



Free Movement of People: Bulgaria and Romania

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Introduction

From 1 January 2014 the transitional controls on free movement included in the accession treaties and adopted by the UK and seven other Member States when Bulgaria and Romania joined the EU in 2007, will end. From that date Bulgarians and Romanians will have the freedom to live and work in those eight Member States (and in Spain, which has only had transitional controls on Romanian nationals). Sixteen Member States either have not operated transitional controls or lifted them at an earlier date (including the Republic of Ireland, Italy and Poland). Bulgarians and Romanians will then be in the same situation as the citizens of all other Member States except those from Croatia which will be subject to transitional controls until 2020.

There has been a lively debate in the UK about how many Bulgarians and Romanians will come to the UK after 1 January 2014 and the British Government has announced it is looking at the rules governing social security claims as a consequence of this and future EU enlargements. It is important to note that the two factors which made the UK such an attractive destination to nationals of the new EU Member States in 2004 – labour shortages in a growing UK economy and the fact that the UK was one of only three Member States to allow easy entry to accession state nationals – will not apply in 2014.

This paper looks at the issues raised by the end of transitional controls, including the rules relating to social security claims by EU nationals resident in the UK, briefly at health care and housing entitlement, and considers the question of how many people from these two countries are likely to come and work in the UK.

Background

The Transitional Controls

As with all recent accession treaties, the Accession Treaty which enabled Bulgaria and Romania to join the EU made provision for existing Member States to maintain transitional controls on free movement beyond the initial transition period of two years “in case of serious disturbances of its labour market or threat thereof” for up to five further years.¹ The UK was one of nine Member States to exercise these controls for the maximum seven year period. Iceland, Lichtenstein, Norway and Switzerland, although outside the EU, are covered by the free movement of worker provisions in the Accession Treaty although they

¹ Treaty concerning the accession of the Republic of Bulgaria and Romania to the European Union, 2005 OJ L 157/11, Protocol VI, art. 1, para 5, Protocol VII, art. 1, para. 5

have a longer period to comply (up to 2016 although Iceland and Norway lifted controls in 2012 and Lichtenstein will in 2014).

These transitional controls have been available with earlier enlargements but the UK, Ireland and Sweden chose not to use them when, on 1 May 2004, 10 countries in central and Eastern Europe and the Mediterranean joined the EU (see below).

Bulgaria

A country of just over seven million people in south east Europe, Bulgaria is a former Communist state that became a multiparty democracy in 1990. Over 40 per cent of its population is aged 25-54 and there is unemployment of 9.9 per cent overall and 16 per cent amongst young people. The economy grew rapidly between 2004 and 2008, GDP growth averaged more than 6 per cent annually but it was hit hard by the global financial crisis and the subsequent downturn. There was a sharp recession in 2009 when the economy contracted by over five per cent; since then there has been a modest recovery with growth of about one per cent in 2012.²

A quarter of the Bulgarian population are believed to be able to speak English (compared to a third in Poland).³

Romania

With a population of 21.8 million, Romania is a larger country than its southern neighbour Bulgaria but the largest age group in Romania's population is also the 25-54 range (45 per cent). Its national unemployment rate is just 4 per cent but among young people that figure jumps to over 20 per cent. After the overthrow of Ceausescu in 1989 the newly democratic country inherited a poorly performing economy and high levels of poverty. After periods of strong growth, but marred by inflationary pressures and persistent corruption, Romania experienced a drastic 7 per cent fall in GDP in 2009 as the global financial crisis hit the country. An EU-IMF rescue package averted economic collapse but growth was less than one per cent in 2012.⁴

It is estimated that 31 per cent of Romanians speak English well enough to have a conversation, a higher figure than the number who can speak French (17 per cent).⁵ It is worth noting that over a million Romanians already live in Italy and the same number in Spain, making those two countries attractive destinations to Romanians.

Roma People & Minorities

Roma people are a sub-group within the Romani minority, an ethnic group widely found in Europe. Popularly (and very often pejoratively) known as "gypsies", the Roma are particularly numerous in central and Eastern Europe. Stripped of their citizenship by the Nazis' Nuremberg laws, they were a targeted group during the Holocaust with many tens of thousands (possibly as many as a million) being murdered as a result. They remain a minority subject to persistent and significant discrimination; an EU funded survey in 2011

² CIA, 'The World Factbook: Bulgaria', March 2013

³ See European Commission, *Special Eurobarometer 386: Europeans and their languages*, 20 July 2012, p. 21

⁴ CIA, 'The World Factbook: Romania', March 2013

⁵ European Commission, *op. cit.*, pp. 21-22

found that, “one in three is unemployed, 20 % are not covered by health insurance, and 90 % are living below the poverty line”.⁶ Efforts to reduce discrimination, such as the EU’s Decade of Roma Inclusion since 2005, appear to have had little or no effect. This has encouraged some Roma people to leave their home countries and seek better opportunities in Western and northern Europe.

Roma make up about 2.5 per cent (roughly 400,000) of the population of Romania and 4.4 per cent (about 300,000) of the population of Bulgaria. No verifiable figure exists for the number of British Roma and those from other Member States living in the UK, not least because of problems of definition, and estimates vary widely from 100,000 to as much as one million. Most have lived here for years but the number has risen since the EU enlargements of 2004 and 2007.⁷

Social Security, Health & Housing Rules in the EU

The Senior European Experts’ paper ‘The EU and Social Security’ sets out the rules under which citizens of the European Economic Area (EEA) and Switzerland (the 26 other Member States of the EU plus Iceland, Lichtenstein, Norway and Switzerland) can claim social security in the UK. The reason for the EU’s involvement in this area is because over 11 million EU citizens work in another Member State from their home country. EU social security rules protect the rights of those working away from home. While this gives an EU worker the same rights as others in the country where they are working, they also have the same obligations, for example to pay a certain amount in social security contributions before they can make a claim.

Both EU law and UK law contain tests of residence which, in summary, are designed to ensure that people do not travel to another Member State in order to claim benefits. A person coming from the EEA will only meet the right to reside test in the UK if they are employed, self-employed or the family member of someone who is employed or self-employed. While under EU law those who are neither working nor self-employed (*i.e.* retired or a student) may have the right to live in another Member State, they must have sufficient resources to ensure that they (and their families) will not become a burden on the host state and have comprehensive sickness cover.

The current entitlements of EEA and Swiss citizens in the UK are:

- if they are working – they are entitled to all the same in-work benefits as British citizens (*e.g.* child benefit);
- if they are out of work due to illness or accident – they can claim out of work benefits including income-related Employment & Support Allowance;
- if they are jobseekers with a genuine chance of finding work, and they will have to register with Jobcentre Plus to prove this, they can claim income-related Jobseeker’s Allowance (which can give entitlement to housing benefit and council tax benefit) but they cannot claim income support, income-related

⁶ European Union Agency for Fundamental Rights, *The situation of Roma in 11 EU Member States: Survey results at a glance*, European Commission, 24 April 2012, p. 3

⁷ Philip Brown, Peter Dwyer & Lisa Scullion, *The Limits of Inclusion: Exploring the views of Roma and non-Roma in six EU Member States*, University of Salford, 18 March 2013, p. 8

Employment & Support Allowance or Pension Credit; nor are they entitled to assistance with housing or homelessness from local authorities;

- if they are permanent residents – an EU citizen resident in the UK for five years will normally become a permanent resident at that point and then be entitled to claim for all benefits and for assistance with housing or homelessness on the same terms as any resident British citizen;
- if they are family members of the above – certain family members, such as a spouse and dependent children, will also be covered if the EU migrant is entitled to claim.

The UK's right to reside rules have been repeatedly challenged at both UK and EU level. The UK, alongside 16 other Member States, is seeking reform of the current EU rules to restrict social security claims as the European Commission argues that the right to reside test (which is also used in France) is contrary to EU law because it is discriminatory and that the existing residence test in EU law is sufficient. The UK Government announced further measures to tighten the rules on benefit claims, housing and use of the NHS in March 2013. This was in response to fears that "benefit tourism" would result from the end of transitional controls but there is little evidence that this is a significant threat. This is not surprising given the low levels of benefits compared to the cost and disruption of uprooting and migrating to the UK.

In practice, EU migrants are less likely to claim social security or seek social housing than UK born residents. One study found that migrants from the 2004 new Member States (A8 nationals) were 60 per cent less likely to receive benefits than UK born residents and 58 per cent less likely to live in social housing.⁸

The European Health Insurance Card entitles all EU citizens to claim emergency care when they are *visiting* another EU Member State but the costs of this are subject to recovery from their country of residence. EEA nationals *temporarily resident* in the UK because they are working here or are studying for a course of at least six months duration are entitled to free NHS treatment on the same terms as UK nationals but they must be able to produce proof of their status. This means that they must have a valid European Health Insurance Card and/or proof of their employment in the UK. Emergency treatment in an A & E department is provided free of charge but not other kinds of emergency treatment.⁹ EEA nationals cannot travel here just to get health treatment nor can those who are non-working automatically receive free treatment.

The UK's Position on Accession State Migrants

As a result of the high levels of migration into the UK after the 2004 enlargement (see below) the British Government introduced transitional restrictions on migrant workers from Bulgaria and Romania when those countries joined the EU in 2007 to restrict their access only to employment where there are skills shortages. It extended the scheme in 2010 until 31 December 2013.

⁸ Christian Dustmann, Tommaso Frattini & Caroline Halls, *Assessing the Fiscal Costs and Benefits of A8 immigration to the UK*, Centre for Research and Analysis of Migration, Discussion Paper 18/09, 23 July 2009, p. 11

⁹ See NHS, *Healthcare Entitlement for European Economic Area (EEA) Visitors*, 14 October 2009

The scheme allows 21,250 low skilled Bulgarians and Romanians to come to the UK each year under the Seasonal Agricultural Workers Scheme and a smaller number, 3,500, to work in other sectors of employment. The transitional rules reflect the fact the Migration Advisory Committee, which makes recommendations to UK Ministers of what migration to the UK is necessary for economic reasons, has said that the displacement impact of low skilled migrants from these countries would be on lower paid workers.¹⁰

Estimating Bulgarian & Romanian Migration

It is not possible to provide any accurate estimate of how many Bulgarian and Romanian nationals (known as "A2" nationals) would be likely to come to Britain from 2014. The estimate of 5,000 to 10,000 A8 migrants annually made before the 2004 enlargement which proved to be so inaccurate has quite rightly resulted in the current government declining to produce such a calculation this time.¹¹

The previous government commissioned a study from the Economic & Social Research Council to identify the "push and pull" factors that would influence A2 potential migrants. The research was hampered by low sample numbers in the relevant sections of the Labour Force Survey but they show overall that A2 migrants are overwhelmingly in work, a higher proportion of UK-born adults are claiming benefits compared to A2 and A8 migrants and that, while A2 and A8 migrants are more likely to be in low skilled work, over a quarter of A2 migrants work in skilled occupations.¹²

The key factor that will influence whether A2 nationals seek work in the UK from the beginning of 2014 and beyond will be the likelihood of finding work in Britain compared to other countries to which they will have access. Unlike in 2004, the A2 migrants will have a wide choice of European countries to travel to in search of work as all EU Member States have already opened their borders or will do so on 1 January 2014.

March 2013

¹⁰ See HC Deb 23 November 2010, vol 519, cols 169-171

¹¹ See Christian Dustmann *et al.*, *The impact of EU enlargement on migration flows*, Home Office Online Report 25/03, 1 March 2003

¹² Rukhsana Kausar, *Identifying social and economic push and pull factors for migration to the UK by Bulgarian and Romanian nationals*, Economic and Social Research Council, 30 September 2011, pp. 19-20



Senior European Experts

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