

(English version)

**Question for written answer E-001769/24
to the Commission**

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(19 September 2024)

Subject: Discriminatory and inconsistent award of sustainable mobility grants in Valle d'Aosta

In accordance with Article 7 of Regional Law No 16/2019, the Region of Valle d'Aosta provides sustainable mobility grants for natural persons 'only if the beneficiaries have been residents of the region for at least 2 years, which do not have to be consecutive, and are resident there on the date of submission of the application'. The requirement for individuals to have been resident there for 2 years (not the condition that they must be residents on the date of application) seems unreasonable and discriminatory.

If the aim of the measure is to improve the environment, limiting access to grants based on the period of residence is counter-productive. All residents who purchase zero and low-emission vehicles help to reduce pollution, regardless of how long they have lived in the region.

Moreover, given that it is a monetary subsidy, award of the grant should not discriminate, even indirectly, against other Italian citizens, citizens of other Member States as well as non-EU citizens with the right to equal access to goods and services (Regulation (EU) No 492/2011⁽¹⁾, Directive 2003/109/EC, Directive 2011/98/EU, Directive (EU) 2016/801, etc.) who have been resident in Valle d'Aosta for less than 2 years⁽²⁾.

In view of the above, can the Commission indicate what action it could take to ensure that the principle of non-discrimination (Article 2 TEU) is fully respected, and that the 2-year residence requirement does not prevent genuinely equal and consistent access to these grants?

Submitted: 19.9.2024

Answer given by Mr McGrath on behalf of the European Commission
(6 January 2025)

Non-Italian EU citizens residing in Italy in accordance with the conditions of the Free Movement Directive⁽¹⁾ enjoy equal treatment with Italian nationals within the scope of the EU treaties.

This also applies to mobile EU workers, who in addition benefit from the specific rules provided by Regulation (EU) No 492/2011⁽²⁾.

A benefit like sustainable mobility grants for natural persons may be qualified as a social advantage for mobile EU workers covered by equal treatment under that regulation⁽³⁾.

The EU legal migration *acquis* also establishes that third-country nationals covered by the relevant directives enjoy equal treatment vis-à-vis nationals of the Member State⁽⁴⁾, including as regards goods and services under the terms of those directives, such as the benefit at hand.

The principle of non-discrimination on grounds of nationality prohibits not only direct discrimination but also measures that are indirectly discriminatory because they are intrinsically liable to affect EU citizens or third-country nationals more than nationals of the host State and there is a consequent risk that they will place the former at a particular disadvantage.

¹ Article 7(2) states that a worker who is a national of a Member State 'shall enjoy the same social and tax advantages as national workers'.

² The Court of Justice of the European Union has repeatedly held that the past residence requirement constitutes indirect discrimination between nationals and foreign nationals, which is prohibited unless it is objectively justified. This means that it must be appropriate for securing the attainment of a legitimate objective and must not go beyond what is necessary to attain that objective (see judgment of the Court (First Chamber) of 10 July 2019, *Nicolas Aubriet v Ministre de l'Enseignement supérieur et de la Recherche*, Case C-410/18). It is also important to note that the Commission has recently referred Italy to the Court of Justice of the European Union in relation to the past residence requirement it has laid down for accessing a child benefit scheme (Infringement Decision INFR (2022) 4113).

⁽¹⁾ Directive 2004/38/EC of the European Parliament 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.

⁽²⁾ 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.

⁽³⁾ Article 7(2).

⁽⁴⁾ Notably: the Long-Term Residence Directive (Article 11(1)(f) Council Directive 2003/109/EC on the status of third-country nationals who are long-term residents, OJ L 16, 23.01.2004, p. 44-53); the Single Permit Directive (Article 12(1)(g) Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State, Official Journal L 343 of 23.12.2011, p. 1-9); the EU Blue Card Directive (Article 16(1)(f) Directive (EU) 2021/1883 of the European Parliament and of the Council of 20 October 2021 on the conditions of entry and residence of third-country nationals for the purpose of highly qualified employment, and repealing Council Directive 2009/50/EC, OJ L 382, 28.10.2021, p. 1-38); the Students and Researchers Directive (Article 22(1) Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (recast), OJ L 132, 21/05/2016, p. 21-57) and the intra-corporate transferees Directive (Article 18(2) (e) Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer, OJ L 157, 27.05.2024, p. 1-22).

However, indirect discrimination can be justified if it is based on objective considerations independent of nationality and is proportionate to the legitimate objective of the national provisions.

As held by the EU Court of Justice, ‘it is legitimate for a host Member State to wish to ensure that there is a genuine link between a claimant to a benefit and the competent Member State’ ⁽⁵⁾. For EU workers, a genuine link is in principle established by the very fact that they have taken up work in a host Member State.

Finally, Italian citizens residing in Italy do not normally fall within the scope of EU free movement law.

⁽⁵⁾ C-75/11, *Commission v. Austria*, ECLI:EU:C:2012:605, paragraph 59.