

E-6422/09EN

Answer given by Ms Malmström
on behalf of the Commission
(26.3.2010)

Access to employment is regulated for some specific categories of third-country nationals. Indeed, third-country nationals do not benefit from a general principle of equal treatment in access to employment.

With regard to beneficiaries of refugee status, Article 26 (1) of Directive 2004/83/EC on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted provides that Member States must authorise them to engage in employed or self-employed activities subject to rules generally applicable to the profession and to the public service. Italy has transposed the above mentioned provisions and under Italian legislation refugees have access to employment under the same conditions as EU citizens.

According to Article 11 of Directive 2003/109 of 25 November 2003 concerning the status of third-country nationals who are long-term residents¹, long-term residents must enjoy equal treatment with nationals as regards access to employment activity, provided such activities do not entail even occasional involvement in the exercise of public authority, and conditions of employment and working conditions, including conditions regarding dismissal and remuneration. Moreover, Article 11.3 (a) provides further derogation to equal treatment rights and stipulates that "Member States may retain restrictions to access to employment or self-employed activities in cases where, in accordance with existing national or Community legislation, these activities are reserved to nationals, EU or European Economic Area (EEA) citizens.

As regards non-EU national family members of EU citizens in Italy, the Commission is of the view that Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States grants non-EU national family members of EU citizens who have the right to reside in another Member State equal treatment with nationals as regards access to employment in the public sector, with the exception of posts which involve the exercise of public authority and the responsibility for safeguarding the general interest of the state.

The Commission will contact the Italian authorities to request detailed information on this issue.

¹ OJ L 16, 23.1.2004