

Brussels, 28 April 2011

## **Frequently asked questions: The end of transitional arrangements for the free movement of workers on 30 April 2011**

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

Transitional arrangements have applied in most of the EU's enlargements and most recently also in the two last Accession Treaties of 2003 and 2005. These measures allow Member States to restrict temporarily the right of workers from the countries that joined the EU in 2004 and 2007 to move freely to another Member State to work (namely Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia, or "EU-8" countries which all joined in 2004, as well as Bulgaria and Romania or "EU-2" countries, which joined in 2007).

The measures aim to introduce free movement gradually over a seven-year period. The arrangements cover three phases (2+3+2 years).

Member States may open their labour markets at any stage. At the latest, Member States must open their labour markets fully at the end of the seven year period (30 April 2011 for the EU-8 and 31 December 2013 for Bulgaria and Romania).

For Romania and Bulgaria the current state of play is that their workers currently enjoy full rights to free movement in 15 (of 25) Member States (Denmark, Estonia, Cyprus, Latvia, Lithuania, Poland, Slovenia, Slovakia, Finland, Sweden, Hungary, Greece, Spain, Portugal, Czech Republic).

The restrictions that the remaining 10 Member States (Belgium, Germany, Ireland France, Italy, Luxembourg, Netherlands, Austria, UK, Malta) apply vary from one Member State to another but typically require Bulgarian and Romanian citizens to have a work permit.

Overall, 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.

### **2. What has been the impact of the enlargement and increased inflows of workers for the destination countries?**

In line with the Accession Treaty, the Commission has reported twice on how the transitional arrangements that temporarily restrict the right of free movement of workers from recently acceded countries have functioned and what impact mobility of workers from these countries has had on the labour markets of the other Member States.

[The report of February 2006](#) covers the first two years between 2004 and 2006 of the transitional measures for EU-8 workers. [The report of November 2008](#) (COM(2008)765) on the impact of free movement of workers in the context of enlargement covers the first two years between 2007 and 2008 of the transitional measures for workers from Bulgaria and Romania as well as a further review of the transitional measures for EU-8 workers.

Both reports found that free movement of workers is overwhelmingly positive for the economy and did not have serious negative side effects on the labour market. The last report was based on an in-depth analysis, supported by external consultants and published in the 2008 edition of the Employment in Europe report. (Chapter 3 of the report, available at <http://ec.europa.eu/social/BlobServlet?docId=2757&langId=en>)

Free movement is helping to stamp out undeclared work and, until the economic crisis, local workers' wages have continued to rise, and even when analysing the isolated effects of migration on wages and unemployment, empirical studies have found little or no negative impact of east-west intra-EU labour mobility on local workers' wage and employment.

Moreover, it seems that the economic crisis starting in 2008 has resulted in a decrease of the flows of workers from the recently acceded countries to the EU-15 countries, due to a fall of the labour demand, and even to some return migration. This confirms that cross-border labour mobility tends to be self-regulating and decline in times of economic downturns – people go to where the jobs are.

### **3. What has been the impact of the increased workers mobility for the origin countries? Is there not a risk of brain drain?**

For the countries of origin, the impact of free movement of workers and increased mobility to the EU-15 countries is mixed. On the one hand, geographical mobility has allowed a number of workers to find a job abroad, leading to a reduction of unemployment (for example in Poland the unemployment rate fell from 19% in 2004 to 8.2% in 2009). On the other hand, there has been an increased risk of brain drain and skill shortages in the sending countries, notably in some specific sectors (for instance health care).

An analysis of the skill level of recent EU mobile workers (see [Employment in Europe 2008](#)) showed that they were over-represented in the medium-skill level (and not in the high-skill level). Moreover, tertiary education enrolment rates for 18-24 year olds have substantially increased in EU-10 countries in recent years (from 22.3% in 2000 to 32.5% in 2008), which may compensate for the outflow of skilled labour. Finally, many younger migrants may not move permanently, but rather for a temporary period and after returning home, they bring extra skills including language, enabling them to take up more internationally oriented jobs.

### **4. How many citizens from the EU-12 Member States are there in EU-15 countries?**

Member States' population statistics and labour force survey data show that at the beginning of 2010 about 2.3 million citizens of the EU-10 countries were living in the EU-15 countries. This means that their share in the total population increased from 0.3% in 2004 to 0.6% in 2010. The majority of these mobile workers – mostly from Poland, Lithuania and Slovakia – went to Ireland, UK and Germany.

Yet, with the exception of Ireland, post-enlargement flows from the 'newer' to the 'older' 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-10 citizens.

According to the EU Labour force survey, the number of EU-10 citizens living in the EU-15 countries has stagnated between mid-2008 and end 2009 due to the economic crisis but has started to increase again in the first three quarters of 2010.

## **5. What is the labour market situation of the EU-10 citizens who recently moved to EU-15 countries?**

According to the EU-Labour force survey, the employment rate of working age (15-64) citizens from EU-10 countries who arrived in 2004 or later in the EU-15 countries was, in the 3<sup>rd</sup> quarter of 2010, higher (72.4%) than the average for nationals (66%) and much higher than for non-EU citizens (56%). However, their unemployment rate was higher (10.2%) than for nationals (8.7%), due to a strong increase compared to two years before (+5 percentage points) due to the economic crisis.

## **6. When measuring the flows and stock of EU-10 workers, shouldn't we take into account also the temporary mobile workers?**

The picture of mobility of workers from the EU-10 countries is not complete if we consider only the workers residing permanently in the receiving countries. A certain number of workers come from a limited duration, including through posting of workers or seasonal work. According to administrative data, estimates show that in 2009, around 285.000 certificates for posting were issued from EU-10 Member States, mostly Poland, to EU-15 countries and in particular Germany. However this figure is in decline compared to 2007. Another important form of short-term mobility at least in some Member States concerns seasonal work. In 2007, around 300.000 seasonal workers were employed in Germany under bilateral agreements. Since then it seems that the flows from the countries that joined the EU in 2004 and 2007 have been decreasing, except from Romania.

## **7. Does the Commission expect a large increase in workers from the EU-8 countries moving to EU-15 countries after 1 May 2011?**

As a consequence of the transitional arrangements, labour markets of EU-15 countries have opened to EU-8 workers at different moments. Some Member States (UK, Ireland and Sweden) opened their labour markets directly from 1 May 2004 and received large inflows of workers from EU-8 countries. The others Member States opened their labour markets gradually, mainly in the period of 2006-2007. EU-8 workers have therefore already been free to work (without needing work permits) in most EU-15 Member States for several years now.

Overall, we do not expect a new massive wave of workers moving from EU-8 to EU-15 countries after 1 May, especially against the background of a limited labour demand (since most labour markets have not yet totally recovered from the economic and financial crisis). The end of the transitional arrangements will impact more on Germany and Austria, the two Member States that maintained substantial restrictions on free movement of workers during the entire seven year transitional period.

According to estimates from the Friedrich Ebert Foundation, the net flows of nationals from EU-8 countries (i.e. the Member States that joined in 2004 except Malta and Cyprus) to EU-15 Member States could be around 200,000 per year in 2011-2013, decreasing gradually to 150,000 per year in 2015 and less than 100,000 per year in 2020. It is much lower than the level reached in the years 2006-2007 (around 350,000 per year). If those forecasts are confirmed, the total stock of nationals from EU-8 countries living in EU-15 Member States will increase from the current 2.4 million to 3.3 million in 2015 and 3.9 million in 2020 and their share in the total population from currently 0.6% to 0.8% in 2015 and a bit less than 1% in 2020.

## **8. What will be the impact of the future inflows of workers from EU-8 on the economy and the labour market of the destination countries?**

As for the mobile workers that came since 2004, the reports prepared by the Commission in 2006 and 2008 showed that free movement of workers was beneficial to the economy and did not have serious negative side effects on the labour market, even in Member States which have seen a relatively large inflow of workers from the recently acceded Member States (see the reply to question 2).

These findings are expected to remain valid in the future, although the Commission does not have at the moment new estimates of the possible impact on the whole EU economy and labour market.

According to the study by the Friedrich Ebert Foundation, the impact of the future migration of workers from EU-8 countries to Germany would be, in the highest migration scenario, a rise of the German GDP of 1.16%, a decline in the average wage level by 0.4% and a small increase of the unemployment rate by 0.2%.

## **9. What about the concerns in Germany and Austria that the end of the transitional arrangements will lead to 'social dumping' and what about working and employment conditions applicable to migrant workers on the one hand and to temporarily posted workers on the other?**

First and foremost, EU law on free movement of workers provides that migrant workers must receive the same working conditions, including pay, as national workers thus effectively excluding any 'social dumping'.

With regard to posted workers the Posting of Workers Directive applies: posted workers have to be guaranteed, during the period of posting, the so-called 'hard core' of terms and conditions of employment in force in the host Member State, including minimum rates of pay. Setting minimum pay or pay generally is entirely an issue and responsibility for Member States.

This is why the Posting of Workers Directive does not entail any obligation for Member States to make provisions for minimum wages. Therefore, if the host country does not have a legal minimum wage, or generally binding collective agreements, the level of pay of posted workers will be determined by the employment contract or legislation of the country of origin.

## **...but what will change on 1 May 2011 for Austria and Germany in terms of the posting of workers?**

As well as maintaining restrictions to access its labour market, Austria and Germany have been allowed for the seven-year transitional period as set out in the Accession Treaty to restrict also the free movement of services involving the posting of workers as defined in Article 1 of the Posting of Workers Directive.

They have been able to do this for as long as they maintain restrictions on access to their labour markets for EU-8 workers (and from Bulgaria and Romania). This restriction on the posting of workers may however only apply to a limited number of sectors (in Germany: construction, industrial cleaning and interior decorators; in Austria: horticulture, stone cutting, manufacturing of metal structures, construction, security activities, industrial cleaning, home nursing and social work). As agreed under the Accession Treaty, these restrictions will also end on 30 April 2011 along with the removal of general obstacles to their labour markets. It is important to note that only the abovementioned sectors are concerned. In all other sectors, the provision of services through posted workers has been possible since 1 May 2004 without any restrictions. In addition, the posting of temporary agency workers will also no longer be restricted (for EU-8) following on from the recent judgment *Vicoplus* (C-307/09 of 10 February 2011)

For the sectors that until now have been restricted for posting, Germany has minimum wages in construction and industrial cleaning and final steps are undertaken to introduce a generally binding minimum wage for temporary agency workers.

## **What about Romania and Bulgaria?**

### **10. Restrictions for EU-8 workers will end on 30 April but not for workers from Bulgaria and Romania. How long can restrictions for them remain in place?**

In principle, restrictions should end with the current second phase on 31 December 2011. Thereafter, they can be renewed for a further final period of two years (i.e. until 31 December 2013), but only if a Member State notifies the Commission of evidence that labour flows have been seriously disrupting (or were threatening to seriously disrupt) its labour market.

The Commission therefore recognises that the decision on lifting the restrictions lies entirely with the Member States, subject to the conditions laid down in the Accession Treaty. However, experience has shown that overall mobility and open access to labour markets has been positive, particularly in terms of reducing undeclared work.

### **11. Which EU countries impose restrictions for workers from Bulgaria and Romania?**

Workers from Bulgaria and Romania currently enjoy full rights to free movement in 14 (of 25) Member States (Denmark, Estonia, Cyprus, Latvia, Lithuania, Poland, Slovenia, Slovakia, Finland, Sweden, Hungary, Greece, Spain and Portugal) and also do not need a work permit to work in the Czech Republic. The remaining 10 Member States (Belgium, Germany, Ireland, France, Italy, Luxembourg, Malta, Netherlands, Austria and UK) maintain their work permit system for Bulgarian and Romanian workers, albeit in some cases with modifications in comparison to the conditions and procedures that applied to them prior to EU accession:

- 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, university graduates and engineers in certain fields (aeronautical, mechanical, electrical, vehicle construction) need a work permit but are exempt from a labour market test.
- In Ireland, a work permit will be issued if an employer cannot fill the vacant post with another EU-25 citizen.

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

- 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).
- 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.
- 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 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.
- 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.
- Austria maintained its work permit systems but 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.

## **12. How many nationals from Bulgaria and Romania are there in EU-15 countries?**

Member States' population statistics and labour force survey data show that at the beginning of 2010 about 2.5 million Bulgarian and Romanian citizens were living in the EU-15 countries. This means that the average population share of Bulgarians and Romanians living in the EU-15 increased from 0.2% in 2004 to 0.6% in 2010.

The breakdown was the following:

- 2.1 million Romanian citizens, mainly in Italy (890,000), Spain (825,000) and Germany (110,000);
- 430,000 Bulgarian citizens, mainly in Spain (168,000), Germany (66,000), Greece (54,000) and Italy (46,000).

According to the EU-Labour force survey, the number of EU-2 citizens living in the EU-15 countries has increased in 2009 at a smaller pace than before due to the economic crisis and even decreased in the first quarter of 2010 (negative net migration) before increasing again in the two subsequent quarters.

### **13. What is the labour market situation of the EU-2 citizens who recently moved to EU-15 countries?**

According to the EU-Labour force survey, the employment rate of Bulgarian and Romanian working age (15-64) citizens who moved recently in the EU-15 countries was, in the 3<sup>rd</sup> quarter of 2010, close (65%) to the average for the nationals (66%) and much higher than for non-EU citizens (56%). However, their unemployment rate (17.8%) was much higher than for nationals (8.7%), notably due to an increase compared to two years before due to the economic crisis.

### **14. How many nationals from Bulgaria and Romania are living in EU-10 countries (the countries that joined the EU in 2004)?**

The number of EU-2 nationals in the EU-10 Member States was estimated, at the beginning of 2010, at 105,000. This overall figure is very low, compared to the total population (0.14%) or compared to the non-EU citizens (1.2 million or 1.6% of the total population).

70% of them are Romanian citizens living in Hungary. The other main destination countries are Czech Republic and Cyprus.

### **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 2012 – 31 December 2013