

FREE MOVEMENT OF WORKERS IN TIME OF ECONOMIC CRISIS:
Common challenges and possible common responses. 9-10 October, 2009

- **1. Introduction**
 - ECJ- public service post reserve to nationals ONLY
 - **when is directly or indirectly participating in the exercise of public power or in the functions which are intended to safeguard the interest of the State or the Public Administrations.**
 - **This criteria has to be evaluated in a case by case approach**

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- **1. Introduction**

Spanish ACT 7/2007, 12 April on The Basic Statute of the Public contains that

Nationals of Member States of the EU can access public employment in the same condition as Spanish citizens

(with the exception of those directly or indirectly participating in the exercise of public power or in the functions which are intended to safeguard the interest of the State or the Public Administrations).

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- **2. Nationality condition**
 - **2.1 Troops and sailors in the Spanish Army and Navy (Royal Decree 1224/2002)**
 - **(Argentina, Bolivia, Costa Rica, Colombia, Cuba, Chile, Ecuador, El Salvador, Equatorial Guinea, Guatemala, Honduras, México, Nicaragua, Panamá, Paraguay, Peru, Dominican Republic, Uruguay and Venezuela)**
 - **No mention at all to any of the EU Member States.**

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- **2. Nationality condition**
 - **2.2 Emergency attention, (firemen)**
 - **2.3. Captains and Chef Masters (ECJ on 20 November 2008)**

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- **3. Recognition of professional qualification**
 - Spanish **Royal Decree 1837/2008 of November 8** on transposition of **Directive 2005/36/EC**
 - **(ECJ of 27 October 2008 declaring that Spain has failed to fulfil its obligations under the Directive).**

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- **4. Recognition of professional experience and training**
 - **ECJ of 23 February 2006 condemned Spain for failing to comply with article 39 EC**
 - **(Before ECJ judgment, different Spanish High Courts adopted case-law in line with free movement of workers)**

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- **5. Language requirements**
- **Knowledge of the Spanish language**
- **Co-official language (Galicia, Basque Country, Cataluña, Valencia),**
- **Since 1990, the Spanish Supreme Court and the Spanish Constitutional Court, "the requirement to know the co-official language is compatible with the principle of equality, merits and capacity"**