

Brussels, 18 November 2008

## **Commission report on transitional arrangements regarding free movement of workers**

### **What are transitional arrangements on the free movement of workers?**

They have been agreed in the two last Accession Treaties and allow Member States to temporarily restrict the right of workers from the countries that joined the EU in 2004 and 2007 to freely move to another Member State to work (namely Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia, which all joined in 2004, as well as Bulgaria and Romania, which joined in 2007).

They aim at gradually introducing free movement step-by-step over a seven-year period. There are three phases (2+3+2 years) during which different, increasingly strict conditions apply as to the conditions under which Member States can restrict labour market access.

Member States may open their labour markets at any stage. At the latest, Member States must open fully at the end of the seven year period (2011 for the EU-8 and 2013 for Bulgaria and Romania).

The restrictions only apply to workers: they do not apply to the self-employed. Nor do they restrict the rights to travel and live in another Member State.

### **What does the report contain?**

The Commission's report provides information on the legal basis for transitional arrangements, the current state-of-play of their application in Member States, statistical information on labour flows between Member States since the two recent EU enlargements, and an analysis of the economic, labour market and social impacts of recent labour mobility within the EU.

### **Why has it been published now?**

There are two reasons: first, the 2005 Accession Treaty of Bulgaria and Romania requires the Commission to publish a report two years after accession. Second, 8 of the 10 Member States that joined the EU in 2004 (Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia) and whose workers are subject to restrictions requested – using a provision of the 2003 Accession Treaty – a further review of the transitional arrangements still governing their citizens' labour market access to a number of EU-15 Member States.

### **How many workers from the new Member States are there in EU-15 countries?**

Member States' population statistics and labour force survey data show that the average population share of Bulgarians and Romanians living in the EU-15 increased from 0.2% in 2003 to 0.5% by the end of 2007. During the same period, the population share of nationals of the countries that joined in 2004 (EU-10) living

in the EU-15 rose from 0.2% to 0.5%. The majority of mobile workers from the new Member States which joined in 2004 – mostly from Poland, Lithuania and Slovakia – went to Ireland and the UK, while Spain and Italy have been the main destination countries for Romanians, the former also for Bulgaria. Yet, with the exception of Ireland, post-enlargement flows from the new to the old Member States have been significantly outnumbered by recent immigration of non-EU nationals. Furthermore, in many EU-15 Member States, the inflow of citizens from other EU-15 Member States has exceeded the inflow of EU-8 and Bulgarian and Romanian citizens.

### **What are the key conclusions of the report?**

- Free movement of workers has not on the whole led to serious disturbances on labour markets. The Commission thus encourages Member States to lift restrictions to the free movement of workers as quickly as possible.
- Free movement has contributed to economic growth by satisfying labour market and skills shortages in Member States.
- Despite some temporary adjustment problems, free movement has had little or no negative impact on the wages and unemployment of local workers in the destination countries.
- There is still much more migration from non-EU nationals than new to old Member States.
- Lifting restrictions seems to decrease the incidence of undeclared work and the negative consequences associated to that.
- Mobile workers go to where jobs are, and often leave again or stay at home when conditions are less favourable.

### **Why does the Commission consider it important that Member States drop restrictions to labour market access under the transitional arrangements?**

Freedom of movement is a right for every EU worker and is one of the four fundamental freedoms of the European Union. At the signing of the Accession Treaty in 2003, all EU-15 Member States undertook to move as quickly as possible towards the full application of the *acquis communautaire* (EU law) on free movement of workers. All EU-25 Member States made the same declaration at the signing of the Accession Treaty in 2005.

Moreover, as the report shows, lifting restrictions would not only make economic sense, without causing discernible harm to local labour markets, it would also help to avoid some of the more serious problems associated with closed labour markets, in particular undeclared work and bogus self-employment.

The volume and direction of mobility flows are driven rather by general labour supply and demand and other factors than by restrictions on labour market access. Restrictions may even delay labour market adjustments and exacerbate the incidence of undeclared work.

### **What about the current economic slowdown?**

In the wake of current economic developments it is likely that a possible decline in labour demand will reduce labour flows within the EU. People tend to go where jobs are and where the economy is dynamic. Recent economic slowdowns in some countries have already led to a substantial reduction in new entries, in parallel to an increase in return migration. This is a sign that free labour mobility provides a much

needed flexibility in both directions: workers come where there is demand for labour and many leave again when employment conditions become less favourable.

## **Bulgaria and Romania**

### **Can the report influence whether EU countries decide to maintain restrictions for Bulgarian and Romanian workers?**

The individual EU-25 Member States decide whether to continue applying restrictions for workers from Bulgaria and Romania for the second phase of the transitional arrangements. This report is designed to give the state of play of the migration flows and their impact across the EU-27 countries. It looks at the consequences of both imposing and not imposing restrictions, is based on objective information and draws conclusions from the information.

### **When does the decision on maintaining restrictions for workers from Bulgaria and Romania have to be made?**

Member States have until 31 December 2008 to communicate to the Commission whether they wish to retain restrictions. If a Member State chooses not to communicate any proposed restrictions before 31 December 2008, Community law comes into force for that Member State (in other words, no restrictions apply).

### **How long can restrictions for workers from Bulgaria and Romania remain in place?**

If a Member State wishes to maintain restrictions on access to its labour market, this will apply for the period from 1 January 2009 to 31 December 2011. Thereafter, they could be renewed for a further final period of two years, but only if there is evidence that labour flows have been seriously disrupting (or were threatening to seriously disrupt) a country's labour market.

## **EU-8 Member States**

### **What are the conditions for Member States to maintain restrictions for workers from the EU-8 after 1 May 2009?**

Member States may continue to restrict access to their labour markets after 1 May 2009 for the final two years only if they notify the Commission of a 'serious disturbance of the labour market, or the threat thereof'. This condition reflects the general idea of the transitional arrangements which is to gradually introduce the free movement of workers. It is realised by different, increasingly stricter conditions under which Member States can maintain restrictions on labour market access. Member States can therefore only continue to apply restrictions in an exceptional situation before EC law on free movement of workers fully applies from 1 May 2011 at the very latest.

### **When does the decision on whether to continue restrictions for workers from the EU-8 Member States have to be made?**

Member States have until 30 April 2009 to communicate to the Commission whether they experience a serious disturbance of the labour market, or threat thereof. If a Member State does not notify such a disturbance before 30 April 2009, Community law comes into force for that Member State (in other words, no restrictions apply).

## **How long can restrictions for workers from the EU-8 Member States remain in place?**

If a Member State communicates such a serious disturbance of the labour market, or threat thereof, this will apply for the period from 1 May 2009 to 30 April 2011. Thereafter, the transitional arrangements end and all Member States must apply full free movement for workers from the EU-8 Member States.

## **Who imposed restrictions during the 1 January 2007 - 31 December 2008 period for workers from Bulgaria and Romania?**

The Czech Republic, Estonia, Latvia, Lithuania, Poland, Slovakia, and Sweden decided not to apply any restrictions on access to their labour markets by Bulgarian and Romanian workers. Finland, Cyprus and Slovenia do not apply any *ex-ante* restrictions on access to their labour markets but Bulgarian and Romanian workers must register subsequently.

The remaining 15 EU-25 Member States informed the Commission that they would for the time being, maintain their work permit system for Bulgarian and Romanian workers, albeit in some cases with some modifications.

Denmark exempts workers from a work permit requirement for an employment that is covered by a collective agreement.

France applies a simplified procedure for 150 occupations where a work permit is issued without considering the job situation.

Luxembourg has introduced simplified procedures for work in agriculture, viticulture, the hotel and catering sector and for people with specific qualifications in the financial sector.

Italy does not require a work permit for employment in certain sectors (agriculture, hotel and tourism, domestic work, care services, constructions, engineering, managerial and highly skilled work, seasonal work).

In Hungary, no work permit is needed for skilled work requiring professional qualifications; for certain categories of unskilled work, work permits are issued without a labour market review.

Belgium has introduced an accelerated procedure to issue work permits within 5 days for jobs in professions for which there is a labour shortage.

In Germany, engineers in certain fields (aeronautical, mechanical, electrical, vehicle construction) need a work permit but are exempt from a labour market test.

In the Netherlands, a work permit will be issued whenever there are no workers available in the Netherlands or other EU Member States and the employer concerned can offer proper working conditions and accommodation. Temporary exemptions may be granted for sectors in which there is a labour shortage.

Malta grants work permits for positions that require qualified and/or experienced workers and for those occupations for which there is a shortage of workers.

In Greece and Ireland, a work permit will be issued if an employer cannot fill the vacant post with another EU-25 citizen.

In the United Kingdom, the employer must apply for a work permit (except for certain categories of employment) and the worker must apply for an "Accession worker card". Low-skilled workers are restricted to existing quota schemes in the agricultural and food processing sectors, skilled workers can work if they qualify for a work permit, or under Highly Skilled Migrant Programme.

Spain, Portugal and Austria also maintained their traditional work permit systems: in Spain, the issuing of a work permit is directly linked to obtaining a job offer and approval of an application by the employer. Legislation in Portugal provides for a quota system, and Austria allows issuing of work permits after a labour market test for 65 professions for which there is a shortage of labour.

In addition to maintaining a work permit requirement, Austria and Germany also apply restrictions on the posting of workers in certain sectors.

Neither Bulgaria nor Romania applies reciprocal measures vis-à-vis EU-25 Member States which are applying restrictions on Bulgarian and Romanian workers.

### **What is the situation as regards restrictions for workers from 8 of the 10 Member States that joined in 2004 ('EU-8')?**

As from accession on 1 May 2004, 3 of the 15 Member States immediately opened their labour markets: Sweden and Ireland had decided not to apply any restrictions on access to their labour markets and the UK had decided not to apply any ex-ante restrictions but adopted a Worker's Registration Scheme.

After the Commission had presented its report on the functioning of the first two years of the transitional arrangements on 8 February 2006 and Council had reviewed the functioning of the transitional arrangements, Greece, Spain, Portugal and Finland decided to open their labour markets and apply EC law on free movement of workers from 1 May 2006. Italy followed suit from 27 July 2006. The Netherlands lifted all restrictions from 1 May 2007, Luxembourg from 1 November 2007 and France from 1 July 2008.

Four Member States still apply restrictions but they all have reduced restrictions in some sectors/professions or simplified procedures:

Denmark exempts workers from a work permit requirement for an employment that is covered by a collective agreement.

Belgium has introduced an accelerated procedure of issuing work permits within 5 days for jobs in professions for which there is a labour shortage.

In Germany, engineers of certain fields (aeronautical, mechanical, electrical, vehicle construction) need a work permit but are exempt from a labour market test.

Austria allows issuing of work permits after a labour market test for 65 professions for which there is a shortage of labour.

Hungary applies reciprocal measures, restricting access to its labour market for workers from those Member States that restrict access to Hungarian workers. However, skilled workers are exempt from a work permit requirement and a work permit is issued without a labour market review for certain categories of unskilled workers.

### **The three phases of transitional arrangements**

#### **EU-8 Member States (accession 1 May 2004)**

First phase: 1 May 2004 – 30 April 2006

Second phase: 1 May 2006 – 30 April 2009

Third phase: 1 May 2009 – 30 April 2011

#### **Bulgaria and Romania (accession 1 January 2007)**

First phase: 1 January 2007 – 31 December 2008

Second phase: 1 January 2009 – 31 December 2011

Third phase: 1 January 2011 – 31 December 2013

See also [IP/08/1729](#)