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FREEDOM OF MOVEMENT OF WORKERS AS A CONDITION FOR IMPLEMENTING THE EUROPE 2020 STRATEGY FOR EMPLOYMENT AND GROWTH

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Summary: *This article aims to analyze the freedom of movement of workers regarding the new strategies for EU growth and employment. The freedom of movement of people especially workers is one of the four freedoms of the EU Internal Market. The migrant workers who move from one into another state enjoy certain rights stipulated by the EU Law (acquis communautaire). Migrant workers are important for fulfilling the employment gap in the Member States and creating new jobs. Europe 2020 is the European Union growth strategy for the coming decade. Concretely, the Union has set five ambitious objective - employment, innovation, education, social inclusion and climate/energy - to be reached by 2020. Each Member State has adopted its own national targets in each of these areas. Concrete actions at EU and national levels underpin the strategy. The goals of the Europe 2020 would not be fulfill if the freedom of movement of workers is not realized. An agenda for new skills and jobs has the objective of creating the right conditions to modernize labor markets and to allow people to acquire new skills in order to raise employment levels and to ensure the sustainability of our social models. Further, the author analyzes the eliminations of impediments for freedom of movement of workers regarding the goals set in the new strategy.*

Key words: *freedom of movement of workers, growth, employment, Europe 2020 strategy*

JEL classification: *J7 Labor Discrimination*

INTRODUCTION

The basic idea for creating the European Union is the internal market where free movement of people, capital, services and goods is established. The creation of the internal market is the central *raison d'être* of the EU existence. The freedom of movement of people is one of the four freedoms of the Internal Market. The right to move is the basic right of the European citizens. The realization of this freedom was harder than practicing the free movement of capital, services and goods. Therefore, the European Union is still taking subsequent actions for realization of the freedom of movement of people. At the beginning, the freedom of movement of people was available just for the working population, but latter on the freedom of movement included all the categories of citizens, students, retired people and people who are not economically active.

Throughout the years European Union makes efforts to change the approach towards the third country nationals, especially the working population as one of the conditions for fulfillment of the Lisbon Strategy goals. The European Union adopted important primary, secondary law and case law of the European Court of Justice such as the Association Agreements regulating the freedom of movement of third country workers. These Association Agreements with third countries provide articles for free movement of third country workers in the European Union and vice versa. For a long time, the Association Agreements are the basic law regulating the freedom of movement of third country workers. The European Court of Justice played important role in interpreting the articles for freedom of movement of workers and giving direct effect in the national laws of the Member States.

In the last two years European Union has adopted secondary law for improving the status of third country workers especially for highly qualified workers. The entrance of highly qualified workers in the Member States is important for realization of the economic growth and development, such as decreasing the unemployment rate.

FREE MOVEMENT OF WORKERS IN EU-WHAT DOES IT MEANS?

Direct effect of article 39 TEC

Central legal questions concerning free movement of workers are direct effect of article 39 (ex article 48) from the Treaty establishing the European Community, the meaning of the term migrant worker, certain rights of the family members of

the migrant worker, such as the reserved places in the public sector for national workers. The Treaty on European Union establishes European citizenship thus giving certain rights and obligations to the European citizens and limited rights and obligations to non-EU citizens.

The Treaty of Amsterdam moves important issues regulating the status of non-EU citizens from third to the first EU pillar thus becoming part of the *acquis communautaire*. The European Court of Justice played an important role in interpreting the meaning of article 39 on the free movement of workers. The Court constantly points to the meaning of the free movement of workers and realization of the principle on non-discrimination based on nationality. Article 12 of the TEU explicitly forbids any form of discrimination based on nationality when putting into practice the Treaty articles. The Council of Ministers has jurisdiction in compliance with article 251 to adopt acts forbidding discrimination based on nationality.

The definition of the term worker was a major interest to the European Community. In the case *Hoekstra* (Case *Hoekstra v Bestuur der Bedrijfsvereniging voor detailhandel en Amachten* 6 ECR 177) the European Court of Justice has interpreted that the definition of the term worker is not a question of the national law of the Member State, but it is in the interest of all Member States to interpret this term uniformly. Interpreting this term uniformly means that it is crucial for establishing the Internal Market.

The most important goal of the internal market could not be achieved if the term migrant worker is defined by the national law of each Member State. Two questions are most important in this judgment. First, the Court gives the term migrant worker communitarian meaning which means that the Court gives directions for its application in the Member States. The second important meaning of this judgment is that the Court interprets this term extensively because the realization of the free movement is one of the four freedoms and condition *sine qua non* for realization of the internal market.

Rights of migrant workers

Article 39 of the EC Treaty entails important rights for migrant workers when moving from one to another Member State:

- the right to look for a job in another Member State;
- the right to work in another Member State;
- the right to reside there for that purpose;
- the right to remain there;

- the right to equal treatment in respect of access to employment, working conditions and all other advantages which could help to facilitate the worker's integration in the host Member State

THE PROBLEMS WITH EU WORKERS MOBILITY THROUGH THE YEARS

The freedom of movement of workers in the European Union was implemented during the years but had law, administrative and practical problems in the realization. Today, the European labor market gives more and better rules for the EU migrant workers. The European Union adopted new legislation for protection of the migrant workers and increasing the flexibility of the labor market. The mobility of workers in EU was very low after adopting the EU legislation for the freedom of movement of workers.

The 2006 year was nominated for the mobility year for the EU workers. European Commission nominated the year because of the low percentage of the EU citizens who migrate in other Member State from the country of origin for work. Only 2% of the EU workers used the right to mobility in compliance with the EU legislation. Thus, additional measures were necessary to be applied. This percentage maintained unchanged over the 30 years of implementing the legislation for freedom of movement of workers. Only 33 % of the EU citizens answered that in some period of life they intend to change the place of origin vis a vis other 70% that have no intention to move in other Member State (MEMO 06/83, Brussels, 20 February 2006). 53% of the respondents of the question what does Europe represents for them answered that it is territory for free movement and work. The European citizens confirmed that the right of free movement and work in other Member State is important. The citizens from Sweden and Denmark are most positive for the mobility of the EU workers with 79% and 72 % comparing to the opinion of the citizens in Belgium, Germany, Estonia and Greece having very low percentage approximately 33 %. The low percentage of migration flow has negative influence on the economical growth, employment rate and improvement of the professional qualifications of the workers. The most important impediment for realization of the freedom of movement of workers is the language barrier and cultural differences such as family reunion problems. The most of the Europeans about 70% respond that they have no plan to change the place of residence because of work in other Member States. Euro barometer research showed that the European citizens are satisfied with the current place of residence and work.

The women, older people and the low qualified workers are the main categories of people who like to change the current place of residence and would search for work in other Member State. Most of the European citizens do not intend to change the country of origin. In most cases the situation is due to the satisfaction of the work performed. More than 40% of the workers expect to change the current job, because of their professional careers or simply because they want life changes. (http://europa.eu.int/comm/employment_social/workersmobility2006/events_en.htm).

The mobility in the EU is basically understood as a way to improve the flexibility, managing the labor inequalities and improving the economic growth (Master thesis: Alexandra Leveth, 2002/03, p. 34). The European Union aimed to improve the mobility on EU level through the years. Thus, the European Commission adopted special measures like Action plan for skills and mobility such as the European information web pages for mobility on the work. The European Commission confirmed that the mobility of the workers is expected in the future especially for highly qualified workers as a result of the politics, technical improvements and fast economic integration.

The European page for mobility on the work is concrete instrument for improvements of the mobility. The page gives clear picture of the workers who search for the job because of the public advertising of the free work places up to 1 million at any moment. The page is visited by 500 000 people every month giving the opportunity for short biography and information for working and living standard in the Member States.

The European Commission promoted the EURES Network in order to facilitate the freedom of movement of workers in the European economic area. This system replaced the European system for international publication of the working places and applications for work. The partners are the public services for employment, employment unions and other workers associations. The most important tasks for EURES are:

- to disseminate information and advices for possible mobility of the workers in the European economic area
- to assist in employment of the foreign workers
- to give advices and rules for workers and employees of the cross border areas (<http://ec.europa.eu/eures/main.jsp?catId=27&acro=eures&lang=en>)

3. THE EU 2020 STRATEGY FOR EMPLOYMENT AND GROWTH

Europe 2020 is the growth strategy for the decade 2010- 2020 and focuses on three mutually reinforcing priorities smart, sustainable and inclusive growth that should help the EU and Member States deliver high levels of employment, productivity and social cohesion and deal with the adverse effects of the financial economic crisis. Europe 2020 Strategy sets five ambitious objectives on employment, innovation, education, climate/energy and social inclusion to be reached by 2020. Each Member State has adopted its own national targets in each area and has set its own measures at national level to underpin the strategy.

The engines driving this growth are

- knowledge and innovation
- greener and more efficient use of resources higher employment combined with social and territorial cohesion (Daniel Gros, Felix Roth, Can the EU maintain the EU competitiveness in the world, The centre for European policy studies CEPS Brussels, 2012)

Before the Europe 2020 strategy for employment and growth the European Commission launched the Lisbon agenda. The objective of the Lisbon Strategy was to make the European Union the most dynamic and competitive knowledge-based economy in the world by 2010. At the time already, it was recognized that the reform agenda needed to achieve this very ambitious objective could not be pursued at EU level alone, but that reforms at Member State levels were also necessary as, in many of the policy fields involved, competence remained at national level. For many commentators, however, the overall direction of the strategy was still flawed, and it was too late to shift its course. The 2007 financial and economic crisis was the final blow to the Strategy, bringing back the EU growth and unemployment numbers to historically low figures.

The financial crises influenced different countries differently. It was strongest in countries like Spain and Ireland thus additional measures are necessary to succeed the Europe 2020 goals. On the other side the trends for the biggest EU economies like Germany and France increased its employment rate among population aged 20-64 from 66% to 70%. Germany managed to increase it by 8% from 67% in 2004 to 75 % in 2010. According to Eurostat data from 2008, 2.3 % of EU citizens (11.3 million persons) resided in a Member State other than the state of origin. According to a recent Euro barometer survey, 10 % of persons polled in the EU-27 replied that they had lived and worked in another country at some point in the past, while 17 % intended to take advantage of free movement in the future.

As presented by the European Commission on 3 March and adopted by the European Council at the Spring Summit, the main objective of the Europe 2020 strategy is to bring together the **economic, social and environmental agendas** of the EU in a more structured and coherent way. The idea is to mainstream some fundamental political objectives both at EU level (through the use of funding program and policy initiatives), as in the context of EU driven national reforms. The 2020 strategy aims at enhancing policy synergies and, at the same time, reinforcing the European integration process by offering a stronger vision and governance model.

The European Strategy sets five measurable targets:

The strategy lays out five targets to be achieved by the European Union by 2020:

- 75% employment rate for the 20-64 age group
- 3% investment rate in Research and Development,
- 20/20/20 climate and energy targets (the reduction of greenhouse gas emissions by at least 20%, a share of final energy consumption coming from renewable energy sources increased to 20%, and an energy sufficiency of 20%)
- an improvement of education levels (a reduction of school drop-out rates, and an increased share of the population having completed tertiary or equivalent education);
- a promotion of social inclusion including a reduction of poverty.

If the first three targets were already the drivers of the Lisbon strategy, and were therefore adopted without major debate by the Member States, the education and social objectives are new, and were not attributed measurable targets yet. In addition to measurable targets, the 2020 strategy also introduces a series of actions and policies grouped under three main headings: smart growth, green growth, and inclusive growth.

In the 2020 paper, the Commission is still vague in describing the tools and program for realization of the agenda.

The Commission has put forward **seven flagship initiatives** to catalyze progress under each priority theme. For the freedom of movement of workers three initiatives are more important to be realized. Under the initiative **Youth on the move** EU aims to enhance the performance and international attractiveness of Europe's higher education institutions and raise the overall quality of all levels of education and training in the EU, combining both excellence and equity, by promoting student mobility and trainees' mobility, and improve the employment situation of young people. **Under**

the topic “An agenda for new skills and jobs” the EU aims to modernize labor markets ensuring the sustainability of European social models, empowering people through the acquisition of new skills so as to adapt to new conditions and potential career shifts, reduce unemployment and raise labor productivity. **Under the agenda of European platform against poverty EU aims to** ensure social and territorial cohesion such that the benefits of growth and jobs are widely shared and people experiencing poverty and social exclusion are enabled to live in dignity and take an active part in society (<http://www.bka.gv.at/site/7762/default.aspx>)

HOW WILL THE FREEDOM OF MOVEMENT OF WORKERS INFLUENCE THE GOALS OF THE EUROPE 2020 STRATEGY FOR EMPLOYMENT AND GROWTH?

The freedom of movement of workers is important for fulfilling the needs for the work force in the Member States. The realization of this principle means lowering the unemployment rate on EU level during the time of crises. However, in order to respond effectively to the challenges and opportunities of globalization, European policy makers recognize that the EU has to become a more innovative and competitive economic player.

One important tool for achieving this goal is immigration. Carefully planned immigration could lead to younger, more dynamic European societies by enhancing the exchange of people and ideas. This could stimulate risk-taking, foster the modernization of European economies and societies, help to overcome rigid structures, and lead to higher economic growth. Today, the size of Western and Central Europe's labor force is 227 million. In the absence of immigration and at constant labor force participation rates this labor force would shrink to 201 million in 2025 and to 160 million in 2050. In order to maintain it constant over the analyzed period a net inflow of 66 million labor migrants would be necessary. In 2005, twenty of today's 27 EU countries had a positive migration balance.

The only exceptions were the Baltic States, Bulgaria, the Netherlands, Poland and Romania. Net migration gains were highest in Cyprus (+27.2‰ of total population), Spain (+15.0‰) and Ireland (+11.4‰). In countries like the Czech Republic, Italy and

Slovenia net migration turned an excess of deaths over births into a positive total population change (<http://www.oecd.org/dev/38295272.pdf>)

Empirical evidence from several EU countries shows that in most cases immigrants are complements to the natives in the labor market and thus, have no negative effects on the natives' job prospects and wages. One exception is the construction sector. In many EU Member States the native work force employed in this sector is highly unionized. Construction workers are, for example, protected against wage competition from immigrants through collective wage agreements and dismissal protection, instruments that have the unintended consequence of attracting more immigrants than it would have been the case in their absence. Job mobility is a complex phenomenon and many factors influence it, including the characteristics of the job and the nature of the match between power and job. Any model that is constructed to explain job mobility should at least include information of these three aspects (ILO, Geneva, 2010)

There are several arguments in support of migration as a tool for filling skills and labor gaps. First, the growing importance of the knowledge-based economy makes it more important to have the necessary skills, a requirement which may not be possible to meet through domestic supply – at least not in the short- to medium-term, as there will be a lag in the impact of education reforms. Secondly, where shortages result from an inflexible labor force – a reluctance of domestic workers to do certain jobs, change occupations, or to relocate – it may not be socially or politically feasible to solve this type of mismatch through domestic reforms. And third, demographic trends imply that there could be across-the-board labor shortages in the future, necessitating an import of foreign labor to counter growing dependency rates (Cristine Boswell and al. 1994, p.3)

Free movement of workers, one of the four freedoms enshrined in the Treaty, contributes to economic development and social cohesion in the Union. However, there are a number of barriers to geographical mobility in the Union, ranging from legal and administrative obstacles, housing costs, portability of pensions, and linguistic barriers to lack of transparency of job vacancies and support for matching job-seekers with job offers. EURES aims to improve labor market transparency by making job vacancies available on the EURES Job Mobility Portal and to provide support for information, advice and guidance services at national and cross-border level.

At the same time, the role of public employment services (PES) has changed as a result of the recent economic crisis and the need for more tailor-made services. Public employment services should become life-long learning providers, offering a wide range of services (such as skills assessment, training, career guidance, matching jobs and profiles, client counseling), and catering for the needs of those furthest from the

labor market. In addition, EURES should promote new working methods with private employment services (COM/2011/0609 final - 2011/0270 (COD))

Today, in the wake of the financial crisis, labor mobility has started to rise, mainly due to the fact that Europeans are becoming more willing to relocate. While the Deutsche Bank Report claims that internal migration can be an effective way of reducing disequilibria on the labor markets, some European countries have been alerting about the risks of an increase of unemployment in the periphery of Europe (<http://www.nouvelle-europe.eu/en/labour-mobility-europe-times-crisis>)

Still, the freedom of movement of workers would be an important tool in reaching the goals of Europe 2020 strategy for employment and growth. In this direction, the work of the EURES is important in correlation with the employment services. Also, very important question is the equivalence of the professional qualifications.

Mutual recognition under Community law is automatic for the professional activities of craftsmen, trader and farmer, who have completed the relevant period of professional experience in the home Member State. Recognition is also automatic for lawyers practicing under their “home State professional title” on the basis of an authorization to practice in the home Member State. For other professions (engineers, physiotherapists and other professions supplementary to medicine, teachers, accountants, fiscal advisers, designers, urban planners, lawyers practicing under the “host title” and others covered by “the General System for the recognition of professional qualifications” directives, which does not provide for any co-ordination of training), recognition is not guaranteed to be automatic.

CONCLUSIONS

The freedom of movement of people is one of the four freedoms of the Internal Market of the European Union. At the beginning, the freedom of movement of people was available just for the working population, but latter on the freedom of movement included all the categories of citizens, students, retired people and people who are not economically active. Due to the impediments particularly the language barrier the mobility of workers through the Union was on very low level. The Union took additional measures to increase the number of workers who move from one to another Member State for work.

The question of the equivalence of the professional qualifications arose so European Union adopted legislative measures to address the problem. Implementing

the freedom of movement of workers legislation, moving of the young people, women and older people is a condition to achieve the Europe 2020 Strategy for employment and growth. Europe 2020 Strategy is a continuing process of the Lisbon agenda. In the time of crises and employment problems that many Member States face immigration of workers and the freedom of movement can be seen as positive way to resolve the need of particular professions. Beside the freedom of movement of workers in the Union, special emphasize is the question of freedom of movement of third country workers.

However, there are a number of barriers to geographical mobility in the Union, ranging from legal and administrative obstacles, housing costs, portability of pensions, and linguistic barriers to lack of transparency of job vacancies and support for matching job-seekers with job offers. The Member States should take additional measures to implement the EU legislation on freedom of movement of workers regarding achieving the Europe 2020 Strategy for employment and growth.

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