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## IMPROVEMENT OF EU LEGAL BASIS CONCERNING THE EXERCISE OF RIGHTS OF WORKERS IN THE CONTEXT OF FREEDOM OF MOVEMENT OF WORKERS

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**Анотація.** *This article deals with the practical steps of EU on the way to improvement of EU legal basis concerning the exercise of rights of workers in the context of freedom of movement of workers; it overviews the sources of legal regulation of the freedom of movement of workers in the EU and defines the obstacles which EU citizens can face moving from one member state to another. The gap between the rights that EU citizens have in theory and what happens in practice has been underlined in several acts of EU institutions (the European Parliament's report on «Problems and prospects concerning European citizenship» of 20 March 2009, Resolution on promoting workers' mobility within the European Union of 25 October 2011, the report «A new Strategy for the Single Market» of 9 May 2010, Communication on «Reaffirming the free movement of workers: rights and major developments» of July 2010, the 2010 EU Citizenship Report «Dismantling the obstacles to EU citizens rights» of 27 October 2010, Employment package of 18 April 2012 on the Communication from the Commission «Towards a job-rich recovery»). Summarizing the data from the documents mentioned above, one of the obstacles EU citizens can face moving from one EU member state to another is the incompliance of national legislation and general practices. In its scope are different conditions applied for recruitment of EU nationals, nationality conditions for access to posts which are not covered by the exception in article 45(4) TFEU, introduction of nationality quotas for EU citizens, different working conditions for EU nationals, access to social advantages made subject to conditions which are more easily met by nationals than by EU citizens, professional qualifications and experience acquired in other member states are not taken into account or they are taken into account in a different way than those obtained in the host member state for the purpose of access to employment, residence condition required by national legislations for access to study grants for EU migrant workers and members of their families despite well-established case law of the EU Court of Justice in this area, discrimination against frontier workers etc.*

*To improve and reinforce the way in which article 45 TFEU and Regulation (EU) 492/2011 are applied in practice across the EU the European Parliament and Council of the European Union have adopted Directive 2014/54/EU on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers of 16 April 2014 to establish a general common framework of appropriate provisions and measures for facilitating a better and more uniform application of rights conferred by EU law on workers and members of their families exercising their right to free movement.*

**Ключові слова:** *freedom of movement for workers, rights of workers, obstacles EU citizens can face moving from one member state to another, Directive 2014/54/EU of the European Parliament and of the Council on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers of EU.*

**The formulation of the problem.** Freedom of movement for workers is one of the four fundamental freedoms on which the single market of European Union (EU) is based. It is one of the core values of the EU and a fundamental element of EU citizenship [7].

The legal background of this essential freedom is Article 45 of Treaty of Functioning of European Union (TFEU) which enshrines the right of EU citizens to move to another member state for work purposes. It specifically includes the right not to be discriminated against on the grounds of nationality as regards access to employment, remuneration and other conditions of work. It also includes the removal of unjustified obstacles to the freedom of movement of workers within the EU [9, p. 2].

The other legal source concerning the freedom of movement of workers is the Charter of Fundamental Rights of the European Union (Charter) which confirms in Article 15(2) that every citizen of the Union has the freedom to seek employment, to work, to exercise the right of establishment and to provide services in any member state. Moreover, 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 as legal basis of workers' movement within EU (this regulation codifies Regulation 1612/68 and its successive amendments) (Regulation (EU) 492/2011) [11] details the rights derived from the freedom of movement of workers, and defines the specific areas where discrimination on the grounds of nationality is prohibited, in particular as regards [9, p. 2]. These are access to employment, working conditions, social and tax advantages, access to training, membership of trade unions, housing, access to education for children [9, p. 2].

Article 45 TFEU and Regulation (EU) 492/2011 are directly applicable in all member states. This means that there is no need to adopt national legislation to transpose those provisions. Any national authority at any level and any employer, whether public or private, must apply and respect the rights stemming from those provisions [9, p. 2]. In spite of this and existing wide legal framework on the issue, EU citizens who want to move or who actually move from one member state to another for work purposes continue to face problems in exercising their rights [7].

**Aim of this study** is to define and describe the main obstacles which workers who are the citizens of EU or third-country nationals can face exercising their right of free movement within the EU in the context of the freedom of movement of persons.

**Analysis of recent research and publications.** Challenging aspects of the freedom of movement of worker were described by the following scientists: Jon Erik Dølvik and Jelle Visser («Free movement, equal treatment and workers' rights: can the European Union solve its trilemma of fundamental principles?»), Rob Cornelissen («Free movement of persons in the EU in case of poverty and homelessness»), Vaughne Miller («EU Enforcement of Free Movement of People Rules»), Edit Bauer («The right to freedom of movement and the perspective of the EP on the proposed EU Directive»), etc.

**Key findings.** The gap between the rights that EU citizens have in theory and what happens in practice has also been underlined in several reports from EU institutions and, increasingly, the European Union is being called upon to act in this regard [7; 8; 10]. Thus, the European Parliament's report on 'Problems and prospects, concerning European citizenship' of 20 March 2009 detailed persisting obstacles to the cross-border enjoyment of rights [6]. It called on the European Commission (Commission) to produce a list of obstacles to the exercise of EU citizens' rights, based on the results of a public consultation, and make specific proposals to address those obstacles [6].

The European Parliament (EP) by its Resolution on promoting workers' mobility within the European Union of 25 October 2011 calls on the Commission member states to take measures

in order 'to guarantee...the correct implementation of the existing legislation on non-discrimination, to take practical measures to enforce the principle of equal treatment of mobile workers...' [10]. In its Conclusions of EPSCO Council of March 2009 on professional and geographical mobility of the workforce and the free movement of workers within the EU, the Council invited the Commission and the EU member states 'to promote measures supporting labour and social mobility as well as the equal treatment and non-discrimination of migrant workers in line with the *acquis*' and to 'further develop appropriate strategies and tools for the identification and analysis of barriers to geographical and professional worker mobility and to effectively contribute to the removal of existing barriers, in accordance with the Treaties' [7; 9, p. 3].

The report of 9 May 2010 («A new Strategy for the Single Market») underlines the fact that the overall freedom of movement of workers is a success from a legal point of view, but it is the least used of the four freedoms of the single market [9, p. 3]. The report points out that the majority of Europeans see too many obstacles to working elsewhere in the EU and a number of legal and administrative barriers still remain in the field of free movement of workers. According to the report, obstacles in this area are the hardest to overcome. Moreover, in July 2010 in its Communication on «Reaffirming the free movement of workers: rights and major developments» [1] 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. This objective was reinforced in the 2010 EU Citizenship Report «Dismantling the obstacles to EU citizens rights» [3] of 27 October 2010. The Commission identified the divergent and incorrect application of EU law on the right to free movement as one of the main obstacles that EU citizens are confronted with in the effective exercise of their rights under EU law. 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 of EU rules on the ground and by stepping up the dissemination of information to EU citizens about their free movement rights' [13].

In its Employment package of 18 April 2012 (Communication from the Commission «Towards a job-rich recovery») [5], 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».

President of the Commission J. M. Barroso (Political guidelines for the 2010-2014 Commission) has also underlined the gap between theory and practice and has called for the principle of free movement and equal treatment to become a reality in peoples' everyday lives. In his State of the Union address on 12 September 2012, J. M. Barroso underlined the need to create a European labour market, and make it as easy for people to work in another country as it is at home [12].

Summarizing the data from the reports and communications mentioned above, one of the obstacles EU citizens can face moving from one member state to another is the incompliance of national legislation and general practices which still persist in member states and continue to be reported to the Commission. In its scope are different conditions applied for recruitment of EU nationals; nationality conditions for access to posts which are not covered by the exception in

article 45 (4) TFEU; introduction of nationality quotas for EU citizens (e.g. in the field of sport at professional level); different working conditions for EU nationals (remuneration, career prospects, grade, etc.); access to social advantages made subject to conditions which are more easily met by nationals than by EU citizens (e.g. a residence condition); professional qualifications and experience acquired in other member states are not taken into account or they are taken into account in a different way than those obtained in the host member state for the purpose of access to employment (e.g. additional points are awarded to the latter); residence condition required by national legislations for access to study grants for EU migrant workers and members of their families despite well-established case law of the EU Court of Justice (CJ) in this area; discrimination against frontier workers.

Besides, information collected by experts and by the Commission [9, p. 5] suggests that there is a recurrent problem with public and private employers' awareness of EU rules, regardless of whether the legislation at national level is compliant or not. Being unaware of the rules and lack of understanding seem to be the main reasons for this problem, especially when it comes to private employers (e.g. only residents for a certain period can apply for a job vacancy, no recognition of previous professional experience or professional qualifications acquired in another member state, excessive language requirements etc.).

In several surveys [9, p. 5], EU citizens have mentioned that they do not know where to turn to when faced with problems concerning their EU rights. There is also evidence that migrants find it difficult to access the protection available to them, for example, they are not aware of national procedures and systems, they lack the linguistic ability to access services or the cost of legal advice and assistance is too high.

To improve and reinforce the way in which article 45 TFEU and Regulation (EU) 492/2011 are applied in practice across the EU the European Parliament and Council of the European Union «...having regard to the Treaty on the Functioning of the European Union, and in particular Article 46 thereof» have adopted Directive 2014/54/EU on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers of 16 April 2014 (Directive 2014/54/EU) [7] to establish a general common framework of appropriate provisions and measures for facilitating a better and more uniform application of rights conferred by EU law on workers and members of their families exercising their right to free movement. Directive 2014/54/EU introduces, in particular, legal obligations in order to:

- guarantee EU migrant workers an appropriate means of redress at national level. Any EU worker who believes that he/she has been the victim of discrimination on the grounds of nationality should be able to make use of appropriate administrative and/or judicial procedures to challenge the discriminatory behaviour;
- further protect workers by ensuring that associations, organizations or other legal entities with a legitimate interest in the promotion of the rights to free movement of workers may engage in any administrative or judicial procedure on behalf or in support of EU migrant workers where there has been a violation of their rights;
- set up structures or bodies at a national level which will promote the exercise of the right to free movement by providing information and supporting and assisting EU migrant workers who suffer from nationality based -discrimination;
- raise awareness by providing employers, workers, and any other interested parties with easily accessible relevant information;
- promote dialogue with appropriate non-governmental organizations and the social partners [9, p. 8].

Directive 2014/54/EU consists of five chapters on the general provisions, enforcement, promotion of equal treatment-contact points, structures or bodies' dialogue, access to information and final provisions.

According to the article 1 of Directive 2014/54/EU article 45 TFEU is a provision of EU law which is directly applicable in the national judicial order of member states and which directly confers on European citizens the right to move to another member state for work purposes and to accept offers of employment, to work there without needing a work permit, to reside there for that purpose and to stay there even after employment has finished. It also confers the right to enjoy equal treatment with nationals as regards access to employment, remuneration and other conditions of work and employment. Thus it implies the abolition of any discrimination (direct or indirect) based on nationality in the exercise of these rights as well as of any unjustified obstacle which impedes the exercise of the right to free movement (in particular in Case C-325/08: Judgment of the CJ of 16 March 2010). Regulation (EU) 492/2011 is also a legal instrument which by its nature is directly applicable and member states do not have to take implementing measures in order for their citizens to be able to rely on the rights conferred by that Regulation. The rights conferred by that Regulation on individuals, which will be easier to enforce under the present proposal, are those contained in Chapter I Employment, Equal treatment and Workers' families, in articles 1 to 10. They concern in particular access to employment (Section 1, Eligibility to employment, articles 1 to 6), equal treatment in relation to employment and working conditions (Section 2, Employment and equality of treatment, articles 7 to 9) and the family members of the worker (Section 3, Workers' families, article 10). Directive 2014/54/EU does not concern Chapter II of Regulation 492/2011, Clearance of vacancies and applications for employment (articles 11 to 20), Chapter III, Committees for ensuring close cooperation between the Member States in matters concerning the freedom of movement of workers and their employment (articles 20 to 34) or Chapter IV, Final provisions (articles 35 to 42) [7].

Directive 2014/54/EU does not modify the scope of application of the Regulation (EU) 492/2011. It only applies in cases of discrimination on the grounds of nationality in relation to the matters covered by Regulation (EU) 492/2011, by introducing the provisions of protection, information and support, in accordance with articles 3 to 7 of the Directive 2014/54/EU. It underpins the guarantee of equal treatment and reinforces remedies in cases of unjustified obstacles in relation to eligibility and access to employment for workers exercising their right to free movement within the European Union (article 2 of Directive 2014/54/EU) [7].

Article 3 of Directive 2014/54/EU imposes a legal obligation on member states to provide EU migrant workers with appropriate means of redress at national level. It also relates to the enforcement and defense of rights, which in itself concerns a fundamental right. The Charter confirms the right to an effective remedy for everyone whose rights and freedoms guaranteed by the law of the European Union are violated or not respected. Directive 2014/54/EU covers both judicial and extra-judicial means of redress, including alternative dispute settlement mechanisms such as conciliation and mediation. Ombudsmen and equality bodies or other similar structures may also provide an alternative to the general courts. In accordance with article 47 of the Charter this article provides that, in case where member states only provide for administrative procedures, they shall ensure that any administrative decision may be challenged before a tribunal. In conformity with the case-law of the CJ (Judgment of 16th May 2000 in case C-78/98 Preston), paragraph 2 of article 3 specifies that the previous paragraph is without prejudice to national rules relating to time limits for bringing actions as regards the principle of equal treatment, provided that these time limits are such that they cannot be regarded as capable of rendering virtually impossible or excessively difficult the exercise of rights conferred by Union law on free movement of workers [7].

Article 4 «Action of associations, organizations or other legal entities» introduces an obligation for member states to ensure that associations, organizations or legal entities (such as trade unions, NGOs or other organizations) may engage in any administrative or judicial procedure on behalf or in support of EU migrant workers in the event of violations of their rights under either the Directive or under Regulation (EU) 492/2011. It would be left to member states' discretion to define the way this provision should be implemented in practice, according to the national judicial systems and procedures. Associations, organizations or other legal entities can play a significant role in the defence of rights on behalf of or in support of a worker and members of his/her family (at present, this right under different forms exist in the majority of member states except Germany, Estonia and Malta). The assistance could be different from one member state to another according to their judicial system, procedures, traditions and practices (e.g. the trade unions could intervene, or bear the costs or assisting victims of discrimination) [7].

Directive 2014/54/EU provides for structures on information, promotion and support or for bodies to be established at national level to support EU migrant workers and promote, analyze and monitor the rights conferred on them and the members of their families by EU law (article 5) [7]. These functions may, however, also be exercised by existing bodies already established by member states to fight discrimination on other grounds in the context of the implementation of EU legislation, or agencies with responsibility at national level for the defence of human rights or the safeguard of individuals' rights. In this case member state must ensure allocation of sufficient resources to the existing body for the performance of additional tasks. To this end the training of experts could be eligible under the European Social Fund. The tasks of these structures or bodies should include:

- (a) providing information to all relevant stakeholders and increasing support for EU migrant workers; providing advice and assistance to alleged victims of discrimination pursuing their complaints, without prejudice to the rights of the legal entities referred to in article 4 of Directive 2014/54/EU. Whilst in some countries equality bodies established under EU Directives fighting discrimination on other grounds have legal standing and can bring a case to court, in others, they can only provide assistance to the claimant, or provide observations to the court;
- (b) conducting independent surveys concerning discrimination on the basis of nationality;
- (c) publishing independent reports and making recommendations in relation to equality of treatment and the fight against nationality based discrimination;
- (d) publishing information on any issue relating to the application at national level of EU rules on free movement of workers.

It would be left to each member state to decide whether creating a completely new structure is necessary, or whether existing bodies can be assigned the tasks described above for the promotion of non-discrimination exist in all member states [7]. At present 'nationality' could be covered by the competence of existing Equality bodies in 19 member states (more detailed information is given in Commission Staff working document «Initiative to support EU migrant workers in the exercise of their rights to free movement» annexed to Directive 2014/54/EU). Moreover, article 5 of Directive 2014/54/EU provides for synergies between existing or new structures or bodies with other information, promotion and support tools at EU level, such as Your Europe, SOLVIT, EURES, Enterprise Europe Network and the Points of Single Contact. Building on existing structures has the advantage of benefiting of the existing knowledge and experience. It also increases simplicity and accessibility since it avoids the risk of creating confusion and uncertainty as to where to turn in case of problems.

Directive 2014/54/EU provides for the appropriate dissemination of information about the rights of workers and members of their families in relation to equal treatment arising from the

Directive and from articles 1 to 10 of Regulations (EU) 492/2011 [7]. The more effective the system of public information and prevention is, the less need there should be for individual remedies. Directive 2014/54/EU leaves the choice of information tools to the member states, but on line or digital information with links to the existing information tools at EU level, Your Europe and EURES websites should be made compulsory. However, this can be complemented by any other public information activities reflecting the best practices noted by the national experts and stakeholders such as awareness-raising campaigns or specific information. The active role of social partners, equality bodies, NGOs and other associations could also be very important in the dissemination of the information.

According to the provisions of Directive 2014/54/EU member states may have, or may wish to adopt, legislation providing for a higher level of protection than that guaranteed by the Directive. Member states have the discretion to extend the competencies of the bodies referred to in article 5 to encompass also non discrimination on grounds of nationality for 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 EP 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. Member states should not lower any existing level of protection against discrimination when implementing this Directive (article 8 of Directive 2014/54/EU).

Member states are required to adopt the necessary implementing measures within a period of 2 years after the entry into force of Directive 2014/54/EU, and to fulfill certain information requirements, such as communicating to the Commission how the Directive is transposed into national law and making reference to the Directive in any implementing measures [7]. In this context in accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of 28 September 2011, it would be appropriate that member states accompany the notification of their transposition measures with one or more documents explaining the relationship between the components of the present Directive and the corresponding parts of national transposition instruments. Bearing in mind that for some provisions of the Directive 2014/54/EU, such as those on structures or bodies foreseen in article 5, several member states dispose already legislation to fight discrimination on other grounds in the context of the implementation of EU legislation, or agencies with responsibility at national level for the defense of human rights or the safeguard of individuals' rights, the explanatory documents would permit to better identify the specific measures adopted or already in place in order to fight discrimination on the basis of nationality (article 9 of Directive 2014/54/EU) [9].

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## УДОСКОНАЛЕННЯ НОРМАТИВНО-ПРАВОВОЇ БАЗИ ЄС ЩОДО РЕАЛІЗАЦІЇ ПРАВ ПРАЦІВНИКІВ У КОНТЕКСТІ СВОБОДИ ПЕРЕСУВАННЯ ПРАЦІВНИКІВ

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**Анотація.** У статті йдеться про практичні кроки ЄС на шляху до вдосконалення правової бази ЄС щодо реалізації прав працівників у контексті свободи пересування працівників; подається огляд джерел правового регулювання свободи пересування працівників у ЄС і визначаються проблеми, з якими громадяни ЄС можуть зіткнутися, пересуваючись з однієї держави-члена ЄС в іншу. Розрив між правами, які громадяни ЄС мають в теорії, і тими, що можуть бути реалізовані на практиці, було підкреслено в декількох актах інститутів ЄС (Доповідь Європарламенту «Проблеми та перспективи європейського громадянства» від 20 березня 2009 року, Резолюція «Про сприяння мобільності працівників у рамках Європейського Союзу» від 25 жовтня 2011 року, Доповідь «Нова стратегія єдиного ринку» від 9 травня 2010 р., Доповідь Комісії «Підтверджуючи вільне пересування працівників: права та основні досягнення» 2010 року, Соціальний звіт «Демонтаж перешкод на шляху прав громадян ЄС» від 27 жовтня 2010 року, Пакет зайнятості «На шляху до відновлення робочих місць» від 18 квітня 2012 року і т. д.). Резюмуючи дані з документів, згаданих вище, однією з перешкод пересування громадян ЄС з однієї держави-члена ЄС у іншу є невідповідність національного законодавства держав-членів ЄС загальній практиці, зокрема: різні умови, застосовувані державами-членами ЄС щодо працевлаштування громадян ЄС; наявність громадянства держави-члена ЄС як умова доступу до посад, що не включені до переліку виключень статті 45 (4) ДФЄС, введення квот на працевлаштування громадян ЄС – нерезидентів приймаючої держави-члена ЄС, різні умови праці для громадян ЄС у залежності від їх державної приналежності, доступ до соціальних переваг за умов, виконання яких є простішим для громадян приймаючої держави-члена, повне або часткове неврахування професійної кваліфікації та досвіду, набутих в державах – членах походження громадянина ЄС і відмінних від держави працевлаштування, обумовлення отримання грантів на навчання працівниками-мігрантами та членами їхніх сімей вимогою національних законодавств держав-членів ЄС щодо проживання у приймаючій державі-члені попри усталене прецедентне право Суду ЄС у цій галузі, дискримінація щодо прикордонних працівників і т. д.

Щоб поліпшити і посилити застосування статті 45 ДФЄС і Регламенту 492/2011 в межах ЄС Європейський Парламент і Рада ЄС прийняли Директиву 2014/54/ЄС щодо заходів по сприянню реалізації прав працівників в контексті свободи пересування працівників від 16 квітня 2014 року із тим, щоб встановити єдину систему відповідних положень і заходів щодо сприяння кращому і більш уніфікованому застосуванню прав, наданих законодавством ЄС працівникам і членам їхніх сімей, здійснюючим своє право на вільне пересування.

**Ключові слова:** свобода пересування працівників, права працівників, Директива 2014/54/ЄС Європейського Парламенту та Ради ЄС.

## СОВЕРШЕНСТВОВАНИЕ НОРМАТИВНО-ПРАВОВОЙ БАЗЫ ЕС ПО РЕАЛИЗАЦИИ ПРАВ РАБОТНИКОВ В КОНТЕКСТЕ СВОБОДЫ ПЕРЕДВИЖЕНИЯ РАБОТНИКОВ

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**Аннотация.** В статье говорится о практических шагах ЕС на пути к совершенствованию правовой базы ЕС по осуществлению прав работников в контексте свободы передвижения работников; дается обзор источников правового регулирования свободы передвижения работников в ЕС и определяются проблемы, с которыми граждане ЕС могут столкнуться, передвигаясь из одного государства-члена ЕС в другое. Разрыв между правами, которые граждане ЕС имеют в теории, и теми, которые могут быть реализованы на практике, было подчеркнуто в нескольких актах институтов ЕС (Доклад Европарламента «Проблемы и перспективы европейского гражданства» от 20 марта 2009 года, Резолюция «О содействии мобильности работников в рамках Европейского Союза» от 25 октября 2011 года, Доклад «Новая стратегия единого рынка» от 9 мая 2010 г., Социальный отчет «Демонтаж препятствий на пути прав граждан ЕС» от 27 октября 2010 года, Доклад Комиссии «Подтверждая свободное передвижение работников: права и основные достижения» 2010 года, Пакет занятости «На пути к восстановлению рабочих мест» от 18 апреля 2012 года и т. д.). Резюмируя данные из документов, упомянутых выше, одним из препятствий передвижения граждан ЕС из одного государства-члена ЕС в другое является несоответствие национального законодательства государств-членов ЕС общей практике, в частности: разные условия, применяемые государствами-членами ЕС относительно трудоустройства граждан ЕС; наличие гражданства государства-члена ЕС как условие доступа к должностям, которые не включены в перечень исключений статьи 45 (4) ДФЕС; введение квот на трудоустройство граждан ЕС-нерезидентов принимающего государства-члена ЕС; разные условия труда для граждан ЕС в зависимости от их государственной принадлежности; доступ к социальным преимуществам в условиях, выполнить которые проще гражданам принимающего государства-члена; полный или частичный неучет профессиональной квалификации и опыта, приобретенных в государствах-членах происхождения гражданина ЕС и отличных от государства трудоустройства; обусловливание получения грантов на обучение работниками-мигрантами и членами их семей требованием национальных законодательств государств-членов ЕС относительно проживания в принимающем государстве-члене несмотря на устоявшееся прецедентное право Суда ЕС в этой области, дискриминация в отношении пограничных работников и т. д.

В целях улучшения и усиления применения статьи 45 ДФЕС и Регламента 492/2011 в рамках ЕС Европейский парламент и Совет ЕС приняли Директиву 2014/54/ЕС о мерах по содействию реализации прав работников в контексте свободы передвижения работников от 16 апреля 2014, устанавливающую единую систему положений и мероприятий по содействию лучшему и более унифицированному применению прав, предоставленных законодательством ЕС работникам и членам их семей, осуществляющим свое право на свободное передвижение.

**Ключевые слова:** свобода передвижения работников, права работников, Директива 2014/54/ЕС Европейского Парламента и Совета ЕС.