

EU/Switzerland

Free movement: Berne revives tension with Union

By Tanguy Verhoosel | Thursday 19 April 2012

Dictated by domestic politics, the Swiss government's decision to put temporary limits on issuing long-term residence permits to nationals of eight Central and Eastern European countries that joined the Union in 2004 (see *Europolitics* 4408) will probably have little practical effect in Switzerland. Quite the opposite will be true in Brussels and Strasbourg, however, where Berne sparked outrage and reignited the controversy over the future of its relations with the EU.

EU foreign policy chief Catherine Ashton and European Parliament President Martin Schulz (S&D, Germany) both reacted very negatively, on 18 April, to Berne's decision to activate the safeguard clause contained in the agreement on free movement of persons, signed by Switzerland and the EU in 1999.

"I regret the Federal Council's decision to re-establish quantitative limitations for certain categories of residence permits for EU citizens who are nationals of eight of the EU member states," reads a statement by Ashton released by the European External Action Service (EAS), visibly outraged over the Swiss move.

"I consider this measure to be in breach of the agreement on the free movement of persons as amended by the 2004 protocol," which extends its scope to the new member states. "This agreement does not allow for any differentiation between EU citizens," Ashton said.

For Brussels, Switzerland has no longer had the right to target nationals from the eight Central and Eastern European countries since the end of April 2011; if Berne wishes to activate the safeguard clause it has to apply it to all EU citizens.

"This measure is not economically justified by the labour market situation or by the number of EU citizens seeking residence in Switzerland," adds the EAS statement.

"DISCRIMINATORY" DECISION

Schulz is on the same wavelength: the Swiss decision is "discriminatory" and "violates the spirit and the letter of what Switzerland signed," he notes in a statement. "Legal obligations have to be respected" both in good times and in periods of economic turmoil.

The litany of complaints continued on 19 April.

The EP rapporteur on the European Economic Area and Switzerland, Rafal Trzaskowski (EPP, Poland), spoke of Berne's "unacceptable decision". "We in the European Parliament have shown great understanding of the specific characteristics of the Swiss Confederation. [...] However, decisions like this one cast serious doubt over the intentions of our Swiss partners."

The EPP group coordinator in Parliament's Committee on the Internal Market (IMCO), German national Andreas Schwab, also went on the attack: "We expect the Federal Council to reconsider its decision and we urge the European Commission to take all measures necessary and possible in cases of such flagrant violation of an international agreement concluded by the EU".

It intends to do just that.

The Swiss government had been informed in advance of the results of a legal analysis by the Commission, which prompted these reactions, but failed to take it into account, according to sources in Brussels. The matter will be pursued by EU officials: the quota issue will be raised in late June at the next meeting of the EU-Switzerland Joint Committee charged with managing the agreement on free movement of persons. Only after debating the issue with Switzerland will the question of EU counter-measures possibly be discussed.

That means a two-month wait, interspersed with discussions by the Swiss Justice Minister, Simonetta Sommaruga, with her Schengen area counterparts at the Justice and Home Affairs Council, on 26 April. This long wait is dictated by the procedure in force, inherited from the 1990s.

"Now do you understand why we maintain that the current bilateral system has reached its limits – it does not work well – and why we insist on restructuring our relations with Switzerland?" asked a European diplomat.

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