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Council Regulation (EEC) No.1612/68 on the freedom of movement of workers within the Community.  
Note: this document is not on the mpsv.cz server.

The free movement of persons is one of the four basic freedoms of the internal market. The free movement of persons means in particular the removal of all legal or practical barriers that could dissuade anybody from moving to another member state, whether for **work, to provide service, to study or for tourism**. The free movement of persons applies according to the same rules throughout the European Union and also to some extent in the countries of the European Economic Area (Norway, Iceland and Liechtenstein) and Switzerland.

The basis for the free movement of persons is the free movement of workers, as European integration as part of the creation of the common market began with this group of people. In short, the free movement of workers means that the citizens of the European Union have the same access to the labour market of any member state as the citizens of that state, i.e. without any restrictions, permits or other conditions that citizens of that country need not comply with. The same approach relates not only to access to the labour market, but also the search for job itself, the use of public employment services and procedures relating to remuneration and redundancy.

### **The free movement of workers**

The accession of the Czech Republic to the European Union has brought with it the immediate application of all the rules for the free movement of persons, even if the possibility of protecting Czech labour markets by using transitional arrangements if needed has been retained in the case of the Czech Republic.

The right of free movement of workers is anchored in the founding treaties themselves and in particular Council Regulation (EEC) No. 1612/68 on the freedom of movement of workers within the Community and is thus directly applicable in the Czech Republic even without being transposed into national law. For clarity, however, Act No. 1/1991 Coll. on employment nevertheless sets Union citizens and their family members at the same level as citizens of the Czech Republic. Spouse, dependent children and children up to the age of 21 are considered to be family members entitled to free access to the labour market. Family members of a Union citizen have free access irrespective of their nationality.

The newly prepared Act on Employment contains the same regulation.

### **So what is the situation for employing Union citizens after 1 May 2004?**

With the accession to the common market and the free movement of workers, Union citizens and their family members will have the same access to the Czech labour market as domestic workers. They will therefore not need employment permits, their employers will not need permits to obtain employees from abroad and will never have to register them at an employment office (this obligation will remain in force until the new Act on Employment has been enacted only for employing Slovak workers). Valid employment permits issued before 1 May 2004 need not be returned.

### **The transitional arrangements on the free movement of workers**

During the negotiations relating to EU accession, the Czech Republic, after a long and complicated process, in the end agreed with **transitional arrangements on the free movement of our workers into EU countries**. This transitional period is contained in Annex No. V of the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded.

The Accession Treaty of the Czech Republic similarly provides the opportunity to implement **reciprocal similar measures towards current member states** (towards those states that implement the transitional arrangements) and also protect its labour market from a potential or actual wave of migrating workers from the other new member states. It is thus a tool that provides the opportunity to protect the labour markets not only of the current member states but also of the Czech Republic.

The transitional arrangements exercised in the Accession Treaty only concern access to the labour market. **It does not affect other components of the free movement of persons** within the European Union (the mutual recognition of qualifications, voting rights etc.) It also has no effect on access to the social system in the wide sense of the word (i.e. social insurance, state social support, social care, unemployment benefits or health care). On the basis of the transitional arrangements **it is not possible to prevent the migration of citizens of other member countries**; it is only possible to regulate their access to the domestic labour market. As soon as a migrating worker obtains employment permission, he obtains all the advantages connected to this status (including access to all the benefits of the social system) with the single exception of a limitation as to the inclusion of the migrating worker's family.

More detailed information on the transitional arrangements for the free movement of workers can be found at [www.mpsv.cz](http://www.mpsv.cz) in the Migration of Workers section and at [www.euroskop.cz](http://www.euroskop.cz).

### **The position of the Government of the Czech Republic as regards the use of the transitional arrangements for the free movement of workers**

The Czech government decided, through Resolution No.13 of 7 January 2004 on the position of the government in the transitional arrangements for the free movement of workers, that the Czech Republic **will not in advance rule**

**out the possibility of implementing a transitional period for member and accession countries based on an evaluation of the actual situation on the Czech labour market.** In the event the government implements such transitional arrangements, it may be supposed that the content and scope of its limitations for EU citizens in the Czech Republic will reciprocally react to the regulation of the conditions applying to Czech citizens in specific member states. As of the date this information was drawn up the government had not decided on the question of implementing transitional arrangements.

If the government **does not implement reciprocal transitional arrangements**, Union citizens will have unlimited access to the Czech labour market. More information on the positions of individual EU member states relating to liberalisation in the area of movement of workers can be found at [www.mpsv.cz](http://www.mpsv.cz) in the Migration of Workers section.

#### **Citizens of other countries**

The benefits of free movement of persons will not apply to citizens of other countries arriving in the Czech Republic; these citizens will still be obliged to request employment permits as before.

The only exception will be, under certain circumstance, **family members of Union citizens**.

#### **The free movement of workers and social rights**

Differing positions on social benefits would represent a serious hurdle to free movement for migrating workers who decide to make use of their right to free movement.

The European Union has therefore created two systems to protect migrating workers' future or already acquired rights. The main mechanism is the coordination of social security systems (for more information see the Migration/Social Security for Persons Migrating within the EU section).

The other system specific to migrating workers is Article 10 of Council Regulation (EEC) No.1612/68 on the freedom of movement of workers within the Community, which states that migrating workers have access to all social advantages available to a state's own citizens. The term "social advantage" is very broad.

#### **What is a social advantage?**

The social advantages in Regulation No. 1612/68 cannot be understood as only advantages or benefits linked to employment. The European Court of Justice has recognised that the term "social advantage" as used in Regulation No.1612/68 must be understood in the light of equality of treatment as any social advantage whatsoever, whether or not linked to employment. Equality of treatment does not only apply to employees but also to the family members and survivors of migrating workers.

The European Court of Justice has stated that, when evaluating the entitlement to the same social advantages as domestic workers, it will use the criteria of the position of a person as a worker, his residency in a territory and the appropriateness of the advantages to the support of mobility within the Community.

The European Court of Justice, in the sense of Article 7 paragraph 2 of the Regulation, recognises as typical social advantages, for example, discounts on rail travel for large families (case C-32/75 Cristini), support for handicapped citizens for the reacquisition of the ability to work (case C-76/72 Michel S.), financial support for child education in high schools (case C-9/74 Casagrande), invalidity benefit during unemployment for the handicapped son of a migrating worker (case C-63/76 Inzirillo) or interest-free loans at the birth of a child (case C-65/84 Reina).

However, it did not consider the following to be social advantages: preferential early retirement for war veterans (case C-207/78 Even) or the legal obligation of the employer to continue paying specific pension insurance sums for employees performing military service (case C-315/94 de Vos).

#### **What is the situation with entry and residency?**

Information about entry and residency conditions for European Union citizens and their family members on the territory of the Czech Republic after its accession into the European Union can be found at the Ministry of the Interior website [www.mvcr.cz](http://www.mvcr.cz).