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EUROPEAN PARLIAMENT, THE EUROPEAN ECONOMIC AND SOCIAL  
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**Report on the Functioning of the Transitional Arrangements set out in the 2003  
Accession Treaty (period 1 May 2004-30 April 2006)**

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## 1. PURPOSE OF THIS REPORT

1. The Commission presents this report to the Council in accordance with paragraph 3(2) of the transitional arrangements on freedom of movement for persons<sup>1</sup> annexed to the Treaty of Accession of 2003.<sup>2</sup> Pursuant to these **transitional arrangements** the introduction of part of Community law on free movement of workers across the enlarged EU, **may be deferred for a period of maximum 7 years**<sup>3</sup>.
2. The transitional period is divided in three distinct phases, according to the "2 plus 3 plus 2" formula. Different conditions apply during each of these phases. The **first phase** of the transitional arrangements (TA) started on 1 May 2004 and will end on **30 April 2006**.
3. The Accession Treaty states that before the end of this phase, the Council must **review the functioning** of the TA on the basis of a **Commission report**. On completion of this review, and no later than at the end of the two-year period following the date of accession, the **EU15 Member States must notify** the Commission of their intentions with regard to the second phase of the TA<sup>4</sup>. In the absence of notification, Community law on free movement of workers will apply from the **1<sup>st</sup> of May 2006**.

## 2. THE TRANSITIONAL ARRANGEMENTS

4. Free movement of persons is one of the most **fundamental freedoms** guaranteed by Community law. It includes the right for EU nationals **to move** to another EU Member State **to take up employment** and to establish themselves in the host State with their family members. EU Member States are **precluded** from directly or indirectly **discriminating** against **migrant workers** and their families on the basis of their nationality. EU migrant workers and their families are entitled to **equal treatment** not only in employment related matters, but also as regards public housing, tax advantages and social advantages<sup>5</sup>. Removing barriers to mobility between and within Member States is also placed central in the Renewed Lisbon Agenda.
5. The transitional arrangements set out in the Accession Treaty of 2003 allow for limited derogations from the principles set out in the preceding paragraph, during a

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<sup>1</sup> Free movement of workers (Article 39 EC) must legally be distinguished from freedom of establishment (Article 43 EC) and freedom of services (Article 49 EC). The posted workers Directive, which relates to the latter freedom, is not subject to transitional arrangements although Germany and Austria are allowed to apply restrictions on the cross-border provision of services in certain sensitive sectors involving the temporary posting of workers as set out in paragraph 13 of the TA.

<sup>2</sup> This report deals with free movement of workers in the EU and not with economic immigration of non-EU nationals.

<sup>3</sup> It should be noted that nationals from Malta and Cyprus cannot be subject to restrictions.

<sup>4</sup> In this Report, "EU15 Member States" refers to all Member States forming part of the EU before 1 May 2004; "EU10 Member States" refers to all States that joined the EU on 1 May 2004, whereas "EU8 Member States" refers to all EU10 Member States except for Malta and Cyprus.

<sup>5</sup> Article 39 EC; Regulation 1612/68/EEC; Directive 68/360/EC. From 30 April 2006, Directive 2004/38/EC will apply which will replace/modify previous legislation.

transitional period which will irrevocably come to an end on 30 April 2011. The restrictions can **only** be applied to **migrant workers**, and not to any other categories of EU citizens. Further, the restrictions can only apply to obtaining **access to the labour market**, and can only limit eligibility for employment in a particular Member State. Once a worker has obtained access to the labour market of a particular Member State Community law on **equal treatment as regards remuneration**, other employment related matters, and as regards access to **social and tax advantages** applies. In other words, no discrimination whatsoever is allowed on the ground of nationality between legally employed workers, regardless of whether they come from EU15 Member States or EU10 Member States. Further, there are no transitional arrangements for the application of Community law on the coordination of **social security** schemes<sup>6</sup>.

6. The Commission has produced several documents explaining the legal framework of the TA<sup>7</sup>. The Accession Treaty provides that for the first two years of the TA, EU15 Member States will apply **national measures**, or those resulting from bilateral agreements to regulate access to their labour markets by EU8 nationals. The diverse national measures taken during this first phase of the TA resulted in **legally different regimes** for access to the labour markets of the EU25. Sweden and Ireland decided not to apply restrictions on access to their labour markets by EU8 nationals. The UK has no ex-ante restrictions either but has a Workers Registration Scheme<sup>8</sup>. All other EU15 countries maintained a work permit regime, sometimes combined with quotas. No TA exist for Cyprus. Malta issues work permits for monitoring purposes. Poland, Slovenia and Hungary apply reciprocal restrictions to nationals from the EU15 Member States applying restrictions. All EU10 Member States have opened their labour markets to workers of EU10 Member States<sup>9</sup>.
7. From the 1<sup>st</sup> of May 2006, the second phase of the transitional period will start. In any event, the Accession Treaty provides that Member States that decide to lift restrictions on the 1<sup>st</sup> of May 2006 will have, throughout the remainder of the transitional period, the possibility to reintroduce restrictions using the safeguard procedure set out in the Accession Treaty, should they undergo or foresee disturbances on their labour markets.

The Accession Treaty also lays down that, notwithstanding restrictions applied by Member States, they shall give preference to workers who are nationals of EU8 Member States over workers who are nationals of third countries as regards access to their labour market<sup>10</sup>.

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<sup>6</sup> There is, however, an indirect impact on Article 69 of Regulation 1408/71/EEC.

<sup>7</sup> See Bibliography.

<sup>8</sup> This does not apply to Gibraltar, which has adopted a work permit regime.

<sup>9</sup> A detailed overview of the national measures which the Member States have put in place for the first phase of the TA is available via the *Eures* job mobility portal. A summary of these measures can be found on the Commission's DG EMPL website mentioned in the Bibliography.

<sup>10</sup> See relevant provisions of paragraph 14 of the transitional provisions regarding preferential treatment

### 3. CONSULTATION OF MEMBER STATES AND SOCIAL PARTNERS

8. The Commission has convened a meeting of a **High Level Group on Free Movement of Persons**. This group met on 16 September 2005 to discuss the functioning of the TA. In addition to representatives of Member States it invited representatives of European and national social partners. During the meeting many **EU15 Member States** reported that they were commencing the process of internal consultations to determine their position for the second phase. All agreed on the **need for solid data** to underpin such decisions. Those that had decided not to apply any restrictions during the first phase were generally positive about the effects of this decision on their labour markets, emphasising the positive contribution made by workers from the EU8 to their national economies.
9. As for those EU15 Member States that apply restrictions, some reported that these allow them to manage migration from neighbouring EU8 Member States. Two Member States continued to view the measures as necessary in the near future, taking into account national absorption capacity, the need to integrate all migrants, including those from non-EU countries, and to accompany internal structural reforms. Nevertheless, it was acknowledged that the restrictions may have encouraged EU8 nationals to look for **other ways to perform economic activity** in EU15 Member States, reflected in an exceptionally high **influx of posted workers or workers claiming to be self-employed**.
10. As for EU8 Member States, virtually all called for **lifting the restrictions**. They stressed the fundamental nature of their citizens' right to freedom of movement as workers in the EU25 and pointed to statistical evidence showing that their citizens had not, in fact, flooded EU15 labour markets nor had they caused any surge in welfare expenditure by EU15 Member States. They also underlined the role of their citizens in alleviating problems caused by the EU15's ageing workforce.
11. The social partners called upon their national authorities to consult them regarding their positions for the second period. Many stressed that restrictions might have had the effect of postponing indispensable structural reforms both in the EU15 and the EU8 labour markets. Recognising that migration flows from EU8 to EU15 Member States had been modest, social partners strongly emphasised that erosion of labour standards and "social dumping" should be avoided. They also pointed out that restrictions on legal work actually lead to a proliferation of undocumented work, bogus "self-employed" work, and fictitious service provision and sub-contracting. Lacunae in enforcement of existing Community legislation and in particular of the posted workers directive were also reported. The **overriding majority of the social partners**, except for those representing SMEs and/or trade unions in a few countries, stated that they were in favour of a **lifting of the restrictions**, in order to create a level playing field.

### 4. STATISTICAL EVIDENCE ON WORKERS' MOBILITY PRE- AND POST-ENLARGEMENT

12. To enable the Commission to assess the functioning of the TA, Member States were asked to provide via EUROSTAT, national data on residence permits issued to other EU nationals for family reunification, employment, study and other, disaggregated by citizenship, gender and age. The national data received by the Commission in

response to this request, relate to resident permits, work permits, and number of workers from other administrative data sources, such as social security registers, depending on national systems and institutional settings. Whilst the national data in this report have been harmonised as much as possible, it should be borne in mind that they are not completely harmonised nor strictly comparable across countries, and that the level of detail varies between countries. It should be noted too that according to some data circulating in the public domain, the migration flows for certain countries may differ from those presented in this report. This may be explained by the fact that not all data circulating in the public domain have gone through the same rigorous analysis as those presented in this report<sup>11</sup>. Further, the true migration flows across the enlarged EU may be larger than would appear from the data presented in this report as the phenomenon of undeclared work is not fully captured by official statistics.

13. In addition to the above national administrative data, evidence from the Labour Force Survey (LFS)<sup>12</sup> will also be presented in this report<sup>13</sup>. The assessment does not take into account the interaction between the functioning of TA and other changes in the economic and/or policy sphere. The assessment of the functioning of TA has also been the subject of reports by different Member States and by other interested parties and the evidence presented therein has been used where relevant.

#### **4.1 Workers' mobility in the enlarged European Union**

14. Since enlargement there has been an increase in the number of EU10 workers in EU15 Member States. However, despite this increase, the relative impact, as measured by the number of permits issued for reason of employment as a proportion of the host country's working age population, is rather limited (see table below). Furthermore, the number of resident and work permits issued at any point in time overestimates the actual number of EU10 nationals that have settled in the host country, because it does not take into account people returning to their countries of origin, i.e. the outflows, and the length of the work permits. The same is true in view of the fact that the data may reflect temporary factors such as regularisation of illegal migrants who have moved to EU15 Member States over several years.
15. In Austria the share of issued work permits in 2004, the majority of which are for short periods<sup>14</sup>, correspond to 1.2% of the overall working age population, but the 2004 annual average stock of employed people corresponds to 0.7% of the working age population (see table below). Furthermore, it should be noted that after the first period of adjustment the number of EU8 nationals in Austria, as measured by the average annual stock, stabilises in 2005 (see table A1 in the statistical annex). In the same way, although the work permits issued in Germany in 2004 correspond to 0.9% of the working age population, once the length of the work permit is taken into

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<sup>11</sup> The Commission has received administrative data from all Member States, except for Luxembourg and Cyprus, which have not been included in the analysis.

<sup>12</sup> The LFS is a harmonised EU quarterly survey covering the whole of the resident population in each Member State and based on a sample of approximately 1.7 million individuals in the EU25.

<sup>13</sup> The information contained in administrative data is more limited than the one available in the LFS and is more sensitive to the legal framework affecting foreign nationals.

<sup>14</sup> See further below.

account, the stock of employees from EU8 countries (namely those liable for social security contributions) drops to 0.2% of the working age population<sup>15</sup>.

16. In Ireland, Personal Public Service Numbers (PPS) issued to EU10 nationals between May and December 2004 correspond to 1.9% of the working age population; however, this figure is not strictly comparable to the other presented in the table below as PPS Numbers are issued by Irish authorities to individuals not only for employment reasons. PPS numbers are unique reference numbers issued for other purposes as well, including for example, access to information, to welfare, health and other public services, including therefore not only by migrant workers but also their relatives. The number of PPS numbers issued in 2005 has risen in the period January-November 2005 to 3.8%, but this does not appear to have led to a disruption of the Irish labour market (see tables A4 and A5 in the statistical annex).

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<sup>15</sup> For more detailed information on numbers of permits, see table A1 in the statistical annex.

EU10 and EU15 nationals as percentage of destination country's working age population (WAP)  
aged 15-64 - 2004

Country of destination	Type of data	% WAP	
		Nationality	
		EU10 <sup>1</sup>	EU15
Belgium <sup>2</sup>	Resident permits	0.2	2.7
Czech Republic	Foreign workers stock	1.0	0.1
Denmark	Residence permit	0.1	0.2
Germany	Foreign workers stock	0.2	1.0
	Work permit	0.9	:
Estonia	Residence permit	0.0	0.1
Greece	Residence permit	0.1	:
Spain	Residence permit	0.0	0.1
France	Work permit	0.0	:
Ireland <sup>3 4</sup>	Personal Public Service Numbers	1.9	:
Italy	Application for work authorisation	0.1	:
Latvia <sup>4</sup>	Residence permit	0.0	0.0
Lithuania	Residence permit	0.0	0.0
Hungary	Residence permit	0.0	0.0
Malta	Residence permit	0.1	0.8
Netherlands	Work permit	0.2	:
Austria	Average annual stock	0.7	:
	Work permit	1.2	:
Poland	Residence permit	0.0	0.0
Portugal	Residence permit	0.0	0.0
Slovenia	Registration of workers	0.0	0.0
Slovakia	Residence permit	0.0	0.0
Finland	Residence permit	0.0	0.0
Sweden <sup>4</sup>	Residence permit	0.1	0.0
United Kingdom <sup>4</sup>	Applicants to WRS	0.4	:

Source: Administrative data from Member States.

Notes: % WAP - as percentage of destination country's working age population 15-64. ':' not applicable or data not available.

All figures refer to the number of applicants/ applications/ registrations/ permits issued (flows), except in the case of the Czech Republic, where the figure refers to the stock of workers, and for Germany, where the first line refers to the stock of workers, and for Austria, where the first line refers to the average annual stock of employees. Figures on residence permits refer to permits issued for employment reasons only, except for Belgium.

Data for 2005 have been received for some Member States (see table A1 in the statistical annex).

<sup>1</sup>Figures for France, Italy, Austria, and the number of work permits for Germany relate to EU8. <sup>2</sup>The figure for Belgium refers to residence permits issued for all reasons. <sup>3</sup>The figure for Ireland refers to PPS Numbers issued not only for employment reasons, but also for other administrative purposes, including welfare, health and other public services. <sup>4</sup>Reference date 2004 May - December.

Data for Cyprus and Luxembourg not received by the Commission.

17. The evidence from the LFS is comparable to that presented from administrative sources once one accounts for definitional and time differences<sup>16</sup>. In fact, LFS figures represent the net effect of inflows and outflows and therefore give a better picture of the actual number of EU10 nationals who have settled in EU15 countries. In the first quarter of 2005 the proportion of the working age population from the

<sup>16</sup> The LFS data refers to quarter 1 of each year, while administrative data refers to different periods as specified in the relevant tables. Furthermore, LFS figures refer to the "net" number of individuals by nationality at any point in time, while administrative data, both stock and flow data, to the number of permits issued or applied for, regardless of the actual length of residence, of returns to the countries of origin, or, in the case of flows, of previously granted permits.

EU10 Member States within the EU15 was rather small, ranging from 0.1% in France and in the Netherlands to 1.4% in Austria and 2% in Ireland<sup>17</sup>.

Resident working age population by nationality - 2003-2005 - cell percentages

Country of destination	Nationality					
	EU15			EU10		
	2003	2004	2005	2003	2004	2005
Belgium	5.4	5.8	5.8	0.2	0.2	0.2
Denmark	1.0	1.1	1.1	:	:	:
Germany	2.7	2.6	2.8	:	:	0.7
Greece	0.2	0.4	0.3	0.3	0.4	0.4
Spain	1.1	1.2	1.2	0.2	0.2	0.2
France	1.9	2.1	1.9	0.1	0.1	0.1
Ireland	3.4	3.3	3.0	:	:	2.0
Luxembourg	37.2	37.6	37.6	0.3	0.3	0.3
Netherlands	1.5	1.5	1.4	0.1	0.1	0.1
Austria	1.7	1.8	1.9	0.7	0.8	1.4
Portugal	0.3	0.4	0.4	:	:	:
Finland	0.3	0.3	0.4	0.3	0.3	0.3
Sweden	2.2	2.2	2.3	0.2	0.2	0.2
United Kingdom	1.8	1.8	1.7	0.2	0.3	0.4
EU15	2.0	2.1	2.1	0.2	0.2	0.4
EU10	:	0.2	0.2	:	0.1	0.2
EU25	1.9	1.7	1.7	0.1	0.1	0.3

Source: Eurostat, LFS, 2003 - 2005 Q1, Ireland 2005Q2.

Notes: ':' data not available or not reliable due to small sample size.

Italy is excluded, since it does not disaggregate by nationality.

EU15 and EU25 aggregates without Italy, EU15 and EU25 aggregates without Germany and Ireland in 2003-2004 for EU10 nationals. EU10 aggregate without Poland.

18. Furthermore, **these figures have been stable in relation to the two years before enlargement**, i.e. 2003 Q1 and 2004 Q1, with only a moderate increase of 0.1 percentage points each year in the UK and a marked increase in Austria, where figures doubled to 1.4%. It is also interesting to note that in the EU15 Member States the percentage of non EU nationals is significantly higher than that for EU10 nationals (see table A2 in the annex). This can also be explained for historical reasons and because immigration from EU10 is fairly recent. This implies that **immigration from non-EU countries is a much more important phenomenon than intra-EU mobility**, both within the EU15 and the EU25.
19. Concerning TA, there is no evidence either from administrative sources or from the Labour Force Survey to show **a direct link between the magnitude of mobility flows from EU10 Member States and the TA in place**. In particular, flows into the UK and Sweden, which are Member States without restrictions for EU8 workers, are comparable if not lower to those into countries with TA<sup>18</sup>. The experience of the Nordic countries, which have comparable labour markets and economic performance, confirms this<sup>19</sup>. **Ultimately, mobility flows are driven by factors**

<sup>17</sup> Since there are only small numbers of other EU-nationals in EU10 Member States, the analysis will be restricted to the EU15 for reasons of data reliability.

<sup>18</sup> Flows into Ireland are bigger, although as stated in paragraph 16 the figures are not strictly comparable.

<sup>19</sup> Migration from EU8 Member States to Norway is significantly higher than for all other Nordic countries combined, with or without TA. Sweden has no restrictions, whereas Norway, Denmark, Finland and Iceland apply restrictions. Of the latter countries, Denmark and Norway have a more liberal regime.

**related to supply and demand conditions.** If anything, TA will only delay labour market adjustments, with the risk of creating "biased" destination patterns even on a more permanent basis.

20. On a more general level, **restrictions on labour market access may exacerbate resort to undeclared work.** When accompanied by lacunae in enforcement of Community legislation already in place, this phenomenon leads to undesirable social consequences both for undeclared workers and the regular labour force.
21. Concerning the duration of the permits, the data show that a **significant percentage of residence/work permits is granted for short-term or seasonal workers.** This is for example the case for the following countries:
- In Austria, of all permits granted to EU8 nationals in 2004, 87% were issued for less than 6 months (85% in the first half of 2005), 12% (14% in 2005) for a duration of 6 months to one year, and 2% (0% in 2005) for a period longer than one year.
  - In Germany, 95% of some 500 000 work permits have been issued with time and other restrictions. On 30 June 2004, the number of employed EU10 nationals, who were in Germany for more than a very limited period and who were therefore liable for social security contributions, was only around 100 000, or 0.2% of the working age population.
  - In the Netherlands, approximately 24 400 permits were issued in 2004. But because of the large number of seasonal workers this only corresponds to about 13 000 "labour years".
  - In Italy, 76% of the authorisations for work in 2004 and 71% in 2005 were given to seasonal workers.
  - In France, of the authorisations to work issued in 2004, 74% were for seasonal workers, 11% for temporary workers, 5% for permanent workers and 10% for other beneficiaries<sup>20</sup>.
22. **Since enlargement, labour market developments in the EU8 have been positive,** with unemployment rates dropping significantly in almost all of them (see tables A4 and A5 in the annex). This suggests that there is no reason to expect increased pressure to move outside EU8 countries, also as the outlook for economic growth remains bright and as substantially increased Structural and Rural Development Funds start to bear fruit in promoting economic growth and employment creation.

#### **4.2 Labour market outcomes for country and EU nationals: employment rates**

23. Labour market outcomes for nationals from the EU10 into the EU15 Member States are a central issue to consider. For those EU15 Member States for which there is statistically significant information available (see table below), the key labour market indicator, the employment rate, shows that EU10 nationals tend to have employment

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<sup>20</sup> It should be noted though according to the French authorities, the administrative data provided by France do not include work permits issued for lengths of stay inferior to 3 months.

rates in each country which are comparable to those of individuals who are nationals of that country and of other EU15 countries. Moreover, these are generally higher than for non-EU nationals. In Ireland, Spain and the UK, EU10 nationals have even higher employment rates than country nationals. This shows that **EU10 nationals positively contribute** in each Member State to overall **labour market performance**, to sustained **economic growth** and to the **state of public finances**.

Employment rates by nationality - 2005 - cell percentages

Country of destination	2004	2005			
	EU10	Nationality			
		National	EU15	EU10	non-EU
Belgium	64	62	60	55	35
Germany	:	67	68	51	48
Greece	47	60	53	47	71
Spain	68	62	64	78	71
France	61	64	69	62	44
Ireland	:	67	69	85	57
Netherlands	63	74	76	64	41
Austria	58	69	72	66	60
Finland	67	69	67	55	45
Sweden	62	74	73	62	45
United Kingdom	72	72	69	75	58
EU15	59	67	68	62	55
EU10	:	57	59	68	63
EU25	59	65	67	62	55

Source: Eurostat, LFS, 2004 - 2005 Q2.

Notes: ':' data not available or not reliable due to small sample size.

Italy is excluded, since it does not disaggregate by nationality. Denmark, Luxembourg and Portugal are excluded due to small sample size.

EU15 and EU10 aggregates in 2004 based on Germany and Ireland 2005Q2 data.

24. An interesting fact is that since enlargement the **employment rate of EU10 nationals in several EU15 Member States including Spain, France, the Netherlands, Austria and the United Kingdom has increased**, in certain cases quite substantially. This could be connected with two facts.

- Firstly, enlargement may have contributed to bringing to the surface part of the underground economy constituted by previously undeclared workers from the EU10, with well-known beneficial effects, such as a greater compliance with legally sanctioned labour standards, improved social cohesion thanks to a reduced risk of marginalisation of those concerned, and higher State income from tax and social security contributions. This also means that the increase in labour mobility from EU10 Member States due to enlargement may actually be smaller than shown by the data<sup>21</sup>.
- Secondly, a real improvement in the employment rate of EU10 nationals may have occurred after enlargement due to a change in employers' attitudes,

<sup>21</sup> Statistical data on mobility and migration do not represent simply the real flow of individuals from one country to the other, but also the fact that previously undocumented workers may be more easily picked up by statistical surveys, either due to their inclusion, for example, in population registers that often constitute the basis for the sampling framework or to the individuals' greater willingness to take part in statistical surveys.

greater opportunities to set up private businesses, better information and regulation.

#### 4.3. Sectoral and skill composition of the EU10 workforce in EU15 Member States: complementarities or substitution?

25. Given the small numbers involved, it is difficult to give a detailed and at the same time statistically robust picture of the workforce from the EU10. Therefore, the analysis that follows will look at the EU15 as a whole. A key issue in workers' mobility is not simply its scale, but whether EU10 workers are substituting those already in the country and compete for similar jobs or have a complementary role to play.

EU15 employed population by nationality and sector - 2005 - column percentages

Activity sector	Nationality		
	National	EU15	EU10
Agriculture/ fishing	4	(2)	(3)
Industry	18	19	18
Construction	8	8	15
Retail; hotels/ restaurants; transport	25	28	28
Financial int.; real estate	13	16	14
Public admin.; education; health; other	32	27	23

Source: Eurostat, LFS, 2005 Q1, France and Austria 2005Q2.

Notes: data in brackets lack reliability due to small sample size.

26. The sectoral composition of the workforce would suggest the latter: the sectoral composition of the national workforce has not showed significant change in 2003, 2004 and 2005 demonstrating that the limited inflow of workers from **EU10 Member States did not crowd out national workers**, at least at this broad level of aggregation<sup>22</sup>. Country nationals are relatively more concentrated in the service sector and in particular public administration, education, health and other (32% of them in 2005Q1), while workers from EU10 Member States are relatively better represented in the construction sector (15% for EU10 nationals as opposed to 8% for country nationals)<sup>23</sup>.
27. The **skill composition** of the EU10 workforce would also support the view that **EU10 nationals contribute to national economies in a complementary way**. The proportion of EU10 nationals in EU15 Member States with low-level qualifications is lower than for nationals of those countries (21% as opposed to 31%), for other EU15 nationals and for non-EU nationals. This is reflected in a higher percentage of medium-qualified people (57% as opposed to 46%), with comparable percentages of highly qualified people. Medium-level qualifications include upper secondary education and specialised vocational training, which is the level of qualifications

<sup>22</sup> One cannot exclude however, that in some instances migration from the EU10 can have some impact at regional or occupational level.

<sup>23</sup> Administrative data suggest that EU10 nationals are also contributing substantially to the agricultural sector, but due to the very limited size of agriculture in labour market terms, its seasonal nature and the fact that the figures considered relate to the winter quarter, the percentages are not particularly high.

which is typically under-represented in several EU15 Member States creating skills bottlenecks in several sectors of the economy<sup>24</sup>.

EU15 resident working age population by nationality and education level - 2005 - column percentages

Education level	Nationality			
	National	EU15	EU10	non-EU
Low	31	36	21	48
Medium	46	39	57	35
High	23	25	22	17

Source: Eurostat, LFS, 2005 Q1, France and Austria 2005Q2.

Notes: Education level: low (ISCED 0-2: lower secondary), medium (ISCED 3-4: upper secondary), high (ISCED 5-6: tertiary).

28. The evidence therefore suggests that mobility from EU10 Member States into the EU15 may have **positive effects on labour markets** by relieving labour shortages in certain areas. New jobs can be created, for example in the construction and in the domestic and catering services sectors that would risk not being filled otherwise in some countries. Highly skilled workers from EU10 Member States may contribute to business creation and long-term growth through human capital accumulation. Fostering human capital and lifelong learning is indeed one of the most important dimensions of the EU employment and cohesion policy. Therefore, EU programmes, such as the EES, ESF and the Life Long Learning Programme, support ongoing human capital development of this type. Labour market efficiency may also increase as foreign workers are typically more responsive to regional differences in economic opportunities.

## 5. CONCLUSIONS AND RECOMMENDATIONS

29. On the eve of the second phase of the TA, many different national legal regimes for access to the labour markets of the EU25 apply. Countries that have opened their labour markets fully are upbeat about the outcome of this decision, whilst some of those that have kept restrictions tend to emphasise their utility, citing particular national circumstances.
30. Member States should increase their efforts to ensure proper enforcement of existing EC legislation, labour standards and in particular the provisions of the posted workers directive, with appropriate reinforcement of administrative cooperation where justified. Lacunae in enforcement by national authorities of existing Community and national legislation may indeed have created an adverse and wrong impression of enlargement and of the benefits of free movement of workers in some countries.
31. The statistical analysis of the national data received and used for this report permits the following conclusions:
- Mobility flows between the EU10 and the EU15 are very limited and are simply not large enough to affect the EU labour market in general. In addition,

<sup>24</sup> Also, inflows of workers that are complementary to country nationals would, other things equal, increase the productivity of country nationals and push their wages upwards rather than the opposite.

mobility flows from EU15 to EU10 Member States and between EU10 Member States are generally negligible (see table A1).

- The percentage of EU10 nationals in the resident population of each EU15 Member State was relatively **stable before and after enlargement**, with increases in the UK and, more conspicuously, in Austria and in Ireland<sup>25</sup>. In Austria, however, there is evidence to suggest that the stock of EU8 nationals stabilised in 2005.
- There is no evidence to show **a direct link between the magnitude of mobility flows from EU10 Member States and the TA in place**. Ultimately, mobility flows are driven by factors related to supply and demand conditions. If anything, TA will only delay labour market adjustments, with the risk of creating "biased" destination patterns even on a more permanent basis.
- The **employment rate** of EU10 nationals in EU15 Member States is similar to that of country nationals, and it is even higher in Ireland, Spain and the UK..
- The **migration flows following the enlargement** have had **positive effects** on the economies of the EU15 Member States: EU10 nationals positively contribute to the overall labour market performance, to sustained economic growth and to better public finances.
- This **employment rate has increased** in several countries since enlargement. Enlargement has helped to formalise the underground economy constituted by previously undocumented workers from the EU10, with well-known beneficial effects, such as greater compliance with legally sanctioned labour standards, improved social cohesion and higher State income from tax and social security contributions. This also improves the integration of EU10 nationals due to a change in employers' attitudes, greater opportunities to set up private businesses, better information and regulation.
- The sectoral composition of the EU15 national workforce has not shown significant changes since enlargement showing no evidence of crowding out of national workers by the limited inflow of workers from **EU10 Member States**<sup>26</sup>. EU 10 nationals have a **complementary role** to play.
- EU10 nationals alleviate **skills bottlenecks** in the EU15 Member States and contribute to long-term growth through human capital accumulation.

32. The Commission trusts that this report provides Member States with the necessary information to review their positions for the second period of the TA. Nevertheless, in view of the difficulties experienced with obtaining national statistics on migration flows involving EU citizens, the Commission calls upon Member States to put the necessary administrative arrangements in place to collect the required data on a national level and to provide these in a timely manner to EUROSTAT. For the

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<sup>25</sup> See paragraph 16 above.

<sup>26</sup> One cannot exclude however, that in some instances migration from the EU10 can have some impact at regional or occupational level.

future, the Commission intends to request that Member States, in cooperation with EUROSTAT report annually on mobility flows relating to workers within the EU.

33. At the meeting of the high-level group of 16 September 2005 most social partners were in favour of lifting the restrictions on access to the labour markets. The Commission knows that most Member States intend to reflect seriously about whether to keep restrictions in place for the second period. Member States should also consult each other with a view to determining their position for the second phase of the transitional arrangements.
34. The Commission urges Member States, when preparing and issuing the notification of their intentions for the second phase, not only to take due account of the statistical evidence but also to address an overall positive message to their citizens as to the prospects of free movement across the European Union. It also recommends that the social partners be fully involved in the preparation of these decisions.
35. Member States unable to lift restrictions will probably continue to face the need to look for other ways to alleviate labour market shortages, such as for example through conclusion of bilateral agreements. Further, the Commission reiterates that negative collateral consequences of maintaining restrictions in place should be avoided. In addition, the problem of persons posing falsely as self-employed workers to circumvent national law should be dealt with by Member States.
36. The Commission recalls that freedom of movement of workers is one of the basic freedoms under the EC Treaty. Despite fears expressed on the occasion of the successive enlargements free movement of workers has not led to disruption of national labour markets. It is fitting therefore, that on the occasion of the signature of the Accession Treaty, EU15 Member States solemnly declared that they would move as swiftly as possible to the full application of the *acquis* in this area. While recalling the right of the Member States set forth in the 2003 Treaty of Accession to maintain restrictions under the transitional arrangements, the Commission recommends that the Member States carefully consider whether the continuation of these restrictions is needed, in the light of the situation of their labour market and of the evidence of this report.
37. Whatever decision is taken by Member States at this stage, they need to prepare to open their labour markets in order to fulfil their obligations under the treaties. The aim of the transitional measures is to allow them to prepare themselves to achieve this ultimate and irrevocable goal as soon as possible. In this respect, the Commission welcomes the positive experiences of the Member States that have reaped major benefits from successfully opening their labour markets fully to EU8 nationals already during the first phase of the transitional arrangements.

## ANNEX I: STATISTICAL ANNEX

**TABLE A1**

**Resident/ work permits to EU nationals: absolute numbers and as percentages of destination country's working age population (WAP) aged 15-64**

Country of destination	Type of data	Reference period <sup>1</sup>	Nationality			
			EU15		EU10 <sup>2</sup>	
			number	% wap	number	% wap
Belgium <sup>3</sup>	Residence permit	2003	184695	2.7	9351	0.1
	Residence permit	2004	183019	2.7	12918	0.2
	Residence permit	2005	178155	2.6	15408	0.2
Czech Republic	Foreign workers stock	2003	4903	0.1	64198	0.9
	Foreign workers stock	2004	3751	0.1	69024	1.0
Denmark	Residence permit	2004	6825	0.2	4911	0.1
Germany	Foreign workers stock	2004	560230	1.0	108162	0.2
	Work permit	2004	:	:	497298	0.9
	Work permit	2004 May-2005 Sep	:	:	500633	0.9
Estonia	Residence permit	2004	705	0.1	155	0.0
Greece	Residence permit	2004	:	:	3711	0.1
Spain	Residence permit	2004	21986	0.1	11255	0.0
France	Work permit	2003	:	:	10067	0.0
	Work permit	2004	:	:	9916	0.0
Ireland <sup>4</sup>	Personal Public Service Numbers	2004 May-Dec	:	:	53829	1.9
	Personal Public Service Numbers	2005 Jan-Nov	:	:	107024	3.8
Italy	Application for work auth.	2004	:	:	26324	0.1
	Application for work auth.	2005 Jan-Sep	:	:	49454	0.1
Latvia	Residence permit	2004 May-2005 Apr	742	0.0	497	0.0
Lithuania	Residence permit	2004	117	0.0	27	0.0
Hungary	Residence permit	2004	2727	0.0	1455	0.0
Malta	Residence permit	2004-2005 Apr	2095	0.8	215	0.1
Netherlands	Work permit	2003	:	:	12541	0.1
	Work permit	2004	:	:	24424	0.2
	Work permit	2005	:	:	14612	0.1
Austria	Average annual stock	2004	:	:	40420	0.7
	Average annual stock	2005 Jan-Jun	:	:	40861	0.7
	Work permit	2004	:	:	68449	1.2
	Work permit	2005 Jan-Jun	:	:	32265	0.6
Poland	Residence permit	2004	4311	0.0	456	0.0
Portugal	Residence permit	2004	1082	0.0	43	0.0
Slovenia	Work permit/ registration	2004-2005 Jun	416	0.0	1471	0.1
Slovakia	Residence permit	2004	151	0.0	142	0.0
Finland	Residence permit	2004	727	0.0	1651	0.0
Sweden <sup>5</sup>	Residence permit	2004	2698	0.0	3514	0.1
United Kingdom	Applicant to WRS	2004 May-Dec	:	:	134530	0.4
	Applicant to WRS	2005 Jan-Sep	:	:	156165	0.4

Source: Administrative data from Member States.

All figures refer to the number of applicants/ applications/ registrations/ permits issued (flows), except in the case of the Czech Republic, where the figure refers to the stock of workers, and for Germany, where the first line refers to the stock of workers, and for Austria, where the first two lines refer to the average annual stock of employees. Figures on residence permits refer to permits issued for employment reasons only, except for Belgium.

<sup>1</sup>The reference period is normally from January to December, otherwise it is specified. <sup>2</sup>Figures for France, Italy, Austria, and numbers of work permits for Germany relate to EU8. <sup>3</sup>Figures for Belgium refer to residence permits issued for all reasons; EU15 aggregates include permits issued to non-EU nationals born in Belgium. <sup>4</sup>The figure for Ireland refers to PPS Numbers issued not only for employment reasons, but also for other administrative purposes, including welfare, health and other public services.

<sup>5</sup>The figure for Sweden for EU10 nationals refers to 2004 May - December.

Data for Cyprus and Luxembourg not received by the Commission.

**TABLE A2**

Resident working age population by nationality - 2005 - row percentages

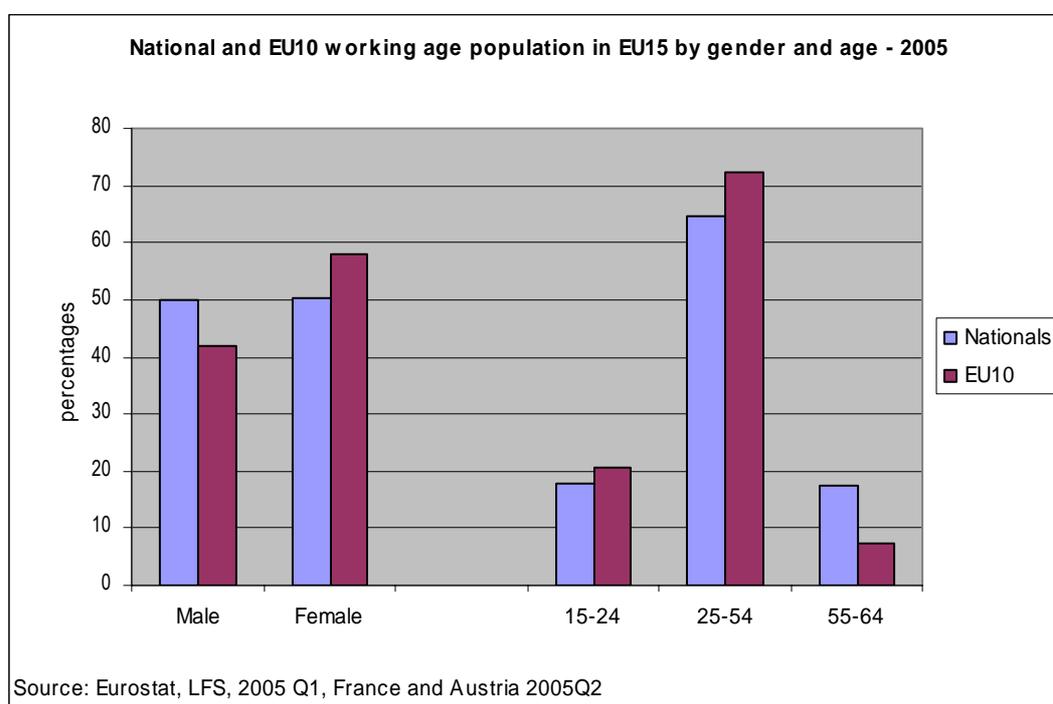
Country of destination	Nationality			
	National	EU15	EU10	non-EU
Belgium	91.3	5.8	0.2	2.8
Denmark	96.4	1.1	:	2.4
Germany	89.5	2.8	0.7	7.0
Greece	94.0	0.3	0.4	5.3
Spain	90.5	1.2	0.2	8.1
France	94.4	1.9	0.1	3.6
Ireland	92.3	3.0	2.0	2.8
Luxembourg	57.9	37.6	0.3	4.2
Netherlands	95.7	1.4	0.1	2.8
Austria	89.2	1.9	1.4	7.5
Portugal	97.0	0.4	:	2.6
Finland	98.3	0.4	0.3	1.0
Sweden	94.8	2.3	0.2	2.7
United Kingdom	93.8	1.7	0.4	4.1
EU15	92.4	2.1	0.4	5.1
EU10	98.4	0.2	0.2	1.2
EU25	93.7	1.7	0.3	4.3

Source: Eurostat, LFS, 2005 Q1, Ireland 2005Q2.

Notes: ':' data not reliable due to small sample size.

Italy is excluded, since it does not disaggregate by nationality. EU15 and EU25 aggregates without Italy. EU10 aggregate without Poland.

**CHART A3**



**TABLE A4**

Quarterly employment rates in EU10 - 2003-2005 - cell percentages

Country	2003 Q1	2003 Q2	2003 Q3	2003 Q4	2004 Q1	2004 Q2	2004 Q3	2004 Q4	2005 Q1	2005 Q2
Belgium	59.0	59.3	59.7	60.4	59.9	60.5	60.4	60.6	60.9	61.0
Czech Republic	65.0	64.9	64.6	64.4	63.7	64.1	64.4	64.5	64.1	64.7
Denmark	74.4	75.1	76.0	75.0	74.5	76.0	76.6	75.6	75.2	75.5
Germany	64.3	64.9	65.1	65.4	64.0	65.0	65.3	65.9	64.9	65.3
Estonia	61.2	62.3	64.3	63.7	62.5	62.9	63.3	63.4	63.2	64.9
Greece	58.1	58.9	59.2	58.8	58.7	59.6	59.7	59.6	59.5*	60.3
Spain	58.9	59.7	60.3	60.4	60.3	60.9	61.5	61.8	62.1	63.2
France	63.2	63.3	63.6	62.9	62.8	63.2	63.6	62.9	62.8	63.4
Ireland	64.8	65.1	66.4	65.7	65.7	65.5	67.2	66.7	66.8	67.1
Italy	55.5	56.1	56.5	56.3	57.0*	57.7*	57.8*	58.0*	57.3	57.8
Cyprus	:	69.2	:	:	:	69.4	69.1	68.8	68.4	68.7
Latvia	61.1	61.7	63.0	61.4	61.4	62.2	63.3	62.2	62.5	63.0
Lithuania	59.0	62.8	62.0	60.7	60.2	61.4	61.7	61.4	61.4	62.6
Luxembourg	62.7	62.7	62.7	62.7	61.6	61.6	61.6	61.6	:	:
Hungary	56.1	57.0	57.5	57.5	56.6	56.6	56.8	57.0	56.4	56.8
Malta	54.7	54.6	53.7	53.7	54.4	53.4	54.0	54.0	54.6	53.6
Netherlands	73.7	73.8	73.8	73.3	72.8	73.1	73.5	73.1	72.6	73.2
Austria	68.2	69.1	69.6	68.9	66.5*	67.7*	68.8*	68.1*	67.6	68.4
Poland	50.4	51.4	51.6	51.4	50.5	51.4	52.3	52.4	51.5	52.2
Portugal	68.1	68.2	68.2	67.9	67.8	68.0	67.8	67.8	67.3	67.6
Slovenia	62.0	62.5	62.5	63.3	63.8	65.6	66.8	64.9	65.2	66.0
Slovakia	56.9	57.9	58.3	57.8	56.1	56.7	57.6	57.5	56.9	57.4
Finland	66.4	68.7	69.2	66.5	65.9	68.3	69.3	67.1	66.7	69.2
Sweden	72.0	73.6	73.9	72.0	71.0	72.4	73.3	71.5	70.7	72.6*
United Kingdom	71.2	71.3	71.6	71.6	71.6	71.5	71.7	71.8	71.8	71.5
EU15	63.8	64.4	64.7	64.5	64.1	64.7	65.1	65.0	64.7	65.1
EU10	55.1	56.0	56.3	56.0	55.2	55.9	56.5	56.5	55.9	56.6
EU25	62.4	63.0	63.3	63.0	62.6	63.2	63.6	63.6	63.2	63.7

Source: Eurostat, LFS, 2003 - 2005.

Notes: ":" data not available. \* Break in series.

For Luxembourg, since the survey provides the data for the whole reference year only, the same yearly figures are repeated each quarter.

**TABLE A5**

Total quarterly unemployment rates in EU10 - 2003-2005 - cell percentages

Country	2003 Q1	2003 Q2	2003 Q3	2003 Q4	2004 Q1	2004 Q2	2004 Q3	2004 Q4	2005 Q1	2005 Q2	2005 Q3
Belgium	7.8	8.0	8.1	7.9	7.8	7.7	7.8	8.2	8.3	8.4	8.4
Czech Republic	7.4	7.7	8.0	8.2	8.4	8.4	8.3	8.2	8.1	8.0	7.8
Denmark	5.3	5.6	5.7	5.7	5.6	5.4	5.3	5.3	5.1	5.0	4.8
Germany	8.8	9.0	9.1	9.4	9.4	9.5	9.7	9.6	9.7	9.6	9.2
Estonia	10.1	10.3	10.2	10.0	9.9	9.5	9.0	8.4	8.0	7.8	7.3
Greece	9.8	9.6	9.7	9.8	10.8	10.5	10.5	10.2	9.9	9.9	10.1
Spain	11.6	11.5	11.4	11.4	11.3	11.1	10.9	10.5	10.0	9.4	8.8
France	9.2	9.4	9.5	9.7	9.6	9.5	9.5	9.5	9.6	9.6	9.4
Ireland	4.5	4.6	4.7	4.6	4.6	4.6	4.5	4.4	4.3	4.3	4.3
Italy	8.6	8.6	8.3	8.2	8.2	8.1	7.9	8.0	7.8	7.6	7.5
Cyprus	4.2	4.5	4.7	4.8	5.0	4.7	5.2	5.8	6.2	5.8	6.1
Latvia	10.8	10.4	10.2	10.0	9.9	9.8	9.7	9.7	9.5	9.1	8.8
Lithuania	13.4	12.9	12.4	12.1	11.5	11.2	10.8	9.9	9.2	8.6	7.9
Luxembourg	3.4	3.6	3.8	4.0	4.5	4.8	4.9	4.9	5.0	5.3	5.5
Hungary	5.7	5.8	5.7	5.7	5.7	5.8	6.0	6.5	6.9	7.1	7.2
Malta	7.7	8.1	8.3	8.0	7.8	7.6	7.5	7.9	8.0	8.1	7.9
Netherlands	3.3	3.6	3.8	4.0	4.4	4.6	4.5	4.7	4.9	4.8	4.7
Austria	4.1	4.2	4.4	4.5	4.7	4.8	4.9	5.0	5.1	5.1	5.2
Poland	19.4	19.2	19.2	19.1	19.1	18.9	18.8	18.5	18.2	18.0	17.7
Portugal	6.1	6.3	6.2	6.4	6.3	6.6	6.9	7.0	7.3	7.4	7.6
Slovenia	6.5	6.5	6.6	6.3	6.2	6.1	5.9	5.8	5.7	5.8	5.8
Slovakia	17.7	17.3	17.3	17.7	18.5	18.6	18.1	17.6	16.9	16.5	16.2
Finland	9.0	9.1	9.0	8.9	9.0	9.1	9.0	8.8	8.6	8.3	8.3
Sweden	5.4	5.4	5.6	6.0	6.3	6.4	6.4	6.4	6.3	:	:
United Kingdom	5.1	4.9	5.0	4.8	4.7	4.7	4.6	4.6	4.6	4.6	4.7
EU15	7.9	8.0	8.0	8.1	8.1	8.1	8.1	8.1	8.0	7.9	7.7
EU10	14.5	14.3	14.3	14.3	14.4	14.2	14.1	13.9	13.7	13.5	13.3
EU25	8.9	9.0	9.0	9.1	9.1	9.1	9.0	9.0	8.9	8.8	8.6

Source: Eurostat, LFS, 2003 - 2005, seasonally adjusted and harmonised quarterly unemployment rates.

Notes: ":" data not available.

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