

Brussels, 11 August 2011

## **The Commission accepts that Spain can temporarily restrict the free movement of Romanian workers**

See also [IP/11/960](#)

### **What is free movement of workers?**

Free movement is a right for every worker in the European Union and allows him/her to:

- look for a job in another EU country
- work there without needing a work permit
- reside there for that purpose
- stay there even after employment has finished
- enjoy equal treatment with nationals in access to employment, working conditions and all other social and tax advantages.

It is one of the fundamental freedoms of the EU.

It has had a positive economic impact overall on the European economy. Recent estimates suggest that the long-term impact of the population flows between 2004 and 2009 on the GDP of the EU-15 was 0.9%.

### **Which EU countries impose restrictions on workers from Romania?**

Romanian workers currently enjoy full access to the labour market of 15 (of 26) Member States (Denmark, Estonia, Cyprus, Latvia, Lithuania, Poland, Slovenia, Slovakia, Finland, Sweden, Hungary, Greece, Czech Republic, Portugal and Bulgaria). The other Member States (Germany, Belgium, Ireland, France, Italy, Luxembourg, Malta, the Netherlands, UK and Austria) maintain work permit systems for Romanian workers, albeit in some cases with modifications compared to the conditions and procedures that applied to them prior to EU accession:

Belgium has introduced an accelerated procedure to issue work permits within 5 days for jobs in professions for which there is a labour shortage.

In Germany, university graduates and engineers in certain fields (aeronautical, mechanical, electrical, vehicle construction) need a work permit but are exempt from a labour market test.

In Ireland, a work permit will be issued if an employer cannot fill the vacant post with another EU-25 citizen.

France applies a simplified procedure for 150 occupations where a work permit is issued without considering the job situation.

Italy does not require a work permit for employment in certain sectors (agriculture, hotel and tourism, domestic work, care services, constructions, engineering, managerial and highly skilled work, seasonal work).

Luxembourg has introduced simplified procedures for work in agriculture, viticulture, the hotel and catering sector and for people with specific qualifications in the financial sector.

Malta grants work permits for positions that require qualified and/or experienced workers and for those occupations for which there is a shortage of workers.

In the Netherlands, a work permit will be issued whenever there are no workers available in the Netherlands or other EU Member States and the employer concerned can offer proper working conditions and accommodation. Temporary exemptions may be granted for sectors in which there is a labour shortage.

In the United Kingdom, the employer must apply for a work permit (except for certain categories of employment) and the worker must apply for an "Accession worker card". Low-skilled workers are restricted to existing quota schemes in the agricultural and food processing sectors, skilled workers can work if they qualify for a work permit, or under Highly Skilled Migrant Programme.

Austria maintained its work permit systems but allows issuing of work permits after a labour market test for 65 professions for which there is a shortage of labour.

In addition to maintaining a work permit requirement, Austria and Germany also apply restrictions on the posting of workers in certain sectors.

Romania does not apply reciprocal measures vis-à-vis the Member States which are still applying restrictions to its workers.

### **What is the today's decision about?**

The 2005 Act of Accession for Romania sets out transitional arrangements for the free movement of persons. This implies that the free movement of workers may be deferred for a period of a maximum of seven years (until 31 December 2013). This period is divided into three distinct phases ("2-plus-3-plus-2"-years) (for more information on the phases see: <http://ec.europa.eu/social/main.jsp?catId=508&langId=en>). The current second phase started on 1 January 2009 and will end on 31 December 2011.

Spain liberalised access to its labour market for Romanian workers and the members of their families from the beginning of the second phase on 1 January 2009. This means Romanian workers could freely move to Spain and find employment.

In the Act of Accession there is a "safeguard clause" which gives a Member State the possibility to reintroduce restrictions on free labour market access, if it is undergoing or foresees serious labour market disturbances. It is the only way for a Member State to re-introduce restrictions.

Spain invoked the "safeguard cause" in a letter sent to the European Commission on 28<sup>th</sup> July 2011. After analysing the situation, the European Commission authorises Spain to temporarily suspend EU law on free movement of workers.

### **What happens next? Did the Commission ask any particular commitments from the Spanish authorities?**

The European Commission will now inform the Council of its decision and any Member State may request the Council to amend or annul the Commission's decision on the suspension of EU law within two working weeks. The decision is taken by qualified majority voting.

The Commission reserves the right to repeal today's decision at any time. The Commission has also requested that Spain provide it every 3 months with updates on the labour market situation, starting at the end of the year, so that the Commission can monitor the situation. The Commission will react accordingly to the developments on the Spanish labour market.

### **On what grounds is the Commission's decision justified?**

The Commission's role was to assess on the basis of factual evidence whether Spain is confronted with a serious market disturbance. The Commission's analysis found that it was. It is on those grounds that the Commission has decided Spain could restrict free movement of Romanian workers, as the Act of Accession permits.

The "safeguard clause" that authorises a Member State to re-introduce restrictions and the measures taken by the Member State is a defensive measure in the context of a serious labour market disturbance.

Spain has always supported the free movement of workers and this is only a transitory measure to protect local workers - including Romanians already residing in Spain.

### **What should Spain do to tackle its unemployment level?**

The origin of the disturbance of the Spanish labour market is based on multiple factors and the Commission has already made country specific recommendations to Spain as part of the European semester. It recommended to Spain to assess the impact of its last labour market reforms and to propose further reforms to reduce labour market segmentation, to improve employment opportunities for young people and to ensure a close monitoring of the effectiveness of the measures set out in the National Reform Programme to reduce early school leaving, including through prevention policies.

### **Will the restriction affect Romanians who are already working in Spain?**

These restrictions will apply to employed work activities in all sectors and regions. However they shall not affect Romanian nationals (and their family members) who are already active on the Spanish labour market or who were registered as jobseekers by the Public Employment Services in Spain on 11 August 2011.

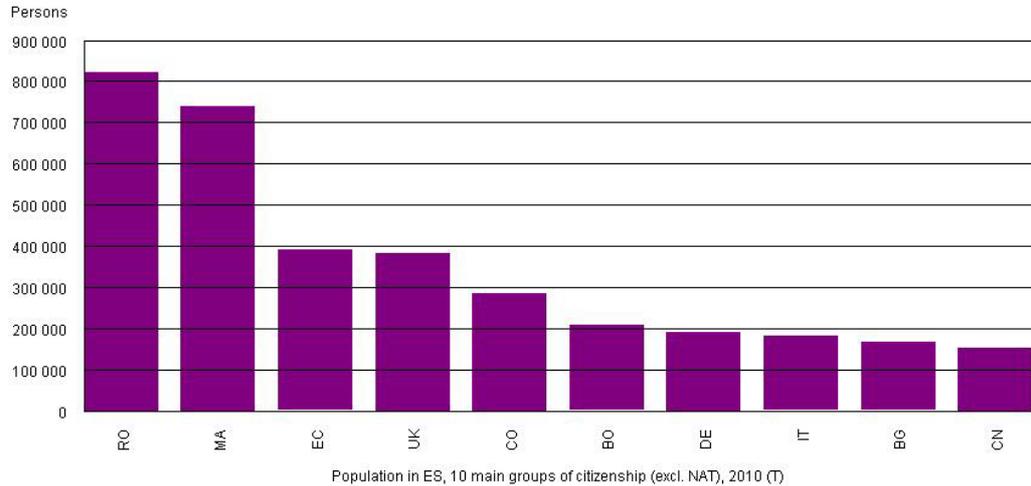
### **What is the economic situation in Spain?**

Spain is facing serious labour market disturbances, currently characterised by the highest unemployment rate in the EU (21% in June 2011, against 9.4% on average in the EU and 9.9% in the euro area), extremely high youth unemployment (45.7% in June 2011, against 20.5% in the EU and 20.3% in the euro area) and a slow economic recovery (0.3% of GDP growth in the first quarter of 2011 compared to the previous quarter, against 0.8 % for both the EU and the euro area )

## How many Romanians live in Spain? What is their situation?

Although the inflow of Romanians has fallen in recent years due to the economic slowdown, Romanians still constitute the biggest share of foreign EU citizens living in Spain and the inflow of Romanian nationals arriving in Spain remains at substantial levels. The number of Romanian nationals usually resident in Spain has increased from 388 000 on 1 January 2006 to 823 000 on 1 January 2010.

## Main groups of citizenship residing in Spain on 1 January 2010



Country codes for non-EU countries: MA = Morocco, EC = Ecuador, CO = Colombia, BO = Bolivia, CN = China

The Commission's analysis has established that Romanian nationals living in Spain are strongly affected by unemployment, as 30.0% of them are unemployed. 191 400 Romanian citizens were unemployed in the first quarter of 2011, i.e. the second highest number after Spanish nationals. This number was only 80 100 three years earlier, in the first quarter of 2008, when only 12.6% of Romanians residing in Spain were in that situation. In the same three-year period, the number of employed Romanians fell by nearly 24 %, while the employment rate fell from 71.2 to 54.3%, down by 16.9 percentage points.

### Employment situation of working age (15-64) Romanian nationals residing in Spain

		2007q1	2008q1	2009q1	2010q1	2011q1
RO	Employed	74.7	71.2	63.6	59.6	54.3
	Unemployed	11.3	12.6	23.7	24.3	30.0
	Inactive	14.1	16.2	12.8	16.1	15.7

### Have other Member State ever invoked the "safeguard clause"?

This is the first time that a country invokes the safeguard clause in the area of free movement of workers contained in an Act of Accession. It is a very particular situation and the European Commission continues to support strongly mobility and free movement of workers.

### **Is the Commission concerned other Member States will also want to restrict free movement of workers?**

We have no information suggesting any other Member State intends to invoke the "safeguard clause". According to the Act of Accession, any Member State that fully applies EU law on free movement of workers has the right to request this if it undergoes or foresees serious labour market disturbance in its labour market. It can then request the Commission to state the whole or partial suspension of EU law on free access to the labour market.

The Commission will make any decision on the basis of factual evidence. The Commission maintains that as a general principle, free movement of workers is positive for growth and jobs.

### **Does this mean Spain has to request by the end of this year the introduction of restrictions into the 3<sup>rd</sup> phase?**

No. The authorisation under the safeguard clause following Spain's request is valid until 31 December 2012. Spain does therefore not have to notify the Commission again of a serious labour market disturbance at the end of this year but has to report quarterly on labour market developments, firstly before 31 December 2011, and then continue to do so every 3 months.

Notification to the Commission by 31 December 2011 of a serious labour market disturbance, or threat thereof, concerns a different procedure of a Member State that is still applying restrictions on labour market access for Romanian nationals in the current second phase. These restrictions will in principle end on 31 December 2011, unless the Member State notifies the Commission by then of a serious labour market disturbance, or threat thereof. In this case they may continue to apply the restrictions until the overall end of the transitional arrangements on 31 December 2013.

### **When will the restrictions end?**

The Spanish authorities requested restrictions until 31 December 2012. The Commission considers that this period is reasonable because the time needed for measures to tackle unemployment effectively seem to be at least of one year. This time is also needed to gather statistics to assess the impact of the measures. However, the Commission reserves the right to modify its decision at any time if the situation changes.

In any case, Romanian nationals will benefit fully from EU law on free movement of workers and have full free access to the Spanish labour market from 1 January 2013.