

# Free movement of workers in the European Union

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# Overview

- Free movement of workers in general -  
Concept and rules
- Transitional measures for enlargement

# Current legal situation

- Freedom of movement for workers is enshrined in Article 39 EC
- Community definition of “worker”: any person who undertakes genuine and effective work under the direction of somebody else, for which he is paid

# Primary Legislation

- Right to work in a different Member State
- Right of residence in the host Member State
- Non-discrimination on grounds of nationality

# Secondary Legislation

- Regulation 1612/68 on free movement of workers
- Directive 2004/38 on residence rights of EU nationals and their family members
- Directive 2005/36 on recognition of diplomas
- Regulation 1408/71 about the coordination of social security schemes

# Access to the labour market

- Equal treatment with nationals of the host Member State
- Limited free movement in the public sector
- Recognition of diplomas and qualifications
- Language requirements

# Equal Treatment

- With nationals of the host Member State
- As regards working conditions
- As regards social and tax advantages
- Prohibition of direct and indirect discrimination

# Right of Residence

- 3 months without any formalities
- For job-seekers
- For the period of employment
- Under certain conditions also during retirement
- No more residence permit, but MS may require registration
- Right of permanent residence after 5 years



# Right to family reunion

- Right of residence
  - spouse
  - children until the age of 21 or dependant
  - dependant parents
  - Registered partner (under certain conditions)
- Rights
  - Access to work
  - Education (children)
  - Equal treatment

# Enlargement (1)

- Transitional measures foreseen in Treaties of Accession
- Applicable to 8 of 10 MS of 2004 enlargement (except Cyprus and Malta) as well as to MS of 2007 enlargement (Bulgaria and Romania)
- Possibility of introducing reciprocal measures
- Safeguard clause as between new Member States

# Enlargement (2)

- 7 years maximum « formula 2+3+2 »
  - 2 years: national measures
  - 3 years: application of restrictions can be prolonged
  - 2 years: restrictions only if serious disturbances of the labour market
- Time frame
  - Enlargement 2004: 01.05.2004 – 30.04.2011
  - Enlargement 2007: 2007-2013

## Enlargement (3)

- National of a new (EU 8 or EU 2) Member State who is legally working in an old (EU 15 or EU 10) Member State with a work permit of at least 12 months at the date of accession or later can stay in that Member State and has free access to the labour market of that State.
- Right to equal treatment
- Restrictions on certain service provision involving cross-border movement of workers, only into Germany and Austria
- Standstill clause from date of signature of Accession Treaty

# Information sources

- Website of Unit E3 « Free movement of workers and coordination of social security schemes »
  - Communication of 2002 « Free movement of workers: achieving the full benefits and potential »
  - Free movement of workers to and from the new Member States (to and from Bulgaria and Romania) - how will it work in practice?
  - Do you want to work in another EU Member State? Find out about your rights
- EURES –European Job Mobility Portal
  - practical information and job data base



# Questions?

