



EUROPEAN COMMISSION
Impact Assessment Board

Brussels,
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Opinion

Title **DG EMPL - Impact Assessment on an initiative to support EU migrant workers in the exercise of their rights to free movement.**

(draft version of 6 June 2012)*

(A) Context

The freedom of movement for workers is one of the four freedoms on which the Single Market is based, along with the free movement of goods, services and capital. It is enshrined in article 45 TFEU and has been developed in secondary law through Regulation 492/2011, providing for a set of important and strong rights conferred on EU citizens who move to another Member State to work or to search for work. EU migrant workers and members of their families are not to be discriminated against as regards access to employment (with the exception of transitional periods for new Member States), conditions of employment, access to social and tax advantages, membership of trade unions, access to training, housing and education for children. However, a number of indicators appear to show that discrimination on the grounds of nationality takes place and that it may be on the rise in some Member States. This impact assessment therefore examines how the rights regarding free movement of workers can be more effectively enforced in practice.

(B) Overall assessment

The report needs to be improved in a number of respects. Firstly, the problem definition should be strengthened by more clearly describing the nature and scale of the problem. In doing so, the report should provide more details on the nationalities and host Member States most concerned and on existing tools at both national and EU level. It should also clarify what the effects on the functioning of the internal market are. Secondly, the report should present the initiative in the broader internal market context, particularly in relation to EU10 and EU2 enlargements and the current economic and financial crisis, as well as other EU policies. Thirdly, the design of the options should focus more on their content rather than form and all feasible combinations of measures should be presented up-front. In addition, the added value of the envisaged options and measures vis-à-vis the baseline scenario should be better explained. The impact on different stakeholders and notably on individual Member States should be better assessed. Finally, the report should also better present stakeholders' different views throughout the text.

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted

(C) Main recommendations for improvements

(1) Strengthen the problem definition. The report should reinforce the problem definition by better presenting all available evidence (i.e. the nationalities and host Member States most concerned). On this basis, it should clarify what the real nature of the problem is and whether, and to what extent, it has negative consequences on the functioning of the internal market. The report should also better describe the size of the problem and the measures already in place in different Member States. Where evidence is lacking or the identified data has limitations, this should be clearly explained. Furthermore, the report should better explain why existing tools (e.g. Your Europe Advice, Solvit) are insufficient to deal with the identified problems. Finally, it should briefly present existing measures as regards discrimination on grounds other than nationality (such as gender or ethnic origin) and identify those that have proven the most effective in fighting discrimination.

(2) Present the initiative in the broader context and better justify the need for EU action. The report should present the problem and its underlying drivers in the broader internal market context, particularly in relation to the latest EU enlargements and the current economic and financial crisis. In doing so, it should provide more detail on the ongoing transitional arrangements for Bulgarian and Romanian citizens as well as the experience with the EU10 enlargement. Importantly, the report should explain how this initiative relates to other EU policies such as, for example, recognition of professional qualifications or establishment of the Points of Single Contact under the Services Directive. Against this background and the improved problem definition, the report should better demonstrate why Member States cannot sufficiently address the problem themselves and should better justify the need for action at EU level. The adequacy of the chosen legal base should be clarified.

(3) Improve the presentation of the policy options. For each policy option, the report should provide a more detailed description of the envisaged measures and should better explain how they differ from the status quo. In order to reinforce the intervention logic, the report should better illustrate how the options address the identified problems and their drivers. Furthermore, alternative feasible combinations of measures should be presented up-front, while focusing on content rather than form. Finally, the report should explain if other alternative solutions have been considered but discarded throughout the impact assessment process (for example relying on existing tools, such as the Points of Single Contact).

(4) Better assess the impacts. The report should reinforce the assessment of the options by more systematically analysing the impacts on stakeholders and, in particular, by better explaining the impact on different Member States. It should also clarify if any impacts on sector competitiveness can be expected. Stakeholders' views, including their acceptance of the concrete measures, should be better reflected throughout the text. The report should better explain how the preferred solution is expected to substantially improve compliance, particularly in view of the uncertainties involved and taking into account that non-discrimination is to a large extent an issue of culture that needs to be developed.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

(D) Procedure and presentation

The report should clearly link monitoring indicators with the policy objectives. Results of the public consultation should be reported in the main text in a more accurate and differentiated manner and made publicly available. The report should better reference information contained in the annexes and the elements taken from the underlying Ramboll study.

(E) IAB scrutiny process

Reference number	2012/EMPL/005
External expertise used	No
Date of IAB meeting	4 July 2012