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Press release

European Commission takes next step in infringement proceedings against Belgium on EU jobseekers' residence rights

EU Rights Clinic and FEANTSA welcome the **European Commission's decision to send a reasoned opinion to Belgium** on the registration of residence of EU jobseekers due to the failure of the Belgian authorities to take adequate action to address the concerns raised in its letter of formal notice issued in July 2022 (INFR(2022)4023).¹

This follows the formal complaint lodged by EU Rights Clinic and FEANTSA² against Belgium for **non-compliance with the ruling on the rights of EU jobseekers** handed down by the EU Court of Justice in case number C-710/19 *G.M.A.* in December 2020.³

The complaint by the EU Rights Clinic and FEANTSA addressed the ongoing non-compliance by the Belgian Immigration Office with EU law in **the refusal to register the right of residence of jobseekers** on the basis that *they have not demonstrated a genuine chance of finding employment* in the first six months of their residence, even if they can prove they are genuinely looking for work.

The application of the offending legislation remains a problem in practice, with jobseekers continuing to be refused registration of their residence by the Belgian Immigration Office.

Despite the judgment of the EU Court of Justice, **Belgium's legislation has still not been amended to address the issues of non-compliance identified by the Court of Justice EU in its ruling.** As a result, Belgian law still requires EU jobseekers who apply for registration of their residence to demonstrate not only that they are looking for work but also that they have a genuine chance of being engaged, in direct contravention of the ruling.

Indeed, recent case law shows that **the Belgian immigration office has continued to refuse to register EU jobseekers before they have been allowed to look for work for at least 6 months** (for example, CALL judgments No 276 421 of 24.08.22⁴ and No 281 486 of 06.12.2022⁵) **or because they failed to provide evidence of having a genuine chance of being engaged when they first applied for registration of their residence** (CALL judgment No 270 728 of 31.03.22⁶).

¹ See April 2023 infringements package: 'Labour mobility: Commission calls on BELGIUM to grant EU jobseekers the right to reside in the country for a reasonable period of time to look for a job'

https://ec.europa.eu/commission/presscorner/detail/en/inf_23_1808

² See our press releases 'Complaint against Belgium for breach of EU jobseekers' right of residence'

<https://www.feantsa.org/en/press-release/2021/10/04/press-release-breach-of-eu-jobseekers-right-of-residence-eu-rights-clinic-and-feantsa-send-complaint-to-the-european-commission-against-belgium?bcParent=27> and <https://blogs.kent.ac.uk/eu-rights-clinic/belgium-infringement-proceedings/>

³ Case C-710/19 *G.M.A. c. Etat belge* EU:C:2020:1037 judgment of 17 December 2020.

⁴ CALL judgment No 276 421 of 24.08.22: https://www.rvv-cce.be/sites/default/files/arr/a276421.an_.pdf

⁵ CALL judgment 281 486 of 06.12.2022: https://www.rvv-cce.be/sites/default/files/arr/a281486.an_.pdf

⁶ CALL judgment No 270 728 of 31.03.22: https://www.rvv-cce.be/sites/default/files/arr/a270728.an_.pdf



The Belgian rules have also been used to deny residence rights to British beneficiaries of the Withdrawal Agreement who registered as jobseekers before 31 December 2020 (CALL judgments No 272 170 of 29.04.22⁷, No 281 921 of 15.12.22⁸ and No 284 600 and 284 602 of 10.02.23⁹).

Considering the persistent nature of this infringement and the lack of political will by the Belgian authorities to respect EU law, the EU Rights Clinic and FEANTSA call upon the Commission to bring proceedings before the European Court of Justice without further delay.

EU Rights Clinic and FEANTSA have also raised the matter before the European Parliament by way of petition.

FEANTSA is the European Federation of National Organisations Working with the Homeless. We are the only European NGO focusing exclusively on the fight against homelessness. Our goal is an end to homelessness in Europe. FEANTSA works with over 130 members across 29 countries including 22 EU Member States.

The EU Rights Clinic is Belgium's first law clinic which was launched in January 2013 in collaboration between the European Citizen Action Service (ECAS) and the University of Kent in Brussels. It helps EU citizens and their family members overcome problems they encounter when moving within the EU by engaging in strategic litigation and advocacy efforts targeting systematic breaches of EU free movement and migration rights by the national authorities of the Member States.

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⁷ CALL judgment No 272 170 of 29.04.22: https://www.rvv-cce.be/sites/default/files/arr/a272170.an_.pdf

⁸ CALL judgment No 281 921 of 15.12.22: https://www.rvv-cce.be/sites/default/files/arr/a281981.an_.pdf

⁹ CALL judgments No 284 600 and 284 602 of 10.02.23: https://www.rvv-cce.be/sites/default/files/arr/a284600.an_.pdf and https://www.rvv-cce.be/sites/default/files/arr/a284602.an_.pdf



Background notes:

1. In 2016, Mr. G.M.A. who is a Greek national applied to register his residence as a jobseeker. However, the Belgian Immigration Office subsequently refused G.M.A. permission to stay for more than three months, based on the fact that he could not provide evidence of having a genuine chance of being engaged, according to the Immigration Office in Belgium.
2. With the support of the EU Rights Clinic and FEANTSA, Mr. G.M.A. appealed against the decision before the Belgian courts, which referred the matter to the EU Court of Justice for a binding legal opinion on the interpretation of the relevant EU rules.
3. On 17 December 2020, the EU Court of Justice handed down its judgment in case C-710/19 *G.M.A* regarding the interpretation of the EU rules on the free movement of workers.¹⁰
4. In its ruling, the Court explicitly ruled that the Belgian authorities cannot require jobseekers to demonstrate that they are seeking employment when they first register¹¹ and has held that the obligation to provide a “genuine chance of being engaged” may only legitimately be imposed on jobseekers after they have been given a “reasonable period of time” to find work.¹²
5. In view of the fact that this situation has persisted in Belgium for several years,¹³ our complaint urged the Commission to take a strong enforcement stance and bring formal infringement proceedings against Belgium under Article 258 of the Treaty for the Functioning of the European Union.
6. In July 2022, the Commission initiated infringement proceedings against Belgium on the basis of our complaint.¹⁴ The Belgian authorities were given two months to respond to the Commission’s Letter of Formal Notice.
7. In view of the insufficient response by the Belgian authorities, the Commission has proceeded to the next stage of the infringement procedure by issued a Reasoned Opinion against Belgium.

¹⁰You can find the full CJEU judgment of the case here: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62019CJ0710&from=EN>

¹¹ Case C-710/19 *G. M. A. c. Etat belge*, paras. [48]-[50].

¹² Case C-710/19 *G. M. A. v Etat belge*, para. [27].

¹³For further background on the issue, please visit: Euronews ‘Belgium says jobless Europeans not welcome’ <https://www.youtube.com/watch?v=Kt9j6U-lxcl> and Brussels Times ‘Belgium sent 15,000 EU citizens home in the last decade’ <https://www.brusselstimes.com/news/belgium-all-news/143499/belgium-sent-15000-eu-citizens-home-in-the-last-decade/>

¹⁴ See July 2022 infringements package: ‘Labour mobility: Commission calls on BELGIUM to grant first-time EU jobseekers the right to reside in the country for a reasonable period of time to look for a job’ https://ec.europa.eu/commission/presscorner/detail/en/inf_22_3768