

EUROPEAN CITIZEN ACTION SERVICE  
WHO'S STILL AFRAID OF EU ENLARGEMENT

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# 1 INTRODUCTION

The first two years of the membership in the EU of ten Central and Eastern European countries are the proof that their integration with the rest of Europe is an irreversible process. So is the application of the “*acquis communautaire*” (i.e. the community law) in the everyday life of 74 million new European citizens. There is only one exception to this rule: the freedom to take up employment in any of the Member States, without administrative, legal or other burdens has been made subject to certain restrictions which may be applied by individual countries of the EU for a maximum of seven years.

ECAS has already focused on the issue of the effective exercise of European citizens’ rights in different documents<sup>1</sup> and started to examine the impact of restrictions imposed on the right of new Member State nationals to take up employment freely in the enlarged Union since 2004.<sup>2</sup> The present paper is the update of the “Report on the free movement of workers in EU-25” that ECAS published in August 2005,<sup>3</sup> which was the first to provide detailed information on the post-enlargement migratory flows with regard to both the EU-15 and the “Accession eight” (A8) countries. The findings of the research were later upheld by the report of the European Commission on the functioning of the Transitional Arrangements, which drew the conclusions on the major trends and characteristics of free movement of workers at the European level.<sup>4</sup>

Free movement of persons, the fundamental right of all European citizens, implying the free choice of their place of residence, country of work, destination of travel etc. within the European Union, is echoed by a Eurobarometer survey conducted in autumn 2005,<sup>5</sup> according to which *53% of European citizens associate the European Union with the right to travel and work in another Member State*. Citizens have a strong perception of their individual freedom to reside anywhere in the territory of the European Union, while other European achievements such as the introduction of the euro or the safeguarding of peace come second and third in the ranking (with 44% and 36 % respectively).

The awareness of the right to free movement matches art. 18 (1) of the EC Treaty<sup>6</sup> on the right of European citizens to move and reside freely within the territory of the Union. European citizenship is the *differentia specifica* of Member State nationals from third

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<sup>1</sup> For the list of publications see: [www.ecas.org](http://www.ecas.org)

<sup>2</sup> Byrska, M.: The unfinished enlargement. ECAS, September 2004.

<sup>3</sup> Traser, J.: Report on the free movement of workers in EU-25. Who is afraid of EU enlargement? ECAS, September 2005.

<sup>4</sup> Report on the functioning of the Transitional Arrangements set out in the 2003 Accession Treaty (period 1 May 2004 – 30 April 200). COM(2006) 48.

<sup>5</sup> Eurobarometer survey quoted by: Krieger, H and Fernandez, E. in: Too much or too little long-distance mobility in Europe? EU policies to promote and restrict mobility. European Foundation for the Improvement of Living and Working Conditions.

<sup>6</sup> Art. 18 (1): „Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down by this Treaty and by the measures adopted to give it effect.”

country nationals, since it implies the right to benefit from the common “legal heritage,”<sup>7</sup> the provisions of the Community legal order. Certain political rights, minimum social standards, consular and diplomatic protection abroad are conferred too upon European citizens by virtue of their countries’ membership in the European Union.

Being a member of such a Union guarantees – when exercising one’s right to free movement – also a right to equal treatment with nationals of the receiving State. The right to equal treatment is supposed to be operational in every circumstance – except for the duration of the transitional period with regard to free movement of workers from the new Member States.

By virtue of the Accession Treaty signed on 16 April 2003 in Athens, 15 so called “old Member States) (EU-15) could avail themselves of the possibility of maintaining existing national regimes regulating access to their labour markets instead of immediately switching to the application of Community rules on free movement of workers. *Thus, new Member State nationals, if in the status of a worker cannot fully enjoy the rights flowing from European citizenship in those EU-15 countries, which apply transitional measures.*

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<sup>7</sup> Judgment of the Court of 05/02/1963 in case 26-62, NV Algemene Transport- en Expeditie Onderneming van Gend & Loos v Netherlands Inland Revenue Administration

## **2 THE EUROPEAN CONTEXT OF GEOGRAPHICAL/ OCCUPATIONAL MOBILITY**

The European Commission designated 2006 to be the European Year of Workers' Mobility with a view to helping people improve their chances of finding employment, which fits their skills and talents the best, while also satisfying their expectations related to professional career development and personal well-being.

Mobility in a European context is first and foremost linked to the right of European citizens to reside freely in the territory of any of the Member States and to move from one country to the other for whatever purposes. However, this paper approaches the subject not only from the legal perspective – i.e. mobility as a right. Numerous economic studies prepared in the past two years underline the beneficial impacts of migration on the host societies. Given Europe's ageing population, mobility becomes also more and more often the only possible answer and solution to existing and newly occurring labour shortages. As this report will therefore show, there are many economic, scientific, demographic, cultural and other benefits to be gained from greater mobility of Europeans.

### **2.1 European citizenship**

European Citizenship is directly conferred upon each national of each Member State by virtue of the Treaties of the European Community. The underlying principle of European citizenship is the right to equal treatment (non-discrimination based on nationality – art. 12, EC Treaty) and the fundamental right of all Europeans to move and reside freely on the territory of the Member States (art. 18(1) EC Treaty), and subsequently to pursue an economic activity if they wish to do so. These fundamental “treaty rights” are complemented with a number of other rights and entitlements in the area of e.g. social security, recognition of qualifications etc. However in practice, there is often a tension between European citizenship free movement rights and member states' policies to protect their social security system and particularly access to social benefits.

In order to establish an “ever closer Union to its Citizens”, Community institutions make a considerable effort to consolidate secondary legislation governing special aspects of citizens' everyday life. Directive 2004/38 on the right of European citizens and their family members to reside freely on the territory of the Member States<sup>8</sup> confirms each EU citizen's right to reside outside their country of origin for a period of up to three months without the need to comply with any administrative formalities and makes periods of residence longer than three months subject to registration with the competent authorities only,<sup>9</sup> thus abolishing the system of residence permits.

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<sup>8</sup> Of 29/04/2004, OJ L 158/77.

<sup>9</sup> A registration certificate is issued to Union Citizens. After five years of continuous residence (not affected by absences shorter than six months), the Union Citizen acquires the permanent resident status, which is certified by a “document certifying permanent residence”. This right is acquired for an indefinite period, and is only lost in case of an absence of two consecutive years. Art. 8, art. 16 (4) and art. 19 of Dir. 2004/38.

However European citizenship has still not become an independent and absolute status of Member State nationals, since the right to reside and the right to move freely are linked to social conditions. Directive 2004/38 continues to operate a differentiation between European citizens i.e.: those who are economically active (workers, self employed and service providers); and those, who are not - pensioners or students, who in order to be able to reside in another EU Member State have to satisfy two conditions:

- be covered by comprehensive sickness insurance in the host Member State; and
- have sufficient resources for themselves and their family.<sup>10</sup>

In other words, this means, that not being financially self-sufficient might render the right to free movement (art. 18(1) EC Treaty) void of content, though the preamble of the Directive adds a clause in favour of migrant European Citizens, i.e. “As long as beneficiaries of the right of residence do not become an unreasonable burden on the social assistance system of the host Member State, they should not be expelled.” However, in practice it seems that admission of Community nationals by host Member States is only desirable if the persons concerned contribute to production and economic growth.

The Court of Justice of the European Communities, when interpreting the articles on the right of residence and non-discrimination based on nationality (art. 12), has gradually given a broader scope of application to these principles and imposed the obligation of equal treatment even if it implies for example financial burdens for the host Member State.<sup>11</sup> The Court has shifted the balance in favour of the individual by insisting that every national restriction on his or her rights have to be proportionate and justifiable. Nevertheless, “*There is an enormous gap between the case law of the Court and its recognition of the concept of European Citizenship [...] and what happens everyday when people’s expectations that they will be treated as European Citizens are actually disappointed...*”<sup>12</sup>

## 2.2 Economic considerations

Economic theories say that complementary foreign labour tends to increase productivity and exerts an upward push on wages. The fundamental efficiency argument in favour of migration is that a move to a better-paid job increases global economic output.<sup>13</sup> In addition to that, the high employment rate of migrant workers means that they make a net

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<sup>10</sup> Art. 7, Dir. 2004/38, as regards the right of residence of family members in case of death or departure of the Union Citizen: „Union citizens and their family members shall have the right of residence ... as long as they do not become an unreasonable burden on the social assistance system of the host Member State.”

<sup>11</sup> See: judgement of the Court of 02/02/1989 in case 189/87, Ian William Cowan v Trésor Public

<sup>12</sup> Vanessa Turner, lawyer at the debate on European Citizenship, 24/05/2006. Organised by ECAS and Freshfields Bruckhaus Deringer.

<sup>13</sup> J. V. Weizsäcker: Welcome to Europe. Bruegel policy brief, issue 2006/03. April 2006. This contains a useful summary of current thinking by economists on the benefits of migration and who wins and who loses.

fiscal contribution. Potential gains from labour migration may also be expected in relation to public investment and consumption.<sup>14</sup>

As an analyst of the Financial Times pointed out, “*intra-EU migration is vital for the efficient use of EU labour*”,<sup>15</sup> since it might help to fill skills bottleneck and ease the difficulties of sectors, where labour shortages occur.<sup>16</sup> In such a case, labour migrants *complement the native workforce on the labour market and do not compete with them.*

Apart from host economies, sending countries might also gain from labour migration, especially if we think of migrant remittances. According to the OSCE, in terms of world money transfers, migrants’ remittances are the largest international exchange value after petroleum and are above the level of international development aid.<sup>17</sup> Another gain might be the achievement of skills and labour knowledge, which nevertheless acts in favour of the development of the sending country only if the migrant returns. Otherwise, the departure of those highly skilled entails a loss in the country of origin and may lead to brain drain. Therefore, within the European Union, circular migration has to be encouraged.

### **2.3 The demographic challenge**

Member States of the European Union are increasingly facing the challenges of the ageing population and the demographic decline. IOM studies demonstrate that Germany, Austria, Italy, Greece, Poland, the Czech Republic, Hungary, the Baltic States and Slovenia show a negative net population change. Whereas demographic stagnation is experienced in Hungary, in Poland and in the Baltic States this trend is not made positive by immigration either.<sup>18</sup>

The trend of increasingly ageing population is confirmed by Eurostat: the number of persons aged 80 and over is expected to triple, rising from 18 million (2004) to about 50 million in 2051.<sup>19</sup> The Central European and the Baltic countries will probably be the most affected by the decrease in their population. As the decline will be so tangible, *population growth can be generated only through immigration.* As much as projections foresee that immigration alone is unlikely to solve the issue of demographic change, it might nevertheless postpone its negative consequences.

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<sup>14</sup> Schäfer, H.: Measuring the impact of intra-EU labour Mobility. On brain gain and brain drain: stock and flows of foreign human capital in Germany. 28th CEIES seminar on Migration Statistics – Social and Economic impact with respect to the labour market.

<sup>15</sup> Immigration gains. Labour mobility is vital for the UK and the EU. Financial Times, 23/08/2006.

<sup>16</sup> COM(2006) 48 final. *Cfr. supra* note 4.

<sup>17</sup> Handbook on Establishing Effective Labour Migration Policies in Countries of Origin and Destination. OSCE, IOM, ILO 2006.

<sup>18</sup> Mattila, H.: Labour migration in the Austrian – Hungarian – Slovakian region: figures on flows and discussion on practical interventions. “A regional approach to free movement of workers: labour migration between Hungary and its neighbouring countries” conference organised by the European Studies Centre of the University of Szeged, Hungary. 16-17 June 2006.

<sup>19</sup> Eurostat, Statistics in focus. Population and Social Conditions, 3/2006. „Long-term population projections at national level.”



### 3 DRIVERS AND OBSTACLES TO MOBILITY

Often referred to as “push” and “pull” factors, incentives and deterrents to migration play an important role in determining whether a person will leave his/her country of origin or will remain instead. Traditionally, the following drivers to mobility are mentioned:

- income gap between the home and target countries;
- the labour market situation in a chosen country (i.e. it is more likely that migrants depart for countries with well-performing economies, where the number of jobs available is high, even if new migrants will have to compete for these jobs with earlier waves of migrants in the same sections of the labour market);
- geographical proximity; and
- emigration networks (or chain migration effects), which are supposed to help the integration of newcomers into the host society, however which at the same time can also serve as a signal for further immigrants that the labour market is already saturated.<sup>20</sup>

Apart from economic reasons (including better quality of employment), there is also a whole array of other potential incentives to migration: better housing conditions, better local environment, the advantage of discovering new places and meeting new people, and other less obvious reasons, like better climate. This shows that economic considerations in themselves are not enough to “push migrants” towards departure. Experience gathered by ECAS through a questionnaire supporting the summer hotline – information and advice service launched by ECAS – also shows, that free movement of people is encouraged by expectations related to better quality of life elsewhere, curiosity and eagerness to explore a new country, career prospects and improvement of professional and educational qualifications.

Reasons, which lead the individual to choose to stay, might be a direct consequence of the expected cost of migration (e.g. that of transportation and transaction). The higher these costs are, the less it is probable that the person will be in a position to leave a given labour market. An important disincentive to mobility is the lack of information about the administrative/financial burdens of leaving the country; insufficient information about the destination country, the society, job prospects, legal requirements etc. or alternatively if information is available, it might still be inadequate or wrongly structured to provide an answer to practical questions. Economic ties (e.g. home-ownership), family concerns (disruption of family life, difficulties for the spouse, or children who want to join the migrant) may be additional discouraging factors, as *people’s welfare depends not only on material gains, but also on family ties, friendships and social connections*. As pointed out by a research of the Institute for the Study of Labour (IZA), “*Geographic movement can generate income, but at the expense of destroying friendships...this trade-off is important in decisions about geographic mobility.*”<sup>21</sup>

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<sup>20</sup> On the basis of the findings of the European Commission, *ibidem*: note 4.

<sup>21</sup> Belot, M – Ermisch, J.: Friendship Ties and Geographic Mobility: Evidence from the BHPS. IZA Discussion Paper No. 2209.

Cultural and language barriers (adaptation to a culture, learning a new language) are classical factors, which may potentially hinder migration. Highly regulated labour markets – where access is complicated by administrative procedures or entails expenses – can also “pull” workers back from migration.

### 3.1 Europeans and mobility

As a natural phenomenon, inherent to each individual, “the migration issue” as such has not started with the latest EU enlargement. The large majority of foreigners residing in the EU Member States at present is *from outside the Union*. According to Eurostat, the total number of non-nationals living in the European Union in 2004 accounted for around 25 million, which equals to 5.5% of the total population.<sup>22</sup> Meanwhile the number of citizens from the 10 new Member States is around 0.2% of the total population of the EU-15. Before 1 May 2004, the total stock of EU-10 nationals residing legally in EU-15 amounted to 1,077,000, which equalled to 0.3% of the total EU-15 population. (These figures correspond to the number of residents in EU-15 i.e. also those studying, running a self-employed activity or joining their family in a given country and not solely those being employed in a given Member State). In the pre-enlargement period, the largest group of CEEC migrants resided in Germany (57% of the 1,077,000), Italy (9.5%), Austria (7.3%) and Greece (6.7%)<sup>23</sup>.

According to a Eurobarometer survey on geographic and labour market mobility<sup>24</sup>, it appears that among all European citizens, it is the Irish, Danish, Swedish and Slovak people that are the most inclined to migrate (60% of the respondents), while the propensity to migrate is the smallest in Greece and Cyprus (below 30%). It is interesting to see that according to the same survey, it is mainly EU-15 nationals who think positively about long-distance mobility, while Polish, Lithuanians or Estonians (who are thought to have put their right to free movement in practice the most frequently during the first to years of membership in the Union) are not more eager to migrate than their Austrian, Italian or Luxembourg counterparts. As pointed out by a representative of the Danish trade Unions, there is absolutely nothing new in migration, “*The news – ladies and gentlemen – would be, if it didn't happen.*”<sup>25</sup>

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<sup>22</sup> Eurostat, Statistics in focus, Population and Social conditions 8/2006.

<sup>23</sup> Tamas, K., Münz, R.: Labour Migrants Unbound? Institute for Futures Studies, 2006.

<sup>24</sup> Eurobarometer, Europeans and mobility: first results of an EU-wide survey. 2006.

<sup>25</sup> Gunde Odgaard, BAT-Kartellet at the conference: “Mobility of workers and services in the Baltic Sea area” 10/05/2006.

## 4 MOBILITY OF ACCESSION STATE'S NATIONALS IN THE ENLARGED UNION

### 4.1 Conditions imposed by the Transitional Arrangements

Migration flows that have taken place in the EU after 1 May 2004 cannot be analysed separately from the legislative regulations on labour migration i.e. the system of Transitional Arrangements that was agreed upon by old and new Member States with the signature of the Accession Treaty. During a maximum period of seven-years ("transitional period", which was divided into a scheme of "2+3+2" years), EU-15 Member States have been allowed to continue applying their national rules (i.e. the previously applied work permit system) instead of the full application of community rules on the free movement of workers.

According to the Accession Treaty, workers who are nationals of the new Member States (with the exception of Maltese and Cypriot citizens) fall under the *ratione personae* of the Transitional Arrangements and need to comply with the formalities set out in the national law of a given country in order to gain access to employment there. Only those new Member State nationals who have been legally employed in an "old" Member State for an uninterrupted period of 12 months prior or after the date of enlargement, gain free access to the labour market of that Member State automatically (but not to that of any other Member States maintaining restrictions).

Family members of a worker may join him/her and gain free access to the labour market of the chosen Member State from the third year following Accession or after 18 months of legal residence with the worker, whichever date is earlier. In a way, interpreting the provisions of the Accession Treaty, one may therefore conclude that from the third year following the enlargement, family members of a worker are likely to find themselves in a more favourable situation than the worker himself/herself, who would remain subject to a work permit requirement.

The Transitional Arrangements set out also the following three principles: *safeguard clause* (combined with the *standstill clause*), the principle on application of *reciprocal measures* and the principle of *community preference*. The first (*safeguard clause*) allows a Member State to restore at any time during the transitional period the national regime of work authorisation in case it experiences serious disturbances on its labour market, in a given occupation or in a given region. However, even with the re-introduction of the work permit system, none of the Member States is allowed to impose more stringent measures than those applicable on 30 April 2004 (*standstill clause*). The second principle on application of *reciprocal measures* allows the acceding countries to maintain a restrictive immigration regime vis-à-vis those EU-15 countries, which did not grant free access to their labour market (this worked only in relation to EU-15 – 'A8', since the 'A8' granted free access to each other's labour markets automatically). Between 2004-2006 three new Member States, namely Hungary, Poland and Slovenia have opted for such measures. The third, *community preference principle* precludes a Member State

from treating third country nationals more favourably than nationals of the CEECs when applying for work. If the national labour authorities are facing two equally qualified workers applying for a work permit, priority should be given to the national of an A-8 over a national of a third country applying for the same position.

#### **4.2 Restrictive and liberal regimes on access to the labour market in EU-25**

National regimes on access to the labour market that applied during the first two years post – enlargement can be divided in four groups.

- 1) Belgium, Luxembourg, France, Finland, Greece, Germany and Spain maintained their work permit systems;
- 2) Denmark granted work permits only to those in full-time employment; Austria, Portugal, Italy and the Netherlands maintained their work permit system and combined it with quotas, thus creating a “double threshold” before granting access to their respective labour markets.
- 3) Three Member States: Ireland, Sweden and the United Kingdom decided to open their labour markets to workers coming from A8 already as from 1 May 2004 of which both in the United Kingdom and Ireland, access to social benefits was made conditional: in the UK, a one-year legal employment relationship was required, while in Ireland, the “habitual residency” test has become applicable.<sup>26</sup>
- 4) Sweden was the only country to fully apply Community rules on free movement of workers and the principle of equal treatment as regards access to social benefits.

Restrictions on access to the labour market applied to Czech, Estonian, Hungarian, Latvian, Lithuanian, Polish, Slovak and Slovenian nationals. Malta and Cyprus are not covered by Transitional Arrangements given the small size of their labour market and population.

Amongst the Accession countries only Hungary, Poland and Slovenia opted for the application of “reciprocal measures” (see above) and required work permits from nationals of those EU countries, which also restricted labour flows of their nationals. Labour migration between the accession countries has not been limited since 1 May 2004.

One reason behind the application of restrictive measures by certain Member States was to allow those countries to better monitor and control labour-related migratory flows. However, the research carried out by ECAS in August 2005 showed, that in many of the Member States, statistical evidence on the real size of labour migration from the CEECs was not available.<sup>27</sup>

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<sup>26</sup> For a fuller account of the rules governing the free movement of workers in EU-25 between 01/05/2004 – 01/05/2006 see: ECAS Report, *infra*, note 55.

<sup>27</sup> *Cfr. supra* note 5.

## **5 CHANGES IN THE NATIONAL REGIMES APPLIED SINCE 1 MAY 2006:**

Since 1 May 2006, restrictions on access to the labour market remain in place in Austria, Germany and the Netherlands. The latter is applying also a quota system in relation to seasonal workers. Nevertheless, the Dutch government has made an official declaration announcing the revision of the existing rules by 1 January 2007.

Denmark maintains the application of Transitional Arrangements, however eases conditions in a way, that part time workers will also be granted work permits provided that they work more than 30 hours per week. France also notified the Commission that it would gradually lift restrictions. From 1 May 2006, it has already liberalised access to 61 sectors<sup>28</sup> suffering from employment gaps or serious labour shortages. For the jobs concerned, French labour authorities<sup>29</sup> issue work permits automatically, without the examination of the situation of the labour market. Eased procedures are also applied on a “sector-based approach”<sup>30</sup> in Belgium and Luxembourg.

Between 1 May 2006 – 21 July 2006, Italy has still been applying the work permit system combined with quotas, however raised the quota from the previous 79,500 to 170,000. After 21 July the restrictions were abolished when Italian State Secretary Giuliano Amato announced that the country has granted full access to its labour market to nationals of the new Member States and at the same time, it has opened a quota of 300,000 for non-EU nationals.

The number of labour markets that are now open for A8 nationals has tripled with Finland, Greece, Portugal, Spain and Italy fully applying Community rules on free movement of workers. Going hand in hand with the opening of its labour market, Finland is setting up a system, which allows labour authorities to monitor the labour flows from the new Member States. This might provide for a reliable record of post-enlargement migratory flows that hopefully will encourage other Member States.

Amongst the new Member States, there is one important (and symbolic) decision to be mentioned i.e. that Slovenia ceased to apply reciprocal measures towards nationals of those EU-15 countries that still keep in place the restrictions on the free movement of Slovenian labour.

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<sup>28</sup> Sectors covered are: public works and civil engineering; hotel, food and drink industry; manufacturing, metal works and other industry; process industry; merchandising and marketing; cleaning industry.

<sup>29</sup> Agence National pour l'Emploi, Direction Départementale du Travail, de l'Emploi et de la Formation Professionnelle.

<sup>30</sup> Sectors covered in Belgium differ in the three regions, however to cite some examples: IT specialists, nurses, draughtsmen, engineers, agricultural workers, technicians etc. Luxemburg opened the following sectors: agriculture, viticulture and catering.

## 6 THE DYNAMICS OF POST-ENLARGEMENT MIGRATORY FLOWS: FIGURES AND TRENDS

The latest developments in the application of Transitional Arrangements i.e. the fact that already eight EU-15 countries grant free access to their labour market to workers from the new Member States and that further 5 countries announced the gradual phasing out of restrictive measures, is a sign that the past two years brought about changes on both “sides.” Unemployment rates in EU-10 decreased: the largest relative falls were observed in Estonia (from 8.2% in May 2005 to 4.9% in May 2006) and Lithuania (from 8.7% to 5.6%). A decrease from 18.1% to 16.4% was even registered in Poland where the unemployment rate is the highest in the European Union. Slight increases in the unemployment rates were observed in Malta (from 7.2% to 8.3), Cyprus (from 5.1% to 5.5%), Slovenia (from 6.2% to 6.5%) and Hungary (from 7.1% to 7.3%). In any case, these rates remain well below the EU-25 unemployment rate (8.2% in May 2006) and even that of the Euro area, which is 7.9% (same period).<sup>31</sup>

At the same time, wages and salaries continue to grow in Europe with the highest annual rise in labour costs (which consists of wages and salaries and non-wage costs) in Latvia (19%), Estonia (14.9%), Lithuania (13.2%) and Slovakia (7.5%). The annual growth in wages and salaries at EU level ranges from 0.8% (the Netherlands) to 18.7% (Latvia).<sup>32</sup>

The economic effects of the EU enlargement (trade, foreign investment, GDP growth etc.), and as the impact of labour migration on the receiving countries were examined in a series of studies during the past two years. ECAS also contributed to better understanding of the phenomenon with a Europe-wide survey of statistical evidence on migratory flows and with policy recommendations on the liberalisation of labour flows.

The findings ECAS formulated one year ago found their confirmation in the later Report of the European Commission on the Functioning of the Transitional Arrangements published in February 2006<sup>33</sup>. Both documents concluded that on the whole, migratory flows remained limited although some countries experienced a relatively large inflow of Central and Eastern European workers. Such was the case of Austria, Ireland, Germany and the UK. However, migration from the CEECs is marginal compared to that from third countries. The percentage of foreigners present for example in Germany is 7% (of the total population) of which only 0.7% comes from the new Member States. At the EU-15 level, new Member State nationals account for 0.4% of the non-native population compared to an overall 5.1% of resident foreigners.

There were few signs of disturbances on the labour markets at the receiving end and this might be due to two factors. Firstly, migration is a “welfare proof” or a demand-driven phenomenon, which is more likely to occur if there is an increased demand for labour.

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<sup>31</sup> Euro-indicators: May 2006 – Euro Unemployment down to 7.9%, EU-25 stable at 8.2%. Eurostat news release 87/2006, 03/07/2006

<sup>32</sup> Euro-indicators: First quarter 2006 compared to first quarter 2005 – Euro area labour costs up by 2.4%. Eurostat news release 80/2006, 16/06/2006.

<sup>33</sup> *Cfr. supra*, note 12.

Secondly, European migration is, to a certain extent, circular: the estimated duration of labour migration is 1 – 1.5 years. Furthermore, seasonal employment is also a very common phenomenon. (In case of Germany, the largest share of work permits was issued to seasonal workers.)

A complementary workforce is needed on most of the labour markets, especially in the construction sector and services industry. (see below) Furthermore there is a trend in most Western European countries for the native population to become more and more reluctant to do certain jobs because of a higher level of education. Therefore, there is little probability that migrants crowd out nationals on the labour market.

Such considerations lead ECAS to recommend the phasing out of the Transitional Arrangements. The positive message seems to have got through. The Transitional Arrangements are still however in force and work permits are still required from new Member State nationals in Austria, Germany and in the non-liberalised sectors in Belgium, France, Luxemburg and for the time being also the Netherlands, which may decide to apply a more liberal regime only as of 1 January 2007.

Whilst the overall European situation now looks more favourable, there are important national differences which are explored below.

## **6.1 Member States granting free access to their labour markets for new Member States nationals:**

### *6.1.1 Ireland*

Ireland was amongst the first three countries, which abolished the work permit requirement for citizens from the new Member States. Economic considerations have played an important role in such a decision, since the Irish economy was one of the best performing in Europe at the time of enlargement. The continuous production requires a workforce, which is supplied through immigration as well. Therefore, the number of employed in 2005 and the first quarter of 2006 increased by 4.7% and reached 2,000,000. This is a milestone in the history of the Irish economy. The main source of employment growth is the construction sector (+9% increase in 2005) and the services sector (+6% increase in 2005).

While employment increased by 89,000, unemployment rose only by 6,100 in 2005. The unemployment rate in Ireland is 4.2% (first quarter 2006), which is half of the average of the European Union. Earnings growth is also significant and is the most dynamic in the non-trade sectors (7% in 2005). Employment is also expected to boost in the coming years since the economic outlook forecasts 5% increase in the output in 2006/2007.<sup>34</sup>

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<sup>34</sup> FÁS Quarterly Labour Market Commentary, Second Quarter 2006.

This outstanding economic performance is assisted by migrant workers without whom, vacancies would probably remain unfilled, given the fact that immigration accounted for over half of the increase in the labour force. The Central Statistical Office estimates net immigration to the labour market at the level of 51,200 in 2005 and the first quarter of 2006. Based on the data one may clearly conclude that the increased supply does not disrupt the labour market; to the contrary, the demand for labour is strong and the number of vacancies is rising.

The Central Statistical Office also reports, that the total number of foreign nationals employed in Ireland in 2005 and the first quarter of 2006 was 198,000 of which just over 74,000 workers were from the new Member States. This means that even though 200,000 Personal Public Service numbers (PPS – necessary to take up employment) were allocated to nationals from the CEECs, *approximately two-thirds* stay in Ireland for work.<sup>35</sup> (Similar findings were made one year after accession. Then, 83,000 persons were issued with PPS numbers of which, actually 55,000 were known to have taken up employment in Ireland.<sup>36</sup>) The majority of migrant workers found employment in the hotel and catering industry, and the construction sector. The largest groups of migrants come from Poland (54%), Lithuania (19%), Latvia (9%) and Slovakia (8%). When comparing the employment statistics of all 15 Western European Member States, the employment rate of EU-10 nationals is the highest in Ireland (85% against 67% employment rate among Irish nationals<sup>37</sup>).

Between January 2005 and March 2006 5,300 foreign jobseekers were registered as unemployed non-nationals in Ireland, but the survey does not provide information about the nationality of the job seekers.

Non-nationals make up 8% of the Irish workforce and their presence brings an important contribution to economic growth. Workers are needed the most in construction, industry, retail and services sectors. With the presence of migrant workers, these labour shortages may be alleviated. The Irish Training and Employment Authority (FÁS) reports that only 1% of the manufacturing companies see their production constrained by labour shortages at the beginning of 2006. (For comparison: this rate was 10% in 2000.)

Recognising the role of migrant workers in filling a large number of vacancies, the Irish Training and Employment Authority launched a “pre-departure” information campaign (“Know Before You Go”) in Poland, Lithuania, Latvia, the Czech Republic and Slovakia in order to provide adequate information on living and working conditions in the country.<sup>38</sup>

Upon arrival in the host country, information services are of equal importance. Within the framework of the European Year of Workers’ Mobility, ECAS and cooperating partners

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<sup>35</sup> *ibidem*, note 27.

<sup>36</sup> FÁS, The Irish Labour Market Review, 2005.

<sup>37</sup> COM(2006) 48 final. *Cfr. supra* note 4.

<sup>38</sup> Source: [ec.europa.eu/employment\\_social/workersmobility\\_2006/index.cfm?id\\_page=157](http://ec.europa.eu/employment_social/workersmobility_2006/index.cfm?id_page=157)



organised a conference in Ireland<sup>39</sup> touching upon the issue of how to help the integration of migrant workers in Irish society. The conclusions drawn from this event showed, that advice services do play a key role in the process of integration of migrants and this not by simply making information available, but rather making sure that the available information gets through to people concerned i.e. going out to migrant communities as opposed to waiting for migrants to find their way to advice and information services themselves. Advice services have to be mobile like their clients is also one of the findings to come from answers to the questionnaire mentioned above under 3.

### 6.1.2 *Sweden*

Sweden was the only country to grant full access to its labour market for new Member State nationals and has not imposed any conditions on access to social welfare. The ECAS' report of August 2005 already pointed out, that new Member State nationals did not prove to be "welfare tourists" since there was no increase in the number of benefit claims. There was no sudden increase in the number of new arrivals either.

Currently held figures cover the period of May 2004 to December 2005 and show the same trend observed during the first year following enlargement. 8,768 first time permits were granted to nationals of the new Member States (between May 2004 and December 2005) of which 3,838 to Polish nationals alone, 1,903 to Estonians (13%), Latvians (5%) and Lithuanians (20%), while only 542 to "other" accession states nationals (Czechs, Slovaks and Hungarians). The very moderate flows of migration from the new Member States confirm that the non-imposition of Transitional Arrangements was the right policy option.

As regards free movement of services (which is not subject to limitations in EU-15 with the exception of Austria and Germany in certain sectors), it is worth mentioning that no more than around 1,000 nationals from the new Member States registered their presence in Sweden for this purpose.

The posting of workers is a more contentious issue. In last year's report, ECAS already pointed out the problems surrounding the issue, which arises from the conflict of national rules on collective bargaining and the Community rules concerning the prohibition of measures restricting competition. The case reported last year (*Laval un Partneri Ltd v. Svenska Byggnadsarbetareförbundet et al.*) is still unsolved. The Latvian company involved in the dispute (posting workers to a Swedish building site) challenged the Swedish Trade Unions and refused to conclude the collective agreement relating to terms and conditions of employment in Sweden claiming, that it was already subject to a collective agreement in Latvia. In response to the lack of respect for Swedish union rules, the trade unions started to boycott the Latvian company, which later went bankrupt.

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<sup>39</sup> "Promoting equality of participation for EU migrants in Ireland" conference held on 03/07/2006 in Dublin, organised by the National Citizens Information Services of Ireland in cooperation with the European Citizen Action Service and Citizens Advice International.

Litigation started in Sweden and the case has been subsequently referred to the European Court of Justice<sup>40</sup> in order to establish whether it is compatible with Community rules (posting of workers, freedom to provide services and discrimination on the grounds of nationality) that trade unions might attempt to force a foreign temporary provider of services to sign a collective agreement. According to Swedish law, Swedish collective agreements become applicable and take precedence over foreign collective agreements already signed.<sup>41</sup> The case raises therefore a question whether there is a need for European labour law and challenges the social dimension of the EU.

According to the FAFO Report<sup>42</sup> “...the challenge resides not in the volume, but rather in the problems surrounding circumvention, i.e. that enterprises seek to avoid collective agreements, work environment regulations etc.” Swedish trade unions have the possibility to enforce their collective agreements and initiate blockades and solidarity actions in case a foreign enterprise is unwilling to sign such agreements. By August 2005 Swedish trade unions, especially in the construction sector, made use of their right of blockade 21 times. However, it is also the construction sector, which in the period June 2005 to June 2006 showed the largest increase in the number of employed persons.

### 6.1.3 The United Kingdom

The United Kingdom is one of the countries in relation to which the most articles and studies on labour migration from the new Member States were published. This is due to the liberal approach<sup>43</sup> the country adopted since May 2004: new Member State nationals are free to take up employment, however once employed, they should register on the Workers' Registration Scheme (WRS). The first registration costs 70 pounds; subsequent registrations are free of charge.

While being a tool for monitoring migratory flows and controlling the access of A8 workers' to certain welfare benefits and services, WRS also encourages migrant's participation in the formal economy.<sup>44</sup> However, the figures it provides do not reflect the actual inflow of workers from the new Member States 100%. The system measures only the inflow and not the outflow of workforce, since there is no obligation to de-register when leaving the British labour market. Furthermore, it is also a commonly agreed fact, that the WRS covers not only new migrants, but also details of new Member State nationals who were resident in the UK prior to enlargement and who regularised their stay only after 1 May 2004.

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<sup>40</sup> Case C-341/05.

<sup>41</sup> OJEU, 12.11.2005.

<sup>42</sup> Status Report January 2006: The impact of EU enlargement on labour mobility to the Nordic countries. Fafo, 07/02/2006.

<sup>43</sup> Access to social benefits is linked to the condition of having worked legally in the UK for at least one year.

<sup>44</sup> Polish and Lithuanian workers: Opportunities and Challenges for Trade Unions. COMPAS research project progress briefings.

According to the latest Accession Monitoring Report published by the Home Office on 22 August 2006,<sup>45</sup> in total, there were 447,000 applications to the WRS between May 2004 and June 2006. An additional 101,000 applications were made for re-registration (in case of change of employer) and 28,000 for multiple re-registration. Those who worked for more than one employer simultaneously made 4,000 multiple registrations. Both in 2004/2005, it was the summer months that saw a peak in the number of registrations, which corresponds to the increased demand in seasonal agricultural occupations. The number of approved applications broken down by quarters shows only a slight increase over the two years (38,830 applications during the 2<sup>nd</sup> quarter in 2004 and 49,850 during the same period in 2006), while higher numbers were registered between April – September 2005 (55,100 and 58,860 respectively in the 2<sup>nd</sup> and 3<sup>rd</sup> quarter of the year).

As regards the nationality and age group of applicants the trend is constant (if compared to the findings of 2005): Polish workers remain the most represented with a share of 62% or 264,560 of the total number of registrations, followed by Lithuanians (12% or 50,535) and Slovaks (10% or 44,300). 82% of workers are aged between 18 – 34 and among this group; most come to the UK during the summer months. The male – female ratio of migrant workers is 58:42 with only 7% of all registered workers having dependants in their charge.

The classification of employments by occupation groups (replacing the formerly used “sector-based approach”) suggests that the previously dominant occupations, such as work in the hospitality and catering sector or in the agriculture now seem to take second place to the preferred administration, business & management. The proportion of those working in the latter increased from 17% (or 6,590: 2<sup>nd</sup> quarter 2004) to 39% (or 19,295: same period in 2006). The biggest number of migrant workers found employment as process operatives (other than factory worker: 95,865); followed by warehouse operatives (25,215); packers (24,130); kitchen and catering assistants (24,090); cleaners and domestic workers (20,430); farm workers (18,105) etc. Migrant workers filled in occupations in the administration, business & management mainly in the Midlands, Anglia and the North-West. Meanwhile, workers seeking employment in agriculture went to Anglia and the South-West. Hospitality and catering sectors was recruiting the most migrants in London, South-Central England and Scotland. Overall, the region of Anglia received the greatest number of registered workers (15%) during May 2004 – June 2006, followed by London and the Midlands (14% and 12% of the total respectively). However the regional distribution of migrant workers is now much more balanced, since the proportion of applications in London is falling (from 25% in 2<sup>nd</sup> quarter 2004 to 9% in the same period in 2006), while the numbers increase in other parts of the country. So far, the least applicants went to Northern Ireland and Wales.

In general, migrant workers take up permanent and temporary employment in an equal proportion, with tendencies depending on the sectors: agriculture (by its nature) and the administration, business & management offer predominantly temporary employment,

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<sup>45</sup> Accession monitoring Report May 2004 – June 2006. Home Office, Department for Work and Pensions, HM Revenue & Customs, Department for Communities and Local Government. 22/08/2006.

while the hospitality and catering sectors need many more permanent than temporary employees (77% against 20% respectively).

Applications for welfare benefits remained at a very low level: only 768 demands for social benefits and 527 applications for child benefit were allowed for further processing, while 14,009 applications for tax credits (or 66% of the total) were approved.

According to the Home Office Minister, Tony Mc Nulty, the overall number of A8 nationals exercising a gainful activity in the UK is higher than the above-stated 447,000 if account is taken of the self-employed as well.<sup>46</sup>

While on the one hand, the labour market experiences the increase in the available workforce, on the other hand, figures for the UK show the highest-ever level of employment records since 1971.<sup>47</sup> At the same time, skills shortages for example in low skilled occupations, in healthcare or driving persist and these sectors are capable of absorbing additional employees. A sample survey by Manpower<sup>48</sup> shows that employers in all sectors have taken on more workers from the Accession countries than in the previous year, though there is a shift from the construction sector to hotels and retail, where more new Member State nationals were employed in 2006. Larger businesses, mainly in London and in the east of England are most willing to hire A8 nationals. Although low-skilled sectors (such as construction, warehouse and distribution, production and assembly) take the most A8 migrant workers, there is also an important need for migrant workers in the hospitality sector, health care and social work, where according to the Centre on Migration Policy and Society (COMPAS),<sup>49</sup> over 80,000 workers from new Member States were registered between May 2004 and December 2005.

Migrants contribute to national production and play a vital role in answering demand for labour. However, the integration of migrants and their equal treatment is not always satisfactory. A report focusing on South Lincolnshire<sup>50</sup> found, that local communities are inadequately prepared to respond to migrants' needs. *"Migrants face language barriers, poor employment conditions and discrimination, but are highly motivated, prepared to work long hours and offer skills needed in the local labour market."*

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<sup>46</sup> Nearly 600,000 new EU migrants. BBC news. Available online at: [http://news.bbc.co.uk/1/hi/uk\\_politics/5273356.stm](http://news.bbc.co.uk/1/hi/uk_politics/5273356.stm)

<sup>47</sup> East Europe migrants help take jobless to six-year high. Available online at: [www.mailonsunday.co.uk](http://www.mailonsunday.co.uk)

<sup>48</sup> Migrants / Skills. A Manpower Report: EU enlargement – two years on. May 2006.

<sup>49</sup> Are you being served? Employer demand for migrant labour in the UK's hospitality sector. COMPAS Presearch project progress briefings.

<sup>50</sup> The Dynamics of Migrant Labour in South Lincolnshire. Available online at: [www.migrantworker.co.uk](http://www.migrantworker.co.uk)

#### 6.1.4 Finland

Finnish social partners together with the Ministry of Labour agreed in early February this year on ending the application of Transitional Arrangements in relation to new Member State nationals. As in the case of already opened or gradually liberalising labour markets, here too, favourable economic conditions lie behind this decision. The number of jobs available is rising in Finland (during June 2006, 33,300 new vacancies were reported, which is 3,900 higher than in June the previous year).<sup>51</sup> Therefore migrant workers, supplementing the native workforce, are welcomed.

During the first two years following EU enlargement, similarly to the other Nordic countries (including Norway and Iceland), no massive influx of A8 workers was experienced in Finland. Accession countries' nationals accounted to a bit less than half of all entrants to Finland (9,700 A8 migrants out of 22,600). Moreover, not all of the 9,700 entered the Finnish labour market. Between May 2004 and December 2006, a total of 4,485 first time work permits were issued in Finland<sup>52</sup> to A8 nationals (only 2,632 in 2005), of which nearly 80% to Estonians, followed by Polish, Latvian, Hungarian and Lithuanian citizens. Permits were most often given in the following sectors: horticulture, agriculture, construction, cleaning, healthcare and social work, transport and music.<sup>53</sup>

Since 1 May 2006, a work permit is not required from new Member State nationals wishing to take up a salaried activity. Nevertheless, pursuant to the arrangement of the social partners and the Ministry of Labour, workers are subject to compulsory registration at the Employment Office for monitoring purposes.<sup>54</sup> Pay and working conditions of the migrant workers will continue to be closely monitored.

Similarly to Sweden, in Finland, freedom to provide services is a more contentious issue than individual migration. The concerns are aggravated by the fact that no reliable data on the volume of migrant service providers is available.

#### 6.1.5 Italy

A decision announced at the end of July 2006 makes Italy the newest member in the group of "open labour market" countries. At the beginning of the second phase of the transitional period, Italy expressed its will to maintain restrictions in place (work permit system combined with quotas), but raised its annual quota from 79,500 to 170,000. However, migration statistics released soon after showed that the quota set for workers

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<sup>51</sup> Employment Bulletin of the Finnish Ministry of Labour, June 2006. (published on 25/07/2006)

<sup>52</sup> Fafo, 07/02/2006. *Cfr. supra* note 42.

<sup>53</sup> Employment Bulletin of the Finnish Ministry of Labour, June 2006. *Cfr. supra* note 51.

<sup>54</sup> source: [www.mol.fi/mol/en/01\\_ministry/07\\_empbullet/index.jsp](http://www.mol.fi/mol/en/01_ministry/07_empbullet/index.jsp)

from the new Member States was filled by only 60%, (with 48,000 new Member State nationals applying for work permits in Italy).<sup>55</sup>

The major group of A8 migrants present in Italy are from Poland and represent a quarter of the all the foreigners resident in Rome. In 2005 24,148 Polish workers entered the country, but mainly to take up seasonal employment. Polish migrants residing in Italy (72,229 on 31 December 2005) account for 5% of the total foreign population. The largest immigrant communities are from Romania, Albania and Morocco.<sup>56</sup> The most common reasons for which Polish nationals come to Italy are work (66.2%) and family reunification (23.8%). Self-employment is the driving factor for only 3.2% Polish residing in Italy.

On 21 July 2006, Italy opened also a quota of 350,000 for non EU citizens for 2006. Italy has a particularly big share of people working “in the black”: 16-17% compared to the European average of 4-5%.<sup>57</sup> This is therefore a first step in helping irregular migrants to regularise their situation. Migration from new Member States is marginal when compared with Italy’s immigration problem in a wider sense: the total inward migration in 2005 amounted to around 325,000.<sup>58</sup> Meanwhile Italians themselves are also extremely mobile: in 2006 3,106,251 Italians were living abroad, mainly in Europe (Germany, Switzerland, France and Belgium), but also in America (both North and South).

#### *6.1.6 Greece, Portugal and Spain*

Since 1 May 2006, migrant workers from new member states can take up employment without having to apply for a work permit or worrying to fit within a quota in Portugal, Greece and Spain. Portuguese and Spanish Prime Ministers announced their will to lift the restrictions as the first ones, during meetings with their Polish and Czech counterparts.<sup>59</sup> Both governments stressed the important contribution accession states’ nationals made to Spanish and Portuguese economies.

Detailed statistics on the number of A8 migrants present in Spain are not available. However, it may be presumed that the presence of A8 nationals was minor and that major immigrant groups still originate from outside Europe. Immigrant workers present in Spain are mainly from South America, Ecuador and Colombia (which is explained by the common language and culture). As regards immigrants from Europe, the largest groups come from Romania, Bulgaria and the Ukraine.

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<sup>55</sup> Chow, K.: Report on the free movement of workers in EU-25. The functioning of Transitional Arrangements – two years after enlargement. ECAS, July 2006.

<sup>56</sup> Golemo – Kowalska – Pittau – Ricci: Polonia. Nuovo paese di frontiera. Da migranti a comunitari. Caritas Italiana 04/07/2006.

<sup>57</sup> „Italy warned over immigrant amnesty” available online at: <http://euobserver.com/9/22186/?rk=1>

<sup>58</sup> Demographic National Balance Year 2005, Istat, 10/07/2005

<sup>59</sup> [www.kprm.gov.pl/english/2130\\_7856.htm](http://www.kprm.gov.pl/english/2130_7856.htm) and [www.cbw.cz/phprs/2006032025.html](http://www.cbw.cz/phprs/2006032025.html)

In the absence of up to date figures covering the period between 2004 and 2006 which would reflect the migratory flows from the new Member States to Spain, we recall the findings of the Commission's report<sup>60</sup> according to which, foreigners residing in Spain account for 8.1% of the total population, of which only 0.2% come from the new Member States. National Statistics report that out of a total of 234,218 migrants from Europe residing in Spain, 10,815 were coming from the A8 (with the largest group of Polish: 6,118 and Lithuanians: 2,735 followed by a few hundreds of Slovaks, Czechs and Hungarians).<sup>61</sup>

As regards third country nationals, Ecuadorians, Moroccans and Romanians make up the biggest group of foreigners. Estimates put the number of Romanians residing and working in Spain at around 400,000.<sup>62</sup> Madrid and Castellón have the largest share of Romanian immigrants.<sup>63</sup> Non-nationals (from all countries) tend to get their first jobs in the domestic services, personal care or the construction sector. In recent years, hotels and catering industry have shown the greatest growth in employment of the foreign labour force.<sup>64</sup>

Statistical data available for Portugal for the year 2005 shows that there were 1,034 new Member States nationals residents in Portugal (the largest groups were: Polish 434, Hungarian 225 and Czech nationals 118), compared to 76,470 EU-15 nationals with major groups of migrants coming from the UK, Spain and Germany.<sup>65</sup> (These figures cover foreigners residing in Portugal for all various reasons, not only for work purposes.) At the same time, the Portuguese Foreign Minister said at the beginning of this year that it is mainly third country nationals and especially Romanians, Ukrainians and Belarussians who are the most willing to take up employment in Portugal.<sup>66</sup>

The available data on the number of nationals of the new Member States suggests their very weak presence in Portugal, as a consequence of which, the lifting of transitional measures will probably have very limited repercussions on the Portuguese labour market. The relative geographical distance is also a factor hindering migration from Central and Eastern Europe and probably even more so from the Baltic States.

In relation to Greece, the latest data available is that presented by the Commission, which shows that only 3,711 A8 nationals sought employment in Greece in 2004.<sup>67</sup> Due to the immediate geographic proximity, Greece is much more affected by immigration from

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<sup>60</sup> COM(2006) 48 final. *Cfr. supra* note 4.

<sup>61</sup> Instituto Nacional de Estadística: Estadísticas de variaciones residenciales 2004: Inmigraciones de extranjeros procedentes del extranjero.

<sup>62</sup> <http://szekely.blogspot.com/2006/08/romanians-in-spain.html>

<sup>63</sup> Dans la province de Castellón, les Roumains, encore citoyens-extra-coommunautaires, semblent souvent compter beaucoup. November 2005. Available online at: [www.emi-cdf.com/echanges-partenariats/article\\_p3.php3?id-article=531](http://www.emi-cdf.com/echanges-partenariats/article_p3.php3?id-article=531)

<sup>64</sup> Available online at: [www.eiro.eurofound.eu.int/2006/04/articles/es0604029i.html](http://www.eiro.eurofound.eu.int/2006/04/articles/es0604029i.html) and [www.eiro.eurofound.eu.int/2005/12/features/es0512105f.html](http://www.eiro.eurofound.eu.int/2005/12/features/es0512105f.html)

<sup>65</sup> Instituto Nacional de Estatística, Portugal: População estrangeira residente em Portugal – dados provisórios de 2005. 24/03/2006.

<sup>66</sup> [www.cbw.cz/phprs/2006032025.html](http://www.cbw.cz/phprs/2006032025.html)

<sup>67</sup> COM(2006) 48 final. *Cfr. supra* note 4.

Bulgaria (on 1 May 2004, 33,638 Bulgarians were living in Greece<sup>68</sup>). Lifting of the national restrictions and granting free access to the labour market for workers from the new Member States is therefore predictably a “safe” move, which probably also has an important symbolic character given the fact that Greek nationals had to experience the same restrictions at the time of their entry into the EU.

One can draw a parallel comparison between the experience of the first years of the membership in the EU of the above countries (Greece became member in 1981, Portugal and Spain in 1986) and the latest enlargement, recalling the fact that that “there has been no clear, common or consistent relationship between changing patterns of population and labour stocks, or immigration and the Accession of Greece, Portugal and Spain.”<sup>69</sup>

## **6.2 Countries expected to gradually phase out restrictions on the free movement of workers by 2009:**

Belgium, France and Luxemburg entered the second phase of the transitional period with intentions similar to those who decide to lift the restrictions i.e. to make use of the presence of migrant workers in sectors where labour shortages are experienced and to take the profit they bring to the receiving state. Nevertheless, at the same time they decided to safeguard themselves against those who might be superfluous on the labour market. Such a system of “selective migration” serves economic ends and disregards the freedom of individuals to choose their preferences in work without external constraints.

The gradual liberalisation in the three countries covers both unskilled and skilled sectors ranging from IT specialists, engineers, architects, nurses to workers in the agriculture viticulture, catering or construction.<sup>70</sup> Only those professions which have been classified as “bottleneck trades” are included on the national lists. Thus net gain from migration is guaranteed.

When compared with the situation and procedures applied in the first two years following enlargement, the most important change in the regime applied from mid 2006 is that in the liberalised sectors fast-track work permits are granted to new Member State nationals. This means that for the professions entered on the national lists, labour authorities do not proceed to the examination of the labour market situation, but grant work authorisations automatically.

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<sup>68</sup> National Statistical Service of Greece, Population by Citizenship on 1 May 2004.

<sup>69</sup> The free movement of workers in the context of enlargement. European Commission: Information note, 06/03/2001

<sup>70</sup> For the complete list of professions covered in Belgium, France and Luxembourg see: Chow, Katherine: Report on the free movement of workers in EU-25. *Cfr. supra* note 55.



### 6.2.1 Belgium

Currently 350,000 non-nationals live in Belgium, representing 8% of the total active population of which 2% is from outside the EU. Despite that official statistics report that in 2005, only 2,300 new work permits were issued to A8 nationals with an overwhelming majority going to Polish citizens (2,100). More than 90% of the work permits were granted by Flemish authorities, mainly for seasonal work.<sup>71</sup> The number of self-employed A8 nationals was also extremely low: although it doubled between 2003/2004, it still amounted to only 1,300 compared to the previous 600. Polish nationals made up 90% of the self employed with 1,200 new registrations of independent activity.

The latest data covering the first quarter of 2006 reports very little change in numbers and in the pattern of migration: 3,086 work permits were issued, again primarily by Flemish authorities and mainly to Polish nationals (90%) for seasonal employment at farms and market gardens. Most of the migrants are young with secondary education.<sup>72</sup>

Over the coming months a relative increase from the current 200 employed to a few thousands is expected in the construction sector, largely due to the fact, that all Belgian regions made different branches of the building sector accessible to workers from the new Member States. If expectations are met, it will prove that restrictions were right to fall, since migrant workers will provide Belgium with the necessary workforce and assure the functioning of the sector.

### 6.2.2 Luxembourg

Luxembourg is one of the very few Member States of the European Union, where the majority of non-nationals do not come from third countries, but from other Member States<sup>73</sup>. Migrant workers represent 44% of its active population of which 40% is from Portugal and 8% is from Italy<sup>74</sup>. Apart from foreigners resident in Luxembourg, commuters from the bordering France, Germany and Belgium are the second most important source of the migrant workforce in Luxembourg. In 2005 alone, 119,383<sup>75</sup> commuters were coming to Luxembourg, mainly from France (52%), followed by Belgium (27%) and Germany (22%).<sup>76</sup> At the same time, the inward migration from the

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<sup>71</sup> L'accès au marché belge du travail des ressortissants des nouveaux États membres de l'Union Européenne. Avis du Conseil supérieur de l'emploi, février 2006.

<sup>72</sup> „1000 work permits a month for Poles”

[www.vrtnieuws.net/nieuwsnet\\_master/versie2/english/details/060810\\_poles/index.shtm](http://www.vrtnieuws.net/nieuwsnet_master/versie2/english/details/060810_poles/index.shtm)

<sup>73</sup> „Around 25 million non-nationals living in EU-25 Member States in 2004” Eurostat news release 64/2006. 19/05/2006.

<sup>74</sup> „Les frontaliers plus qualifiés”, article published in: La Voix du Luxembourg, 03/06/2006.

<sup>75</sup> STATEC Luxembourg, Indicateurs rapides – Série L. 19/04/2006.

<sup>76</sup> Les activités de l'administration de l'emploi en 2005. Ministère du Travail et de l'Emploi, Administration de l'emploi, 2006.

new Member States remains very limited: in 2004 around 500 migrant workers came from Poland, 400 from Slovakia and 300 from Hungary.<sup>77</sup>

Luxembourg relies on a foreign workforce to a great extent. In 2005, 67% of the total workforce was made up by non-nationals. Thus the opening of certain sectors (agriculture, viticulture, catering) to workers from new Member States is an economic necessity, which will be certainly followed by subsequent liberalisations as well.

### 6.2.3 *France*

The last census report issued by the National Institute of Statistics states that in 2004/2005 1.7 million EU-25 nationals were living in France of which around 90,000 were Polish. These figures make the Polish community the seventh in the ranking of EU nationals resident in France and eleventh if third country nationals are also included. No other A8 country has made it into the group of “top 15” sending countries and other data about the number of new Member State nationals living in France is not published. Portuguese, Italian and Spanish continue to be the biggest “old EU” sending countries, even though the numbers of Germans, UK nationals and Belgians present in France have grown when compared with 1999.<sup>78</sup>

The question of enlargement and the heated debate over the cheap eastern labour (of which the best known result and example is the myth of the “Polish plumber”) is strongly related to economic preoccupations in France. However, while the unemployment rate of the country is 8.8%, at the same time 140,000 new jobs that are offered each year remain in part unfilled. In March 2006 47,000 job offers were unmet in the construction sector. Every third enterprise involved in the building industry could not increase its production due to the lack of workforce. The public service sector, where the labour shortage is 42%, faces even more severe structural problems.<sup>79</sup>

To respond to the tensions existing on the French labour market and bearing in mind the imminent need for additional workforce, France adopted a sector-based approach to migration from the new Member States and opened up 61 professions in which work permits are to be granted automatically without an examination of the situation on the labour market.

In some key sectors,<sup>80</sup> immigrants are needed to fill skills shortages. However, the way they are perceived by the native population is ambiguous, as fears of pressure on wages or loss of employment are associated with the “newcomers”. Although figures do not justify anxiousness (if compared to the total number of foreigners resident in France) the

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<sup>77</sup> STATEC Luxembourg, Série B, B5106.

<sup>78</sup> Enquêtes annuelles de recensement 2004 et 2005. INSEE première No 1098. August 2006.

<sup>79</sup> Source: Ministry of Labour, France. Available online at: [www.travail.gouv.fr/actualite/dossier-presse/secteurs-du-batiment-recrute-pensez-y-3479.html](http://www.travail.gouv.fr/actualite/dossier-presse/secteurs-du-batiment-recrute-pensez-y-3479.html)

<sup>80</sup> Currently seven sectors are covered: construction and civil engineering, catering, agriculture, mechanical engineering and metal work, processing industries, sales and hygiene.

myth started to live its own life and lead to a spill-over effect. At the moment, six out of ten French residents are against any further countries joining the European Union<sup>81</sup>. With a partial opening of the labour market, this unenthusiastic approach to migrants from Central and Eastern Europe may hopefully be turned into a more welcoming atmosphere. What is already encouraging is that an important group of 460 associations denounced the “pragmatic philosophy” of selective migration and pointed out that economic considerations should not become primary concerns; more attention should be paid to the personal situation of the worker and his/her rights instead.

### 6.3 Eased restrictions: Denmark

Although Denmark decided to continue the application of Transitional Arrangements for the next three years, national measures were revised. As a result of that the procedures for admitting Central and Eastern European workers to the Danish labour market are eased. Companies covered by collective agreements can obtain approval to hire a new Member State national in advance on the basis of an individual contract. This advance approval gives the employer the right to hire the worker in question without having to apply for a work permit. The advance approval allows the employer to hire the worker only for the occupation approved.

Under the system applied during the first two years following enlargement, A8 nationals were granted a work permit only for full-time employment. This rule also changed as of 1 May 2006. It is now possible for workers to take up part-time employment if it exceeds 30 hours a week. Students from CEECs will be allowed to work under the same conditions as any other foreign student and workers may remain in employment while an application for extension of their work permit (i.e. continuation of work) is pending.<sup>82</sup>

These careful adjustments are a sign of the positive experience Denmark gained from enlargement. The Danish Ministry of Labour assessed the migrant workers’ contribution as having helped “to counteract bottleneck problems at the Danish labour market,”<sup>83</sup> especially in seasonal employment (agriculture, horticulture and the building sector). In the period between May 2004 and March 2006 a total of 9,059 work permits were granted under the transitional regime.<sup>84</sup> Taking the figures for the first half of 2006, 4,406 work permits were granted mainly to workers from Poland (2,656) and Lithuania (1,055).<sup>85</sup> The number of posted workers and self employed persons registered in Denmark is similar to that of workers (7,000 – according to trade union estimates).<sup>86</sup>

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<sup>81</sup> Barysch, K.: Europe’s new division of labour. Available online at: [www.cer.org.uk/articles/barysch.html](http://www.cer.org.uk/articles/barysch.html)

<sup>82</sup> European Industrial Relations Observatory, available online at: [www.eiro.eurofound.eu.int/2006/05/articles/dk0605029i.html](http://www.eiro.eurofound.eu.int/2006/05/articles/dk0605029i.html)

<sup>83</sup> European Industrial Relations Observatory, available online at: [www.eiro.eurofound.eu.int/2005/12/inbrief/dk0512101n.html](http://www.eiro.eurofound.eu.int/2005/12/inbrief/dk0512101n.html)

<sup>84</sup> Speech by Mr. H. B. Mortensen, director of the Confederation of Danish Employers at the conference „Mobility of Workers and Services in the Baltic Sea Area – barriers and opportunities.” 10/05/2006.

<sup>85</sup> Latest Figures on immigration, family reunification and asylum. Danish Immigration Service, 13/07/2006.

<sup>86</sup> FAFO, 07/02/2006. *Cfr. supra* note 42.

#### 6.4 Prospects of full liberalisation from 1 January 2007: the Netherlands

The Netherlands applies a restrictive regime with regard to workers from the new Member States based on a requirement of a work permit (issued only after the assessment of the labour market situation) and additionally limited by a quota of 30,000 permits, which may be issued each year. Although these measures are kept in place at the beginning of the second phase of the transitional period, one can already read on the website of the Dutch Immigration and Naturalization Service, that “*After [31 December 2006] open access to the job market will be available for citizens of these [EU-10] countries.*” The Dutch Ministry of Social Affairs and Employment already commissioned research on the possible influx of new Member State nationals after such an opening.

According to the findings of the research,<sup>87</sup> the introduction of free movement of workers would lead to an estimated inflow of 53,000 – 63,000 migrants coming to the Netherlands yearly. This is just double of what the current quota allows.

According to the quota set for the period between 2004 and 2006, a maximum of 22,000 work permits could be granted to A 8 nationals per year. Migration stayed within the set limit and did not result in an increase in the number of self employed. Between January and September 2005 only 2,000 new registrations were made by self employed new Member State nationals.<sup>88</sup>

In 2005 the gross labour participation of A8 workers was 65,2% and their unemployment rate was 9.6%.<sup>89</sup> However, CEEC nationals made limited demands on social security, while regularly paying their contributions.<sup>90</sup> The Dutch economy did not experience negative repercussions in relation to A8 migrants. The unemployment rate in the Netherlands keeps decreasing (from 6.7% at the second quarter of 2005 to 5.5% at the same point in time in 2006). Job creation is continuous (with an increase of 35,000 compared to the end of the year 2005) and the number of job vacancies is stable at a very high level (172,000 in the first quarter of 2006). In such favourable conditions, migrant workers may continue to come to the Netherlands without putting the stability of the Dutch economy at risk.

During the first two years of the application of the Transitional Arrangements, Polish migrants were the most represented from the A8, while “there were hardly any migrants from other Eastern European countries.”<sup>91</sup> Polish workers present on the Dutch labour market are mainly young, with secondary or higher education. They often speak at least some German or English. According to the ECORYS research, Polish migrant workers are over-qualified for the work they carry out and usually do not come from unemployment.<sup>92</sup>

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<sup>87</sup> Evaluatie werknemersverkeer MOE-landen, ECORYS Nederland BV, 13/02/2006.

<sup>88</sup> ECORYS, *ibidem*.

<sup>89</sup> Source: Statistics Netherlands.

<sup>90</sup> ECORYS, *cf. supra* note 87.

<sup>91</sup> Press release, Central Bureau voor de Statistiek, the Netherlands. 10/05/2006.

<sup>92</sup> ECORYS, *cf. supra* note 87.

## **6.5 Member States maintaining the restrictive migration regime until the end of the second phase (2006 - 2009):**

### *6.5.1 Austria*

Both Austria and Germany are historically concerned by migration from CEECs. In 1998 around 100,000 EU-10 nationals resided in Austria, which at the time amounted to 1.3% of the total population of that country.<sup>93</sup> Pre-enlargement predictions estimated that this tendency would grow after accession and thus Austria would absorb around 10% of all EU-10 migrants.

Having a common border with four of the 10 acceding countries (the Czech Republic, Slovakia, Hungary and Slovenia), on 1 May 2004, Austria introduced a twofold control restricting access to its labour market, which will continue to apply beyond 2006 in its current shape and form. Firstly, new Member State nationals have to apply for a work permit in the federal state where they intend to take up employment. The Austrian Labour Market Service (AMS) examines whether there is an equally qualified Austrian or EEA national available for the post in question. If there is no such candidate, the application may proceed to the second phase of the control i.e. the verification if the quota for the given federal state is still open. If the quota is full, but the situation on the labour market is favourable, there is still a possibility to issue work permits having recourse to a special “aggravated procedure”. No work permits will be issued if the share of all legally employed/unemployed foreign workers reaches its ultimate upper limit, currently set at the level of 8% / 9% of the total Austrian workforce respectively. In 2006 the quota for the whole of Austria has been set at the level of 278,110 and within this number each individual federal state has also set its own upper limits.<sup>94</sup>

The totally managed migration system applied in Austria results in reliable data on how many new Member State nationals were granted seasonal and permanent work permits. In 2005, there were 14,693 Hungarians employed in Austria (of which only 3,250 were permanently employed and around 12,000 seasonally employed), 12,615 Poles, 5,565 Slovaks, 3,575 Czechs, 4,748 Slovenians etc. A total of 46,034 EU-10 nationals were employed in Austria, which when compared with a period two years before, means an increase of only 6,170.<sup>95</sup>

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<sup>93</sup> The free movement of workers in the context of enlargement. European Commission information note. 06/03/2001.

<sup>94</sup> Herzog, H.: Rules applicable to workers of Hungary, Slovakia and Romania in Austria. The working of Transitional Arrangements in practice. “A regional approach to free movement of workers: labour migration between Hungary and its neighbouring countries” conference organised by the European Studies Centre of the University of Szeged, Hungary. 16-17 June 2006.

<sup>95</sup> Huber, P.: The effects of enlargement on Austria: Long run perspectives and some first results. “A regional approach to free movement of workers: labour migration between Hungary and its neighbouring countries” conference organised by the European Studies Centre of the University of Szeged, Hungary. 16-17 June 2006.

Migration from the new Member States is however not the only phenomenon worrying Austria. The total population of 8.3 million has a 9.4% share of foreign population,<sup>96</sup> of which the share of “new” and “old” Member State nationals resident in Austria is almost the same: 6.5% for EU-10 and 5.8% for EU-14.

According to an Austrian economic research institute (Zenter für Soziale Innovation), only a minor share of EU-10 nationals remain in Austria with percentages ranging from 32% (Slovakians) to 13% (Czechs). The unemployment rates of EU-10 nationals differ from 5.2% (Hungarians) to 10.5% (Poles). However migrants from other EU-14 countries or outside Europe show even higher percentages of unemployment than the Austrian average, which is 4.9% (May 2006). For instance German nationals have an unemployment rate of 6.5% and Turkish nationals: 11.6%.<sup>97</sup>

There has been no surprise as regards the employment of A8 nationals in Austria and it seems that the number of self employed did not increase dramatically either.<sup>98</sup> A more debatable issue may be the phenomenon of commuting; however there is no clear evidence of its actual size.

### 6.5.2 *Germany*

Traditionally, Germany has been the country of destination for many migrants from CEECs. Already in 1998, there were 535,000 future Accession States’ nationals residing in the country. Based on such figures, pre-enlargement estimates projected that two-thirds of all migratory flows from accession countries would be absorbed by Germany.<sup>99</sup> Probably it was such estimates that made Germany and Austria the most determined (out of the whole EU-15) not to grant free access to its labour market for workers from the new Member States and led them to maintain the work permit requirement, treating A8 workers on an equal footing with third country nationals and not their fellow European citizens.

The debate over possible East – West labour migration flows is not a new issue. Since the fall of the Berlin wall, western Europeans made contact with nationals of the formerly isolated socialist countries. According to the OECD<sup>100</sup>, in 2000 12.2% of the low educated adult migrants in the EU-15 originated from Eastern Europe and 33.5% from other Western European countries. In 2000 the European Commission reported the presence of 230,000 non-EU foreigners mostly from the current new Member States in

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<sup>96</sup> Eurostat news release: around 25 million non-nationals living in EU-25 Member States in 2004. 64/2006, 19/05/2006.

<sup>97</sup> Huber, P.: The effects of enlargement on Austria: Long run perspectives and some first results. *Cfr. supra* note 95.

<sup>98</sup> Anecdotal evidence shows that there are 10,000 new entrepreneurs in the construction sector in the region of Vienna.

<sup>99</sup> European Commission, information note. 06/03/2001. *Cfr. supra* note 93.

<sup>100</sup> Effects of migration on sending countries: What do we know? OECD Development Centre Working Paper No. 250, June 2006.

Germany and 3,500 commuters (under special regimes) mainly from Poland and the Czech Republic.<sup>101</sup>

By the end of 2004, EU-10 nationals (not solely workers!) represented 6.7% or 448,446 of the total foreign population. At the same time, the largest group of foreigners resident in Germany (almost 70%) originated from third countries. Migration from EU-14, - which was approx. four times greater (24,7%) than migration from Central and Eastern Europe, was also an important phenomenon. According to the migration patterns, citizens from EU-14, Slovenia and Turkey were the most likely to stay in Germany for more than 10 years, while more than 50% of Romanians and Poles stayed in that country for less than 10 years.<sup>102</sup>

In 2005, the inflow of migrants from both EU-25 and third countries was on the increase. By the end of 2005, Germany hosted 6.7 million foreign nationals equalling to 8.2% of the total population. Intra-European migration was the most significant from Italy (540,810 equalling to 8% of the total foreign population), Poland (326,596 or 4.8%) and Greece (309,794 or 4.6%). The rest of the EU nationals (apart from Italians, Poles and Greeks) amounted to 966,201.<sup>103</sup>

In total, EU-25 migrants made up one-third of the foreign population (31.7%), of which 24.5% (or 1,764,041) came from EU-15 and 7.3% (or 490,720) from EU10 countries. The overwhelming majority of migrants continues to come from Turkey, Serbia – Montenegro and Croatia. If we compare the number of EU-10 nationals residing and working in Germany to the total German population, we find that they only account for 0.6%.<sup>104</sup> The most represented A8 nationals in Germany are Polish, followed by a considerably lower proportion of Hungarians (49,500), Slovenians (21,200), Czechs and Slovaks.<sup>105</sup> On 31/12/2005, 73,000 Romanians were residing in Germany (as for Romanians, the above data refers to all type of migrants and not only to those pursuing a salaried activity).

An interesting fact is that if counting the number of years spent on German territory, we find that in average, Poles and Romanians are resident in Germany for around 10 years already (9.5 and 8 respectively) while for Hungarians and Slovenians it is even more: 12.1 and 27.7 years respectively. This shows that migratory flows from these States are not unprecedented, and occurred long before enlargement took place.<sup>106</sup>

On the whole, given the proportional share of new Member State nationals present in Germany, one could come to a conclusion that restrictions on the labour market were not necessary. It was more likely that the difficulties, which the German economy has been going through, justify their imposition. However, this downward trend seems to be

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<sup>101</sup> European Commission, *ibidem*: note 5.

<sup>102</sup> Source: Ausländerzentralregister: Ausländer- und Flüchtlingszahlen.

<sup>103</sup> Ausländerzahlen (131/12/2005), Bundesamt für Migration und Flüchtlinge.

<sup>104</sup> Eurostat: Non-national populations in the EU Member States. Statistics in focus, Population and social conditions. 8/2006.

<sup>105</sup> Federal Statistical Office, Germany. Available online at: [www.destatis.de/basis/e/bevoe/bevoetab4/htm](http://www.destatis.de/basis/e/bevoe/bevoetab4/htm)

<sup>106</sup> Bundesamt für Migration und Flüchtlinge. *Cfr. supra* note 103.

coming to an end. Unemployment decreased in the first quarter of 2006 by a monthly average of 65,000 and the number of unemployed persons is expected to further decrease from 10.6% in 2006 to 10.2% in 2007, while the labour force would increase by 240,000.<sup>107</sup> In July 2004, there were 627,000 vacant positions on the German labour market, of which 89% (!) needed to be filled immediately. For example, in 2004 14.9% of the companies in the high-tech industry had difficulties in recruiting new specialists. This number doubled in 2006 (33.1% faced such problems).<sup>108</sup> Largely due to such recruitment problems, the German businesses suggested in a position paper of December 2005 that specific needs of regions or sectors should be taken into account by the government, implying therefore that access to the labour market should become more flexible, while appropriate supervision and protection measures should be introduced.<sup>109</sup> A gradual opening of the labour market on a sector by sector basis could be a realistic option for Germany even during the transitional period.

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<sup>107</sup> The Labour Market in July 2006: Improvement on the labour market: Employment up – unemployment down. Bundesagentur für Arbeit, Germany.

<sup>108</sup> Europe faces shrinking pool of workers. Available online: [www.examiner.com/a-212676~Europe\\_Faces\\_Shrinking\\_Pool\\_of\\_Workers.html](http://www.examiner.com/a-212676~Europe_Faces_Shrinking_Pool_of_Workers.html)

<sup>109</sup> Shaping worker mobility for nationals of the new Member States. Bundesvereinigung des Deutschen Arbeitgeberverbände, bundesverband der Deutschen Industrie. December 2005.



## 7 TWO YEARS OF MEMBERSHIP: EXPERIENCES OF THE A8

### 7.1 The Baltic countries: Estonia, Latvia, Lithuania

The Transitional Arrangements are applicable to Estonian, Latvian and Lithuanian citizens who intend to take up employment in the EU-15 Member States. Nevertheless, there are no restrictions on Latvians, Estonians and Lithuanians targeting the labour markets of the new Member States. The Baltic States have also decided not to apply any reciprocal measures (see above) vis-à-vis workers from the countries imposing national restrictions on access to their labour markets. Therefore EU-15 nationals are free to take up employment in the Baltic region already as of 1 May 2006.

The first two years of membership in the EU brought a significant economic increase in the region: the highest annual rise in wages and salaries in the EU-25 was found in Latvia (19%), Estonia (14.9%) and Lithuania (13.2%).<sup>110</sup> The largest relative falls in unemployment in the EU-25 were also observed in Estonia (from 8.2% in May 2005 to 4.9% in May 2006) and Lithuania (from 8.7% to 5.6% in the same period). Latvia experienced a more moderate, however still a considerable fall of 1.7% in its unemployment rate (7.7% in May 2006).<sup>111</sup>

As regards migratory flows to and from the Baltic States, our first observation is that Latvia and Estonia with more than 1,804,000 and 1,096,000 Russian residents respectively,<sup>112</sup> are the second and third in the EU-25 ranking of countries with the highest proportion of non-national resident population (the first one being Luxembourg).<sup>113</sup> When compared with their fellow European citizens, Estonians, Latvians and Lithuanians (together with Polish) are a group which is most inclined to migrate in Europe, especially those aged between 25 – 34.<sup>114</sup> Migration of the citizens of the three countries is however most often directed towards other Baltic and Nordic countries (thus showing a relative preference for short-distance mobility). In the Nordic countries (including Norway and Iceland), 38% of the A8 workers are from the Baltic States.<sup>115</sup> Only Lithuanians and Latvians are also likely to choose the United Kingdom and Ireland as their final destination.

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<sup>110</sup> Eurostat news release 80/2006, 16/06/2006. *Cfr. supra* note 32.

<sup>111</sup> Eurostat news release 87/2006, 03/07/2006. *Cfr. supra* note 31.

<sup>112</sup> Eurostat: Non-national populations in the EU Member States. *Cfr. supra* note 104.

<sup>113</sup> In Latvia and Estonia, Russians amount for 22.2% and 20% of the total population respectively. Russians also make up the largest group of foreigners in Lithuania where they amount for 1% of the population. Source: The Year of Worker Mobility: Around 25 million non-nationals living in EU-25 Member States in 2004. Eurostat news release 64/2006, 19/05/2006.

<sup>114</sup> Latvians with a firm intention to move: 2.5%-3.7%; Latvians: 2.8%-4.1%; Lithuanians: 2.9% - 4.2%. Source: Krieger, H. – Fernandez E.: Too much or too little long-distance mobility in Europe? Eu policies to promote and restrict mobility. European Foundation for the Improvement of Living and Working Conditions, 2006.

<sup>115</sup> Krieger, H. – Fernandez E.: *ibidem*.

According to Lithuanian official statistics, in 2005, a total of 15,571 Lithuanians emigrated to the European Union, while migration to Lithuania from the EU-25 was 5,116. The number of non-official emigrants (i.e. those not registered by population statistics) is estimated to be 69,800 with around 22,600 in the United Kingdom, 17,200 in Ireland and 8,500 in Germany. 70% or about 49,000 of these migrants went abroad for work purposes. 63% of the latter group (i.e. those not registered by population statistics in Lithuania) have secondary education and 20% completed even higher levels of education.<sup>116</sup>

While unemployment is falling, gross wages grow, as does domestic consumption and living standards. Shortages of qualified labour occur, however not only due to outward migration, but also a very common phenomenon of a decrease in population numbers. Lithuanian employers are more and more often bound to hire workforce from third countries (e.g. 78% more in 2005 than in the year before).

The positive signs of growth in the Lithuanian economy are potentially a sign and hope for increasing the phenomenon of return migration. In 2005 alone, return migration increased by 34%, while emigration increased by only 4%.<sup>117</sup> The cost of moving abroad is also a deterrent to outward migration from the Baltic States.<sup>118</sup>

As regards the mobility of Latvian citizens, the Ministry of Labour has knowledge of around 50,000 Latvians working in other EU-25 countries; however this data is obtained for periods, which differ significantly from one Member State to the other.<sup>119</sup> The majority of migrant workers from Latvia went to the United Kingdom (23,030 between 1 May 2004 and 31 December 2005) and Ireland (22,018 between 1 January 2000 and 31 December 2005). Other preferred destinations of Latvians were Norway, Denmark, Italy, Belgium and Germany.<sup>120</sup>

There is little data available on the number of Estonians working abroad. For example, official statistics do not deal separately with Estonians either in the UK or in Ireland. As a result one can conclude that the inflow of Estonian workers to these countries was insignificant.

The primary destination in the EU for migrating Estonians is Finland, where they constitute the second largest group of foreigners. On 31 December 2005, there were

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<sup>116</sup> Data obtained from Statistics Lithuania.

<sup>117</sup> Audronė Morkūnienė (Secretary of the Ministry of Social Security and Labour of Lithuania): „Mobility of workers and services: Lithuanian perspective” at the conference „Mobility of Workers and Services in the Baltic Sea Area – barriers and opportunities.” 10/05/2006

<sup>118</sup> Krieger, H. – Fernandez E.: *cfr supra* note 5.

<sup>119</sup> This data is an aggregation of figures covering different periods according to different Member States, therefore should be regarded as a rough estimate. Figures regarding each EU-25 countries were obtained from the Lithuanian Ministry of Labour.

<sup>120</sup> Latvian workers in Norway: 1520 (2005), Denmark: 507 (2005), Italy: 862 (as of 31/12/2005), Belgium: 588 (not specified), Germany: 600 (first quarter of 2006). Source: Lithuanian Ministry of Labour.

15,458 Estonians residing in Finland (constituting a bit less than one-eighth of the total foreign population of that country).<sup>121</sup>

Although migratory flows from the Baltic States are not that significant in numbers, nevertheless they might have important repercussions on the national labour market especially with regard to skilled labour force. An encouraging sign is the economic boost, which is expected to generate further growth in employment and have a positive impact on the quality of life and improvement of working conditions, which in turn may stimulate also growth in the scale of return migration (see also Lithuania above). With the encouragement of circular migration, Baltic States could gain from the free movement of workers in the long run.

## 7.2 The "Visegrád countries"

### 7.2.1 *The Czech Republic*

The Czech Republic seems to be an attractive place for both EU-15, A8 and third country nationals. Access to the Czech labour market is free for all EU-15 nationals since the day of accession. Meanwhile the country is also actively recruiting a skilled workforce from outside the EU. (So far the project covers workers from Bulgaria, Croatia, Kazakhstan, Belarus, Moldavia, Serbia, Montenegro, Canada and the Ukraine.) Workers from Germany (1,227) and the United Kingdom (884) are the most represented from EU-15, while from among the Accession States, it is predominantly Slovaks (59,721), who come to work in the Czech Republic.<sup>122</sup> This is all the more understandable, as there is practically no language barrier between Slovaks and Czechs and given the common history of the two countries, Slovaks are hardly ever considered by Czechs as foreigners. Almost one third of the foreign population living in the Czech Republic works in Prague or Central Bohemia, undertaking jobs both as skilled and unskilled workers.<sup>123</sup>

As regards the Czech workers' willingness to migrate, estimates about the low mobility rates of the country are confirmed: during 2005, only 31,234 Czechs were employed in the EU-25 Member States, with the majority residing in the United Kingdom (17,600), Ireland (5,761), Italy (4,217) and Germany (2,010 including short-term employment).<sup>124</sup> It is worth pointing out, that while the conditions of accessing the labour market in Ireland and Italy were completely opposite (free access in Ireland and work permit system with quotas in Italy), the two countries have seen a similar number of Czech workers. *This shows that there was no direct correlation between the application of Transitional Arrangement and the choice of migrants.*

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<sup>121</sup> Immigration issues in 2005. Ministry of labour, Finland.

<sup>122</sup> The data shows the situation on 30/04/2006. Source: Ministry of Labour and Social Affairs of the Czech Republic.

<sup>123</sup> „Foreigners working in the Czech Republic” 29/07/2006. Available online at: [www.czech.cz/zpravy/news\\_detail.aspx?id=4783-Foreigners-working-in-the-Czech-Republic](http://www.czech.cz/zpravy/news_detail.aspx?id=4783-Foreigners-working-in-the-Czech-Republic)

<sup>124</sup> Data obtained from the Ministry of Labour and Social Affairs of the Czech Republic.

### 7.2.2 Slovakia

EU enlargement increased the dynamics of migration in Slovakia, both the inward and outward trends. During 2005 around 161,000 Slovaks were working in the EU-25, the main destinations being the Czech Republic (75,297 as on 31 Dec. 2005), the United Kingdom (29,395 in September 2005) and Hungary (21,354 between 1 January 2005 and 31 March 2006).<sup>125</sup> At the same time, EU-25 nationals living in Slovakia amounted to 3,178 (in 2005).

The fact that Slovaks target mainly the Czech Republic and Hungary is explained in both cases by language factors and historical ties. (The majority of those coming to work in Hungary are ethnic Hungarians.) The fact that Slovaks tend to be more mobile in Central Europe and are less in favour of long-distance mobility is strong evidence that enlargement might have a positive impact on regions and is potentially a tool helping them grow together.

### 7.2.3 Hungary

According to estimates of the migration potential Hungary belongs to the group of “low-mobility” countries, with only 0.8% - 1.3% of the population showing a firm intention to migrate.<sup>126</sup> Historically, Hungarian migrant workers tend to go to Germany (more than 80% of the long-term resident emigrants live in Germany) and to a lesser extent to Austria, the United Kingdom, Sweden, Italy and the Netherlands. The number of Hungarians living in the EU Member States at the beginning of the decade amounted to maximum 80,000, while at the same time, the number of EU nationals moving to Hungary increased, by the end of 1999 reaching the level of 12,4% of the total foreign population residing in Hungary.<sup>127</sup>

EU enlargement is known to affect inward migratory flows to Hungary in two ways. On the one hand, given that Hungary resorted to the application of the “reciprocal measures” (see above), nationals of those old Member States, which restrict access to their labour market for Hungarian nationals, need to apply for a work permit while in Hungary. Only after a period of 12 months uninterrupted work, they shall be issued with a green card. On the other hand, nationals of the other Accession States can enter the Hungarian labour market upon a simple registration. Failure to register is not penalised.

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<sup>125</sup> Kellenbergerová, K.: In and Out labour migration trends in the Slovak Republic. “A regional approach to free movement of workers: labour migration between Hungary and its neighbouring countries” conference organised by the European Studies Centre of the University of Szeged, Hungary. 16-17 June 2006.

<sup>126</sup> Krieger, H. – Fernandez E.: *cf. supra* note 5.

<sup>127</sup> Illés, S. – Lukács, É.: Migráció és statisztika, KSH kutatási jelentések 71.

The largest group of A8 nationals employed in Hungary comes from Slovakia (21,364, see above). The number of those registering in Hungary and coming from other Accession States is marginal.<sup>128</sup> Work permits and green cards issued to nationals of the 12 EU countries which applied the restrictions after 1 May 2004, in 2005 and during the first quarter of 2006 amounted to 5,038, the largest groups being Germans (1,234), French (450) and Austrians (382). Apart from coming to Hungary for work purposes, a growing number of economically non active Germans (according to estimates, between 4,000 – 7,000) and especially the elderly, decide to come and settle down in Hungary, mainly in the South-Western part of the country. There, the buying power of their pensions is higher than it would be if they stayed in Germany, which allows them to maximise consumption.<sup>129</sup>

As pointed out above, the primary destinations for Hungarians were Germany (49,500 – as of 31 December 2005) and Austria (in 2005 - 14.693 of which nearly 12,000 seasonally employed in 2005). The research did not result in detailed figures in relation to other Member States.

#### 7.2.4 *Poland*

It is certainly the emigration of Polish workers since May 2004, which has generated the most controversy in the EU-15. Polish migrants, in lower or higher shares, are present in all Member States. However, one thing is true: all employers who hire Polish workers agree that they are hard working, motivated and willing to accept jobs that would otherwise be hard to fill. Despite that, apart from figures, nothing else really got through to the public opinion. And yet, taking into account that with a population of above 38 million Poland is the largest of the EU-10 even the figures are understandable. Poland accounts for more than the half of the combined population of the A8.

Poland was traditionally an emigration country, where “...for decades, if not centuries, economic migration has been to some extent a method offering solutions to such problems as the over population of rural areas, economic underdevelopment and under-urbanization, unemployment, a low living standard etc.”<sup>130</sup> Thus, the trends in labour migration are closely linked to the situation on the domestic labour market. Between 1993 and 1998, the fall in the unemployment rates in Poland brought about a decline in emigration. The present rise in outward migratory flows is a consequence of high unemployment rates that started to occur since 1999. There is a gradual change in the

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<sup>128</sup> Data obtained from the National Employment Office, Hungary. The total number of registrations made by A8 nationals between 01/01/2005 – 31/03/2006 was 22,443.

<sup>129</sup> Szöke, A.: New forms of mobility among Western European Retirees: German migrants in South – West Hungary, in: Migration process in Central and Eastern Europe: Unpacking the Diversity. Multicultural Center Prague.

<sup>130</sup> Korys, I.: Migration trends in Selected EU applicant countries: Poland. Central European Forum for Migration Research Working Paper 5/2003.

preference of Polish migrants, namely that the previously most popular destination, Germany, is slowly giving its place to other countries such as the UK, Ireland or Italy.<sup>131</sup>

All estimates show that Poles have a high propensity to migrate and especially those belonging to the age group of 25 – 34.<sup>132</sup> The main motives for migration are better wage prospects. Due to the wage differential, migrants are inclined to take up even these jobs, which do not match their level of education, however, still pay better, than the original employment would do at home. Unfortunately, employers may abuse the opportunities created by the availability of skilled workforce and start to “economise” on wages. *“They [Polish migrant workers] are being denied the basic employment rights fellow citizens across the EU are supposed to enjoy and are being systematically exploited”* – reported the Transport and General Workers’ Union from the UK.<sup>133</sup>

In the enlarged European Union, such a phenomenon should not occur. Workers, regardless of which Member State they come from, have to be treated on an equal footing in terms of their freedom to choose their place of work and the conditions in which they carry it out.

Unfortunately the Polish Central Statistical Office or the Ministry of Labour did not provide data on the current migratory flows in and out of the country. Data from May 2005 showed 500,000 Polish citizens legally working in the EU-15 countries.<sup>134</sup> Current estimates put the number of Polish workers who have left the country in the period of the passed two years between 500,000 and 2 million.<sup>135</sup> Relying on the figures presented elsewhere in this report, the authors’ own estimates (based on official statistics, however covering different time periods) put the number of Polish migrating in the EU-25 for work purposes at around 1,120,000,<sup>136</sup> (approximately 3% of the total population). By comparison, around 1,863,000 Italian migrants live in other European countries<sup>137</sup> accounting also to 3% of the total population of this country.

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<sup>131</sup> EU expansion and free movement of workers: Do continued restrictions make sense for Germany? Focus Migration Policy brief No. 4. 07/2006. Commentary by Prof. Dr. M. Okolski.

<sup>132</sup> For example: Krieger, H. – Fernandez E.: *cfr. supra* note 5.

<sup>133</sup> Union highlights exploitation of Polish migrant workers in UK. European Industrial Relations Observatory. Available online at: <http://www.eiro.eurofound.eu.int/2005/12/inbrief/uk0512103n.html>

<sup>134</sup> Germany, services, migrants. Migration News Vol. 12. No. 3, July 2005. Available online at: [http://migration.ucdavis.edu/mn/more.php?id=3118\\_0\\_4\\_0](http://migration.ucdavis.edu/mn/more.php?id=3118_0_4_0)

<sup>135</sup> New EU citizens see both benefits and drawbacks to mobility. Available online at: <http://www.euractiv.com/en/mobility/new-eu-citizens-see-benefits-drawbacks-mobility/article-156688>

<sup>136</sup> This figure also includes the seasonal work permit issued to A8 citizens, thus the number of permits does not correspond to the number of man-years and might lead to an important distortion in figures. The following data served as a basis for the calculations: the United Kingdom: 264,000, Ireland: 100,000, Sweden: 3,838, Italy: 72,229, Spain: 6,118, Portugal: 434, Belgium: 3,086 (Flanders, first quarter 2006), France: 90,000, Denmark: 2656, the Netherlands: around 20,000 (seasonal work permits included), Austria: 12,615 (seasonal work permits included), Germany: 534,990 (of which only 10,000 work permits, period: July 2004 – December 2005), the Czech Republic: 6664, Slovakia: 366, Hungary: 1575. Finland, the Baltic countries and Estonia are not included for reasons of lack of data or the numbers being marginal.

<sup>137</sup> Anticipazioni „Rapporto Italiani nel mondo 2006”, Caritas Italiana, 11/07/2005.

### 7.3 Slovenia

Slovenia is the first country of the EU-10, which satisfies the convergence criteria for the introduction of euro and will be able to join the euro zone from 1 January 2007. The national economy shows a steady increase (the annual growth in wages and salaries is the double (4.9%) of the EU-25 average (2.4%)<sup>138</sup> and its unemployment rate is also below that noted in both the euro area (7.9%) and the EU-25 (8.2%) level.<sup>139</sup>

With a view of entering the euro zone, Slovenia put an end to the restrictions it placed on the free movement of workers pursuant the Transitional Arrangements, which allowed for reciprocal measures. During the first two years of its membership, when work permit requirement was imposed on nationals of the countries which applied restrictions against Slovenian nationals and registration for A8 nationals was needed, 1,452 valid work permits were granted.<sup>140</sup> There is no data available on the number of Slovenians working in other EU Member States except for Germany, where the Federal Office for Migration and Asylum reported 21,200 Slovenian residents.<sup>141</sup> However, emigration from Slovenia towards Germany has already a considerable history as it started around 30 years ago. During 2005 there were only 500 new Slovenian entrants in Germany. This corresponds to the estimates which put Slovenia in the group of “low mobility countries”, with only 0.6% - 0.9% of the population having a firm intention to move to another EU country.<sup>142</sup>

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<sup>138</sup> Eurostat news release 80/2006, 16/06/2006. *Cfr. supra* note 32.

<sup>139</sup> Eurostat news release 87/2006, 03/07/2006. *Cfr. supra* note 31.

<sup>140</sup> The largest group of EU-15 nationals were from: Italy (204), Germany (142) and Austria (129), while from A8 countries: Slovakia (379), Poland (181). Data obtained from the Slovenian Ministry of Labour, Family and Social Affairs.

<sup>141</sup> Bundesamt für Migration und Flüchtlinge. *Cfr. supra* note 103.

<sup>142</sup> Krieger, H. – Fernandez E.: *cfr. supra* note 5.

## 8 LOOKING FORWARD TO THE NEXT ENLARGEMENT: ROMANIA AND BULGARIA

At the beginning of next year, the European Union should welcome among its members further two countries: Romania and Bulgaria. The two countries participated in the accession negotiations together with the 10 other CEECs. However they were not found ready for the membership in 2002 when the final decision on the list of acceding countries was decided upon.

While the further enlargement of the European Union is irrevocable, European public opinion remains divided, with nearly as many supporters as opponents of the forthcoming accession (45% for, 42% against<sup>143</sup>). In such a climate of reticence, it is extremely important to talk about enlargement and not to leave information campaigns only for the last minute. As a form of preparation, addressing these questions, which worry fellow Europeans the most is of major importance. The accession of the CEECs incited debates over the free movement of workers, the European budget, financial support etc. but only after they had joined. Letting the same to happen in relation to Romania and Bulgaria would be more than regrettable.

Member States may tend to adopt their position concerning the rights of Romanian and Bulgarian workers to free movement based on the latest enlargement round. For instance Finland has announced that it will not impose restrictions on the free flow of workers, while Denmark is already working on a transitional scheme for Romanian and Bulgarian workers.<sup>144</sup> Several other Member States have commissioned research on the possible inflows of workers from the two countries.

Assessing the potential migration from Romania, the author has found the following evidence: Romanians' preferred destinations in Europe are Italy (29%), Spain (22%), Germany (13%), and Hungary (6%).<sup>145</sup> Most Romanians choose however overseas destinations: traditionally the USA and Canada. It would be hazardous though to rely on predictions which would turn out to be wrong.

A large part of the Romanian migrant workers in the European Union are women. Migrants are in general aged between 26–35. Their work contracts are usually for 12 – 18 months and for jobs in the following sectors: agriculture, hotel and catering industry.<sup>146</sup>

Romania sharing a border with Hungary and having a significant number of ethnic Hungarians living in the North-East, is traditionally a major sending country towards

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<sup>143</sup> „Nearly half of the citizens want new talks on EU constitution” EUobserver, 06/07/2006. Available online: <http://euobserver.com/15/22041>

<sup>144</sup> Chow, K.: Report on the free movement of workers in EU-25. *Cfr. supra* note 55.

<sup>145</sup> Survey carried out by NACAB (National Association of Citizens' Advice International) Romania: „Romanians and labour force migration in the European Union” presented at: . “A regional approach to free movement of workers: labour migration between Hungary and its neighbouring countries” conference organised by the European Studies Centre of the University of Szeged, Hungary. 16-17 June 2006.

<sup>146</sup> Statistical Bulletin in the field of Labour, Social Solidarity and Family, n0. 2(50)/2005. Ministry of Social Solidarity and Family, Romania.



Hungary, where 76% of employed foreigners come from Romania. Between 1 January 2004 and 31 March 2006, 86,750 work permits in Hungary were issued to Romanians<sup>147</sup> out of a total of 113,455 (issued to non EEA nationals). At the end of 2005, there were around 73,000 Romanians residing in Germany<sup>148</sup> and around 60,000 Romanian residents in France.<sup>149</sup> Over the past three years, Austrian labour authorities handed over to Romanians 15,926 work permits of which only 2,401 were for permanent employment.

One of the most favoured destinations for Romanian nationals seeking employment abroad is Italy, all the more so, because the two languages are similar. The latest data available on the number of Romanians working in Italy dates from 2004, when 175,152 work permits were issued to Romanians.<sup>150</sup> Now that the quota for non-EU citizens wishing to work in the country has been raised to 350,000 (as of June 2006) the number may be expected to grow.

In Spain, in 2004 the number of resident Romanians was around 90,000, making Romanian nationals the third largest group of foreigners resident in the country. According to figures from 2004, Romanians were mainly employed in the domestic service sector and the hotel and catering sector, where many Romanian women found employment.

The number of irregular migrants is estimated to be far more than the official statistics.<sup>151</sup> Spain limits the number of work permits to be granted to non-EU citizens by quotas. However, it also applies a liberal amnesty policy toward irregular immigrants. For example, during the 2005 amnesty program, 700,000 immigrants could regularise their situation and commence legal employment in Spain. Having recognized the importance of assuring a full participation of Romanian migrant workers in the Spanish economy, Spain and Romania will create a joint working group on immigration.<sup>152</sup>

In comparison to the other EU countries, Greece also receives a rather important number of migrants from Romania (17,791 residents in 2004). Other EU countries, which report figures on the presence of Romanian workers on their territory show numbers below 2,000.

As regards Bulgarians, the largest emigrant communities are present mainly in Greece (200,000), Italy (60,000) and Spain (80,000) while emigration to other EU countries remains marginal.<sup>153</sup> The average Bulgarian migrant is well educated and young, more often male than female, comes from the capital or larger town and is single. Permanent

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<sup>147</sup> Data obtained from the National Office for Employment.

<sup>148</sup> Bundesamt für Migration und Flüchtlinge. *Cfr. supra* note 103.

<sup>149</sup> Travail illégal: Les Roumains ont trouvé la formule magique. 09/05/2006. Available online at: [www.ajefrance.com/article-2689153.html](http://www.ajefrance.com/article-2689153.html)

<sup>150</sup> Demographic national balance Year 2005. Istat (Italian Statistical Office), 10/07/2006.

<sup>151</sup> European Industrial Relations Observatory. Available online at: [www.eiro.eurofound.eu.int/2006/04/articles/es0604029i.html](http://www.eiro.eurofound.eu.int/2006/04/articles/es0604029i.html)

<sup>152</sup> Headline: Official visit to Spain. Available online at: [www.gov.ro](http://www.gov.ro)

<sup>153</sup> Simenova, D.: The negative effects of securizing immigration: the case of Bulgarian migrants to the EU. Multicultural Center, Prague, 2005. Available online at: [www.migrationonline.cz](http://www.migrationonline.cz)

migrants are most likely to be women who are the most mobile until their 30s. The main expectation when moving abroad is higher living standards. That is also why destinations chosen by Bulgarians most often are located outside Europe: USA, Canada, Australia, and South-Africa.<sup>154</sup>

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<sup>154</sup> For an exhaustive analysis of the history and characteristics of Bulgarian emigration see: Dr. Rangelova, R.: Gender Dimension of the new Bulgaria's migration: comments on empirical data.

## 9 FINDINGS OF THE REPORT ON THE BASIC LABOUR MIGRATION TRENDS AFTER MAY 2004

EU-15 Member States have been confronted with labour migration from the EU-10 and the further acceding countries for at least 15 years, when the separation of the continent ended. However, the westward migration produced also its counterpart. Nowadays, we find migrants from western European countries, in all new Member States.

As a general phenomenon, in the vast majority of EU-25 countries, third country nationals make up the biggest part of the foreign resident population, while in Luxembourg, Belgium, Ireland and Cyprus, EU-15 nationals are the most represented.

The post-enlargement migration from the Accession States, primarily for work purposes was targeting the traditional destinations Germany and Austria, and more recently the United Kingdom and Ireland. Reasons motivating the choice of migrants are certainly dependant on the accessibility of the targeted labour market, however also on the prospects of finding employment and the ability of the individual to adapt to the environment (e.g. to speak the language of the host society).

On the whole, A8 labour migration remained low. The number of EU-10 nationals residing in EU-15 is only around 0.2% of the total EU-15 population.<sup>155</sup> Those countries which host the most migrant workers from CEECs, both in absolute terms (Germany, the United Kingdom) and in relative terms (Ireland), were able to absorb the increased inflow and *rely on the additional workforce*, allowing the supply to meet the demand. It does not appear that restrictions on access to the labour market have resulted in a significant increase in the numbers of self-employed migrants.

The presence of A8 workers is reported to have contributed to the performance of national production, while it did not represent an additional burden on the public finances. A8 migrants prove to be hard-working. The employment rates of A8 nationals in some countries (Ireland, Spain and the United Kingdom) are *higher* than those of nationals and very similar to employment rates of the native population in the remaining European countries.<sup>156</sup> Applications for income support or social assistance are very low indeed.

Polish and Baltic States' nationals were the most inclined towards long-distance mobility. Nevertheless, enlargement presented its regional benefits as well with Slovakian nationals migrating primarily in Central Europe and Estonians, Lithuanians, Latvians in both the Baltic and the Nordic states.

Migrants are usually young (18 - 35), have secondary or higher education, however, usually take up employment, which does not correspond to their qualification. Labour migration is mainly of temporary nature with most migrants taking up seasonal jobs. The

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<sup>155</sup> Eurostat: Non-national populations in the EU Member States. *Cfr. supra* note 104.

<sup>156</sup> COM(2006) 48 final. *Cfr. supra* note 4.

migrant workforce completes and does not compete with the native labour supply. As a consequence migrants play a key role in filling employment gaps and skills bottlenecks.

The link between the application of Transitional Arrangements and the re-direction of migratory flows is not apparent, since migration did not stop e.g. in relation to Austria, Germany or other countries restricting access to their labour markets.

Compared to last year, when the same research was carried out, there is generally more data and research available on migratory flows. This shows a Europe-wide awareness of the fact that migration (and not only labour migration) is a phenomenon of an ever-growing importance. Certainly European actions, such as the Year of Workers' Mobility contribute to a better coverage by public and private institutions of the complexity of the issue of migration (e.g. benefits and consequences). Public opinion also seems to have got over the "enlargement shock" and becomes concerned not only with figures, but also the broader context of migration. Furthermore, the fact that the EU comprises 25 Member States starts to become more natural even though there may be different perceptions in different countries and often heated debates, as recently in the UK. This positive overall trend (i.e. move to "normality") is strengthened with the decision of five additional countries, which from 2006 opened their labour markets to new Member States' nationals.

In general terms, data on migration from and to the new Member States is either publicly available (except for Poland) or the labour authorities hand it over upon request. Cooperation with official services of the Baltic and Central European countries was remarkably good with information generally available in English. This is not the case for EU-15, especially France Italy, Portugal, Spain and Greece. Moreover, in these countries the processing of inquiries also leaves room for improvement.

In the EU-15 high quality data is publicly available in the United Kingdom, Ireland, the Nordic States and upon request in Austria. In relation to other Member States, the major drawback of the data available was the time period they covered (Italy, Greece, Poland and Spain).

In some cases, statistics emanating from different public bodies (covering the same period) provided different figures, proving that statistics are not 100% reliable. In such cases data gathered by the competent ministry or labour authority was taken into account.

## 10 RECOMMENDATIONS

- European Citizens when intending to take up employment in another Member State should not be seen differently according to the country they come from. Transitional Arrangements should not be maintained because they create an artificial separation between “old” and “new” Europeans and lead to mistrust and prejudices on both sides. The Member States should make people aware of the fact that in the European Union everyone has the right to move freely. To this end, the European Year of Workers’ Mobility provides a favourable framework and helps people to learn more about the possibilities of long or short-distance migration.
- The key element of building up awareness is reliable information. Therefore Member States should assure on the one hand better data collection of the evidence on labour migration (the Transitional Arrangements make it possible to maintain monitoring systems) and on the other hand, a better dissemination of information. Documents of public interest should be made accessible and communicated thus assuring the transparency of inward migration.
- Member States should build a positive, welcoming attitude towards EU migrants and assess the contribution they make in both economic, demographic and cultural terms. Instead of restricting access to the labour market and taking the risk of irregular migration, a liberal approach should be taken in order to increase participation in the white economy and subsequently “earn the rent” of migration.
- Labour inspections should be intensified in order to avoid exploitation and unequal treatment of migrants. The European Union guarantees equal pay for equal work and the equality of employment related conditions for everyone. Trade unions shall also be involved in the protection of rights of both native and migrant workers posted to or employed by domestic employers. It is to be recalled that posted workers and service providers do not fall under the scope of application of the Transitional Arrangements, and thus from 1 May 2004 benefit from Community rules on free movement of persons.
- Integration of migrants into the host society should be helped by coordinated policies in the receiving countries, while on the sending end, migrants should be better prepared for the challenges of migration prior to their departure. Countries of origin should encourage *circular migration* and that migrant workers use the experiences, skills and knowledge acquired abroad back home. Cohesion between border regions should be strengthened by means of cross-border investments and building up trans-country infrastructures. Investment at the level of euro-regions may help activate local economies and give an incentive to workers to favour short-distance mobility (or commuting).
- In relation to Bulgaria and Romania, Member States should assess the possible impact of free movement of workers on their labour market. However, they

should avoid opting for a possible restrictive system based on political considerations or predictions which may well turn out to be wrong. As it was the case in 2004, this could create a “snowball effect”. Those countries, which might experience a larger inflow from Bulgarian and Romania, should, instead of applying restrictions, introduce adequate monitoring systems. In case of serious disturbances of the labour market safeguard measures may still be applied.

- Poland and Hungary, the two remaining countries that maintain reciprocal measures, should cease to apply the restrictions. Such a decision would send a political signal and express a strong will for mutual confidence.

## Information sources

1. Until 29 September 2006 ECAS runs its Free Movement Right Hotline. The hotline is collating questions, comments and opinions on good and bad experiences of moving around in the enlarged European Union. The hotline may be reached by a phone +32 (0) 2512 5968 or e mail: [hotline@ecas.org](mailto:hotline@ecas.org). For more information please visit also our website:  
[http://www.ecas.org/Workers\\_Mobility/2358/default.aspx?id=715](http://www.ecas.org/Workers_Mobility/2358/default.aspx?id=715)
2. For information on the European Year of Workers Mobility, projects carried out within its framework, events and publications please go to:  
[http://ec.europa.eu/employment\\_social/workersmobility\\_2006/index.cfm?language=en](http://ec.europa.eu/employment_social/workersmobility_2006/index.cfm?language=en)
3. To obtain more information about free movement rights within the enlarged EU please consult Your Europe website ([www.europa.eu.int/youreurope](http://www.europa.eu.int/youreurope)). It contains useful fact sheets with information about European and national legislation as well as contact points.
4. Questions may also be referred to Europe Direct by an e-mail or free phone number. Please visit the website (<http://europa.eu.int/europedirect/>) or telephone 0800 67 89 10 11.
5. Questions concerning the scope or “meaning” of EU legislation and the defence of European rights can be sent to the Citizens Signpost Service ([www.europa.eu.int/citizensrights/signpost/index.htm](http://www.europa.eu.int/citizensrights/signpost/index.htm)).
6. In cases of infringement of EU rules occurring due to misinterpretation or misapplication of EU law provisions by public administration you can refer to SOLVIT (please find the address of the SOLVIT centre located in your country on the following website: [www.europa.eu.int/solvit](http://www.europa.eu.int/solvit) ).
7. If you are looking for information on working and living conditions in one of the EU Member States, please consult the EURES portal on:  
<http://europa.eu.int/eures/index.jsp>
8. You can also try contacting a Citizen Advice Centre in your own country. Such networks are not present in all European Member States, but you may try obtaining information about them from the secretariat of Citizens Advice International <http://www.citizens-advice-international.org>.
9. Please refer also to ECAS “50 Questions and answers on your European Rights.” To obtain a copy please contact ECAS directly ([info@ecas.org](mailto:info@ecas.org) ).