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Anxhela Shkempi

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Barriers to EU mobility: Facilitating mobility of workers in the EU¹

Anxhela Shkemi²

Abstract

Free movement of workers within the European Union is the second fundamental principle of the Treaty on the Functioning of the European Union (TFEU) and one of the four freedoms enjoyed by the European citizens. Its main objective is to enhance the living standard of each individual but also of European society in general. However, even though the free movement of European workers provides citizens with plenty of opportunities, mobility rates are particularly low. By all the EU citizens of working age in 2020, only 3.3% resided in an EU country apart from that of their own citizenship in accordance with Eurostat. Under those circumstances, a few policy ideas are provided in order to boost the mobility of EU workers:

- Access to extended and more valid information
- More effective response by the Commission when it comes to the breach of the Directive
- More effective management of petitions
- Reinforcement of SOLVIT
- Adaptation of national legislation to the Directive
- Removal of unnecessary hurdles
- New framework of cooperation between member states

The scope of this policy paper is to delve deeper into the factors that hinder the movement of European citizens and to provide some policy ideas which could facilitate this procedure.

Keywords: free movement, workers, internal market, European Union.

Introduction

The European single or internal market is one of the EU's paramount achievements as it sustains economic growth and has facilitated to the utmost the daily lives of European businesses, consumers and employees. According to the 2nd paragraph of Article 26 of the TFEU, the term 'internal market' indicates an area without internal frontiers in which the free movement of goods, services, persons and capital is settled according to the provisions of the Treaties. Particularly, free movement of European workers is enshrined in Article 45 of the TFEU, whereas its legal basis lays down in Article 3(2) of the Treaty on European Union (TEU); Articles 4(2)(a), 20, 26 and 45-48 of the TFEU.

Free movement of employed and self-employed persons allows European citizens to seek better living and working conditions within the Union by those provided by their region of origin. In other terms, European citizens have the ability to search for a job in any European country but also in the countries of the European Economic Area (Iceland, Lichtenstein and Norway) in which free movement of

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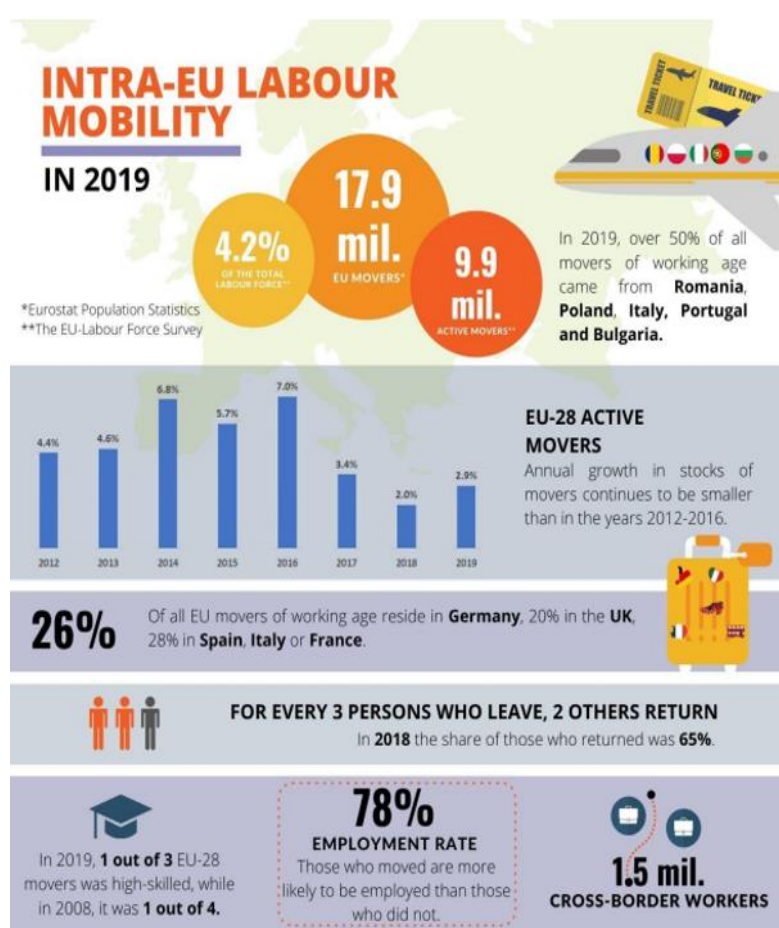
² Department of International and European Studies, University of Piraeus, Greece.

workers is also applicable. Moreover, European citizens can work in these countries without the need of a work permit, reside there for as long they want, even after their employment has finished and enjoy equal treatment with nationals in terms of access to employment, working conditions and all other social and fiscal benefits.

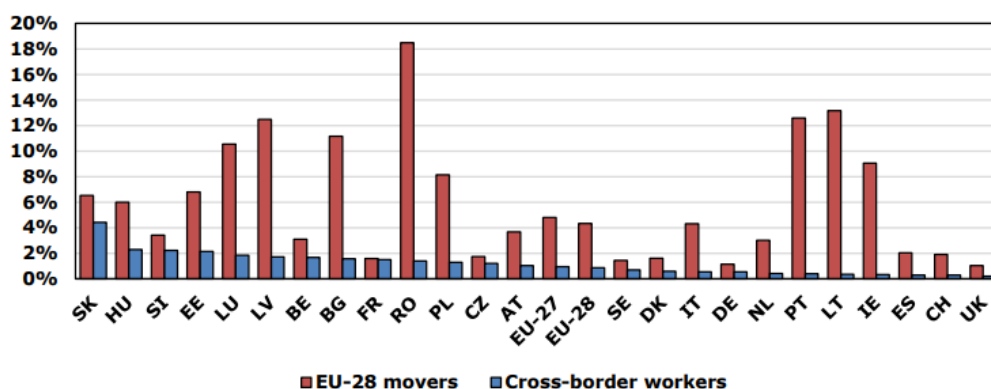
Furthermore, free movement diminishes social pressures in the poorest countries and regions of the EU and improves the living conditions of the rest of the population. In general, within the EU it facilitates the adaptation of labour supply to changes in business demand and allows for more relevant and effective cyclical policies at a European level. Therefore, free movement of workers implies boosting the internal market, plugging knowledge gaps and ameliorating the living standards of Europeans. Last but not least, free mobility of workers means cultural exchange which enhances the creation of a single European identity.

However, despite the benefits of free movement for both citizens and the Union itself, mobility rates do not reflect an optimistic picture. According to the European Commission's annual report on Intra-EU Labour Mobility 2020, mobility within the EU continued to grow in 2019, but at a much slower pace than in 2018. In other words, in 2019 the number of working-age movers grew up by 1.2% – 17.9 million EU-28 movers in total – essentially less than in 2018 when the increase reached 3.8%. What is more, it was observed that for every three persons who chose to leave their country, two others returned to their hometown. There are

many factors that hinder the movement of European citizens for employment reasons and the EU must tackle them immediately in order for all Europeans to have equal access to this right.



Source: <https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8369>

(National) Cross-border workers and EU-28 movers as % of all employed nationals, by country of origin, 2019

SOURCE: EU-LFS 2019, SPECIFIC EXTRACTIONS PROVIDED BY EUROSTAT, MILIEU

Policy Analysis

Obstacles to free movement

1. United Kingdom's withdrawal from the EU

One event that had a major effect on the way intra-EU labour mobility is shaped in the last years was the UK's decision to withdraw from the EU. As the UK was the second country to welcome the more mobile EU workers, with up to 2.6 million mobile workers, mobility has regularly decreased since its decision to leave the EU in 2016. The tip of the iceberg was the fact that on 31 December 2020 the freedom of movement of workers between the UK and the EU was ceased once and for all.

2. Primary barriers to the right to entry

Besides the reality that was shaped after Britain's withdrawal from the EU, there have always been obstacles to the right to free movement stemming from the existing European and national legislation. The main obstacle that European citizens face when it comes to their right of entry to some EU member states is the obligation to announce their presence to the country's authority within an unjustifiable period of time. This practice has been observed up to now in Romania and Lithuania with both countries requiring by individuals to report their presence on their territory within 15 and 7 days respectively.

Furthermore, another obstacle that occurred while EU citizens were exercising their right of entry was their identification document. Despite Article 5(1) of the Directive, according to which EU citizens can enter a member state with a valid identity card or passport, the UK authorities had consequently refused to recognize identity cards from other member states, such as Greece, and used to accept only passports (European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs, 2016).

3. Primary barriers to the right to residence

Barriers to the right to residence are encountered mainly by citizens who are no longer workers or self-employed and seek employment in another EU member state. In this case, the person may be required by the welcoming State to leave the territory if they have not found employment there after a period of six months unless they provide evidence that they are intensively seeking employment or that they are being engaged.

Besides that, the most common types of obstacles that citizens face are:

- exaggerated documentation requirements so as to exercise the right of residence in at least twelve member states,
- disapproval of the right of residence on certain groups such as EU pensioners when applying for additional pension benefits in at least nine member states,
- inadequate or inconsistent information regarding the right of residence in at least six member states, and
- limitative interpretation of the proof of health insurance required to obtain a residence card in the case of Croatia and Italy.

4. Primary barriers to social security

EU citizens trying to settle in another member state have faced various obstacles in terms of their social security. These hurdles have been distinguished in four major categories in accordance with the social benefit in question each time and are referred to old-age pensions, healthcare, family benefits and unemployment benefits. Access to social benefits such as old-age pensions is the most reported problem in at least eight member states which stems from the absence of coordination between national authorities and the nescience of the aggregation rules for old-aged pensions. When it comes to healthcare, problems regarding the recognition of the European Health Insurance Card (EHIC) have occurred in at least nine member states either because they do not accept the EHIC or because they do not have access to a system identifying the cards' authenticity. Last but not least, in at least nine member states European citizens have faced problems related to family or unemployed benefits due to lack of knowledge of the applicable rules and bureaucratic reasons (European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs, 2016).

5. Other barriers

Generally, there are many other factors that hinder the free movement of European citizens. One of them is the language barrier. Even though there are 24 official and equal languages in the EU, most

workplaces recognize only English or even French. Another hurdle that employers might face is the non-recognition of their professional qualifications and academic diplomas obtained from another EU member state. This issue has been reported in at least eight member states and it arises from the fact that the EU has yet to adopt legislation concerning the mutual recognition of academic diplomas³. Last but definitely not least, obstacles have also been observed while citizens have tried to register to vote in some member states and exercise their electoral rights (European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs, Directorate-General for Internal Policies, 2020). Even though the TFEU and the Charter of Fundamental Rights give citizens the right to vote in any EU member state, there are some member states such as Latvia and Italy that seek additional administrative requirements. In fact, in Italy citizens were denied the right to vote in the European elections.

Recommendations

1. Recommendation for the European Commission

In order for the EU to be able to take effective action, it must ensure access to extended and more valid information. This is why the European Commission shall demand from member states to gather more systematic information and provide data and statistics regarding the number of refusals of entry and residence but also the reasons why the refusals were made. In this way, the Commission will be able to monitor more easily whether the states comply with the Directive or not. Moreover, the Commission shall act more efficiently when it comes to member states violating the Directive. Even though it has initiated 29 proceedings since 2008 regarding many issues occurring from the transposition process, none of them reached the Court of Justice of the European Union (CJEU), proving that the whole process is problematic. Furthermore, the Commission should seek closer cooperation with the European Parliament Petitions Committee in order to better monitor and address the petitions linked with the free movement rights.

In this context, the SOLVIT service, which is an online EU platform connecting citizens with the national administration in each member state, should be reinforced. Not only do Europeans need to be informed about the existence of this website, but access to it should be greatly simplified and further enriched with hotline support, available anytime to inform and support EU citizens.

³ Obstacles to the right of free movement and residence for EU citizens and their families, same as above.

2. Recommendation for the member states

First and foremost, member states shall immediately ensure that their national legislation is compatible with the Directive 2004/38/EC. Moreover, regarding the problems mentioned above with respect to the right to entry, to residence and to social security, member states should seek ways to abolish redundant barriers and unnecessary bureaucracy that discourage citizens. Additionally, national authorities should be fully aware of the Directive's rights and obligations. This could be achieved through continuous and proper training of national authority personnel. Last but not least, all member states shall, as in all cases, pursue deeper and closer cooperation, especially as regards the recognition of academic diplomas and professional qualifications. In other words, they must pursue the creation of a new framework under which the reliability and the authenticity of a degree will be recognized and verified by all EU member state.

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