

(English version)

**Question for written answer E-001860/26
to the Commission
Vicent Marzà Ibáñez (Verts/ALE)
(6 May 2026)**

Subject: Compatibility with EU law of measures based on so-called ‘national priority’

Various initiatives in Member States are introducing criteria for access to public benefits and housing based on the so-called principle of ‘national priority’, via requirements of long-term settlement, continuous residence, or territorial attachment. In some cases, such as Aragon, these criteria have been incorporated into recent government agreements.

These measures, although formally neutral, may constitute indirect discrimination within the meaning of Article 2(2)(b) of Directive 2000/43/EC, disproportionately affecting long-term residents protected under Article 11 of Directive 2003/109/EC. According to the case law of the CJEU, indirect discrimination does not require intent but disproportionate effect. Moreover, the explicit designation of ‘national priority’ constitutes a strong indication of a discriminatory objective, incompatible with Articles 20 and 21 of the Charter of Fundamental Rights.

In light of the above,

1. How does the Commission assess the compatibility of these requirements with Article 11 of Directive 2003/109/EC when they may limit the effective exercise of the rights of long-term residents?
2. Does it consider that policies explicitly aimed at establishing a ‘national priority’ can be compatible with the principles of equality and non-discrimination in EU law?
3. Does it intend to take action against measures that may constitute indirect discrimination or disproportionate restrictions?

Submitted: 6.5.2026

**Answer given by Mr Brunner on behalf of the European Commission
(10 September 2026)**

EU long-term residents are guaranteed equal treatment with nationals of the host Member State in a number of areas that are exhaustively enumerated in Article 11 of Council Directive 2003/109/EC ⁽¹⁾, such as access to social security, social assistance and social protection, and procedures for obtaining housing.

In this context, the Court of Justice clarified that Member States cannot unilaterally impose longer residence requirement than the five-year period laid down in Article 4 of that directive ⁽²⁾.

A policy establishing a ‘national priority’ for nationals of the Member States needs to comply with the rules of Directive 2003/109/EC that provides for equal treatment between national citizens and holders of the long-term resident status.

Council Directive 2000/43/EC ⁽³⁾ prohibits discrimination on the grounds of racial or ethnic origin, but it does not cover differences of treatment based on nationality.

It is established case-law that the principle of non-discrimination prohibits not only direct discrimination on grounds of nationality but also all indirect discrimination which, by the application of other criteria of differentiation, leads in fact to the same result ⁽⁴⁾.

Unless justified and proportionate, a provision of national law is indirectly discriminatory if it intrinsically affects nationals of other Member States or third-country nationals more than nationals of the host State, and, as a consequence, places the former in a disadvantaged position. This applies, for example, to a residence condition ⁽⁵⁾.

The Commission understands that the Aragon law is yet to be adopted. The Commission does not comment on draft laws or proposals. Nevertheless, the Commission will continue to monitor the developments to ensure compliance with EU law.

⁽¹⁾ OJ L 16, 23.1.2004, pp. 44-53.

⁽²⁾ Judgment of 29 July 2024, joint cases C-112/22 and C-223/22, paragraphs 57-60, ECLI:EU:C:2024:636.

⁽³⁾ OJ L 180, 19.7.2000, pp. 22-26.

⁽⁴⁾ C-73/08, Bressol, ECLI:EU:C:2010:181, paragraph 40. See also C-75/11, Commission v Austria, ECLI:EU:C:2012:605, paragraph 49.

⁽⁵⁾ C-73/08, Bressol, ECLI:EU:C:2010:181, paragraph 45.