

The right for freedom of movement for workers in the EU

A total of 25,115 EU nationals were registered as working in Malta at the end of September 2016. Official statistics show that the largest number of EU workers were coming from Italy followed by the United Kingdom. With freedom of movement in the European Union, citizens of the EU can move to, live in, and in certain circumstances access the welfare systems of the EU country to which they have moved.

Freedom of movement is one of the founding principles of the EU. It has been in operation since the creation of the European Economic Community and is primarily designed to support the economies of EU countries by providing a mobile workforce.

But do EU workers face difficulties related to their freedom of movement within the EU itself? Studies have shown that EU citizens who want to move or who actually move from one Member State to another for work purposes do face problems in exercising their rights.

In this context, in 2014 the EU adopted new legislation - Directive 2014/54/EU - aimed at facilitating the uniform application and enforcement in practice of the already existing rights conferred on workers by previous legislation in the context of freedom of movement for workers. The scope of the Directive covers nationality-based discrimination against EU workers and their families in employment, social and tax advantages, membership of trade unions, access to training, housing, education and assistance afforded by the employment offices.

In 2016, this EU Directive was transposed into Maltese legislation by means of a Legal Notice that also applies to EU citizens exercising their right to freedom of movement for workers in Malta and to members of their family. The regulations outlined in this Legal Notice cover the following provisions in the area of freedom of movement of workers:

- access to employment
- conditions of employment and work, in particular as regards remuneration, dismissal, health and safety at work, and, if workers become unemployed, reinstatement or re-employment
- access to social and tax advantages
- membership of trade unions and eligibility for workers' representative bodies
- access to training, housing; and to education, apprenticeship and vocational training for the children of workers; and
- assistance afforded by the employment offices.

Persons can file a complaint with the National Commission for the Promotion of Equality (NCPE) when they deem to have encountered or are encountering obstacles to exercise, or have had or are having their right to free movement restricted without justification and also when they deem that the principle of equal treatment within the scope of these regulations has not been applied to them.

NCPE is thus empowered to provide independent legal assistance to workers and members of their family; to conduct independent surveys and analyses concerning unjustified restrictions and obstacles to the right of free movement or discrimination on grounds of nationality of workers and members of their family; as well as publish independent reports and make recommendations on any issue relating to such restrictions, obstacles and/or discrimination.

Renee Laiviera
Commissioner - NCPE

Text box:

Cases of discrimination on the basis of nationality that equality bodies dealt with and that fall within the scope of the Directive 2014/54/EU:

The Netherlands - Dutch national denied access to a Polish-speaking job

In 2014, an employment agency in The Netherlands posted a vacancy for a job as a welder. The vacancy specified that the job was to be performed in the Polish language. A Dutch national contacted the agency to ask for information and to express his interest. The employment agency told him he would not be eligible for this job because he is not Polish. The Netherlands Institute for Human Rights (NIHR) found this direct discrimination on the ground of nationality for which it is not possible to have any justification.

Czech Republic - Discriminatory internship scheme

In 2012, a university student from the Slovak Republic, who had been studying in the Czech Republic, asked the Ombudsman for help in relation to a particular internship scheme. The internships were organised through the Education for Competitiveness Operational Programme, which is under the jurisdiction of the Ministry of Education. According to the requirements prescribed by the Operational Programme, the participants of the project had to be Czech citizens or permanent residents. Therefore, these conditions ruled out most foreign students studying at Czech universities. The Ombudsman found these conditions discriminatory based on citizenship and nationality and consequently against EU law and the Anti-Discrimination Act. The Ministry of Education followed the conclusion of the Ombudsman and promised that future projects would not contain the discriminatory conditions.

Source: *Equality Bodies and Freedom of Movement: An Equinet Discussion Paper* (2015)