

Fair Mobility in Europe



by László Andor

**FRIEDRICH
EBERT** 
STIFTUNG

Social Europe Occasional Paper

January
2015

Fair Mobility In Europe

Threat or opportunity?

Free movement of labour and migration/immigration have been hotly debated recently, notably during election campaigns. Some of these discussions and even political initiatives ignore important facts and arrive at unrealistic, unpractical or unfair conclusions. This paper argues that labour mobility in the EU is an opportunity rather than a threat, and concludes, with practical examples, that a lot can be done without EU treaty change to manage migration better.

Mobility and its discontents

Labour mobility should be a win-win game for all involved. Workers have more job opportunities than they would have in a restricted geographical space. Companies can recruit from a wider circle than just from within their national boundaries. Receiving countries enjoy higher rates of growth; sending countries benefit from remittances - and a more experienced workforce once some of the migrants return.

In the real world, however, these advantages materialise in an imbalanced way and associated with various costs, tensions and controversies. Migration has transaction costs, families are disrupted, workers become vulnerable in a less well-known environment, people may end up in jobs for which they are overqualified, and the risk of undeclared employment may also increase.

For all these reasons, EU policy in recent years has not only aimed at “removing barriers” but also at creating greater transparency in the labour market and improving the legal framework. A prime goal has been to help member states, regions and municipalities deal with the aftermath of tensions related to mobility either on the sending or the receiving side.

More and more workers on the move

The EU was bound to have more discussions on mobility than before since the volume of labour mobility has practically doubled following the enlargements to the east of 2004 and 2007 (although leading only up to about 3 per cent of the total EU labour force working in a Member State outside their country of origin).

Disparities in wages have been assumed to be and also observed as a main factor driving labour mobility but other shorter-term factors such as the level of unemployment, the availability of vacancies, political developments, social cohesion, and the overall expectations concerning all of these play a role.

The post-2007 financial crisis (and especially the 2009 recession) reduced mobility temporarily but affected the directions of population movements in Europe. South

to north migration has markedly increased while remaining far below east to west mobility in absolute numbers. People do not only migrate from the Eurozone periphery to the northern EU countries but also to non-EU countries where language connections make it easier to start a business or get a job.

With increased migration from south to north, the profile of migrants has also changed. The new migrants tend to have higher levels of education and they are less likely to be overqualified for the job they get than their eastern European peers.

Equal rights for all?

Coordinating social security and ensuring that all mobile workers are fairly covered is a key element in our approach if one is to preserve mobility as a win-win game. In the EU, one cannot defend the right of workers to free movement without ensuring that mobile workers don't lose social security coverage and don't end up in inferior or outright discriminatory jobs.

If the concept of EU citizenship means anything, then the adult population cannot be separated on the one hand into migrants who are only entitled to income from employment (plus perhaps some work-based benefits) and on the other hand nationals (with income from employment and all types of benefits, including tax credits, housing benefit etc.).

This, however, does not mean that there should or would be free movement between different welfare systems. The access to social benefits in a country other than your country of origin is strongly linked to employment. EU law does not oblige member states to support citizens of other countries if they have not worked there, unless they are a family member of a worker or "habitually resident" in the host country - a status gained only by meeting strict criteria.

That social rights cannot be detached from mobile labour in the European Union has also been demonstrated in the debates on posted workers, especially since enlargement to ten east European countries. Posted workers are sent to another country to work by their employer on a temporary basis. By definition, they are not integrated into the local labour market and society, and therefore their social security arrangements remain within their home countries.

Abuse and controversy

The regulatory framework of 'posting' is special because it is based not on the free movement of people but on the freedom to provide *services*. Since these differences gave rise to various forms of abuse and controversial practices, the European Commission in 2012 put forward an enforcement directive, which was adopted two years later.

Better enforcement of existing rules can help eliminate abuse and prevent controversies in other fields. If, for example, companies use their power to prevent

EU migrants from organizing, there should be intervention to stop such abuse. If some employers abuse the Temporary Agency Work Directive and make workers “redundant” after three months in order to avoid equal treatment requirements, there should be ways to sort this out.

The point is that it is equal treatment, including ensuring equal social rights, that creates fairness, and not the opposite. However, it is one thing to defend the right to free movement (together with associated social rights) as something that belongs to all citizens, and another one to manage migration better. Working on the second should be possible without calling the first into question.

The UK confuses itself – and all others

There are many debates in Europe about the free movement and migration but the UK debate is by far the most vivid. However, it sometimes brings more confusion than clarity. Viewed from the continent, the UK debate seems distorted and unfair for many reasons.

First, the mainstream parties are failing to resist the pressure from UKIP (UK Independence Party), which portrays EU migrants solely as a burden economically and socially. It’s a well-known fact, however, that EU migrants are more likely to be in employment than the domestic population, and also significantly more so than non-EU migrants. The adjective “hard working” is often preserved for the indigenous population to contrast it with (“lazy”, “scrounging”) EU migrants.

The employment of workers from other EU countries is regularly discussed in the context of “immigration” ignoring the different legal base for entry and employment of EU and non-EU workers and hiding the incontrovertible evidence that the UK has consistently received more “immigrants” from non-EU countries than from the EU.

The migrants are changing

Many people have lived with large numbers of Polish “immigrants” but recent discussion often (especially one year ago when transitional arrangements expired) focused on Romanian and Bulgarian citizens. No explanation is ever given that RO/BG citizens cannot be expected to arrive on a comparable scale to that of Poles. Speculative discussions and actual proposals often simply linked immigration to the (past and future) enlargements of the EU without mentioning that the recent rise in migration is from the crisis-hit southern region of the Eurozone.

Another argument is that, when EU leaders drew up the initial rules, they were not expecting the EU to be so large and diverse. Yet the EU directive that regulates free movement and social security coordination was adopted as late as the 29 April 2004, just a few days before ten countries joined the EU.¹

Reciprocity is virtually absent from most immigration debates in Britain, which ignore the very high numbers (1.8 - 2m) of British people working or living in other EU countries. Curiously, it is sometimes mentioned that a comparable number of British people receive unemployment benefit on the continent than other EU nationals in the UK, but such facts never impact on the debate, which is driven by emotions, and more precisely, prejudice.

Ratcheting up the UK policy response

The UK's experience of exceptionally high levels of immigration in the last two decades has produced a government commitment to reduce the overall numbers coming in. Such targets, however, would not have emerged without the increasing popularity of UKIP, which created a link between anti-EU and anti-immigration sentiments and politics.

Given the unexpectedly high levels of (mainly Polish) immigration from Eastern Europe, and the importance of the free movement principle for the EU in general, UKIP managed to instrumentalise migration in order to serve their overall anti-EU campaign.

While UKIP demands direct controls, a ceiling, over how many other EU citizens can work in the UK David Cameron's recent proposals (28 November 2014) focus instead on the conditions and circumstances of residence and employment. This more practical (rather than ideological) approach recognises that Germany and other countries would be highly unlikely to agree with arbitrary limits on EU labour mobility but it comes at the cost of presenting discrimination against EU migrants as a possible way forward. Migrant workers already have fewer entitlements than UK citizens, but are now expected to accept further discrimination, e.g. that they would not get child benefit if their children did not live with them, despite paying the same taxes and social security contributions as indigenous workers.

Push and pull

This new UK effort at mainstreaming discrimination is consistent with its recent official position on the posting of workers. The UK was reluctant to agree with a new directive put forward to improve enforcement of the existing EU safeguards against social dumping. However, it is easy to conclude that if workers from poorer regions are not treated equally - even if employed side by side with native employee - it is even harder to address concerns about either social cohesion or the so-called push factors that encourage many to leave their home region.

Though the philosophy of the "Cameron package" is mainly about weakening the *pull* factors for migration, the UK could have done (and still could do) more to weaken the *push* factors. Unfortunately, the coalition has been doing the opposite. Up to 2011, the UK government rightly spoke about the "remorseless logic" of the Eurozone's need to move towards fiscal union in order to exit the current crisis. Since then it has sided with a different argument in the European Council, focusing

on “competitiveness” and pushing for internal devaluation in deficit countries, thus contributing to recession and high unemployment – that, in turn, result in the recent rise of migration from south to north.

Together with three other countries (Germany, Netherlands and Sweden), the UK was also behind the successful effort to cut the EU budget and, crucially, funding for a cohesion policy, which is the key instrument for creating economic activity and employment in the less developed EU countries and regions. That’s an own goal in the migration debate.

Ensuring fair mobility in the EU

Despite occasional controversy, scepticism, animosity and even welfare chauvinism, the EU has maintained a positive attitude towards labour mobility, beyond simply insisting on the right to free movement. The European Commission’s April 2012 Employment Package outlined the vision of a genuine pan-European labour market; in a supplementary Youth Employment Package (December 2012) it repeatedly highlighted the potential benefits of cross-border mobility.

By ascribing a strategic importance to labour mobility, the European Commission confronted two common fallacies. One is that immigration might be a cause of unemployment, and the other that labour mobility can play a dominant role in addressing imbalances within the EU and especially inside the Eurozone.

In the wake of the employment package, several initiatives have been launched to tackle problems arising from closer labour market integration in the EU. Proposals were made to create a cross-border network of Public Employment Services, to reinforce EURES (the EU employment service and its website), and to establish a EU platform against undeclared work (this may turn out to be an initial step towards an EU labour inspection agency).

Three important legislative achievements point towards a better functioning European labour market. First, a directive about the exercise of the rights of mobile workers (adopted April 2014), then a directive about the portability of occupational pensions (adopted April 2014), and, finally, an enforcement directive about the posting of workers (adopted May 2014).

While at EU level the focus has been on improving the legislative framework and the institutional infrastructure of mobility, member states also responded actively to local challenges. The German government established a fact-finding committee and mobilized national resources to help affected cities and regions. In the Netherlands, we have seen a big effort to combat undeclared work.

The UK is not the only one

These examples show that it is not only the UK where experts and politicians have been thinking about ways to manage migration better. They also prove that there is scope for steps that can be made within the strictly national context without questioning the right to free movement and without opening the door to discrimination.

There is also scope to manage migration and mobility better at the EU level. However, for that, mobility has to be analyzed in a broader context of imbalances and convergences. New proposals can be built on various ideas and suggestions that have already been adumbrated in recent years. They are partly of a legal and partly of a financial nature.

Portability of unemployment benefit

First, EU law could provide greater clarity in the coordination of social security regimes to help both job-seekers and the receiving countries at the same time. For instance, since May 2013, the European Commission has been floating the idea of creating a rule that migrant job-seekers are covered by unemployment insurance for a standard period of, say, six months² after losing a job. Currently, member states can choose anything between 3 and 6 months, and most migrant job-seekers turn to their host state for support.

A more uniform rule about portability - receipt of benefit from the Member State where the person lost their job even if he/she lives or seeks work in another - would be better understood by job-seekers as well as by the Member States. Of course one would not rely on Slovak unemployment benefit when looking for a job in Germany, and not even on Danish benefits when making similar efforts in Croatia. Nor does this imply that benefit levels need to converge.

Nevertheless, a new rule could address concerns about the fairness of supporting foreign job-seekers, while avoiding the problems that arise when someone is not covered at all while being unemployed abroad. A harmonisation of this type would also raise questions about the models of countries, like Hungary, where the duration of unemployment benefit is too short (90 days only in the Hungarian case). It is with such incremental changes that the legislation of Social Europe is built.

Looking further ahead

The portability of unemployment benefit should not be confused with the concept of an EMU unemployment insurance scheme. The first applies to the EU as a whole, while the second, as a fiscal stabiliser, would make sense for the Eurozone (and for others on a voluntary basis). The first would certainly not need Treaty change, while in the case of automatic fiscal stabilisers it depends on the model chosen.

However, the idea of EMU unemployment insurance is not irrelevant even for the UK, and it should be seen in a positive light. This would act as a mechanism to stabilise support for the unemployed in countries experiencing a downturn inside the Eurozone, thus also sustaining aggregate demand and, through that, the overall growth and employment potential would improve - encouraging and assisting lower skilled, lower income workers to find employment locally.

An EU migrant fund to boost integration

Another widely-discussed idea is that there should be a European fund to support migration. This seems all the more relevant since, as preliminary results of recent research by Eurofound on the impact of mobility on public services revealed, integration costs and other problems arise mainly at a subnational level, within local communities.

Municipalities may need more support to integrate children of migrants or to prevent/deal with various social problems. While, for example, homelessness did not emerge with EU enlargement in the UK and other richer countries, it is true that migrants are over-represented among the homeless. Some additional fiscal and institutional capacity would certainly improve the prospects for many of these migrants to remain in (or return to) decent employment.

The reality is quite contrary to the popular assumption that poorer migrants are free-riding on the welfare systems of the receiving countries. The point is not to spend more on poor migrants but to invest in ensuring that all working age EU migrants can participate in economic activity.

Getting the budget priorities right

In reality, there is a EU fund to support EU migration - the European Social Fund (worth about 8 per cent of the EU budget) and the European Commission has been actively encouraging member states to use the ESF for the purpose of easing integration into the labour market and society. When the new EU budget was drafted in 2011, the Commission did not propose a separate fund for managing migration because the need to do so was not voiced (even by the UK). It was also the case because the general philosophy has always been to keep the ESF a universal fund whose main spending priorities can be defined by beneficiary countries and regions themselves.

On the other hand, there are examples of compartmentalisation within the ESF such as the Youth Employment Initiative, which is an envelope created to support the introduction of the EU wide Youth Guarantee. If member states want to have a migration fund as many have advocated, then the half time budget review of the 2014-7 MFF might indeed be the time to create one supporting those communities that take in higher numbers of migrants.

Solving the problems best at home

Push factors are often discussed when people contemplate ways to bring more fairness into mobility inside the EU. And this is not wrong, since these factors prevailing in countries of origin and affecting potential migration are not entirely exogenous in Europe. The EU should not restrict free movement, but should strive to reduce the number of people who want to migrate out of despair. The stronger the role professional ambition plays in migration (as opposed to economic and political ones), the greater chance we have to improve both the quality of and satisfaction with mobility.

Indeed, more can be done to ensure that the EU financial instruments available for creating prosperity and opportunities in less developed regions are used better and more efficiently and thus reduce migration push-factors. It is not true that it is primarily in the new member states where there are problems with the absorption of EU funds - though it is the case that, in countries such as Romania, neither the speed nor the quality of absorption has been encouraging. Better absorption of EU funds on the EU (and Eurozone) periphery would certainly help create prosperity locally and reduce incentives for mobility.

Those who make a close connection between the use of EU funds and migration often ask the question if the unused funds could be diverted to the countries of migrants' destination in order to help their integration there. It is better to avoid this by ensuring there is a more effective method for managing funds than under conventional shared management. A MFF review could establish a system of direct management that could be introduced (well before the threat of taking funding away) when it is shown that the management system of the beneficiary member state is falling down.

Cooperative change that makes a real difference

Treaty change is not necessary for new measures to ensure that labour mobility functions better in the EU and is seen in a more positive light. The examples discussed above show that there are constructive ways to think about improving the conditions of migration and the outcome of labour mobility in the EU. "Constructive" does not mean purely insisting on the status quo and the inherited body of labour law and social security coordination. It means ensuring fairness for all: old and new member states, home and host countries, job-seekers as well as employers.

Beyond mobility, people will only agree with EU cooperation if it is perceived to be fair for all. But fair solutions can only be reached if the analysis and the debates are free of distortion and manipulation. Political leaders should use convincing arguments rather than issue ultimatums when setting priorities, announcing new initiatives and choosing policy instruments.

While elections often produce new ideas and commitments, new proposals only stand a chance in the EU policy-making process if they are evidence-based, supported by sound analysis and not made up on the back of an envelope.

-
- 1 European Parliament and Council [Directive 2004/38/EC](#) about the right of citizens of the Union and their family members to move and reside freely within the territory of the EU and EEA member states.
 - 2 A six-month stay is allowed in a country by free movement rules, but having just three months income leaves a hole in the system. This hole could be eliminated without treaty change.

László Andor is Senior Fellow at the Hertie School of Governance in Berlin. He served as EU Commissioner for Employment, Social Affairs and Inclusion from 2010-2014. Between 2005 and 2010, he was a member of the board of directors at the EBRD in London.

After graduating from Karl Marx University of Economic Sciences (Budapest) in 1989, he studied in Washington and Manchester. He has been Associate Professor at the Department of Economic Policy (Corvinus University) since 2000 and also taught at Rutgers in the USA.

He was editor-in-chief of the quarterly social science journal Eszmélet, and also a regular columnist for the weekly Figyelő and the daily Népszava. He is one of the trustees of the European Studies Foundation in Budapest and Doctor Honoris Causa of Sofia University of National and World Economy.

© **Social Europe 2015 / Published in cooperation with FES London**

Social Europe (SE) is a forum for debate and innovative thinking. We use the values of 'Social Europe' as a viewpoint to examine issues in politics, economics and employment & labour and are committed to publishing cutting-edge analysis and new ideas from the most thought-provoking people.

Since its founding, SE has published writers of the highest calibre including several Nobel laureates, international leaders and academics as well as some of the best young talent.

www.social-europe.eu