



CITIZENS' PANEL ON WORKERS MOBILITY RIGHTS

22 November 2006

INTRODUCTION AND BACKGROUND

The Citizens' Panel on Workers' Mobility Rights took place in the Eastman Building, European Parliament, on the morning of 22 November 2006, organised by the European Citizen Action Service. The Panel formed the centre-piece of an international project run by ECAS for the European Union Year of Workers' Mobility. This project also includes a series of national seminars in four Member States to raise awareness of free movement rights and draw attention to barriers to mobility. In addition, ECAS is running the Free Movement Rights Hotline answering citizens' queries about their free movement rights, gathering evidence of positive mobility experience as well as problems with free movement. A report "Who's still afraid of EU enlargement?" was released at the beginning of September. All project outputs will be presented at the closing conference of the European Year of Workers' Mobility in Lille on 11-12 December. This report will be presented by Agata Szarek, a Polish member of the ECAS Panel.

The Panel brought together 14 citizens from 9 member states, who addressed an audience of over 150 people, discussing their personal experiences of free movement and also making recommendations for future EU action. The panellists represented a diverse cross-section of European citizens, spanning different economic groups and ages. The Panel itself was designed with the EU's desire to listen to citizens in mind, thus contributing to "Plan D" as well as the Year of Workers' Mobility. The innovative format formed an opportunity for EU officials, MEPs and social partners to meet and talk directly with the citizens, and the event proved that such citizen participation has not only symbolic but also real value to European "experts" and the EU institutions in producing original suggestions and recommendations.

PREPARATORY WORKSHOP



The panellists met on the afternoon of Tuesday 21 November at the Fondation Roi Baudouin in Brussels for a preparatory workshop, during which they debated free movement in general, as well as discussing ideas for their presentations the following day. The preparatory meeting allowed the Panel to make some changes in the programme and already put forward some

recommendations. The importance of information quickly became a recurring theme, with many citizens pointing out the difficulty of accessing user-friendly information on migration and citizen rights in the EU. Several participants mentioned the “remoteness” of the EU from the “man on the street”; while they themselves did not necessarily subscribe to this view, they felt it was a general perception. Iris Hillman, a French national living in Belgium, pointed out that this remoteness was not a reflection of geographical distance from the EU institutions - she had faced difficulties with local authorities not knowing and consequently failing to implement the EU rules in Brussels - so often thought of as the “heart of Europe”. The vital role of officials who are the point of first contact in local or regional authorities was stressed. Many participants felt that citizens often had a fear of officials, and also that many of them would believe without question what they were first told about their rights. This could often give rise to serious problems, since it was clear from evidence from the panellists and other sources that often regional and local authorities are not well-informed about workers’ rights, and that they can give incorrect, misleading or contradictory advice; in addition, language barriers often presented difficulties. The gap between theory or legislation and implementation was frequently mentioned.

CITIZENS’ PANEL IN THE EUROPEAN PARLIAMENT

Opening

The Panel was chaired by Tony Venables, ECAS Director and Antoine Fobe, the Citizens’ Signpost Service legal expert who together opened the event. After a brief introduction, Tony Venables handed over to two of the panellists: Eve Geddie from Ireland and Stefano Brazzoduro from Italy, who explained the changes made to the provisional programme as a result of the workshop, which would also provide for more time for general discussion. They then presented a summary of the main points from the preliminary workshop.

Ms Geddie stated the aims of the Panel: to share the citizens’ stories and suggest solutions. She said that there had been a general feeling that there was a gap between the theory of free movement rights in the EU and how they worked in practice; a conflict between workers’ expectations as EU citizens and the obstacles they faced. The panellists believed that free movement should be as easy in practice as it was in theory. They felt there had been a problem in that the systems of the “old” Member States had not been well enough prepared for the effects of migration from new Member States. Front-line officials should be provided with information, education and training; there should be a clear set of guidelines on mobility rights.

Mr Brazzoduro followed on from this, after thanking the audience and organisers, by stressing the necessity to make information available to citizens as well. At present the information was too scattered and hard to obtain. He pointed out that this was not solely a problem for institutions to solve, but that citizens should also take responsibility upon themselves in seeking out necessary information. The significance of language difficulties was the final point made; there were problems especially in small towns, where there was a lack of interpretation facilities.

1st issue: Finding a job and getting your diploma recognised

The first speaker to present his individual case was **Ondrej Manda, a Czech national**, who spoke of his experience in Ireland. He compared his experiences



before and after the Czech Republic's accession to the EU. Accession had made most aspects of movement in the EU much easier, but social barriers still existed. He had taken on part-time work, had applied for administrative work but eventually been employed as a factory worker considerably below his qualifications (he has a degree in sociology and economics). Tough market conditions often made it difficult to find work, especially considering language difficulties.

Christophe Audicq, from France, followed, speaking from his experience of a long period of professional service (in the field of international financial services and education in business development) abroad, mainly in the UK. He did not face problems in the UK, he said, speaking positively about a culture of “pragmatism, meritocracy and flexibility” that existed there, which helped him in integration. However, when returning to France, he encountered difficulties in reintegrating, facing problems of transferring skills and competencies and lack of professional support or contacts; he also found that his language skills in English and German were not valued. Mr Audicq then spoke of a need for an executive search programme which could better match highly-skilled professionals to jobs in the EU, which he suggested might be provided by EURES.

Martina Fava, an Italian national, spoke of her largely positive experience as a student in Paris and the UK, and then job-searching in Brussels. She emphasised the need for self-promotion and determination in finding a job abroad, but said there were many things that you could do in different EU countries that were impossible in your home country.

Tony Venables drew attention in particular to Mr Audicq's problems returning to his home country, an issue that is often overlooked but which, he said, was being discovered as a major theme for the Year of Workers' Mobility. Mr Fobe spoke about the legal issues of return, with reinsertion procedures differing between countries; especially if a person was returning to seek a job, some countries provided benefits while others did not. EC law placed the burden on the last country of employment to pay unemployment benefits. He supported to Mr Brazzoduro's point in the introductory statements that citizens needed to be responsible for themselves.

The floor was then opened. An audience member brought up the problem of countries banning double citizenships, so marriage might result in the loss of a national (e.g. Belgian) citizenship. He also pointed out that he knew many people in France who had benefited from language knowledge. In connection with Mr

Audicq's experience, Iris Hillman, a panellist from France, disagreed with the speaker, insisting that France in particular had problems recognising competencies and qualifications gained abroad. This was echoed by a journalist for Esperance-Esperanza, who said that France was "completely behind the times" and that fewer problems were met moving to, for instance, Canada from an EU country than to France. A university lecturer from Slovakia pointed out the great problems faced especially by new Member States in terms of recognition of qualifications. Graduates from his courses in management were still doing jobs far below their qualification level; they were still treated as "second class" citizens, a situation which should have changed now two years after accession.



Concluding this section, Tony Venables said that there was a tendency for policy-makers to look at language as a cultural barrier to mobility, but that it was also a direct barrier to recruitment at equivalent levels in different countries. It could be used as an excuse for recruiting people from other EU Member States at a lower level than their qualifications deserved. Resources for language training should therefore be demanded, to overcome the barriers standing in the way of professionals reaching appropriate levels of employment.

2nd issue: Settling in a foreign country: getting residence and work permits

Radoslav Hajgajda, from Slovakia, was the first to speak. He had faced numerous problems in employment in the Netherlands. Since he could not register with employment agencies as he still needed a work permit, he decided to start work as a contractor - he set up a Slovakian company. However, he could not find anybody to give him legal advice, to properly explain how he could employ people under the cross-border services directive. He also found it difficult to convince local businesses to employ him on a contract basis, as they had little knowledge of EU regulations and feared that employing a non-Dutch national might bring problems. Even after setting up a Dutch company, he did not have the same rights as Dutch citizens, for instance, he could not work for only one employer. The experience in setting up a company showed that the host country could create many small hidden barriers.

Mr Fobe then commented on Mr Hajgajda's case. Some of the problems related to the sensitive issue of the transitional periods for new Member States, which were seen as too long for many. Rules on administration often had not been adapted, and some countries have in place more restrictive rules. But in any case the transitional periods should only apply to employers, not freelancers.

Iris Hillman, a French national, spoke next about her experience for the last three years in Belgium. She had moved there with her then boyfriend, who is a US citizen, and wanted to transfer her right of residence to him under Belgium's

liberal laws on civil partnership. She faced problems in getting her residence permit, as she did not “tick any box” - she wanted to finish writing her PhD (from a French university), living off her own sufficient savings, so she was neither a worker, unemployed, nor a Belgian student. The local administration could not see why Ms Hillman wanted a residence permit, and she quoted one official as telling her, “free circulation of persons doesn’t exist - that’s just for merchandise”. Through her own research and knowledge of where to look and who to ask, she was able to argue with the authorities and back up her case; but she said there was a first barrier of basic ignorance when it came to unusual cases. She was eventually given substantial support, directed to obtain a 6 month residence card so that she could transfer her residence right to her partner - in order to get this, she was told, she had first to ask for the right of establishment, which would certainly be refused, and then she would be given the 6 month permit. She felt she had the “right profile” for the authorities, including being a native French speaker, and that because of this the officials eventually helped her to get around problems. However, she needed much insight and awareness of her own rights, and she said that other people she knew - for instance, gay couples - had been given different advice on the length of residence permit required for a transfer of rights.

She had a suggestion, which she hoped was not too utopian, that a website should be set up, which would start from the individual’s particular situations. From there the user should be able to compare the administrative procedures and rights available in all countries easily. It should be set up by authorities, checked so the advice was legally correct, binding and also be available in translation into all the EU languages.

Tony Venables commented that in theory, if Belgium applied the new directive on residence rights, there would be no need for a residence card. But the abolition of the card was only useful if all administrative authorities followed the directive. The abolition should also be applied to the “first class citizens” of the new Member States.



Vilma Bucaite from Lithuania reported that she had had an excellent experience as a postgraduate in Italy in 2004. In March 2006, however, she was to come to Brussels for a Commission *stage*, and she was told by the Belgian embassy that as a resident of a new Member State, she needed a visa. Obtaining this proved very time-consuming and expensive, and it included the need for a medical certificate proving she was free from a large number of tropical diseases, irrelevant

since she was coming from Lithuania. Mr Fobe said that a visa should not have been required even in the transitional period, and that surely the European institutions should provide correct advice to people coming to Brussels to work for them. Ms Bucaite responded that it was the Commission which had told her to seek information from the embassy.

In questions, an audience member from Poland echoed Ms Bucaite's experience: he had had to provide a book of documents and certificates, confirmed by the Ministry of Foreign Affairs. This took him two months and he had to pay for a visa. He also faced the vicious circle whereby the Embassy told him he needed a work permit, but employers in their turn needed a residence permit to apply for a work permit. He had eventually succeeded, but only after a considerable battle; "you needed to be very motivated, or even desperate, to win the battle", he concluded. Tony Venables pointed out that while there was a highly visible and effective industry lobby for better regulation, there was need of a citizens' lobby for the same.

Geraint Pugh presented an unusual profile, as a national of an old member state (**the UK**) moving to a new one (Poland). Mr Pugh said that mobility was an economic necessity, and that he moved because of a shortage of English teachers in Poland. He mentioned again the lack of citizen understanding of free movement rights, and the convoluted and inaccessible information. But he also said that he had noticed a huge difference after Poland's accession - people were overnight more open and helpful.



An audience member from France spoke of the administrative hurdles faced when moving to other EU states, and suggested that a system of pre-registration would make things simpler; permits and so on could be applied for before leaving the country of origin, which would avoid the economic loss of people expending their energy on administrative efforts instead of working in their first months in a new country.

The university lecturer from Slovakia spoke again of the problems caused by the transitional periods, and pointed out that some countries applied restrictions selectively (e.g. opening their markets for teachers or nurses), which he considered unfair: they should either be open for all or none, and such selectiveness is causing problems of "brain drain" for new Member States.

A German speaker had faced administrative difficulties even between old Member States; for instance, it was very hard to register birth, and often documents were required in translation, which was not easy to find especially in small towns.

A French speaker wondered about addressing questions to the Commission, saying that whoever you asked, you were sent next door; should there not be a particular person to ask questions about free movement rights, somebody who was responsible horizontally for immigration issues?

3rd issue: Social security

Henk Achterberg, a Dutch pensioner, began his presentation by pointing out that despite the youth of many audience members, all of them would one day grow old and he hoped that they would be then well provided for by European legislation. He is currently resident in Sweden. After reforms of the Dutch healthcare service from 1 January 2006, he is now faced with a situation which makes him pay twice: healthcare contributions to the Dutch state, which pays his pension, and contributions to the Swedish government, which provides his healthcare. Over 100,000 Dutch pensioners across Europe were suffering under this new legislation. Tony Venables said that there seems to be a dialogue of the deaf on this issue; pensioners who are paying in both the country of origin and the country of residence have been writing to the European Commission, which says that the Dutch law is in line with EU legislation. There is a tendency, he said, for the Commission not to see where EU legislation might not be working; there seems to be a conflict between the spirit of the EC Treaty and the letter of the regulation. Antoine Fobe referred to a decision made by the European Court of Justice



regarding a French law whereby a tax had been introduced explicitly to redress a deficit in the social security system; a cross-border worker was already paying social contributions in Luxembourg, but was resident in France for tax purposes, and so under this law had to pay twice. The court decided that this was not in conformity with the EC coordination of social security systems. The question was if Mr Achterberg was contributing to social security in Sweden through his taxes. Mr Achterberg said that in Sweden he paid for social security

through taxation; the government was allowed to charge the Netherlands for healthcare, and the Netherlands were then charging him. Tony Venables said that the matter was being pursued after Mr Achterberg had contacted ECAS for legal advice.

The floor was then opened. A person in similar situation - Mr Rob Abbas, now a pensioner resident in Belgium, spoke. He said that the cost of a pensioner living in Belgium was about €4000 per year, whereas in the Netherlands, it was €9000; so if a pensioner moved to Belgium, the Netherlands was in effect saving €5000. Mr Achterberg said that Mr Abbas' point again had to do with the "financial carousel" between Member States, transfers which went on without our knowledge.

4th Issue: Social problems facing migrant workers from new Member States

A spokesperson from Médecins Sans Frontières (MSF), Ms Ildrani Muyltermans spoke about the work of MSF in Europe, giving consultations to people excluded from physical and mental health care, mostly refugees. Now however, MSF took up a particular case of illegal Polish workers. MSF spokesperson spoke about the case of

a Polish woman, who came to Belgium to find a job. Since she was unable to do so, she took on illegal work, and when she fell ill she had not enough money to pay for her own medical treatment. Her medical insurance in Poland had been cancelled, and in fact she was worse off as an EU citizen than she would have been as a third country national, since she could not access help for illegal workers. Mr Fobe said that it was difficult for him to comment on this issue, and pointed out that this migrant worker would have equal access to health care once she was integrated into the system. There was a problem since as an illegal worker she was dependent upon social assistance without having made contributions to the social security system. Tony Venables stressed that this was a case of people falling sick after working, not a question of “benefit tourism”. He reported a decision by a Belgian court that a Polish worker should go back to Poland for treatment; surely this was a disproportionate response and EU citizens should be entitled to health care in all the member states regardless of their status.

A speaker from the Barka foundation - Polish Foundation for Mutual Help active in the field of migrant workers’ integration in the UK then intervened, speaking of their work, which they had been carrying out for sixteen years. In August, they had been invited to London to address the problem of Polish migrants who end up living on the streets, and met with the consulate representatives. The Polish Consul General said that individuals ended up homeless for several reasons: they were often ill-prepared for migration, became the victims of criminal gangs, lost their jobs, became the victims of illegal practice by employers, or moved as homeless people from Poland to the UK. They had formed a Polish-British Mission for Employment, attempting to provide a safety net, and better prepare people for migration. She said that work should be done in the country of origin, and that their network should be broadened to form a pan-European network for the integration of migrants.

Mr Jan Masiel, MEP, spoke in regard to the Médecins Sans Frontières case, saying that there was a law in Belgium which said illegal workers or residents are entitled to free medical aid; although it was often difficult to get, because hospitals could refuse. Should not this law be applied to Poles who are working illegally now, after the accession of their country to the EU? He spoke also of his own double contributions - being paid by the Polish Parliament, he now pays social security contributions both in Poland and in Belgium, but expects only to have one pension when he retires.

5th Issue: Cases of abuse

Joanna Kasztelan, from Poland, spoke of her troubled contact with employers in Ireland, where she found a job in a bakery. She was made to work very long hours, but knew that it would be difficult to find anything else without language skills. Eventually, she did find a better job through friends, and when she told her employer, mentioning her right to leave after two weeks’ notice, she was abused, intimidated, and made to work even



harder. She was not paid after those two weeks, and told that she was “trying to be clever” coming to Ireland as a Pole. She found legal advice and tried again to talk to her employer, but he told her he would not pay her. He insulted her, pushed her out of the shop and forbade her to return. She then waited for the money, tried to call her employer, and eventually did return to the shop, saying that she would report him to the trade union, at which point her employer finally gave her the money by throwing a cheque in her face. Ms Kasztelan said that she would like easier access to information about rights.

A Czech panellist who preferred to remain anonymous gave further evidence of abusive employers. She had found a seasonal job in the UK through Czech agencies, where she worked very long hours picking fruit on a farm and was not paid overtime. When she was not paid for four hours of work once, she went to her employer several times and was only laughed at. She said she felt like a “second class” citizen. Finally, she phoned an organisation which was responsible for seasonal workers, and was told that she was fully entitled to be paid for those four overtime hours. She told the farmer that she had called this organisation, and was then taken seriously. She told the audience that out of 80 people on the farm, she was the only one who tried to defend her rights.

A Polish panellist who preferred to remain anonymous then spoke of his experience in the UK and France. In the UK, he said, there was frequent exploitation, and people were thought of and treated as stupid if they did not speak good English. His focus was on France, though, where he was a witness of terrible abuses of temporary workers. A fellow temporary worker who had complained about his working conditions had been badly beaten by his employer. The worker ended up in hospital, and his employer was taken to the police, but they took no action. In twenty-first century Europe, he said, people should not be beaten up. He suggested that there could be a system put in place to ensure the legitimacy of employers and job agencies, which could utilise the current system of job centres. In this way people could check before they leave that they were not signing up to an abusive or illegal job.

The presentations were concluded by **Agata Szarek, a Polish national** resident in Ireland. She spoke very positively of her own experience - saying that she is happy in Ireland. She admitted that she went there to find a job and get better money than she could in Poland; she set up a successful grocery shop, and she said that now she wants to give something to Ireland and to her community. There were many Polish immigrants in her small town, to whom she gives help and advice as best she can, especially that they do not know their rights. They are unaware of where to apply for PPS number (Revenue and Social Insurance Number) (needed for everything in Ireland) or for benefits; they do not know the minimum wage. According to her, the Polish consulate should take some responsibility for helping immigrants, but that they were woefully understaffed - she believes there are the same number of people working there as ten years ago, when the numbers of Poles in Ireland was many times less. If the authorities were happy because unemployment had fallen in Poland, it was probably because many Polish people had left to work abroad, so they had a responsibility to help them. The Polish authorities should let people know what to do before they leave; it was not fair to open the borders, and then forget about people, not to give them any further help.

Small things were extremely difficult in a foreign country where you did not speak the language, for instance sending money home - Ms Szarek said she knows all the PIN numbers of the Poles in her town, since she does so many banking operations for them. She also spoke about a case where a young man had died unexpectedly, and his wife, who was newly arrived in Ireland, called her from the hospital; she could not speak English and had problems communicating with the doctors. Later on, it appeared that she had no PPS number of her own, and no idea of whether she could obtain benefits or how to do so. Ms Szarek suggested that there should be a database of interpreters, perhaps in the capital city, which could be consulted by local authorities in similar cases. She finished by reminding the Polish government that they should look after emigrants, since they can still vote.

General discussion

Tony Venables suggested that these case histories illustrated more general recommendations:

- Better information before departure is needed. Information, he stressed, was not a neutral issue; lack of information opens people up to exploitation.
- Implementation and enforcement of existing laws is necessary; there is no need for further laws.
- Issues surrounding the labour market are not being taken care of; there is a need for more active NGOs, and serious resources must be put into it.

A speaker from the audience emphasised that workers' mobility is not a fringe benefit, but rather one of the principal rights of the EU. The Commission, he said, should take responsibility for workers after it granted them the right to free movement. The lively discussion that had taken place today showed that this was an issue which could incite enthusiasm among EU citizens - perhaps the Commission could generate support for its actions in this area through showing concrete benefits for its citizens.

Ms Jean Lambert, MEP, spoke of having done a lot of work around issues of free movement and migration. She agreed with much of what had been said. She thought that Member States had imagined that immigration from EU countries would present less of a problem than immigration from third countries, so they didn't need to take the same measures on the grounds that they were "more like us". But the issues remained the same, since after all migrants from other Member States were also human beings. The need for information, knowledge about your rights and so on was exactly the same. The issue of preparation was absolutely key; she said a lot of people saw moving to new EU countries as fun, with no idea of what they were coming to, what they would do, or the cost of living. She also said that the current debate on integration of third country nationals needed



to be extended to integration in general. The question of whose responsibility it was to provide information needed to be discussed; right now nobody was taking real responsibility, apart from the EURES website, which necessitated a very good reading level and familiarity with the vocabulary. Information should be readily available, coordinated across the EU by the Commission, but the countries of origin also needed to give information, and she stressed that that meant all countries, not just the new Member States. She praised the actions of trades unions in regard to migrant workers' rights.

Ms Sarah McGarrol, from Citizens Advice Scotland, spoke of the role they played, and said that they had heard many examples of problems similar to those already presented. Her organisation was in a good strategic situation in Scotland, able to negotiate with trades unions and the Scottish government, and they tried to provide an up-to-date and accurate information service. She hoped that people were aware of Citizens' Advice International, and she hoped that they could liaise better with other citizens' organisations.

Tony Venables said that the idea of a network for the integration of migrants should definitely be pursued, and that the EU could help make it happen - it had responsibilities and also resources.

Mr Philip Burke spoke, representing the Simon Community, which has been working for the homeless and socially excluded in the UK since 1963. He pointed out that the economy is booming with the arrival of migrants, especially from Poland, but on the other hand homelessness is also rising. There is no support for these people who are not able to integrate; he said, adding that not everyone can be a builder or a plumber. There is no safety net, and the problem is left to grassroots charities, which cannot cope with the numbers. The emphasis should be on prevention. There are always people ready to exploit others, especially when there is a language barrier; he emphasised the need for the Commission to act now, by funding centres for social integration, especially in areas with high numbers of immigrants. He finished off by underlining that the Treaties' provisions on free movement rights should be honoured. The university lecturer from Slovakia spoke again and said that people should be the centre of attention, and that there should be a Commissioner directly responsible for free movement.

Ms Sophie Germont reiterated the idea of using EURES, for information and not just for contacting employers and candidates. A Polish speaker said that local networks should be utilised to provide information, and in particular the church, which was still an important force in the community in much of Eastern Europe.

Mr Masiel, MEP assured his Polish compatriots in Ireland, the UK and Scotland that he would speak to the political powers that be in Poland so that something be done, so when Poles went abroad they had support from social workers and interpreters. The European Commission should also cover some of the assistance given to Poles, for example in London, and finally the Polish government should also be responsible.

Conclusions

Tony Venables said that the Panel had been an extremely positive experience, and he hoped there would be many more citizen panels; he and Mr Fobe as experts had learnt a lot from the event. As for action, a pressure group should be formed taking the report to the conference in Lille. Responsibilities should be fixed. MEPs should be the first allies of citizens in improving mobility rights; free movement is a constitutional right. Governments and civil society also need to take responsibility, working in partnership with the EU and local authorities.

The Panel's main recommendations, as set out by Ms Geddie and Mr Brazzoduro, were as follows.

- The importance of a strong political commitment from the EU and Member States - in their capacities both as countries of origin and countries of destination of migrant workers - in favour of free movement of people, to close the gap between basic Treaty provisions and actual practice on the ground.

- The creation of 'citizens-EU' - a single authoritative source of legal and practical information agreed between the Commission and Member States which would allow citizens and officials access to a data base on rules and their application.

- Training and resources for first-contact officials, which should include easy access to interpreters as the language barrier remains the most acute problem for integration.

- The possibility of giving more competences to job centres which could provide more services for migrant workers - in particular checking the credibility of job offers and informing people of their European rights.

- The possibility of a personalized number to make it easier for citizens to switch social security and tax systems. The case for a European entitlement number appears good at a time when residence cards are being phased out which will reduce red tape but also leave some people in a more vulnerable situation.

