



**Facilitating the freedom of movement of workers:
Residence rights as the starting point.
The experience of Myria**

Belgian Federal Migration Centre

Ina Vandenberghe
Equinet Conference
Paris, 8 December 2015

Myria \neq Equality body



Before March 2014

Centre for Equal Opportunities and Opposition to Racism

Discrimination/
Equality pillar

Migration pillar

~~Centre for Equal Opportunities and Opposition to Racism~~

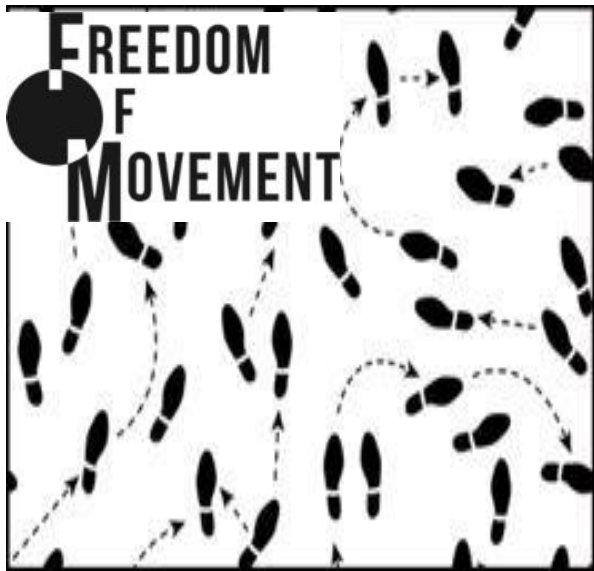
Discrimination/
Equality pillar

Migration pillar

Interfederal Centre for Equal Opportunities
= Equality body

Myria,
Federal Migration Centre

DIRECTIVE 2014/54/EU



EQUAL TREATMENT

NON-DISCRIMINATION



Specific about Belgium?

- Federal state structure
- Large population of EU citizens

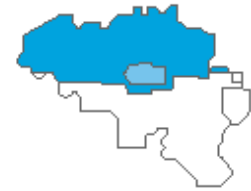
BELGIUM

THE FEDERAL STATE



THE COMMUNITIES

THE FLEMISH COMMUNITY



THE FRENCH COMMUNITY



THE GERMAN-SPEAKING COMMUNITY



THE REGIONS

THE FLEMISH REGION



THE BRUSSELS-CAPITAL REGION



THE WALLON REGION



Obstacles to the free movement of workers?

- Keep in mind:
 - ! Non-EU Family members of EU citizens
 - ? ~~Posted workers~~
- Obstacles
 - At the start: Difficulties to **register** (local level)
 - During the stay: Unequal **access to services**
 - End of the stay: **Withdrawal** of right of residence

Cases

1. Difficulties to register

- **In theory:** declaration + « immediately »
- **In practice** (Belgium – registration at local level)
 - Waiting period (appointment in bigger cities)
 - ⇒ Practical problems (no national number)
 - ⇒ [Different treatment for certain nationalities?]
 - Additional documents asked by certain local authorities

Procedure in Belgium?

- Proof of EU citizenship => **request** for a certificate of registration (3 months to provide required documents)
- **During 5 years:** right of residence of unlimited duration (but conditional)
- **After 5 years:** Permanent residence (unconditional)

Cases

2. Acces to social housing?

- Spanish worker in Belgium and his spanish wife were denied a mortgage for a house.
 - **Why?**
 - Condition for mortgage = residence permit of unlimited duration (internal rules of the housing company)
 - In this case the company argued: residence right is not of unlimited duration because it is bound by conditions
- => Decision of housing company is not in compliance with EU (and Belgian) legislation

- **Treaty confers an EU-citizen the right to reside in another MS**
 - *“The fundamental and personal right of residence in another Member State is conferred directly on Union citizens by the Treaty (...)”* [Recital 11 - Directive 2004/38]
- An EU-citizen has the right of residence **as long as he meets the conditions**
 - *Union citizens and their family members shall have the right of residence provided for in Articles 7, 12 and 13 as long as they meet the conditions set out therein. (...)”* [Art 14 (2) - Directive 2004/38]
- EU citizens who exercise their right of free movement and reside in another MS enjoy **equal treatment** with nationals of the MS (within the scope of the treaty)
 - *“... all Union citizens residing on the basis of this Directive in the territory of the host Member State shall enjoy equal treatment with the nationals of that Member State within the scope of the Treaty. The benefit of this right shall be extended to family members who are not nationals of a Member State and who have the right of residence or permanent residence.”* [Art 24 (1) - Directive 2004/38]

Cases

3. Withdrawal of right of residence

- Italian citizen
 - After 20 years of employment in Italy, he takes up a job in Belgium in 2013. He work for 10 months in Belgium and loses his job.
 - He can benefit from an unemployment allowance. However, after 5 months (with allowance) his right of residence is withdrawn.
 - Motivation of the Immigration office:
 - ‘after a long period of inactivity, he had no genuine chance to find an employment’

Withdrawal of right of residence

Directive 2004/38: right of residence **as long as the conditions are fulfilled** (e.g. as a worker)(art 14,2)

- a Union citizen who is no longer a worker shall **retain the status of worker** under certain conditions
 - E.g. after having become involuntarily unemployed during the first twelve months and has registered as a job-seeker with the relevant employment office. In this case, the status of worker shall be retained for no less than six months (art. 7,3)
- **Verification shall not be carried out systematically** (art 14(2))
 - Belgium: exchange of personal information between government institutions on EU citizens. Problematic?



THANK YOU
for your
ATTENTION!

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