

*Accession negotiations  
in the areas of  
Chapter 2 “Freedom of movement for workers”  
and  
Chapter 19 “Social policy and employment”*

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# Candidate countries and potential candidates



# Candidate countries

- **In negotiation**

- **Croatia**

- opening of accession negotiations October 3, 2005

- **Turkey**

- opening of accession negotiations October 3, 2005

- **Iceland**

- opening of accession negotiations July 27, 2010

- **Candidate status**

- **The former Yugoslav Republic of Macedonia**

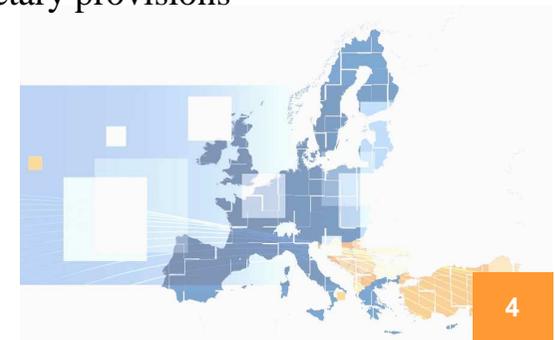
- (European Council, December 2005)

- **Montenegro** (European Council, December 2010)



# Accession negotiations: Chapters

1. Free movement of goods
2. *Freedom of movement for workers*
3. Right of establishment and freedom to provide services
4. Free movement of capital
5. Public procurement
6. Company law
7. Intellectual property law
8. Competition policy
9. Financial services
10. Information society and media
11. Agriculture
12. Food safety, veterinary and phytosanitary policy
13. Fisheries
14. Transport policy
15. Energy
16. Taxation
17. Economic and monetary policy
18. Statistics
19. *Social policy and employment*
20. Enterprise and industrial policy
21. Trans-European Networks
22. Regional policy and coordination of structural instruments
23. Judiciary and fundamental rights
24. Justice, freedom and security
25. Science and research
26. Education and culture
27. Environment
28. Consumers and health protection
29. Customs union
30. External relations
31. Foreign security and defense policy
32. Financial control
33. Financial and budgetary provisions
34. Institutions
35. Other issues



## Chapter 2 “Freedom of movement for workers”

### Access to labour market

- the right to **look for a job** in another Member State
- the right to **work** in another Member State
- the right to **reside** there for that purpose
- the right to **remain** there
- the right to **equal treatment** in respect of access to employment, working conditions and all other advantages which could help to facilitate the worker’s integration in the host Member State



## Chapter 2 “Freedom of movement for workers”

- **Free access to employment**

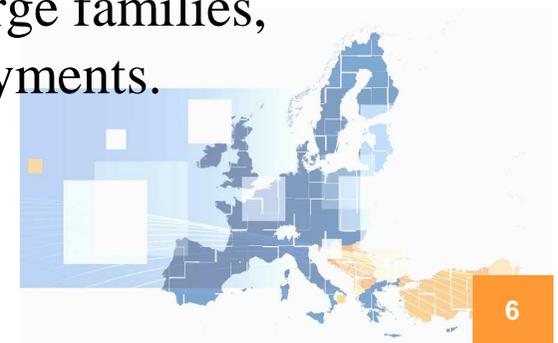
Any EU citizen has the right to take up an activity in another EU Member State under the same conditions as the latter applies to its own nationals. **No work permit may be required.**

- **Working conditions**

An EU national working in another Member State must be treated in exactly the same way as his colleagues who are nationals of that State as regards, for example, pay, dismissal and reinstatement. He/she will also benefit from equal treatment in access to training.

- **Social and tax advantages**

Same social and tax advantages apply to national and EU migrant workers, eg. public transport fare reductions for large families, child raising allowances, minimum subsistence payments.



## Chapter 2 “Freedom of movement for workers”

### What about family members?

Certain rights are also extended to family members of the worker, whatever their nationality. They have, in particular, the right to live with the worker in the host Member State and the right to equal treatment as regards for example education and social advantages. Some members of the family have also the right to work there.

*Cf. Directive 2004/38/EC 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*



## Chapter 2 “Freedom of movement for workers”

### Participation in the EURES network

Candidate countries also need to prepare to participate in the EURES system (European Employment Services) aimed at promoting the freedom of movement for workers within the Community notably by close cooperation between national employment services to exchange information on employment opportunities. At the operational level, relevant databases of job vacancies need to be integrated with the EURES vacancy exchange mechanism, and general information on the labour market and on living and working conditions needs to be exchanged.



## Chapter 2 “Freedom of movement for workers”

### Co-ordination of social security systems

The right to free movement of workers is complemented by a system for the **co-ordination of social security systems**, i.e. the right for migrant workers and their dependents to acquire, cumulate or transfer social security benefits as well as to obtain payment of these benefits. This is based on Regulations that do not harmonise but co-ordinate the social security systems of Member States, and thus requires administrative cooperation between Member States.



## Chapter 2 “Freedom of movement for workers”

### European Health Insurance Card

In the health care field, medical expenses will need to be reimbursed for all necessary treatment of nationals falling ill or having an accident during a temporary stay in another Member State, e.g. as tourists. To this end, a **European Health Insurance Card** has to be issued to all nationals.



# Chapter 19 “Social policy and employment”

## Labour law

Minimum standards in the areas such as:

*Working time*

*Working conditions (other than working time)*

*Information and consultation of workers*



# Chapter 19 “Social policy and employment”

## **Health and safety at work**

Minimum health and safety requirements in the areas such as:

*Handling of loads*

*Display screen equipment*

*Vessels*

*Construction*

*Mineral extracting industries*

*Carcinogens and mutagens*

*Asbestos*

*Chemical, physical and biological agents at work*

*Explosive atmospheres*



## Chapter 19 “Social policy and employment”

### Administrative capacity

In the area of health and safety at work, it is **entirely** for **each Member State** to **decide** which **structure it will use**, provided that the **effect of implementing the requirements** of the *acquis* is **achieved**:

- **enforcement agencies** in the field of **health and safety** at work, **labour law** and **equal opportunities**, such as **labour inspectorates** and **occupational hygiene inspectorates** with the competencies needed to ensure control and information leading to improved working conditions, as well as health and hygiene services, first aid services, fire prevention services, training services, and services for promotion and research.



# Chapter 19 “Social policy and employment”

## Anti-discrimination

*Race Equality Directive (2000/43/EC)* (racial or ethnic origin)

*Employment Equality Directive (2000/78/EC)*

(religion or belief, age, disability, sexual orientation)

Both Directives prohibit discrimination in:

- Access to employment (rather broad notion)
- Employment and working conditions (pay rates, dismissals, etc.)
- Vocational guidance and training
- Membership of (professional) organisations

The Racial Equality Directive also covers:

- Education
- Social security
- Health care
- Goods and services
- Housing



# Chapter 19 “Social policy and employment”

## What is discrimination?

- Direct discrimination
- Indirect discrimination
- Harassment (not sexual)
- Instructions to discriminate

## Other important provisions:

- Burden of proof
- Sanctions (effective, proportionate, persuasive)
- Reasonable accommodation (for persons with disabilities)
- Access to justice (quite detailed provisions; NGOs should be able to give support to victims of discrimination)
- Information and consultation (by NGOs, etc.)



# Chapter 19 "Social policy and employment"

## Equal opportunities

### 10 Directives:

*Equal pay (Directive 75/117/EEC)*

*Statutory social security (Directive 79/7/EEC)*

*Equal treatment of self-employed (Directive 86/613/EEC)*

*Health and safety of pregnant workers (Directive 92/85/EEC)*

*Parental leave (Directive 96/34/EC)*

*Occupational social security (Directive 96/97/EC)*

*Burden of proof (Directive 97/80/EC)*

*Access to employment, vocational training, promotion, working conditions (Directive 2002/73/EC)*

*Access to and supply of goods and services (Directive 2004/113/EC)*

*Recast directive (Directive 2006/54/EC)*



## Chapter 19 "Social policy and employment"

### Administrative capacity

Equality body with the necessary powers and the **independence** required for each of its functions (Art. 8a of the Directive 2002/73/EC)

- without prejudice to the right of victims and of associations, organisations or other legal entities, **provide independent assistance to victims** of discrimination in pursuing their complaints about discrimination;
- conduct **independent surveys** concerning discrimination;
- publish **independent reports** and make **recommendations** on any issue relating to such discrimination.



## Chapter 19 “Social policy and employment”

### Social dialogue

The Lisbon Treaty gives additional powers to social partners and requires that social dialogue be promoted. The candidate countries are, therefore, invited to confirm that social dialogue is accorded the importance required and that the social partners are sufficiently developed in order to discharge their responsibilities at EU and national level, and to indicate whether they are consulted on legislative drafts relating to the taking over of the employment and social policy *acquis*.

Social partners have a central role in drawing up and applying EU social policy. Therefore, the development not only of tripartite structures but also of autonomous, representative bipartite social dialogue is an important aspect for the future involvement of the candidates countries' social partners in the social dialogue activities developed at European and national level.



## Chapter 19 “Social policy and employment”

### Administrative capacity

In the area of social dialogue, it is **entirely for each Member State to decide** which structure it will use, provided that the effect of implementing the requirements of the *acquis* is achieved:

- **representatives of the two sides of industry, including social partner organisations**, in view in particular of their role in the elaboration and implementation of Community legislation.



# Chapter 19 “Social policy and employment”

## Employment policy and ESF

- The objective of the Commission is to ensure that candidate countries define employment policies that will prepare them for membership of the Union and progressively adjust institutions and policies to the [European employment strategy](#).
- To this end, the Commission has initiated a co-operation process on employment with these countries.
- The co-operation also aims at ensuring that both the EU financial support for accession and the preparations for the implementation of the [European Social Fund](#) (ESF) focus on supporting the identified employment policy priorities.



# Chapter 19 “Social policy and employment”

## Undeclared work

- Council resolution on transforming undeclared work into regular employment (*OJ C 260, 29.10.2003, p. 1-3*)
- risks undermining the financing of social services, already under pressure, decreases individuals’ social protection status and labour market prospects and may affect competitive conditions
- also runs counter to European ideals on solidarity and social justice
- the notion of undeclared work is integrated in the [European Employment Strategy](#)
- since 2001, the issue of undeclared work is taken up in the [Employment guidelines](#) in which Member States have committed themselves to combat undeclared work



# Chapter 19 “Social policy and employment”

## Administrative capacity

In the area of employment policy, it is **entirely** for **each Member State** to **decide** which **structure it will use**, **provided** that the **effect of implementing the requirements** of the *acquis* is **achieved**:

- **labour market institutions** involved in **implementing the European employment strategy**, notably – but not exclusively – through implementation of the European Social Fund

This includes not only the relevant line Ministries and their agencies, but also structures for co-operation with other key players such as Finance Ministries and regional and local authorities.

Other important institutions include vocational training institutes and public employment services.

In particular, within the **public employment service** the **network of local employment offices** should be sufficiently equipped and widespread in order to implement, in due course, the European employment strategy.



# Chapter 19 “Social policy and employment”

## Social inclusion

Social Inclusion objectives call for a decisive impact on the eradication of poverty and social exclusion by ensuring:

- Access for all to resources, rights and services needed for participation in society, addressing exclusion, and fighting all forms of discrimination
- Active inclusion of all, both by promoting participation in the labour market and by fighting poverty and exclusion
- That social inclusion policies are well coordinated and involve all levels of government and relevant actors, including people experiencing poverty, that they are efficient and effective and mainstreamed into all relevant public policies.



# Chapter 19 “Social policy and employment”

## Social protection

Social protection objectives call for:

- adequate, sustainable and modern pensions,
- as well as access for all to adequate, quality health and long term care
- Sustainability of care



## Chapter 19 “Social policy and employment”

### Joint Memoranda on Social protection and social exclusion (JIM)

The objective of the so called Joint Memoranda is to prepare candidate countries for participation in the Open Method of Coordination on Social inclusion and social protection upon accession. **The Memoranda analyse key political challenges in the social field and make recommendations for the next steps in the struggle against poverty and social exclusion.** The Memoranda pay attention to all vulnerable social groups.



## Chapter 19 “Social policy and employment”

### Administrative capacity in the area of social protection

In this area, it is entirely for each Member State to decide which structure it will use, provided that the effect of implementing the requirements of the *acquis* is achieved:

- **social security institutions**, with regard to the development of sustainable and equitable social protection systems and especially as regards the requirement to co-ordinate social security schemes (in the framework of free movement of workers).



## Accession negotiations: The Process (1)

- **Opinion** (*avis*) of the Commission
- Member States' **decision** to open accession negotiations
- **Opening of chapters in the negotiations:**
  - ➔ Screening process, chapter by chapter, followed by a Commission recommendation on the opening of chapters
  - ➔ EU-27 unanimous decision (intergovernmental conference)



## Accession negotiations: The Process (2)

- Chapter provisionally closed following unanimous decision by the Member States.
- Chapters definitively closed only when all negotiations with the candidate country are concluded.



## Accession negotiations: the process (3)

Follow-up:

### **Monitoring process**

→ Monitoring of commitments taken in the accession negotiations

Currently ongoing with Croatia on provisionally closed chapters  
(30 out of 35 negotiating chapters)



## Chapter 2 “Freedom of movement for workers”

### Transitional arrangement on free movement of workers

#### **Coverage:**

New Member States (EU-8), BG, RO

#### **Duration:**

Agreed for up to seven years (2 + 3 + 2), up to Member States to decide

#### **Practice:**

- A worker from one of the new Member States is likely to need a work permit.
- Workers from new Member States must be given priority over workers from third countries.
- Once the worker has obtained access to the labour market, he/she benefits from equal treatment.
- New Member States facing restrictions in one of the EU-15 Member States may impose equivalent restrictions.
- Information on the situation can be found on the EURES website:  
<http://ec.europa.eu/eures/>



# Monitoring of the accession process

- **Annual Progress reports by the Commission**

*[http://ec.europa.eu/enlargement/press\\_corner/key-documents](http://ec.europa.eu/enlargement/press_corner/key-documents)*

- **Framework of the Association agreements**

*Stabilisation and Association Agreements (HR, Western Balkans)*

*Association Agreement (Ankara Agreement TK)*

- **Accession/European Partnerships:**

priorities for reforms and basis

for programming pre-accession assistance

- **Specific technical meetings**

- **Peer reviews/assessments**



## Useful information

- **Enlargement**

<http://ec.europa.eu/enlargement/index.htm>

- **Free movement of workers / Social policy and employment**

<http://ec.europa.eu/social/home.jsp?langId=en>

