



LIECHTENSTEIN-INSTITUT

19 May 2016

Labour mobility and migration in Europe

Christian Frommelt

christian.frommelt@liechtenstein-institut.li

© Liechtenstein Institute, 2016



Structure

- labour mobility – importance and controversy
- theoretical and empirical challenges
- facts about labour mobility
- instruments of EU policy
- safeguard clauses
 - EU
 - EEA
 - Liechtenstein
 - Switzerland
 - New settlement for the United Kingdom



Labour mobility as an intertwined EU policy

- free movement of persons - cornerstone of the EU in general and the EU's Internal Market in particular
- one of the most popular accomplishments of the EU (but also a concern for many EU citizens)
- political and economic device to achieve the EU-2020 goals of smart and inclusive growth
- linkages to various other policies



Labour mobility – Why is it important?

- labour mobility is likely to decrease ...
 - ... unemployment disparities across the EU's Internal Market
 - ... labour shortages and skill gaps (host country)
 - ... the burden on public accounts (sending country)
- labour mobility is likely to increase ...
 - ... competitiveness of the national economy (host country)
 - ... range of services available (host country)
 - ... job opportunities for individuals
 - ... working skills and experience of individuals
 - ... cross-border remittance
 - ... development of common identities (diffusion of norms and ideas)



Labour mobility – Why is it controversial?

- labour mobility may be associated with ...
 - ... cultural threat
 - ... competition for jobs
 - ... competition for public services
 - ... abuse of social benefits (welfare tourism)
 - ... social dumping (wages and working conditions)
 - ... the burden on public accounts of EU member states (sending country)
- labour mobility may lead to ...
 - ... loss of trust in politics
 - ... loss of public support of European integration



Theoretical and empirical challenges [1]

- economic impact of intra-EU labour mobility (European Commission 2013)
 - Intra-EU labour mobility is too low; too low to support the single labour market and too low to rebalance the euro area after the crisis.
- migration – integration paradox (Toshkov and Kortenska 2015)
 - While EU-internal mobility is necessary for successful economic and societal integration, it may undermine the dynamics and legitimacy of European integration through unintended political effects.



Theoretical and empirical challenges [2]

- contact hypothesis (Allport 1954)
 - Direct contact with people from a different racial or ethnic group will tend to decrease prejudice and negative predispositions and promote mutual understanding *given some conditions*.
- divergent perception (Citrin 2007)
 - People overestimate the size of immigrant communities living in their countries and individuals who tend to overestimate their country's share of immigrants compared to others tend to perceive more negative consequences from the presence of immigrants and prefer lower levels of immigration to their country.



Facts about labour mobility [1]

- almost 8 million EU citizens (3.6 % of total labour force)
- over 1 million cross-border or frontier workers
- over 1 million posted workers
- redirected flows away from the periphery due to the economic and financial crisis
- outflows from countries affected by crisis (e. g. Spain, Ireland) and return flows to eastern member states
- high number of immigrants in the EFTA states
- mobile EU citizens are rather young and highly educated
- most intra-EU mobile citizens still come from the Central and Eastern European countries

Source: statistical data is based on Eurostat (migration and population statistics; Labour Force Survey)



Facts about labour mobility [2]

- push-and-pull model to explain migration flows
 - push factors: e. g. high unemployment, worsening political environment etc.
 - pull factors: e. g. language, wage differences, state's economic performance
- net contributors to the host countries' welfare systems
 - higher rate of employment (but also unemployment)
 - higher rate of economic activity
- mobile EU workers are often overqualified

Facts about labour mobility [3]

- overall labour mobility is low (particularly in euro area)
 - possible obstacles: languages, cultural differences, dissimilarities in education systems, lack of cross-border personal ties
- cannot significantly alleviate economic shocks or restore the growth potential
- uncertainty about long-term economic effects of labour mobility – (possible negative effects: due to the so-called “brain drain” negative effects are more likely to occur in the sending country)

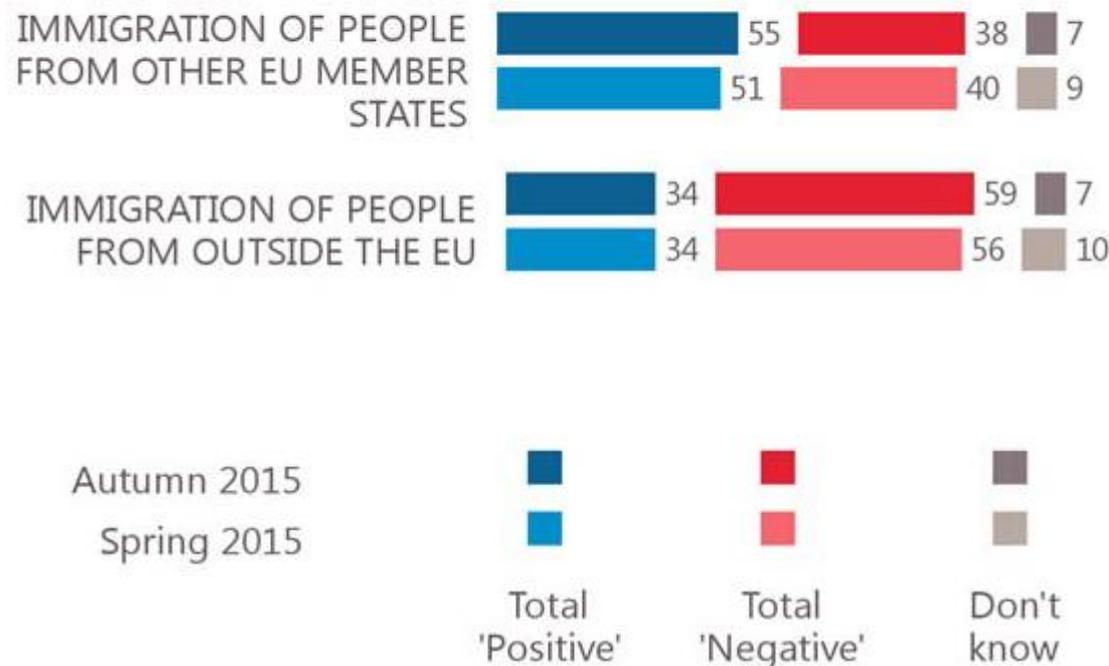
Public attitude Eurobarometer (2015) [1]

- immigration most important issue facing EU in 2015 (58 %)
 - steady increase over time – rapid increase compared to spring 2015
 - highest level in Estonia, Czech Republic, Denmark and Germany – lowest in Spain
- immigration also most important issue at national level (36 %)
- positive attitude towards immigration from EU but negative about immigration from outside the EU
- majority prefers measures at national and EU level (if restricted to one level, then more support for EU level)
- strong support for a common European policy on migration

Source: Standard Eurobarometer 84, November 2015

Public attitude Eurobarometer (August 2015) [2]

QB4 Please tell me whether each of the following statements evokes a positive or negative feeling for you.
(% - EU)



Source: Standard Eurobarometer 84, November 2015

Labour mobility: legal and political framework

- free movement
- EU Social Security Coordination
- recognition of professional qualifications
- networks and mobility programmes, EURES (European Job Mobility Portal)
- fair labour mobility



European Agenda on Migration: goals

- reducing the incentives for irregular migration
- saving lives and securing the external borders
- strong asylum policy
- new policy on legal migration – strengthening of already established instrument (e. g. mobility partnership, blue card directive etc.)



Safeguard clauses

- Treaty on the Functioning of the European Union
- EEA Agreement
- Free Movement of Persons Agreement (FMPPA) between Switzerland and the EU
- EU Enlargement Treaties
- “new settlement” for the United Kingdom in the EU



Safeguard clauses: EU

- Treaty on the Functioning of the European Union (Art. 45)
- limitations justified on grounds of public policy, public security or public health



Safeguard clauses: EEA

- safeguard measures according to the EEA Agreement (Art. 112 to 114)
 - serious economic, societal or environmental difficulties
 - restricted with regard to scope and duration (strictly necessary)
- safeguard measures by Liechtenstein might be justified (EEA Council 1/1995) in case of ...
 - an extraordinary increase in the number of nationals from the EU or the other EFTA States (compared to resident population)
 - an extraordinary increase in the number of jobs in the economy (compared to resident population)
- (unilaterally) activated in 1997 (just before transitional period would have ended)

Safeguard clause and transitional periods: Switzerland – EU

- Safeguard clause based on FMPA Art. 14
 - serious economic or social difficulties
 - decision by the Joint Committee
 - restricted with regard to scope and duration
- Transitional periods based on FMPA Art. 10
 - maintain quantitative limits in respect of access to an economic activity (five years)
 - maintain controls on wage and working conditions (two years)
 - slight adjustments in the Additional Protocols (EU enlargement) – legal bases of the so-called “Ventilklausel”

Safeguard clause and transitional periods: EU enlargement

- Act of Accession: member states may temporarily restrict the access to labour market
- overall transitional period lasts seven years and is divided into three phases 2-3-2
- final extension only if threat of serious disturbances to labour market (e. g. Spain and Romania)
- member states can lift restrictions at any time
- restrictions may be reintroduced later (if serious disturbances) – however: they irrevocably end after seven years (e. g. Croatia 30 June 2020)



Liechtenstein's special solution: implementation

	Economic activity	No economic activity	Family reunification
EEA national	28 permits from the Liechtenstein government/ 28 permits by draw (equal chances)	8 permits from the Liechtenstein government/ 8 permits by draw (equal chances)	no quotas and ceilings (EU law)
Swiss national	12 permits from the Liechtenstein government	5 permits from the Liechtenstein government	no quotas and ceilings (EU law)
Third country national	6 permits from the Liechtenstein government		permit is required

Liechtenstein's special solution: explanation [1]

- specific situation of Liechtenstein
 - high share of foreigners (vital interest to maintain own national identity)
 - specific geographic situation with small inhabitable area of rural character
- institutional restrictions
 - non-discrimination (also across policy sectors); equal chances (draw); no national priority
 - “temporarily limited” (at least formally) – regular evaluations as well as control of application by EFTA Court and EFTA Surveillance Authority
 - dynamic incorporation of new EEA relevant EU law



Liechtenstein's special solution: explanation [2]

- political context
 - small but willing to actively participate in European integration
 - gradual consolidation
 - very successful bargaining (package deal and use of EEA institutional framework)
 - little political relevance of Liechtenstein
 - no bilateral agreement – sectoral adaptation to EEA Agreement



Swiss initiative against mass immigration (February 2014) [1]

- majority of Swiss voters (50.3 %) and cantons (14.5 out of 26) voted in favour of the initiative “against mass immigration” (MEI)
- implementation may lead to a denunciation of the Free Movement of Persons Agreement (FMPA)
- automatic denunciation of the 6 other bilateral agreements plus most likely the Schengen-Dublin association agreement
- ongoing discussion about implementation
 - (i) a strict literal interpretation
 - (ii) a more flexible approach in the sense and spirit of the constitution
 - (iii) no implementation (e. g. due to another popular vote)

Swiss initiative against mass immigration (February 2014) [2]

- basic political attitude as the decisive factor
- rejection was positively correlated with ...
 - support for isolationist foreign politics
 - scepticism against foreigners
 - importance of tradition and national identity
- no statistically significant impact of individual “concern”, i. e. no effect of habitat density and population growth
- no divergent vote by border region (except Ticino)
- urban regions versus rural regions (but also difference between city and conurbation)

Requirements of the new Art. 121a

- number of foreigners in Switzerland has to be limited through ceilings and quotas
 - includes access to social benefits
 - right of family reunification
- treaties in contradiction with the new article have to be renegotiated within a period of three years
- national priority
- cross-border commuters



Current proposals from Switzerland (Ambühl and Zürcher 2015)

- for non-EU states: fixed quotas and national priority
- for EU states: general freedom of movement without fixed quotas or a national priority but with a safeguard clause for exceptional cases (i. e. excessive percentage of net migration)
- also unilateral application proposed (but not accepted by Swiss Courts – legal precedence of FMPA)
- for Switzerland: accompanying internal measures that (i) lower the demand for foreign workers and (ii) reduce negative consequences of immigration
- signature of Protocol III (extension of the FMPA to Croatia) (4 March 2016)



«New settlement» deal: four sections

- answering to demands of United Kingdom (see letter by David Cameron, 10 November 2015)
- Conclusions of the European Council Meeting (18 and 19 February 2016)
 - four sections:
 - economic governance
 - competitiveness
 - sovereignty
 - social benefits and free movement
 - «take it or leave» – self-destruction clause



Migration: amending of existing secondary legislation/safeguard mechanism

- Regulation (EC) No 883/2004 of the European Parliament and of the Council on the coordination of social security systems
- Regulation (EU) No 492/2011 of the European Parliament and of the Council on freedom of movement for workers within the Union



Interpretation of current EU rules

- coordination and not harmonization of rules on social security
 - broad margin of discretion to define and implement social and employment policy
 - access to welfare benefits
- existing limitations of free movement of workers on grounds of public policy etc.
- real and effective degree of connection to the labour market of host state (ECJ, Dano)
- right of residence as a “precondition” for access to social benefits
- prevent abuse of rights or fraud (e. g. marriages of convenience etc.)



New measures [1]

- indexation to existing claims to child benefits exported by EU workers
 - only to new claims
 - may apply to all EU member states (as from 1 January 2020)
 - no option to extend to other types of exportable benefits (e. g. old-age pensions)



New measures [2]

- safeguard mechanism in order to ensure functioning of in-work benefits system
 - situations of inflow of workers from other Member States of an exceptional magnitude over an extended period of time
 - including as a result of past policies following previous EU enlargements
 - member state would notify the Commission and the Council
 - essential aspects of social security system
 - difficulties in employment market
 - excessive pressure on the proper functioning of its public services



New measures [3]

- safeguard mechanism enables member states to:
 - limit the access of newly arriving EU workers to non-contributory in-work benefits
 - period up to four years
 - gradually increased access (growing connection of the worker with labour market of host member state)
 - limited duration (7 years)
 - no-discrimination compared to third country nationals



Summary

- migration and mobility as crucial issue of politics in general and European politics in particular
- migration and mobility as an ongoing challenge – mobilization, directing as well as controlling
- (European) political responsibility for fair and sustainable mobility and migration
- (domestic) political responsibility for correct implementation and application of EU law – certain leeway regarding access to social benefits
- (domestic) political responsibility for an objective debate



LIECHTENSTEIN-INSTITUT

**Thank you very much
for your attention!**

www.liechtenstein-institut.li

