

The free movement of Europe's citizens in question

By [Gérard Cornilleau](#)

The British election has reignited the debate on the free movement of EU citizens within the Community. The fact that in less than 10 years the number of people originating from Central and Eastern Europe (mainly Bulgaria and Romania) has increased tenfold in the UK, rising, according to Eurostat, from 76,000 in 2004 to 800,000 in 2013, is undeniably behind this new unease around intra-European migration.

Further fuelling this debate over permanent migration is the issue of the free movement of seconded workers who travel to take up jobs in a country other than their country of residence with no justification other than the possibility of reducing labour costs by avoiding paying social security contributions in the host country.

EU legislation on the movement of citizens within the Community is ambiguous. On the one hand, workers have an absolute right to free movement, but this right is limited for the inactive population because in principle it should not lead to social expenditures by the destination States. European populations must thus remain socially connected to their State of origin. In theory, "social benefits tourism" is impossible, and not only are the Member States in no way compelled to take in hand intra-EU migrants, they are even entitled to expel them if their stay lasts more than 3 months and does not exceed 5 years. This was the holding of the European Court of Justice in a ruling on 11 November 2014, in the Dano case, named after a Romanian national living in Germany who was denied social assistance for herself and her son. The European Court held that she could not herself meet her own needs or those of her family and she was not looking

for work. In these circumstances she did not have a right to residence in Germany or to the benefits of social assistance. The European Court recalled that European legislation on the freedom of movement was aimed at preventing EU citizens from other Member States from becoming an “unreasonable” burden on the social assistance system of the host Member State.

The available data on migration between European countries are relatively disparate and often incomplete. What is known is that there is little migration of inactive people who may be motivated by the pursuit of non-contributory social benefits. The same is essentially true for the migration of active workers. Europe remains in effect partitioned into linguistic blocs that limit the permanent movement of people between countries. Compared to the geographic mobility seen in the United States, the European Union is characterized by a low level of internal migration. While the statistics are not definitive, current assessments indicate that in the 2000s internal mobility was about 10 times lower in Europe than in the US: between 0.01 and 0.25% of the population of EU countries immigrated annually in the major European countries, in contrast to 1 to 1.7% in the US[\[1\]](#). Since then, population movements have, it seems, increased a little in Europe while slowing in the US, but there has not been the kind of turnaround that would call into question the diagnosis that there is structurally less mobility in Europe.

As for the migration of inactive people, which is provoking fear of an increase in “benefit tourism” motivated by the search for generous non-contributory social assistance, the available data show that the potential for this is extremely low. A recent report for the Commission[\[2\]](#) estimates the population of non-active intra-European migrants at between 0.7% and 1% of the overall population in the major countries. Consequently, the share of social benefits paid to the corresponding population is extremely low. As a significant proportion of inactive migrants consist of students and

retirees who have a sufficient income, the issue of benefit tourism therefore seems merely anecdotal.

While it is strict for the economically non-active, European legislation, which is very oriented towards free trade, promotes social competition between the Member States through a right to the secondment of workers from one country to another that is clearly too lax. This legislation was initially designed to promote the non-permanent mobility of corporate executives who wished to continue to benefit from the social security cover of their country of origin in the event of a long-term mission. But since the opening to Eastern Europe, some business sectors have made increasingly massive use of the possibility of hiring workers from other countries and paying low social contributions in the countries of origin, with no justification due to labour shortages or greater productive efficiency. In France, 10% of the workforce in the meat industry is now on secondment from other European countries. One hundred thousand construction workers, out of a workforce of 1.8 million workers, are in the same situation. Their labour cost is 20 to 30% lower than for nationals. In addition, due to the difficulty of checking on the payment of social contributions in their country of origin, many of these workers are in an irregular status. The Commission has of course proposed technical measures to more thoroughly verify the activity of the businesses seconding the workers as well as the payment of their contributions, but in all likelihood this will not be adequate to stem the strong growth of a movement that has its source directly in social competition.

What all these issues have in common is the demand for solidarity between European states, especially in deeds. Migratory movements, whatever their nature, tend to balance divergent developments in the labour market and the distribution of the population around the territory of the EU. There is no reason in principle to oppose greater mobility. On the contrary, given the current imbalances between European

countries, increased mobility should be encouraged – without, of course, abandoning the macroeconomic, monetary and fiscal policies that represent the most effective tool for combatting economic divergences.

But an accommodative policy on mobility implies a distribution of immediate costs that cannot be accomplished without at least a minimum of convergence in the systems both for providing support to those who are worst off and for sharing a certain amount of resources. Clarifying the rules on social competition is also essential.

To avoid having mobility motivated solely by the search for lower labour costs, the principle of equal treatment of workers within a given country needs to be applied strictly. This implies that in the case of secondments, the social contributions should be levied at the rate of the country in which the employee is actually working. The amount of the contributions collected by the social security and tax authorities of the host country could be returned to the country of origin. There are two possible scenarios: if the contributions received exceed those that would have been paid without the secondment, there is no problem in financing the benefits paid to the seconded employees. In the opposite case (employees of large corporations in the richest countries seconded to poorer countries), an additional assessment could be imposed by the country of secondment. The principle of equal treatment of local and seconded workers is compatible both with a lack of direct social competition and with maintaining the rights of employees.

Lowering the barriers to the free movement of all EU citizens would on the other hand be greatly facilitated by the implementation of a plan to bring about a convergence in minimum compensations, whether we are talking about wages or social welfare. The establishment of a European minimum wage and a European minimum income would eventually eliminate social competition and do away with concerns that migration

might be motivated solely by the search for non-contributory benefits. Furthermore, helping living standards catch up over the longer term would certainly be a way to strengthen confidence in the European Union project.

In the shorter term, solidarity between States must go hand in hand with loosening constraints on migration. This implies that States likely to take in citizens who are eligible for non-contributory social benefits should receive financial assistance from the Commission. This assistance could involve setting up a new European social budget that would cover the financing of a certain number of social minima. The EU budget could be increased by an additional 0.25 percentage point of GDP. Consideration should be given to whether a project like this for the partial Europeanization of social policy would benefit from such an increase in the EU budget. But other possible transfer mechanisms that would ensure financial solidarity between States for any non-contributory benefits paid to migrants could also be considered.

If we are to avoid States retrenching within their own borders and, ultimately, the long-term weakening of the European project, which was a *contrario* based on a desire for openness, it is undoubtedly time to revise a few principles and to establish a proactive programme for social convergence and for pooling the immediate costs that may result from mobility.

[\[1\]](#) See Mouhoud E.M and Oudinet J. (2006), "Migrations et marché du travail dans l'espace européen" [Migration and the labour market in the European space], *Économie internationale*, no. 105. Also see Xavier Chojnicki (2014), "Les migrations intra-européennes sont d'ampleur limitées et se concentrent sur les grands pays" [Intra-European migration is limited in scale and concentrated in the big

countries], *Blog du CEPII*, Post from 4 September 2014. For a fuller analysis, see Ettore Recchi, *Mobile Europe, The Theory and Practice of Free Movements in the EU*, Palgrave Macmillan, London, 2015.

[2] See ["Fact finding analysis on the impact on Member States' social security systems of the entitlements of non-active intra-EU migrants to special non-contributory cash benefits and healthcare granted on the basis of residence"](#), DG Employment, Social Affairs and Inclusion via DG Justice Framework Contract, Final report submitted by ICF GHK in association with Milieu Ltd, 14 October 2013.