

**Regional Seminar of the FMOW Network
'Hungarian and Romanian Experiences'
April 27/28, 2011 Szeged (HU)**

The aim of the seminar was to exchange the information on legal practice on free movement of union citizens in the contemporary labour market in adjacent states. The conclusions of the event can be summarised as follows:

- *The migration flow of Union workers has been limited into both states.* While the migrant workers have appeared at upper and lower level of the dualistic labour market in Hungary – in greater extent in semi- or not qualified jobs – only the presence of qualified and highly qualified workers from the EU 15 Member States can be detected in Romania (“managers’ migration). Hence the frictions can be detected only in the Hungarian labour market.
- *The outflow of migration to EU25 (rather to EU15) is significant, in particular from Romania.* These workers are less informed on their rights and obligations as labourers, union citizens. There have been numerous cases and stories on illegal employment, violation of labour and human rights, non-equal treatment, as well as exploitation of sexual workers in press and research in EU25. The private labour force agencies and networks operate out of the EURES – that requires much more independent management and language knowledge of the candidates. In this way the public awareness, consular assistance, trade union advocacy and labour inspectors’ checking would be upgraded soon in both states and in other destination states in prevention of human trafficking for exploitation, illegal employment and harsh violation of labour laws in destination and source states.
- *The economic recession after 2008 has manifold impacts on employment:* the number of persons, working in the informal economy (grey zone, illegal work) has grown. The size of remittances has decreased – this caused a significant loss in the Romanian GDP – and the Labour Force Survey (2010-2011) proves a little growth of returnees to Hungary.
- *The e/migration of health care workers becomes inevitable from this region to EU15.* The main push factors were discussed (eternal management reforms, de/centralisation of health care responsibility, missing financial cover, economic recession, unbearable salary, not respecting the Directive on working time, corruption as para-solvency to the staff from the patients, limited rights to strike, non-democratic operation and unhealthy working conditions, e.g. missing health checks for workers, dangerous medical instruments). There is no circular migration or labour immigration from non-EU states in this field. The rate of returnees is less observed.
- *The recognition of qualifications, occupation is relatively clearly transposed from Directives and regulated in both countries but the practical effects are different.* While the Romanian administration is better centralised, the number of disputed cases is minimal, but the Hungarian decentralisation (e.g. the recognition of basic, medium, professional, tertiary education certificates, diplomas is shared among at least 20 authorities and chambers) means alone more and more difficulties in interpretation, implementation of provisions. This decentralisation would provide more autonomy

among these professional branches and specificities, but the government has failed to institutionalize a regular co-ordination among these responsible organs.

- *The impact of the ECJ cases* can be detected in legislation and hardly in daily references on decisions of the public administration. However, there are certain efforts to distribute the text of main cases of the ECJ among the administrators.
- *The preferences and rights based on the EEC-Ankara Agreement and Decision.1/80 of the Association Council have not been transposed* to the labour and migration rules. Hence the Turkish workers are invisible in the Hungarian law (by statistics their number is 300-350 workers yearly) and in Romania as well. It is the fortune of Turkish that they are self-employed persons and entrepreneurs in this region.
- The known cases of abuse or violation of rights of Union citizen workers – rather from the EU8 - in Hungary and Romania are limited due to *few numbers and limited capacity of labour inspectors* in both states. For this reason the capacity building of the labour inspecting authority must be upgraded.
- The Union citizen workers' *labour experiences and language requirements* are neither clearly regulated, nor implemented in a unified way in these states. It raises more questions in Hungary than in Romania because the role of the private sector in the employment of non-nationals is higher, and the autonomy of private companies is accepted.
- Finally, the fast transposition of EU law (mainly Directives) on free movement of workers into the Romanian and the Hungarian law means a very formal integration (adaptation) in legislation because the substance of regulation, the environment of the labour market, and the employment and economic needs are different. On the other hand, the *formal legal transposition* and labour migration in fact can be considered as instruments of modernisation.

According to the programme 4 lectures, 3 roundtables and discussions were managed attended by 150 participants (public officials at central and regional level involved in labour, immigration, public education and public health issues, equivalency authorities, chamber of engineers, health workers, trade union, academics from Hungary and Romania, embassy of Romania, Turkey, law students, PhD students, law practitioners). The main presentations were published in Föld-rész (International and European Public Law Review issued by L'Harmattan) and made available for all participants.

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