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COVER NOTE

from: General Secretariat of the Council
to: Delegations
Subject: Transitional arrangements regarding free movement of workers of Bulgarian and Romanian nationality
- Information from the Commission

Delegations will find attached the Commission's information note on the transitional arrangements regarding free movement of workers of Bulgarian and Romanian nationality, with a view to the EPSCO Council on 28 February 2013 (Any other business item).

Information note from the European Commission services

on the state of play concerning the transitional arrangements regarding free movement of workers of Bulgarian and Romanian nationality

Free movement of workers is one of the fundamental freedoms guaranteed by the EU Treaty. It gives EU citizens the right to move freely to another Member State to work (without needing a work permit) and reside there for that purpose. It has been subject to restrictions under transitional measures in four out of six enlargements. The 2005 Act of Accession, just like the previous Act of Accession, provides for a transitional period of a maximum of seven years. The overall transitional period is divided into three distinct phases ("2-plus-3-plus-2"). Different conditions apply during each phase. During that period, workers from Bulgaria and Romania may face restrictions on access to the labour markets of the other EU Member States (typically work permits).

The transitional arrangements are currently in their third and final phase, which started on 1 January 2012 and will end on 31 December 2013. Member States that maintained national measures at the end of December 2011 could, in the event of a serious disturbance on their labour markets or a threat thereof, and after notifying the Commission, continue to apply these measures until the end of the seven-year period following the date of accession. This means that after 1 January 2014, no restrictions can be maintained.

Out of 11 (of 25) Member States that applied restrictions at the end of December 2011, Italy and the Czech Republic ended restrictions and started to apply EU law on free movement for Bulgarian and Romanian workers on 1 January 2012.

Nine Member States (Germany, Ireland, France, Luxembourg, Netherlands, UK, Belgium, Austria and Malta) sent notifications before 1 January 2012 of a serious disturbance of their labour markets or a threat thereof (Germany, Ireland, France, Luxembourg, the Netherlands and the UK), or threats of serious disturbance of their labour markets (Belgium, Austria, Malta). They therefore fulfilled the conditions required by the transitional arrangements to continue to apply restrictions for a maximum of two more years after December 2011.

Since then, Ireland decided on 19 July 2012 to revoke the remaining restrictions on access to the Irish labour market and to back date the lifting of restrictions to 1 January 2012. From 1 October 2012 France has extended the simplified procedure it applies - where a work permit is issued without considering the job situation - from 150 to 291 occupation and abolished the tax payable by the employers of EU-2 workers to the Office français de l'immigration et de l'intégration.

Therefore, currently eight Member States continue to restrict labour market access for Bulgarian and Romanian workers (Belgium, Germany, France, Luxembourg, Malta, the Netherlands, Austria and the United Kingdom). In addition, Romanian workers still face restrictions on labour market access in Spain (restrictions were reintroduced under the safeguard clause procedure in summer 2011 and extended in for one year in December 2012).

Statistics

The number of EU-2 nationals residing in other Member States has strongly increased since the 2007 enlargement, from 1.4 million in (the beginning of) 2007 to 3 million in (the beginning of) 2012.

A very large share (85%) of EU-2 citizens are of working-age (15-64) compared to a much lower figure among nationals (65.7%).

The most important destination countries are Italy and Spain, followed by Germany, UK, France, Hungary, Greece and Austria.

The recent evolution in the number of EU-2 citizens seems to some extent more linked to the overall labour market situation (favourable evolution in DE, AT and unfavourable in ES but also UK, FR,...) than to the legal regime applied.

The employment rate of EU-2 nationals is, on average, and in most destination countries comparable or higher than the average among nationals. It is especially the case in UK, IT, EL and CY.