



Freedom of movement in the EU

by Anastasia Makarova

The Treaties provide:

"every citizen of the Union shall have the right to move and reside freely within the territory of the Member States subject to the limitations and conditions laid down in the EC Treaty and by the measures adopted to give it effect"

"the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment"

The new measures are designed:

- to encourage Union citizens to exercise their right to move and reside freely within Member States,
- to cut back administrative formalities to the bare essentials,
- to provide a better definition of the status of family members
- to limit the scope for refusing entry or terminating the right of residence.

Right to move and right of residence for up to three months

- a valid identity document or passport
- an entry or exit visa are not required
- short-stay visas

Right of residence for more than six months

Applicants must:

- either be engaged in economic activity (on an employed or self-employed basis);
- or have sufficient resources and sickness insurance to ensure that they do not become a burden on the social services of the host Member State during their stay. The Member States may not specify a minimum amount which they deem sufficient, but they must take account of personal circumstances;
- or be following vocational training as a student and have sufficient resources and sickness insurance to ensure that they do not become a burden on the social services of the host Member State during their stay;
- or be a family member of a Union citizen who falls into one of the above categories.

Right of permanent residence

- Acquired after a five-year period of uninterrupted legal residence, provided that an expulsion decision has not been enforced against them
- is no longer subject to any conditions
- is lost only in the event of more than two successive years' absence from the host Member State

Restrictions on the right of entry and the right of residence

on grounds of:

- public policy
- public security
- public health
- Not on economic grounds
- Lifelong exclusion orders cannot be issued under any circumstances
- Persons concerned by exclusion orders can apply for the situation to be reviewed after a maximum of three years

The Member State must assess a number of factors

- the period for which the individual concerned has been resident
- his or her age
- degree of integration and family situation in the host Member State and links with the country of origin

The Schengen area and cooperation

France, Germany, Belgium, Luxembourg and the Netherlands decided in 1985 to create a territory without internal borders. This became known as the "Schengen area", after the town in Luxembourg where the first agreements were signed

"compensatory" measures:

- improving cooperation and coordination between the police and the judicial authorities in order to safeguard internal security and, in particular, to fight organised crime - the Schengen Information System (SIS) was set up - a sophisticated database used by authorities of the Schengen member countries to exchange data on certain categories of people and goods.

The Schengen area gradually expanded to include nearly every Member State. Italy signed the agreements on 27 November 1990, Spain and Portugal joined on 25 June 1991, Greece followed on 6 November 1992, then Austria on 28 April 1995 and Denmark, Finland and Sweden on 19 December 1996. The Czech Republic, Estonia, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia joined on 21 December 2007 and the associated country Switzerland on 12 December 2008. Bulgaria, Cyprus and Romania are not yet fully-fledged members of the Schengen area; border controls between them and the Schengen area are maintained until the EU Council decides that the conditions for abolishing internal border controls have been met.

Key rules adopted within the Schengen framework include:

- **removal of checks on persons at the internal borders;**
- **a common set of rules applying to people crossing the external borders of the EU Member States;**
- **harmonisation of the conditions of entry and of the rules on visas for short stays;**
- **enhanced police cooperation (including rights of cross-border surveillance and hot pursuit);**
- **stronger judicial cooperation through a faster extradition system and transfer of enforcement of criminal judgments;**
- **establishment and development of the Schengen Information System (SIS).**

Rights of citizens of the new member states

Transitional provisions:

From 1 May 2004 to 1 May 2006 (first two years)

The original member states were allowed to decide whether or not to impose restrictions on the right of free movement from the new member states. Ireland, the UK and Sweden allowed full free movement and the other countries applied some restrictions.

From 1 May 2006 to 1 May 2009

The original member states are still allowed to maintain some restrictions on free movement of workers. A number of countries – Finland, Greece, Portugal and Spain have now lifted all restrictions and the others retain restrictions but are gradually easing them

From 1 May 2009

In general, **full free movement** should apply from 1 May 2009. There is a provision however whereby an original member state may ask the Commission to continue restrictions for a further two years if it is experiencing serious disturbances in its labour market.

There will be complete freedom of movement **from 2011**.