

AMENDMENTS 001-063

by the Committee on Employment and Social Affairs

Report

Edit Bauer

A7-0386/2013

Freedom of movement for workers

Proposal for a directive (COM(2013)0236 – C7-0114/2013 – 2013/0124(COD))

Amendment 1

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) The free movement of workers is a fundamental freedom of EU citizens and one of the pillars of the internal market in the Union enshrined in Article 45 of the Treaty on the Functioning of the European Union. Its implementation is further developed by Union law aimed at guaranteeing the full exercise of rights conferred on Union citizens and the members of their families.

Amendment

(1) The free movement of workers is a fundamental freedom of EU citizens and one of the pillars of the internal market in the Union enshrined in Article 45 of the Treaty on the Functioning of the European Union. Its implementation is further developed by Union law aimed at guaranteeing the full exercise of rights conferred on Union citizens and the members of their families, ***as defined in Article 2(2) of Directive 2004/38/EC of the European Parliament and of the Council^{27a}. It is essential to ensure that this fundamental freedom always takes into consideration the principle of equality between women and men and the promotion of equal opportunities across the Union.***

^{27a} ***Directive 2004/38/EC of the European Parliament and of the Council of 29 April***

2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158, 30.4.2004, p. 77).

Amendment 2

Proposal for a directive Recital 2

Text proposed by the Commission

(2) The free movement of workers is also a key element to the development of a genuine Union labour market, allowing workers to move ***from high unemployment areas*** to areas where there are labour shortages, helping more people find posts better suited to their skills and overcoming bottlenecks in the labour market.

Amendment

(2) The free movement of workers is also a key element to the development of a genuine Union labour market, allowing workers to move to areas where there are labour shortages ***or offering more employment opportunities***, helping more people find posts better suited to their skills and overcoming bottlenecks in the labour market.

Amendment 3

Proposal for a directive Recital 3

Text proposed by the Commission

(3) The free movement of workers gives every citizen the right to move freely to another Member State to work and reside there for that purpose. It protects them against discrimination on the grounds of nationality as regards employment, remuneration and other working conditions by ensuring their equal treatment in comparison to nationals of that Member State. It needs to be distinguished from the freedom to provide services, which includes the right of undertakings to provide services in another Member State, for which they may send ('post') their own workers to another Member State temporarily to carry out the work necessary

Amendment

(3) The free movement of workers gives every citizen the right to move freely to another Member State to work and reside there for that purpose. It protects them against discrimination on the grounds of nationality as regards employment, remuneration and other working conditions, ***including dismissal, tax and social advantages***, by ensuring their equal treatment, ***under national law or collective agreements***, in comparison to nationals of that Member State. ***Such rights should be enjoyed without discrimination by permanent, seasonal and frontier workers whose place of work and place of residence are located in different Member***

to provide these services there.

States and by those who pursue their activities for the purpose of providing services (“EU workers”). It needs to be distinguished from the freedom to provide services, which includes the right of undertakings to provide services in another Member State, for which they may send (‘post’) their own workers to another Member State temporarily to carry out the work necessary to provide these services there.

Amendment 4

Proposal for a directive

Recital 4

Text proposed by the Commission

(4) With respect to workers and workers' families exercising their right to free movement, Article 45 of the Treaty confers substantial rights for the exercise of this fundamental freedom, specified in Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 *on freedom of movement for workers within the Union*²⁸.

²⁸ OJ L 141, 27.5.2011, p. 1.

Amendment

(4) *Free of movement for workers has an important impact on family life and the educational and professional choices of EU workers and their partners.* With respect to *EU* workers and *EU* workers' families exercising their right to free movement, Article 45 of the Treaty confers substantial rights for the exercise of this fundamental freedom, specified in Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011²⁸ *and Directive 2004/38/EC. When applying Regulation (EU) 492/2011, Directive 2004/38/EC and this Directive, Member States should not discriminate against EU workers or the members of their families on any ground listed under Article 21 of the Charter of Fundamental Rights of the European Union, including that of sexual orientation.*

²⁸ *Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union* (OJ L 141, 27.5.2011, p. 1).

Amendment 5

Proposal for a directive

Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) Member States should ensure mutual recognition of various legal partnerships and their rights in order to avoid discrimination on the ground of sexual orientation or personal choices of migrant workers. Member States should also ensure that the rights of people adopting a child are respected so that they are not prevented from moving to another Member State for the purposes of work.

Amendment 6

Proposal for a directive

Recital 5

Text proposed by the Commission

Amendment

(5) However, the effective exercise of the freedom of movement of workers is still a major challenge and many workers are very often unaware of their rights to free movement. **They** still suffer from discrimination on the grounds of nationality when moving across European Union borders of the Member States. There is, therefore, a gap between the legislation and its application in practice that needs to be addressed.

(5) However, the effective exercise of the freedom of movement of workers is still a major challenge and many workers, **employers and public administration** are very often unaware of rights to free movement **of EU workers. EU workers** still suffer from discrimination on the grounds of nationality **and, with regard to frontier workers, from discrimination based on residence**, when moving across European Union borders of the Member States. There is, therefore, a gap between the legislation and its application in practice that needs to be addressed.

Amendment 7

Proposal for a directive

Recital 6

Text proposed by the Commission

Amendment

(6) In July 2010, in its Communication on 'Reaffirming the free movement of workers: rights and major developments'²⁹

(6) In July 2010, in its Communication on " Reaffirming the free movement of workers: rights and major developments"²⁹

the Commission pointed out that it will explore ways of tackling the new needs and challenges (in particular in the light of new patterns of mobility) facing **EU migrant workers** and their family members, and in the context of the new strategy for the single market will consider how to promote and enhance mechanisms for the effective implementation of the principle of equal treatment for EU workers and members of their families exercising their right to free movement.

²⁹ COM(2010) 373 final of 13 July 2010

Amendment 8

Proposal for a directive Recital 6 a (new)

Text proposed by the Commission

the Commission pointed out that it will explore ways of tackling the new needs and challenges (in particular in the light of new patterns of mobility) facing **EU workers** and their family members, and in the context of the new strategy for the single market will consider how to promote and enhance mechanisms for the effective implementation of the principle of equal treatment for EU workers and members of their families exercising their right to free movement.

²⁹ COM(2010) 373 final of 13 July 2010

Amendment

(6a) On 15 December 2011, the European Parliament adopted a resolution on freedom of movement for workers within the European Union, in which it clearly called for measures that would ensure the application of this right to Union citizens for the benefit of the Union as a whole and in order to speed up the completion of the single market and the creation of a Union labour market.

Amendment 9

Proposal for a directive Recital 7

Text proposed by the Commission

(7) In the 2010 EU Citizenship Report 'Dismantling the obstacles to EU citizens rights' of 27 October 2010³⁰, the Commission identified the divergent and incorrect application of Union law on the right to free movement as one of the main obstacles that Union citizens are confronted with in the effective exercise of their rights under Union law. Accordingly,

Amendment

(7) In the 2010 EU Citizenship Report "Dismantling the obstacles to EU citizens rights" of 27 October 2010³⁰, the Commission identified the divergent and incorrect application of Union law on the right to free movement as one of the main obstacles that Union citizens are confronted with in the effective exercise of their rights under Union law. ***Non-***

the Commission announced its intention to take action to ‘facilitate free movement of EU citizens and their third-country national family members by enforcing EU rules strictly, including on non-discrimination, by promoting good practices and increased knowledge or EU rules on the ground and by stepping up the dissemination of information to EU citizens about their free movement rights’ (action 15 of the 2010 EU Citizenship Report).

recognition of qualifications from other Member States is also an obstacle.

Accordingly, the Commission announced its intention to take action to "facilitate free movement of EU citizens and their third-country national family members by enforcing EU rules strictly, including on non-discrimination, by promoting good practices and increased knowledge or EU rules on the ground and by stepping up the dissemination of information to EU citizens about their free movement rights"(action 15 of the 2010 EU Citizenship Report) ***and relevant provisions of other legislation.***

Additionally the Commission, in its 2013 EU Citizenship report⁵, addressed the need to remove administrative hurdles and simplify procedures for EU citizens living, working and travelling in the Union. The availability of instruments facilitating citizens' access to their rights of free movement, on a non-discriminatory basis, should be an integral element of this process.

³⁰ COM(2010)603

³⁰ COM(2010)603

^{30a} ***COM(2013)0269***

Amendment 10

Proposal for a directive Recital 8

Text proposed by the Commission

(8) In its Employment package of 18 April 2012 (Communication from the Commission ‘Towards a job-rich recovery’)³¹, the Commission announced its intention to ‘present a legislative proposal (information and advice) in order to support mobile workers in the exercise of rights derived from the Treaty and Regulation 492/2011 on freedom of movement for workers within the Union’.

Amendment

(8) In its Employment package of 18 April 2012 (Communication from the Commission "Towards a job-rich recovery")³¹, the Commission announced its intention to "present a legislative proposal (information and advice) in order to support mobile workers in the exercise of rights derived from the Treaty and Regulation 492/2011 on freedom of movement for workers within the Union" ***and urged Member States to raise awareness of and access to rights***

conferred by Union law in relation to anti-discrimination, gender equality and free movement of workers and to open and facilitate access by EU citizens to public sector posts in accordance with Union law, as interpreted by the Court of Justice of the European Union. The Commission also urged Member States to ensure the full application of Directive 2006/54/EC with respect to the implementation of the principle of equal opportunities and equal treatment of men and women with respect to employment and occupation.

³¹ COM(2012) 173 final of 18 April 2012

³¹ COM(2012) 173 final of 18 April 2012

Amendment 11

Proposal for a directive Recital 9

Text proposed by the Commission

(9) Adequate **and** effective application and enforcement are key elements in protecting the rights of workers, whereas poor enforcement undermines the effectiveness of the Union rules applicable in this area.

Amendment

(9) Adequate, effective application **of European law** and enforcement **measures as well as awareness of rights** are key elements in protecting the rights of workers **and ensuring equality of treatment**, whereas poor enforcement **of Article 45 TFEU and of Regulation (EU) No 492/2011** undermines the effectiveness of the Union rules applicable in this area **and endangers the rights and protection of EU workers. To that end, the Union should act in a well-balanced manner, avoiding the potential legislative loopholes. The legislation should respond to the rights and responsibilities of both employer and employee.**

Amendment 12

Proposal for a directive Recital 10

Text proposed by the Commission

(10) A more effective and uniform application of rights conferred by Union rules on free movement of workers is also necessary for the proper functioning of the internal market.

Amendment

(10) A more effective and uniform application of rights conferred by Union rules on free movement of workers ***without fragmentation of the concerned groups*** is also necessary for the proper functioning of the internal market.

Amendment 13

**Proposal for a directive
Recital 11**

Text proposed by the Commission

(11) The application and monitoring of the Union rules on free movement should be improved to ensure workers are better informed about ***their*** rights, to assist and to protect ***them*** in the exercise of those rights, and to combat circumvention of these rules by public authorities and public or private employers.

Amendment

(11) The application and monitoring of the Union rules on free movement ***of workers*** should be improved to ensure ***that*** workers, ***employers and their representatives as well as administration*** are better informed about ***free movement*** rights, to assist and to protect ***workers and their families*** in the exercise of those rights, and to combat circumvention of these rules by public authorities and public or private employers. ***In that context Member States should also focus on the effects of increased mobility, such as 'brain drain' and 'youth drain'. To that end, Council Directive 91/533/EEC^{31a} should be implemented and monitored consistently. In addition, workers should be provided with information about their rights by Member States.***

^{31a} ***Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship (OJ L 288, 18.10.1991, p. 32).***

Amendment 14

Proposal for a directive Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) The Commission should consider an optional, voluntary, individual and overarching "29th regime" to complement national social security systems in order to make full use of the labour market and facilitating the mobility of EU citizens and residents.

Amendment 15

Proposal for a directive Recital 12

Text proposed by the Commission

Amendment

(12) In order to ensure the correct application of, and to monitor compliance with, the substantive rules concerning workers' rights to free movement for work purposes, Member States should take the appropriate measures to protect ***them*** against both discrimination on grounds of nationality and any unjustified obstacle to the exercise of that right.

(12) In order to ensure the correct application of, and to monitor compliance with, the substantive rules concerning workers' rights to free movement ***and equality of treatment*** for work purposes, Member States should take the appropriate measures to protect ***EU workers*** against both discrimination on grounds of nationality and any unjustified obstacle to the exercise of that right, ***including instances of double taxation.***

Amendment 16

Proposal for a directive Recital 13a (new)

Text proposed by the Commission

Amendment

(13a) In accordance with numerous rulings of the Court of Justice^{31b}, derogations from the fundamental principle of free movement of workers based on Art 45(4) TFEU should be limited to posts involving direct or indirect exercise of powers conferred by public law and to duties designed to safeguard the general interest of the State. Member

States should specify which jobs are restricted to their own nationals under Article 45(4) TFEU.

^{31b} *such as, Case C-225/85 Commission v Italy [1987] ECR 2625; Case C-47/02 Albert Anker and Others v Bundesrepublik Deutschland [2003] ECR I-10471; Case C-149/79 Commission v Belgium [1980] ECR I-03881.*

Amendment 17

Proposal for a directive Recital 14

Text proposed by the Commission

(14) In this context, workers who have been subject to discrimination on the grounds of nationality, or to any unjustified restriction in exercising their right to free movement, ***should have*** adequate and effective means of legal protection and redress. When Member States only provide for administrative procedures they shall ensure that any administrative decision may be challenged before a tribunal in the sense of Article 47 of the Charter.

Amendment

(14) In this context, ***EU*** workers who have been subject to discrimination on the grounds of nationality, or to any unjustified restriction in exercising their right to free movement, ***must be granted with*** adequate and effective means of legal protection and redress. ***Member States should take measures to guarantee real and effective judicial protection, including measures to have a real deterrent effect on the employer.*** When Member States only provide for administrative procedures they shall ensure that any administrative decision may be challenged before a tribunal in the sense of Article 47 of the Charter. ***Member States should ensure that employers do not prevent workers from exercising their rights in the context of judicial or administrative procedures of this kind. Member States should also ensure, in accordance with national law and practices that necessary mechanisms are in place to ensure that workers are able to claim and receive adequate compensation in relation to the damage sustained.***

Amendment 18

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) To provide more effective levels of protection, associations **and** legal entities should also be empowered to engage, **as the Member States determine**, on behalf of or in support of any victim in proceedings, without prejudice to national rules of procedure concerning representation and defense before the courts.

Amendment

(15) To provide more effective levels of protection, **trade unions, associations, organisations or other relevant** legal entities **that have the capacity to represent the legal or collective interest of workers** should also be empowered to engage, **in accordance with national law and practices**, on behalf of or in support of any victim in proceedings, without prejudice to national rules of procedure concerning representation and defence before the courts. **Member States should be encouraged to implement the Commission Recommendation of 11 June 2013 on common principles for injunctive and compensatory collective redress mechanisms in the Member States concerning violations of rights granted under Union law, and to facilitate the operation of its mechanism to protect workers efficiently.**

Amendment 19

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) In relation to time limits foreseen in Articles 3(2) and 4(2) and in accordance with the case law of the European Court of Justice³² these time limits should be such that they cannot be regarded as capable of rendering virtually impossible or excessively difficult the exercise of rights conferred by Union law,

Amendment

(16) In relation to time limits foreseen in Articles 3(2) and 4(2) and in accordance with the case law of the European Court of Justice³² these time limits should be such that they cannot be regarded as capable of rendering virtually impossible or excessively difficult the exercise of rights conferred by Union law. **Where there is proof of intentional behaviour to hinder the exercise of rights conferred by Union law, appropriate penalties should be imposed.**

³² Judgement of 16th May 2000 in case C-78/98 Preston ECR 2000 p. I-03201.

³² Judgement of 16th May 2000 in case C-78/98 Preston ECR 2000 p. I-03201.

Amendment 20

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) Protection against discrimination based on the grounds of nationality would itself be strengthened by the existence of organisations in each Member State with competence to promote equal treatment, to analyse the problems involved in citizen's cases, to study possible solutions and to provide specific assistance to **Union** workers exercising their right to free movement.

Amendment

(17) Protection against discrimination based on the grounds of nationality would itself be strengthened by the existence of ***independent and effective*** organisations in each Member State with competence to promote equal treatment, to analyse the problems involved in citizen's cases, to study possible solutions and to provide specific assistance to **EU** workers exercising their right to free movement.

Amendment 21

Proposal for a directive

Recital 18

Text proposed by the Commission

(18) ***It is up to each Member State to decide whether*** the tasks referred to in Article 5 of this Directive ***are attributed*** to an already existing body covering a wider range of discrimination grounds. In the case the tasks under Article 5 will be covered by expanding the mandate of an already existing body or structure, the Member State should ensure allocation of sufficient resources to the existing body for the performance of additional tasks in order to ensure that the performance of already existing tasks of these bodies will not suffer.

Amendment

(18) ***Member States are encouraged to attribute*** the tasks referred to in Article 5 of this Directive to an already existing ***equality*** body ***designated in accordance with Article 13 of Directive 2000/43/EC or*** covering a wider range of discrimination grounds. In the case the tasks under Article 5 will be covered by expanding the mandate of an already existing body or structure, the Member State should ensure allocation of sufficient ***additional*** resources to the existing body for the performance of additional tasks in order to ensure ***the effective and adequate provision of all functions of the body and in particular*** that the performance of already existing tasks of these bodies will not suffer.

Amendment 22

Proposal for a directive

Recital 18 a (new)

Text proposed by the Commission

Amendment

(18a) The Commission and Member States are encouraged to establish a European network of national contact points in order to exchange best practices and to improve cooperation among Member States in the facilitation of free movement of workers.

Amendment 23

Proposal for a directive

Recital 18b (new)

Text proposed by the Commission

Amendment

(18b) Structures, bodies and national contact points are encouraged to cooperate with bodies and organisations with responsibility for coordination arrangements under Regulation (EC) No 883/2004 of the European Parliament and of the Council^{32b}. They should also cooperate with labour inspectorates, where applicable.

^{32b} ***Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 166, 30.4.2004, p. 1).***

Amendment 24

Proposal for a directive

Recital 19

Text proposed by the Commission

Amendment

(19) Member States should ensure the promotion of synergies with existing information and support tools at the Union level and to this end they should ensure that existing or newly created bodies are aware, make use of and co-operate with the existing information and assistance

(19) Member States should ensure the promotion of synergies with existing information and support tools at the Union level and to this end they should ensure that existing or newly created bodies are aware, make use of and co-operate with the existing information and assistance

services, such as Your Europe, SOLVIT, EURES, Enterprise Europe Network and the Points of Single Contact.

services, such as Your Europe, SOLVIT, EURES, ***including EURES cross-border partnerships***, Enterprise Europe Network and the Points of Single Contact. ***Member States should also ensure the cooperation with existing information and assistance services provided by social partners, associations, organisations or other relevant legal entities, such as labour inspectorates, where relevant.***

Amendment 25

Proposal for a directive Recital 20

Text proposed by the Commission

(20) Member States should promote dialogue with non-governmental organisations ***and between social partners*** to address and combat different forms of discrimination on the grounds of nationality.

Amendment

(20) Member States should promote dialogue with ***the social partners and appropriate*** non-governmental organisations to address and combat all different forms of discrimination on the grounds of nationality.

Amendment 26

Proposal for a directive Recital 21

Text proposed by the Commission

(21) Member States should ***make*** information about ***employment terms and conditions*** more widely available to workers from other Member States, to employers and ***to*** other interested parties.

Amendment

(21) Member States should ***ensure that*** information about ***matters falling within the scope of this Directive and the enforcement of the rights laid down in this Directive*** is more widely available to workers from other Member States, to employers, ***trade unions*** and other ***relevant*** interested parties.

Amendment 27

Proposal for a directive Recital 21a (new)

Text proposed by the Commission

Amendment

(21a) Member States should provide, upon request, information about rights of

free movement to their citizens who wish to benefit therefrom. In facilitating the smooth flow and exchange of information, Member States are encouraged to make use of the European network of national contact points.

Amendment 28

Proposal for a directive Recital 22

Text proposed by the Commission

(22) Member States should establish how employers, workers and other **people** can be provided with easily accessible, relevant information on the provisions of this Directive and the relevant provisions of Regulation (EU) No 492/2011. This information should also be easily accessible through Your Europe and EURES.

Amendment

(22) Member States should establish how employers, workers, **trade unions** and other **interested parties** can be provided with easily accessible, relevant information on provisions of this Directive and the relevant provisions of Regulation (EU) No 492/2011, **including information about the structure or body designated under this Directive to promote, analyse, monitor and support equal treatment.** This information **could be provided by individual counselling and** should also be easily accessible through Your Europe and EURES.

Amendment 29

Proposal for a directive Recital 22a (new)

Text proposed by the Commission

Amendment

(22a) Member States should ensure that officials responsible for the application of Regulation (EU) No 492/2011 and this Directive are adequately trained.

Amendment 30

Proposal for a directive Recital 22 b (new)

Text proposed by the Commission

Amendment

(22b) In order to facilitate the enforcement of the rights granted under

Union law, pay slips issued to workers in accordance with national law or practices should be verifiable and readily understandable.

Amendment 31

Proposal for a directive Recital 23

Text proposed by the Commission

(23) This Directive lays down minimum requirements, thus giving the Member States the option of introducing or maintaining more favourable provisions. Member States also have the possibility to extend the competencies of the organisations entrusted with tasks related to the protection of ***Union migrant workers*** against discrimination on grounds of nationality so as to cover the right to equal treatment without discrimination on grounds of nationality of all Union citizens and their family members exercising their right to free movement, as enshrined in Article 21 TFEU and Directive 2004/38/EC of the European Parliament and of the Council ***of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States***³³. The implementation of the present Directive should not serve to justify any regression in relation to the situation which already prevails in each Member State.

³³ OJ L 158, 30.4.2004

Amendment

(23) This Directive lays down minimum requirements, thus giving the Member States the option of introducing or maintaining more favourable provisions. Member States also have the possibility to extend the competencies of the organisations entrusted with tasks related to the protection of ***EU workers working in another Member States*** against discrimination on grounds of nationality so as to cover the right to equal treatment without discrimination on grounds of nationality of all Union citizens and their family members exercising their right to free movement, as enshrined in Article 21 TFEU and Directive 2004/38/EC of the European Parliament and of the Council³³. The implementation of the present Directive should not serve to justify any regression in relation to the situation which already prevails in each Member State.

³³ ***Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States*** (OJ L 158, 30.4.2004).

Amendment 32

Proposal for a directive Recital 24 a (new)

Text proposed by the Commission

Amendment

(24a) Member States should also adopt laws, regulations and administrative provisions necessary to remove any kind of discrimination and obstacle to equal treatment and free movement within its scope.

Amendment 33

Proposal for a directive Recital 27 a (new)

Text proposed by the Commission

Amendment

(27a) The Directive respects the different labour market models of the Member States, including labour market models regulated by collective agreements.

Amendment 34

Proposal for a directive Article 1 – paragraph 1

Text proposed by the Commission

Amendment

This Directive lays down provisions facilitating uniform application and enforcement in practice of rights conferred by Article 45 of the Treaty on the Functioning of the European Union (TFEU) and by provisions of Articles 1 to 10 of Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union.

This Directive lays down provisions facilitating uniform application and enforcement in practice of rights conferred by Article 45 of the Treaty on the Functioning of the European Union (TFEU) and by provisions of Articles 1 to 10 of Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union, ***including frontier workers, without discrimination based on residence.***

Amendment 35

Proposal for a directive Article 2 – point b

Text proposed by the Commission

Amendment

(b) conditions of employment and work, in

(b) conditions of employment and work, in

particular as regards remuneration **and** dismissal;

particular as regards remuneration, dismissal **and health and safety at work**;

Amendment 36

Proposal for a directive Article 2 – point ba (new)

Text proposed by the Commission

Amendment

(ba) conditions of reinstatement or reemployment;

Amendment 37

Proposal for a directive Article 2 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) membership of trade unions;

(d) membership of trade unions, **bodies responsible for collective bargaining and collective measures, and other work-related bodies**;

Amendment 38

Proposal for a directive Article 2 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) access to training;

(e) access to training **and further training**;

Amendment 39

Proposal for a directive Article 2 – paragraph 1 – point g

Text proposed by the Commission

Amendment

(g) access to education for workers' children.

(g) access to education, **including early childhood education**;

Amendment 40

Proposal for a directive

Article 2 – paragraph 1 – point ga (new)

Text proposed by the Commission

Amendment

(ga) access to public employment services, including those that are privately-provided;

Amendment 41

Proposal for a directive

Article 2 – paragraph 1 – point g b (new)

Text proposed by the Commission

Amendment

(gb) benefits and programmes intended to foster integration and mobility.

Amendment 42

Proposal for a directive

Article 3 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that judicial and/or administrative procedures, including where they deem it appropriate, conciliation procedures, for the enforcement of the obligations under Article 45 of the Treaty and Articles 1 to 10 of Regulation (EU) No 492/2011, are available to all workers and members of their families who consider they have suffered or are suffering from unjustified restrictions to their right to free movement or consider themselves wronged by failure to apply the principle of equal treatment to them, even after the relationship in which the discrimination is alleged to have occurred has ended.

1. Member States shall ensure that judicial and/or administrative procedures, including where they deem it appropriate, conciliation procedures, for the enforcement of the obligations under Article 45 of the Treaty and Articles 1 to 10 of Regulation (EU) No 492/2011, are ***put in place and*** available to all workers and members of their families who consider they have suffered or are suffering from ***discrimination or from*** unjustified restrictions, ***including instances of double taxation***, to their right to free movement or consider themselves wronged by failure to apply the principle of equal treatment to them, even after the relationship in which the discrimination is alleged to have occurred has ended.

Amendment 43

Proposal for a directive

Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall ensure that workers initiating judicial or administrative proceedings shall not receive any unfavourable treatment by their employer as a consequence of such action.

Amendment 44

Proposal for a directive Article 3 – paragraph 2

Text proposed by the Commission

Amendment

2. Paragraph 1 shall apply without prejudice to national rules on time limits for enforcement of those rights. These time limits shall be such that they cannot be regarded as capable of rendering virtually impossible or ***excessively*** difficult the exercise of rights conferred by Union law.

2. Paragraph 1 shall apply without prejudice to national rules on time limits for enforcement of those rights. These time limits shall be such that they cannot be regarded as capable of rendering virtually impossible or ***significantly*** difficult the exercise of rights conferred by Union law.

Amendment 45

Proposal for a directive Article 4 – Title

Text proposed by the Commission

Amendment

Action of associations, organisations or other legal entities

Action of ***social partners***, associations, organisations or other legal entities

Amendment 46

Proposal for a directive Article 4 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that associations, organisations or other legal entities, which have, in accordance with the criteria laid down by their national law, a legitimate interest in ensuring that the provisions of this Directive are complied with, ***may*** engage, either on behalf of or in

1. Member States shall ensure that ***social partners***, associations, organisations or other legal entities, which have, in accordance with the criteria laid down by their national law, ***collective agreements or national practices***, a legitimate interest in ensuring that the provisions of this

support of the worker and members of his/her family, with his/her approval, in any judicial and/or administrative procedure provided for the enforcement of rights under Article 45 of the Treaty and Articles 1 to 10 of Regulation (EU) No 492/2011.

Directive are complied with, ***have the right to*** engage, either on behalf of or in support of the worker and members of his/her family, with his/her approval ***without prejudice to national practices, or, where applicable, on behalf of a collective interest,*** in any judicial and/or administrative procedure provided for the enforcement of rights under Article 45 of the Treaty and Articles 1 to 10 of Regulation (EU) No 492/2011.

Amendment 47

Proposal for a directive Article 4 – paragraph 2

Text proposed by the Commission

2. ***Paragraph 1*** shall apply without prejudice to national rules on time limits for enforcement of those rights. These time limits shall be such that they cannot be regarded as capable of rendering virtually impossible or excessively difficult the exercise of rights conferred by Union law.

Amendment

2. ***This Article*** shall apply without prejudice to national rules on time limits for enforcement of those rights. These time limits shall be such that they cannot be regarded as capable of rendering virtually impossible or excessively difficult the exercise of rights conferred by Union law.

Amendment 48

Proposal for a directive Article 5 – paragraph 1

Text proposed by the Commission

1. Member States shall designate ***a structure, a body or*** bodies for the promotion, analysis, monitoring and support of equal treatment of all workers or members of their families without discrimination on grounds of nationality and make the necessary arrangements for functioning of such bodies. These bodies may form part of agencies at a national level with similar objectives but covering a wider range of discrimination grounds. In that case, the Member State shall ensure allocation of sufficient resources to the existing body for the performance of additional tasks in order to ensure that the performance of already existing tasks of

Amendment

1. Member States shall designate ***one or more structures or*** bodies for the promotion, analysis, monitoring and support of equal treatment of all workers or members of their families without discrimination on grounds of nationality and make the necessary arrangements for functioning of such bodies. ***Member States shall ensure that all workers have access to those bodies.*** These bodies may form part of ***existing*** agencies ***or bodies*** at a national level with similar objectives but covering a wider range of discrimination grounds. In that case, the Member State shall ensure allocation of sufficient resources to the existing body for the

these bodies will not suffer.

performance of additional tasks in order to ensure ***the effective and adequate provision of all functions of the body and in particular*** that the performance of already existing tasks of these bodies will not suffer.

Amendment 49

Proposal for a directive

Article 5 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall ensure that the competences of these bodies include:

Amendment

2. Member States shall ensure, ***without prejudice to national tasks, practices or competences already carried out by the social partners,*** that the competences of these bodies include:

Amendment 50

Proposal for a directive

Article 5 – paragraph 2 – point a

Text proposed by the Commission

(a) without prejudice to the right of workers or the members of their family and associations and organisations or other legal entities referred to in Article 4, the provision of independent legal and/or other assistance to workers or the members of their family in pursuing their complaints;

Amendment

(a) without prejudice to the right of workers or the members of their family and associations and organisations or other legal entities referred to in Article 4, the provision of independent legal and/or other assistance ***provided free of charge, covering all the relevant aspects of national labour law, in accordance with national laws and practices,*** to workers or the members of their family in pursuing their complaints;

Amendment 51

Proposal for a directive

Article 5 – paragraph 2 – point b

Text proposed by the Commission

(b) conducting independent surveys concerning discrimination on the basis of nationality;

Amendment

(b) conducting independent surveys ***and analyses*** concerning discrimination on the basis of nationality;

Amendment 52

Proposal for a directive

Article 5 – paragraph 2 – point d a (new)

Text proposed by the Commission

Amendment

(da) informing young graduates and students in their final year of their education, of their rights when working abroad.

Amendment 53

Proposal for a directive

Article 5 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States shall ensure that existing or newly created bodies are aware, make use of and co-operate with the existing information and assistance services at Union level, such as Your Europe, SOLVIT, EURES, Enterprise Europe Network **and** the Points of Single Contact.

3. Member States shall ensure that existing or newly created bodies are aware, make use of and co-operate with the existing information and assistance services at ***national level through contact points and at*** Union level, such as Your Europe, SOLVIT, EURES, Enterprise Europe Network, the Points of Single Contact ***and the European network of national contact points. Member States shall also ensure cooperation with existing information and assistance services provided by social partners, associations, organisations and other relevant interested legal entities, such as labour inspectorates, where applicable.***

Amendment 54

Proposal for a directive

Article 5 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States shall ensure that where the tasks referred to in paragraphs 1 and 2 are allocated to more than one body, responsibilities are adequately delineated between those bodies in order to avoid any overlapping or lack of powers.

Amendment 55

Proposal for a directive

Article 6 – title

Text proposed by the Commission

Dialogue

Amendment

Interest representation and dialogue

Amendment 56

Proposal for a directive

Article 6

Text proposed by the Commission

Member States shall **encourage** dialogue with **appropriate** non-governmental organisations **and the social partners** which have, in accordance with their national law and practice, a legitimate interest in contributing to the fight against discrimination on grounds of nationality with a view to promoting the principle of equal treatment.

Amendment

Member States shall **promote** dialogue with **the social partners and relevant** non-governmental organisations which have, in accordance with their national law and practice, a legitimate interest in contributing to the fight against discrimination on grounds of nationality with a view to promoting the principle of equal treatment.

Amendment 57

Proposal for a directive

Article 7 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that the provisions adopted pursuant to this Directive together with the relevant provisions already in force in Articles 1 to 10 of Regulation (EU) No 492/2011, are brought to the attention of the persons concerned by all appropriate means throughout their territory.

Amendment

1. Member States shall ensure that the provisions adopted pursuant to this Directive together with the relevant provisions already in force in Articles 1 to 10 of Regulation (EU) No 492/2011, are brought to the attention of the persons concerned, **in particular workers and employers**, by all appropriate means throughout their territory.

Amendment 58

Proposal for a directive Article 7 – paragraph 2

Text proposed by the Commission

2. Member States shall provide clear, easily accessible, comprehensive **and** up-to-date information on the rights conferred by the Union law **on** free movement of workers. This information should also be easily accessible through Your Europe and EURES.

Amendment

2. Member States shall provide, **through national contact points**, clear, **free**, easily accessible, comprehensive, up-to-date **and multilingual** information on the rights conferred by Union law **concerning the** free movement of workers **and on available means of protection and redress for those rights. Member States shall ensure that the information is disseminated in a user-friendly way, easily accessible format, and in such a way as to reach as many people as possible. Member States are also encouraged to set up a multilingual website dedicated to information on free movement of workers.** This information should also be easily accessible through Your Europe and EURES.

Amendment 59

Proposal for a directive Article 7 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall provide, upon request, clear, easily accessible, comprehensive and up-to-date information on the rights on free movement of EU workers to its own citizens who wish to enjoy the right to freely move to another Member State.

Amendment 60

Proposal for a directive Article 8 – paragraph 2

Text proposed by the Commission

2. Member States **may** provide that the competencies of the structures and bodies

Amendment

2. Member States **shall** provide that the competencies of the structures and bodies

referred to in Article 5 for the promotion, analysis, monitoring and support of equal treatment of all workers or members of their families without discrimination on grounds of nationality, also cover the right to equal treatment without discrimination on grounds of nationality of all EU citizens and their family members exercising their right to free movement, as enshrined in Article 21 TFEU and Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.

referred to in Article 5 for the promotion, analysis, monitoring and support of equal treatment of all workers or members of their families without discrimination on grounds of nationality, also cover the right to equal treatment without discrimination on grounds of nationality of all EU citizens and their family members exercising their right to free movement, as enshrined in Article 21 TFEU and Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.

Amendment 61

Proposal for a directive Article 10 – paragraph 1

Text proposed by the Commission

No later than two years after the expiry of the deadline for transposition, the Commission shall report to the European Parliament, the Council and the European Economic and Social Committee on the implementation of this Directive, with a view to proposing where appropriate, the necessary amendments.

Amendment

No later than two years after the expiry of the deadline for transposition, the Commission shall report to the European Parliament, the Council and the European Economic and Social Committee on the implementation of this Directive, with a view to proposing where appropriate, the necessary amendments *or legislative proposals*.

Amendment 62

Proposal for a directive Article 10 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

In its report, the Commission shall pay extra attention to possible difficulties young graduates encounter when moving across the Union, whether on a permanent or temporary basis.

Amendment 63

Proposal for a directive Article 10 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

The Commission shall also analyse the particular difficulties that third-country spouses of workers encounter.