

## Freedom of Movement?

Freedom of movement for persons in the EU is the cornerstone of Union citizenship. 58% of Europeans consider “the free movement of people, goods and services within the EU” as the most positive achievement of the European Union. EU citizens can look for a job in another EU country, reside there for that purpose and enjoy equal treatment with nationals in access to employment and working conditions.

Nonetheless, only 3.9% of EU working age citizens lived in another EU Member State other than that of their citizenship in 2018. This low level of geographical mobility between EU Member States can be partly the result of discrimination on grounds of nationality and difficulties faced by Union workers, and their family members, when exercising their right to freedom of movement.

‘Mobile’ EU citizens are more likely to be in employment than the nationals. Union workers must be treated exactly the same as their colleagues who are nationals of the country. They cannot be discriminated against when looking for work, when receiving help from national employment offices, in working conditions, benefits and tax advantages, training opportunities, or when joining trade unions and exercising the related rights. In addition, measures that indirectly limit freedom of movement are also prohibited.

This is in line with the Treaty on the Functioning of the European Union that requires free movement of workers and prohibits any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment.

Moreover, in 2014 the EU adopted new legislation aimed at facilitating the uniform application in practice of the already existing rights conferred on workers in the context of freedom of movement. In fact, appropriate bodies were set up across all the Member States to support Union workers and their family members. In Malta the National Commission for the Promotion of Equality (NCPE) has been designated to provide assistance in cases of discrimination or obstacles to exercise the right of freedom of movement. In this regard, NCPE can investigate complaints in relation to access to employment; conditions of work; access to social and tax advantages; membership of trade unions and eligibility for workers’ representative bodies; as well as access to training; access to housing; access to education, apprenticeship and vocational training for the children of workers; and assistance afforded by the employment offices.

One such case investigated in 2018 involved a British national who transferred her residence to Malta with the aim of finding a job, but who was ordered to leave Malta as she resulted to be still working in the UK. The complainant was in a pre-retirement work phase. She was seeking employment in Malta, and she met both the financial and insurance requirements of her host country. Following the investigation, NCPE Commissioner concluded that due to a failure to sufficiently delve into the complainant’s case the right of free movement was restricted without justification. Eventually, the complainant obtained residence when her appeal with the Immigration Appeals Board was upheld.

In addition, NCPE can also investigate cases of victimisation when Union workers suffer adverse treatment or negative consequences for having lodged a complaint or else for initiating and/or participating in proceedings which aim to enforce the right to freedom of movement.



*National Commission for the Promotion of Equality*

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NCPE can provide the necessary assistance to EU 'mobile' workers to ensure that their rights are respected. Reporting such cases to responsible entities is thus crucial to ensure that rights to freedom of movement are translated into reality.

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