

European issues  
n°312  
13<sup>th</sup> May 2014

# The Free Movement of People in the European Union: principle, stakes and challenges

Philippe DELIVET

## Abstract :

The free movement of people is a fundamental acquis of European integration; Introduced as part of the Internal Market it was extended with the Schengen Agreements. It is also inexorably linked to European citizenship. However, real difficulties have affected the free movement of Europe's citizens. Closely associated with the building of the Internal Market it seems to have suffered the loss of impetus by the latter and also the serious consequences of the crisis. It is also struggling due to rising concern about external migratory pressure and the enlargement. In particular this is fueling fear of social dumping. Difficulties have to be identified in order to provide pragmatic answers without bringing into question one of the founding principles of the European Union. Furthermore free movement highlights the major challenge of economic and social convergence to which the European Union has to rise.

## I/ THE FREE MOVEMENT OF PEOPLE: A FOUNDING PRINCIPLE OF EUROPEAN INTEGRATION

The principle of the free movement of people as expressed in the Rome Treaty developed as part of the Internal Market. It became more extensive with the Schengen Agreements (1985). This principle is also inexorably linked to European citizenship of which it typifies a major achievement.

### 1/ The introduction of free movement as part of the Internal Market

The free movement of people is inexorably linked to the original project of creating a grand, single Internal Market. The Rome Treaty set the goal of establishing a Common Market comprising the free movement of goods, people, services and capital designed "to promote throughout the Community a harmonious development of economic activities, a continuous and balanced expansion, an increase in stability, an accelerated raising of the standard of living and closer relations between the States belonging to it."

Free movement is seen as the major achievement of European integration by European citizens. 56% of

them quote this as the EU's most positive achievement even above peace between Member States (50%) [1].

Free movement covers the right to enter and move about within the territory of another Member State as well as the right to stay there to work and live there, under certain conditions, after having worked there. Confirmed by the Treaty on European Union (art. 3), freedom of movement is also guaranteed by the Charter of Fundamental Rights (art. 45) and by the jurisprudence of the Court of Justice [2].

The applicable measures were grouped under the directive 2004/38 dated 29th April 2004 [3]. Every Union citizen has the right to travel freely to another Member State and to remain there for a short stay of under three months without having to show any other document but his/her valid identity card or passport. No entry visa can be demanded; the European citizen is not obliged to work or to have sufficient resources. Beyond three months the directive defines the categories of people who can settle freely, particularly workers with or without a job and their families on condition that certain terms are met. Union citizens who have legally lived for a continuous five year period in a host Member State acquire a permanent right to stay. Some measures were taken to ensure the transferability of

1. Eurobarometer, TNS Opinion Survey, August 2013.

2. Court of Justice, 17th September 2002, Baumbast, aff. C-413/99.

3. Directive 2004/38/CE dated 29th April 2004 pertaining to Union citizens' and their family members' right to free movement and residence within the Member States.

## The Free Movement of People in the European Union: principle, stakes and challenges

social security rights (regulation 1408/71 dated 14th June 1971 and 883/2004 dated 30th April 2004) [4]. The range of benefits is extensive (sickness, maternity leave, old age, professional accidents, unemployment benefit and family allowance) but this does not cover social and medical assistance which can be reserved for nationals only.

### 2/ The Schengen Agreements

With the Single Act in 1986 the Member States accepted, as far as decisions pertaining to the Internal Market were concerned, the principle of the qualified majority vote rather than the unanimous vote, which led to a significant acceleration in the process. The "borderless" Internal Market officially opened on January 1st 1993. But it seemed difficult to lift obstacles concerning the free movement of goods and to leave restrictions on the free movement of people unchanged. In the context of intergovernmental cooperation, five States (Germany, Belgium, France, Luxembourg, the Netherlands) signed the Schengen Agreements (1985) and their implementation Convention (1990). Within the Schengen Area the signatory States abolished their internal borders which were replaced by a single external border where entry checks were undertaken according to the same procedures [5]. More than 400 million Europeans can now travel without a passport. The right to a short stay is now applicable to third country citizens within the Schengen Area. The Schengen cooperation agreement was integrated into the EU's legal framework by the Amsterdam Treaty of 1997 (art. 67 of the TFEU).

### 3/ Free movement and European citizenship

Free movement is closely linked to European citizenship which was introduced with the Maastricht Treaty (1992), from which came the Treaty on European Union (TEU). Article 9 of the TEU specifies that any person in the Union is a citizen of that Union if he/she has the nationality of a Member State. The Court of Justice stresses that European citizenship aims to be "the fundamental status of Member States' citizens," (Grzelczyk decision dated 20th September 2001). In addition to the principle of equality the TFEU (art.

20 to 25) stipulates the list of rights that ensue from European citizenship. Some of these rights are specific to European citizens and distinguish them from third country citizens. The Council, voting unanimously can, after consultation with European Parliament adopt measures regarding social security or social protection, in order to facilitate the implementation of free movement (article 21 §3 TFEU).

The right to free movement given to European citizens is also a result of the Charter of Fundamental Rights – which is now legally binding. Its preamble states that the Union "places the individual at the heart of its actions by introducing Union citizenship and by creating a space of freedom, security and justice."

Some 14 million European citizens have chosen to work or settle in another Member State and enjoy social protection and civic rights. The Erasmus programme involves more than 3 million students who have been able to complete an extremely enriching cursus as they have undertaken higher education in a State other than their home country. Tens of thousands of border workers also enjoy the benefit of free movement.

## II/ REAL DIFFICULTIES THAT HAVE IMPEDED THE DYNAMIC OF FREE MOVEMENT

Several obstacles have impeded the dynamic of free movement. They are becoming more acute in a context marked by the effects of the economic and financial crisis and that of sovereign debt.

### 1/ The downturn in the logic of the Internal Market

Free movement evolved in close association with the development of the Internal Market. However in his May 2010 report on the Single Market Strategy [6], Mario Monti notably pointed to the undermining of political and social support to the integration of the markets of Europe. A Eurobarometer survey published on 26th September 2011 showed that 62% of European citizens felt that the Single Market was only benefiting big companies; 51% felt that it was worsening

4. More than 188 million Europeans (37% of the total population) have a European health insurance card which enables them to gain access to healthcare services if need be during temporary periods spent in another country of the Single Market.

5. Internal border control were first abolished by Belgium, Germany, Spain, France, Luxembourg, Netherlands and Portugal in 1995. The Schengen Area has progressively grown. There are now 26 member countries of which 22 are EU Member States.

6. Mario Monti : Une nouvelle stratégie pour le marché unique, au service de l'économie et de la société européennes, Rapport au président de la Commission européenne José Manuel Barroso, 9 mai 2010.

working conditions and 53% believed that it bore few advantages for the underprivileged. According to the Monti report the legal framework of the free movement of people was defective.

## 2/ The effects of the economic and financial crisis

The crisis has impacted the Single Market significantly. Between 2008 and 2009 the EU's GDP contracted by 700 billion €. Nearly five million people lost their job between 2008 and 2010. Youth unemployment is a major worry. Laying at 23.5% in the EU it is twice that of overall unemployment. It is over 25% in 11 Member States (including France), rising to 50% in Croatia, Spain and Greece. The crisis has made divergence between Northern Europe and the East and the South of the continent worse. According to the French Department for Planning Strategy and Prospects, "Europe is not succeeding in asserting itself as a source of shared prosperity." [7]

## 3/ Concern about migratory flows

In the context of the "Arab Spring" the decision taken by the Italian authorities to deliver Tunisians who had arrived illegally in Italy between the months of January and April 2011 with provisional 6 month residence permits for humanitarian reasons raised the polemic over the possibility for residence permit holders to travel freely within the Schengen Area as well as the lack of intra-European solidarity in terms of managing migratory flows. In April 2011, both France and Italy asked the European Commission for several amendments to be made to the rules applicable in the Schengen Area (Schengen border laws) including the possibility, in the event of exceptional problems in the management of joint external borders, to re-introduce temporary internal border checks.

The dramatic events in the Mediterranean off the shores of Lampedusa and Malta have highlighted the strength of migratory pressure on the common borders. These events illustrated the limits of European migration policy and the weakness of solidarity between Member States. The other source of concern is linked to the extension of free movement implied with the enlargement of the EU. Since May 1st 2011 citizens of the new Member States (Romania and Bulgaria) have the right to work in any Member State. Bulgarian and Romanian citizens can travel freely but until 1st January 2014 Member

States could restrict their access to the labour market (which was the case in 10 Member States out of 27) in application of the membership treaties which allows the control of access to national labour markets in the host state for a maximum of seven years. Since January 1st 2014 Bulgarians and Romanians have been exempted of these restrictions.

Great concern emerged, which was clearly expressed by British Prime Minister David Cameron, on the eve of the end of the transitory period [8]. As support he used the measures adopted by the Austrian, German and Dutch Interior Ministers to show that the UK was not the only country which considered that free movement of workers should be better managed. [9]

The condition of the Roma has also contributed to controversy over free movement. Between 10 to 12 Roma live in Europe, 8 million of whom within the EU. The implementation of the 2004 directive was the focus of debate between France and the European Commission in 2010 regarding the dismantling of Roma camps together with the measures adopted to remove them.

Finally, and even though it took place in a non-EU Member State, the Swiss vote on 9th February 2014 which decided to challenge free movement between Switzerland and Member States could not remain without consequence on free movement within the EU itself. The new constitutional article stipulates that the new Swiss migratory policy will be subject to quotas and caps according to the "overall economic interests of Switzerland," and in respect of national preference. [10]

## 4/ Fears of social dumping

The fear of social dumping in Europe has also drawn attention to the impact of free movement. It is expressed in the different costs of labour. In April 2012 a Eurostat study revealed the major differences in labour costs in the EU. Hourly costs (2011 data) ranged from 3.5€ in Bulgaria to 39.30€ in Belgium. The average hourly cost of labour in the euro zone was 27.60€ in comparison with 23.10€ in the European Union as a whole. The highest hourly costs were seen in Belgium (39.30€), Sweden (39.10€), Denmark (38.6€), France (34.20€), Luxembourg (33.70€), Netherlands (31.1€) and Germany (30.10€). The lowest hourly costs were observed in Bulgaria (3.50€), Romania (4.20€, 2010 data), Lithuania (5.50€) and Latvia (5.90€). [11]

7. Note d'introduction au débat national Quelle France dans 10 ans ?, septembre 2013.

8. « Free movement needs to be less free », *Financial Times*, 27 November 2013.

9. The opening of the labour market was anticipated however by many Member States : 14 Member States had already opened their labour market to Bulgarian and Romanian citizens before January 1st 2014. France, Germany, Austria, Belgium, Spain, Italy and the Netherlands had partially opened their markets. Only Ireland, Malta and the UK limited opening (Cf. Sébastien Richard : « The Management of Posted Workers in the European Union European Issue n° 300).

10. Johan Rochel : « Libre circulation : ou quand le vote suisse fait trembler l'Europe », in *L'opinion européenne* in 2014 Ed. Lignes de Repères, 2014.

11. Eurostat : Labour costs in the EU in 2011.

**TABLE 1**  
**HOURLY COST OF LABOUR IN EURO**  
**AND HOURLY COST OF LABOUR IN LOCAL CURRENCY (OUTSIDE OF THE EURO ZONE)**

**Coûts horaires de la main d'œuvre en euros**

	2008	2009	2010	2011
UE27	21,6	22,1	22,5	23,1
ZE17	25,8	26,5	26,9	27,6
Belgique	35,6	37,0	38,2	39,3
Bulgarie	2,5	2,9	3,1	3,5
Rép. tchèque	9,3	9,3	9,9	10,5
Danemark	35,4	36,5	37,6	38,6
Allemagne	28,4	29	29,1	30,1
Estonie	8,0	7,9	7,7	8,1
Irlande	27,2	28,0	27,9	27,4
Grèce	16,5	17,6	17,5	:
Espagne	18,9	20,0*	20,2*	20,6
France	31,8	32,1	33,1	34,2
Italie	24,5	25,6	26,1	26,8
Chypre	15,3	15,9	16,2	16,5
Lettonie	5,9	5,9	5,7	5,9
Lituanie	6,0	5,6	5,3	5,5
Luxembourg	30,8	32	32,7	33,7
Hongrie	7,9	7,3	7,3	7,6
Malte	11,2	11,3	11,5	11,9
Pays-Bas	29,2	29,8	30,5	31,1
Autriche	26,5	27,7	28,0	29,2
Pologne	7,5	6,4	7,0	7,1
Portugal	11,5	11,9	12,0	12,1
Roumanie	4,1	4,0*	4,2*	:
Slovénie	13,4	13,8	14,1	14,4
Slovaquie	7,6	7,9	8,0	8,4
Finlande	27,6	28,7	28,9	29,7
Suède	33,8	31,7	36,0	39,1
Royaume-Uni	21,1	18,9	20,0	20,1
Norvège	37,8	36,9	41,4	44,2

**Coûts horaires de la main d'œuvre en monnaie nationale (pays en dehors de la zone euro)**

		2008	2009	2010	2011
Bulgarie	BGN	5,0	5,6	6,2	6,8
Rép. tchèque	CZK	233	245	249	258
Danemark	DKK	264	271	280	288
Lettonie	LVL	4,2	4,2	4,0	4,2
Lituanie	LTL	20,7	19,4	18,4	19,0
Hongrie	HUF	2000	2040	2020	2130
Pologne	PLN	26,3	27,7	28,0	29,3
Roumanie	ROL	15,2	17,0*	17,7*	:
Suède	SEK	325	337	344	353
Royaume-Uni	GBP	16,8	16,8	17,2	17,5
Norvège	NOK	311	322	332	345

Source: Eurostat, avril 2012

Debate then focused over terms governing posted workers. This procedure finds its source in the treaty which acknowledges the right to free cross-border service provision (art56 TFEU). According to the European Commission the number of posted workers in the EU totalled 1.2 million in 2011, less than 1% of the entire Union population of working age. France (144,411 posted workers in 2011) is the second biggest host country, behind Germany (311,000 posted workers in 2011) and ahead of Belgium (125,000). The average posting lasts 50 days [12].

The building industry is the biggest employer of posted workers (25%), particularly SMEs. The other sectors involved are services, financial services, transport, communication and agriculture.

A 1996 directive guaranteed posted workers a core of imperative protection rules in the Member State in which the work is undertaken. Workers and working conditions are those of the host country. However, social contributions are made by the home country. An employer may therefore enjoy reduced labour costs by employing workers from countries where social contributions are low [13].

**TABLE 2**  
**EMPLOYER CONTRIBUTION RATES IN THE EUROPEAN UNION**

**Taux des cotisations patronales au sein de l'Union européenne**

Pays	Taux
Allemagne	19,175 %
Autriche	25,2 %
Belgique	48,65 %
Bulgarie	27,84 %
Espagne	31,2 %
France	49 %
Italie	32,59 %
Luxembourg	14,9 %
Pays-Bas	15,14 %
Pologne	22,67 %
Roumanie	28,45 %
Royaume-Uni	10,4 %

Source – European and International Social Security Liaison Centre

In a context of high tension on the labour market, there has been criticism due to employers circumventing the rules. A lack of legal certainty impedes a thorough assessment of the situation. Moreover the weak capability of the States, which do not cooperate adequately to check on whether these rules are being respected, has been stressed. The efficacy of monitoring has been undermined by the diversity of legal systems and by language barriers [14]. Posted workers also find it difficult to assert their rights.

Several decisions (Viking-Line, Laval, Rüffert) taken by the European Court of Justice have been discussed in regard to the protection of posted workers' rights [15]. Given the opposition of national parliaments which used their new prerogatives in terms of controlling subsidiarity the Commission had to withdraw a text

which tried to balance the right to collective action with the freedom of establishment of service provision.

**III/ VITAL ANSWERS TO STRENGTHEN FREE MOVEMENT**

These problems have to be pinpointed and call for pragmatic answers without challenging what is deemed as the greatest achievement of European integration. Five areas are involved.

**1/ The Single Market at the Service of the Citizens**

The dynamic of the Single Market has to be revived. This means creating both a framework that fosters growth,

12. Information Report by Eric Bocquet: "Le travailleur détaché : un salarié lowcost ? Les normes européennes en matière de détachement des travailleurs", Senate, n° 527 (2012-2013) 18th April 2013.

13. Sébastien Richard, art.cit., European Issue, n° 300.

14. Information Report by Gilles Savary, Chantal Guittet and Michel Piron on the draft directive on the implementation of the directive on posted workers, National Assembly, n° 1087, May 2013.

15. Viking-Line Decision 11th December 2007, Laval, 18th December 2007, Rüffert 3rd April 2008.

to re-establish European confidence in integration and rising to the challenge of social cohesion. To this end the Monti report put forward a new overall strategy for the Single Market. This is the very essence of the "Single Market Act" which the European Commission adopted in October 2010. The Commission notably intends to develop worker mobility within the Single Market. To remove ongoing legal obstacles, the Commission has focused its action in particular on the modernisation of professional qualification acknowledgement and the development of cooperation between Member States via a European professional card. It put forward a proposal in April for a regulation to create a "roaming visa" mainly designed for show-business professionals living for long periods in the Schengen Area and also for individual travellers, notably researchers and students who want to stay for longer periods in Europe [16]. With this the Commission aims to enhance social cohesion.

## 2/ Stronger European Citizenship

European citizens must be able to fully exercise their right to free movement. To do this obstacles encountered by European citizens in their daily lives have to be eliminated [17]. In its 2013 report on citizenship the European Commission notably suggests a reduction in formalities by facilitating the acceptance of identity and residence documents, (notably with European facultative documents). The protection of the most vulnerable would be enhanced via the creation of a European invalidity card and by the strengthening of citizens' procedure rights.

## 3/ The means to monitor and regulate migratory flows

The European texts give Member States the tools with which to monitor and better regulate migratory flows. These tools must be used and made stronger. There also has to be more European solidarity.

the percentage of mobile citizens in the Union rose from around 1,6% of the total population at the end of 2004 to 2.4% at the end of 2008, before slowing (2.8% at the end of 2012) due to the economic recession and also the progressive decline in the potential for mobility from Member States in Central and Eastern Europe. Work is the main motive of some 14 million EU citizens living on a regular basis in another Member State. In 2012 more than 78% of them were of working age (15 to 64 years old), in comparison with 66 % of Member States citizens. On average their employment rate was higher than national citizens (67.7 % in comparison with 64.6 %).

### – The right to social assistance and social service is not without conditions

Access to social assistance for those who are not working is the focus of restrictions so that these people do not become a financial burden for the host State. For the first three months of residence the host State is not obliged to open social assistance up to non-working European citizens. Beyond three months and up to five years the Member State can decide only to grant social aid if the person concerned meets the required conditions to benefit legally from the right to residence for a period extending beyond three months. However after five years Union citizens who have permanent residence rights can benefit from social assistance according to the same conditions as the citizens of their host Member State.

Regarding social security benefits Member States set the rules in line with their own situation. Benefits, the granting of these and the length of period they are granted and the total amount paid, are determined by the legislation of the host Member State. Benefits rights can therefore vary from one Member State to another. Regulation (883/2004) dated 29th April 2004 only guarantees effective social protection mainly by defining which Member State is competent from the point of view of social security.

### – Free movement has a limited impact on national social security systems

In October 2013 the European Commission presented a report on free movement to the Council which was

16. Com (2014) 16 final.

17. European Commission: "2010 Report on European Union Citizenship", 27th October 2010, COM(2010) 603 final.

## A/ The regulation of internal migratory flows

The extent of European internal mobility remains modest. According to European Commission figures

drafted on the basis of information communicated by the Member States and a study it had ordered. This report followed requests by the Interior Ministers of several Member States. It emerged that the citizens of other Member States do not use social services any more than the citizens of their host country. Those not working from other Member States [18] represent an extremely low share of beneficiaries. The effect of these benefit requests on national social budgets remains insignificant. These people comprise less than 1% of all beneficiaries (EU citizens) in six of the countries studied (Austria, Bulgaria, Estonia, Greece, Malta and Portugal) and between 1% and 5% in five other countries (Germany, Finland, France, Netherlands and Sweden). The report also highlights the fact that healthcare spending involving people from other Member States is marginal in comparison with all healthcare spending (0.2% on average) or with the size of the host country's economy (0.01% of the GDP on average). The Commission's conclusion is therefore that *"in reality workers from other Member States are net contributors to the public finances of the host country."*

#### **– European legislation provides Member States with tools to counter abuse**

The directive dated 29th April 2004 provides measures that make it possible to counter certain types of abuse. Before the end of the 3 month period an EU citizen can be expelled if they pose a serious threat to public order, public security or health or "if they become an unreasonable burden on the social assistance system." Limits can be placed on the right to residence for reasons of public order, security or health. (art. 45 TFEU).

The European Commission has put forward a series of measures to strengthen existing tools notably the drafting of guidelines to define the idea of "usual residence" [19]. During the Justice/Internal Affairs Council of 5th December 2013 ministers agreed on a dual observation: the freedom of movement is a fundamental right of Union citizens; the cases of individual abuse must be countered.

This dual requirement seems to provide guidance concerning policies to undertake both nationally and

on a European level. Just because some abuse has been noted this does not mean we can question the fundamental principle which forms the core of European integration and which is largely identified by Union citizens as being an achievement of major importance. Conversely we cannot deny that abuse takes place and not try to counter and prevent it. Member States can therefore act legitimately in this sense as long as they do not deviate from the rules set down in the treaties and derived law. A rigorous, regular assessment of European legislation is also required to ensure that the Union's legal framework answers the concerns raised by some infringements in the Member States effectively. This vigilance should help prevent the danger of division within the EU.

#### **– The need for European coordination**

Awareness of the Roma situation of highlights that some problems are raised by free movement and that these call for European answers and solidarity between Member States. In April 2011 the European Commission asked the latter to submit a national Roma integration strategy based on the guidelines defined on a European level [20].

#### **B/ The regulation of external migratory flows**

Free movement is inexorably linked to measures that were introduced to guarantee security within the Schengen Area. Cooperation and coordination between the police services and legal authorities have been strengthened. These are so-called "compensatory" measures. From the start security clauses were also included to enable States to re-introduce border control in two situations: in the event of foreseeable events, for example an international summit like the G20, or a major sporting or cultural event. Following the Italian-French request of April 2011 which was expressed in the context of the "Arab Spring" and taken up by the European Council of June 2011, the Schengen border law was modified to enable the re-introduction of border controls, as a last resort – for a limited period (6 months renewable up to two years) in the event of serious, continuous malfunctioning of the external borders.

18. They represent an extremely low share of the overall population in each Member State and between 0.7% and 1% of the total Union population.

19. Communication by the European Commission on 25th November 2013 : Free movement of Union citizens and their family members : five things which make a difference, COM(2013) 837 final.

20. Communication by the European Commission: European Union Framework for national Roma integration strategies covering the period up to 2020, 5th April 2011, COM(2011) 173 final.

Each Member State takes responsibility for the control of its external border on behalf of all of the other States. This is why mutual confidence is vital. This is the essence of a really effective assessment mechanism. Recently revised it grants a greater role to the Commission. Surprise checks will be possible. Assessment will be thematic and regional. These assessments involve experts and the States in question.

The Lampedusa tragedy in which at least 250 migrants died as their boat was shipwrecked in October 2013 highlighted the urgent need to guarantee an effective, humanitarian European response. Apart from support to the Mediterranean States (Italy, Malta, Greece) which are more directly concerned by migratory pressure the question of European solidarity regarding the hosting of refugees also arises. At the same time greater dialogue is necessary with transit and emigration countries.

These various issues highlight the need for effective, modernised governance of the Schengen Area which enables the constant identification of problems, the mobilisation of pooled means, the guarantee that States will respect their obligations and at the same time their cooperation – this has to be encouraged and dialogue and partnerships maintained with countries of origin. Governance has to be able to rely on adequate financing; notably that provided by Frontex whose budget has suffered in a context of restrictions and if need be by the creation of a European coast guard corps. European migratory policy also has to try and promote legal, controlled migration in partnership with emigration countries. This was the basis of the global approach adopted in 2005 and of the European Pact on Immigration and Asylum adopted by the European Council under the French Presidency in October 2008.

#### 4/ Protection against the risk of social dumping

Free movement must not provide opportunities for fraud which foster social dumping. In March 2012 the European Commission put forward a draft directive that was the focus of a compromise agreement between the Parliament and Council on 27th February 2014 [21]. This text provides several clarifications to prevent abuse and ensure the respect of posted workers' rights.

It steps up monitoring and introduces a system of joint responsibility to counter abuse and fraud. In virtue of this joint responsibility regime the main sponsor and direct sub-contractor will be jointly held responsible if a posted worker is not paid. This will be mandatory in the building sector. Member States will be able to introduce stricter measures and include other sectors. Austria; Germany, Spain, Finland, Italy, Netherlands and Belgium have already introduced systems of joint responsibility like this.

#### 5/ Economic and social convergence

Over the last decade mobility from the new Member States has represented nearly ¾ of the overall increase in terms of the number of mobile European citizens. [22]

Post-enlargement mobility has had positive effects. The European Commission estimates the total at nearly 1% on the GDP. Moreover, as highlighted by Commissioner Viviane Reding during the Council in October 2013, intra-European mobility contributes towards equalling out competences and jobs. Two million jobs remain unoccupied in the EU in spite of the economic crisis. 73 million jobs should be available in the EU by 2020, given the number of those retiring. This raises a real problem for the European labour market which is far from complete. The free movement of workers is one of the four fundamental freedoms set out in article 45 of the TFEU. It was codified in the regulation 492/2011 dated 5th April 2011. However the Monti report pointed out that many practical constraints remained. The European Commission put forward a draft directive designed to support migrant workers' rights and to make good the lacuna pinpointed in the implementation of the 2011 regulation. This text was the focus of an agreement between Parliament and the Council at the end of 2013.

The positive approach to mobility as observed over the last decade should not mask the problems it raises in three areas. From the point of view of the host countries migration should enable them to fill vacant jobs and therefore attract the required competences for the smooth functioning of their national economy. From the point of view of the emigration countries

21. This compromise was adopted by the European Parliament on 16th April 2014.

22. European Commission : Employment and Social Developments in Europe 2013, January 2014.

mobility must not imply the departure of a strong, qualified labour force to the detriment of domestic economic requirements. From the EU's point of view as a whole, mobility should not mean an increasing focus on qualifications in parts of the common area which are already the most advanced economically. Free movement must therefore not be dissociated from an overall approach which encompasses the mutual benefit for all Member States. It has to go hand in

hand with the progressive achievement of social and economic convergence.

---

**Philippe DELIVET**

Lecturer – Institute for Political Studies Paris. Lecturer at the University of Paris II and the CELSA-Paris Sorbonne. He is the author of « Politiques de l'Union européenne », La Documentation française, 2013.

See all of our publications on our site:  
[www.robert-schuman.eu](http://www.robert-schuman.eu)

Publishing director : Pascale JOANNIN

---

**THE ROBERT SCHUMAN FOUNDATION**, created in 1991 and acknowledged by State decree in 1992, is the main French research centre on Europe. It develops research on the European Union and its policies and promotes the content of these in France, Europe and abroad. It encourages, enriches and stimulates European debate thanks to its research, publications and the organization of conferences. The Foundation is presided over by Mr. Jean-Dominique Giuliani.