

## **Free movement of workers after accession of Bulgaria and Romania: Frequently Asked Questions**

*Free movement of persons is one of the fundamental freedoms guaranteed by Community law and includes the right to live and work in another Member State. It is an essential element of the Internal Market and of European citizenship. In accordance with the Accession Treaty some Member States will limit the free movement of workers from Bulgaria and Romania for a limited time period after 1 January 2007.*

### **What are the transitional arrangements?**

For the first two years following the accession of Bulgaria and Romania, access to the labour markets of the current Member States will depend on national measures and policies, as well as bilateral agreements they may have with the new Member States. There is no requirement to notify the Commission formally of the measures to be taken.

At the end of the first two years – i.e. towards the end of 2008 – the Commission will draft a report, which will be the basis for a review by the Council of Ministers of the functioning of the transitional arrangements. In addition to the Council's review, Member States must notify the Commission as to their intention for the next period of up to three years – either to continue with national measures, or to allow free movement of workers.

There should therefore be free movement of workers after 5 years, which is by 1 January 2012. However, the possibility does exist for a current Member State to ask the Commission for authorisation to continue to apply national measures for a further two years, but only if it is experiencing serious disturbances on its labour market. This requirement must be objectively justified.

From January 2014 – seven years after accession – there will be complete freedom of movement for workers from new Member States.

### **Who is covered by the transitional arrangements?**

The transitional arrangements will apply to any national of Bulgaria or Romania who wants to sign an employment contract with an employer in one of the current Member States or who wants to look for employment in one of the current Member States. It does not apply to those wishing to reside in one of the current Member States for purposes such as study, or those who wish to establish themselves as self-employed persons, with the exception of self-employed persons providing certain services, e.g. in the construction sector, in Austria and Germany.

### **Will Bulgarian and Romanian nationals be discriminated against in the labour market?**

Discrimination on the grounds of nationality is against Community law. Once a worker has complied with any national measures that may be in place, he or she must be treated on the same basis as any domestic worker. Even when a Member State applies national measures, it must give workers from Bulgaria and Romania priority over workers from third countries. Some jobs in the public sector can be restricted to nationals of the host Member State.

### **Will Bulgarian and Romanian nationals already working in a current Member State be affected?**

A Bulgarian or Romanian national legally working in a current Member State on 1 January 2007 and having a work permit or authorisation for 12 months or longer will continue to have access to the labour market of that Member State. He or she will not have automatic access to the labour markets of the other current Member States.

A Bulgarian or Romanian national who moves to a current Member State and gains legal permission to work there for 12 months or longer will have the same rights. But should he or she voluntarily leave that Member State, the right of access will be lost until the end of the transitional period.

### **What is the situation with regard to family members?**

Family members of a Bulgarian or Romanian worker who has been legally admitted to the labour market of a current Member State for 12 months or more, and who are resident with the worker before accession, will also have access to the labour market of that Member State. If the family joins the worker after the date of accession, they will have access to the labour market of that state once they have been resident for 18 months or from the third year after accession (i.e. 2010), whichever is earlier. "Family members" means the spouse of the worker, their children under the age of 21, or dependent.

### **Can Member States impose tighter restrictions from 1 January 2007 than were in place before?**

No, the so-called 'standstill clause' states that current Member States cannot make access to their labour market more restrictive than it was on the date of signature of the accession treaty, 25 April 2005.

### **Will workers from current Member States be able to have free movement to work in Bulgaria and Romania?**

There will be no automatic restrictions on the right of nationals of current Member States to move to work in Bulgaria and Romania. However, Bulgaria and Romania may choose to impose equivalent restrictions on the nationals of Member States that have themselves imposed restrictions.

### **When will the Commission have information on the positions of the various Member States?**

The Commission cannot legally oblige Member States to indicate the national measures they will put in place for the first two years of the transitional period. However, in the interests of transparency, the Commission has asked Member States to provide this information as soon as possible. Once known, details will be available on the Commission's Job Mobility Portal: <http://ec.europa.eu/eures>

### **What improvements will workers from Bulgaria and Romania already working in the EU see in their situation after 1 January 2007?**

Currently, Bulgarian and Romanian workers have only enjoyed equal treatment regarding working conditions, remuneration and dismissal as well as co-ordination of social security when moving within the current Member States. After accession they will benefit from Community rules on the recognition of qualifications and co-ordination of social security with regard to insurance periods acquired in either Bulgaria or Romania.

### **Are the rules on coordination of social security subject to transitional arrangements?**

Once a worker is in a Member State, whether under a transitional arrangement or after being granted free access, he or she will have the full rights applicable under the rules governing the co-ordination of social security (Regulation 1408/71). The exact nature of entitlements depends on the scheme in the host country and the home country, but in general, these rights can be characterised as:

- The exportation of pension rights and other cash benefits acquired by a worker in his or her home Member State.
- The aggregation (adding together) of social security contributions earned in different Member States to ensure that the worker always has appropriate cover and can immediately benefit from insurance in the new country. The aim of these dispositions is that no-one should lose his or her social security protection by having changed Member State.
- Equality of treatment, in particular access by the worker's family to the same family allowances that the family of a national of the particular Member State would have.