

OPINIONS

COMMITTEE OF THE REGIONS

102ND PLENARY SESSION, 3-4 JULY 2013

Opinion of the Committee of the Regions on 'Frontier workers: assessment of the situation after 20 years of the internal market: problems and perspectives'

(2013/C 280/03)

THE COMMITTEE OF THE REGIONS

- notes that there is lack of reliable statistical data on "frontier workers";
- Insists that article 5 of the directive on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers (COM(2013) 236) be amended in order to allow member states to also designate transregional structures for the promotion, analysis, monitoring and support of equal treatment of all workers or members of their families;
- stresses that the national EURES-coordinations (to be put in place from 2015 onwards) should systematically engage in close cooperation with regional and local authorities;
- Draws moreover attention to the fundamental role of transregional advice and expertise bodies;
- regrets that the absence of coordination with regard to minimum wage regulations leads in particular in border regions to the risk of outsourcing of labour-force intensive industries and services and social dumping.

Rapporteur

Mr Karl- Heinz LAMBERTZ (BE/PES), First Minister of the Belgian German-speaking Community

Reference document**I. POLICY RECOMMENDATIONS**

THE COMMITTEE OF THE REGIONS

Cross-border labour mobility and its implications for the Europe 2020 Strategy

1. recalls that the Europe 2020 Strategy highlights both the positive impact of mobility on the European labour market integration and its effect on improving adaptability and employability of workers in the EU;

2. observes that the paradox situation of labour shortage in particular fields where there is a high long-time unemployment, in particular of low-skilled workers, requires more flexibility and mobility in European border areas;

3. stresses that, in particular, for young people mobility provides the opportunity to enhance own skills and knowledge and to gain new experiences. Accordingly, it strongly supports the initiatives of the European Commission focusing on young people, e.g. the European Youth Employment Initiative including the European Youth Guarantee scheme decided in March 2013, the flagship initiative "Youth on the move" or the pilot project "Your first EURES job";

4. highlights the social dimension of labour mobility and its contribution to the promotion of sustainable and inclusive growth;

5. welcomes the decision of the European Commission to modernise and improve EURES jobseeker mobility network that can help to increase mobility of workers across Member States. This reform should also help to facilitate mobility in border areas, where the highest mobility flows can be observed while further strengthening the existing EURES T networks;

Cross-border labour mobility after 20 years of the Internal Market

6. notes that since the adoption of the first opinion of the Committee of the Regions on frontier workers on 29 September 2004 new challenges, but also opportunities in relation to labour mobility have emerged;

7. welcomes the European Commission's proposal for a directive on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers (COM(2013) 236) which aims at enforcing Regulation (EU) No 492/2011 of 5 April 2011 on freedom of movement for workers within the Union. Considers that the legal peculiarity of proposing a directive to enforce a regulation which in itself is in principle subject to direct effect reveals the intensity of legal and administrative challenges remaining at the

level of national legislation and administration in the field of free movement of workers. Insists that article 5 of the directive be amended in order to allow member states to also designate transregional structures for the promotion, analysis, monitoring and support of equal treatment of all workers or members of their families. Requests that the CoR be included in the addressees of the report on the implementation of this Directive (Article 10);

8. welcomes the adoption of the Regulation (EU) No 492/2011 of 05.04.2011 on freedom of movement for workers within the Union, codifying Regulation (EEC) No 1612/68 that strengthens the rights of mobile workers while enforcing existing law;

9. acknowledges the positive impact of the Regulation (EC) No 883/2004 on social security coordination and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004, as last amended by the Regulation (EU) 465/2012, that simplified and modernised the Union law;

10. supports the initiative of the European Commission to better protect the rights of posted workers that constitute a considerable group of workers in some cross-border areas. The proposed directive on the enforcement of Directive 96/71/EC can help to reduce existing limitations in enforcement and improve the cooperation between the responsible national authorities. Recalls however its opinion of 29 November 2012 in which the CoR:

— considered that further targeted initiatives and actions were needed in order to counter effectively social dumping and fraud;

— regretted that substantive issues raised by case-law, especially those related to the extension of collective agreements, the extension of the "core set" of applicable rules, the use of a host country's more favourable provisions and the respect for fundamental social rights such as the right to strike had not been addressed by the proposed directive;

— proposed to ensure greater social responsibility on the part of employers and sub-contractors by introducing a provision limiting the number of sub-contracting levels;

11. recalls that more than one third of the EU citizens live in cross-border areas, where crossing the border on their way to a leisure activity, a cultural event or to work, is part of their daily life. Accordingly, legal and practical mobility obstacles are particularly challenging in these areas;

12. notes that there is lack of reliable statistical data on "frontier workers", i.e. according to the definition of regulation (EEC) No. 1408/71 "any employed or self-employed person who pursues his occupation in the territory of a Member State and resides in the territory of another Member State to which he returns as a rule daily or at least once a week". According to the "Scientific Report on the Mobility of Cross-Border Workers within the EU-27/EEA/EFTA Countries" elaborated for the European Commission in 2009, the number of cross-border workers amounted in the EU (including EEA/EFTA) in the year 2006/2007 to about 780 000 employees. For EU-15/EEA/EFTA the total number of frontier workers has increased by 26 % between 2000 and 2006/2007;

13. observes that most cross-border commuting streams are centred in North West Europe and in Southern part of Scandinavia. Also in some border areas along new internal borders (e.g. between Estonia and Finland, Hungary and Austria) the degree of cross-border labour mobility is considerable. The Association of European Border Regions published in 2012 a detailed report analysing the degree of cross-border labour mobility in different geographical areas that specifies the information and service needs of frontier workers;

14. states that the impact of the EU enlargement in 2004 and 2007 on labour mobility along the "old" external borders has remained moderate. The out-commuters from "new" Member States represent not more than 15 % of the cross-border workers in the EU. However, the inquiries for information on job opportunities and working conditions in the neighbouring country have risen significantly along the "old" external borders, in particular after the removal of all remaining labour market restrictions except for Bulgaria and Romania in May 2011;

15. shares the Commission's opinion ⁽¹⁾ that the number of mobile workers in Europe is too low, as to achieve a true European labour market. Indeed, according to the EU-Labour Force Survey, in 2011, only 3.1 % of the working-age European citizens (15-64) lived in an EU Member State other than their own. The Committee of the Regions believes that the number of cross-border workers could be higher, in particular if citizens could receive better and more reliable information and individual support. The trade unions could contribute specifically to this support, for example by defending workers in multinational employment. These objectives should be also reflected in the consultations surrounding the priorities for European financial programmes 2014-2020. The Committee also explicitly calls on the Member States to ensure sufficient financing of EURES priorities;

Mobility obstacles and challenges faced by mobile workers

16. welcomes the initiative of the European Commission launched in 2012 to examine tax measures for cross-border

workers. Tax obstacles remain major source of problems encountered by frontier workers that still have difficulties in getting tax benefits, relief and deductions that they would obtain if they didn't have the status of frontier worker;

17. views the complexity of rules coordinating social security systems as major challenge. It is hardly possible to reduce problems related to differences between social security systems in the EU, as the legislative and administrative rules at national levels constantly change and produce new challenges. Accordingly, the access to reliable and regularly up-dated information and to advisory services should be further improved. As the situation of frontier workers differs heavily from standard situations, frontier workers should have access to individual information. E-services are an important tool as well, but cannot replace personalised services;

18. states that there are often uncertainties referring to the question how to interpret and apply the existing legal foundations. Consequently, some problems often occur only because there is no general agreement in the public authorities on how to implement the corresponding law;

19. is aware that cultural obstacles, such as insufficient language knowledge cannot be overcome in the short-term. However, more targeted language trainings could help to change the attitude towards labour mobility. In addition, the establishment of mechanisms that promote vocational training internships and apprenticeships for both students and workers, are of key importance for the promotion of flexibility and mobility in European border regions;

20. notes that the lack of recognition of professional qualifications remains still an obstacle to the free movement of workers. In order to facilitate labour mobility the European Commission adopted in December 2011 a proposal modernising the Directive 2005/36/EC on the recognition of professional qualifications that introduces the European Professional Card and facilitates the access to information. However, in particular the regulated professions remain a challenge, as they require proof of specific professional qualifications according to national law. In such cases, the recognition procedures can be complex and differ heavily from one Member State to another;

21. the Committee fears that providing advice to workers and jobseekers would be less of a priority for EURES from 2015 onwards, because the focus would be on job matching and service provision for employers rather than on advice concerning social security, taxes and wage and working conditions. The Committee wants to emphasise that the task of advising workers and jobseekers should on the contrary be

⁽¹⁾ See Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: "Towards a job-rich recovery" (COM(2012) 173 final).

reinforced, for example by reinforcing the frontier information points for workers and jobseekers, and by providing the social partners with more possibilities concerning offering advice to frontier workers;

22. regrets that the absence of coordination with regard to minimum wage regulations leads in particular in border regions to the risk of outsourcing of labour-force intensive industries and services and social dumping. The Committee therefore calls for a European coordination of minimum wages to be elaborated with due respect to the respective labour market conditions and the role of the social partners;

23. observes that differences in wage and/or tax levels can be an incentive for businesses in border areas to move to the neighbouring country. The consequence for the employees is that they become involuntarily frontier workers;

24. expects the reforms towards an EU banking union to address the fragmentation of the capital markets which constitute a major obstacle for a fair level playing field for capital access of SMEs in border regions;

25. observes that differences in wage levels between "new" and "old" member states of the EU are sometimes conducive to the introduction of dumping salary rates and improper working conditions. This creates a particular challenge for the existing advisory services at the old external borders. The Committee calls on the Commission to ensure that frontier workers from countries with lower wage levels do not face discrimination in countries where wage levels are higher;

Facilitating cross-border labour mobility

26. recalls that the degree of cross-border labour mobility depends on different factors. Wage differences and better job opportunities are important determinants. Well developed regional and cross-border public transport networks and good knowledge of the language of the neighbouring country are also important factors facilitating cross-border labour mobility;

27. stresses that the national EURES-coordinations (to be put in place from 2015 onwards) should systematically engage in close cooperation with regional and local authorities;

28. believes that systematic cross-border cooperation between regional and local authorities is an important condition for drawing national bodies' attention to the issue of mobility obstacles and the attempts to overcome them;

29. emphasises the added value of information and advisory services available for frontier workers in European border and cross-border regions. There are more than 35 information points at regional/local level that provide individual advice

and information to cross-border workers. Their expertise and experience should be used at European and national level while working on problem solutions;

30. acknowledges the efforts of European border areas to facilitate cross-border labour mobility while looking for solutions to mobility obstacles. Several reports have been published that analyse in detail problems and challenges of frontier workers in specific cross-border regions (e.g. report on mobility obstacles of the regions Galicia/Norte de Portugal or the Region Sønderjylland-Schleswig). Draws moreover attention to the fundamental role of transregional advice and expertise bodies, such as the Task Force on frontier workers of the Greater Region SaarLorLux, which liaise with the social and economic transnational partners and with the political decision-makers at European and national level. Supports any effort invested into guaranteeing the sustainability of these bodies;

31. believes that the Community legal instrument, the European Grouping for Territorial Cooperation (EGTC), offers new possibilities to promote and facilitate labour mobility in the EU. Considering the fact that an EGTC usually employs staff from more than one Member State, the experiences of EGTCs in relation to legal and practical mobility obstacles could be used while looking for practical solutions;

32. acknowledges the commitment of the on-line services SOLVIT and Your Europe Advice that help European citizens and businesses to understand and defend their rights in the EU. SOLVIT receives every year more than 1 300 inquiries. This number could be still higher if it would be better known among the citizens and businesses in the EU; calls therefore on the Members States as well as local and regional authorities to raise awareness about the SOLVIT centres, especially amongst SMEs, and to increase the staffing of the SOLVIT centres so that they can deal with inquiries more quickly;

Recommendations of the Committee of the Regions

33. stresses that the existing counselling networks (e.g. EURES T, expert networks of Euroregions) and information points for frontier workers provide a unique service and strongly support the efforts of the European Commission to increase labour mobility in the EU. Accordingly, cross-border advisory services facilitating mobility, in particular those provided by local and regional authorities and by social partners, should be considered as a European task and should receive the necessary financial support;

34. calls upon the European Commission to monitor on regular basis the implementation of Community legislation on free movement of workers, non-discrimination and social security coordination in the EU Member States and to actively contribute to better protection of social rights of workers in the EU, while also underscoring the responsibility of all members States to step up checks to combat undeclared work. Also quantitative and qualitative data on cross-border labour mobility in the EU should be collected on regular basis in order to better respond to new developments and challenges;

35. recognises the important role of regional/local authorities while promoting labour mobility. The EU should use their experiences and know-how and elaborate in partnership with them joint concepts that would facilitate geographical mobility and help to create true European labour market;

36. supports the idea of cross-border monitoring of the labour market and the collection of reliable statistical material at regional/local level. The availability of adequate data is important while preparing integrated labour market strategies and political interventions responding to currently emerging tendencies;

37. believes that political dialogue at European, national and regional/local level, as well as dialogue with organisations

gathering employees and employers is indispensable to overcome the constantly emerging challenges, such as changes in the demographic structure or lack of qualified labour force;

38. proposes to launch a platform at European level that would identify the problems faced by frontier workers and draw up recommendations for solving them. The platform would guarantee the exchange of expertise, the use of possible synergies and would foster the dialogue with the responsible political and administrative bodies;

39. suggests to elaborate a compendium of most urgent mobility obstacles and problems with possible ways of solution that should be regularly updated.

Brussels, 3 July 2013.

*The President
of the Committee of the Regions*
Ramón Luis VALCÁRCEL SISO
