

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 (codification) (Text with EEA relevance)

CHAPTER I

**EMPLOYMENT, EQUAL TREATMENT AND WORKERS' FAMILIES**

*SECTION 1*

***Eligibility for employment***

*Article 1*

1 Any national of a Member State shall, irrespective of his place of residence, have the right to take up an activity as an employed person, and to pursue such activity, within the territory of another Member State in accordance with the provisions laid down by law, regulation or administrative action governing the employment of nationals of that State.

2 He shall, in particular, have the right to take up available employment in the territory of another Member State with the same priority as nationals of that State.

*Article 2*

Any national of a Member State and any employer pursuing an activity in the territory of a Member State may exchange their applications for and offers of employment, and may conclude and perform contracts of employment in accordance with the provisions in force laid down by law, regulation or administrative action, without any discrimination resulting therefrom.

*Article 3*

1 Under this Regulation, provisions laid down by law, regulation or administrative action or administrative practices of a Member State shall not apply:

- a where they limit application for and offers of employment, or the right of foreign nationals to take up and pursue employment or subject these to conditions not applicable in respect of their own nationals; or
- b where, though applicable irrespective of nationality, their exclusive or principal aim or effect is to keep nationals of other Member States away from the employment offered.

The first subparagraph shall not apply to conditions relating to linguistic knowledge required by reason of the nature of the post to be filled.

2 There shall be included in particular among the provisions or practices of a Member State referred to in the first subparagraph of paragraph 1 those which:

- a prescribe a special recruitment procedure for foreign nationals;
- b limit or restrict the advertising of vacancies in the press or through any other medium or subject it to conditions other than those applicable in respect of employers pursuing their activities in the territory of that Member State;

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*Status: Point in time view as at 31/01/2020.*

*Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 492/2011 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)*

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- c subject eligibility for employment to conditions of registration with employment offices or impede recruitment of individual workers, where persons who do not reside in the territory of that State are concerned.

#### *Article 4*

1 Provisions laid down by law, regulation or administrative action of the Member States which restrict by number or percentage the employment of foreign nationals in any undertaking, branch of activity or region, or at a national level, shall not apply to nationals of the other Member States.

2 When in a Member State the granting of any benefit to undertakings is subject to a minimum percentage of national workers being employed, nationals of the other Member States shall be counted as national workers, subject to Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications<sup>(1)</sup>.

#### *Article 5*

A national of a Member State who seeks employment in the territory of another Member State shall receive the same assistance there as that afforded by the employment offices in that State to their own nationals seeking employment.

#### *Article 6*

1 The engagement and recruitment of a national of one Member State for a post in another Member State shall not depend on medical, vocational or other criteria which are discriminatory on grounds of nationality by comparison with those applied to nationals of the other Member State who wish to pursue the same activity.

2 A national who holds an offer in his name from an employer in a Member State other than that of which he is a national may have to undergo a vocational test, if the employer expressly requests this when making his offer of employment.

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(1) [OJ L 255, 30.9.2005, p. 22.](#)

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