

# FREE MOVEMENT OF WORKERS IN THE SECOND PHASE OF THE TRANSITIONAL ARRANGEMENTS: THE CASE OF BELGIUM

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## Abstract

At the end of the first phase of the transitional arrangements, EU Member States had to decide whether or not they want to keep provisional limitations for labour market access. The Commission published a report, in which it is obviously in favour of opening the labour markets.

Belgium applied limitations following the latest enlargement. Recently, the debate whether to continue applying limitations was reopened. Various groups in Belgian society had different points of view concerning this issue. Finally, the Belgian government decided to postpone the opening of the labour market. Therefore, the purpose of our paper is to investigate whether the government decision on keeping restrictions for the labour market is based on rational assumptions or is a result of a populist discourse?

## Key Words

free movement of workers, EU, Belgium

## JEL Classification

J60

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## List of Acronyms

- ACV: *Algemeen Christelijk Vakverbond/Confédération des Syndicats Chrétiens* (General Christian Work Association)
- CD&V: *Christen-Democratisch & Vlaams* (Christian Democratic & Flemish)
- cdH: *Centre Démocrate Humaniste* (Humanistic Democratic Centre)
- EEA: European Economic Area
- EU: European Union
- FGTB: *Algemeen Belgisch Vakverbond/Fédération Générale du Travail de Belgique* (General Belgian Work Association)
- FOREM: *Office communautaire et régional de la Formation professionnelle et de l'Emploi* (Community and Regional Service for Vocational Training and Employment)
- MR: *Mouvement Réformateur* (Reformatory Movement)
- ORBEM: *Office Régional Bruxellois de l'Emploi/Brusselse Gewestelijke Dienst voor Arbeidsbemiddeling* (Brussels Regional Employment Service)
- PS: *Parti Socialiste* (Socialist Party)
- sp.a: *Socialistische Partij Anders* (Socialist Party Different)
- spirit: *Sociaal, Progressief, Internationaal, Regionalistisch, Integraal-democratisch en Toekomstgericht* (Social, Progressive, International, Regionalist, Integrally Democratic and Directed at the Future)
- UK: United Kingdom
- VDAB: *Vlaamse Dienst voor Arbeidsbemiddeling en Beroepsopleiding* (Flemish Public Employment Service)
- VLD: *Vlaamse Liberalen en Democraten* (Flemish Liberals and Democrats)

## Introduction

After the enlargement of the European Union (EU) to twenty-five Member States, there are transitional periods, which apply limitations to the free movement of workers from the new Member States, as set out in the Accession Treaty. At the end of the first two years of the transitional arrangements, EU Member States had to decide whether they want to keep the provisional limitations or whether they want to abandon them and open the labour market to workers from the new Member States. The European Commission published a report, in which it is obviously in favour of opening the labour markets, stating for instance that the free movement of workers sustains economic growth.

Belgium was one of the Member States that applied limitations following the latest enlargement. Recently, the debate whether or not to carry on applying limitations was reopened. Various groups in Belgian society had different points of view concerning this issue. Finally, the Belgian government decided to postpone the opening of the labour market. This means that Belgium is one of the Member States that enters the second phase of the transitional arrangements (until May 2009), despite arguments provided by the Commission. Therefore, the research question of our paper is the following: Is the government decision on keeping restrictions for the labour market based on rational assumptions or is it a result of a populist discourse?

In an attempt to answer that question we will analyse official Belgian and EU documents, including legislation, as well as statements of and interviews with officials and civil society actors.

For this purpose, we are briefly going to give a short analysis of the provisions regarding the free movement of workers of the 2003 Accession Treaty<sup>1</sup> (hereafter referred to as “Accession Treaty”). We will give a short overview of the transitional arrangements in the EU Member States in general, and in Belgium in particular. Thereafter, we will look at the recommendations of the Commission’s “Report on the Functioning of the Transitional Arrangements set out in the 2003 Accession Treaty (period 1 May 2004–30 April 2006)”<sup>2</sup> (hereafter referred to as “report”) and the reactions of the Member States. This will allow us to analyse the Belgian debate on that subject in 2006.

Throughout the text, we will consistently use the acronyms “EU-15” to indicate the fifteen EU Member States before the 2004 enlargement, “EU-10” to indicate the ten Member States that acceded in 2004, and “EU-8” to indicate the EU-10, without Cyprus and Malta.

### Provisions of the Accession Treaty

The biggest enlargement in the EU to date on 1 May 2004 created population growth of seventy-five million inhabitants in the Union. However, it does not mean that all of the EU’s four hundred and fifty million citizens have the right to live and work in any of the twenty-five Member States, because the majority of the EU-15, as well as some of the EU-10 have imposed restrictions on their labour markets and on their welfare systems. After enlargement took place, the provisions set out in Council Directive 68/360/EEC of 15 October 1968 on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families<sup>3</sup>, can be subject to the transitional period.

In 2004 the EU-15, following provisions of the Accession Treaty, have introduced the so-called “transitional periods”, which means that for the first two years after the 2004 enlargement, access to the labour markets of the EU-15 and those of the EU-10 was dependent on national measures and policies, as well as bilateral agreements, concluded among the Member States. In accordance with the Accession Treaty, the Member States have the right to require work permits from citizens of the EU-8, because national rules, rather than Community rules apply in the case of workers from the EU-8. Formally, for the first two years there was no requirement to notify the Commission on the measures undertaken.<sup>4</sup>

As it is defined in the 2003 Accession Act (hereafter referred to as “Accession Act”), “before the end of the two year period following the date of accession [meaning, in 2006] the Council shall review the functioning of the transitional provisions on the basis of a report from the Commission<sup>5</sup>”. This means that on completion of the review, and no later than at the end of the two year period following the date of accession, Member States were supposed to notify the Commission whether they would continue to apply so-called “national measures” or measures resulting from bilateral agreements, or whether they would fully apply provisions on the abolition of restrictions on movement and residence within the Community for workers of Member States. According to provisions of the Accession Act, Member States may continue to apply such measures until the end of the five year period following the date of the accession.<sup>6</sup>

Henceforth, the transitional periods should end five years after the 2004 enlargement – in 2009. However, according to the Accession Act, in 2009 it may be prolonged for two more years in the Member States, where migration might cause or threaten to cause serious disturbances in the labour market. After a total of seven years, meaning in 2011<sup>7</sup>, no EU Member State will have the opportunity anymore to require work permits from citizens of any other Member State.

However, the provisions laid down in the Accession Act foresee that the Member States should give a preference to workers who are nationals of the Member States over workers who are nationals of third countries, as regards access to their labour markets.<sup>8</sup>

#### First Phase of the Transitional Arrangements in the EU Member States

Transitional measures, which the EU-15 were entitled to introduce, as it is set out in the Accession Treaty, are applicable to the citizens of the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Slovakia and Slovenia. It should be noted that there are no restrictions for the citizens of Cyprus and Malta.

Moreover, Malta itself can make use of a safeguard case, meaning that, as it is stipulated in the Accession Act, when Malta “undergoes or foresees disturbances in its labour market which could seriously threaten the standard of living or level of employment in a given region or occupation, it can inform the Commission and the other Member States thereof and can supply them with all relevant particulars.”<sup>9</sup> Based on this information, Malta may request the Commission to state that the full application of Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community<sup>10</sup> can be “wholly or partially suspended”, in order to “restore to normal the situation in that region or occupation”. After that, the Commission “shall decide on the suspension and on the duration and scope and shall notify the Council of such a decision. [...] Any Member State may, within two weeks from the date of the Commission’s Decision, request the Council to annul or amend the Decision.”<sup>11</sup>

The first two year phase of the transitional arrangements was introduced by Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Luxembourg, the Netherlands, Portugal and Spain. However, Ireland and Sweden opened up their labour market for the newcomers and the United Kingdom (UK) did not impose any *ex-ante* transitional arrangements, however, the UK obliged workers to register and to obtain a workers’ registration certificate.<sup>12</sup>

It should be mentioned, that from among the EU-10, Hungary, Slovenia and Poland imposed reciprocal labour restrictions to the EU-15, but not to the citizens of other EU-10.<sup>13</sup>

#### First Phase of the Transitional Arrangements in Belgium

Belgium has a system of work permits for foreign workers and employment authorisations for their employers. Nevertheless, the principle of free movement of workers is also applicable in Belgium as in other EU Member States. That principle has been converted into Belgian legislation by a Royal Decree of 9 June 1999 implementing the law of 30 April 1999 concerning employment of foreign workers. Article 2, first paragraph, 1° of that Royal Decree states that nationals of the European Economic Area (EEA) are exempted from the obligation to have a work permit.<sup>14</sup> In the framework of the latest enlargement, the Belgian government decided to use the possibility of transitional arrangements as provided by the Accession Treaty, at least until 1 May 2006.

The transitional arrangements were implemented in Belgian legislation by a Royal Decree of 12 April 2004 amending the Royal Decree of 9 June 1999. The new Article 38ter states that the exemptions are not applicable for nationals of any of the EU-8.<sup>15</sup> It does not apply for nationals from Cyprus and Malta; they have free access to the Belgian labour market. Only workers coming from the new Central and Eastern European Member States are still treated as if they were non-EEA nationals. They still need a work permit (before they leave their

country of origin) if they want to work under a Belgian labour contract. Their employers need an employment authorisation.

Employers who want to employ workers from non-EEA member states or from the EU-8 must request an employment authorisation and work permit from the relevant employment service. Exceptions are made for EU-8 nationals who were already legal residents in Belgium on 1 May 2004 and who were legally accepted on the Belgian labour market for at least twelve months. When all conditions are fulfilled, an EU-8 newcomer will receive a work permit B, which is only valid for employment by one employer and has a maximum validity period of twelve months.

Unlike the legislation on employment for foreign workers (which is a competence of the Belgian federal parliament and government), employment services in Belgium fall under the regional competences since Belgium is a federal state. That means that the authorities issuing employment authorisations and work permits are the *Vlaamse Dienst voor Arbeidsbemiddeling en Beroepsopleiding* (Flemish Public Employment Service, *VDAB*) in the Flemish Region, the *Office communautaire et régional de la Formation professionnelle et de l'Emploi* (Community and Regional Service for Vocational Training and Employment, *FOREM*) in the Walloon Region and the *Office Régional Bruxellois de l'Emploi* (Brussels Regional Employment Service, *ORBEM*) in the Brussels-Capital Region.

In principle, no employment authorisations are issued if there are enough qualified workers on the Belgian labour market to fill the vacancies in question within a reasonable lapse of time. Exceptions are made in Article 9 of the amended Royal Decree of 1999 for spouses and children of EU-8 workers who have already obtained a work permit B and residence permit, and for highly qualified staff, researchers, trainees, au pairs and other specific employment positions.

Unlike the free movement of workers, the free movement of services is already fully applicable. The above mentioned Article 38ter also states that non-exemptions of work permits are not applicable for persons employed by undertakings established in an EEA member state that offer services in Belgium, under the condition that they are legally employed in their country of residence and that the employment authorisation is at least valid for the duration of the work to be fulfilled in Belgium. In other words, a company from one of the EU-8 can execute a service in Belgium with its own (Czech, Estonian, etc.) workers without employment authorisations and work permits.

### The Report from the Commission

In accordance to the Accession Treaty, the Commission recently published its report on the free movement of workers. The main message of the report is that the free movement of workers has had a positive impact since the 2004 enlargement.<sup>16</sup> Moreover, “EU-10 nationals positively contribute in each Member State to overall labour market performance, to sustained economic growth and to the state of public finances.”<sup>17</sup> The analysis was based on the statistical evidence on workers’ mobility in pre- and post-enlargement periods, on national data provided by the Member States via Eurostat on residence permits issued to other EU nationals for family reunification, employment and study, as well as on the labour force surveys.

Statistical evidence shows, that there has been an increase in the number of EU-10 workers in EU-15 since the 2004 enlargement, although the relative impact is rather limited.<sup>18</sup> It was also

found that restrictions on legal work lead to a proliferation of undeclared work, “bogus self-employed” work, and factious service provision and subcontracting.<sup>19</sup>

Among other essential findings are the facts that “EU-10 Member States did not crowd out national workers” and “EU-10 nationals contribute to national economies in a complementary way”. This evidence “suggests that mobility from EU-10 Member States into EU-15 may have positive effects on labour markets by relieving labour shortages in certain areas.<sup>20</sup>” Therefore, the Commission claims in the conclusions and recommendations of the report that “[m]obility flows between the EU-10 and EU-15 are very limited and are simply not large enough to affect the EU labour market in general. [...] M]obility flows are driven by factors related to supply and demand conditions. [...] TA [transitional arrangements] will only delay labour market adjustments, with the risk of creating “biased” destination patterns even on a more permanent basis. [...] The migration flows following the enlargement have had positive effects on the economies of the EU-15 Member States[. ... E]mployment rate has increased in several countries since enlargement. [...] EU-10 nationals alleviate skills bottlenecks in the EU-15 Member States and contribute to long-term growth through human capital accumulation.<sup>21</sup>”

### Reactions of the EU-15

Before 1 May 2006, the Member States, following provisions of the Treaty, have notified the Commission about their decisions to prolong or to abandon transitional arrangements. Austria and Germany are applying the second phase of the transition arrangements for the EU-8.<sup>22</sup> The reason for this is, as Austrian Labour Minister Martin Bartenstein has said: “We do not have particularly high levels of unemployment, but the long-term forecast is not good.” For Germany the main reason is the high unemployment rate, especially in the *Länder* bordering the Czech Republic and Poland. Germany’s State Secretary for Employment Gerd Andres stated that the Commission report “does not take into account the effect of transition periods. [...] Also the geographical position is very different for Germany and Austria than it is for France or the UK.<sup>23</sup>”

Italian government has decided to prolong transitional arrangements, however it will raise the quota of workers from new member states to 170,000. Luxembourg will apply the second phase of the transitional arrangements, but will make the work permit issuing procedure more flexible in certain sectors.<sup>24</sup>

Ireland, Sweden, as well as the UK, have decided to keep their labour markets open.

Finland, Greece, Portugal and Spain have decided to lift restrictions for their labour market access.<sup>25</sup>

Belgium, Denmark, France and the Netherlands are going to lift the restrictions towards labour market access gradually, within the next three years. Denmark has decided to maintain the transitional arrangements, but probably only until 2009. France has decided to lift the restrictions step-by-step, starting from the labour market sectors with short supply, such as social and health care, hotel and catering, transport and construction. The Dutch government has decided, under pressure from the parliament, to prolong transitional arrangements.<sup>26</sup> The Belgian government has decided to keep sectoral restrictions on the free movement of workers. The Belgian Prime Minister Guy Verhofstadt said, that “a number of countries have already opened their borders. A number of others we know of are going to decide in the coming days and weeks whether to keep their borders closed for another three years. We’re not doing one or the other.<sup>27</sup>”

## The Belgian Case in 2006

On the one hand, Verhofstadt's statement does not mean that there will be a free movement of workers for EU-8 nationals who want to come to Belgium. Moreover, the above mentioned transitional provisions are even renewed in Belgium and therefore continue to apply from the beginning of the second phase (from 1 May 2006 onwards). The government also decided to establish a registration system for all foreign workers and to fight the abuse of free movement of services and agency work (as a means to employ Central and Eastern European workers at very low salaries). On the other hand, in order to fill vacancies for which there do not appear to be enough qualified workers on the Belgian labour market, qualified EU-8 nationals are henceforth automatically granted with a work permit without preceding labour force survey. The employment services VDAB, FOREM and ORBEM decide which vacancies are difficult to fill in their respective regions.<sup>28</sup> Therefore, only the regions (not the federal state) are allowed to compose the list of the "skills bottlenecks".

The current Belgian federal government is formed by a "purple coalition" of five political parties: *VLD* (Flemish liberals, with Prime Minister Verhofstadt), *PS* (French speaking socialists), *MR* (French speaking liberals), *sp.a* (Flemish socialists, with Minister for Employment Peter Vanvelthoven) and *spirit* (Flemish regionalists and left liberals).

The socialist parties PS and especially sp.a, which provides the government with its Minister for Employment, are rather reluctant to open the borders. Nevertheless, sp.a recognises the conclusions of the Report from the Commission, stating that open borders mean more growth and positive effects on the labour markets. In principle, sp.a is in favour of opening the borders, "but in the first instance, the government should be able to register foreign labour forces that come and work in our country," says Vanvelthoven. He argues that the Report does not take into account illegal secondment, undeclared work, pseudo-self-employed persons and illegal work.<sup>29</sup> According to the sp.a, the present control mechanisms are not appropriate enough to discover and fight such abuses. For instance, "detecting pseudo-self-employed persons is difficult anyhow," states Hans Bonte, member of the Belgian House of Representatives, as "it is not possible with documents in Polish." The question is whether that is the main concern for the socialists, as Bonte also argues that he cannot accept a domestic labour market with "50,000 non-filled vacancies and 500,000 unemployed persons"<sup>30</sup>.

There is obviously a mismatch between supply and demand on the Belgian labour market, but solving the latter problem by opening the borders for EU-8 nationals does not seem to be an appropriate solution for a party that wants to re-attract traditional left-wing voters who have massively switched at previous elections to the extreme right Flemish nationalist party *Vlaams Belang* (previously called "*Vlaams Blok*"), which is explicitly against opening borders for foreigners.

The opinion of the socialist parties is countered by the liberal parties VLD and MR. According to, for instance, House member Annemie Turtelboom (VLD), the two main socialists' arguments to keep the borders closed (inappropriate control mechanism and badly functioning labour market) is nothing new, as it was already the case two years ago (before the EU enlargement), and proves the failure of the socialist labour policies. "We will never be well prepared. Therefore, it is better to open the front-door. [...] If we do not open that front-door, they will come in anyway, by the back-doors instead." Opening the borders is for liberals also a way to avoid delocation. Turtelboom: "What are the possibilities for an entrepreneur who does not find labour forces on the domestic labour market? Either he delocates to a country where he can find working people, or he employs foreign workers over

here. [In the latter case,] he will create wealth here. In the other case, we will not get anything.<sup>31</sup>”

The socialists’ point of view has finally led to the official government position to keep the front-door on the ledge. Nevertheless, the discussion between the socialist and liberal parties whether or not to renew the transitional provisions shows an internal discord of the government. There is even internal discord among socialists. Mia De Vits, Belgian member of the European Parliament for the Party of European Socialists, is in favour of opening the borders because “only free movement of workers can guarantee sufficient social control and protection<sup>32</sup>”. That opinion is remarkable, not only because De Vits openly disagrees with the official sp.a party position, but also because she represents, as former President of the socialist trade union *FGTB* (General Belgian Work Association), the traditionally “leftist” union wing in her party. Moreover, as a member of the European Parliament, she appears to be more willing to believe in the Europeanist idea of integration by free movement of persons.

Concerning the trade unions, they are in favour of open borders for EU-8 nationals. *FGTB* wants to guarantee the same rights to all (Belgian and foreign) workers and is therefore in favour of free movement of workers. According to the *FGTB*, full free movement of workers would close back-door constructions that are now still possible by means of the existence of free movement of services. To fight those abuses, *FGTB* calls for a better social inspection on a federal, regional and European level. If that requires transitional periods, then they should be kept as short as possible. In the meanwhile, *FGTB* also asks the government to involve the social partners in the discussion about the “skills bottlenecks”.<sup>33</sup> That position is somehow in line with Vanvelthoven’s point of view, as the Minister advocates for instance the establishment of a European social inspection service (which he would call “*Eurosociopol*”), but he does not agree that the transitional periods should therefore be kept as short as possible.<sup>34</sup>

The largest Belgian trade union, the Christian *ACV* (General Christian Work Association), has a similar opinion as its socialist counterpart. Nevertheless, as there is no direct link between the *ACV* and one of the federal coalition parties – *ACV* is traditionally linked with the Christian Democratic parties *CD&V* and *cdH* (in the opposition on federal level, but part of the coalitions on regional level), whereas *FGTB* is linked with *PS* and *sp.a* (part of the coalitions on both federal and regional levels – it appears that *ACV* tends more to criticize the liberal-socialist government. *ACV* reproaches the government of not having involved the social partners in taking a decision on the prolongation of the transitional arrangements. The union does not trust the government party *VLD* in particular, which supports the positions of the employers’ organisations.<sup>35</sup>

The employers’ organisations would like to see an “and-and-policy” both by training job-seekers and by accepting immigrants, although the government prefers to give priority to the first option, which is a mere regional competence. The current government policy does not work, according to the Federation of Enterprises in Belgium, because such training for local job-seekers is or has to be organised by the regional employment services. One of the typical Belgian consequences is that, whereas Brussels has an unemployment rate of more or less 20%, Flemish companies do not succeed in filling vacancies because *ORBEM* is focused on employment in Brussels, and not in Flanders (where *VDAB* is the competent authority). The very complicated state organisation and diversity of authorities make it therefore even more difficult.<sup>36</sup>

Many of the “skills bottlenecks” concern technical professions. The sector that is most concerned is the building industry, which is marked by a huge lack of qualified workers.



There are permanently more or less ten thousand vacancies for each specific technical profession (electricians, tilers, etc.).<sup>37</sup> The will of Belgian construction companies to recruit EU-8 nationals is more a question of mere necessity rather than a cheap alternative for local workers. That is the conclusion of a survey organised by the “Vlaamse Confederatie Bouw”, the organisation that represents Flemish construction companies. 97% of the Flemish construction companies prefer local workers, but 86% of the respondents say that they would like to recruit Eastern European workers because they cannot find enough Flemish labour forces. The most important arguments why they prefer not to recruit Eastern European workers are language and legal problems.<sup>38</sup>

#### Why Flemish Construction Companies Would Like to Recruit Eastern European Workers<sup>39</sup>

Reason	
“the companies do not find Flemish labour forces”	86%
“Eastern Europeans are more flexible and willing to work”	45.8%
“Eastern Europeans are satisfied with a lower salary”	25.1%
other reasons	12.3%

#### Why Flemish Construction Companies Would Not Like to Recruit Eastern European Workers<sup>40</sup>

Reason	
“there are too many language problems”	60.6%
“there are legal risks”	43.9%
“the companies already have enough employed labour forces”	37.1%
“it is difficult to prosecute in case of problems”	34.8%
“Eastern Europeans cannot offer the same quality”	19.9%
“the procedure is too complicated”	15.4%
“the companies do not know how to find Eastern Europeans”	14.9%
“Eastern Europeans are not reliable”	11.8%
“frequent controls by inspection authorities”	10.4%
“Eastern Europeans work too slow”	2.7%

The distrust between socialist parties and trade unions (ACV in particular) on the one hand, and liberal parties (VLD in particular) and employers’ organisations on the other hand, is a normal performance of economic left-right opposition. However, it seems that the unions and the employers’ organisations are to some extent objective allies, as they are both more in favour of opening the borders than the government so far. Those different positions bring us to the question why the Belgian government finally seems to be more reluctant to open the borders than the social partners, whereas the latter are more directly concerned. All relevant actors are in principle in favour of opening the borders, as there is a wide consensus about the sense of European integration among the Belgian democratic parties and social partners. Nonetheless, the government was brought to adopt a minority position – only the socialists are against, with disagreement of unionists and some own party members. We see that the opposite happened in other EU Member States, such as in Sweden and the UK. Although those Member States may paradoxically have a rather Eurosceptic image, they were among the few not to apply transitional arrangements two years ago.

## Conclusion

Our purpose was to investigate whether the government decision on keeping restrictions for the labour market is based on rational assumptions or is a result of a populist discourse. So far, there is no evidence of market overflow in any of the EU Member States that opened their borders. There is work migration to those countries, but the jobs that are filled by foreigners are mainly jobs that were difficult to fill by local people. It even means more economic growth and a higher employment rate in those countries. Moreover, the opening of the labour market is an opportunity for the authorities to control better illegal employment. It is also an incentive for EU-8 workers not to be involved in dubious agency work or pseudo-self-employment systems.

From that point of view, it appears to be difficult to explain the Belgian position by means of its rational presumptions. Belgium does not have a very high level of labour market performance. The reasons are quite complicated and partly related to the organisation of the state. There are many vacancies that cannot be filled by Belgians (because not enough people possess the required qualifications or because they do not want to do the concerned work), especially in certain regions or sectors. In the first instance, entrepreneurs and some political and social actors, and to a much lesser extent the general public, are aware of that problem.

Prime Minister Verhofstadt is without doubt a defender of further European integration by means of the internal market and its fundamental freedoms. Free movement of workers is part of that philosophy. There is no strict partition anymore between policy-making on European level on the one hand and on national level on the other hand. The discussion on renewing the transitional arrangements is an example of how different interests may provoke tensions between both levels. It even has consequences on the (lack of) consensus of the internal Belgian political elite.

Let us not forget that Europeanist ideas are not really supported by an overwhelming majority of Western Europeans these days. The reasons for this are multiple (see the debate about the Constitution for Europe). Although most political actors are in favour of abandoning the restrictions, they are aware of the risk in defending that position some months before local elections. As mentioned previously, there is a very significant presence of the Vlaams Belang in the Belgian political landscape. This extreme right Flemish nationalist party has become the most popular party in a short time (despite its condemnation for being a racist party), and causes concerns for democratic politicians from both Flanders (that fears its continuous growth) and Wallonia (that fears its separatism). That implies a certain political nervousness that brings the European agenda to a second plan. At the same time, unlike in countries with a Eurosceptic tradition, this is the disadvantage of a pro-European consensus among political parties: when the political elite agree about the sense of further European integration, they may also agree not to defend that consensus when the political risk is too significant. Taking into account the abovementioned points, we can conclude that a populist discourse and fears, even more emphasised by the fact of upcoming elections, played a significant role in taking a decision that is not in line with a pro-European tradition. As stated before, the Belgian decision was not based on rational social-economic assumptions, but rather on party political strategies and fears, which might be considered, having regard to the internal politics, as a rational assumption as well.

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<sup>1</sup> Treaty between the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland (Member States of the European Union) and the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union. In Official Journal, L 236, 23 September 2003.

<sup>2</sup> COMMISSION OF THE EUROPEAN COMMUNITIES. Report on the Functioning of the Transitional Arrangements set out in the 2003 Accession Treaty (period 1 May 2004–30 April 2006). Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions. COM(2006) 48 final. Brussels, 8 February 2006.

<sup>3</sup> Council Directive 68/360/EEC of 15 October 1968 on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families. In Official Journal, L 257, 19 October 1968, p. 13.

<sup>4</sup> Accession Treaty.

<sup>5</sup> Annexes III-XVIII to Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded. In Official Journal, L 236, 23 September 2003.

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

<sup>10</sup> Regulation (EEC) No 1612/68 of the Council of 15 October 1968 on freedom of movement for workers within the Community. In Official Journal, L 257, 19 October 1968, p. 2.

<sup>11</sup> Accession Act.

<sup>12</sup> EUROPEAN CITIZEN ACTION SERVICE. Summary of Transitional Arrangements. <http://www.ecas.org/product/91/default.aspx?id=251>.

<sup>13</sup> EUROPEAN COMMISSION. FAQ on the Commission's free movement of workers report. Press release. MEMO/06/64, 8 February 2006. <http://europa.eu.int/rapid/pressReleasesAction.do?reference=MEMO/06/64>.

<sup>14</sup> Koninklijk besluit van 9 juni 1999 houdende de uitvoering van de wet van 30 april 1999 betreffende de tewerkstelling van buitenlandse werknemers. In Belgisch Staatsblad, 26 June 1999, p. 24162.

<sup>15</sup> Koninklijk besluit van 12 april 2004 tot wijziging van het koninklijk besluit van 9 juni 1999 houdende de uitvoering van de wet van 30 april 1999 betreffende de tewerkstelling van buitenlandse werknemers naar aanleiding van de toetreding tot de Europese Unie van nieuwe lid-Staten. In Belgisch Staatsblad, 21 April 2004, p. 23337.

<sup>16</sup> EUROPEAN COMMISSION. Free movement of workers since the 2004 enlargement had a positive impact – Commission report finds. Press release. IP/06/130, 8 February 2006. <http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/06/130&format=HTML&age=d=0&language=EN&guiLanguage=en>.

<sup>17</sup> Report, p. 11.

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- <sup>18</sup> *Ibid.*, p. 10.
- <sup>19</sup> *Ibid.*, p. 10.
- <sup>20</sup> *Ibid.*, p. 12-13.
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