

SUMMARY SHEETS : ARTICLE 15 ECHFR

"Freedom to choose an occupation and right to engage in work"

1. Everyone has the right to engage in work and to pursue a freely chosen or accepted occupation.
2. 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.
3. Nationals of third countries who are authorised to work in the territories of the Member States are entitled to working conditions equivalent to those of citizens of the Union"

Content and scope of the article

Fundamental Principles of Article 15

- **Right to Work:** Article 15(1) guarantees the right to engage in work and pursue a freely chosen or accepted occupation. However, it does **not** create an absolute right to employment; rather, it ensures access to work **free from unjustified restrictions** within the EU legal framework.
- **Freedom of Movement for Workers:** Article 15(2) explicitly links to **Article 45 TFEU**, ensuring EU citizens the right to work in any **Member State** without discrimination based on nationality.
- **Third-Country Nationals:** Article 15(3) states that non-EU nationals **legally residing in the EU** have the same working conditions as EU nationals. However, this provision does not guarantee them **access** to employment unless specified by EU or national law.

Scope of Application

- Article 15 applies **only when a case falls within the scope of EU law**, meaning that purely national employment laws and policies do not automatically trigger its protection.
- It is **closely linked to free movement rights**, applying to cross-border employment issues, including **recognition of professional qualifications and social security entitlements**.

Relevance to Employment and Labor Law

- **EU Secondary Legislation:**
 - Directive 2006/54/EC (Gender Equality in Employment)
 - Directive 2000/78/EC (Equal Treatment in Employment and Occupation)

- Directive 2011/98/EU (Single Permit Directive for Third-Country Workers)
- The Role of EURES:
 - The EU created the EURES network between the European Commission and the Member States to facilitate workers' effective exercise of their right to work in other Member States ([Regulation 2016/589](#))
 - EURES provides **job-matching services, legal advice, and support for workers** facing barriers to employment due to nationality or administrative restrictions.

Complementarity with Other Legal Instruments

- **European Social Charter (Council of Europe):** Ensures protection for workers, particularly regarding fair working conditions.
- **Article 23 of the Universal Declaration of Human Rights:** Affirms the right to work under just conditions.
- **EU Charter vs. National Laws:** Article 15 does **not** create a universal right to employment but ensures **non-discrimination and free access to jobs within EU law frameworks**.

Conclusion

Article 15 provides an **essential legal basis** for ensuring equal access to employment within the EU, particularly regarding **cross-border workers, third-country nationals, and equal treatment protections**. Lawyers should assess whether their case falls under **EU competence** and utilize tools like **EURES** to reinforce employment rights under Article 15.

CJEU Case Law

CJEU Case C-156/21: Hungary v European Parliament and Council of the European Union

Key words: Action for annulment – Regulation (EU, Euratom) 2020/2092 – General regime of conditionality for the protection of the European Union budget – Protection of the Union budget in the case of breaches of the principles of the rule of law in the Member States – Legal basis – Article 322(1)(a) TFEU – Alleged circumvention of Article 7 TEU and Article 269 TFEU – Alleged infringements of Article 4(1), Article 5(2) and Article 13(2) TEU and of the principles of legal certainty, proportionality and equality of Member States before the Treaties.

CJEU Case C-157/21: Republic of Poland v European Parliament and Council of the European Union

Key words: Action for annulment – Regulation (EU, Euratom) 2020/2092 – General regime of conditionality for the protection of the European Union budget – Protection of the Union budget in the case of breaches of the principles of the rule of law in the Member States – Legal basis – Article 322(1)(a) TFEU – Article 311 TFEU – Article 312 TFEU – Alleged circumvention of Article 7 TEU and Article 269 TFEU – Alleged

infringements of Article 4(1), Article 5(2) and Article 13(2) TEU, of the second paragraph of Article 296 TFEU, of Protocol (No 2) on the application of the principles of subsidiarity and proportionality and of the principles of conferral, legal certainty, proportionality and equality of the Member States before the Treaties – Alleged misuse of powers.

CJEU Case C-718/18: European Commission v Federal Republic of Germany

Key words: Failure of a Member State to fulfil obligations – Internal markets for electricity and natural gas – Directive 2009/72/EC – Article 2(21) – Article 19(3), (5) and (8) – Article 37(1)(a) and (6)(a) and (b) – Directive 2009/73/EC – Article 2(20) – Article 19(3), (5) and (8) – Article 41(1)(a) and (6)(a) and (b) – Concept of a ‘vertically integrated undertaking’ – Effective unbundling of networks from the activities of production and supply of electricity and natural gas – Independent transmission operator – Independence of the staff and the management of the transmission system operator – Transitional periods – Shares held in the capital of the vertically integrated undertaking – National regulatory authorities – Independence – Exclusive powers – Article 45 TFEU – Freedom of movement for workers – Charter of Fundamental Rights of the European Union – Article 15 – Right to engage in work and to pursue an occupation – Article 17 – Right to property – Article 52(1) – Restrictions – Principle of democracy.

CJEU Case C-166/20: BB v Lietuvos Respublikos sveikatos apsaugos ministerija

Key words: Reference for a preliminary ruling – Recognition of professional qualifications – Directive 2005/36/EC – Article 1 and Article 10(b) – Professional qualifications obtained in several Member States – Requirements for obtaining – No formal evidence of qualifications – Articles 45 and 49 TFEU – Workers – Freedom of establishment.

CJEU Case C-51119: AB v Olympiako Athlitiko Kentro Athinon – Spyros Louis

Key words: Reference for a preliminary ruling – Social policy – Directive 2000/78/EC – Principle of equal treatment in employment and occupation – Prohibition of discrimination on grounds of age – Workers placed under a labour reserve system until termination of their contract of employment – Wage reduction and reduction or loss of severance pay – System applicable to public-sector workers close to full-time retirement – Reduction of public-sector wage costs – Article 6(1) – Legitimate social policy objective – Economic crisis.

CJEU Case C-670/18: CO v Comune di Gesturi

Key words: Reference for a preliminary ruling – Social policy – Principle of equal treatment in employment and occupation – Directive 2000/78/EC – Prohibition of all discrimination on grounds of age – Public call for expressions of interest – Conditions of participation – Exclusion of retired public-sector and private-sector employees.

CJEU Case C-507/18: NH v Associazione Avvocatura per i diritti LGBTI- Rete Lenford

Key words: Reference for a preliminary ruling – Equal treatment in employment and occupation – Directive 2000/78/EC – Article 3(1)(a), Article 8(1) and Article 9(2) – Prohibition of discrimination based on sexual orientation – Conditions for access to employment or to occupation – Concept – Public statements ruling out recruitment of homosexual persons – Article 11(1), Article 15(1) and Article 21(1) of the Charter of Fundamental Rights of the European Union – Defence of rights – Sanctions – Legal entity representing a collective interest – Standing to bring proceedings without acting

in the name of a specific complainant or in the absence of an injured party — Right to damages

CJEU Case C-322/16: Global Starnet Ltd v Ministero dell'Economia e delle Finanze and Amministrazione Autonoma Monopoli di Stato

Key words: Reference for a preliminary ruling — Freedom to provide services, freedom of establishment, free movement of capital and freedom to conduct a business — Restrictions — Award of new licences for the online operation of gaming — Principles of legal certainty and protection of legitimate expectations — Judgment of the Constitutional Court — Whether or not the national court is obliged to refer a question to the Court of Justice for a preliminary ruling.

Highlights

Understanding the Right to Work in Legal Practice

- **Not all employment qualifies as "work" under Article 15.**
 - The right to work does **not** extend to exploitative labor arrangements.
 - **Distinction between "work" and "labor":** Certain forms of employment—such as forced labor, undeclared work, or severely exploitative conditions—can violate the **right to work** rather than fulfill it.
 - Lawyers handling cases of **migrant workers, undocumented workers, or cases of unfair labor conditions** should assess whether employment conditions align with **self-realization and non-exploitation** principles.
- **Interplay with the European Social Charter:**
 - The **right to work** in **Article 1 of the European Social Charter (ESC)** is broader than Article 15 EChFR.
 - While **Article 15 EChFR** protects access to employment within the EU framework, the **ESC** provides stronger protection in areas such as fair wages, vocational guidance, and protection against unemployment.
 - Lawyers should consider whether invoking **both Charters in combination** strengthens their legal arguments.
- **Intersection with the Four Freedoms of the EU:**
 - The right to work is **closely linked to the free movement of workers** (Article 45 TFEU).
 - **Cross-border employment issues, work permits for third-country nationals, and access to social benefits** are areas where lawyers can rely on Article 15 in conjunction with **EU secondary law** and free movement principles.


Correspondence with other European/International instruments

- Article 23 and 24 UDHR
- Article 6-8 ICESCR
- Article 11 CEDAW

- Article ICERD

Further readings

- P Alston, 'The General Comments of the UN Committee on Economic, Social and Cultural Rights' (2010) 104 Proceedings of the Annual Meeting (The American Society International Law) 4–7.
- D Ashiagbor, 'The Right to Work' in G de Búrca and B de Witte (eds), *Social Rights in Europe* (Oxford, OUP, 2005)., *The European Employment Strategy: Labour Market Regulation and New Governance* (Oxford, OUP, 2005).
- M Bell, 'Walking in the Same Direction? The Contribution of the European Social Charter and the European Union to Combating Discrimination' in G de Búrca and B de Witte (eds), *Social Rights in Europe* (Oxford, OUP, 2005).
- H Collins, 'Is there a Human Right to Work?', in V. Mantouvalou (ed) *The Right to Work – Legal and Philosophical Perspectives* (Oxford, Hart, 2015).
- M Craven, *The International Covenant on Economic, Social and Cultural Rights: A perspective on its development* (Oxford, Clarendon Press, 1998).
- S Deakin, 'Article 1 – The Right to Work', in N. Bruun, K. Lorcher, I. Schoemann and S. Clauwaert (eds) *The European Social Charter and the Employment Relation* (Oxford: Hart, 2017) 147
- J Elster, 'Self-realization in Work and Politics: the Marxist Conception of the Good Life' (1986) *Social Philosophy & Policy* 97–126.—, 'Is there (or should there be) a right to work?' in A Gutmann (ed), *Democracy and the Welfare State* (Princeton, Princeton University Press, 1988).
- E Frantziou, *The Horizontal Effect of Fundamental Rights in the European Union: A Constitutional Analysis* (OUP 2019).
- B Hepple, 'A Right to Work?' (1981) 10(1) *Industrial Law Journal* 65–83.
- D Little, 'Job Elster' in W Samuels (ed), *New Horizons in Economic Thought: Appraisals of Leading Economists* (Cheltenham, Edward Elgar Publishing, 1992).
- V Mantouvalou (ed), *The Right to Work: Legal and Philosophical Perspectives* (Oxford, Hart, 2015)—, 'Work and Private Life: Sidabras and Dziautas v Lithuania', (2005) *European Law Review* 575
- G Mundlak, 'The right to work: Linking human rights and employment policy' (2007) , 146(3–4) *International Labour Review* 189–215.
- C O'Cinneide, 'The Right to Work in International Human Rights Law', V. Mantouvalou (ed) *The Right to Work – Legal and Philosophical Perspectives* (Oxford, Hart, 2015).

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- A Supiot et al, Beyond Employment: Changes in Work and the Future of Labour Law in Europe (Oxford, OUP, 2001)