

REPORT ON SEMINAR

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

RECOMMENDATIONS FOR POLICY ACTION ON WORKERS’ MOBILITY

16 MARCH 2007, Brussels

The seminar on 16 March was the final event of the ECAS international project “Workers Mobility in EU-25¹” carried out for the European Union Year of Workers’ Mobility. It aimed to pick the threads of all the ECAS projects and Year’s activities together and with benefit of hindsight come up with policy action recommendations in the field of workers’ mobility.

With this purpose, ECAS presented a “**Sketch of recommendations on workers mobility**” already in February 2007. This document summarised the main reflections and recommendations put forward during the activities run in the framework of ECAS project as well as other events during the European Year of Workers Mobility.

On 16 March, at the seminar “**Seeing the wood for the trees after the Year of Workers’ Mobility**”, ECAS assembled a multidisciplinary group of experts with the aim of developing the initial recommendations and make them more authoritative. The recommendations have been reviewed and are published as a separate document. This

¹ 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.

report and the recommendations can feed into the Commission's Action Plan on Mobility, likely to be published before the end of 2007. ECAS believes this document can substantially contribute to EU policy-making in the area of workers' mobility.

The seminar was chaired by **Mario Monti**, ECAS Chairman, former Commissioner for Internal Market (1994–1999) and Competition (1999-2004), President of the Bocconi University Milan-Bicocca and the Bruegel think-tank. In his opening statement, he underlined the point that not only ECAS but also the broader community was placing high expectations on this event. The event was co-chaired by **Vanessa Turner**, partner at Freshfields Bruckhaus Deringer and **Tony Venables**, ECAS Director.

Tony Venables outlined the programme for the seminar (see annex). He considered that the success of EYWM was in bringing together many different stakeholders: governments, local authorities, entrepreneurs and NGOs, as well as showing that all these actors were speaking a similar language. ECAS is now hoping that these actors will continue to work together knowing that they will need to find new mechanism for cooperation since the Year's activities are finished and even the Year's website is closing.

While the Year was undeniably successful in bringing together many actors and raising the awareness, Tony Venables was not sure that it made a wider impact. The fact is that European labour mobility does not work very well. Since mobility is the most fundamental dimension of European citizenship, failures in mobility mean that people do not consider themselves as European citizens. He mentioned the different activities carried out by ECAS and its partners and commented in particular on citizens' panels with migrants presenting their own experience on this ground. He hoped that this technique would be used also by the European Commission

1. OPENING SESSION – THE POLITICAL PERSPECTIVE

Jérôme Vignon, Director at DG Employment, Social Affairs and Equal Opportunities, in charge of social protection and inclusion policies, went back to the beginnings of the EYWM. When in 2004, the Commission considered launching the Year, Commissioner Špidla was hesitant, since mobility (both professional and geographical) was considered as a very complex issue. Moreover, as in 2004 the transitional arrangements for New Member States were put in place, the EU wanted to celebrate mobility rather than visible restrictions to mobility. Therefore, in 2004 many people considered the EYWM to be a “non-starter”.

Despite these setbacks and doubts about the communication of the event, the Commission decided to take the risk and launched the Year, reasoning that the theme of mobility is at the very heart of the European integration.

Now that the Year is finished, there are clear lessons that can be drawn from this experience. One of the most formidable outcomes of the Year was the echo that it

received from the citizens. Citizens became very “passionate” and very involved in the debate on geographical mobility (though slightly less on professional mobility). Geographical mobility is indeed strongly recognised as a chance for a better life.

The Year started as a “low-cost” one with a modest financing that amounted to 1/3 of a normal Year’s budget, with 3,5 million Euros allocated for communication. Still, it succeeded in attracting a huge number of participants: 100.000 - 200.000 visitors during the Open Doors Days in the EU Institutions, 1 million calls to EURES advisers monthly. This undeniable success is due to the involvement of civil society, which has already been present in the area for some time. One important lesson from the Year is that things go better if a person “on the move” is accompanied by NGOs and social partners, as these are capable to compensate for the loss of social capital in a home country.

During this Year, the Commission also learnt a formidable way of communicating. It appeared that if each citizen is allowed to step on stage and personalise the mobility question the results of communication are much better. Good examples of personalisation are websites which deal with the mobility issue according to profession and which orientate people according to their individual situations. One can explain in the same way the success of the publication “People on the move” which presented 25 personal stories and images of mobility. Instead of repeating “go mobile because it is good for you”, the Year helped to establish an authentic communication about opportunities, problems and dangers.

A final lesson from the Year is that the mobility patterns are very varied. As demonstrated by the Labour Force Survey, workers coming from other EU Member States constitute only 2% of the European workforce. On the other hand, there are people “on the move” who are not recorded such as: expatriates, posted workers and those who commute daily between two countries. The instruments accompanying mobility should be adapted to these new forms of mobility.

Jean Lambert, MEP picked up the thread underlining an absolute growth in mobility. She affirmed that it is a “fact of life” and not only in Europe. Sadly, governments have problems coming to grips with this reality. The EU Member States struggle with a common integration policy towards third country nationals just as they do with problems of intra-EU mobility.

Ms Lambert went on to quote two recent newspaper articles. One negative article told the story of Poles and Slovaks working in very bad conditions, having their basic worker’s rights violated. The most appalling aspect is that they were working on the basis of a sub-contract for one of the biggest English supermarket chains. The treatment of migrant workers comes into play then while discussing issues like corporate social responsibility. The other article quoted was positive reporting the situation of the Lake District – a tourist area in the UK, where the workforce used to be scarce. Now, fresh and qualified workers from the New Member States (NMS) have arrived. Employers are very satisfied with them and they ensure that these migrant workers are integrated in the community

life, focussing especially on improving their language skills. They treat them indeed as their most valuable assets.

These two contrasting situations show that mobility is something to be managed and that information is paramount both in sending and receiving countries. This points in the direction of the voluntary sector, which has indeed responded very quickly to the needs of the migrant community and done excellent work in information, vocational and language training. The voluntary sector should not, however, be left alone in this field.

Moving on to the follow-up of the Year, Ms Lambert underlined that this year a report from the Commission Action Plan on learning languages will be produced. This would be indeed a very valuable contribution to mobility, much like the report on the EQUAL projects in the field of vocational training. Another important piece of work to come from the EU Institutions would be the Directive on temporary work agencies. This directive will ensure the rights of migrant workers coming by that channel.

Attention should be paid to rhetoric when migration is discussed. If workers' mobility is praised because it holds down inflation, it is one-sided reasoning. Low inflation achieved by discriminatory low wages for foreign workers is not to be praised.

In terms of the wider policy on the labour market, the issue to deal with is the hierarchy of the labour market. As for now, the rule is that the countries' nationals come first, EU citizens come second and the third country nationals are the last to be considered. But it does not operate well. The British complain that they can no longer get a job or get one paid much worse because there is a cheap labour force from the East ready to work for less. More competitiveness can go hand in hand with better social inclusion, just as envisaged by the Lisbon Strategy, but only if governments get more active in that respect. Migrant workers are no substitute for dealing with discrimination of the national labour force and training the existing staff. In this regard, there is a clear nexus between the EYWM and the European Year of Equal Opportunities in 2007.

In order to ensure equality, action is also needed to simplify the complex set of regulations governing labour. They are complex for employers, individuals and those administering the social security systems. Considering that regulations are already very complicated for nationals fluent in their native language but not in jargon, they become even more so for the migrants. Moreover, it seems that the laws can vary depending on which department one goes to, on which day and who is their interlocutor on that day. Laws need to be brought closer together and simplified in order to create more equality.

Jan Kulakowski, MEP reminded the audience of the fact that the very source of mobility is inequality - people move, most often, because they want to improve their situation (considering that elsewhere can be better). Inequality, however, is not resolved that quickly. The success of the Year is undeniably the greater awareness of this problem which has become a major problem in our societies.

Mr Kułakowski underlined the need to differentiate between free movement, mobility and immigration from outside the EU. Free movement of persons is one of the four fundamental freedoms of the Single European Market. The other three have already been realised. This problematic fourth freedom is, however, a fundamental right and as such extremely important. The crucial thing is to continue to open the markets of the EU-15 who imposed the transitional periods after the enlargement in 2004. It is equally important not to establish new differentiations as we see in the case of some new Member States who imposed transitional arrangements on Romania and Bulgaria. One should not forget that the opening of the labour markets enables people to work legally and thus avoid the dangers of illegal work. Mr Kułakowski underlined that the Commission should ensure that Member States respect the deadlines of phasing out the transitional periods.

From an economic point of view, workers' mobility is a positive phenomenon and it creates complementarity rather than competition. From a more socio-economic perspective, labour migration can be considered as positive if individuals plan to "gain and learn a bit more and get back to the home country" - i.e. undertakes a "circular migration" or negative if it is a desperate search for better conditions. Surely, the consequences of migration in the sending countries should be more analysed as well as the return migration deserves special attention. Economic development in the countries of origin depends now a lot on how the re-integration of the returning workers will be managed.

Ewa Sadowska represented BARKA foundation from Poland and she briefly introduced its work in the field of preparing migrant workers before leaving the country and the effort to integrate them in the country of destination. The foundation does a lot of work with people who are forced to leave their country in order to change their material situation.

Ms Sadowska affirmed that 80% of the work needs to be done before a person leaves the country in order to help the people avoid dishonest job agencies or gang masters. Last year, the foundation was alarmed to hear from the Simon Community, which works in the UK, that that country could no longer manage the influx of workers from Eastern Europe. These two organisations clearly saw that there was a need for combined efforts. This is how the European Migrants Integration Network (EuroMi) was launched. EuroMi now involves partners in 12 EU countries. Their project is to create "migrant integration centres" that can offer training, lifelong learning, support groups and, if necessary, relief programmes. A good deal depends on funding, which initially came from the EQUAL programme and now should be continued by the Polish Parliament. It is a pity, according to Ms Sadowska, that the conclusions from the Year came too late to influence the 2007-2013 Financial Perspective but hopefully other sources will be available.

One other crucial thing is media cooperation that should not show migrants in a sensational way but raise awareness of their problems. By different actors joining efforts a lot more could be possible.

Prof. Alfonso Mattera, Special Adviser to the Vice-President of the European Commission, Franco Frattini, Academic Director of the European College of Parma, Professor at College of Europe, Bruges and LUISS University in Rome, played the role of “Agent Provocateur” in his lecture entitled "*Cives europæi sumus ?*".

Prof. Mattera presented a succinct historical background of European citizenship and citizenship rights. These were established not only by the Treaties but also by the secondary law (3 directives of 1989 and the all important Directive 2004/38/EC) as well as the case-law of the European Court of Justice. First came the workers’ rights, which were later also extended to the members of their family (not necessarily workers themselves). As a matter of fact, the Treaty of Rome somehow forgot that citizens exist outside their economic rights and it would be difficult to find the legal basis of EU rights of non-active people. To address this obstacle, Prof. Mattera repeated the words of Jacques Delors that *Europe will not be made by doctrinaires but by courageous and stubborn individuals*. In cases where the legal basis is not evident Art 308 becomes useful. This is how the basis for 3 Directives of 1989 was made².

Likewise, the European Court of Justice (ECJ) has taken progressive action on the basis of Art 17 and the principle of non-discrimination. The flagship cases are: Martinez Sala³, Grzelczyk⁴ and Bidar⁵. An important step was the charter of Fundamental Rights, which merges the rights of workers and citizens. The latest stage is now the Directive 2004/38/EC which regulates the residence rights of EU nationals while moving to another Member States. Whereas the progress made by the Directive is undeniable and it should be transposed as quickly as possible, there are still a few moot points. One disputable point is the “attestation of the registration”, which is designed to replace the residence card. This is probably not the best solution since everyday life often requires producing proof of identity and then it may be difficult to use a national identity card. Likewise, the directive stipulates that in case of identity checks, the attestation may be required. All in all, this would oblige the residents to carry their attestation all the time with them just like a residence card. The latter at least has the merit of assimilating EU nationals to country nationals and facilitating everyday life⁶.

² These directives were adopted only in 1992, after long discussion, they confer the right of residence on non-active persons, students and pensioners (under condition of sufficient resources and the valid health insurance). In 1996 High-Level Panel on the Free Movement of Persons, chaired by Simone Veil was requested by the Commission to identify the problems still arising in this area, to evaluate them and to propose solutions.

³ Case C-85/96 Martinez Sala

⁴ Case C-184/99 Grzelczyk

⁵ Case C-209/03 Bidar

⁶ The other disputable point of the Directive is the possibility to refuse vocational training to an EU national who has not acquired permanent residence rights if this would constitute “unreasonable charge” for the social assistance system. Such a wording may be interpreted in a very unfair way.

QUESTIONS

Dusan Soltes from the Comenius University in Bratislava pointed to the discrepancy between the declarations coming from the EU, the actual application of the laws and the eventual sanctions to be imposed. He also mentioned the number of concessions made by the NMS in order to join the EU. This was addressed by **Mr Kulakowski**. As a chief negotiator of Poland before 2004 he stressed that all candidate countries came with their claims to the EU and then in the course of negotiations concessions were made by both sides.

Jean Blankert, a Dutch pensioner currently living in Finland, underlined that the Directive 2004/38/EC is a very good piece of legislation but it is not equally recognised in all the EU countries. He also mentioned the problem of Dutch pensioners who are taxed twice - in their country of residence and in their country of origin - for their health and social insurance as well as pension rights. **Ms Lambert** answered this question and emphasised that Member States are extremely reluctant to harmonise their social security systems. Bilateral conventions could be a partial solution to this problem but this makes the whole system very complicated.

Régine O'Neill, representing EURES France, agreed that a networking effort would be necessary in order to address information needs before departure and after the return of a mobile worker. Such a network already exists. It consists of 750 EURES advisers. The problematic issue is that EURES depends on the public employment services and some Member States are not convinced of the role of this network. Consequently, they do not provide enough funding and human resources (most often EURES advisers work on a part-time basis) and they do not create enough publicity for the service. **Ms Lambert** agreed that EURES provides very valuable service and it definitely needs more people and finances. Still, the EU cannot legislate in the area of information which is the domain of the Member States. One of the Year's objectives was precisely to raise the awareness of the general public so that they also exert pressure on their national governments, alongside the EU Institutions. **Ms Sadowska** also praised the EURES network but pointed out that its main focus is on employment, not the integration of the workers in the host country, and therefore EURES should cooperate with the NGO sector.

Alisson Mark, representing the East of England Development Agency pointed out that the Year is not finished since there are a lot of pilot projects going on, especially on the region-to-region basis. These experiences should also feed into the Mobility Action Plan.

Pietro Emili from ECAS raised the issue of the non-transposition of the Directive 2004/38/EC – visible in his personal case. **Prof. Mattera** replied to that that indeed a good text is not sufficient if it is not applied. Member States are often slow to do that and it is also the role of the citizens to exert pressure on their governments. An action is necessary – i.e. launching a complaint to the European Commission.

Jérôme Vignon stated that mobility is a shared responsibility of the EU and the Member States. He also pointed out that EYWM is not finished and it continues to be enriched with pilot actions. An important stage will be the new Action Plan for European Mobility

with a much more ambitious and systematic approach. Foreseen at the end of this year, it will be ambitious in its objectives, considering the mobility as an important source of personal development and European citizenship. At the beginning of 2007, with respect to the question of Agent Provocateur "*Cives europæi sumus ?*" we can say that we are already European citizens and we want to be them even more.

2. PANEL I: THE CITIZENS' PERSPECTIVE ON WORKERS' MOBILITY

Stefano Brazzoduro, one of the members of the ECAS Citizens Panel on Workers' Mobility last year, emphasised that he does not represent any institution and that he was participating in the seminar as a European citizen to talk about his mobility experience in Europe.

Mr Brazzoduro testified that policy makers are distanced from citizens and there is a definite need for the European Union to have a greater presence at the local level. In that respect the exercise of participatory democracy may become a very useful and successful tool in order to generate new ideas in the field of mobility, and other fields as well. Secondly, he developed in more detail his personal idea, produced during the ECAS Citizens' Panel. This idea came from his personal situation - problems with the coordination of social security while working abroad. Confronted with difficulties in having his Italian social security number recognised, he wondered about the possibility of having a unique European Personal Number. This would mean that when moving in the EU, one could keep the same number and pay taxes mentioning this very number.

Considering the positive outcomes of the ECAS Panel, Mr Brazzoduro insisted that more panels should take place, especially with youth involvement. He firmly believes that a lot of new ideas may come from citizens.

Tony Venables suggested that the idea of the European Personal Number could be a reply to the "disappearance" of the residence card – as proposed by the Directive 2006/38/EC.

Laurent Eliazewicz, representing the French National Employment Agency (ANPE), backed up Mr Brazzoduro's enthusiasm and briefly described actions undertaken by ANPE in the framework of the Year. His contribution focused on the following points: firstly, how we can ensure that the citizens make well-informed decisions on their mobility and secondly, how citizens can prepare to make their mobility a success.

Mr Eliazewicz stipulated that an informed citizen's choice is preconditioned by the following questions: What will this mobility experience bring to my career? What information do I need on the country of destination? What types of training are available? What regulations are in place? Where (in a real or virtual setting) can I exchange information and express my wishes regarding mobility?

Considering these questions, there is an urgent need to rationalise, systematise and regroup information in order to make it easier for “mobility candidates” to choose their best option of mobility. Such an effort has already been made on the Europa server and on the Ploteus website.

In France, a network of 23 employment agencies with 110 advisers launched an initiative “Espace Emploi International”⁷ which addresses the information need of all those wishing to look for a job abroad. This network has its own website so that all its elements are available to the wider public.

The second stage, after providing the information, is preparing the citizen for his departure, considering especially the cases when the choice is imposed by the difficult conditions in home country. In order to address this need, in the framework of the French system “Espace Emploi International”, candidates for mobility are taking part in specially-designed workshops. A number of sessions aims to confront the participants with real-life questions of mobility.

Mr Eliaszewicz underlined that EYWM should not finish without a follow-up. The Year is something to be seen as a clear reply to those looking for employment abroad. The issue of mobility has been seen so far as an object of true schizophrenia - promoted by the EU and rejected by Member States. Now it needs to be backed up by the citizens.

Jimmy Jamar, Deputy Head of Unit, DG Employment, Social Affairs and Equal Opportunities, and responsible for the EYWM, stated that the Commission wanted the Year to be an open, bottom-up exercise and provoke a global debate. A strong discordance has been noticed between declarations like the European Employment Strategy or the Lisbon Strategy and the reality. Indeed not all people who would like to can “get mobile” or, in contrast, mobility is sometimes a “second choice”, a forced one.

One of the important lessons that have been learnt during the Year is that even though more workers have become mobile, unemployment still co-exists with unfilled posts. Therefore, there is a need for instruments to facilitate and optimise mobility.

Another issue revealed by the Year is that the obstacles are not only of legal nature, but there are also a number of practical and psychological issues such as housing, language barriers or employment of spouses. The return also becomes problematic – people do not move because they do not know how they will come back. These issues call for more focus and action.

The Action Plan now prepared by the Commission will continue the work on greater convergence of social security, pensions and taxation, but it will also have a very practical component. It will be based on three pillars.

⁷ International Employment Area

1. Strengthening existing instruments e.g. EURES, making them even more professional, more connected with actors facilitating mobility on the ground and more focussed on local jobs.
2. Developing the policy dimension of mobility by advocating it to Member States and raising the mobility issues in the priorities of the Structural Funds
3. Communicating mobility – the European job days initiative will be continued so as to alert media and public attention about mobility opportunities available.

At the end of the Year, the Commission is happy with the responses of local authors and the projects realised as the result of the Commission's call for proposal. Consequently, 2 million Euros (yearly) was earmarked on pilot project on geographical and job-to-job mobility to keep up the momentum of the Year.

The Commission will also shortly be launching a 'Partnerships for Mobility' programme in order to capitalise on the involvement of different actors.

Dan Vale, Head of social Policy at Citizens Advice England & Wales, represents a structure which has extensive experience in providing advice, also to migrant workers. He emphasised that the UK largely benefited from the wave of the migration following the 2004 Enlargement but many different problems have been also seen. In order to make mobility successful it is crucial to identify the distinct categories of those who are "on the move". It is, for example, important to distinguish between those who had a long term plan (and there are many success stories of those people), those who had a short term plan (they do not want to leave their country permanently) and finally those who come in on a wing and a prayer. Unfortunately, there is a lot of disinformation and good information is not reaching the most vulnerable people who do not have many or any qualifications and represent lower social classes. According to Mr Vale, we need to provide information especially to those people and not by traditional, passive and vertical actions like leaflets or websites. A good example of more adapted practices is "snowballing" - when people are recruited to spread information around them. Likewise, empowering local communities with the means to spread information can be a good solution.

QUESTIONS

Selim Bertan, from the European Cultural Foundation, was worried as to whether the EU initiatives were not too elitist and whether it is possible to prevent people from embarking on mobility without proper preparation.

Jimmy Jamar replied that mobility is a very complex issue and this is why a lot of efforts need to be made to ensure "fair mobility" for all EU citizens. This can be achieved by cooperation with local and regional actors. In order to ensure equal access to mobility and make it less elitist it is also necessary to ensure good command of languages and

there are many initiatives now focused on this aspect. Opportunities for such actions may also come under the European Social Fund.

3. THE IMPACT OF THE LATEST ENLARGEMENT

Tony Venables announced the new ECAS reports on the free movement of Romanian and Bulgarian workers. A draft version of this report was circulated to speakers but publication was scheduled for the end of July when the information should be available of the actual impact of the 2007 Enlargement on mobility. The first results show that the 15 out of 25 Member States had resorted to transitional arrangements, which reversed the otherwise positive trend of phasing out the restrictions imposed after the 2004 Enlargement.

Dorian Filote, Executive Director of the National Association of the Citizens Advice Bureaux (NACAB Romania) made a presentation, entitled “The good, the bad, and the ugly”. The good is the EU as it wants an integrative pattern for the EU workers in line with European citizenship. The bad are some Member States that imposed restrictions towards Romanian and Bulgarian workers. The ugly are the “newest” Member States nationals who want to exercise their free movement and mobility rights.

Mr. Filote briefly presented figures on the migration of the Romanian workers which showed that “those who wanted to have already left” and that the countries of destination are those where language barriers are smaller. Reasons for migrating are better wages and self-improvement. The “worst-case” scenario of migration is 1,4 million Romanians working abroad, but temporarily⁸. It seems that there has been and there will not be a massive outflow of Romanian workers. Still, at the end of 2006, 15 EU “bad” countries imposed transitional arrangements. The challenge is now to make the “bad” look good. Here Mr Filote agreed with previous suggestions of better law enforcement and information. It also seems that careful monitoring of the free movement rights exercise is more rational than imposing transitional arrangements.

Rozalina Petrova, Third Secretary at the Permanent Representation of the Republic of Bulgaria responsible for labour migration, coordination of social security systems, pensions, recognition of professional qualification and free movement of workers was the next speaker.

Ms Petrova asked whether we can achieve a European labour market given all the transitional restrictions, and whether a true reintegration will be possible after 2014, when the arrangements will be definitely phased out. She also pointed out that sooner or later a decision about Croatian workers will have to be taken with the same questions in mind.

⁸ According to ECAS and NACAB Reports in 2006.

She quickly presented the figures on the migration of Bulgarian workers which clearly indicate that there is not an imminent huge outflow of Bulgarians. She underlined that problems and benefits of migrant recipient countries are only one side of the coin and sending countries need to manage, for their part, labour shortages, ageing, distorted family and demographic structure. It is possible that free movement of workers is only shifting problems by removing labour supply shortages from one Member State to another. She asked for a solution of such problems on the scale of the European labour market. This could mean European labour market initiatives and plans for legal migration of third country nationals instead of transitional measures.

4. PANEL II: THE ECONOMIC PERSPECTIVE

As pointed out by **Tony Venables**, another after the 2004 Enlargement the economists started to consider mobility very seriously. What they say is that mobility is a win-win situation but not a straight win-win and that mobility needs to be managed. Economists have come up with a complex message stating that free movement is very unevenly spread and for no apparent reason.

Thomas Laursen, World Bank Lead Economist for Central Europe and Baltic States, announced a slightly different outlook on workers' mobility, more focused on the NMS and on the macro-economic perspective.

He confirmed a significant increase in labour mobility in Europe since 2004. He also affirmed that from an economic point of view mobility is good for Europe as a key complement to mobility of goods, services and capital. The trend is now that labour tends to flow West whereas capital tends to flow East. The most obvious benefit for countries of destination is a fresh labour force, while for sending countries it is the flow of foreign direct investments. Any attempt to restrict either free movement of people or capital is a bad idea. Mr Laursen pointed out the challenges which need to be addressed in the sending countries: shortage of skills as well as growing inflation that hampers the prospect of monetary integration.

The NMS should anticipate these problems and make their labour markets more flexible (lowering labour taxes, liberalising access to workers from Eastern neighbours, increasing private funding for education as public spending on higher education becomes a vain investment). NMS should also make fiscal space for higher wages in health and construction by, for example, raising private financing for education (especially tertiary and upper secondary) and improving the targeting of social programs.

Mr Laursen concluded by the remarks on EU regional policy. In fact the aim of this policy is to prevent free movement of workers, bringing development and jobs to where people live. This is good thinking, but regional policy should perhaps support only those regions where lack of externalities cause significant obstacles to economic growth, and otherwise we should let the market forces play.

Christoph Maier, Economist-Statistician, DG Employment, Social Affairs and Equal Opportunities, works on the annual publication “Employment in Europe”. He briefly presented the EU-27 labour force: a total of 327 million persons aged 15 to 64 of which almost 20 million are foreign citizens (EU and non-EU), of which again:

- 12,9 million are non-EU citizens (3.9 %)
- 4,7 million are EU-15 citizens (1.4%)
- 1,1 million are EU-10 citizens (0.3%)
- 1,1 million are new MS-2 citizens (≈220.000 Bulgarians, ≈ 850.000 Romanians) (0.3%)

Annual mobility flows are hard to measure. What can be observed is that EU-15 movers are young, single, have no children, are highly educated and look for skilled jobs. EU-10 movers are even younger, more likely married, have no children, have a medium level of education and look for low skilled jobs. Romanian and Bulgarian workers have the same profile as those coming from the EU-10 but apply for even lower skilled jobs.

The conclusions of Mr Maier were that free movement of workers is good, but hardly anyone is actually doing it. Definitely, there is no welfare tourism and labour mobility has positive influence on the economy of the receiving countries. Brain drain is a concern for the sending countries but it is probably temporary. Circular migration is to be encouraged as it can turn migration into an investment in human capital. We should also not forget that free movement is a fundamental right of EU citizens.

Tom Vandenbrande, researcher at the Higher Institute of Labour Studies at the University of Leuven, presented the outline of some research on workers’ mobility in which he participated. One of the most well-known research projects is “Mobility in Europe - analysis of the 2005 Eurobarometer survey on geographical and labour market mobility”.

Mr Vandenbrande highlighted the increase in mobility over recent years and also a higher expected geographic mobility in some NMS states: Poland, Estonia, Lithuania, and Latvia, since cultural and social barriers are smaller in these countries. He affirmed that job-related long distance mobility is good for countries considering employment rates and GDP per capita levels; it is also good for individuals (whereas this link is not evident if other forms of geographical mobility are considered). Individuals usually improve their job conditions (contract, salary) job content, receive more training; there is, however, no evident change in the work-life balance.

Mr Vandenbrande presented his recommendations as: optimising rather than maximising mobility, focusing not only on quantitative mobility figures but also on qualitative aspects of mobility and addressing not only geographical workers mobility but also professional mobility within the same country.

Jakob von Weizsäcker, research fellow at the Bruegel think-tank started his presentation by pointing out the differences of income between the EU-15 and EU-12. Comparing this

difference of income with for example the US and Mexico, one may wonder why there is not *more* migration? The answer is possibly the positive opinion in NMS that life is going to get better there. Another question is: under what circumstances can migration increase? This can probably happen if expectations in the NMS fall and then migration will prove to be a safety valve.

Mr von Weizsäcker presented his proposal on how to make migration a “win-win-win” situation for migrants, the host country and the sending country, depending on the wealth of the country and also the qualifications of the workers. Essentially, it is always good for migrants (even though it is more difficult), sometimes good for the receiving country (especially if high-skilled workers are coming), and rarely good for the sending country.

In order to ensure that migration is always a “win-win-win” situation, there are different solutions. Good integration policies, and taxing migrant workers or rich host countries in order to give some sort of compensation to poor sending countries. Another possibility is aiming at a better skill mix of immigrant workers (especially when considering third country migration to Europe), like in Canada or Australia thanks to the skills point system. The concrete proposal is to create a European Blue Card for third country migration based on a points system.

QUESTIONS:

Dan Vale pointed out that data is still incomplete and it does not record new forms of migration like daily commuting. He also posed a question of how to solve the problem of well-qualified migrants (dentists and doctors) coming to old Member States to work below their qualifications. He suggested that rich countries should mitigate the effects of the outflow of these professionals and somehow help to develop infrastructure in poor countries.

Dusan Soltes from Comenius University pointed out that mobility is getting more and more fragmented and that NMS are losing on migration, since not many of those young and well-qualified are returning, and even if they return they cannot apply their newly gained skills. He pointed out that training should be provided for migrant workers so as not to waste their potential. Mr von Weizsäcker replied to the question of “brain waste”, referring to data from Canada. Many migrants there work below their qualifications but ten years later, once they have learned the language, they tend to apply for jobs as high-skilled workers. It could be said that the full impact of migration in Europe has not yet been felt. **Mr Venables** pointed out that it should come later that citizens will realise that free movement and work abroad is their right and will not let themselves be limited to low-qualified jobs

Tony Venables pointed out the economic question, of how much the problem of migration can be sorted naturally by market forces and how much it should be dealt with by means of regional policy instruments. **Mr Laursen** reacted to this remark, underlining that much depends on how well the NMS absorb the Structural Funds as indeed there is a huge potential for stimulating economic growth and thus preventing the outflow of workers.

5. PANEL III: THE REGULATORY PERSPECTIVE

Marian Grubben, team leader of the SOLVIT team, briefly presented the SOLVIT network. This system has been operating for the last 5 years and deals with problems caused by bad application of EU law by the Member States, it has a resolution rate of 80% and it solves the question much more quickly than formal procedures.

She highlighted the gap between legal principles and application, especially in cases brought by private persons. The “top three” areas of SOLVIT questions are: social security, taxation and recognition of professional qualifications. Other problematic areas are the situation of family members coming from third countries, residence rights and even bringing vehicles from one EU country to another.

The reason for the gap between law provisions and practice is lack of harmonisation and complicated, not very transparent national law – often interpreted on a case-by-case basis by front-line officials. Another problem is the decentralisation of law application. As a matter of fact, front-line officials, far from the Ministries are rarely well informed about the recent regulations. Finally, there is also a lack of good administrative cooperation, which is well visible in the case of pensions.

One way of improving the situation would be harmonisation, but these areas are very sensitive and harmonisation would not be easily accepted by all Member States. Likewise, the rules should be simplified in line with the “better regulation” resolutions. This is not an easy task either since the legislation process involves 27 Member States. A possible solution is sharing best practices as some countries do succeed in passing information and making application of the law easier. This should go together with increased communication and cooperation between national administrations (by shared databases, common workshops, maintenance efforts).

Dimitrios Kontizas, head of sector dedicated to free movement of workers at DG Employment, Social Affairs and Equal Opportunities, pointed out that the choice of 2006 as the EYWM was not accidental as this was the Year of the revision of transitional arrangements and of the incoming accession of Romania and Bulgaria.

Indeed, transitional periods constitute derogation from the free movement of workers and their family members. Still, the transitional periods are not permanent and the long-term perspective should bring equal treatment of the EU and country nationals on the EU labour markets. The decision to “open” or “close” the labour markets was authorised in the light of EU law. Likewise, other restrictions on labour markets exist - for example in employment in the public sector – it is reserved for nationals, but only if the work is directly linked to the exercise of public authority (this was the judgement of the ECJ).

The important issue is the coordination of the social security schemes which goes hand in hand with the free movement of workers.

The Commission is aware of the problems posed by the transitional periods such as illegal work (it is informed by the NGOs, social partners and its own Consultative Committee). The Commission cannot, however, always intervene to solve the problems, as it is the Member State and its national judges who are in charge of application of the EU law. What the Commission can do is to involve independent experts and the social partners in the work of its Consultative Committee and point the Member States in the right direction. In order to help the EU citizens to fully exercise their free movement rights, NGOs and the social partners should intervene.

Rodolphe Munoz, lecturer at the University of Liège and at the Institute of Political Studies in Lille, agreed that information and advice systems are developing and improving, which is a very positive step. However, it is still very complex to truly exercise the EU law.

The paradox is that information and advice is being provided about citizens' rights, but then if these rights are not respected (which often happens) it is not easy to oblige Member States to change their practice. The two basic instruments for that are "action for failure to act" and "question for the preliminary ruling" at the ECJ. First of all, both systems of redress are very long. Pursuing a case through ECJ takes minimum 3 years and then comes a national procedure. Another way is a petition to the European Parliament, which takes a minimum 1 year to find out whether the case should be taken to the ECJ. This is definitely too long for an ordinary citizen to wait (the procedure is the same for enterprises but they can afford to wait longer). Moreover, sometimes the priority of treatment of cases seems a bit doubtful. Transposition of directives into national law also poses a problem, but making complaints about it is equally long and complicated.

There is a risk that people will become more and more informed and consequently will have higher expectations which are difficult to meet (as was the result of involving individuals and NGOs in monitoring the environmental law run by DG Environment). Unfortunately, it is hard to imagine the revision of redress procedures as this has been always blocked by the Member States.

The solution may be better training of people in the civil service on a Member State level so that they are updated on the case-law of the ECJ. Another improvement could be to improve the SOLVIT system which for now is too dependent on Member States (financial and human resources are allocated by Member States).

The European Parliament should possibly revise its petition system and maybe establish another, more rapid system. The Parliament itself should also flex its "power of purse" and influence decisions on spending as well as being more active in ensuring better application of the EU law through cooperation with the national Parliaments.

Civil society should continue its efforts and develop its actions by means of the EU funds (maybe the procedure of the call for proposals should be facilitated for smaller organisations).

In the long run, the system of redress should be improved. Considering that the EU Treaties have been revised some many times during the last 50 years, it is striking that the redress mechanisms have not. Another proposal in this field is taking the idea of SOLVIT further and creating an Agency controlling the application of EU law and also an Agency for European Citizenship. This seems a necessity in order to insure that information about citizens' rights can be followed by correct application of the law. Otherwise, communication may produce adverse effects and create expectations that cannot be met.

QUESTIONS:

David Petrie, Association of Foreign Lecturers in Italy, agreed that there is a big problem in enforcement. The Association he represents has been fighting for equal treatments for foreign lecturers in Italy for last 20 years, but it seems that individuals are not empowered to launch a redress procedure at the ECJ as they need to pass by the overloaded Commission.

Leon Jean Blaffard, adviser of FEANI, the association of engineers, pointed out that the picture is not so bleak from his own perspective and if the recognition of qualifications goes badly it is sometimes because an individual is not honest.

Tim Nicholls, Director of the Simon Community, pointed out that many migrants and even enforcement agents are unaware of citizenship rights. Considering the bogus agencies, it is important not only to abolish their operation in the country of destination but to actually shut them down in the sending countries.

Marian Grubben replied that indeed the matter of mobility requires some fundamental changes in how the Community legal system operates but this is not possible in the immediate future. The Commission has now embarked on a Single Market review in which many of the mobility issues will be seriously considered, as will ways to bridge the gap between the law and its application. It is important now to create sufficient momentum for change because the Commission will produce the review at the end of the year. Many voices need to be made heard so as to contribute to this review.

Dimitrios Kontizas agreed that while many problems are linked to bad administration, some basic problems are not solved because Member States lack the political will to do so.

Rodolphe Munoz highlighted the positive examples where mobility works very well. Nevertheless, in other areas, there will be more and more problems so the solutions need to be found. The ECJ plays a very important role but only on a case-by-case basis. Moreover even this role is disputable, as many people criticise the "government of judges" and in fact the Court cannot be the EU legislator.

Tony Venables thanked the participants. He suggested that ECAS should set up a small group of academic and practising lawyers to examine ways in which the system of redress should be speeded up and made more effective.

