

E. R.

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RW/69/88

cc. Mr Spence

Mr Hodges
DFP



RULES FOR APPOINTMENT TO NICS POSTS

1. I would welcome advice on how to respond to a recent enquiry from our side of the Secretariat, which anticipates further Irish interest in the rules governing appointments to NICS posts.
2. The enquiry raises three issues:-
 - (1) The extent to which the nationality rules for NICS posts may be successfully challenged in the courts on the grounds that they are in breach of Article 48 of the Treaty of Rome.

Principal Secretariat has asked if DFP is aware of how wide a spectrum of posts might fall into this category. On the basis that NICS embraces many functions which would be carried out by local government agencies in most European countries are there plans to amend the nationality rules so as to eliminate any possible conflict with community law, or is the intention to let the matter be decided by the courts in the event of future legal proceedings? I understand that some months ago, there was a submission to the Secretary of State on this issue.

- (2) Has any attempt been made to quantify the likely level of applications for NICS posts if the rules were relaxed by using:
 - (a) records of addresses of persons requesting details and application forms in response to advertisements; and

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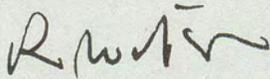
- (b) the level of interest from south of the border in NI-based Home Civil Service posts for which ROI residents are eligible.

In raising this Principal Secretariat remarks that it is obvious from the previous papers that a prime factor in DFP's adherence to the strict nationality rule is concern at the impact on the labour market of any loosening of the traditional criteria. On the other hand, there must be in current circumstances an actual reluctance to migrate to Northern Ireland on the part of many ROI residents.

- (3) How far is the question about an applicant's willingness to be associated with PANI/NIO work a "screening" device?

Presumably the question is not a "screening" device, but is it the case that a negative response to the question will have no influence on a candidate's chances of selection? In a competition for a limited number of posts, could the restricted mobility of a candidate who is unwilling to be associated with such work be a factor weighing against his or her application? Has the Civil Service Commission devised procedures to prevent this information being taken into account in consideration of an application (as opposed to the placement of the successful applicant)?

3. In advising on the response to Principal Secretariat I would be grateful if you would also indicate what might be said to the Irish should they pursue any of these questions.



R WILSON

Central Secretariat

4 October 1988

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