



Directive 2014/54/EU on facilitating the exercise of rights in the context of free movement of workers

EQUINET Seminar -Paris 8 December 2015

Dimitrios KONTIZAS

DG EMPL B/D/1 Free Movement of Workers, EURES

Directive 2014/54/EU on facilitating the exercise of rights in the context of free movement of workers

Specific measures to ensure effective protection of rights conferred by Art 45 TFEU and Regulation (EU) No 492/2011:

- Defence of rights;
- National body or bodies must exist to provide assistance to Union workers (including jobseekers) and their family members;
- Promotion of dialogue;
- Better information provision at national level.

1. SUBJECT-MATTER AND SCOPE OF DIRECTIVE



Subject matter of the Directive (Article 1)

The Directive aims to improve and reinforce the way in which Article 45 TFEU and Regulation (EU) No 492/2011 are applied in practice within Member States across the European Union.

Personal scope (Article 1)

The beneficiaries of the provisions of Directive 2014/54/EU are the same as those under Article 45 TFEU and Regulation (EU) No 492/2011

The Directive applies to all persons exercising their right to free movement within the European Union for work purposes and the members of their family (according to recital 1 as the term defined in point (2) of Article 2 of Directive 2004/38/EC, including jobseekers, as well as persons retaining the status of worker.

Material scope (Article 2)

The Directive applies to the matters covered by Article 45 TFEU and by Articles 1 to 10 of Regulation (EU) No 492/2011.

Material scope: Matters covered by Article 45 TFEU

The issues below are also within the scope of Article 45 TFEU:

- residence of workers, jobseekers and family members*
- Recognition of professional qualifications for access to employment and working conditions (salary, promotion...)*
- supplementary social security rights.*

2. EFFECTIVE PROTECTION OF RIGHTS

Effective Protection of Rights:

- *Judicial procedures must be made available for the enforcement at national level of rights given to Union workers and their family members by Article 45 TFEU and Regulation 492/2011;*
- *Guarantee of effective dissuasive and proportionate remedies (Case C-14/83);*
- *National procedural rules must comply with principles of effectiveness and equivalence*

Right of associations to provide assistance with protection of rights: Article 3(2)-(4)

- *Right of associations, organisations or other entities – with a legitimate interest in accordance with criteria laid down in national law - to represent Union workers in judicial and/or administrative proceedings in order to ensure enforcement of rights.*
- *National collective action rules unaffected [Article 3(3) and Recital 15]*

Protection from victimisation – Article 3(6)

Member States must guarantee

"....measures to protect Union workers from any adverse treatment or adverse consequence as a reaction to a complaint of proceedings aimed at enforcing compliance with the rights referred to in Article 1"

Cf. Article 9 of Directive 2000/43/EC

3. THE NATIONAL "FMOW BODY"

FMOW Body (1): Each Member State shall designate "one or more structures or bodies for the promotion, analysis, monitoring and support of...Union workers and their family members":

Provide or ensure provision of independent legal and/or other assistance to Union workers...and their family members in pursuing their complaints

Conduct independent surveys and publish independent reports

Publish relevant information on application at national level of the EU rules on free movement of workers

FMOW Body (2) – cooperation and coordination duties

Make use of and cooperate with existing information and assistance services at EU level [Article 4(4)]

Act as a contact point vis-à-vis equivalent contact points in other Member States [Article 4(2)(b)]

Cooperate with existing information and assistance services provided by social partners and... other entities at national level (see Recital 20)

FMOW body (3) - flexibility for national implementation

"one or more structures or bodies"

"may form part of existing bodies at national level which have similar objectives"

Possibility under Article 8(2) to extend competences to cover discrimination on ground of nationality under Article 18 TFEU

FMOW body (4) - Resources and Coordination

If a Member State decides to allocate the tasks to an existing body...

"It should ensure allocation of adequate resources...for the effective and adequate performance of its existing an additional tasks" [Recital 18]

If the tasks are allocated to more than one body...

"MS should ensure...they are adequately coordinated"
[Article 4(5)]

Provision of Information: Article 4(2)(e) and Article 6

Art.
4(2)(e)

- FMOW body to publish information on national implementation of EU rules

Art. 6(1)

- Duty on MS to provide information to all stakeholders about rights conferred by Directive and associated EU rights

Art. 6(2)

- Duty as to how the information should be provided: "clear, **free of charge**, easily accessible, comprehensive...up-to-date" and **in more than one EU language.**

Comments? Questions?

THANK YOU!

