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SEMINAR

“Seeing the wood for the trees after the Year of Workers’ Mobility”

RECOMMENDATIONS FOR POLICY ACTION ON WORKERS’ MOBILITY

SKETCH OF RECOMMENDATIONS FOR DISCUSSION AT THE SEMINAR
ON 16 MARCH 2007

I. BACKGROUND

The Year of Workers’ Mobility in 2006 raised awareness and the need for a mobility culture in Europe. The 31 projects, the opening conference and the closing event in Lille on 11-12 December showed that across different disciplines and institutional settings, whether governmental, non-governmental or in the private sector, there is a significant level of consensus about follow-up measures. This includes greater synergy at the policy-making level and more networking among the different actors themselves who were brought together by the year. ECAS’ aim is that the seminar on 16 March should formulate recommendations. To help that process, this outline sketch is now launched and we hope that it will be changed and developed by the contribution from speakers and the debate.

The seminar on 16 March is the final event of the ECAS international project “Workers Mobility in EU-25” carried out by ECAS for the European Union Year of Workers’ Mobility. It aims to pick the threads of all the ECAS projects and Years activities together and with benefit of hindsight come up with policy action recommendations.

This project comprised four national seminars in four Member States to raise awareness of free movement rights and draw attention to barriers to mobility:

- 16-17 June in Szeged - “A Regional approach to free movement of workers: labour migration between Hungary and its neighbouring countries”;
- 3 July in Dublin - “Promoting Equality of Participation for EU Migrants in Ireland”;
- 30 October in Prague - “Social-Cultural Barriers to Migration”;
- 23 November in Warsaw - “Polish workers mobility: brain drain or a chance for better integration with Europe?”

In addition, ECAS was 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 widely discussed report “*Who’s still afraid of EU enlargement?*” was released at the beginning of September and presented by ECAS’ Chairman Mario Monti at a meeting with MEPs in Strasbourg.

The Citizens Panel - an innovative, experimental activity, much in line with the Commission's "Plan D" - where citizens themselves acted as experts on labour mobility took place on 22 November.

All project outputs were presented at the closing conference of the European Year of Workers' Mobility in Lille on 11-12 December.

The draft recommendations are based on the following considerations:

Despite favourable opinions on European free movement rights, there is no European mobility culture

A Eurobarometer survey published in early 2006 (no. 64.1) on geographical and labour market mobility showed the European Union has a strong mandate from public opinion to act in this area. When asked about what the EU represents for them, 53% of citizens say "freedom to travel and work in the EU" - by far the most popular answer, well ahead of the Euro (44%) and Peace (36%). On a more personal level, Europeans have positive views on the benefits of long-distance mobility (46% are in favour, with only 11% against), but they are much more doubtful about its impact on family life. They are also positive about the actual experience if they did decide to move. However, the absence of a European mobility culture is shown by the fact that twice as many people in the more mobile countries (i.e. Ireland and Slovakia) see working in another EU country as an opportunity than in the less mobile countries (i.e. Greece and Cyprus). Contrary to the popular assumption that for economic reasons the new member states all share an interest in European free movement, opinions are as varied as they are in the old member states¹.

*"EU citizens are also confident that the Union has lifted most administrative barriers for those who wish to find a job in another EU country. When asked about the difficulties they would expect to encounter if they wanted to move to another Member State, EU citizens first quote a lack of language skills (approximately 50%), or the difficulty in adapting to a different culture (20%). Relatively few (less than 15%) quote access to social protection or social services as potential barriers, and less than 10% of them believe that they would have difficulty in having their skills and diplomas recognised or that they would have trouble obtaining a working permit."*²

Despite high levels of mobility on certain long-distance trajectories or in some border areas, the overall level is low

As a result of the Year, more is known about the contradictions and paradoxes of European public opinion, and also how these are echoing an equally complex economic situation. The overall low level of mobility - less than 2% of all EU citizens live or work in another member state - has not changed as a result of enlargement. The Commission report on the functioning of the transitional arrangements for free movement of workers from new member states showed that there had been no massive influx. The ECAS report, "Who's

¹ During the ECAS seminar in Prague, research conducted by RILSA - Research Institute for Labour and Social Affairs in Czech Republic was quoted, which shows that "total migration of Czech citizens to the states of "Old Europe", for reasons of work, is not imminent, and its extent and nature, by Czech citizens, does not threaten Western European labour markets at all."

² Eurobarometer 64.1 on geographical and labour market mobility

still afraid of EU enlargement?”, written by Julianna Traser, concluded that the number of EU-10 nationals residing in EU-15 states is only around 0.2% of the total EU-15 population, and that transitional arrangements were not justified. Since economic forecasts of future mobility were unreliable, and could well over-estimate or under-estimate numbers, it would be preferable for the entry of Romania and Bulgaria for member states to first see what happens in practice, and if necessary apply the safeguard clause rather than a variety of transitional measures. Unfortunately these recommendations were not followed, even though they would have made sense from an economic standpoint.

There is no European pattern of cross-border mobility, commuting or long-distance mobility. It is also becoming clear that classical economic theories of migration as a win-win situation are becoming more nuanced and that broader factors are being taken into account, such as the role of networks between sending and receiving countries³. As one report puts it: *“European regions with skills shortages and low unemployment often exist side by side with regions with skill or general labour surpluses and high unemployment.”*⁴

At the same time, in other border regions or on longer distance trajectories such as 198,000 Polish and other new member state communities in Ireland or 447,000 in the UK or roughly equivalent numbers of Romanians and Bulgarians in Italy, Spain or Greece, intra EU free movement is at a much higher level. Such paradoxes lead a World Bank report to conclude that:

*“While the mobility of factors within and between countries should lead to a more efficient allocation of resources, the gains may not be evenly distributed across territories and the resulting income distribution may not be desirable. This provides for a potential role for regional policy.”*⁵

Despite the legal framework and judgements by the European Court of Justice, people are not convinced that European free movement works properly

The gap between the case law of the European Court of Justice, the legislative framework and the way European citizens are treated in practice was one theme of ECAS events during the Year, particularly the Citizens’ Panel on 22 November 2006. On 24 May 2006, an event organized by ECAS on European Citizenship brought together speakers from the European Court of Justice and the European Commission to examine the 30 judgements which have given real substance to Treaty articles on citizenship and equal treatment. The Court is developing free movement as a fundamental citizens’ right, and considers that it is up to member states to justify any restrictions as proportionate. The Court strengthens the position of the European citizen. The follow-up to the Year also coincides with a period of implementation of new simplified and consolidated legislation on the co-ordination of social security for migrant workers, free movement and residence, and recognition of professional qualifications. There are still areas such as taxation, governed by bilateral agreements rather than European legal framework. The main emphasis during the year, however, has been on enforcement of EU and national law, rather than new

³ “Economic emigration of Poles to Ireland”, prepared as the background document for the ECAS seminar in Warsaw.

⁴ Chapter 5 of the European Commission’s 2006 report on employment in Europe

⁵ World Bank EU8: Quarterly Economic Report, September 2006

measures. The gap between the fine principles and how people are treated in practice is illustrated by transitional arrangements and other less legal restrictions:

Transitional arrangements

The Year of Workers' Mobility encouraged some progress towards phasing out the transitional arrangements for new member states. In addition to the three old member states - Ireland, Sweden and the UK - which originally opened up their labour market on 1 May 2004, a further five decided to do so. However, this trend was to an extent offset by transitional arrangements being imposed by 15 out of 25 member states on workers from Bulgaria and Romania after 1 January 2007. A new report for ECAS is likely to show that those who wished to do so left the two countries to work in the EU before accession. Transitional arrangements are a temporary phenomenon and phasing them out or making them more flexible should be encouraged, particularly given the positive economic experience of the UK and Ireland after opening up their markets. There is evidence that transitional arrangements do widen the gap between the principle of free movement as a fundamental right of European citizens and how they are treated in practice. People feel treated or are treated as "second class" citizens, particularly when limits on access to the labour market spill over and create restrictions on other European free movement rights, such as residence⁶.

Other problems

The difficulties created by transitional arrangements added to other problems in the application of EU law by national authorities:

- New directives on free movement rights for European citizens and third country nationals should have come into effect in 2006. The Commission had to launch infringement procedures against 17 member states for failure to implement the European citizenship directive by 30 April. Changes in the regime for residence - the abolition of residence cards and in visas for family members - resulted also in confusion among citizens, not knowing what their rights were.
- As pointed out by a member of the ECAS Citizens' Panel, "small things were extremely difficult in a foreign country", especially when you do not speak the languages and are not properly informed. "Red tape" in translating official documents and having them recognised, delays in recognition of professional qualifications, persuading often reluctant officials of your European rights are all commonplace for those on the move.
- From the conferences, replies to a questionnaire and evidence from the Citizens' Panel, it has become clear that there is an issue with the exploitation of migrant workers' ignorance of their rights. They often leave without any prior information except for a contract from a temporary employment agency. They complain when it has become too late: the promised job is not available or they are made redundant and owed salary by the employer. Such exploitation raises issues of enforcement of national labour law. It also shows that although the information is available, and increasingly so in migrants'

⁶ This is a widely reported view, mentioned also during the Citizens Panel and also during all the seminars organized by ECAS, the transitional arrangements undermine the concept of European citizenship.

languages, it is not reaching them at the right time or in an easily understandable form.

The economic analysis of labour migration as a win-win situation becomes more nuanced but there is a consensus that circular migration is a positive phenomenon to be encouraged

Economists now acknowledge that hopes and to some extent fears concerning labour migration are justified. The principal point, however, is that the real impact of migration is generally positive: the reduction in wages of local employees is of a relatively low degree⁷, and the majority of migrant workers are not a burden for social security. Indeed, the result of migration is an increase in GDP⁸.

In the sending countries the fear often pinned to migration is that of “brain drain” and “youth drain”. Economics acknowledge this concern but counterbalance it with hope that the “success stories” of well-educated people who left may inspire others to invest in their education (and especially in language training). There is also interest in making it easier to fill vacancies in the sending countries by opening the labour markets to the nationals of neighbouring countries like Ukraine, Belarus and Russia.

Ambivalence can be also found in the case of financial transfers. These have a definite positive impact on the standard of living and decrease of poverty of emigrants’ families. Nevertheless, this positive impact is counterbalanced by the risk of developing social and professional inactivity. Finally, it is sometimes thought that migration can counterbalance the effect of the ageing population; still, this appears to be only a short-term phenomenon.

There is now a wide consensus that circular migration is the most desirable pattern. As the experience of Central European countries in 80s and 90s has already demonstrated, the wave of return migration became the driving force of their economies. If an adequate policy is developed, this experience could be repeated. In favourable conditions migrants can invest their savings from abroad as well as new skills in their own enterprises and thus also create new jobs.

II. **RECOMMENDATIONS**

1. **Create a single authorised source of information**

There is a need for a common official source: information is available, but it is much too scattered and not always reliable. The idea from the ECAS Citizens’ Panel is 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 database on rules and their application.” As proposed by one of the members

⁷ Increase of number of workers by 10 % causes an increase of GDP by 0.1 -0.5% (according to Maciej Bukowski, Warsaw School of Economics).

⁸ Increase of number of workers by 10 % causes a fall of wages of local workers by 1-3% (according to Maciej Bukowski, Warsaw School of Economics).

According to the study of Ernst&Young, in 2006 Polish people working in the Great Britain generated 0.2% of GDP and contributed £300 mln to the British budget in income tax.

of ECAS Citizens' Panel, the ideal would be to make such a source legally binding. Such a reference point does partially exist on the Europa server but in a scattered form. The need for a single source is also apparent for public and private organisations to draw on when they produce more targeted guides for particular professional or population groups, for particular regions or in different languages. The EURES website is now much commended as a source of information on the job market and legal conditions for work in the EU countries. Nevertheless there is still room for improvements as not enough attention is attached to checking details and updating the information.

2. Develop a “cascade system” covering formation, advice and problem solving

There is the basis of such a one-stop shop at EU level. Europe Direct is the first to receive inquiries through e-mail or the single free phone number, and then sends more difficult questions to the citizens' signpost service (CCS) for advice. In turn, Solvit is a mechanism functioning as a clearing system among national contact points to solve problems within a specific amount of time. More synergy between these services should be encouraged, and they should work together with others, particularly EURES and more specialised services for researchers or consumers, so that requests are targeted to the right service. In turn, there is a need for cooperation in a cascade system with other mechanisms for redress: formal complaints to the Commission and other authorities, petitions and requests to members of the European Parliament and the European Ombudsman. As free movement of people acquires a more regional dimension, the role of decentralised services connected to mobility such as those for the recognition of diplomas and qualifications becomes more important. There is a need to establish common quality criteria for such services, which currently perform to highly variable standards, depending on resources and the extent of political support at member state or regional level.

3. Create European networks among different cascade systems

A call was made by the Barka Foundation (Poland) during the Year for a migrants' network⁹. The need for networking is evident because free movement of people in the Union tends to be concentrated and is also temporary. 80% of problems facing migrants should be solved at the preparatory stage before leaving - for example, by producing a guide to living and working in Ireland in Polish and distributing it in the country of origin, or completing administrative formalities in advance. Even though Internet skills in Europe leave much to be desired, the surveys conducted throughout the Year point out that the Internet is the main source of information for would-be migrant workers. This hint should not be ignored¹⁰.

Whilst emphasis is placed on the integration of migrant workers and their family in the host country, not enough has been done to respond to the short-term circular nature of more modern mobility by mostly young people. Pre-departure advice should be linked to services available in the country of destination, i.e. through one-stop shops (see below) which should also help prepare for people's return to their country of origin. One of the

⁹ The same idea came from the seminar held in Dublin where the positive experience of collaboration between Irish Citizens Advice Bureaux and their Polish counterparts was showcased.

¹⁰ Likewise, the very first experiences of commercial services oriented towards migrant workers – such as bank accounts which can be opened, residence card or and health insurance dossiers pre-registration which can be filled before departure, show that such solutions are possible, cheap and convenient.

discoveries of the Year was that even within large companies not enough is done to prepare for the return of employees to their own country. This effort to accompany migrant workers and their families should not require new services but cross-border cooperation among those that exist, which can be achieved for example through cohesion fund programmes. ECAS for instance organised events in Dublin and Warsaw, which were linked together to encourage networking. Many other projects did the same, particularly in border regions.

4. Set up a European mobility training programme

Before enlargement on 1 May 2004, the need for EU policies in this area was less self-evident, with the result that training related to free movement of people is scattered across different Commission directorate generals and often absorbed in larger programmes administered for the most part at member state level. Existing resources, both European and national, can be brought together to target different needs:

- **Language training** for migrant workers and their families is the highest priority. Lack of language ability can be a barrier to knowing one's rights and pave the way for abuse. It makes integration with the host community difficult and encourages the creation of parallel cultures and tensions. It also appears to be one reason why applicants accept employment well below and often unrelated to their professional qualifications.
- **Training of front-line officials** in direct contact with people on the move in town halls, job centres or specialised agencies was identified as a primary task by the citizens' panel. The more scattered the services, for example in small towns or rural communities, the greater the need. Front-line officials are those immediately responsible for the delivery or the denial of European rights or entitlements to social benefits and play a key role in determining the success or otherwise of moving to another EU country.
- **Training of the legal profession, but also information and advice services,** both European and more regional, although self-evidently needed, has so far been limited to small-scale programmes or seminars.
- **Lifelong learning** is the way to capture the potential of the migrant workforce. The role for an active policy on labour migration is to encourage good integration of migrant workers in the host economy by facilitating the recognition of their qualifications and diplomas. This should be combined with vocational training in the countries of destination in order to ensure that people can use their full potential. In this way migrant workers can contribute even better to the host country economy and then, if they decide to return home, they also bring home new skills and contribute to economic development.

5. Phase out all national transitional arrangements within two years in favour of better labour law enforcement.

Whilst transitional arrangements are mentioned as a significant barrier in their own right, debates during the Year showed that they are also political and psychological obstacles to making progress in other areas. The experience of the countries which have opened up their labour markets has revealed not only the favourable impact of free movement from new member states on growth rates and tax revenue, but also a very low demand for social assistance and evidence that the migrant workforce is complementary to rather than competing with the local labour force.¹¹ With concerted European actions to eliminate the restrictions, a more even spread of migration and matching of supply and demand for labour might be achieved. “Member states should build a positive, welcoming attitude towards EU migrants and assess the contribution they make in economic, demographic and cultural terms. Instead of restricting access to the labour market and taking the risk of irregular migration, a liberal approach should be taken in order to increase participation in the white economy and subsequently “earn the rent” of migration.”¹²

The pressure to maintain transitional arrangements has come not so much as a response to sudden influxes of job seekers from new member states, as in response to particular instances of “social dumping”, breaches of labour law, collective agreements or the minimum wage, and other forms of exploitation of migrant workers themselves. These problems could be better dealt with by other means. To a large extent, this is an issue of applying national law and EU principles of equal treatment on employers rather than new regulation. Circular migration can be vulnerable to cross-border abusive practice. It should not include the freedom to exploit job seekers with false offers of a paradise in the EU. An EU alert system is needed to outlaw misleading and illegal practices by temporary employment agencies hiding behind national borders.

6. Create regional one-stop mobility shops

The lessons of the Year of Workers’ Mobility and economic studies published in 2006 came too late to influence negotiations on the future cohesion funds for 2007-2013, even though much points in the direction of more responsibility for regional authorities, to achieve a better distribution of migration and matching of supply and demand for labour across borders. Particularly at a more local level, the needs extend beyond information and advice on European rights to more practical issues such as access to training, housing, working conditions and participation in the life of the local community. One stop shops bringing together information and advice services, statutory bodies, employers and trade unions, training organisations as well as associations of migrants with local community groups should be encouraged. As stressed in “The Principle of Partnership in the new ESF programmes (2007-2013)¹³”, produced by a group of managing authorities for EQUAL in some areas, grouping together diffuse services and disciplines is not just an issue of added value, it is the best way to operate. “Building bridges,” “interfaces” or “one-stop shops” that bring together different and uncoordinated services and support structures can

¹¹ See quarterly reports by the Home office in the situations for the UK

¹² Julianna Traser, *Who’s afraid of EU enlargement?* p. 45 recommendations

¹³ Equal Managing Authorities, *The Principle of Partnership in the new ESF programmes (2007-2013)*, June 2006

resolve difficulties that, in isolation, individual organisations would be unable to deal with.”

One of the overall conclusions from the ECAS seminars organised by the Citizens Advice Bureaux in Ireland, Czech Republic and Poland was that NGOs are considered a trustworthy source of information and help. They often play the role of first contact point, and then direct migrants towards trades unions or professional associations and facilitates contact with local authorities¹⁴.

A significant result from the Year of Workers’ Mobility and the economic studies is that policy makers can distinguish between different levels of regional mobility and also different types of mobility: more geographical (i.e. North to South) or occupational (East to West) and in terms of age, sex, or distance (commuting across borders or temporary but more long-distance or more permanent movement). There is still a need for more up-to-date and accurate data to monitor changes which may be rapid and unexpected. Policy makers, do, however, now have at their disposal better “mobility maps” to be able to decide how to allocate resources where they are most needed. For example, they may decide to concentrate on areas where there are high levels of exports of labour and a brain drain phenomenon on the one hand, and high imports of labour to new areas on the other. Regional policy and cross-border cooperation can help make the interests of exporting and importing regions complementary rather than competing since mobility is largely temporary. Conversely, regional policy in border areas where mobility appears artificially low can help open up visible and hidden barriers. “Cohesion between border regions should be strengthened by means of cross-border investments and may help activate local economies and give an incentive to workers to favour short-distance mobility (or commuting).”¹⁵

7. Create a European citizens card

In order to make it easier to move around Europe and reduce red tape and the need to produce and translate personal documents, a European citizen’s card should be considered. The European health card is a step in the right direction, replacing the E111 forms, but there are more in this “E” series, as well as birth, marriage and other personal documents. The Citizens’ Panel of 22 November advocated “the possibility of a personalised number to make it easier for citizens to switch social security and tax systems”. Such a card could facilitate cooperation between authorities responsible for the coordination of social security arrangements, whose work is complicated by more complex patterns of temporary migration, with people moving more quickly in and out of different national systems. Furthermore, migrants and their family members have not necessarily seen the abolition of residence cards as marking progress towards European free movement because they fear it may leave them in a more vulnerable situation when they claim entitlements or their rights as workers.

¹⁴ The conclusions from the speeches of NGO representatives at ECAS seminars in Warsaw and in Dublin.

¹⁵ Julianna Traser, *Who’s afraid of EU enlargement?* recommendations – p. 45

III. CONCLUSIONS

The European Year of Workers' Mobility was essentially an awareness raising event, and it showed that whilst free movement of people has popular support, it is still under-developed. There is no doubt that Union citizens are adjusting slowly to more of a mobility culture, as economic studies in 2006 showed, but there are wide discrepancies between countries and cross-border regions. There is therefore scope for some regions where migration is at a low level for demand to catch up. The overall positive effects of free movement of people has been shown by the Year in both opinion surveys and economic analyses but the evidence has also demonstrated the need for a broader set of policy instruments, to meet a wider range of problems. So far the EU has concentrated less on legal and administrative barriers to mobility and should continue to do so, because those are still gaps and problems of poor enforcement and these are the areas most within its competence. However, more attention needs to be devoted through cohesion policy to the regional dimension, social problems, language training, housing and working conditions. The need for one-stop shops and creating European and local multi-disciplinary networks has become self-evident particularly in regions sending or receiving significant numbers of migrants. As mentioned in the introduction, the Year has helped bring together dispersed governmental, non-governmental and commercial actors, a tacit recognition of the added value of partnership.

A great amount of research was carried out throughout the Year- opinion polls and surveys seem abundant. Yet, there seems to be a discrepancy between the opinion surveys and the decision making. Citizens should not be just observed, they should be given a more active role. Having experimented with citizens' participation methods, ECAS does advocate the involvement of citizens "on the move" with direct experience of EU regulations in policy recommendations. Many fresh ideas and simple but clever solutions will come from such an exercise.

In the same vein, to encourage this development from the top down as well as from the bottom up, ECAS' Chairman Mario Monti made the suggestion on 21 February 2006 at the launch conference of the year of workers' mobility to create a new version of the Veil group, whose report and 85 recommendations were the origin of the current phase of legislative activity which is now coming to an end:

"The group created an overview taking evidence and ideas from different departments across the European Commission. At ECAS we constantly advocate the need for such a holistic approach. This is because people on the move naturally have a bundle of questions ranging over different areas of community law and policy. Free movement of workers is affected by legislation related not only to the workplace and social security but also to recognition of academic and professional qualifications, family law issues and the Union's programmes for training and research. The mechanism provided by the Veil group was useful even though now there has been more progress so that there would probably not be a need for 85 recommendations."

Indeed, the requirement now is to analyse how legislation and the case law of the Court can be better enforced to close the perceived gap between the theory and practice of being a European citizen. As a result of the Year, the need for an exercise creating an overview of different policy areas is also even more apparent, as the issue of free movement of people becomes linked to a broader range of programmes.