

# EEA Consultative Committee

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Brussels

## RESOLUTION

on

### FREE MOVEMENT OF WORKERS IN THE CONTEXT OF ENLARGEMENT

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Rapporteurs:

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## **BACKGROUND**

The Consultative Committee of the European Economic Area (EEA-CC) is composed of representatives of the key socio-economic interest groups in the eighteen EEA Member States. The Committee acts as spokesman for workers, employers and categories reflecting various interests in these countries and forms a part of the EEA institutional set-up.

At the 16<sup>th</sup> meeting of the EEA-CC Bureau on 6 November 2000 it was decided to draw up an EEA-CC Resolution on the free movement of workers in the context of enlargement. The rapporteurs were Mr Johannes JASCHICK from the European Economic and Social Committee and Ms Erna GUDMUNDSDÓTTIR from the EFTA Consultative Committee. Assisting co-rapporteur was Mr Marco TADDEI from the EFTA Consultative Committee.

### **1. INTRODUCTION**

1.1 Article 28 of the EEA Agreement stipulates that: "Freedom of movement for workers shall be secured among EC Member States and EFTA States". The free movement of workers entails the right to accept offers of employment actually made and to move freely within the territory of EC Member States and EFTA States for this purpose. It further entails the right to stay in the territory of an EC Member State or an EFTA State for the purpose of employment and to remain in such territories after having been employed there. These rights may only be subject to limitations justified on grounds of public policy, public security or public health.

1.2 Article 128 of the EEA Agreement states: "1. Any European State becoming a member of the Community shall, and the Swiss confederation or any European State becoming a member of EFTA may, apply to become a party to this Agreement. It shall address its application to the EEA Council 2. The terms and conditions for such participation shall be subject to an agreement between the Contracting Parties and the applicant State. That agreement shall be submitted for ratification or approval by all Contracting Parties in accordance with their own procedures."

1.3 The free movement of persons, including workers, and social and employment policy measures, are integral parts of the *acquis communautaire*. The right to free movement has in the Single Market developed into a form of guarantee akin to a human right. The EEA-CC stresses the importance of full incorporation by the new EU Member States of the *acquis communautaire*.

1.4 All workers are entitled to take up employment anywhere in the Single Market. Discrimination and unequal treatment on grounds of nationality are banned.

1.5 The right of freedom of movement applies to employed persons, self-employed persons, job-seekers and persons no longer in employment, who have the right, under the provisions on freedom of movement, to remain in the country in which they were employed.

## 2. GENERAL OBSERVATIONS

2.1 In a resolution issued two years ago<sup>1</sup> the EEA Consultative Committee recommended to the EEA Council that: "Agreements between the EEA EFTA states and the applicant countries, as well as between the EEA EFTA states and the European Union, must be transformed in line with the new situation as new members join the Union and thereby also the Single European Market, which covers all the EEA member states" and that "balanced solutions should be sought in topics where the consequences of an accession might change drastically relations between partners concerned."

2.2 This recommendation applies without doubt and in particular to the free movement of labour in the enlarged Single Market, which already comprises 15+3 States.

2.3 Fears exist that enlargement could lead to vast waves of migration from the new EEA Member States and that this could have adverse economic, social and cultural effects in the current Member States. Studies have, however, shown that after accession of the candidate countries to the EU, there will be no dramatic increases in migration, and that the impact on the EU labour market should be limited.<sup>2</sup> This points to the need for continuous (through research on migration) full and accurate information to be provided for the public.

2.4 Because of structural differences between the existing EEA Member States and the candidate countries, more use will however probably be made following EU enlargement of the right of freedom of movement and the right to take up work in another EEA State.

2.5 The long-term migration potential from the candidate countries would be in the order of 1% of the present EU population, according to studies by the European Commission. In the border regions, the percentage of commuting labour force could, however, in the long run go up to 8%. In respect of the overall economic effects of migration, studies suggest that immigration confers small net gains in terms of per capita output in the host country, and that there would be little obvious effects on national unemployment rates.<sup>3</sup>

2.6 EEA States are faced with an ageing population and the challenge of maintaining a sufficient workforce, in order not to stifle economic growth and to safeguard the viability of pension and social security systems. One way of maintaining a sufficient labour force is to "import" labour through migration. In other words, the migration of workers from the candidate countries will help to maintain a stable work-age population in the EEA countries.

2.7 In its opinion of 28 March 2001 on freedom of movement for workers in the Single Market<sup>4</sup>, the European Economic and Social Committee reiterated its support for free movement of persons as one of the most important objectives of the EU and, in particular, for free movement of workers and their families which it described as "a key basic right"<sup>5</sup>.

## 3. FREEDOM OF MOVEMENT - THE OPPORTUNITIES AND RISKS

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<sup>1</sup> See CES 1477/98 fin of 13.4.1999.

<sup>2</sup> Brücker, Herbert and Boeri, Tito (2000); The Impact of Eastern Enlargement on Employment and Labour Markets in the EU Member States

<sup>3</sup> European Commission (2001); Information note on the Free Movement of Workers in the context of Enlargement, p. 7 - 13

<sup>4</sup> CES 406/2001.

<sup>5</sup> ESC opinion on the Proposal for a Regulation (EC) of the European Parliament and the Council amending Council Regulation (EEC) No. 1612/68 on freedom of movement of workers within the Community (OJ C 169 of 16.6.1999, page 24); ESC opinion on the Communication from the Commission on an action plan for free movement of workers (OJ C 235 of 27.7.1998, page 82); and the ESC opinion on the Proposal for a Council Directive on the right of third country nationals to travel in the Community (OJ C 153 of 28.5.1996, page 38).

3.1 The EEA Consultative Committee regards the improvement of employment opportunities in all European countries, and, particularly, in the structurally weak regions, as a major matter of concern. Such improvements should provide workers from disadvantaged regions with the opportunity to participate in the growing prosperity of the expanding Single Market.

3.2 The enlarged Single Market is to provide openings for particular skills, which are not sufficiently in demand on workers' own domestic labour markets. Labour market imbalances in both the country of origin and the host country of the workers concerned could therefore be generally eased.

3.3 The EEA-CC supports the removal of obstacles at national level to freedom of movement and regards the promotion of mobility in the enlarged Single Market as a necessary adjunct to national employment policies.

3.4 Free movement of persons will also help to bring about mutual cultural enrichment and help to make the concept of the "European House" a tangible experience for the citizens of Europe.

3.5 The EEA-CC points to the difficulties which might arise in connection with the enlargement process as a result of the fact that immigration might be concentrated in particular regions and sectors in the Single Market.

3.6 Differences in income and purchasing power on the two sides of the Single Market's current eastern frontier are very large (ranging from 1:4 to 1:11) and this may give rise to an undesirably large number of cross-border commuters which could, in turn, cause social upheaval in the host countries or the host regions. The EEA-CC expresses its wish to be used as an instrument for information and consultation in order to alleviate this potential problem.

3.7 The EEA-CC stresses the need for appropriate measures to be undertaken in order to ensure that the right of free movement of workers in an enlarged EEA will not have disruptive effects on the wage-bargaining and welfare structures of the host countries. Significant movements of workers are predicted for the construction industry, agriculture and forestry, less-skilled service industries and the catering trade. The EEA-CC draws attention to the critical situation facing sectors marked by a relatively high level of unemployment and declining numbers of jobs.

3.8 In some regions there is already a trend for highly skilled workers from the candidate states to emigrate to the EEA, where they are usually better paid. The candidate countries should not have to foot the bill for training workers, while the economic benefits accrue to the more highly developed regions. The partial return of capital to the workers' countries of origin does not compensate for this.

3.9 Workers interested in taking up employment in another EEA Member State sometimes fall victim to dishonest practices (on the part of labour brokers and agencies for immigrant workers). In this context the EEA-CC highlights the importance of the European Employment Services (EURES) network, which is already facilitating and promoting the free movement of workers in the EEA.

3.10 The EEA-CC regards the inflow of persons from Central and Eastern Europe seeking work on the black market as ultimately a matter of common concern to all EEA States. The Committee is confident that the accession of the candidate countries to the EEA, which will open up legal ways for citizens in the Central and Eastern European States to take up work in other EEA States, will reduce the size of the inflow of illegal workers and thus of the black economy.

3.11 Measures to combat the abuse of freedom of establishment by persons pretending to be self-employed and the abuse of freedom to provide services by some posting enterprises need to be further stepped up.

#### **4. TRANSITIONAL PERIODS**

4.1 The EEA-CC welcomes the EU's common negotiation position on free movement of labour, which stipulates that any Member State may grant immediate free access to its labour market to workers from new Member States, without the need to adhere to the two-year transitional period, agreed upon. The EEA-CC also notes with satisfaction that the EEA EFTA States see no need to postpone or limit the application of the *acquis* on free movement of workers across the whole EEA immediately following enlargement.

4.2 Transitional periods may, however, be established in some countries between the date when applicant States join the EU and the time by which complete freedom of movement for workers is achieved. A transitional period may be necessary because significant concerns exist in relation to expected labour migration from candidate countries. These concerns are based on considerations such as geographical proximity, income differentials, high unemployment and propensity to migrate. Interim periods should however be calculated in such a way as not to reduce opportunities for growth, prosperity and employment in both the existing and new EEA States.

4.3 The EEA-CC notes that the EU's common negotiation position makes it possible for Member States to retain national restrictions on labour immigration for a further three years, following a review at the end of the two-year general transitional period. Moreover, at the end of a five-year period, the Member States that are still applying national restrictions may extend the interim period by a further two years, if they can prove "serious disturbances on the labour market". Thus, in practice, the transitional period may last for a maximum of seven years. Because of the modest migration flows expected in the EEA countries (see points 2.3 and 2.5), the EEA-CC considers that it is not necessary to extend the transitional period.

4.4 In the event that transitional periods are established, the EEA-CC endorses the provisions set out in the EU's common position that reviews be carried out after two and five years to assess the actual situation on the labour market.

4.5 The possibility of reducing transitional periods is in line with the desire for a flexible and differentiated approach.

4.6 The EEA-CC is in favour of "suitable immigration": depending on the labour market situation in the regions concerned, complete freedom of movement for workers from the new Member States should be allowed before the expiry of the transitional periods in certain occupations.

4.7 In the same way, employment arrangements for guest workers and seasonal workers should be further consolidated, insofar as they have proved to be advantageous to both sides.

## **5. FURTHER RECOMMENDATIONS**

5.1 The EEA-CC calls for EEA States to respect fully the rights of all EEA citizens, who make use of their basic right - as workers - to freedom of movement, to be treated on the same footing as nationals of the host countries.

5.2 Transferability of entitlements under jointly negotiated insurance schemes, e.g. in respect of supplementary pensions, to other EEA States is a prerequisite for freedom of movement within the enlarged EEA.

5.3 There is also a need to frame social security schemes, taxation systems and arrangements for recognising periods of training and service in such a way as to promote rather than hinder freedom of movement.

5.4 New EEA Member States should implement and respect the *acquis communautaire* immediately upon accession. This is not least important in the area of workers' rights. Problems should be resolved, where possible, before the accession of the applicant States.

5.5 The EEA-CC supports all measures to combat abuse, e.g., in the case of illegal employment, fraudulent receipt of benefits, the evasion of taxation and social security contributions and illegal practices on the part of posting enterprises.

5.6 In accordance with ILO rules, private cross-border placement services should be banned from charging fees to workers in the enlarged EEA.

5.7 There is a clear need to establish a system for keeping appropriate data on employment, and on contributions and benefits related to it, and for exchanging data between national authorities as necessary. Care must be taken not to offend against the right to privacy. Therefore the EEA-CC recommends that the establishment of a European business register and a European database for social security organisations should be considered.

5.8 Improved cooperation between police authorities and mutual recognition of court rulings and systems of fining are also required to combat abuse and organised crime.

5.9 Finally, the EEA-CC calls for the expansion of infrastructure, above all in border regions; the establishment of skills programmes for workers; and measures to promote SMEs, which as experience has shown, are a good source of employment.