A HISTORIC EVENT IN THE COMMON LAW

THE CASE OF

YVONNE VAN DUYN v. *HOME OFFICE*

by
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By common consent the case of *Yvonne van Duyn* v. *Home Office* must constitute a notable landmark in the long evolution of the common law.[1] It is perhaps not too much to hazard that few of the older generation of English lawyers would have anticipated such a momentous (not to say heretical) excursion from the hallowed shrine. That some alien, albeit international, tribunal should presume to advise an English judge how to interpret a statutory provision was almost unthinkable. Its contemplation would certainly have sent shudders down many legal spines. Well, it would seem that the miraculous is still a reality and for this we can salute a latter-day Joan of Arc who dares to challenge our sacred shibboleths. Her temerity led to the reference for the first time by an English judge of questions of law to the European Court of Justice.[2] Pennycuick V-C. sought the assistance of that Court, as he was so entitled under art. 177 of the EEC Treaty, in the interpretation of art. 48 of the same Treaty and of art. 3 of EEC Council Directive 64/221 dealing with the coordination of special measures affecting the movement and residence of foreign nationals justified on grounds of public policy, public security or public health.[3]

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1 The writer counts himself fortunate to have been present at the hearing in Luxembourg. He would also like to acknowledge his indebtedness to Professor Max Sorensen, Judge Rapporteur in this case, from whose pre-trial report he has borrowed extensively.

2 By Order of March 1, 1974. The case was registered in the European Court on June 13, 1974: see, Common Market Law Reports 1 (1974) 34.

3 Art. 48 of the EEC Treaty provides that '(1) Freedom of movement for workers shall be secured within the Community by the end of the transitional period at the latest. (2) Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the member-States as regards employment, remuneration and other conditions of work and employment. (3) It shall entail the right, subject to limitations justified on grounds of public policy, public security or public health: (a) to accept offers of employment actually made; (b) to move freely within the territory of member-States for this purpose', etc. '(4) The provisions of this article shall not apply to employment in the public service'. Art. 3 (1) of Directive 64/221 provides that 'Measures taken on grounds of public policy or of public security shall be based exclusively on the personal conduct of the individual concerned': *Official Journal* of April 4, 1964, p. 850.

On a less heroic level, this case will be remembered for establishing two more precedents. It is the first time that the European Court has been asked for a ruling in respect of (a) the direct legislative effect of a Council Directive in a matter of substantive law, and (b) the limitations, expressed in art. 48 of the EEC Treaty, to the principle of freedom of movement for workers within the Community imposed by considerations of public policy and public security.

It will be recalled that certain articles of the EEC Treaty and several ancillary treaties have direct legislative effect within the member-States so as to create immediate rights and obligations for individual citizens which are enforceable in municipal courts. In addition, art. 189 of that Treaty provides that the Council and the Commission shall make Regulations, issue Directives and take Decisions. A Regulation 'shall have general application. It shall be binding in its entirety and directly applicable in all member-States. A Directive shall be binding, as to the result to be achieved, upon each member-State to which it is addressed, but shall leave to the national authorities the choice of form and methods.'

The Treaty deliberately makes a distinction between a Regulation and a Directive. While the former is complete in itself and has automatic and direct legislative effect within the member-State, it was uncertain whether the latter, although legally binding, becomes operative until the member-State has taken some action to implement it. Miss van Duyn was determined to resolve that crucial uncertainty through the esoteric channels of scientology.

Facts and Procedure

The Church of Scientology is a body established in California which functions in the United Kingdom by means of a college at East Grinstead in Sussex. The United Kingdom Government regards the activities of the Church as contrary to public policy. On July 25, 1968 the Minister of Health made a statement in the House of Commons which included the following remarks: 'Scientology is a pseudo-philosophical cult... the Government are satisfied, having reviewed all the available evidence, that scientology is socially harmful. It alienates members of families from each other and attributes squalid and disgraceful motives to all who oppose it; its authoritarian principles and practice are a potential menace to the personality and well-being of those so deluded as to become its followers; above all its methods can become a serious danger to the health of those who submit to them. There is evidence that children are now being indoctrinated. There is no power under existing law to prohibit the practice of scientology; but the Government have concluded that it is so objectionable that it would be right to take all steps within their power to curb its growth. Foreign nationals come here to study scientology and to work at the so-called college at East Grinstead. The Government can prevent this under existing law and have decided to do so. The following steps are being taken with immediate effect... (e)

Work permits and employment vouchers will not be issued to foreign nationals for work at a scientology establishment.'

No legal restrictions are placed upon the practice of scientology in the United Kingdom nor upon its nationals (with certain immaterial exceptions) wishing to become members of or to take employment with the Church of Scientology.

Miss van Duyn was a Dutch national. By letter of May 4, 1973 she was offered employment as a secretary with the Church of Scientology at its college in East Grinstead. With the intention of taking up that offer she arrived at Gatwick Airport on May 9, 1973 where she was interviewed by an immigration officer and refused leave to enter the country. It emerged in the course of the interview that she had worked in a scientology establishment in Amsterdam for six months, that she had taken a course in the subject of scientology, that she was a practising scientologist and that she proposed to work at a scientology establishment in the United Kingdom.

The ground of refusal of leave to enter, which was stated in a document entitled 'Refusal of Leave to Enter' handed by the immigration officer to Miss van Duyn, read: 'You have asked for leave to enter the United Kingdom in order to take employment with the Church of Scientology, but the Secretary of State considers it undesirable to give anyone leave to enter the United Kingdom on the business or in the employment of that organisation'.

Power to refuse entry into the United Kingdom is vested in immigration officers by virtue of section 4 (1) of the *Immigration Act* 1971. Leave to enter was refused by the immigration officer acting in accordance with the policy of the Government and with Rule 65 of the relevant Immigration Rules for Control of Entry, which Rules have legislative force. Rule 65 provides:

> Any passenger except the wife or child under 18 of a person settled in the United Kingdom may be refused leave to enter on the ground that the exclusion is conducive to the public good where (a) the Secretary of State has personally so directed, or (b) from information available to the Immigration Officer it seems right to refuse leave to enter on that ground — if, for example, in the light of the passenger's character, conduct or associations it is undesirable to give him leave to enter.

Relying on the Community rules concerning freedom of movement of workers and, in particular, on art. 48 of the EEC Treaty, Regulation 1612/68 and art. 3 of Directive 64/221, Miss van Duyn claimed that the refusal of leave to enter was unlawful and sought a declaration from the High Court in England that she was entitled to stay in the United Kingdom for the purpose of employment and to be given leave to enter the United Kingdom.

The High Court stayed the proceedings and requested the European Court, pursuant to art. 177 of the EEC Treaty, to give a preliminary ruling on the following questions:

1. Whether art. 48 of the EEC Treaty is directly applicable so as to confer on individuals rights enforceable by them in the courts of a member-State.
2. Whether Directive 64/221 is directly applicable so as to confer on individuals rights enforceable by them in the courts of a member-State.
3. Whether upon the proper interpretation of art. 48 of the EEC Treaty and of art. 3 of Directive 64/221 a member-State in the performance of its duty to base a measure taken on grounds of public policy exclusively on the personal conduct of the individual concerned is entitled to take into account as matters of personal conduct (a) the fact that the individual is or has been associated with some body or organization the activities of which the member-State considers contrary to the public good but which are not unlawful in that State, (b) the fact that the individual intends to take employment in the member-State with such a body or organization it being the case that no restrictions are placed upon nationals of the member-State who wish to take similar employment with such a body or organization.

Written Observations Submitted to the Court

On the first question Miss van Duyn submitted that art. 48 of the EEC Treaty is directly applicable. She relied in particular on the judgments of the European Court of April 4, 1974 in *Commission* v. *French Republic* (127/73) and of June 21, 1974 in *Reyners* v. *Belgium* (2/74).

In the light of the judgment in Case 167/73 the United Kingdom made no submission on this question.

On the second question, Miss van Duyn submitted that art. 3 of Directive 64/221 is directly applicable. She observed that the Court has already held that, in principle, Directives are susceptible of direct application. She referred to the judgments of October 6, 1970 in *Grad* v. *Finanzamt Traunstein* (9/70) and of December 17, 1970 in *Spa SACE* v. *Italian Ministry of Finance* (33/70).

She submitted that the criterion as to whether a Directive is directly applicable is identical to that adopted in the case of articles in the EEC Treaty, and she pointed out that the Court had not felt itself constrained to hold that a given article in the Treaty is not directly applicable merely because in its formal wording it imposes an obligation on a member-State. She referred to the judgments of December 19, 1968 in *Salgoil* v. *Italian Ministry* (13/68) and of June 16, 1966 in *Lütticke GmbH* v. *Hauptzollamt Sarrelouis* (57/65). Miss van Duyn further submitted that a Directive which directly affects an individual is capable of creating enforceable rights for that individual when its provisions are clear and unconditional and when, as to the result to be achieved, it leaves no

substantial measure of discretion to the member-State. Provided those criteria are fulfilled it does not matter (a) whether the provision in the Directive consists of a positive obligation to act or of a negative prohibition, or (b) that the member-State has a choice of form and methods to be adopted in order to achieve the stated result. As to (a) it is implicit in the foregoing judgments of the Court in *Lütticke* and *Salgoil* that an article of the EEC Treaty which imposes a positive obligation on a member-State to act is capable of direct applicability and the same reasoning is valid in relation to Directives. As to (b) Miss van Duyn noted that art. 189 of the Treaty expressly draws a distinction in the matter of Directives between the binding effect of the result to be achieved and the discretionary nature of the methods to be adopted. She contended that the provisions of art. 3 of Directive 64/221 fulfil the criteria for direct applicability and cited the preamble to the Directive which reads: 'Whereas, in each member-State, nationals of other member-States should have adequate legal remedies available to them in respect of the administration in such matters...' (i.e. when a member-State invokes grounds of public policy, public security or public health in matters connected with the movement or residence of foreign nationals). The only adequate legal remedy available to an individual is the right to invoke the provisions of the Directive before the national courts.

The EEC Commission also filed a submission with the Court claiming that a provision in a Directive is directly applicable when it is clear and unambiguous. The Commission referred to the judgments in *Grad* and *Spa SACE* and pointed out that a Community Regulation has the same weight and immediate effect as national legislation whereas the effect of a Directive is similar to those provisions of the EEC Treaty which create obligations for the member-States. If provisions of a Directive are legally clear and unambiguous, leaving only a discretion to the national authorities in respect of their implementation, they must have an effect similar to those Treaty provisions which the Court has recognised as directly applicable.

Thus, the Commission submitted that (a) the executive of a member-State is bound to respect Community law, (b) if a provision in a Directive is not covered by an identical provision in national law but left, as to the result to be achieved, to the discretion of the national authority, the discretionary power of that authority is reduced by the Community provision, (c) in those circumstances it is clear that a private individual must have the right to prevent the national authority from exceeding its powers under Community law to his detriment. In the view of the Commission, art. 3 should have direct consequence in the member-State to which it is addressed and difficulty of application in a particular case should not derogate from its effectiveness. The Commission cited the judgment of the Belgian *Conseil d'Etat* of October 7, 1968 in the *Corveleyn* case. Thus, art. 3 is a clear obligation limiting the wide

discretion given to immigration officers under Rule 65 of the Statement of Immigration Rules. The Commission therefore proposed the following answer to the question: where a provision such as art. 3 of Directive 64/221 is legally clear and unambiguous it is directly applicable so as to confer on individuals rights enforceable by them in the courts of a member-State.

On the other hand, the United Kingdom in its submission recalled that art. 189 of the EEC Treaty makes a clear distinction between Regulations and Directives, ascribing different effects to each. It argued therefore that *prima facie*, in not issuing a Regulation, the Council must have intended that the Directive should have an effect other than that of a Regulation and accordingly should neither be binding in its entirety nor be directly applicable in all member-States. The United Kingdom submitted that the judgments in *Grad* and *Spa SACE* did not support the proposition that it is immaterial whether the provision in question is contained in a Regulation, Directive or Decision. In both cases the purpose of the Directive in issue was merely to fix a date for the implementation of clear and binding obligations contained in the Treaty and instruments made under it. Those cases show that in special circumstances a limited provision in a Directive can be directly applicable. The provisions of Directive 64/221 are quite different. The Directive is much broader in scope. It gives comprehensive guidance to member-States in respect of all measures taken by them which affect the freedom of movement of workers and it was expressly contemplated in art. 10 that member-States would enact the legislation necessary to comply with the Directive. The United Kingdom examined the four cases in which foreign municipal courts have considered the question of direct applicability of Directives and suggested that little assistance could be obtained from them. Secondly, it observed that the *Corveleyn* case has been the subject of considerable debate among Belgian jurists, the better view being that the *Conseil d'Etat* did not decide in favour of the direct applicability of Directives but rather upheld the Belgian concept of public order which requires that international obligations of the country shall be taken into account.

On the third question Miss van Duyn contended that a situation must be envisaged in which the organization in question engages in activities which are lawful in the member-State. The question does not necessarily assume that the individual concerned intends to continue his association. It is sufficient that he has in the past been associated. Miss van Duyn said that even if the individual had been associated with an illegal organization and, by virtue of his activities therein, had been convicted of a crime, that circumstance would not, by virtue of art. 3 (2) of Directive 64/221, itself justify the member-State in taking steps based on public policy to exclude the individual from the country. The fact of merely belonging to an organization without necessarily taking part in its activities could not in her submission amount to conduct. Conduct

implies activity. Moreover, the activities of the organization in question were not, merely because the individual is or has been a passive member, personal to the individual concerned. To hold otherwise would allow a member-State to exclude an individual on the sole ground that in the distant past he had for a short period lawfully belonged to a somewhat extreme political or religious organization in his own member-State.

In regard to the latter part of the question Miss van Duyn pointed out that freedom of movement of persons is one of the fundamental principles laid down by the Treaty and that discrimination on grounds of nationality is prohibited by art. 7. Exemptions from those fundamental principles must be interpreted restrictively. She remarked that the question implies some discrimination on grounds of nationality seeing that it is concerned with the situation where an individual whose previous activity has been blameless seeks entry to a member-State in order to work for an organization in whose employment the nationals of the member-State are free to engage. She submitted that if an organization is deemed contrary to the public good the member-State is faced with a simple choice: either to prohibit everybody including its own citizens from taking employment with that organization or to tolerate the employment of the nationals of member-States on equal terms with its own citizens.

The Commission maintained that the expressions 'public policy' and 'personal conduct' in art. 48 (3) of the Treaty and art. 3 of Directive 64/221 are concepts of Community law, and that they must first be interpreted in the context of Community law. National criteria, on the other hand, are only relevant to the application of those concepts. In practice, if each member-State could set limits to the interpretation of public policy the obligations arising from the principle of freedom of movement of workers would assume different shapes in those various States. It is only possible for such freedom of movement to be protected within the Community on the basis of uniform application by all member-States. It would be inconsistent with the Treaty for one member-State to accept workers from another member-State while its own workers did not receive uniform treatment in the matter of public order in the latter State. The Commission contended that discrimination by a member-State on grounds of public policy against the nationals of another member-State in respect of employment by an organization whose activities were held to be inimical to the public good is contrary to art. 48 (2) of the Treaty. Art. 3 (1) of the Directive clearly states that measures taken on grounds of public policy shall be based exclusively on the personal conduct of the individual concerned. Personal conduct which is acceptable when performed by a national of one member-State cannot be unacceptable under Community law when carried out by a national of another member-State. It must be contemplated that art. 3 precludes a member-State, as a general contingency against some poten-

tial harm to society, from invoking public policy as a ground for refusing entry when the personal conduct of the individual is or was not contrary to public policy in the member-State concerned. It is not denied that membership of a militant organization proscribed in the host member State would constitute an element to be taken into account when assessing personal conduct justifying refusal of entry on grounds of public policy or public security.

In regard to the first part of the third question the United Kingdom addressed itself to three aspects. In the first place, is the past or present association of an individual with an organization a matter affecting his personal conduct. The United Kingdom believed that it is important for a member-State to examine any such association with a view to excluding a national of another member-State from entry if the organization is considered to be undesirable as a matter of public policy.

Secondly, the United Kingdom submitted that exclusion from entry in such circumstances is compatible with the terms of art. 3 (1) of Directive 64/221. The intention of that article must have been to prevent collective expulsions and to require consideration of each individual case. Whether exclusion is justified will depend on the opinion which the member-State holds of the organization concerned. The procedure of immigration in a member-State must involve numerous officials who will not be so well acquainted as the Government with the pedigree of a particular organization. Those officials must act in obedience to instructions given by the Government laying down general principles for their guidance.

Thirdly, the United Kingdom maintained that although an organization may not be unlawful in a member-State its activities could be regarded as harmful to the public welfare. Only that Government is competent to make such evaluation in the light of the particular circumstances. It is common knowledge that the United Kingdom exercises a considerable degree of tolerance in relation to organizations within its territory. The reasons for regarding scientology as unhealthy and undesirable were set forth in a Parliamentary statement of July 25, 1968.

The second part of the question raised two matters. It was submitted that intention to take up employment with an organization must involve an aspect of personal conduct. Secondly, the Government should not be precluded from acting in those circumstances solely because no restrictions are placed upon such employment of its own citizens. There must be some discrimination in this respect between its own citizens and nationals of another member-State. For example, a State has the duty under international law to receive back its own citizens no matter how undesirable or potentially dangerous they might be.

The United Kingdom cited art. 5 (b) (ii) of the Universal Declaration of Human Rights which provides that: 'Every one has the right to leave any country, including his own, and to return to his country'. Thus,

a State would be justified in refusing to admit a drug addict who is a foreign national though obliged to accept one of its own citizens similarly tainted.

Judgment of the Court

On the first question, the European Court held that the provisions of art. 48 (1) (2) impose on member-States 'a precise obligation which does not require the adoption of any further measure on the part either of the Community institutions or of the member-States and which leaves them, in relation to its implementation, no discretionary power. Subsection 3 of art. 48, which defines the rights implied by the principle of freedom of movement for workers, subjects them to limitations justified on grounds of public policy, public security or public health. The application of these limitations is, however, subject to judicial control, so that a member-State's right to invoke the limitations does not prevent the provisions of art. 48, which enshrine the principle of freedom of movement for workers, from conferring on individuals rights which are enforceable by them and which the national courts must protect. The reply to the first question must therefore be in the affirmative.'

On the second question, the Court pointed out that the only provision of Directive 64/221 which is relevant is that contained in art. 3 (1) providing that measures taken on grounds of public policy or public security shall be based exclusively on the personal conduct of the individual concerned. The Court continued: 'the United Kingdom observes that, since art. 189 of the Treaty distinguishes between the effects ascribed to Regulations, Directives and Decisions, it must therefore be presumed that the Council, in issuing a Directive rather than making a Regulation, must have intended that the Directive should have an effect other than that of a Regulation and accordingly that the former should not be directly applicable. If, however, by virtue of the provisions of art. 189, Regulations are directly applicable and consequently may by their very nature have direct effects, it does not follow from this that other categories of acts mentioned in that article can never have similar effects. It would be incompatible with the binding effect attributed to a Directive by art. 189 to exclude, in principle, the possibility that the obligation which it imposes may be invoked by those concerned. In particular, where the Community authorities have by Directive imposed on member-States the obligation to pursue a particular course of conduct, the useful effect of such an act would be weakened if individuals were prevented from relying on it before their national courts and if the latter were prevented from taking it into consideration as an element of Community law. Art. 177, which empowers national courts to refer to the European Court questions concerning the validity and interpretation of all acts of the Community institutions without distinction, implies furthermore that those acts may be invoked by individuals in the national courts. It is necessary to examine in every case whether the nature, general scheme

and wording of the provision in question are capable of having direct effects on the relations between member-States and individuals. By providing that measures taken on grounds of public policy shall be based exclusively on the personal conduct of the individual concerned, art. 3 (1) of Directive 64/221 is intended to limit the discretionary power which national laws generally confer on the authorities responsible for the entry and expulsion of foreign nationals. First, the provision lays down an obligation which is not subject to any exception or condition and which, by its very nature, does not require the intervention of any act on the part either of the institutions of the Community or of member States. Secondly, because member-States are thereby obliged, in implementing a clause which derogates from one of the fundamental principles of the Treaty in favour of individuals, not to take account of factors extraneous to personal conduct, legal certainty for the persons concerned requires that they should be able to rely on this obligation even though it has been laid down in a legislative act which has no automatic direct effect in its entirety. If the meaning and exact scope of the provision raise questions of interpretation, those questions can be resolved by the courts taking into account also the procedure under art. 177 of the Treaty. Accordingly, art. 3 (1) of Directive 64/221 confers on individuals rights which are enforceable by them in the courts of a member-State and which the national courts must protect.'

On the third question, the Court pointed out that 'it is necessary first to consider whether association with a body or organization can in itself constitute personal conduct within the meaning of art. 3 of Directive 64/221. Although a person's past association cannot in general justify a decision refusing him the right to move freely within the Community, it is nevertheless the case that present association, which reflects participation in the activities of the body or of the organization as well as identification with its aims and its designs, may be considered a voluntary act of the person concerned and consequently as part of his personal conduct within the meaning of the provision cited. This third question further raises the problem of what importance must be attributed to the fact that the activities of the organization in question, which are considered by the member-State as contrary to the public good, are not however prohibited by national law. It should be emphasized that the concept of public policy in the context of the Community, and where in particular it is used as a justification for derogating from the fundamental principle of freedom of movement for workers, must be interpreted strictly so that its scope cannot be determined unilaterally by each member-State without being subject to control by the institutions of the Community. Nevertheless, the particular circumstances justifying recourse to the concept of public policy may vary from one country to another and from one period to another, and it is therefore necessary in this matter to allow the competent national authorities an area of discretion within the limits imposed by the Treaty. It follows from the

above that where the competent authorities of a member-State have clearly defined their standpoint as regards the activities of a particular organization and where, considering it to be socially harmful, they have taken administrative measures to counteract those activities, the member-State cannot be required before it can rely on the concept of public policy to make such activities unlawful if recourse to such a measure is not thought appropriate in the circumstances. The question raises finally the problem of whether a member-State is entitled on grounds of public policy to prevent a national of another member-State from taking gainful employment within its territory with a body or organization, it being the case that no similar restriction is placed upon its own nationals. In this connection, the Treaty, while enshrining the principle of freedom of movement for workers without any discrimination on grounds of nationality, admits in art. 48 (3) limitations justified on grounds of public policy, public security or public health to the rights deriving from this principle. Under the terms of the provision cited above the right to accept offers of employment actually made, the right to move freely within the territory of member-States for this purpose, and the right to stay in a member-State for the purpose of employment are among others all subject to such limitations. Consequently, the effect of such limitations when they apply is that leave to enter the territory of a member-State and the right to reside there may be refused to a national of another member-State. Furthermore, it is a principle of international law, which the EEC Treaty cannot be assumed to disregard in the relations between member-States, that a State is precluded from refusing its own nationals the right of entry or residence. It follows that a member-State for reasons of public policy can, where it deems necessary, refuse a national of another member-State the benefit of the principle of freedem of movement for workers in a case where such a national proposes to take up a particular offer of employment even though the member-State does not place a similar restriction upon its own nationals. Accordingly, the reply to the third question must be that art. 48 of the EEC Treaty and art. 3 (1) of Directive 64/221 are to be interpreted as meaning that a member-State, in imposing restrictions justified on grounds of public policy, is entitled to take into account as a matter of personal conduct of the individual concerned the fact that the individual is associated with some body or organization the activities of which the member-State considers socially harmful but which are not unlawful in that State, despite the fact that no restriction is placed upon nationals of the said member-State who wish to take similar employment with those same bodies or organizations.'

Postscript

It has been suggested that the judgment in *van Duyn* must now be seen in the light of *Bonsignore's Case*[4] in which an Italian national residing in the Federal Republic of Germany appealed against a decision to deport him taken by the Aliens Authority following his conviction for an offence against the Firearms Act and for negligently causing the death of his brother.

The European Court held that 'departures from the rules concerning the free movement of persons constitute exceptions which must be strictly construed'. The concept of 'personal conduct' in art. 3 of Directive 64/221 expresses the requirement that a deportation order may only be made for breaches of the peace and public security which are committed by the individual in question. On the other hand, deportation is not justified for the purpose of deterring other aliens, namely, if it is based on reasons of a 'general preventive nature'.

4 *Bonsignore* v. *Oberstadtdirektor of Cologne* (67/74): (1975) 15 Common Market Law Reports, 472. See also *Regina* v. *Secchi* in which a London metropolitan magistrate recommended that an itinerant Italian national be deported from the United Kingdom. The magistrate held that a member-State is entitled to deport on grounds of 'personal conduct', under art. 3 of Directive 64/221, an EEC national who has shown by his conduct (a) considerable lack of honesty and propriety which has resulted in the commission of serious crimes (in this case, shoplifting and indecent exposure), (b) an attitude to personal behaviour which is completely alien to what is acceptable in the host country, and (c) general irresponsibility. Such characteristics, together with the precarious nature of the accused's financial resources and the absence of any roots in the host country, made it reasonable to anticipate the commission by him of further offences or other infringements of public policy if he were to remain: (1975) 15 Common Market Law Reports, 383.