

Making Smart Moves

How labour mobility & legal migration can make a positive contribution to labour markets in Europe

Strategic Issue Paper

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Executive Summary

Labour mobility, both intra-EU and from third countries, is an important component for well-functioning labour markets in Europe. Private employment services - and the agency work industry in particular - are an important pathway for work mobility in the EU. The World Employment Confederation-Europe calls for a policy focus on better enforcement and underlines the commitment of the well-regulated agency work industry. To this end, we have developed in this strategic issue paper a number of policy recommendations.

On intra-EU work mobility, the World Employment Confederation-Europe

- Calls for using and unlocking the contribution of free movement of workers to better functioning labour markets
- Recommends to link mobility of workers with a focus on compliance and enforcement of rules and regulations on labour mobility
- Supports the removal of existing, unjustified restrictions on agency work services
- Advocates for involving and associating social partners at European and national level in policies on intra-EU work mobility

On economic migration policies, the World Employment Confederation-Europe

- Favours demand driven economic migration policies that are meeting the needs of companies but at the same time offer opportunities associated with the European and international mobility of workers.
- Supports labour migration based on an appropriate and non-discriminatory legal framework. Unjustified restrictions imposed on the agency work industry must be lifted.
- Calls for demand-driven legal migration and reducing the persistent labour and skills shortages in the EU, which are intrinsically linked.
- Advocates for labour migration and mobility policies to include a focus on compliance with and enforcement of existing European and national law, including the need for social protection for all workers.

I. Making smart moves - Introduction and conceptual background to work mobility and legal migration in the European Union

From a business perspective, there is a clear need for targeted and well-managed economic and legal migration to address labour and skills shortages in Europe, which are an increasing challenge for the continent's employers, economies and labour markets.¹ This need has been recognised in the political agenda, and labour mobility and work migration are central topics within the political debate and a core pillar of the European Commission's programme. In her political guidelines for 2019-2024, the Commission President Ursula von der Leyen places focus on better protecting citizens and the single market. She highlights the need for a new pact for migration including asylum and refugee policies, which are essential in the current crisis following the Russian war of aggression against Ukraine, and also the need for pathways for legal migration to help EU countries bring in people with the skills and talents they need.

a) Definition of labour mobility and work migration

When discussing labour mobility and the options people have to make smart moves on the European labour market, it is important to clearly differentiate the various dimensions: On the one hand there is **intra-EU work mobility**, which is a basic freedom based on the EU treaties. In addition, there is the free movement of services and workers who work in other EU Member States when delivering a service. Both dimensions can provide a positive contribution to European economies and labour markets if the corresponding rules and regulations are fully complied with and respected. Freedom of movement for workers within the EU is one of the four fundamental freedoms on which the Union is built and a fundamental principle of the EU treaty. Fair labour mobility should be based on the existing EU regulatory framework, which protects the rights and working conditions of people moving to other EU countries to work or who are mobile in the context of the provision of services, such as posted workers.

Based on EU sources published in 2021, there are 17.9 million EU movers, of which 9.9 million are Active Movers (including employed, self-employed and jobseekers). Over 50% of all movers of working age came from Romania, Poland, Italy, Portugal and Bulgaria. 26% of all EU movers of working age reside in Germany and 28% in Spain, Italy or France. The number of cross border workers amounts to 1.5 million.

A further component of labour mobility to meet labour market needs is **economic and legal migration from third countries**. Intra-EU mobility and third country (labour) mobility are covered by different rules and EU policies. Work migration policies include the attraction and integration of third country nationals to secure the talent that Europe needs, as well as seasonal work migration. Given the current labour shortages, demand-driven legal migration policies are needed in many sectors. In the light of rising labour shortages in Europe, which are reinforced by a shrinking working population and the demographic ageing of European societies, there will be a need for a broader economic migration policy, covering all skill levels in years to come.

Work migration driven by economic and labour market needs must be clearly differentiated from migration and refugee movements following political conflicts in Europe and the world. Also, the European Commission defines economic migrants as covering "a person who leaves their country of origin purely for economic reasons that are not in any way related to the refugee definition."²

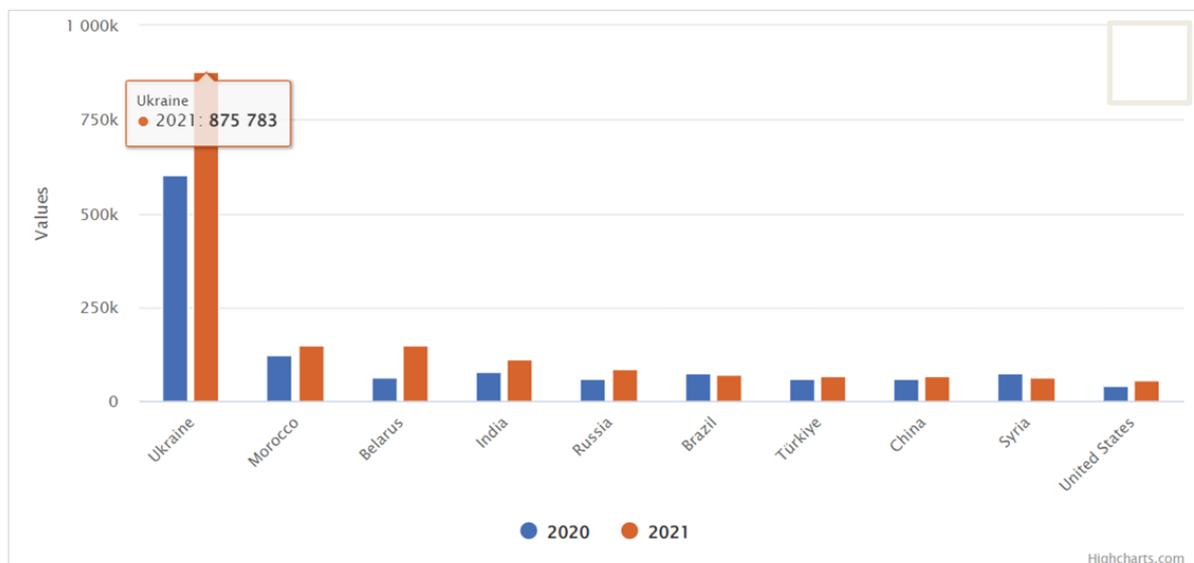
¹ The need for legal migration and work mobility has also been addressed in the World Employment Confederation-Europe Strategic Issue Paper "Making better matches" on skills and labour shortages.

² See also the related definition on the European Commission [website](#)

Based on ILO data, there are 169 million international migrant workers, of which 63.8 million (37.7%) live and work in Europe. In 2020, 1.92 million persons immigrated to the EU and in 2021, 8.84 million non-EU citizens were employed in the EU labour market, out of 189.7 million persons aged from 20 to 64, corresponding to 4.7% of the total.

In 2021, there was a particularly large increase in the number of work-related permits, the share of which grew from 39% of the total permits issued in 2020 to 45% in 2021. In 2021, 2.95 million first residence permits were issued in the EU, compared with 2.3 million in 2020. In 2021 the employment rate in the EU among the working-age population was higher for EU citizens (74%), than for non-EU citizens (59.1%). The top 10 nationalities for first residence permits issued in EU Member States have been for citizens from Ukraine, Morocco, Belarus, India, Russia, Brazil, Turkey, China, Syria, and the United States.

Top 10 nationalities of first residence permits issued in EU Member States in 2021



Also the OECD International Migration Outlook 2022 underlines that Russia's war of aggression against Ukraine generated a historic outflow of people, largely women and children, in Europe fleeing the war. By mid-September 2022, close to 5 million individual refugees from Ukraine had been recorded across the EU and other OECD countries. The slowdown of international migration witnessed during the COVID-19 pandemic was reverted in 2021 due to a strong economic recovery. Permanent economic migration flows to OECD countries bounced back by 22% in 2021, after a record fall in 2020 due to the COVID-19 crisis. Initial OECD data suggest that the increase in permanent migration flows is continuing in 2022. OECD countries received 4.8 million new permanent immigrants in 2021, still more than half a million fewer than in 2019.³

Looking at the need for economic migration for one of the largest economies in Europe, Germany, the research institute of the German public employment service, IAB has calculated that Germany needs a net yearly immigration of 400.000 persons to keep up the current level of labour supply and to meet labour market needs. The main reason for the need of economic migration are skills and labour shortages. The most affected economic sectors are IT, care services and the crafts sector. Labour market analysis of the German WEC-Europe member BAP and the German public employment service shows

³ OECD International Migration Outlook 2022, available online: [Russia's war of aggression against Ukraine generates historic migration flows: More support needed for integration now and possible future return - OECD](#)

that it took, in July 2022 and depending on the job profile and qualifications required, between 94 to 140 days to fill the job vacancies. This period to fill vacancies has significantly increased compared to 2012.⁴

b) Labour mobility and migration in times of Covid-19

The Covid-19 pandemic had a strong, negative impact on labour mobility and migration, due to the temporary restrictions on work mobility and the containment measures put in place. As a concrete example, health workers living in Germany and working in France could not reach their place of work during the periods of Covid-19 restrictions. Similarly, workers in the oil and gas industry in Norway could not return to their homes as the quarantine was too long compared with their time off.

According to OECD data and across countries, there was an initial decline in labour mobility up until April 2020. The magnitude of this initial decline, however, varies considerably and reached up to 80 percent in France and the UK. There was a subsequent and progressive recovery in the following five months. Data for 2021 indicates a certain stability and slight upturn in mobility that, nevertheless, still remains on average below “normality levels”. While there continues to be a correlation between national Covid-19 containment policies, the changed patterns in labour mobility - at least for highly qualified and white-collar workers - might also indicate a change in the organisation of work, with remote working having become much more common.

II. Labour mobility in the EU

a) Labour mobility as a fundamental freedom of the EU Single Market

The freedom of movement for workers has been one of the founding principles of the EU since its inception. An EU worker has the right to accept a job offer made, to move freely within the country, to stay for the purpose of employment and to stay on afterwards.

The free movement of workers is thus an important element of the European labour market, offering employment opportunities for workers while also supporting companies in better matching labour market demand and supply. Furthermore, there is mobility of workers in the context of the provision of services as regulated by the Posting of Workers Directive, which will be addressed in section 1c of this paper. The World Employment Confederation-Europe strongly believes that mobile workers should have access to social protection in accordance with EU legislation and national policies.

⁴ For further information, please see also the following website of the WEC-Europe member BAP (in German): [Fachkräfteeinwanderung \(personaldienstleister.de\)](https://www.personaldienstleister.de)

b) Intra-EU mobility and the rising skills and labour shortages

Economic analysis of the World Employment Confederation shows that job vacancy rates continued to rise in 2022 and in many countries the numbers are the highest that they have ever been. Intra-EU labour mobility is thus an important factor in addressing and mitigating the rising challenges companies are facing with regard to skills and labour shortages in Europe. We expect these shortages to remain even in the face of the expected, negative economic impact of the Russian invasion of Ukraine and the expected negative economic outlook in major European economies.



c) Agency work as a pathway for appropriately regulated intra-EU work mobility

Private employment services - and the agency work industry in particular - are an important pathway for mobility in the EU. Within certain limits, and in accordance with national law, the agency work industry as a service provider on European labour markets is serving both companies and workers in the cross-border mobility of workers in Europe, offering employment opportunities to EU citizens who are living and working in an EU Member State other than their country of origin.

Private employment services and especially their agency work services are a comprehensively and strictly regulated industry. This includes conditions of establishment such as licensing systems and authorisation schemes, conditions and restrictions to provide services, regulation on agency work labour contracts and regulation on working conditions and equal pay. In several European countries, the agency work industry is facing unjustified restrictions, such as sectoral bans, too strict maximum length of assignments and too narrow reasons for use. Legal or

Access to housing for migrant workers based on a collective labour agreement

In the Netherlands, provisions in a collective labour agreement for agency work provide for access to accommodation and housing for migrant agency workers. Housing facilities are provided by the private employment services industry to support migrant workers coming to and working in the Netherlands. The housing offered for the period of a work assignment is an offer, thus while workers are not obliged to take it up, the provision of accommodation is seen as an important benefit facilitating work migration. The housing offered to migrant agency workers must meet a number of quality standards as defined in the annex to the collective labour agreement. The private employment agency may charge the temporary agency worker for the use of housing, but these charges cannot exceed the actual costs of the housing.

An essential pre-condition of well-regulated work mobility through private employment services is to ensure that all legal provisions of national and European law are fully respected and complied with. Compliance is essential with regard to two main dimensions: namely for workers to ensure that regulation on working conditions is respected and for companies to respect the rules on the free movement of services. This includes cross-sectoral regulation on work mobility and the provision of services as well as the sector-specific regulation for temporary agency work

The World Employment Confederation-Europe believes that the free movement of workers in the EU is an important tool to offer work opportunities to workers and access to talent for companies. At European level, there is a broad range of legislative instruments to facilitate the free movement of workers and ensure that people can benefit from this fundamental freedom of the EU single market. Most EU instruments on intra-EU mobility rightly take a cross-sectoral approach, such as the EU Directives on the recognition of qualifications and diplomas, the EU Regulation on the coordination of social security and the EU policy to facilitate mobility of workers through the European Mobility Network EURES, which is managed by Public Employment Services, but through which private employment services can share job vacancies and get access to candidates and profiles of job-seekers in other EU countries.

d) Mobility of workers and the provision of services: The special case of the posting of workers

The Posting of Workers is a special form of work mobility, in which workers employed in one country are temporarily moving to another EU Member States in the context of the provision of a service. The revised Posting of Workers Directive, which had to be transposed into national law by 30 July 2020, introduced significant changes, including the application to posted workers of all the mandatory elements of remuneration (instead of the “minimum rates of pay”); the rules of the receiving Member State on workers’ accommodation and allowances or reimbursement of expenses during the posting assignment; and for long-term postings (longer than 12 or 18 months) the application of an extended set of terms and conditions of employment in the receiving Member State. These regulatory changes were needed to ensure fair working conditions in the context of the cross-border provision of services in the EU.

The World Employment Confederation-Europe fully supports the Posting of Workers Directive in its current form. In our assessment, challenges linked to work mobility are currently predominantly linked to the free movement of workers, rather the posting of workers.

It is an obligation of the user company to provide information on the terms and conditions of employment for agency workers during their period of posting to another EU Member State. The World Employment Confederation-Europe is however convinced that more action should be taken to ensure access to information and transparency of employment and working conditions for posted agency workers. This could be, for example, through the single national websites on the posting of workers, which should be further developed. It is also important for temporary agency workers and temporary work agencies that this information is provided both in the national language and at least in English.

More attention could be given, and actions taken to ensure an effective freedom of services for temporary work agencies when they post third country nationals in other EU Member States - for example by easing work permit requirements in the context of the posting of workers.

Contributing to fair mobility through involvement in the European Labour Authority

Since the establishment of the European Labour Authority, the World Employment Confederation-Europe has been actively involved in sharing: good practices on labour mobility; good practices of the private employment services industry; and in working towards solutions for labour mobility that on the one hand capitalise on the benefits of mobility while at the same ensuring the protection of mobile workers through compliance with and enforcement of existing EU rules on labour mobility.

e) Recommendations on intra-EU mobility

Based on the above analysis, the World Employment Confederation-Europe puts forward the following recommendations on intra-EU work mobility:

- I. Intra-EU work mobility and the free movement of workers is a fundamental principle of the European single market and should be strongly valued. Intra-EU work mobility contributes to better functioning labour markets by allocating workforce in the most efficient way, offering opportunities for workers and contributing to economic growth.
- II. Work mobility policies in Europe should be coupled with a focus on compliance with and enforcement of existing European and national law, which should include the check of ID cards. The World Employment Confederation-Europe is strongly convinced that action at European and national level is important to ensure compliance and protect workers. Ensuring social protection for all workers is essential if the benefits of mobility are to be used to their full potential. This should include access to housing for migrant workers in accordance with national rules; transparency on the applicable working conditions and the need for a written labour contract in accordance with the EU Directive on transparent and predictable working conditions; and appropriate wage setting in accordance with national law and applicable collective labour agreements.
- III. The World Employment Confederation-Europe calls for the removal of unjustified prohibitions and restrictions on private employment agencies linked to intra-EU mobility, for example in relation to the authorisation schemes for private companies to ensure a level-playing field and avoid unfair competition to the detriment of workers' rights. At the same time, there is a need to prevent the use of letterbox companies which are used in some instances to undercut appropriate remuneration and working conditions. Requirements on the minimum threshold of economic activities in the country of establishment must be fully respected.
- IV. Social Partners at European and national level should be associated and involved in policies on intra-EU work mobility. At European level, the recently established European labour authority provides the appropriate framework to foster this dialogue and exchange.

III. Labour and economic migration to the EU

a) The EU policy agenda and regulatory framework

Labour and economic migration into the EU from third countries has been an important priority for the von der Leyen European Commission, as already outlined in the political guidelines for the European Commission presented in 2021 and even more so driven by the economic and political realities of the past year. In her 2019 political guidelines the EU Commission President announced a new Pact for Migration, while also highlighting that the European Union needs

pathways for legal migration to help us bring in people with the skills and talents we need.⁶ Labour and economic migration is also framed by important global policy debates, such as the Global Compact on Safe and Orderly Migration⁷, agreed in 2018 and adopted by 152 UN Member States, including 24 EU Member States. The Global Compact for Migration consists of 23 objectives, including as objective 6: the need to facilitate fair and ethnical recruitment and safeguard conditions that ensure decent work.

These political ambitions have certainly been impacted strongly by the geopolitical developments and changes in 2022 following the Russian war of aggression against Ukraine. At the same time, and despite the strong commitment of the private employment services industry to supporting people fleeing from Ukraine (support that included transport, accommodation, labour market integration support and offering work opportunities), work migration as a consequence of a war of aggression should not be compared to or discussed in direct conjunction with labour and economic migration, as the motives and drivers of mobility are fundamentally different and as a different set of rules and regulations apply to refugee integration and economic migrants.⁸

b) Agency work as a pathway for legal migration: Opportunities and challenges

Services offered by the private employment services industry and particularly the agency work industry can act as an important pathway for legal migration and for the smooth integration of migrants from third countries into European labour markets. This function is complemented in some countries by commitments of the sectoral social partners to provide for complementary rights and protections for labour migrants.

An important precondition for this role to fully unfold is to avoid any unjustified discrimination against the private employment services industry with regard to offering work opportunities and labour market integration support to third country nationals. At present, some EU Member States still apply restrictions to employing third country nationals as agency workers (for example in the Czech Republic and Romania) and in a number of other countries, including Germany, the legal or administrative preconditions for employing third country nationals are designed in a way that prevents the private employment services industry from fully unfolding its potential in integrating migrant workers.

Case study on compliance and enforcement linked to mobility in France

The French WEC-Europe member Prism'emploi and the French authorities are working together to fight cases of non-compliance and illegal work in the posting of workers and labour migration. A new convention has been negotiated in 2022 to update the 2006 one in order to reinforce the commitment of the agency work industry to fight all forms of illegal work

In 2021, French authorities gave an exception to temporary work agencies posting workers for a duration of less than three months. In this case, temporary work agencies do not need to ask for a work permit for third-country nationals with a valid residence permit, thus enabling them to be more reactive and offer work opportunities more quickly.

In 2007, France revoked the ban on temporary work agencies directly employing third country nationals to come from their country of origin to France ("introduction contract"). This means that temporary work agencies can now recruit citizens who live abroad directly from France.

⁶ Further information is available here: [Political Guidelines for the next European Commission 2019 - 2024](#)

⁷ Further information is available here: [UN Global Compact for Migration](#)

⁸ The private employment services industry in Europe has been active since the start of the Russian war of aggression against Ukraine in supporting refugees by offering transport and shelter and by offering work opportunities and labour market integration support for refugees benefiting from the temporary protection status. In Italy, a landmark social partner agreement has been signed to support refugees from Ukraine. More information is available on the [WEC-Europe website](#).

c) The EU approach to legal and economic migration: Single-permit and long-term residence of third-country nationals and the EU talent pool as tools to enable legal migration and address labour shortages

The European Commission translated its political commitment expressed in the 2019 political guidelines into a number of concrete, legislative initiatives to enable economic and legal migration. The most important instruments are still under discussion at European level.

The World Employment Confederation-Europe believes that EU economic and labour migration policy needs to be assessed within the wider context of Europe's macro-economic circumstances as well as national labour market diversity. This would ensure a more coherent, consistent and effective approach towards the development of a demand-driven labour migration framework.

The European Commission has taken important initiatives on economic and legal migration, such as the proposal for a Directive on the long-term residence of third country nationals and the single permit Directive presented in April 2022. To provide a more effective framework for legal pathways to the EU, the European Commission proposed to revise the Single Permit Directive and the Long-Term Residents Directive. The revision, which is currently still being discussed at the level of the Council and European Parliament, provides for a streamlined procedure for a single permit for combined work and residence that will make the process quicker and easier for both applicants and employers. It will allow applicants to lodge applications from both non-EU countries and EU Member States and will also enhance safeguards for equal treatment and protection from labour exploitation. The revision of the Long-term Residents Directive will make it easier to acquire EU long-term residence status by simplifying the admission conditions, for instance by allowing the cumulation of residence periods in different Member States. In addition, the revision will enhance the rights of long-term residents and their family members, including improvements to family reunification and facilitated intra-EU mobility. These initiatives are important instruments to meet current and forecast future labour market needs and move towards a futureproof, demand driven labour migration policy.

The EU Talent Pool initiative and its pilot phase for an EU Talent Pool⁹ in 2022 is in principle a welcomed initiative, as it would be a means of improving the matching of demand and supply of labour. This EU-wide talent pool platform for international recruitment would allow skilled non-EU workers to express their interest in migrating to the EU and be identified by EU migration authorities and employers based on their needs. At the same time, the World Employment Confederation-Europe recommends that an EU Talent Pool initiative should be constructed in a way that involves European employers and private employment services in improving the matching of demand and supply and providing access to talent for companies and access to work opportunities in Europe for workers from third countries. It is important that an EU Talent Pool does not duplicate initiatives already available in the market, and that it is strongly linked with concrete labour market needs and ensures easy access for employers without overly burdensome processes.

d) Recommendations for a demand-driven approach for migration in Europe

Based on the evidence and case studies presented, the World Employment Confederation-Europe puts forward the following main recommendations on legal and economic migration:

- I. Economic migration should be designed in a demand-driven way, meeting the needs of companies but at the same time offering opportunities associated with the European and international mobility of workers.
- II. Labour migration must be based on an appropriate and non-discriminatory legal framework. The World Employment Confederation-Europe calls for removing unjustified prohibitions on legal migration, such as the formal ban on hiring third country nationals as agency workers, and for the review of administrative procedures

⁹ The EU Talent Pool for displaced people from Ukraine is available on the European Commission/EURES [website](#)

linked to the integration of third country nationals to make sure that labour market needs are also met for those work assignments that are temporary in nature.

- III. Fostering demand-driven legal migration and reducing the persistent labour and skills shortages in the EU are intrinsically linked. With the current labour shortages in a number of economic sectors and the long-term shrinking workforce in Europe, an appropriate European framework for legal migration is essential to meet labour market needs.
- IV. Work migration should be coupled with a focus on compliance with and enforcement of existing European and national law. The World Employment Confederation-Europe is strongly convinced that action at European and national level is important to ensure compliance and protect workers. Ensuring social protection for all workers is essential if the benefits of mobility are to be used to their full potential.

About the World Employment Confederation-Europe

The World Employment Confederation-Europe is the voice of the employment industry at European level, representing labour market enablers.

Its membership includes national federations from across Europe, as well as several of the largest international workforce solutions companies. It is therefore fully representative of the industry, both in size and diversity. The World Employment Confederation-Europe brings a unique access to and engagement with European policymakers (EU Commission, European Parliament, and Council) and stakeholders (trade unions, academic world, think tanks).



The World Employment Confederation-Europe strives for a recognition of the economic and social role played by the industry in enabling work, adaptation, security and prosperity in our societies. Its members provide access to the labour market and meaningful work to almost 11 million people in Europe.