

Țugui Alexandra

“A.I.Cuza” University, Iasi, Romania

Jean Monnet Centre

Labour Movements from East to West Within European Union

Brief Introduction

This paper comprises four sections: the first one tries to define the fundamental right of free movement and briefly show the way it was applied in the past. The second section analyzes the phases of the transitional restrictions on new EU member states citizens on the EU-15 member states' labour market. The last two sections are devoted to EU officials' positions on transitional period for the new member states workers and to some recommendations for allowing them to work without restrictions in all EU member states.

1. Transitional measures for new member states citizens

The free movement of workers is a fundamental right which permits nationals of one EU Member State to work in another EU Member State under the same conditions as that Member State's own citizens. Despite of this freedom the old member states have been granted the right to limit immigration from Eastern Europe for up to **seven years** due to the fact that the competitive pressure on the labour market for low-qualified workers in the existing EU was considered too high and migration would have been concentrated on certain countries,

In the past, during the gradual introduction of the free movement of workers at the Common Market's establishment, diplomats worried about massive flows from Italy to the other five founding countries. The sentiment recurred at the respective

admissions of Greece in 1981 and of Portugal and Spain in 1986¹, when the introduction of free movement with these labour-sending countries was expected to instigate large migration flows². In none of those cases did these fears materialize after free movement was introduced, since this particular EU provision has never stimulated nor supported large-scale labour migration. The EU's extensive experience⁴ with the introduction of free movement indicates complementing the many political and economic research publications addressing the issue with a historical approach.

Current member states are free to apply national measures restricting the new European Union members nationals from working in their territories for the first two years after accession.

During a transitional period of up to 7 years after accession of 10 member states to the EU on 1 May 2004 (**Czech Republic, Cyprus, Estonia, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia, Slovakia**) and of 2 member states on 1 January 2007 (**Bulgaria, Romania**), certain conditions may be applied that restrict the free movement of workers from, to and between these Member States. These restrictions only concern the freedom of movement for the purpose of taking up a job and they may differ from one member state to another.

Two years after new members' integration, the old member states must decide whether they wish to either grant free movement of workers, or continue to apply national measures for a further **three year period**. After this period, restrictions can be prolonged for a maximum of **two more years**. Current member states who permit free movement of workers for CEEC nationals are free to impose or re-impose restrictions in the first two years after accession. For five years after that date, a member state can ask the European Commission to suspend free movement of workers if it experiences or anticipates serious disturbances to its labour market. A "*standstill clause*" ensures that rights to access the labour market of one of the current member states cannot be restricted further than those prevailing at the time of accession.

¹ Greece joined the EC in 1981, and free movement was introduced for this country in 1988. Portugal and Spain joined in 1986 and were originally scheduled to have free movement of workers throughout the EU in 1993 but actually received it in 1991.

² See e.g.: R.W. Böhning (1972), W. Mole & A. van Mourik (1988), T. Straubhaar (1988), R. Penninx & P.J. Muus (1989), H. Werner (1976 and 1977), G. N. Yannopoulos (1969).

As in 2004, the majority of the EU-15 have placed short-term limitations on the number of new eastern European accession nationals they will allow into their labour markets.

2. Member states' stance on opening national labour market to east-european migrant workers

2.1. First phase (2004)

The enlargement on 1st May 2007 was the hugest one: no previous enlargement has taken in as many countries at once. Fears of massive flows of immigrants from new eastern European countries played a crucial role in debates that led to four-fifths of the EU-15 restricting access to A-8 workers.

Although anxieties still abounded in the **UK**, **Ireland**, and **Sweden**, liberal decisions were possible because the scale and impacts of A-8 migration were estimated to be small. For example, research commissioned by the UK's Home Office concluded that the likely net flows of migrants from new Member States into the UK would be between 5,000 and 13,000 per year between 2004 and 2010. In the UK, unrestricted access was also implemented to address critical low-skilled labor shortages at a time of low unemployment, and in doing so to reduce the demand for illegal workers.

The experience since the 2004 enlargement has not been of large movements of people across the continent. However, the size and impact of migration flows does vary from Member State to Member State and is not necessarily determined by the degree of restrictions imposed. In the main, restrictions have meant that fears of mass influxes of migrant workers have not been realized.³ For example, in 2005, accession migrants (including nationals of Cyprus and Malta) made up 0.1 percent of the resident working-age population in the Netherlands and 0.2 percent in Belgium.

Even in Sweden, where free movement was permitted, accession migration has been low. Only 4,500 A-8 nationals were issued work-related permits during 2005.⁴ There was little labor demand in what is a tightly regulated Swedish labor market, and A-8 migrants may have sought greater employment opportunities in English-speaking Ireland or the UK.

³ <http://news.bbc.co.uk/2/hi/europe/3513889.stm>

⁴ http://www.europa-eu-un.org/articles/sl/article_6294_sl.htm

Between 2003 and 2005, the proportion of new Member State nationals in Austria's working-age population doubled from 0.7 percent to 1.4 percent. Many A-8 migrants in these countries have arrived on temporary or permanent work permits (nearly 900,000 during the first year in Germany), but suggestions of migration through less formal routes are appearing in recent analyses of transitional arrangements, including a report from the European Commission in 2006.

One of the notable observations of the 2004 enlargement has been the effect that restrictive policies have had on diverting larger-than-predicted flows of A-8 migrants to the unrestricted labor markets of the UK and Ireland. For example, between May 2004 and September 2006, around 487,000 A-8 nationals registered academia, government, and business have shown that employment has risen; skill to work in the UK; some of those who registered had been there illegally and were able to become legal thanks to the accession.

These flows have boosted the UK and Ireland's economies. Studies from shortages are being filled; and inflation is being kept low.

Other EU-15 countries, such as Greece, Portugal, and Spain, noted the economic growth in the UK and Ireland and opened their labor markets during 2006. However, proximity and traditional migration meant that Germany and Austria were still wary of entirely opening their labor markets, although recent economic upturn means that this could change before the end of the seven-year transitional arrangement.

The disparity between net and gross flows in both countries indicates that around half to two-thirds of A-8 migrants have already returned home. For example, in the two years since accession, 205,000 Personal Public Service (PPS) numbers (necessary to take up employment) were issued to new Member State nationals in Ireland, compared to just under 65,000 who immigrated on a more permanent basis according to Ireland's National Employment and Training Authority (FÁS).

Economist Martin Ruhs finds that the increase in the stock of A-8 migrants in the UK is 212,000 — far lower than the inflow data presented above. The temporary and economic nature of accession migration means that new arrivals seem to be placing little pressure on welfare systems or public services.

The circularity could also assuage some fears in both sending and receiving countries of a "brain drain" from eastern Europe. There is evidence that A-8 countries are losing their university-graduate workers to better wages and opportunities elsewhere. Indeed, in the EU-15, accession nationals are more likely to have medium-level qualifications than EU-15 nationals. While many skilled professionals have undoubtedly moved westwards permanently, it seems that some are returning with the knowledge and financial capital to fund enterprises or study at home.

In the UK, wage growth rates have slowed and unemployment has increased, fueling more anecdotal claims that migrants are "undercutting local wages" and "stealing local jobs." These have been joined by assertions that some more rural areas that were previously unused to migration are experiencing difficulty providing public services. However, no statistical research documents these phenomena.

During the first phase, three EU-15 Member States (**Ireland, Sweden and the United Kingdom**) liberalised access to their labour markets under national law. The United Kingdom, however, adopted a mandatory Worker's Registration Scheme. Under this scheme workers from the EU-8 Member States must register with the UK Home Office within 30 days of starting their employment in the UK.

The remaining EU-15 Member States maintained their work permit systems, albeit with some modifications, sometimes combined with a quota system.

For instance, **Denmark** issued work permits to EU-8 workers, on condition that their work was full-time and governed by a collective labour agreement or complied with normal standards for the sector/profession. Work permits were issued without a prior examination of the labour market situation, but the applicants needed to be in possession of a residence permit before starting their employment.

France decided to maintain a traditional work permit system with some exceptions for example, for work in the research sector.

Italy combined a work permit system with a special entry quota for workers from the EU-8 Member States. Legislation in **Portugal** also provided for a quota system.

Three EU-8 Member States (**Poland, Slovenia and Hungary**) applied reciprocity to EU-15 Member States applying restrictions.

2.2. Second phase

As required by the Accession Treaty, the Commission drafted a **report** on the first phase of the transitional arrangements. This was submitted to the Council on 8 February 2006.

Following the Council's review of the Commission's report, EU-15 Member States had until 30 April 2006 to notify the Commission as to their intentions for the second phase.

The situation for the second phase is as follows: eight of the EU-15 Member States have opened their labour markets completely: the **United Kingdom, Ireland, Sweden** (which had already opened access to their labour markets during the first phase), **Spain, Finland, Greece, Portugal and, since 27 July 2006, Italy**. The United Kingdom continues its mandatory registration scheme. Finland is at the moment working on a registration/monitoring scheme.

Belgium imposed restrictions on the EU-8 states, but has made it easier since 1986 to get work permits in areas of the economy where jobs are hard to fill. For example, the Brussels region asked for privileged treatment for nurses, plumbers, electricians, car mechanics, builders, architects, accountants, engineers and IT workers.

Denmark allows workers from the eight states that joined in 2004 to look for a job for six months. If they find one, they can have residence and work permits. This system will be maintained until 2009, however the parliament has taken a decision to make the labour market increasingly flexible. The restrictions also apply to Bulgaria and Romania.

Germany and **Austria** have notified to the Commission that they will maintain national measures for the second phase, including in relation to the cross-border provision of services.⁵ Workers from the EU-10 Member States have to apply for work permits, at least until 2009. Both of them justify the restrictions by pointing to their problems with unemployment and the fact that they are geographically close to the new members.

⁵ <http://www.openeurope.org.uk/media-centre/bulletin.aspx?bulletinid=40>

None of the EU-8 Member States have thus far resorted to the safeguard procedure, which would mean that EC law on free movement of workers continues to apply among the EU-8 Member States.

Romania and Bulgaria joined two-and-a-half years after the EU-8 whose workers still face barriers in some European countries.

Some of the countries which imposed no curbs on EU-8 workers - or lifted them in May 2006 - have imposed curbs on Bulgarians and Romanians. The curbs can be maintained for a maximum of seven years - until 2011 in the case of workers from the EU-8 Member States, and until 2014 in the case of workers from Bulgaria and Romania (EU-2).

Most of the countries which have thrown open their doors to Bulgarian and Romanian workers joined in 2004. Of the EU-15 who chose restriction in 2004, only Finland has decided to allow free access in this round of enlargement. Sweden, which had a liberal regime in 2004, will again be open to labor migrants. The UK and Ireland, which allowed free movement to A-8 workers, have applied restrictive measures.⁶

France decided to include Romanian and Bulgarian workers in the scheme on the same terms. The country's social partners are mostly in favour of the immediate lifting of the restrictions, notwithstanding France's 9.6% unemployment rate.⁷

III. Positions on transitional restrictions

The European Citizen Action Service (ECAS) was among the first to compile an overview of the 'transition measures' introduced by the national governments. ECAS has also drafted a series of recommendations to both the European institutions and national governments

Former Competition Commissioner **Mario Monti**, now **chairman of ECAS**, has said that transitional restrictions should be "phased out as soon as possible". "There has been no influx to justify them and the unexpected proliferation of complex national quotas and qualitative restrictions undermines the Lisbon strategy for flexible markets and a skilled, mobile labour force," he said.

⁶ <http://www.migrationinformation.org/Feature/display.cfm?id=568>

⁷ <http://www.euractiv.com/en/enlargement/free-movement-labour-eu-25/article-129648>

Egbert Holthuis, Deputy Head of Unit, Employment Strategy, in the European Commission's Directorate-General for Employment, said the evidence showed that the EU-15's fears of being "flooded" with legal and illegal migrants from EU-8 countries had been unfounded. He emphasised that the Commission considered it "fundamental right" of citizens to live and work wherever they wanted in the Union, and that EU-8 workers filled "skill bottlenecks" in EU-15 countries. The EU-15 face "structural employment problems", with some regions suffering from high unemployment rates while others lack skill workers. While EU-15 workers are unlikely to move to fill these vacancies, EU-8 workers take a more flexible approach to moving to where the jobs are, so their position needs to be regularised and they need to receive proper social protection⁸.

IV. Recommendations

Labour migration between 'old' and 'new' EU Member States benefits both the sending and receiving countries, but action is needed to prevent migrant workers from being exploited. The fears of a 'flood' of cheap labour from central and eastern Europe following the 2004 enlargement had proved unfounded, although many workers had gone to different countries than had been expected.

Even so, member states should allow new integrated states' citizens to work without any restriction, but they could:

- **Repeal or override** the EU legislation which prevents criminals from elsewhere in the EU from being automatically deported.
- **Tighten** access to welfare to avoid legal problems later
- Introduce **style arrangements** with new member states police to share information and ban known criminals from coming to old member states in the first place.

Mr Holthuis suggested regularising the status of thousands of undeclared workers who do not pay tax and thus deprive the EU of funds to support the European social model; ensuring that workers are covered by the labour laws of their host countries, not those of their countries of origin; implementing minimum wage legislation and

⁸ www.epc.eu/en

ensuring that this covers those in short-term, insecure work; and, lastly, improving the collection of data on labour flows.

Martin Ruhs, Senior Researcher, Centre for Migration, Policy and Society, Oxford University considers that there is confusion in the UK about what constitutes ‘illegal’ and ‘legal’ working, and that this enables unscrupulous employers to take advantage of migrant workers. Most EU-8 workers are highly skilled but work in low-skilled jobs, with poor conditions and pay. They are prepared to accept this and use it as a “stepping stone” to better work. Employers favour EU-8 workers because they accept poor wages and working conditions, and have a “good work ethic”.⁹

For employers, EU enlargement has increased their labour supply and UK laws enable them to employ workers on a flexible basis, but this also makes it difficult to retain good employees. As a result, some employers view immigration as flowing like “a rusty tap”, said Mr Ruhs.

A quarter of EU-8 workers in the UK said their working conditions had improved since their country had joined the Union and they found it easier to find work, although most of them (and their employers) were still only in ‘semi-compliance’ with the rules.

The previous accession (2004) showed that migration flows were low and that EU-15 countries’ fears of being “swamped” by EU-8 workers had been exaggerated. While the number of job applications from EU-8 nationals have increased from 16% to nearly 50%, British firms now look to migrant workers to fill vacancies in low-skilled sectors, such as warehouse and distribution, construction, the hotel industry and retail. The same fears have been expressed with regard to Bulgarian and Romanian workers. The restrictive decisions of the majority of the EU-15 Member States are reminders of the broader challenges of balancing free movement and national labor-market protection. In the end, public anxiety over large-scale migration causing competition for jobs and wage depression seem to have prevailed.

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