discrimination as regards the freedom of movement of people who are HIV positive in almost half the member countries of the UN. People who are HIV positive are simply refused entry to 11 countries, including the US and Russia. In other countries such as Australia, Canada and China, a negative HIV test is compulsory if people wish to stay for an extended period.

Even within the EU, Belgium, Greece and Austria discriminate against non-EU citizens by demanding to know the HIV status of people wishing to stay for an extended period, going as far as to refuse entry to those who are HIV positive.

This is an unacceptable situation, because it means that more than 40 million people worldwide are being deprived of their basic right to free movement solely on the basis of the state of their health. Being HIV positive cannot be seen as a threat to security and public order. HIV-positive people are being forced to lie and risk being turned back at borders just because they have an illness which, although transmissible, is not contagious.

These restrictions on the free movement of HIV-positive people are a breach of their fundamental rights as laid down in the European Convention on Human Rights (Article 5 on the right to liberty and security, Article 8 on the right to respect for private and family life, and Article 14 on the prohibition of discrimination) and as enshrined in Article 6 of the EU Treaty.

Does the discrimination by Belgium, Greece and Austria on the basis of the HIV status of non-EU citizens not constitute a breach of the fundamental rights enshrined in the EU Treaty? Should the Commission not demand that these restrictions, which do not comply with EU law, be lifted? What steps does the Commission intend to take to prevent HIV-positive EU citizens from being turned back at the borders of certain non-EU countries? How is the Commission going to ensure that the new security arrangements as regards air travel are in line with the fundamental rights enshrined in the EU Treaty, seeing that a medical certificate is needed in order to travel with medicines, thereby making it easier for the customs authorities in non-member countries to identify HIV-positive people and to justify turning them back at borders?