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Presentation European report 2010-2011 on Free Movement of Workers

Elspeth Guild



Elsbeth Guild, Jean Monnet Professor *ad personam*
Radboud University Nijmegen

Free Movement of Workers in the EU: 2011 Between Rule of Law and Administrative Control

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Free Movement in an unstable economic climate

- In 2009 @ 3 million people moved to a Member State (1/2 came from outside the EU);
- In 2009 @ 1.9 million people left a Member State;
- The Member States receiving the most people were the UK, Spain and Italy accounting for half the total;
- Non-nationals as a % of population Luxembourg is first: 31 out of every 1000 residents are not citizens, followed by Malta at 16;
- These two states also have the highest emigration rates at 20 and 16 nationals per 1000 residents.



Returning home? A changing EU landscape

- 600,000 EU citizens emigrated to their country of underlying nationality in 2009 = 18% of all immigrants;
- The highest share of return migration: Lithuania at 74%; Portugal at 56%;
- The lowest share of return migration: Spain, Luxembourg, Slovakia, Italy, Hungary and Slovenia at less than 10%.
- Gender distribution: 52% male; 48% female;
- Average age: in the EU in general 40.9 years; of immigrants between 24.9 years (Portugal) to 33.7 years (Latvia).

Source: Eurostat October 2011.



Rule of Law in 2010

- Transposition of the right of free movement of workers is increasing in statute rather than circulars or other instruments with weak legal effect; (see changes in Denmark, Slovenia and Romania);
- Still too many Member States have partial or incomplete transposition (see Bulgaria, Lithuania, Slovakia, Slovenia and the UK);
- One Member State had still virtually no transposition legislation;
- The end of transitional arrangements.



The Role of Administrative Control

- Population controls: a number of Member States have introduced or tightened up rules on populations registers: eg Denmark, Latvia, Poland;
- Documentation requirements: control via paperwork: eg Czech R, Cyprus, Slovakia, Italy, UK;
- The holy grail of permanent residence: restrictive interpretations – Bulgaria, Ireland, Greece;
- Derogations on the grounds of social assistance: wide discretion in practice: Austria, the Netherlands, Spain.



Citizenship or Ethnicity?

- EU workers and Roma ethnicity: two distinct trends:
- The popularity of free movement within the EU – take up rates – eg Latvia, Romania;
- Ethnicity as an obstacle to labour market access: race/ethnic discrimination in country of origin; follow on consequences in host country: low educational qualifications and skills hampering labour market participation;
- The conundrum: the prohibition of race/ethnic origin discrimination and administrative practices based on nationality discrimination.



Third country national family members

- Convergence or divergence among the Member States?
Improved transposition in law (eg Cyprus);
- Reverse discrimination following the CJEU *Zambrano* decision:
divergence among the Member States – eg Austria, Cyprus
legally accepted; Italy, Spain legally rejected;
- Durable relationships, registered partnerships and other family
members: areas of administrative discretion? (eg Czech R,
France, Slovakia);
- Abuse of rights – uncertainty in application.



Sport and Free Movement of Workers

- Nationality Quotas: still alive in many Member States (eg Austria, France in basketball, Netherlands in field hockey, Poland in ice hockey etc);
- Transfer/registration fees: progress in a number of Member States eg Belgium, problems in many Member States eg Portugal, Sweden and others.



The end of rights? Unemployment

- Between 2010-2011: unemployment fell in fourteen Member States and increased in thirteen.
- The largest falls: Estonia (17.9 % to 12.8 % between the second quarters of 2010 and 2011), Latvia (19.4 % to 16.1 %) and Lithuania (18.2 % to 15.5 %);
- The highest increases: Greece (12.6 % to 17.6 %), Spain (20.5 % to 22.6 %) and Cyprus (6.0 % to 7.8 %).



The treatment of the unemployed

The EU citizen job seeker and the Member State national returning 'home':

- Access to employment agencies;
- Access to employment in the public service;
- The role of language barriers;
- Access to social benefits as a job seeker (eg Austria, Cyprus, Denmark, Estonia, France, Germany etc);
- Access to social benefits as a returning citizen (eg Ireland, the UK).



The end of rights? Expulsion

- Forced removal as an EU issue:
- Belgium: expulsions to Romania: 11%; Poland 7%; Slovakia 6%;
- Germany: 840 EU citizens expelled – Poland; Romania; Lithuania;
- Ireland: 548 state sponsored returns – Poland, Romania.