

“Labour Mobility Package”: A European Fraud Against Mobile Workers and Their Countries of Origin?

« *This type of immigration coming from other Member States burdens the host societies with considerable additional costs, in particular caused by the provision of schooling, health care and adequate accommodation* » – joint letter from the Ministers of Home Affairs of Austria, Germany, Netherlands and the United Kingdom to the EU Presidency, April 2013¹.

« *Labour Party would curb new EU migrants’ access to benefits. People arriving from EU countries would not be able to claim jobseekers’ allowance for the first two years of living in the UK* » – MP Rachel Reeves, Labour economist and shadow Minister of Work and Pensions, November 2014².

« *Access to labour markets and social security is not the same thing. Access to the labour market does not mean automatic access to social security systems* » – Frans Timmermans, Vice-President of the European Commission, March 2015³

The European Commission is gradually unveiling content of the so-called *Labour Mobility Package*, the new set of measures on free movement of workers envisaged in the programme of the Juncker Commission and announced this Spring.

The Package is based on well-known pillar principles, according to which EU citizens have right to:

- > Seeking employment in another EU country
- > Working in that country without a working permit
- > Residing in that country for working reasons
- > Staying there even after their job is finished
- > Enjoying equal treatment as nationals of that country in terms of work and all social and tax benefits
- > Moving their health and pension insurance to the country where they take up residence.

Over the past years, on several occasions did the European Commission raise the issue of low intra-EU mobility (affecting only 3% of the EU labour force), trying to highlight the advantages of the principle of free movement of workers.

Nevertheless and despite all principles and advantages, many obstacles in facts remain for European workers who wish or, most of the times, need to relocate abroad or seek employment in another Member State. These obstacles have enormously augmented during the crisis. Often are mobile workers victims of discrimination and unequal treatment in sectors such as social security, working conditions, salary, access to welfare, training and taxation. In particular, cross-border workers and people hired through atypical contract often face major discrimination because of their ill-defined and low-protected status⁴.

¹ <http://bit.ly/1Db4gxC>.

² *EU migrants would have to wait 2 years before claiming jobseekers’ allowance under Labour* (<http://bit.ly/1gHoPhj>).

³ <http://bit.ly/1Na23L7>.

⁴ Caldarini C., Giubboni S., McKay S., *The “Place” of Atypical Work in the European Social Security Coordination: A Transnational Comparative Analysis*, 2014 (<http://bit.ly/1yLITTY>).

Preventing "fraud and abuse"?

In theory, the main objective of the European Commission's Labour Mobility Package is building a deeper and fairer internal market for mobile and migrant workers. But, in facts, the package will mainly aim at increasing the capacity of Member States to prevent, as they put it, "fraud and abuse".

The package looks to prevent fraud and abuse by monitoring companies' behaviour, for instance on posted workers, but especially - and this is the real strategy - by introducing new, stricter criteria to access social security benefits. This will favour countries such as Germany and the United Kingdom and penalise both mobile workers and their countries of origin as their economic, social and welfare systems are usually weaker than in destination countries.

Most likely was the Labour Mobility Package influenced by the joint letter sent by representatives of Austria, Germany, Netherlands and the United Kingdom to the Presidency of the European Union in April 2013⁵. While emphasizing that "*Freedom of movement in Europe is one of the central achievements of the European integration process and one of the most important and visible benefits of the European Union for its citizens*", the four Ministers vigorously asked to review EU provisions to provide for stricter sanctions such as, for example, bans on re-entry after an expulsion (all bans on entry, including after an expulsion are currently prohibited under European directive 2004/38 on the free movement of EU citizens and their family members). Their main argument is that "*this type of immigration coming from other Member States burdens the host societies with considerable additional costs, in particular caused by the provision of schooling, health care and adequate accommodation. On top of this strain on vital local services, a significant number of new immigrants draw social assistance in the host countries, frequently without a genuine entitlement, burdening the host countries' social welfare systems*".

Therefore, Union citizens may be considered "immigrants" and treated as "foreigners". The European Commission reacted to the letter 8 months later, arguing that no data supports the argument that such citizens are taking advantage of the system, nor that they constitute a burden for host countries' welfare systems⁶. But this was not enough to pour oil on troubled waters.

Following the joint letter, leading political representatives from Germany, United Kingdom and the Netherlands seized any available opportunity to put forward proposals to review EU rules on free movement of workers. Their background rationale is that migrant workers do come handy to domestic and European economies, especially when they pay social contributions, but they do not when receive the resulting social security benefits.

British conservatives believe⁷ that European "immigrants" should not be able to access welfare benefits connected with work, for instance the jobseekers' allowance, during the first four years of living in the UK. Further, if their offspring do not live in the UK, they should not be entitled to receive family allowances. In such a tense atmosphere, the Labour Party decided to back the same arguments. According to MP Rachel Reeves⁸, economist and shadow Minister of Work and

⁵ <http://bit.ly/1Db4gxC>.

⁶ http://europa.eu/rapid/press-release_MEMO-13-1041_en.htm

⁷ Cameron: EU should change freedom of movement rules, or UK will exit (<http://bit.ly/1KK7hOg>).

⁸ EU migrants would have to wait two years before claiming jobseekers' allowance under Labour (<http://bit.ly/1gHoPhj>).

Pensions, *"Labour Party too should curb new EU migrants' access to social security benefits"*. More, *"People arriving from EU countries should not be able to claim jobseekers' allowance for the first two years of living in the UK "*. According to Germany⁹, the amount of family allowances for foreign workers should be calculated based on the country of residence of the offspring.

This way, it might actually seem that the Germany and UK requests are just adjustments but, in facts, they undermine the very pillars of free movement of people and coordination of social security systems, hence, of the entire European project.

This kind of restrictions was first introduced by Luxembourg in the year 2000, targeting children of foreign workers in Luxembourg not residing in the Grand Duchy territory. As a result, in 2013 the Court of Justice of the European Union ordered to withdraw all restrictive measures and recalled that migrant workers *"shall enjoy the same social and tax advantages as national workers"* (article 7.2 of Regulation (EU) 492/2011 on freedom of movement for workers).

Still, the modifications currently in the pipeline at the European Commission exploit the *"tackling fraud and abuse"* argument to aim, in facts, at reducing rights for mobile workers, lift social accountability from host countries and increase the burden incumbent on sending countries, usually less strong both on the strictly economic side as well as at political and welfare level.

But, how can we say all that, having the Commission not unveiled yet the details of its project?

Commissioner Marianne Thyssen presented the guidelines of the project at the international conference on labour mobility held on 23rd April 2015 at Krakow University. According to Thyssen, the Labour Mobility Package will support national authorities tackle *"fraud and abuse"* and European rules on coordination of social security systems will be reviewed *"to reflect the changes in the economy and society"*¹⁰.

But the Vice-President of the European Commission, Dutch Frans Timmermans, had already announced its gist one month earlier, bluntly explaining that *« Access to labour markets and social security is not the same thing. Access to the labour market does not mean automatic access to social security systems »*

That is, you may surely come and work in our countries, you will pay social contributions and taxes just as national citizens but do not ask for equal rights on social security, that would be a fraud!

Did You Say Impact Assessment?

During recent meetings held with social partners, the European Commission repeatedly announced that its Labour Mobility Package is at a planning stage and that an *"impact assessment"* will be conducted before defining its content, involving representatives from European social partners.

"Impact Assessment", we said. But what is it exactly?

In May 2015, we had the chance to view the questionnaires¹¹ used to conduct this study.

⁹ *British-German axis emerges against benefits tourism* (<http://bit.ly/1DMMJBW>).

¹⁰ http://europa.eu/rapid/press-release_SPEECH-15-4841_en.htm

¹¹ To ask for a copy of such questionnaires, please contact osservatorio@osservatorioinca.org.

In short, the European Commission hired three research institutes to assess "*changes to administrative/compliance costs*" within national administrations and for the families affected, that might occur from possible revision of the current EU provisions on unemployment and family benefits specified in Regulations 883/2004 and 987/2009 on the coordination of social security systems.

Note well: "*administrative/compliance costs*", not economic and social costs for Member States and individual citizens.

More specifically, the study aims at "*assessing variations in administrative tasks*" and the resulting costs for social security bodies to comply with the new, hypothetical regulation.

Half page of the questionnaire, counting 16 pages in total, is dedicated to assessing "*the administrative implications*" for workers and their families from revisions to EU provisions on family and unemployment benefits.

The so-called "*administrative implications*" on workers and their families are not calculated taking into account the amount of benefits, which is reduced, but rather in terms of "*man-hours/minutes*" required to comply with the new administrative task, just as in the case of social security bodies. More precisely, the questionnaire claims to analyze, in a phone interview, the new "*administrative implications for the mobile EU workers*", on the basis of the "*time spent when applying for benefits*"!

The "impact assessment" questionnaire is based on a hypothetical European citizens from Member State B (where cost of living is lower than in Member State A) who works in Member State A (where cost of living is higher than in Member State B). For simplicity purposes, let's imagine that this worker is a Polish citizen who works in Germany.

The hypotheses of legislation revision are summarised in the two tables below.

Table 1: Family Allowances

Examples	Present Rules	Hypotheses of Revised Provisions	Consequences
<p>Example 1: A Polish citizen lives, works and pays social contributions in Germany (where cost of living is higher than in Poland) whereas his wife, who does not work, lives in Poland with their children.</p>	<p>The Polish worker receives family benefits from Germany, at the standard rate applied in that country, even if his family lives in Poland.</p>	<p>Hypothesis 1: The Polish worker will receive family allowances from Germany, reduced to the cost of living of Poland.</p>	<p>The Polish worker will receive lower family allowances, although he pays social contributions just as his German colleagues!</p>
		<p>Hypothesis 2: The Polish worker will receive family allowances from Poland, at the standard rate applied in that country, plus an integration from Germany as allowances are higher there.</p>	<p>Overall, the worker receives the same amount but one part of this cost is borne by Poland whilst social contributions are totally paid by the worker to Germany!</p>
<p>Example 2: A German citizen lives, works and pays social contributions in Poland (where cost of living is lower than in Germany) whereas his wife, who does not work, lives in Germany with their children.</p>	<p>The German worker receives family benefits from Poland, at the standard rate applied in that country, even if his family lives in Germany.</p>	<p>Hypothesis 3: The worker will receive family allowances from Germany, at the standard rate applied in that country, with no integration from Poland as allowances are lower there.</p>	<p>Family benefits will be paid by the country of residence of the family (Germany) and not by the country of employment (Poland) to which social contributions are paid.</p> <p>This is the only case when the worker would receive, pursuant to the new legislation, higher family allowances.</p> <p>Too bad migration flows go from Poland to Germany and not the other way round!</p>

(Summary edited by *Inca Cgil Observatory on European Social Policies*, based on the questionnaires used for the impact assessment)

Table 2: Unemployment Benefit

Examples	Present Rules	Hypotheses of Revised Provisions	Consequences
<p>Example 1: A Polish citizen moves to Germany and works there for 3 weeks before losing, involuntarily, his job.</p>	<p>The Polish worker receives unemployment benefits in Germany like a German worker. The periods of insurance previously completed in Poland (or other EU) are taken into account as if completed in Germany.</p>	<p>Hypothesis 1: The periods of insurance previously completed in Poland (or other EU) are taken into account, only once the Polish worker has completed at least 4 weeks of insurance in Germany.</p>	<p>The Polish worker does not receive unemployment benefits, even though he had worked (and paid insurance contributions) for several years in Poland before moving to Germany!</p>
<p>Example 2: A Polish citizen moves to Germany and works there for 2 months before losing, involuntarily, his job.</p>	<p>Same as above.</p>	<p>Hypothesis 2: The periods of insurance previously completed in Poland (or other EU) are taken into account, only once the Polish worker has completed at least 3 months of insurance in Germany.</p>	<p>Same as above.</p>
		<p>Hypothesis 3: The Polish worker is entitled to unemployment benefits in Germany. However, his income earned in Poland (or other EU) will be taken into account in calculating the amount of benefits.</p>	<p>Germany will pay the Polish worker lower benefits, as commensurate with the income earned in Poland, despite the Polish worker lives in Germany where the cost of living is much higher!</p>
<p>Example 3: A German citizen moves to Poland and works there for 2 months before losing, involuntarily, his job.</p>	<p>The German worker receives unemployment benefits in Poland like a Polish worker, aggregating insurance periods completed in Germany (or in other Member States) as well.</p>	<p>Hypothesis 3: The German worker is entitled to unemployment benefits in Poland. However, for the purposes of calculating the amount of the benefit, his income earned in Germany will be taken into account.</p>	<p>Poland pays the German worker higher benefits than its national workers.</p> <p>This is the only case when the worker would receive, pursuant to the new legislation, higher benefits. Too bad migration flows go from Poland to Germany and not the other way round!</p>

(Summary edited by *Inca Cgil Observatory on European Social Policies*, based on the questionnaires used for the impact assessment)

The possible enforcement of such restrictive rules would cause immediate media effect, while their actual financial impact would be negligible. For instance, 14 million children are entitled to family allowances in Germany and only 0.6% of them lives abroad. However, this may be devastating for the families of the about 144,000 Polish workers who live in Germany and still have one dependent child who resides in Poland¹².

According to a [report published by the European Commission on 25th September 2014](#),¹³, workforce mobility in Europe constitutes a cost for sending countries rather than for host countries. Indeed, the amount of taxes and contribution paid by the "foreign" population to its host country is higher than what is received as welfare benefits and other aids. Well, this imbalance would be further worsened by the new rules because - as we have just shown - they lower the amount of allowances workers receive and not the amount of contributions they pay, moving the cost mainly towards countries of origin.

The above-mentioned study of the European Commission also shows that foreigners are a tiny minority within the group of people who benefit from welfare allowances: just to give a few examples, it is less than 1% in Austria and less than 5% in Germany and the Netherlands. As to national spending for health care, the cost ascribable to the foreign population is, in average, 0.2%.

A [University College of London study](#) from November 2014, based on UK Government data, compared the net fiscal contribution of British nationals to the contribution of several groups of immigrants. The net fiscal contribution of European citizens exceeded the one from British nationals by 10% in the period between 1995 and 2011.

Another [study published in June 2014 by IZA World of Labor](#)¹⁴ shows that individual immigration decisions are not made based on the generosity of the welfare systems of host countries. On the contrary, immigrants - including EU immigrants - rely on welfare less than national citizens, even if they face higher poverty risk. In short, once again, foreign workers pay their host country more than what they receive. And, even when immigrants benefit from welfare more than national citizens, this is because of social differences, not for the fact of being an immigrant.

So, the myth having that migrants take advantage of the generosity of social systems in rich countries is clearly denied by international statistics. And, in facts, it is just a [myth](#)¹⁵.

According to the [2013 OECD Report on International Migration](#)¹⁶, the delta between social and tax contributions paid by immigrants and the allowances they have received is always in favour of host countries, and to the detriment of migrants (see table).

According to the OECD, the net fiscal contribution of migrants is positive in all countries except Ireland, where the balance is negative for national citizens too. The OECD also clarifies that the balance is negative because the immigrant population is older than in other countries and, as a consequence, immigrants are over-represented in the group of beneficiaries of old-age pensions.

¹² *Welfare migration? Free movement of EU citizens and access to social benefits* (<http://bit.ly/1MZWhLu>).

¹³ http://europa.eu/rapid/press-release_MEMO-14-541_en.htm.

¹⁴ *The welfare magnet hypothesis and the welfare take-up of migrants* (<http://bit.ly/1GVPVrt>).

¹⁵ *'Benefits tourism' in the EU is a myth, report says* (<http://bit.ly/1fTkhDb>).

¹⁶ OCDE, *Perspectives des migrations internationales*, 2013 (<http://bit.ly/1DaVfqG>).

Table 3: Net Fiscal Contribution of Immigrants in Some OECD Countries
(average 2007-2009, purchasing power being equal)

	<i>Families Born in the Country</i>	<i>Families Born Abroad</i>	<i>Mixed Families</i>
Australia	+ 3,776	+ 8,353	+ 2,303
Belgium	+ 9,159	+ 5,560	+ 16,830
Canada	+ 7,552	+ 5,167	+ 15,494
France	+ 2,407	- 1,451	+ 9,131
Germany	+ 5,875	-5,633	-4,453
Ireland	-2,487	- 1,274	+6,511
Italy	+ 3,980	+ 9,148	+ 12,126
Luxembourg	-1,228	+ 9,178	+ 7,232
Netherlands	+ 9,940	+ 2,544	+ 21,303
Poland	+291	- 5,691	- 4,630
United Kingdom	+ 2,604	+ 3,029	+ 11,954
Spain	+ 3,106	+ 7,496	+ 9,830
Sweden	+ 6,815	+896	+ 13,473
Switzerland	+ 14,968	+14,549	+ 21,437
USA	+ 8,534	+ 8,274	+ 17,158

Summary by *Inca Cgil Observatory on European Social Policies*
Source: OECD (<http://dx.doi.org/10.1787/888932831870>)

As we already said, a brief review of the envisaged revision might convey the message that just a few adjustments are being implemented. More, such adjustments appear to be based on common sense, to tackle fraud and abuse, adjust allowances to the cost of living, etc.

In facts, the package aims at preventing access to social security from workers who have earned this right based on their contribution record. This would be the "fraud". As clearly stated by the Vice-President of the European Commission, the intent is to decouple access to labour market from access to social security.

After 60 years of building a united Europe, it has been understood that workers actually move from countries with lower standards of living to countries with higher standards of living. This is the alleged "abuse". It came as a shock to realize that Polish workers move to Germany, Portuguese to Luxembourg, Romanians to Italy and Italians to Belgium! It shouldn't take a specialization in sociology to understand that the only shock would come if the actual trend were the opposite.

These "hypotheses to review provisions" question the very pillars of free movement of people and coordination of social security systems. They undermine the laying foundations of the entire European project. For instance:

- > The principle of "equal treatment", enshrined by the Treaty and article no. 24 of the directive on free movement of EU citizens.
- > The principle whereby all people are entitled to family allowances "*even for family members who reside in another Member State*" (article 67 of EU Regulation 883/2004 on the coordination of social security).

- > The principle whereby European workers "*shall enjoy the same social and tax advantages as national workers*" (article 7.2 of Regulation EU 492/2011 on freedom of movement for workers).
- > The principle of unity of applicable legislation, whereby a person is subject to the legislation of one Member State only, generally the country of employment (article 11 of EU Regulation 883/2004 on the coordination of social security).
- > The principle of retention of rights in course of acquisition. That is, the possibility to "aggregate" insurance periods completed in a Member State in order to determine entitlement to a right in another Member State (article 6 of the EU Regulation 883/2004 on the coordination of social security).

Above all, this would deny a fundamental principle of social law, that is that cash benefits are a subjective insurance right to which one person is entitled as a result of contributions s/he paid during his/her working career.

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