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Chapter 4

FREEDOM OF MOVEMENT OF WORKERS IN THE ENLARGED EUROPEAN UNION AND ITS EFFECT ON CROATIA

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ABSTRACT

This paper deals with the free movement of workers in the context of EU enlargement with specific focus on the transitional period. The purpose of the paper is to present two main challenges Croatia will face in the accession negotiations of the chapter on free movement of workers: harmonization of legislation and a transitional period for the movement of its workers after the accession. With regard to legal harmonization, the paper gives an overview of the EU rules and Croatian legislation dealing with the free movement of workers. In order to explain the effect of the movement of workers in the enlarged EU on Croatia, it is necessary to look at the trends of labour migration in the EU and Croatia. The other important issue is the transitional arrangement agreed with the new EU member states, for a similar arrangement might be proposed to Croatia during accession negotiations.

Key words:

employment, enlargement, European Union, labour mobility, migration, negotiations, transitional period

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INTRODUCTION

The free movement of workers is one of the founding principles of the EU that constitutes one of the four fundamental freedoms of the Internal Market. At the same time, it represents one of the most important rights of individuals under Community law. Freedom of movement of workers is usually interconnected with several issues: the right to move and reside freely when working in another member state, social security rights, mutual recognition of qualifications, civic rights and European citizenship. Croatia as a candidate country will soon start negotiations for membership in the EU. Under Chapter II of the negotiations, on freedom of movement of persons, the free movement of workers is included.

The purpose of this paper is to present two main challenges that Croatia will face during the negotiations of this chapter: harmonization of its legislation and the EU request for a transitional period regarding the movement of Croatian workers after the accession. This paper deals with the free movement of workers in the context of EU enlargement with specific emphasis on the transitional period. In the first part, the text gives a brief overview of the EU legislative context for the free movement of workers, which enshrines the principle of the free movement of labour in the EU. The second part deals with the level of labour migration between new and old EU member statesⁱ, looking at mobility of workers in some of them. Countries used as examples include Slovenia, Austria and Hungary. The choice of the countries was made because of their geographical closeness to Croatia and also because of their enlargement experience. The third part of this text focuses on the transitional period as an inevitable request for the workers from new member states (NMS). Since Croatia will almost certainly be asked to accept a transitional period for its workers as well, this chapter presents the transitional arrangements in the case of the last EU enlargement and explains what is meant in practical terms. The state of the negotiations with Bulgaria and Romania on the free movement of workers is considered because of their future accession to the EU, possibly at the same time as Croatia. Part four addresses the current situation in Croatia focusing on the legal framework, current employment trends and the mobility of Croatian workers. At the end, the text explains the effect of the transitional arrangements of the NMS on Croatia and offers some recommendations.

REGULATION AND REQUIREMENTS FOR THE FREE MOVEMENT OF WORKERS IN THE EUROPEAN UNION

Legislative framework

The free movement of workers in the EU is regulated by the provisions of the Treaty establishing the European Community, Articles 39-42/Title III Free Movement of Persons, Services and Capitalⁱⁱ. These principles embody the principle of non-discrimination on grounds of nationality among workers of the member states with regard to hiring, remuneration and other conditions of employment. Furthermore, the free movement of workers is regulated by secondary legislation, including a number of directives and regulations. Directives and regulations that provide for the freedom of movement for workers and their families within the Community are particularly important for the practical application of this freedom.ⁱⁱⁱ The case law of the Court of Justice of the European Communities (ECJ) is another important source of rules on the free movement of workers. By virtue of its judgements and broad interpretations of the provisions regulating the freedom of movement of workers, ECJ has contributed substantially to the development of this part of the EU law.^{iv} The Europe Agreements, which regulated the relations between candidate countries and the EU, should be mentioned as an important legal basis for NMS. The equivalent in Croatia is the Stabilisation and Association Agreement (SAA).

According to Community rules contained in the legal documents described above, a worker who moves to another member state has certain rights. These rights include in particular:

- right to work without a work permit (except for the workers from NMS covered by transitional period);
- equality of treatment in employment compared to nationals of the member state in which the work is carried out;
- entitlement to the same social benefits as nationals;
- the right of the family to join the worker and to receive family allowances;
- full coordination of social security (pension rights and social security contributions);
- mutual recognition of professional and vocational qualifications.

This broad selection of rights offered to the nationals of member states confirms the importance of the free movement of workers as one of the fundamental rights of the EU. It also aims to facilitate the labour mobility between the EU member states as an important tool for the realization of the internal market.

Reality of the labour movement in the European Union

The EU labour force is characterized by a low level of geographical and occupational mobility. In the period between 1991 and 2001 only 15% of EU citizens changed their place of residence for the purpose of working in another member state (European Commission, 2004a). Employment in another member state as a reason for migration was present mostly in the southern EU countries – Italy (61%), Portugal (46%) and Spain (30%). In 2001, the UK and Sweden had the highest percentage of labour mobility (around 2%) while workers from Greece and Spain showed total immobility^v. Nowadays, only 2% of the working-age population of the EU are working in another member state. The guaranteed full freedom of movement of EU workers and professionals has thus not been completely effectuated. EU citizens still face obstacles of a legal, practical or administrative nature when planning to settle in another EU member state. The low level of labour mobility among member states has been identified as one of these obstacles. The other obstacles include long administrative procedures, incomplete implementation of rules, lack of necessary information about the rights of workers moving to another member state, insufficient co-operation between member states, and a low level of participation in the life-long learning process. The low level of labour migration in the EU has negative consequences on economic growth, employment and the occupational skills of the labour force. Aware of this problem, the EU has been trying to remove these obstacles by different measures, in order to improve the employment situation and encourage labour mobility. The creation of the Commission's Action Plan for Skills and Mobility (European Commission, 2002a) followed by the Report on its Implementation (European Commission, 2004a) and the establishment of the European Job Mobility Information Portal are just some of these measures.^{vi} Old EU member states also undertook several national

measures to improve geographical labour mobility such as sectoral recruitment activities (Austria), specific mobility assistance for unemployed workers (Germany and Sweden), promotion of mobility inside the public administration (Denmark and Portugal).

There is a shortage of necessary professionals in some old member states, due to undeveloped labour migration. Therefore, in order to create a competitive European labour market, labour mobility should be improved, in which professionals and workers from NMS can help. The same could be concluded in relation to unemployment. The average unemployment rate in the old member states (taking into account the differences among them) amounts to 9%, which is higher than the unemployment in some new EU member states – the Czech Republic, 7.8%; Hungary, 5.9% and Slovenia, 6.8% (ILO, 2003). Accordingly, the positive aspects of labour migration in the EU should include a lower EU unemployment rate and a further boost to the economy and competitiveness of the Internal Market. Consequently, the EU needs a more mobile workforce in order to balance its labour market and achieve full freedom of movement, especially after the enlargement. It will bring about greater diversity, create more jobs and higher employment, and it will have positive effect on the EU economy.

LABOUR MIGRATION BETWEEN OLD AND NEW MEMBER STATES

Will accession cause migrations to old member states?

The push factors that usually influence migration trends include: unemployment, lack of job opportunities and low income in the emigration country (Werner, 1994).

If we take a look at the transition countries, unemployment seemed to discourage overall migration, and economically less developed regions showed very low labour mobility (Fidermuc, 2001). Commonly, in a situation of high unemployment people fear migration as a force that will lead to even higher unemployment (Mayhew, 1998). Hence, mobility of migrant workers from NMS has been low, when considered in relation to the wage and unemployment differences with the old member states. Looking at the readiness to migrate between

new and old member states, it seems that some old member states (for instance, Portugal) used to show a much higher level of readiness to migrate than NMS. Geographical proximity plays another important role in migration. The examples of Germany and Austria as the main countries receiving immigrants from NMS clearly show this. In the year 2000, 80% of employees emigrating from Central and Eastern European Countries (CEEC) resided in Germany and Austria (Boeri and Brücker, 2000). The biggest migration potential comes from Poland (nearly half of the foreign workers from NMS), Romania (17%), the Czech Republic and Slovakia together (11%) and Bulgaria (9%). During the whole process of the accession to the EU, the number of persons from CEECs employed in the old member states was previously considerable but due to the economic progress made by these countries, it has declined over the years (from 850,000 during the 1990s to 250,000 at the beginning of 2000). Consequently, despite the wage and unemployment differences with the old member states, the forecast for workers from NMS likely to migrate remains below EU worst-case estimations. The existence of migration from NMS was never such as to suggest a serious impact on the employment and labour market of the old EU member states. Research and estimated figures suggest that EU accession will not bring a major disturbance into the labour markets of old member states. Apparently, the number of people with a firm intention of taking advantage of mobility after enlargement accounts for just 1% of the working-age population of the new member states. Expected migration amounts to the estimated potential annual flow from NMS of around 200,000 just after the accession, which will probably decline to 85,000 after 10 years. (Boeri and Brücker, 2000). Temporary labour migration in border regions (commuting and seasonal work) and in neighbouring countries will continue, due to a rise in temporary migration as opposed to the permanent migration^{vii}. Another important point should be kept in mind: the possibility that a lot of workers and professionals from old member states might migrate to the NMS (it has already occurred in the cases of the Czech Republic and Poland) and affect their labour markets. Taking into account factors such as increases in salaries and foreign investment, better job opportunities, lower unemployment, language barriers and traditional strong ties with their home countries, it is evident that the EU accession will not bring major inflows of migrant workers from CEEC. On the contrary, the result could be that after the accession, old member states might benefit from the migration of highly skilled labour from NMS. Most of the potential migrant workers from NMS are younger,

highly skilled, educated professionals who bring benefits to the countries to which they have come to work. Hence, the NMS might experience the problem of a brain-drain effect and face the risk of losing their best young and highly-skilled labour.

The examples of Slovenia, Austria and Hungary

Slovenia is recognized as one of the most prosperous NMS. The unemployment rate in Slovenia is 6.8% which is lower than in Germany 9.3% or Italy 8.7% (ILO, 2003). In the first part of 2004, there were around 780 thousand persons in employment (Statistical Office of Slovenia, 2004). From 2003, the shortage of Slovene workers caused an increased demand for foreign workers in services, construction and agriculture. Most of the seasonal work in agriculture was concentrated in the border regions with Croatia. The majority of foreign workers in Slovenia come from Bosnia and Herzegovina (19,000), Croatia (6,900) and Serbia and Montenegro (6,500). Only 779 persons from EU countries were registered as workers in Slovenia in 2003 (Employment Service of the Republic of Slovenia, 2003). Bearing in mind the demand for foreign workers in Slovenia and its entry into the EU, the number of workers (including from NMS) could increase. As for Slovene workers abroad, until the accession to the EU, the migration from Slovenia was quite low. Slovenes worked mostly in Germany on the basis of employment agreements, usually seasonal jobs or training schemes. The accession of Slovenia to the EU will allow and motivate Slovene citizens to accept jobs in other EU countries. This motivation could work for migration with new EU member states, while there are no limitations on the free movement of workers. However, the prospect of greater labour mobility for Slovene workers to the old EU member states remains low due to the transitional period and the obligation to obtain work permits.

The population of Hungary amounts to 10 million, with a total number of 3,900,000 employed persons and 245,000 unemployed in 2003 (Hungarian Statistical Office, 2003). The unemployment rate amounts to 5.9 % which is lower than the EU average of 9% (ILO, 2003). The estimated labour movement from Hungary to the EU after the accession remains low and it is mostly oriented to Austria. The migration potential from Hungary to Austria after the accession amounts to 4,000 workers per year. Low labour mobility in Hungary

and higher wages after the EU accession are the main reasons why the number of Hungarian workers in Austria will remain in balance with the demand for foreign workers on the Austrian labour market.

The unemployment rate in Austria of 7% (ILO, 2003) is accompanied by a demand for highly skilled labour. This has resulted in the further application of bilateral agreements on cross-border commuters and trainees for the period of six months. The intention is to enhance regional integration until free movement of labour is achieved completely. EU enlargement will not bring substantial changes especially because of the five year transitional period for the movement of workers. The Austrian Labour Office has estimated that there are fewer than 19,000 foreign workers working in Austria, coming from Slovenia (app. 6,000), the Czech Republic (app. 4,000), Hungary (app. 8,000) with many commuters from Slovakia (Foti, 2003). The number of possible migrant workers from CEEC to Austria after the EU enlargement would be around 23,000 to 45,000 a year.^{viii}

TRANSITIONAL PERIOD FOR THE FREE MOVEMENT OF WORKERS

Labour mobility is indispensable for the successful and efficient functioning of the EU Internal Market, for stimulating employment and for economic growth. Accordingly, the free movement of workers is a particularly sensitive issue for the EU, which usually imposes certain limitations on the free movement of workers from NMS. One of these limitations is expressed in the form of a transitional period. In the history of EU enlargements, there has commonly been a transitional period for the free movement of workers as the condition for NMS. For example, Greece had to accept a six year transitional period before its workers could be fully mobile within the EU. During that time workers from Greece had to possess work and residence permits, just like non-EU nationals. A similar transitional period of seven years applied to Spain and Portugal, and their workers did not have open access to employment, while the freedom of movement was achieved gradually. The history of the EU enlargement has shown that fears of a mass inflow of migrant workers from NMS is unfounded and that emigration tends to fall rather than rise after an enlargement. Despite this, the EU has continued require a transitional period (amounting usually to a peri-

od of 7 years) before the fully free movement of workers from NMS. The last EU enlargement is no exception to this rule and the NMS agreed to such a transitional period. Consequently, it is necessary to take into account the transitional period as one important factor that Croatia will encounter during the negotiations.

Transitional arrangements with new member states

In the last accession, the EU requested a transitional period for the free movement of workers from all acceding countries except Cyprus and Malta.^{ix} The main reason for this EU stipulation is the possibility of higher level of labour mobility and thus the disturbance of the labour markets of certain member states. Concern about a mass inflow of workers from NMS is based on factors such as geographical proximity, wage differentials and the level of unemployment in NMS. The biggest concern is actually linked to the fear that migrant workers from NMS will exhaust the resources of the benefits systems currently enjoyed by the nationals of old member states (Boeri, 2004).

Transitional arrangements have been agreed as follows:

- Two years after the accession, old member states will apply national measures with respect to NMS, the final goal being the provision of full access to their labour markets for NMS.
- After the expiration of two years, countries that introduced national measures should submit reviews and inform the European Commission whether they intend to continue applying national measures for next three years. This procedure is followed by a Report from the European Commission.
- After five years the transitional period is suppose to end, but it leaves the possibility of prolonging the transitional period for an additional two years for those member states whose labour markets are particularly affected.
- Safeguard clauses may be applied by the old member states until the expiration of the seventh year after the accession of NMS.^x

Most of the old member states introduced the above explained restrictions. Austria and Germany announced that they planned to keep the restrictions on migration for seven years. They also introduced specific restrictions as a safeguard for the service sectors of their labour

markets because of the danger of considerable disturbances in those sectors. A two year limitation in which work will be possible only with a work permit will apply in France, Belgium, Spain, Italy and Greece. Portugal introduced a quota for workers from NMS and the Netherlands set the number of 22,000 workers per year, which cannot be exceeded during the first two years of the transitional period. Finland will apply a two-year restriction and issue work permits only if there are no Finnish workers available for a certain job. Denmark and Sweden will also apply two year restrictive measures with the possibility of prolonging them for three more years due to the concern about the impact of labour migration on their social systems. The only exceptions are Great Britain and Ireland, which opened their labour markets from the first day of the accession of NMS with some limitations regarding the welfare systems. The reason for this decision is that the labour markets of these countries would not be so overburdened by the workers from NMS. Both the UK and Ireland have high levels of employment and the UK has been identified as one of the EU countries that might suffer a significant deficit of skilled labour by 2010 (Eurostat LFS, 2003).

Therefore, the NMS will have the guarantee for the full realization of the freedom of movement of their workers in 2011, but some member states might completely open their labour markets earlier.

Transitional arrangements in practice

In practical terms, a transitional period means that the obligation to obtain a work permit continues to apply to nationals from NMS even after accession to the EU. For instance, in Austria the employer has to apply for a restricted work permit for a national from a NMS and freedom of movement is confirmed by the Labour Market Service. A similar procedure exists in Germany and, according to the transitional arrangement, nationals of NMS can be employed in Germany only under national measures or under the conditions provided for in bilateral agreements. However, it should be emphasised that the transitional arrangement does not influence the rights of workers who are already legally resident in one of the old member states. Community rules on equal treatment in working conditions and social security system will apply to those workers. Accordingly, the restrictions specified above can only influence access to the labour market. This means that after a worker from the NMS is admitted to the labour market as an employee

or a job-seeker, there cannot be any discrimination between him and the workers who are nationals of the member state in question. On the other hand, there is complete freedom of labour movement between NMS without any transitional arrangements. No transitional period is requested for the mutual recognition of qualifications either, meaning that Community rules regulating mutual recognition apply from the accession.^{xi}

Positive outcomes of the transitional arrangements

Besides the limitations that an agreed transitional period imposes upon the NMS there are also some positive sides of the negotiated transitional arrangement. Positive outcomes are expressed in the Standstill Clause and Community Preference Rule. The Standstill Clause requires that the access to the labour markets of old member states cannot be more restrictive for workers who are nationals of the NMS than it was at the time of the signature of the Accession Treaty (16 April 2003).

The Community Preference Rule means that the employers from old member states are obliged to give priority to workers from NMS over non-EU nationals. Moreover, NMS have the possibility of applying equal restrictions against those old member states that introduced restrictions on their workers. New member states that decided to apply those restrictions are Hungary and Slovenia.

Transitional period for Bulgaria and Romania

Accession negotiations with Bulgaria and Romania were initiated in 2000. At the moment, these accession countries are trying to close the remaining chapters in order to be able to join the EU in 2007. However, the progress has been slow in some areas and it remains to be seen whether they will succeed in reaching their goal by the time planned, or whether other candidate countries, like Croatia, will move ahead faster. Bulgaria, with 8 million citizens, and Romania, with 21 million, are among the larger candidate countries, compared to Croatia or to NMS like Malta or Slovenia. The unemployment rates in Bulgaria of 13% and of 7% in Romania (ILO, 2003) are still higher than in the NMS. Accordingly, Bulgaria and Romania are perceived as the coun-

tries with the largest migration potential after the last EU enlargement. In consequence, in accession negotiations of the chapter on free movement of workers, these two countries have agreed to a limited freedom of movement for their workers during the transitional period that will last for a minimum of two years and a maximum for seven years after accession to the EU. Both countries still need to align their national legislations with EU legislation regulating the free movement of workers in order to be able to implement them by the date of the accession. The main EU objection refers to the provision on mutual recognition of qualifications. For Bulgaria, the other necessary adjustment relates to the social and cultural integration of migrant workers and their families. In the case of Romania, the EU finds that provisions of Romanian laws still do not provide for legislation on the equal treatment of EU workers.^{xii}

WHAT LESSONS COULD CROATIA LEARN FROM THE NEW MEMBER STATES?

The legal framework in Croatia

The relevant legal framework for the free movement of workers between Croatia and EU is contained in the provisions of the SAA and the relevant Croatian legislation. The SAA regulates the free movement of workers between Croatia and EU member states (Title V, Movement of workers, establishment, supply of services, capital, Chapter I, Movement of workers, Articles 45-47).^{xiii} The provisions on free movement are established on the principle of equal treatment and non-discrimination on the grounds of nationality against Croatian citizens or against workers from EU member states respectively, who are legally employed on the territory of Croatia or on the territory of a certain EU member state. The prohibition of discrimination applies to working conditions, remuneration or dismissal from employment for both nationals from Croatia and from EU member states (Article 45). Article 47 of the SAA regulates social security systems for workers from Croatia and EU member states. Croatian laws regulating the social security system provide for equal rights for foreigners and nationals (except if differently provided by international agreement). This legal basis makes it easier to implement the SAA. Croatia concluded several bilateral agreements on social security with EU member states corresponding with the well established EU practice.

The Law on Foreigners (NN 109/03) regulates the question of employment, work, residence and movement of foreigners. This Law ensures easier procedures for foreigners to work in Croatia and provides for the implementation of obligations deriving from the SAA. According to this Law, foreigners need to have work permits and the Government determines the annual quotas for foreign workers. However, this annual quota does not include the workers and members of their families whose status is regulated by the provisions of the SAA (Article 87). This provision of the Law on foreigners clearly has the purpose of removing possible obstacles for the free movement of workers from the EU. Although this Law is a good example of the necessary alignment with the EU *acquis*, the European Commission indicated that further adjustments to Croatian legislation will be required. The proposed alignment includes the possibility for EU workers to have equal access to employment in Croatia without discrimination on the grounds of nationality, to work without a work permit and to be joined by family members who will also be allowed to work without a work permit.^{xiv}

Labour mobility in Croatia

How mobile are Croatian workers?

The population of Croatia is approximately 4.4 million and at the end of 2003 there were around 1.4 million employed persons and 330,780 unemployed persons (CBS, 2004). According to the International Labour Organisation (ILO) methodology, the unemployment rate in Croatia is still higher than the EU average (14.3% in 2003 and 13.8% in the first half of 2004). The young working population is especially hard hit by unemployment; in Croatia, 18% of unemployed persons are young people. From the total number of 1.7 million active population of Croatia, 47,000 persons emigrated to other countries (CBS, 2004). If we compare this with Slovenia and Hungary, in Slovenia from a total population of 2 million only around 1,800 Slovenes emigrated in 2003 (Statistical Office of Slovenia, 2004). In the case of Hungary, internal migration significantly outweighed emigration and a smaller number of Hungarian workers emigrated (Foti, 2003). From this comparison we can conclude that the number of Croatian citizens working abroad is still much higher than the numbers

from Slovenia or Hungary. Nevertheless, even a high level of unemployment and other migration push factors do not create such a large mobility of Croatian workers. The majority of Croatian workers abroad concentrate on the EU countries that are geographically closer like Slovenia, Italy, Austria and Germany. At the end of 2003, around 6,900 Croatians worked in Slovenia, doing mostly seasonal work (Employment Service of Slovenia, 2003). The accession of Slovenia to the EU has some practical implications for Croatian workers employed in Slovenia. Due to the transitional arrangement Slovenia had to impose some limitations on workers from non-EU countries. Hence, quotas for non-EU workers have been introduced, producing only 17,000 work permits for 2004. Consequently, a smaller number of Croatian workers will be able to work in Slovenia as a new EU member state.

According to the agreed quota between Germany and Croatia, unemployed Croatian citizens have the opportunity to spend a fixed period of time working in Germany. In 2003, Germany concluded an agreement with Croatia allowing 500 Croatian workers who are doing temporary work in Germany access to professional training for three years. However, the number of Croatian workers who actually went to Germany was low. Out of the 500 places available in 2003 only 319 were filled by Croats. It seems that despite better salaries and job opportunities equal to those of German nationals, Croatian workers are not all that interested in temporary work in Germany. The insufficient knowledge of language might appear an obstacle in some cases, but in others, it seems that Croatian workers are less inclined to go to Germany. The result might be the possible reduction in the annual number of work permits until Croatia joins the EU.^{xv}

Foreign workers in Croatia

According to the number of work permits issued in 2004 there are more than 2,000 foreign workers in Croatia. In comparison with Slovenia, which had around 30,000 foreign workers, or Austria with 20,000, Croatia does not seem to employ very many foreigners. However, looking at the high level of unemployment in Croatia, one would expect the tendency to reduce even this number for the sake of employing domestic workers. Yet, the demand from employers for foreign workers specialised in certain professions continued to grow. The decision on the annual quota of work permits for foreign workers

amounted to almost 2,600 for newly employed foreign workers^{xvi}. The largest number of work permits was issued for the shipbuilding sector (1,100) followed by construction (1,000), science and education (150), tourism (310) and the health sector (30). In 2003, Croatia authorized work permits for workers from 34 countries. The majority workers in Croatia come from Bosnia and Herzegovina where the unemployment rate is very high, reaching 40% (Central Bank of Bosnia and Herzegovina, 2004).^{xvii} This results in the large movement of Bosnian workers towards Slovenia and Croatia. The rest of foreign workers in Croatia come from Serbia and Montenegro, Turkey, Macedonia, Slovenia and Austria. The number of requested and issued work permits also corresponds with the increased need for seasonal workers in Croatia (especially during the tourist season).

Expected movement of Croatian workers after the last enlargement

At the moment the emigration rate from Croatia is considerable and the interest for seasonal work in countries like Germany, Austria or Italy still exists. In 2002, through the intervention of the Croatian Employment Bureau, 7,700 Croatian citizens went abroad to work and the majority of workers went to Germany for seasonal work (CEB, 2004). However, there is a developing trend of a lower mobility directed towards EU member states. This can be best observed in the above explained situation with Germany when only 319 workers made use of the 500 opportunities for work. Moreover, the possibility for Croatian workers to work in some NMS could be reduced due to the transitional arrangements of NMS (as explained for Slovenia). On the other hand, the progress of Croatia in next few years before the accession to the EU could further lower the level of labour migration, as happened in other transition countries. The economic growth, lower unemployment and closer perspective of the EU accession might attract more labour migration to Croatia (mostly from the region but also from other countries). Therefore, along with further European integration, labour migration should be followed closely in order to prevent the negative effects of losing the best professionals (brain-drain effect) and becoming overburdened with low-skilled workers from other regions. In sum, the enlargement should not produce a larger movement of Croatian workers to EU member states.

The influence of transitional arrangements on Croatia

Taking into account traditional mobility of Croatian workers in connection with certain EU member states and the previous enlargement scenarios, it is clear that the EU will ask for a transitional period in which the movement of workers will still be subject to restrictions. The transitional arrangements agreed with the new EU member states will influence negotiations with Croatia. It is to be expected that a transitional arrangement similar to those of the last enlargement will be offered to Croatia. Therefore, in negotiations of this chapter of the *acquis*, Croatia should use the example of the transitional arrangement from the Treaty on Accession of the CEEC. A transitional period for five years with a gradual increase of worker mobility can be a good starting point in negotiations. Since it might possibly join the EU along with Bulgaria and Romania in the next wave of enlargement in 2007, Croatia should continue closely to follow the state of the accession negotiations with these two countries. More importantly, Croatia should try to obtain the best possible transitional arrangement for its workers by negotiating the mentioned Standstill Clause, Community Preference Rule and equal restrictions. In practical terms, transitional arrangements with NMS could influence the mobility of Croatian workers by imposing certain restrictions on non-EU workers and by an increased volume of labour movements among NMS.

CONCLUSIONS

The free movement of workers has a central meaning for the realization of the EU Internal Market from the economic and social point of view. Taking into account the significance and sensitivity of this area for the EU, Croatia should expect to encounter two main challenges during the accession negotiations: the request that it should completely harmonize its legislation, and requirement of a transitional period. The status of Croatia as a candidate country proves that integration is already taking place and that we are moving in the right direction. In the chapter on the free movement of workers, this concretely means that some of the necessary legal adjustments and practical measures have already been undertaken. However, only half of the work has been done.

As pointed out by the European Commission, further harmonization of the law is necessary. In this respect, Croatia should completely align its legislation with the EU *acquis* on the free movement of workers, focusing on the mutual recognition of qualifications and the removal of the remaining barriers, in order to achieve non-discrimination of EU workers. The Government should introduce measures to ensure effective implementation of the harmonized legislation in the form of national strategies, implementation plans involving all relevant state actors like ministries, state institutes, social partners, civil society, the judiciary and academia. In the knowledge-based and service-sector oriented EU economy it is necessary to have a competitive and mobile workforce. Hence, Croatia should stimulate further education and training in order to obtain more competitive highly skilled professionals with an improved position on the EU labour market. In this regard, it is necessary to mobilise the resources for education and training by the private sector (companies), by the public sector (government, ministries) and by using available pre-accession EU funds.

A request by the EU for a transitional period before the full free movement of workers is another challenge Croatia will face during accession negotiations. Since all the smaller and economically weaker countries that have joined the EU to date had to go through a transitional period for their workers, it is prudent to expect that Croatia will also have to accept one. Consequently, during the negotiations, a transitional arrangement similar to that of the last enlargement could be offered to Croatia. Therefore, before the beginning of the accession negotiations, the Government should prepare negotiating teams with experts who possess specific knowledge of this area, combined with the necessary negotiating skills. Accession negotiations give a perfect opportunity to negotiate the best possible transitional arrangement. During the accession negotiations, Croatia should try to negotiate such an arrangement using examples of the NMS showing how this is possible. The transitional arrangement agreed with the NMS could influence Croatia by affecting the actual movement of Croatian workers. Due to transitional arrangements, the movement between NMS might increase and in some countries it might cause a reduction of the number of workers from non-EU countries. On the other hand, further economic development and the progress of Croatia in accession negotiations will reduce the need for Croatian workers to migrate. In this sense, the transitional arrangements can influence Croatia only to a certain extent.

In order to enable active public participation in the whole process of negotiations and for widely-understood information about the requirements for working in a particular member state, the Government and the media should regularly inform the public about the state of negotiations of this chapter. Specific professions (lawyers, doctors, dentists, architects) have already expressed their interest in the influence of EU accession to the exercise of their professions. Taking this into account, the relevant state bodies, when preparing for the negotiations, should try to consult the professional associations and keep them informed about the rules that will apply to them.

From everything explained above, we can conclude that there will be benefits both for Croatia and for the EU in terms of creating more jobs and reducing the unemployment rates. It is true that there will be some limitations on workers from Croatia, due to the transitional arrangement that the EU will most probably request. However, it is also true that in the long run the anticipated benefits will prevail.

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- i *New member states include the countries that joined the EU on 1 May 2004 – the Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovenia and Slovakia.*
 - ii *On 25 June 2004, the Intergovernmental Conference accepted the proposed Draft Treaty establishing a Constitution for Europe. The provisions on the Free Movement of Workers have been somewhat modified, so if the Treaty is accepted in all member states, these new provisions will apply.*
 - iii *For instance, Directive EEC 360/68, Regulation EEC 1612/68, Regulation 1251/70 and Directive EC 38/2004.*
 - iv *The most important cases in the ECJ include: Hoekstra v. Bestuur der Bedrijfsvereniging voor Detailhandel en Ambachten (1964), Levin v. Staatssecretaris van Justitie (1982), Lawrie-Blum vs. Land Baden-Württemberg (1986), Union Royale Belge des Societes de Football Association v. Bosman (1995), Rudy Grzelczyk v. Centre Public d'Aide Sociale d'Ottignes-Louvain-la-Neuve (CPAS), (2001), Craig de Burca (1998:678, 757-762).*
 - v *Report on the implementation of the Commission's Action Plan for Skills and Mobility, COM (2004) 66 Final, 37.*
 - vi *Other measures: Development of European Employment and Social Policy, creation of National Employment Action Plans, European Employment Strategy.*
 - vii *In Germany the number of temporary migrant workers reached 250,000 in 2000.*
 - viii *The biggest labour potential in Austria and Germany could be expected from Poland.*
 - ix *EU did not request a transitional period only in the case of the economically more prosperous new members like Austria and Sweden and in the last enlargement for Cyprus and Malta where the possibility of labour migration is very low.*
 - x *The safeguard clause means that the member states that initially opened their labour markets can later introduce new restrictions with the authorisation of the European Commission if their labour markets are threatened or experience serious difficulties.*

- xi Although this text does not deal with mutual recognition of qualifications, it is important to note that Croatia will have to adjust its legislation with the EU rules on mutual recognition.*
- xii Regular Reports on Bulgaria's and Romania's Progress towards Accession to the EU, 2003.*
- xiii The procedure on ratification of the SAA finished on 13 December 2004 with the Council of Ministers decision on the conclusion of the SAA. It is expected that the SAA will enter into force on 1 February 2005 in accordance with the Article 129 of the SAA.*
- xiv The Opinion of the European Commission on the Application of Croatia for Membership of the European Union, April 2004.*
- xv This is also caused by the enlargement and the pressure of Hungarian, Polish and Slovene workers on Germany.*
- xvi Decision on the establishment of annual quota for the employment of foreign workers for the calendar year 2004 (NN 57/04).*
- xvii The data was used from the Central Bank of Bosnia and Herzegovina because there were no ILO statistics available. Consequently, the methodology used here is different and this data cannot be compared with the unemployment rates of other countries for which the ILO methodology was used.*

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