



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Civil Liberties, Justice and Home Affairs

2010/2273(INI)

25.5.2011

OPINION

of the Committee on Civil Liberties, Justice and Home Affairs

for the Committee on Employment and Social Affairs

on promoting workers' mobility within the European Union
(2010/2273(INI))

Rapporteur: Vilija Blinkevičiūtė

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SUGGESTIONS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Employment and Social Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

- having regard to Article 151 of the Treaty on the Functioning of the European Union,
 - having regard to Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship¹,
 - having regard to the Commission communication of 13 April 2011, 'Single Market Act - Twelve levers to boost growth and strengthen confidence "Working together to create new growth"' (COM(2011)0206), which includes workers' mobility as one of its twelve key instruments,
 - having regard to paragraph I(g), of the European Pact on Immigration and Asylum² adopted by the European Council, which invites Member States to establish ambitious policies to promote the harmonious integration of legal immigrants, including specific measures to promote language-learning and access to employment,
- A. whereas mobility of EU workers should be encouraged throughout the European Union where there is an employment need,
- B. whereas EU workers can face difficulties and challenges when seeking employment in a host Member State,
1. Urges the Member States and the Commission to strengthen EU policy on fighting direct and indirect discrimination (paying special attention to the fight against discrimination based on ethnic origin), exploitation of EU migrant workers in the European Union and abuse of their rights due to their insufficient knowledge of languages and laws applicable to their employment in the host Member State;
 2. Considers that migrant workers should be able to communicate in one of the official languages of their host Member State in order to enable their integration and to obtain optimal productivity at work and states that Member States should have the right to establish linguistic competences for certain professional and technical jobs; considers therefore that classes in languages of the host Member State should be made available free of charge to migrant workers; deplores, however, the policies of Member States aimed at limiting the access of EU workers to social security or social services by making it conditional on the requirement to know the language of the host Member State;
 3. Calls on the Commission and the Member States to combat xenophobia by providing the means for integration and information and to promote understanding, cultural diversity and respect in Member States hosting mobile workers;

¹ OJ L 288, 18.10.1991, p. 32.

² Council Doc. 13440/08.

4. Calls on the Commission to ensure that Member States implement Directive 2004/38/EC without any discrimination, including on grounds of sexual orientation; reminds the Commission of previous calls to ensure freedom of movement for all EU citizens and their families, including both registered partnerships and marriages, regardless of their sexual orientation;
5. Calls on the Member States to fully implement Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services¹ and welcomes the forthcoming initiative announced by the Commission to improve and reinforce its transposition, implementation and enforcement;
6. Takes the view that mobility can only be effectively promoted through substantial improvements in respect of solidarity and shared responsibility on the part of the Member States and through the formulation of a clear regulatory framework governing legal migration;
7. Emphasises that worker mobility may be a very useful tool for enhancing the competitiveness of SMEs, which account for 67.1% of jobs in the EU;
8. Calls on the Commission and the Member States to actively put across to EU citizens the opportunities offered by the free movement of workers and to present the benefits of the European employment market;
9. Underlines that one of the main achievements of the European Union is the creation of an area without internal borders where EU citizens and third-country nationals can circulate and work freely;
10. Calls on the Member States to review their provisions regulating the transitional periods for access to their labour markets, which, in the long term, can have negative effects on the fundamental values and rights enshrined in the EU Treaties, such as freedom of movement, non-discrimination and solidarity and equal rights; therefore welcomes the recent decision of some Member States to fully open their labour markets to some of the Member States that joined the EU in 2004 and deplores the recent legislative proposals in other Member States intended to undermine the rights of workers from the Member States that joined the EU in 2004 and 2007; calls on the Commission to investigate whether such policies infringe EU law;
11. Urges the Member States to ensure the correct transposition and implementation of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States² in order to strengthen and simplify the right of free movement and residence of all Union citizens and their family members; calls on the Commission to closely monitor the implementation of that Directive;
12. Underlines that labour restrictions constitute an obstacle to the functioning of the internal

¹ OJ L 18, 21.1.1997, p. 1.

² OJ L 158, 30.4.2004, p. 77.

market and that the economic crisis demonstrates the need to promote free labour mobility which is self-regulatory, provides flexibility, and reduces undeclared work and the natural rate of unemployment;

13. Reiterates that, in order to avoid inconsistencies in the area of the EU internal market, for the purpose of employment Member States must give preference to Union citizens and may give preference to third-country nationals who apply for highly qualified employment, as set out in Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment¹; stresses the importance of rejecting applications for an EU Blue Card in labour market sectors for which the access to workers from other Member States is restricted on the basis of transitional arrangements;
14. Notes that the promotion of workers' mobility based on European law has to be complemented by EU legal provisions which ensure fair working conditions and equal treatment for migrant workers as well as foresee effective sanctions, remedies and redress in cases of violations of workers' rights as tools to reduce inequalities among workers in the EU; recognises that appropriate legal assistance should be provided for cross-border workers in such circumstances;
15. Stresses that 'workers' rights' can only be implemented if and when an EU migrant is employed in a legally paid activity in a host Member State;
16. Takes the view that the mobility of the workforce within the European Union is essential for economic recovery and achievement of the Europe 2020 strategy objectives; urges accordingly those Member States that still impose labour market restrictions in respect of Romanian and Bulgarian nationals to remove them by the end of 2011 in accordance with the deadline laid down in the Treaty of Accession;
17. Calls for closer and more efficient cooperation between the competent national authorities in checking the compliance of labour contracts with national and EU law; points out that mutual assistance and information exchange have to be guaranteed between the Member States in case of breaches; asks the Commission to supervise this process;
18. Urges the Member States to strengthen the implementation of Directive 91/533/EEC concerning the minimum information that workers must receive from their employer on their employment relationship, including all relevant provisions concerning their employment situation in the host Member State;
19. Notes that EU migrant workers might not be aware of their rights to social, education and health services in the receiving country, therefore calls on the Member States and the Commission to enhance the provision of information on the rights, the opportunities and the tools of freedom of movement to mobile workers, their family members and those interested, both on a broad and on an individual basis;
20. Calls on the Commission to strengthen the current legal framework for the recognition of diplomas and professional qualifications;

¹ OJ L 155, 18.6.2009, p. 17.

21. Calls on the Commission to make use of the EURES network and other European instruments that offer advice and assistance for placement and recruitment in order to provide more accessible and transparent information related to the rights that family members of migrant workers have, especially regarding their right to work, their social rights and their children's right to education in the host Member State;
22. Points out that increased workers' mobility also requires the active involvement of social partners, especially trade unions, in order to provide the workers concerned, especially those temporarily working abroad, with adequate and effective information, support and protection regarding their social and labour rights;
23. Urges the Member States to control more strictly the work of employment agencies and to fight the abuse of EU migrant workers in the EU, in order to ensure that the rights of those migrant workers are respected;
24. Calls on the Commission to revise Regulation (EC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community¹ in order to take into account the proposals made by the European Parliament in this resolution;
25. Calls for improved cooperation between the EU, the Member States and third countries regarding the development of successful, fair and transparent EU immigration and intra-EU migration policies for third-country workers, based on solidarity with third countries as well as on EU labour market needs in the context of its present demographic challenges and prospects for economic development;
26. Notes that EU nationals working in another Member State may lose their right to vote in national elections after varying periods of time; considers that the Commission should review this situation with Member States and that awareness of the right to stand for election and to vote in both local and European elections should be promoted;
27. Considers that Member States should ensure that the children of EU mobile workers do not face difficulties regarding their nationality or citizenship due to the working choices of their parents, and that the particular needs of the children of mobile workers should be adequately studied to ensure effective policy responses.

¹ OJ L 257, 19.10.1968, p. 2.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	25.5.2011
Result of final vote	<div>+: 40</div> <div>–: 4</div> <div>0: 3</div>
Members present for the final vote	Jan Philipp Albrecht, Alexander Alvaro, Roberta Angelilli, Vilija Blinkevičiūtė, Mario Borghezio, Emine Bozkurt, Simon Busuttil, Philip Claeys, Carlos Coelho, Cornelia Ernst, Tanja Fajon, Hélène Flautre, Kinga Gál, Kinga Göncz, Nathalie Griesbeck, Sylvie Guillaume, Anna Hedh, Salvatore Iacolino, Sophia in 't Veld, Livia Járóka, Teresa Jiménez-Becerril Barrio, Timothy Kirkhope, Juan Fernando López Aguilar, Baroness Sarah Ludford, Monica Luisa Macovei, Véronique Mathieu, Louis Michel, Claude Moraes, Jan Mulder, Antigoni Papadopoulou, Georgios Papanikolaou, Carmen Romero López, Csaba Sógor, Rui Tavares, Wim van de Camp, Daniël van der Stoep, Axel Voss, Manfred Weber, Tatjana Ždanoka
Substitute(s) present for the final vote	Mara Bizzotto, Monika Hohlmeier, Franziska Keller, Marian-Jean Marinescu, Mariya Nedelcheva, Hubert Pirker, Marie-Christine Vergiat
Substitute(s) under Rule 187(2) present for the final vote	Knut Fleckenstein