

Freedom of movement for workers in the EU

Freedom of movement for workers has been one of the founding principles of the European Union (EU) since its inception. It is a fundamental principle enshrined by the Treaty on the Functioning of the EU. EU citizens are [entitled to](#) look for a job in another EU country; work there without needing a work permit; reside there for that purpose; stay there even after end of employment; and enjoy equal treatment with nationals in access to employment, working conditions and all other social and tax advantages.

According to [Eurostat](#), in 2020, around 3.3% of EU working age citizens (20-64) lived in a country other than their citizenship. Same research also reveals that in 2020, EU citizens living in another EU country had a higher employment rate (73.1%) compared with those residing in the country of which they were citizens (72.4%).

In 2019, the [European Labour Authority was](#) established to serve as a dedicated agency for the free movement of workers. Its main aims are to help the European Commission and the Member States to ensure that EU regulations on labour mobility and social security coordination are enforced *“in a fair, simple and effective way.”*

The outbreak of the Covid-19 pandemic in 2020 challenged the right of freedom of movement due to border controls and strict measures. As a result, posted, seasonal, and cross-border workers experienced relocation issues and increased unemployment. It has also [led to](#) *“the emergence of the notion of essential workers and the development of telework, in particular.”*

At the national level, in 2016, freedom of movement for workers in the EU was included in the remit of the [National Commission for the Promotion of Equality \(NCPE\)](#) by virtue of [Legal Notice 173 of 2016](#), where persons who encounter discrimination or obstacles to exercising the right of freedom of movement may lodge a complaint to the NCPE.

The NCPE can investigate complaints [in relation to](#) access to employment; conditions of employment and work (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; access to housing; access to education, apprenticeship and vocational training for the children of workers; and assistance afforded by the employment offices.

One such complaint was received in 2018, when the NCPE investigated a [case](#) in relation to freedom of movement. The complainant alleged that a woman's rights, as set out in the Freedom of Movement legislation, were being breached as both she and her son's rights to free movement in the EU were being unjustly restricted by the responsible entity. The complainant and her son were UK citizens. The complainant explained that after transferring her residence to Malta, to eventually secure a job in Malta, she was ordered to leave. As a result, the complainant's son was also refused residence. The complainant received a letter stating revocation of residence, as she appeared to still be working in the UK.

She stated that during the period indicated she was in a pre-retirement working phase. Her position could be described as a cross-border worker, since besides working in the EU she was regularly returning to her residence in Malta.

Following due investigation, the complaint was justified since the NCPE's Commissioner identified failure by the relevant department to adequately delve in the complainant's case, hence leading to an unjust revocation of the right to residence and of the registration certificate, and the right of free movement had been restricted without justification.

Discrimination and obstacles to free movement restricts the enjoyment of an important freedom for EU citizens. In this regard, reporting such cases to the NCPE is vital to address discriminatory practices and ensure that the rights of freedom of movement are truly safeguarded.

The [National Commission for the Promotion of Equality \(NCPE\)](#) can be contacted on: 2276 8200 or equality@gov.mt or our Facebook page.

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