

FREE MOVEMENT OF WORKERS TO AND FROM BULGARIA AND ROMANIA – HOW WILL IT WORK IN PRACTICE?

1. Introduction

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. The right of free movement within the Community does not only concern workers, but also other categories of people such as students, pensioners and EU citizens in general. It is perhaps the most important right under Community law for individuals, and an essential element of both the Internal Market and of European citizenship. Moving to another country is a major decision, and people need to have accurate information on their rights. This Guide explains how free movement of workers will apply to citizens of Bulgaria and Romania after the accession of these two countries to the European Union in 2007, based on the transitional arrangements set out in the Accession Treaty. A list of sources of information in the area of free movement of workers and citizens' rights is also given. It is important to note that the transitional arrangements *only* apply to access to the labour market by **workers**.

2. Transitional Arrangements

a) Will I be able to work in another EU-Member State as from 1 January 2007?

For the first two years following the accession of Bulgaria and Romania, access of Bulgarian and Romanian workers to the labour markets of the EU-25 Member States¹ will depend on the national law and policy of those States, as well as the bilateral agreements they may have with Bulgaria and Romania. Some Member States have indicated that they intend to fully open their labour markets to Bulgarian and Romanian workers. Other EU-25 Member States intend to allow more restrictive access which means in practical terms that you are likely to need a work permit during the period the EU-25 Member States apply national measures.

b) What happens at the end of 2008?

At the end of the first two years following accession, the Commission will draft a report, on the basis of which the Council will review the functioning of the transitional arrangements. In addition, each of the EU-25 Member States must make a formal notification to the Commission whether they intend to continue with national law measures for a maximum of three more years (in which case you will still need a work permit) or whether they will apply the Community law regime of full free movement of workers (meaning that you can go and work freely there).

c) When will I be able to work freely in the EU-25 Member States?

In principle, five years after the accession, the transitional arrangements should end. There is, however, a possibility for an EU-25 Member State to ask the Commission for authorisation to continue to apply national measures for a further two years but only if it experiences serious disturbances on its labour market (or the threat thereof). The transitional arrangements cannot extend beyond an absolute *maximum* of seven years.

d) Will I need a work permit once free movement applies?

¹ EU-25 means all Member States forming part of the EU before 1 January 2007: Belgium, Czech Republic, Denmark, Germany, Estonia, Greece, Spain, France, Ireland, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Hungary, Malta, Netherlands, Austria, Poland, Portugal, Slovenia, Slovakia, Finland, Sweden, United Kingdom

Once national law restrictions are ended and free movement of workers applies, the EU-25 Member States are not allowed to require a work permit from you *as a condition of access* to the labour market. However, they may still issue work permits to Bulgarian and Romanian workers, provided these are *only* for monitoring and statistical purposes.

e) Can the EU-25 Member States re-impose restrictions ("safeguard clause")?

If an EU-25 Member State has stopped applying national measures and full free movement of workers under Community law applies, it can ask to be authorised to re-impose restrictions, if it undergoes serious problems on its labour market, or there is a threat of this. The Commission must decide what sort of restrictions can be imposed, and for how long. Any Member State can then ask the Council to annul or amend the Commission's decisions, and this must be agreed by a qualified majority. Although "safeguard clauses" have featured in every accession Treaty, they have never been invoked.

f) Will I be discriminated against in the labour market?

Discrimination on grounds of nationality is *forbidden*. In terms of access to jobs, the Member States 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.

g) If I am not a worker – do I also face restrictions?

It is important to note that these transitional arrangements *only* apply to *workers* – not to the free provision of services nor to the freedom of establishment, students, pensioners, tourists etc (with a limited exception for service providers which will be explained later).

3. What if I am already working in one of the EU-25 Member States?

If you are legally working in an EU-25 Member State at the date of accession and have a work permit or authorisation for 12 months or longer, you will have direct access to the labour market of that Member State, but not automatically to the labour markets of other EU-25 Member States which are applying national measures during the transitional arrangements. If you go to an EU-25 Member State after the date of accession and have permission to work there for 12 months or over you will have the same rights. But if you voluntarily leave the labour market of the host Member State, you will lose the right of access to the labour market of that State until the transitional arrangement has expired.

4. What about my family members?

Family members of a worker from Bulgaria or Romania, who at the date of accession was legally admitted to the labour market of an EU-25 Member State for 12 months or more, will have immediate 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 Member State once they have been resident for 18 months or from the third year following the accession, whichever is earlier. "Family members" here means the spouse of the worker and their children who are under the age of 21, or are dependant.

5. What is the "standstill clause"?

This means that the EU-25 Member States cannot make access to their labour markets by workers from Bulgaria and Romania more restrictive than it was at the date of signature of the accession Treaty, 25 April 2005. So if one of the EU-25 Member States has a quota of workers from

Bulgaria or Romania which is set out in a bilateral agreement dating from 2005 or earlier, then it cannot go below that quota.

6. Will I be able to go and work in Bulgaria or Romania?

If you are a national of one of the EU-25 Member States, there are no automatic restrictions on your right to move to Bulgaria or Romania to work. However, if your Member State imposes restrictions on the nationals of Bulgaria or Romania, then Bulgaria or Romania may impose equivalent restrictions on workers from your Member State. If any one of the EU-25 Member States continues to apply national measures rather than free movement under Community law, then Bulgaria may use the "safeguard clause" to impose restrictions on workers from Romania, and Romania may use the "safeguard clause" to impose restriction on workers from Bulgaria if they have disturbances on their labour market (see paragraph 2(e) above).

7. What if I work for a company that provides services in Austria or Germany?

In relation to Austria and Germany, a specific "safeguard clause" exists under which they may limit the ability of companies based in Bulgaria and Romania to provide services involving the temporary movement of workers. However, this only applies to a limited list of sectors, for example construction and industrial cleaning, and may only be invoked if there are serious disturbances in the service sectors in question, and only during the period when Austria and Germany apply national measures under the transitional arrangements. The procedure is the same as for the main safeguard clause explained in paragraph 2(e) above.

8. What social security rights will I have?

The Community system for co-ordination of social security schemes for people who move around the Community (contained in Regulations 1408/71 and 574/72) will apply from the date of accession. So none of your contributions should be lost, and you would normally be covered by the social security system of the Member State in which you work.

9. Conclusion

The transitional arrangements set out in the accession Treaty are complicated, but this is mainly because their application can be flexible. This makes it difficult to provide exact information, as each of the EU-25 Member States has to take a decision on access to its labour markets by citizens of Bulgaria and Romania. The Commission's EURES system website, which provides information on job vacancies in the Member States, is a good place to start.

10. Sources of information

- <http://ec.europa.eu/eures> (job searching)
- <http://ec.europa.eu/youreurope> (information on moving to another Member State)
- http://ec.europa.eu/employment_social/social_security_schemes/index_en.htm (co-ordination of social security schemes)
- <http://ec.europa.eu/enlargement/index.htm> (general information on enlargement)
- http://ec.europa.eu/europedirect/index_en.htm (general questions on the EU)
- http://ec.europa.eu/employment_social/legis_en.html (Community legislation)
- http://ec.europa.eu/enlargement/countries/acceding_en.htm (text of Accession Treaty)
- http://eur-lex.europa.eu/LexUriServ/site/en/com/2002/com2002_0694en01.pdf (2002 Commission Communication on Free Movement)