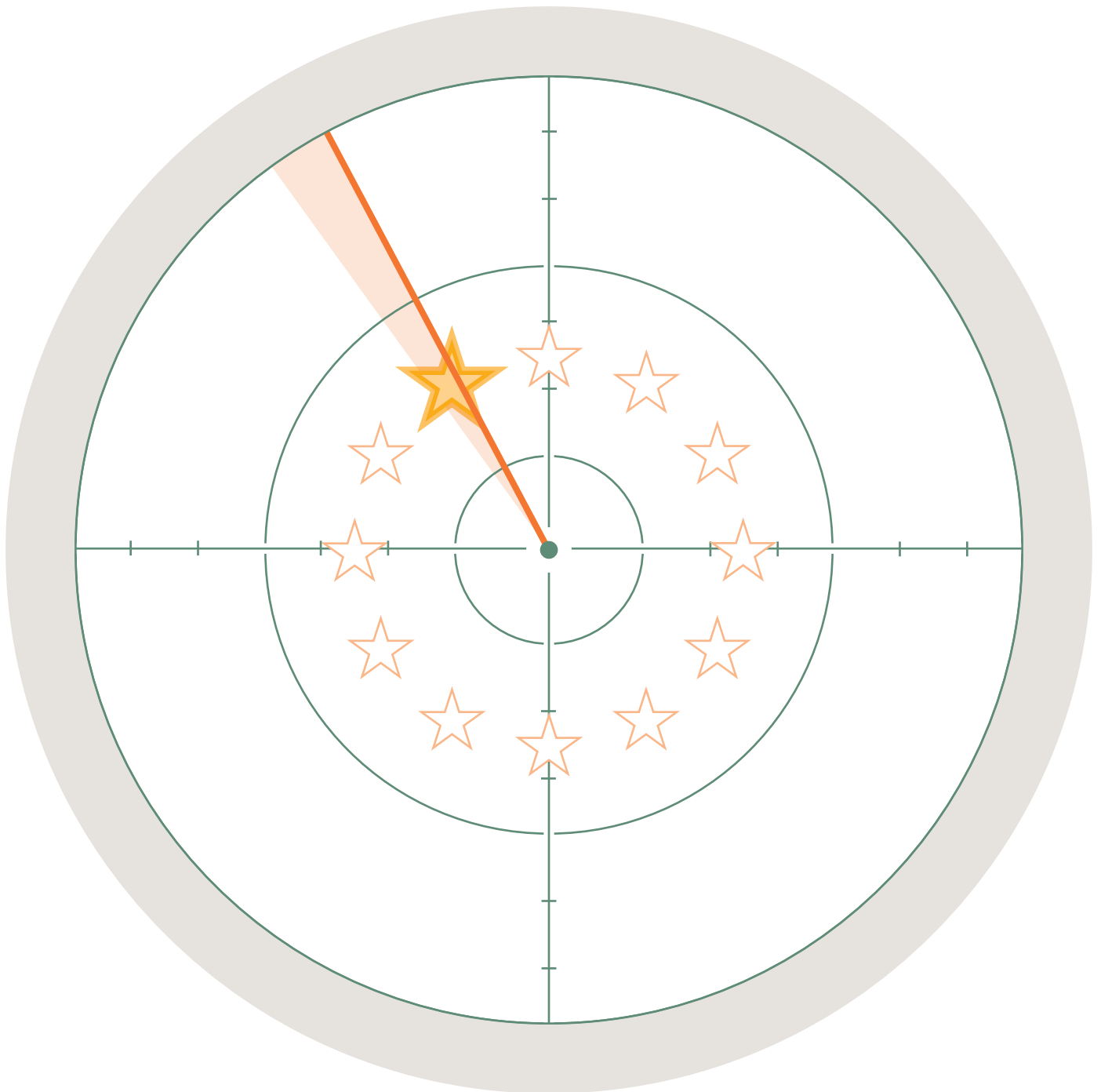


REPORT



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Institute for Public Policy Research

EUROPE,
FREE MOVEMENT
AND THE UK
CHARTING A NEW COURSE

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The views expressed in the report are those of the authors alone.

ABOUT IPPR

IPPR, the Institute for Public Policy Research, is the UK's leading progressive thinktank. We are an independent charitable organisation with more than 40 staff members, paid interns and visiting fellows. Our main office is in London, with IPPR North, IPPR's dedicated thinktank for the North of England, operating out of offices in Newcastle and Manchester.

The purpose of our work is to assist all those who want to create a society where every citizen lives a decent and fulfilled life, in reciprocal relationships with the people they care about. We believe that a society of this sort cannot be legislated for or guaranteed by the state. And it certainly won't be achieved by markets alone. It requires people to act together and take responsibility for themselves and each other.

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POSITIVE IDEAS
for CHANGE

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EXECUTIVE SUMMARY

IPPR is clear in saying that free movement within the European Union brings great benefits to all of its member states, including the UK. The fact that every European citizen has the right to move around the EU for work, study or lifestyle is one of the European Union's most significant achievements. Over the past few decades, free movement has improved the efficiency of European labour markets, created opportunities for cultural and educational exchange, and allowed people to permanently relocate to another country for family reasons or for retirement. Indeed, recent research has indicated that the UK's exports to the European Union support more than 4 million British jobs and are worth £211 billion to the economy.

It is therefore deeply worrying that opinion surveys show that a majority of voters want David Cameron to seek to end the right to free movement as part of his proposed renegotiation of the United Kingdom's relationship with the EU, and that in the coming European parliamentary elections in the UK (22 May 2014), the UK Independence Party (Ukip) – which campaigns for British withdrawal from the European Union as a means of restoring full national sovereignty over migration flows – is widely expected to top the polls.

Withdrawal from the EU would be a hugely retrograde step for the UK – an issue which IPPR has previously explored at length.¹ The same is true, however, of imposing any fundamental restrictions on free movement within the EU, and it is likely that the results of these elections are going to leave pro-European politicians in Britain and beyond with much more work to do to make the positive case for free movement.

In the past, that case has not always been communicated clearly. In particular, there has been a tendency to reiterate the facts about the net economic benefits of free movement and to dismiss popular concerns as ill-informed, or worse. As set out in IPPR's recent report, *A fair deal on migration to the UK*, we believe that this is the wrong approach to take (IPPR 2014). Rather, public concerns should be treated with the respect they deserve and the positive case should focus on how the system can be made fair for all so that everyone shares in the benefits of migration.

For a start, advocates of free movement certainly need to understand better than they have appeared to do so far why the issue has risen up the public agenda despite relatively low overall levels of intra-EU mobility. In 2012, less than 3 per cent of the EU's total population was recorded as living in a member state other than their own for a period of more than a year (although the proportion would rise if shorter-term stays were counted). When movements in and out of the UK from EU states were roughly in parity, which was the situation for the 20 years after the UK's accession in 1973, the issue was not a particularly divisive one. It is only in the last 10 years, since 2004, that it has become so.

2004 was the year in which eight eastern European countries joined the EU. Since then, the UK has experienced positive net migration from the EU of between 60,000 and 120,000 a year (106,000 in the year ending June 2013). This is largely as a result of movement from the A8 countries, particularly Poland. More recently, migration from countries affected by the eurozone crisis has also contributed to strong inflows, and controversy has surrounded the lifting of transitional controls on Romanian and Bulgarian workers from January 2014. So it is a fact that numbers have been much larger and the impact on communities more visible, and that has focused attention on whether intra-EU migration is working fairly for the UK.

1 IPPR's wider position on the UK's membership of a reformed EU is set out in Straw 2012.

Much of the British public's anxiety seems to be linked to perceptions that the UK's benefits system is acting as a magnet for citizens from poorer countries coming here with no intention of working, but there are also concerns that the high levels of migration from the EU place unsustainable pressures on public services and infrastructure. Another aspect of public concern is that migrants from the EU are prepared to work for lower wages and in poorer conditions, thereby undercutting UK workers. Finally, at least in some areas, UK citizens feel that EU migrants make little effort to integrate into local communities. Underlying all this is the fact that, unlike migration from outside the EU, the UK government is largely powerless to restrict inflows of European migrants (at least after transitional periods elapse) and so the reassurance of control and management cannot be offered.

This leaves all those in favour of the UK remaining in the European Union in a bind. In our view, a good starting position for a more constructive narrative would be to acknowledge clearly that, in the UK, migration from Europe is regarded as little different from all other migration flows and its impacts on both the economy and society need to be treated as such. Acknowledging this fact is not at odds with a pro-migration stance. However, it does highlight the need to manage European migration as much as possible in a way that preserves the principle of free movement while also drawing clearer boundaries around it. It also signals the need for a much more concerted effort to encourage the integration of EU nationals who exercise their right to free movement.

British people have a democratic right to express their views on whether the EU is a club that they want to remain a part of in the 21st century. We support the principle of a referendum, but argue that the choice offered to people should be based on an honest assessment of the opportunities and challenges created by free movement (alongside the other implications of EU membership), and a constructive agenda for reform that seeks to enhance its benefits both for mobile citizens and the communities they move to.

In this report, we consider the arguments that have been made for changing the rules around free movement, and set out our own suggestions for reform. We look in particular at:

- addressing the problem of vulnerable low-skilled employment in the UK
- increasing conditions on access to social security assistance for mobile EU citizens
- the return of individuals who are unable to exercise their free movement rights
- reform of the rules around transitional controls for future accession states
- the question of unbalanced migration flows.

We also make recommendations about the integration of those who intend to make their home in another EU member state on a more permanent basis.

We recognise that these are not the only issues at stake in the free movement debate, but have chosen to focus on those which are most salient to the UK and which are likely to play a determining role in the direction of public opinion on this issue.

Recommendations

Minor reforms to the way that free movement works will not solve all of the challenges that the UK – and other European countries – face in building skilled workforces, creating decent employment opportunities, and fostering strong social relations between all citizens. Tackling these requires much broader reforms to economic, fiscal, welfare, housing and education systems. However, with the following suggestions, we hope to make a practical and constructive contribution to current discussions about how to ensure that free movement continues to serve these goals rather than working against them.

We start by rejecting a few of the options that have been put forward by others, which in our view do not deal adequately with the substantive issues or with public concerns relating to free movement.

- Some commentators have suggested that EU states should be able to restrict migrants' access to benefits until they have been resident in a host country for a number of years – suggested timeframes include one, two or five years (see Murray 2014, Grice 2014, BBC 2014). Although we recognise that this will not impact on the majority of EU citizens who move for work or study, we believe that if policy changes of this kind do not succeed in their stated goal of significantly reducing overall inflows, already low levels of public trust on this issue will drop further, and the case for maintaining any kind of free movement will be fatally weakened. Introducing lengthy qualifying periods could result in some EU nationals (and indeed, some returning British citizens) slipping through the cracks and so not being covered by the social assistance systems of any state. Instead, a more constructive focus would be on negotiating for an increase in the length of time that each 'originating' state is legally responsible for covering the social assistance needs of its own citizens living in other, 'host' states.
- It has been suggested that one way of preventing large movements of labour from states acceding to the EU in the future would be to require such countries to attain a certain percentage of the EU's average per capita GDP (say, 75 per cent) before transitional controls on the working rights of their citizens would be fully lifted (Goodhart 2013). We judge this to be impractical for a number of reasons. For one thing, imposing limits of this kind would remove one of the key drivers of GDP growth: the mobility of labour. It takes time for economic convergence, but new member states should not be subjected to 'second-tier' status and have this process unnecessarily prolonged through the use of variable controls. It would also have no quick impact on migration flows in Europe, since the next set of EU accessions are a distant prospect and transitional controls will in any case restrict free movement for years beyond.
- Finally, we reject the argument that member states should be allowed to restrict inflows from the EU through the use of either a fixed annual cap on numbers or temporary caps on countries that breach a certain number in a single year (ibid). In our view, this would be a difficult and expensive system to administer and police, and is highly unlikely to receive widespread support in the EU, either among older or newer members. It would involve reintroducing border controls in the Schengen area and establishing criteria for the number and types of migrants from which countries would still be permitted to move. It would essentially put an end to free movement.

This being said, we do believe there are a number of steps that can be taken at both the national and European level to improve the outcomes of European free movement. In the UK:

- To protect both British and European nationals, the government should no longer permit the use of 'Swedish derogation contracts' that allow European agency workers to be hired as temporary employees on lower rates of pay than full-time staff and settled workers, and should enshrine this ban in legislation.
- To tackle exploitation and poor conditions in sectors where lower-skilled European workers are concentrated, the government should expand the powers and authority of the Gangmasters Licensing Authority to other industries. We recommend that this should be rolled out to the social care and construction sectors in the first instance, and that there should be an assessment of the feasibility of doing the same for the hospitality and manufacturing sectors at a later date.

- To improve data on local residents and enable planning for unanticipated spikes in new arrivals, the government should implement a straightforward system of local registration that covers all residents, including EU nationals. This could be done through the inclusion of additional questions about nationality and the age of residents on forms that households are already required to complete when registering to pay council tax, and through an extension of the information asked of landlords for houses in multiple occupancy (HMOs). This process should be administered by local authorities, giving council workers the opportunity at the same time to provide new arrivals from the EU and elsewhere with information about how to access services, register with a GP and get involved in voluntary opportunities and community activities.
- The government should explore other practical options for facilitating the integration of EU nationals, such as by subsidising the costs of English language classes to individuals in need of support, and ensuring that these classes are available at times and in locations that would suit those working in professions with ‘antisocial’ hours. These costs should be met through the European Social Fund budget for social inclusion.

In other areas, reform of free movement will only be achieved through negotiation at the European level and changes in EU regulations and case law. We suggest that the following issues should be prioritised in the UK government’s renegotiation strategy:

- There is scope for reforming the principle of exportability, so that origin states would be legally responsible for covering any unemployment and non-contributory benefits needed by their own citizens for a *minimum* of six months. At present, six months is the maximum, and there is no legal obligation for countries of citizenship to export benefits for this length of time.
- In recognition of the fact that language problems can often be a major impediment to finding work and settling into communities, EU workers could be required to show evidence of being in language training (if their level of competency in the host-country language was poor) before access to unemployment benefits such as jobseeker’s allowance would be granted. This kind of reform would signal an overall move towards enabling the movement of those most able to integrate and find work in another country.
- As of the end of 2012, it was estimated that £55 million was being spent on child benefit and child tax credit for just over 47,000 non-British children living outside the UK but within another EU member state. This is one of the more visible issues undermining support for free movement as a whole, especially since the UK is one of only a few countries that permits this practice. There is a strong case for reforming the way in which child benefit and child tax credit is granted so that, at most, any benefits paid out for non-resident children of EU nationals would be set at the rate that would be offered in the country the child is living in rather than the host country of the claimant.
- There is a need for greater clarity about where responsibility lies for EU nationals who are unable to remain in their host country without placing an unreasonable burden on social systems. In the short term, we recommend that European Social Fund resources should be made available to facilitate the return and reintegration of EU citizens who need to leave the country for reasons of destitution or homelessness. In the longer term, options should be explored for this process being funded proportionally by countries that experience large outflows of workers who are subsequently in need of prolonged social support in destination countries.

- There is evidence from the UK and elsewhere that many lower-skilled workers who move to other EU countries without full access to the labour market can end up in situations of vulnerable employment or exploitation. With respect to transitional controls on states joining the EU in future, we recommend that the regulations for allowing EU nationals to migrate as a 'self-employed' person should be significantly tightened so that there are stronger criteria and stricter checks on the legitimacy of self-employed work.
- Rather than seeking to introduce arbitrary annual numerical limits on the numbers of EU nationals that are able to move, any member state experiencing high outflows of economic migrants in a single year should be required to report to the European parliament on the causes of this, and to set out an action plan for addressing them. This would create a set of targets for governments to be held accountable against, both by other member states and by their own citizens.

1. INTRODUCTION

In the run up to the 2015 general election, the UK faces serious questions about its future role in Europe. This is an issue that provokes strong opinions and emotions, even though it does not usually top voters' lists of concerns. Yet it has returned to political centre-stage in the wake of increasing debate about a referendum on Britain's continued membership of the European Union both between and within the major parties.

The prime minister has pledged that if an outright majority elects the Conservative party in the next election, they will hold a straight 'in/out' referendum by 2017, following a period of renegotiation to improve the current terms of the UK's relationship with Europe. The Liberal Democrats, traditionally the UK's most pro-EU party, have suggested that they would favour a referendum if any new treaty is signed that alters the balance of power between London and Brussels. The Labour party has also stated that it would support a referendum if there is a proposal to transfer further powers from the national level up to Brussels, while suggesting it is unlikely that this will happen. All three parties are being pushed by Ukip, which campaigns stridently for British withdrawal from the EU and is expected to do well in European parliamentary elections in May 2014.

The prospect of a referendum has created great unease among those who are keen to see Britain remain an outward-facing nation that plays a leading role in Europe. Many large international corporations and employers – including General Electric, Land Rover, Unilever and Airbus – have publicly called on the UK to stay in, joining nearly 80 per cent of UK companies represented by the Confederation of British Industry who favour continued EU membership (CBI 2013a). This view is not only held by big business: it is shared by a broad, though fairly disconnected, group of political, academic and civil society actors.

However, pro-European voices have found it difficult to connect with mainstream public attitudes on this subject. Opinion polls conducted over the past few years have consistently shown that a majority of the public are in favour of a referendum, and that more people would vote for the UK to withdraw from the EU than to stay, if politicians fail to negotiate a new deal (Kellner 2013a).

1.1 The European migration challenge in the UK

Eurosceptics share a number of concerns about EU membership, including a belief that British sovereignty is undermined by the perceived imposition of rules and regulations made by European institutions that themselves suffer from a severe democratic deficit (Straw 2012). However, immigration is by far the most contentious aspect of this debate. This issue has become increasingly politicised since 2004 as a result of the high inflows from the EU's newer member states, with net migration topping 420,000 from the EU over the course of a decade.² The issue flared up again at the end of 2013 in advance of the removal of transitional controls on the working rights of Romanians and Bulgarians from 1 January 2014.

This milestone was preceded by a period of intense speculation about the number of A2 migrants (from Romania and Bulgaria) that might come to the UK, with estimates ranging from the low tens of thousands a year to up to a quarter of a million over a five-year period. Ahead of publication of the first official statistics, it would be unwise to say with any certainty which of these predictions will prove to be correct. However, it should be noted that this situation is very different from that of a decade ago, when the UK was one of only three European countries to open its borders fully to the A8 states that joined

2 For a good summary of historical and recent inflows see Migration Observatory 2012: ch 5 and Vargas-Silva 2014.

the EU in 2004.³ By contrast, Romanians and Bulgarians have been able to move to the UK for work or study since 2007. The statistics show that significant numbers have done so, and that a considerable proportion of these have already returned home or moved elsewhere (ONS 2014, Glennie and Pennington 2013).

That being said, it should not be assumed that lower-than-expected levels of immigration from Romania and Bulgaria over the next few years will be sufficient to assuage public unease about European free movement. This is fuelled by a broader sense that there is something unfair about a system that prevents the UK government from exerting control over who is and isn't allowed to live and work within its borders.

The fact that citizens from other EU countries have legal entitlements to UK services and welfare benefits that they have not contributed to in a significant way (in their first few months or year of living here, at least) is greatly disliked – even though the evidence suggests that EU nationals are much lighter users of the benefit system than British citizens. There are also legitimate concerns about increased competition for jobs, the impact on public finances, and pressures on housing and frontline health and education services that can occur when population growth rates increase rapidly over a short space of time.⁴

Of course, this is not a zero-sum game. Migrants from both inside and outside the EU create new jobs as well as fill them, and are funders and employees of public services as well as users. But these nuances generally do not receive a great deal of attention in the mainstream debate. This has led to a situation where political leaders are competing to sound as tough as possible on EU migration and where a majority of voters want David Cameron to seek to end the right to free movement as part of his proposed renegotiation of the UK's relationship with the EU (Kellner 2013b).

1.2 The choices we face

The current state of the free movement debate in the UK is neatly illustrated by a recent YouGov survey (Kellner 2013a). This gave respondents three options for what should be done about EU immigration:

- support for continued free movement, because there is nothing wrong with it
- putting up with it, because we need to obey EU laws even though we don't like them
- restricting the right of European citizens to settle in Britain, even if this means breaking EU laws.

Likely on account of the levels of concern surrounding Romanian and Bulgarian migration at the time the survey was taken, the majority (42 per cent) were in favour of flouting the rules.

Reducing the debate about free movement to a 'like it or lump it' binary choice creates very little room for constructive policymaking, and strengthens the position of those who argue that the only solution is complete withdrawal from the EU, regardless of the profound consequences this would have for our diplomatic and trading relationship with Europe and the rest of the world. An alternative approach is needed, one which delivers a real choice to the British public. This should involve collaborative renegotiation at the

3 Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia.

4 We do not revisit in this report in detail the statistics on the economic and social impacts of European migration in detail; see Glennie and Pennington 2013 for a more in-depth discussion of this data, as well as references to wider literature on the subject.

European level with the aim of making the system of free movement fairer and more beneficial both for migrants and the communities that receive them – rather than simply seeking to reduce the numbers of people moving. However, the public should then be given the opportunity to make clear their views on the outcome of this renegotiation, through a democratic process such as a referendum.

IPPR has previously argued that the UK's geopolitical, economic and cultural interests are best served by remaining a member of a substantially reformed European Union (see Straw 2012). Indeed, recent research has indicated that the UK's exports to the European Union support more than 4 million British jobs and are worth £211 billion to the economy (CEBR 2014). We stand by our assertion – and would add that the right to free movement should be upheld as one of the key elements of the EU. However, we also recognise that in the run-up to any future referendum on membership, this argument can only be won if pro-European voices grasp the migration nettle and engage with the legitimate concerns that the public have about the impacts of free movement on the UK.

1.3 The structure of this report

Chapter 2 considers the rationale for maintaining a system of free movement in Europe, looking at both its advantages and potential downsides. Chapter 3 provides an overview of the UK political and public debate about free movement and assesses the steps that the UK government has taken to date to address concerns that have been raised. Finally, chapter 4 sets out an agenda for reform at both the UK and EU levels.

2. FREE MOVEMENT: A BALANCED ASSESSMENT

Freedom of movement is a founding principle of the European Union, and an essential complement to the effective movement of goods, services and capital across the continent. It is also generally popular across the EU as a whole. Eurobarometer surveys consistently show that the ‘free movement of people, goods and services within the EU’ is regarded as the most positive result of the formation of the EU (European Commission 2013).

However, the right to move freely around the EU for work, study, lifestyle or retirement has come under increased scrutiny in recent years. While its supporters hold that being able to live and work anywhere in the EU sits at the heart of what it means to be a citizen of Europe today, and that it is a key driver of growth and development, its critics argue that it has facilitated a one-way transfer of people from poorer states to wealthier ones, and allowed European migrants to ‘shop around’ for the country that will provide the most advantageous system of welfare benefits.

IPPR strongly supports freedom of movement and wants to see it preserved. Yet in spite of our belief that it helps to promote economic growth and social solidarity across Europe, we also recognise that it can cause tensions when it is seen to unfairly disadvantage settled communities who have no interest in or opportunity for migrating to another European country themselves.

In this section, we provide a brief overview of how the principle of free movement has evolved in recent years, and identify some of the arguments that have been made for and against it. We highlight those with particular relevance to the UK debate, as context for the discussion in the remainder of the paper.⁵

2.1 How the system works

The free movement of workers has been a part of EU law since the late 1960s. However it is only relatively recently that the fragmented regulations governing this system were brought together under a single framework. Directive 2004/38/EC⁶ was adopted by the European Parliament and European Council on 29 April 2004, setting out the right of citizens of the union and their family members to move and reside freely within the territory of the member states. It aimed to encourage European citizens to exercise their right to move around the EU for the purpose of employment, study and retirement, and to remove as many of the restrictions as possible that might prevent them from doing so easily.

The EU treaties further emphasise the need for every EU citizen to be treated equally irrespective of their country of origin or residence, stating that freedom of movement for workers entails ‘the abolition of any discrimination based on nationality between workers of the member states as regards employment, remuneration and other conditions of work and employment’. This essentially means that while every member state is entitled to devise and amend their own systems governing employment, education, housing and welfare, they are not allowed to apply the rules differently for their own citizens and nationals of other EU states.

This does not mean that European nationals are given completely unfettered access to the job market and welfare system of every state in the EU, as is often suggested. Rather,

5 In this paper we do not seek to evaluate the merits of the UK’s membership of the EU as a whole. IPPR has previously set out its views on this (see Straw 2012) and there are a range of other excellent sources of literature that address the question in more detail (see for example Springford and Tilford 2014, CBI 2013b and Booth and Howarth 2012).

6 The full text of the directive can be accessed at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:158:0077:0123:en:PDF>.

there are a number of conditions that are attached to the right to EU mobility, linked to the length of time that a migrant moves for, their employment or family situation and the resources they possess.

Every EU citizen has the right to enter another member state if they possess an identity card or valid passport, and cannot be asked to apply for an entry or exit visa. This is all that is needed if they intend to stay for less than three months, although the host member state is entitled to require them to register their presence in the country within a reasonable period of time if it so chooses. This right also applies to the migrant's immediate family, even if they do not hold the nationality of an EU member state, although they may be subject to a short-stay visa requirement.

After three months, EU migrants only have a right to stay in the host country if:

- they are economically active (whether on an employed or self-employed basis) or have sufficient resources and sickness insurance to ensure that they do not impose an burden⁷ on the social services of the host country
- they are following vocational training as a student (and have sufficient resources and sickness insurance to ensure that they do not become a burden on the social services of the host member state during their stay)
- they are a family member of an EU citizen who falls into one of the above categories.

There is discretion built into this system to accommodate the policy preferences of different member states. Directive 2004/38/EC observes that 'it should be left to the host member state to decide whether it will grant social assistance during the first three months of residence, or for a longer period in the case of jobseekers, to union citizens other than those who are workers or self-employed persons or who retain that status or their family members, or maintenance assistance for studies, including vocational training, prior to acquisition of the right of permanent residence'⁷.

Since there is no coordinated system of social security assistance across Europe, this has led to considerable variation in the benefits that EU nationals are entitled to if they move to another member state. Box 2.1 below compares the systems in three different European countries.⁸

European free movement regulations do include provisions that restrict the ability of host member states to remove EU nationals after three months if they do not meet these requirements, such as if they are jobseeking and have 'a genuine chance' of finding work. It also makes clear that EU nationals cannot be *automatically* expelled if they find themselves in need of social assistance benefits (although it does not close the door on this entirely). In these cases, the onus is on the member state to consider whether it is likely to be a temporary situation, and to take account of the personal circumstances and duration of residence of the individual in question. Furthermore, member states are prohibited from taking expulsion measures against workers, self-employed people or jobseekers unless there are strong grounds of public policy, public security or public health.

7 The treaties are vague on what would constitute an 'unreasonable burden', although they require member states to take account of the personal situation of the individual or family in question, and state that no minimum sufficient amount can be set.

8 The European Commission has produced guides to the rights that EU citizens have under the social security systems of each member state, available here: <http://ec.europa.eu/social/main.jsp?catId=858&>; see also Benton 2013.

Finally, if an EU national has been legally resident in another member state for a continuous period of at least five years and has not been subject to expulsion measures then they are granted the right of 'permanent residence', conferring rights similar to those enjoyed by citizens. This measure was included in Directive 2004/38/EC to promote social cohesion and the integration of those who choose to stay in another member state on a longer-term basis.

Box 2.1: Social security systems in Germany, Sweden and Poland

Welfare systems differ across different EU countries. The UK's universalist welfare system (with only limited distinction between benefit eligibility for those who have a record of contribution and those who do not) stands apart from many other countries.

Germany, for example, has a clear two-tier welfare system. One part is contributory: employers and employees each contribute the equivalent of 15 per cent of their wage to a social insurance scheme. Workers who have contributed who become unemployed receive up to 70 per cent of their previous salary in the first year of unemployment, and the level of benefits received is pegged to the level of contribution made. The second part is needs-based: workers who have not made contributions to a sufficient level or who have been unemployed for more than one year can claim a minimum allowance.

Sweden operates a similar income replacement scheme. It is more generous than the German scheme but is only available to people who have worked in Sweden for a year or more. In order to be eligible an individual must have worked and been a member of an unemployment insurance fund (usually administered by employer-based trade unions) for 12 months. Workers who qualify receive up to 80 per cent of their former salary up to a maximum of approximately £60 a day. Workers who were not a member of a salary insurance company can claim benefits at a basic rate. However, even here, the level of benefits received is calculated on how many hours a week claimants worked before they became unemployed.

These distinctions are also seen in the welfare systems of newer EU members. In **Poland** there is a stark distinction between a safety net for workers who have been made unemployed after a period of employment, on one hand, and levels of basic assistance for those in destitution on the other. Workers in Poland are entitled to social security payments if they have been employed for at least 365 days in the last 18 months. Individuals and families who do not have this employment record, whose income falls below a legal threshold and whose cash resources are too low may be entitled to some social assistance. The allowance is a combination of benefits paid in cash and in kind, often delivered by faith-based and voluntary sector organisations.

In all three countries, newly arrived migrants (who can pass free movement tests) generally only qualify for the less supportive non-contributory welfare systems. If they can prove they have made contributions to a welfare scheme in another EU country, they may be able to receive benefits from salary insurance schemes. However, they are largely only entitled to basic, needs-based social assistance.

2.2 The advantages of free movement

Intra-European mobility is essential for the effective working of the European single market. It has created a 500 million-strong pool of labour for employers to recruit from, which has enabled many to expand their businesses into other countries and to hire people with varied language or other specialist skills. It has stimulated innovation and competition. It has also alleviated unemployment-related pressures in countries experiencing economic difficulties, by providing opportunities in other European labour markets, and compensated for skills gaps and shortages in others.

In the UK, EU nationals have traditionally filled many vacancies in the agricultural and horticultural industries. These jobs, given their temporary nature and their low levels of pay, tend not to be taken up by British workers.

However, many Europeans also work in strategically important jobs in other parts of the British economy, and they are overrepresented in higher-skilled as well as lower-skilled professions. For example, the latest census data shows that 23.1 per cent of workers born in 'old EU' countries (member states in 2001, excluding the UK) were employed in the financial, real estate, professional and administrative sectors. This is much higher than the 16.8 per cent for UK-born workers and the 17.6 per cent for workers from the 10 countries that joined the EU between 2004 and 2007 (CEBR 2013). Recent statistics illustrate the high reliance of the national health service (NHS) and community health services on doctors and clinical staff born outside the UK, with Ireland, Poland, Portugal, Spain and Germany among the top 10 nationalities of NHS staff (Siddique 2014).

Although it is difficult to get an accurate picture of how many British people are exercising their right to free movement, many British citizens have moved to Europe for work, study or personal reasons. Research conducted by IPPR estimated that in 2008 there were around 1.8 million British nationals who had been living in another European country for a year or longer, and 2.2 million who were living in the EU for at least part of the year (Finch et al 2010).⁹ In a recent statement on the issue, the government revealed that these remain the most up-to-date figures they have (House of Lords Hansard 2014).

The stereotypical image of Brits in Europe is that of the retired pensioner living on the Costa del Sol. The British population in Spain is estimated to run to the hundreds of thousands, with many having bought second homes there (in which they live only for part of the year) or relocated permanently for retirement. This was particularly prevalent before the global financial crisis and the collapse of the housing market in Spain; it is likely that this so called 'lifestyle' migration has declined in recent years.

However, retirees are not the only British people to benefit directly from free movement. It has also enabled British entrepreneurs to set up businesses in Europe, and provided UK workers with employment opportunities in other countries. For example, in 2013 the German government launched a scheme that aimed to fill skills gaps in Germany by recruiting talented British apprentices. The programme, administered by the London-based International Business Academy, offers an attractive package, including pay of

⁹ These estimates were primarily based on census or survey information made available officially by host governments (uprated in line with rates of growth or decline where necessary). In countries with poor registration data (including France and Spain), census data was supplemented by official government estimates of the levels of non-registration. All figures were further supplemented by the growth in numbers of UK passports issued to residents of these countries and increases in the numbers of UK pensioners resident in these countries (information available from UK government sources) and local consular data in-country.

more than £700 a month after tax, free language lessons, travel expenses, and the opportunity to study alongside work (Sunderland 2013).

The advantages of free movement go beyond the purely economic. More than 3 million European students have benefited from the EU's 'Erasmus' youth mobility scheme since it was established in 1987, including large numbers of British citizens. According to the British Council, 14,607 British students were working or studying in Europe through Erasmus in 2012/13, an increase of 7 per cent on the previous year's figures and the highest level since the programme's launch (Steed 2013).

This scheme and associated programmes have created many opportunities for educational and cultural exchange across Europe, spurred improvements across Europe's higher education sector, and boosted the skills and employment prospects of those who have taken part in it. A recent survey in the Netherlands on the impact of the scheme found almost 90 per cent of students reporting that Erasmus contributed to their professional development, especially through increasing their motivation and subject-specific knowledge (Roodenburg and Gielesen 2013).

2.3 Why are there concerns?

From the above, it might be assumed that free movement is a win-win scenario for all European citizens and governments. Overall, it clearly is. But the political, economic and social changes that have taken place in both the EU as a whole and each of its member states over the past decade have changed the way it functions in significant – and not always positive – ways.

While free movement was originally envisaged as a means of letting workers move around to fill gaps and ease pressures in the European labour market, the 2004 directive and the case law that has subsequently developed through a series of rulings by the European Court of Justice (ECJ) have transformed it into a system that allows workers, students, jobseekers and families to move relatively easily between countries, subject to certain conditions.

This was uncontroversial when the EU was a smaller group of states with reasonable levels of economic parity and stability, but its enlargement into southern and eastern Europe – which the UK has always strongly supported – and the impact of the financial crisis in Europe have increased public unease about whether free movement is currently delivering on its considerable promise.

Uneven flows of people

The system of free movement is not a conveyor belt that transfers people only from poorer to richer countries, as many of its detractors have suggested. Italy, Germany and the UK are among the five largest origination states of intra-European migrants, alongside Poland and Romania (Migration Observatory 2012b). However, in recent years there has been a large movement of younger workers from the EU's newer member states, which generally have lower levels of per-capita income and higher levels of unemployment than their western European counterparts.

Over time, participation in the single market should start to level out these differences – indeed, this is a key aim of the EU's enlargement programme. In the short term, however, some imbalances have been created as workers from the 'new EU' have migrated in search of better wages and employment opportunities and settled in a small number of destination countries. Over three-quarters of Romanian citizens living in another country have moved to Italy or Spain, while more than two-thirds of mobile Polish citizens are in the

UK or Germany (Benton and Petrovic 2013). Research conducted in 2012 found that there were around 550,000 Poles living in the UK but just 764 Brits in Poland (Guardian 2012).

The global financial crisis and trouble in the eurozone has also affected the nature of EU migration flows. Countries like the UK, with relatively flexible labour markets and a faster financial 'recovery', have seen high levels of inward labour migration from countries experiencing severe downturns. The last six months of quarterly migration statistics have shown a statistically significant increase in the number of citizens from the 'old EU' (including Spain and Italy) migrating to the UK for work-related reasons, rising from 42,000 in the year ending September 2012 to 65,000 in the year ending September 2013 (ONS 2014).

Shifting European migration patterns have put some pressure on destination countries, but it has also affected countries that have seen large outflows of professionals and are now experiencing skills shortages of their own. For example, the head of the medical doctors' union in Bulgaria has suggested that the country is losing between 500 and 600 doctors a year as a result of emigration, even though the graduating class of medical students for the whole country is only about 600 people annually (Petkova 2014). Low levels of pay, lack of opportunities for career progression and political corruption are cited as push factors for these individuals. Even the most ardent supporter of free movement should be concerned about a system that enables a mass migration of talented workers and students away from countries that would so clearly benefit from their retention.

'Unfair' entitlement to benefits

As migration patterns have shifted, the political debate about free movement in the UK and other major destination countries has overwhelmingly come to focus on EU migrants' access to welfare benefits. A powerful narrative of unfairness with respect to this issue has captured the political, public and media debate, even though there is very little to suggest that EU nationals are migrating in order to live off the welfare system of other states. The majority move for work or study, and the evidence suggests that EU migrants make an overall positive contribution to the fiscal position of the countries they move to.

In the UK, recent research conducted by University College London found that, between 2001 and 2011, European Economic Area (EEA)¹⁰ migrants paid 34 per cent more in taxes than they received in benefits (Dustmann and Frattini 2013). This compares positively with both UK-born citizens and migrants from outside the EEA (both groups receive more in benefits than they contribute in taxes overall) and is striking in a period where the UK has experienced a sustained budget deficit. The same study also found that EEA migrants are less likely to be drawing on state credit or living in social housing than these other groups.

Even though European migrants tend not to place a disproportionate burden on the benefit system of the countries they move to, there are legitimate concerns that the EU rules in this area are too vague and in some cases, hard to justify on grounds of equal treatment. For example, it is regarded as particularly unfair that under certain circumstances EU migrants are able to 'export' benefits for children who neither reside in nor have citizenship of the country paying those benefits. In the UK, the number of migrants that this applies to is not large, and is granted after an assessment of individual cases. As of the end of 2012, it was estimated that £55 million was being spent on child benefit and child tax credit for just over 47,000 non-British children who lived outside the

¹⁰ Many of the rules that apply to migration from the EU also apply to the wider EEA and Switzerland. For simplicity's sake, we use the abbreviation EU throughout this report, except in reference to statistics or government policies that specifically refer to EEA migrants.

UK but within another EU member state (House of Commons Hansard 2013). This is one of the more visible issues undermining support for free movement as a whole, especially since the UK is one of only a few countries that permits this practice.

As outlined above, there is no common welfare system across Europe. While the majority of European states employ insurance-based benefits schemes that offer higher levels of protection and are more linked to earnings, others – including the UK – are more universalist and offer a range of non-contributory and means-tested benefits (such as those linked to unemployment, sickness and family). Given that EU legislation is designed to prevent any European national from being discriminated against or treated differently from citizens of their host country, it is much harder to introduce any form of differentiation in access to benefits within this kind of system. This has been a particularly contentious issue in the debate between the UK government and the European Commission, with both sides arguing that the other needs to change their system rather than seeking compromise.

Economic integration challenges

While the majority of mobile EU citizens do integrate successfully into the labour market of host countries, there have been some challenges around the convertibility of qualifications and the types of jobs that many European workers do, particularly at the lower end of the labour market. In the UK, these factors can cause dislocations for settled workers and migrants and represent a waste of skills available within the labour market.

At the EU level, efforts have been made to ensure that workers and students are able to use the qualifications that they have gained in one member state to find work that matches them in others. A European qualification framework has been in place since 2008, designed to provide a ‘translation device’ to make national qualifications more easily comparable across Europe. This applies to all types of education, training and qualifications, including academic, professional and vocational. Directives have also been passed on the recognition of professional qualifications to allow for automatic mutual recognition of certain key professions, including doctors, nurses, dental practitioners, veterinary surgeons, midwives, pharmacists and architects. Future reforms will increase the number of roles that are covered.¹¹

Removing the barriers created by different qualification systems is vital to the completion of the European single market. However, certain aspects of this process are in need of further review. For example, of these recognised EU-qualified professions, only doctors and nurses are legally required to demonstrate their proficiency in the language of the host country in order to take up offers of employment. This is not needed for other professionals delivering frontline services, even for jobs like social care, where the ability to communicate clearly with service users is vital. Lack of language skills may also create challenges for public services themselves, for instance by incurring greater translation costs.

There is also evidence (although much of it is anecdotal) that many EU nationals – overwhelmingly those from the new member states – end up working in low-wage jobs below their qualification levels when they migrate in search of employment (Somerville and Sumption 2010). This is not what the system of free movement was designed to achieve. It is particularly problematic for those EU migrants who end up in insecure jobs or

¹¹ For more details on Directive 2005/36/EC and its subsequent amendments see: http://ec.europa.eu/internal_market/qualifications/policy_developments/index_en.htm

sectors where exploitation is common, whether they are working on an employed or self-employed basis. For example, there are concerns about the increased number of young eastern European women employed in the UK as au pairs, an unregulated sector where abuse is rarely reported and where enforcement of working rights is virtually non-existent (Cox 2012).

Much of this exploitation goes unreported, yet studies have highlighted cases of employers failing to pay agreed wages or paying below the minimum wage, landlords turning a blind eye (or actively facilitating) overcrowding in poor-quality housing attached to jobs, and work conditions that are dangerous or unhealthy (see for example Davey and Lynn 2014). This is harmful both for migrants and settled workers, as it can lead to depressed wages and living standards and cause tensions within communities.

In sectors where regulation is low and work is hidden (such as agriculture, construction, hospitality and care, among others) and where market pressures would otherwise allow wages to rise, a ready supply of flexible workers from the EU can also drive down standards and pay (Stenning et al 2006, Somerville and Sumption 2009).

The increasing reliance of UK employers on European agency workers has also created problems around undercutting of wages. In 2008, the European Commission passed a directive on temporary agency work designed to guarantee a minimum level of effective protection to temporary workers and to contribute to the development of this sector as a flexible option for employers and workers. It gives agency workers the right to the same basic working and employment conditions as direct employees – including terms regarding pay, working time, annual leave and maternity rights – except for limited exemptions.

In theory, this prevents employers from hiring workers on lower rates of pay and undercutting full-time employees. However, the UK permits the use of an arrangement known as ‘Swedish derogation’ or ‘pay between assignment’ contracts, which enable employment agencies to pay European agency workers less than permanent staff doing the same job (although they are not allowed to pay below the minimum wage).

These types of contracts have tended to be used in call centres, food production, logistics firms and parts of manufacturing – all sectors where lower-skilled European workers are over-represented (TUC 2013). The Swedish derogation has been challenged by unions across Europe, but its continued permissibility has increased unfairness within the European employment system – both for the workers stuck on inferior contracts and for settled workforces finding it harder to compete against cheaper sources of labour.

A lack of sustained focus on social integration and solidarity

Free movement has the potential to promote cross-European solidarity and cultural understanding, as those who migrate develop a better understanding of and links with other cultures. However, it can also sharpen the integration challenges facing local communities.

The arrival of migrants who only intend to live, work or study in another member state for a short period before moving on or going home often leads to high levels of population churn and rapid change in local communities. This is causing serious planning challenges in countries like the UK that do not operate a registration system for EU migrants. Local authority representatives interviewed for this research stressed how difficult it was to

organise a fair allocation of local resources (such as housing and school places) in the absence of up-to-date information about these flows.

It is often assumed that EU nationals are able to settle into other European states with very few difficulties. Although this is true of the majority of individuals, it is not always the case. As Somerville and Sumption (2010) point out, EU migrants are often recruited directly from their home country by employers or agencies and then placed in a rural area where they have no pre-existing networks or understanding of cultural or social norms. This can be exacerbated by poor knowledge of the host-country language.

For certain groups of EU migrants, such as Roma, the integration challenges have been even more pronounced. Although considerable numbers of migrant Roma have moved to the UK and other western European countries in recent years, they remain a 'hidden' and misunderstood community. They are frequently stereotyped as transient and prone to criminality, even though many migrate to other European countries to escape experiences of persecution and aim to settle and work.

As a result of persistent marginalisation, Roma migrants have low employment rates, while those who do work tend to be concentrated in low-skill, temporary and insecure jobs. Many Roma live in overcrowded and low-quality accommodation, and have disproportionately poor education and health outcomes compared to members of the broader population. There is also a lack of engagement with public services on the part of Roma families and communities (Brown et al 2013). This is partly related to the insular nature of these communities themselves, and partly due to the lack of government focus on protecting the rights of the Roma as a recognised ethnic minority.

However, Roma are not the only EU migrant group that needs to be considered as part of the UK's broader integration strategy. Even European citizens who have no trouble settling into the UK's labour market should still be expected to play a full role in British society and encouraged to integrate with the communities they live in, particularly in terms of being able to speak the language. This is hard to achieve through the current integration policy framework, which tends to focus exclusively on non-EU migrants to the UK.

3. THE UK FREE MOVEMENT DEBATE

3.1 The scale of European migration

Over the past decade, EU migration has been on the rise. In 2012, 13.4 million EU nationals were recorded as living in a member state other than their own (by citizenship) for more than a year. This was an increase from 12.6 million in 2011, and from 10.2 million in 2007 (Ernst & Young 2014). This is not a large number in proportional terms, representing just 2.7 per cent of the EU's total population. This average hides some variation though, with some countries having seen larger inflows than others. The most recent Eurostat data (2014) show that in 2013, around 3.8 per cent of the UK's population consisted of mobile EU citizens.

Before 2004, the number of European nationals (excluding returning British nationals) moving to the UK was generally balanced with the number of British citizens moving elsewhere in Europe. This changed after the accession of the A8 states, at which point the UK opened its labour market fully and unconditionally to citizens from these countries. This created a sudden 'shock', as much larger numbers than expected came to the UK at a rapid rate. Since then, there has been a significant positive net migration from these countries (and from Bulgaria and Romania, which joined the EU in 2007) on an annual basis, although numbers have fluctuated considerably.

- Eurostat data suggests that there are currently around 2.4 million people with non-UK European citizenship normally resident in Britain (ibid).
- The most recent estimates from the Office for National Statistics (ONS) show that net migration from the EU to the UK approximately doubled in the year ending September 2013, rising to 131,000 from 65,000 in the previous year. This was largely driven by an increase in work-related immigration from the EU-15 countries,¹² likely reflecting a growing disparity between the job opportunities in the UK and other countries such as Spain, Portugal and Greece.
- Net migration to the UK from A8 countries peaked at around 80,000 in 2007, dropped substantially after the financial crash and for the last couple of years has been steady at around 35,000 to 40,000 per annum. Poles constitute the majority of the A8 nationals coming to the UK.¹³
- Data is not yet available on the number of Romanians and Bulgarians who have come to the UK since transitional controls on working rights were lifted. The numbers are not likely to be large, although there was a spike in the number of people that came even in advance of controls being lifted and some recent reports of an increase in the number of Romanian jobseekers applying for work in the UK (ONS 2014, Turton 2014).
- Croatia joined the EU in 2013; however, the UK is unlikely to see major Croatian migration inflows in the next few years as transitional controls can remain in place until 2020.
- There are currently five candidate countries for EU accession – Iceland (which put accession negotiations on hold in May 2013), Macedonia, Montenegro, Serbia and Turkey. Three other countries – Albania, Bosnia and Herzegovina, and Kosovo – are potential candidates. The prospect of these countries joining the EU is distant.
- The majority of EU migration is economic. When the immigration of A8 citizens reached its peak of 112,000 in 2007, four out of every five arrived for work-related reasons.

12 The EU-15 is comprised of Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden and the UK. ONS data referring to the EU-15 excludes the UK and so refers to the other 14 countries only.

13 In April 2014, the ONS revised the total net migration estimates for 2001–2011, suggesting that these were underestimated by 346,000 net migrants. This revision is based on evidence of underestimation by the LTIM, especially of migration from the A8 countries. Full revised data on flows are not currently available. See <http://www.ons.gov.uk/ons/rel/migration1/long-term-international-migration/quality-of-long-term-international-migration-estimates-from-2001-to-2011/sty-quality-of-ltim.html>

Given that any new country joining the EU is likely to face a long period of transitional controls and assuming that economic conditions in the eurozone gradually improve over the next few years, EU migration to the UK may well have passed its peak. Nonetheless, it seems unlikely that there will be a return to parity between in- and outflows in the foreseeable future.

The significant scale of EU migration over the past decade has already profoundly affected the migration debate in the UK. It has altered economic and social dynamics in many parts of the country that had not previously experienced these levels of immigration, and created anxiety about the impacts of such rapid population changes on jobs, public finances and services. These fears have been stoked by relentlessly negative (and often factually misleading) campaigning on the issue by Ukip and other anti-European voices, and by the failure of the other parties to articulate an alternative – and more progressive – narrative.¹⁴

3.2 The government's current approach

As the debate on this issue has ratcheted up, the UK government has passed a series of reforms which it hopes will reduce levels of EU immigration to the UK. These have primarily focused on tightening migrants' access to welfare benefits, which David Cameron has asserted will 'make the UK a less attractive place for EU migrants who want to come here and try to live off the state' (Wintour 2013). Suggestions for reform of transitional controls and the possibility of imposing a 'cap' on the number of EU nationals able to come to the UK on an annual basis have also been floated, although no detail has been provided (Cameron 2013).

There is no doubt that these efforts have public backing. A recent YouGov survey which pitted a range of different policy priorities against each other in a 'knockout' competition found that the most popular suggestion by some distance was a two-year ban on welfare benefits for all immigrants to the UK (Kellner 2014). Yet there is less evidence that the measures that have been introduced to date will actually succeed in their stated objectives, or indeed, whether they are all in compliance with the law. Table 3.1 examines this in more detail.

Table 3.1
Reforms affecting EEA migrants to the UK

Policy reform	Legal status
In December 2013, the Habitual Residence Test determining whether EEA migrants (and returning British emigrants) are eligible for benefits was tightened. Applicants now have to answer questions that are more individually tailored and submit more evidence before they will be allowed to make a claim. Migrants will also be questioned about efforts they have made to find work before coming to the UK and whether their English language skills will be a barrier to finding employment. From the end of April 2014, EEA claimants with poor spoken English will need to take part in local training, and be expected to improve within six months (further details of how this will work in practice have not yet been announced).	This change generally falls within the scope of EU regulations, since it does not automatically prevent EU jobseekers from receiving benefits. It simply gives more scope to benefits claims assessors to reject the claims made by EEA nationals. However, the requirement for EEA migrants to take part in language training may be challenged legally on the grounds that this would not apply to UK citizens and therefore discriminates against EU nationals.
As of January 2014, EEA migrants are not entitled to claim jobseeker's allowance (JSA) during the first three months of their stay in the UK. From July 2014, EEA jobseekers will no longer be able to claim child benefit or child tax credit within the same period.	This is consistent with current regulations, and codifies existing arrangements available to member states.

¹⁴ See IPPR 2014 for a detailed discussion.

<p>As of January 2014, EEA migrants cannot claim JSA for longer than six months unless they can provide 'compelling evidence that they have a genuine prospect of work'.</p>	<p>While claims will have to be assessed on an individual basis, this is not necessarily in conflict with existing European regulations, which state that EEA citizens should not serve as an 'unreasonable burden' on the social assistance systems of host countries.</p>
<p>As of January 2014, an EEA national who is administratively removed for not exercising treaty rights (including those who depart voluntarily after the service of removal papers) – primarily those found begging or sleeping rough – will be unable to re-enter the UK for 12 months following their removal, unless they can demonstrate at the border that they will be immediately exercising treaty rights upon readmission (such as by having a job).</p>	<p>Although the circumstances under which a person can be expelled from a host country for reasons of unemployment, poverty or representing a burden on the social assistance system of a host country are very tightly prescribed, there is some scope for this within EU regulations. However, Directive 2004/38/EC clearly rules out an entry ban for people who meet these criteria, so it is possible that UK expulsions on these grounds may be legally challenged.</p>
<p>As of March 2014, EEA migrants have to show that for the last three months they have been earning at the level at which employees start paying UK national insurance (£149 a week – which is the equivalent of 24 hours of work earning the minimum wage) in order to qualify as a 'worker' and be entitled to benefits. An EEA migrant who has some earnings but doesn't satisfy the 'minimum earnings threshold' (MET) will be assessed against a broader range of criteria to decide whether they should still be considered as a worker or self-employed.</p>	<p>The Department for Work and Pensions (DWP) has argued that this change is not in breach of EU law, since it only means that greater scrutiny will be applied to EEA migrants earning below the MET (and indeed, the EU's own definition of a worker is not precise). However, the use of the MET is vulnerable to legal challenge as the reference to a national threshold means it is inherently more likely that the DWP will employ a restrictive approach to the EU concept of a worker.</p>
<p>As of April 2014, new EEA jobseekers are unable to access housing benefit if they are claiming income-based JSA. EEA nationals who have been working in the UK, are subsequently made redundant and claim JSA are not affected by this measure. However, migrants who do not meet the new MET and retain their worker status will also lose their rights to this benefit.</p>	<p>The denial of access to housing benefit to EEA jobseekers appears to be in breach of the antidiscrimination provisions in EU law, since its immediate withdrawal is at odds with the fact that EEA jobseekers have the right to stay in the UK to seek employment for a period of six months.</p>

Notes: For details of the government's recent policy changes, see: <https://www.gov.uk/government/policies/securing-borders-and-reducing-immigration>.

Commentary on the legality of the new measures that have been introduced has been sourced from <http://www.freemovement.org.uk>, <http://eulawanalysis.blogspot.co.uk/>, and <http://www.airecentre.org/>.

While these reforms have been designed to reduce the incidence of European citizens migrating to the UK to take unfair advantage of the benefit system, which is a legitimate policy aim, there are serious questions about whether they will have much impact on overall numbers, or the government's cherished but increasingly discredited net migration target.

The experience of the last 10 years shows that limiting eligibility to benefits is fairly ineffective at limiting immigration flows. Strict benefit restrictions were imposed on immigrants from the A8 countries that joined the EU in 2004 (Grove-White 2011). From 2004 to 2011, migrants from these countries had to show they had completed an uninterrupted year of work before they were entitled to out-of-work benefits, something that was difficult to achieve while filling the kind of temporary, agency work that many migrant workers did. Nevertheless, the UK census recorded that 800,000 migrants from these countries arrived during this period (ONS 2013a).

The new policies will also have little impact on government spending. Data on the number of EEA nationals who claim benefits before they have been in the UK for three months is not in the public domain, although this information should be held by DWP. However, the numbers are unlikely to be significant, based on the data for those who claim out-of-work

benefits within six months of registering for a national insurance number, which ranges between 3 and 13 per cent depending on the year in question (Portes 2013). Migrants are already required to demonstrate that they are 'habitually resident' in the UK before accessing benefits; a test case in 2004 found that the normal time someone would need to be resident to demonstrate this was between one and three months.

Restricting access to in-work benefits will have a similar (limited) effect on government spending. EU migrants are much less likely to claim any benefits than other residents. According to recent statistics, as of February 2013, approximately 7 per cent of those claiming DWP working-age benefits were non-UK nationals at the time of registering for a national insurance number, of which just 31 per cent were EU nationals.¹⁵ This compares with around 16 per cent of working-age UK nationals claiming the same benefits (ONS 2013b).

Limiting benefit eligibility might also have unintended negative consequences, particularly for vulnerable migrants in part-time work or self-employment. For instance, workers on part-time or zero hours contracts who might be earning the £150 a week needed to qualify as a worker on *average* over a three-month period might still have this status removed if their employment was not continuous and varied from week to week. These changes are also likely to disproportionately affect women with care responsibilities or those dependent on benefits seeking to escape from abusive households and live independently (Amnesty International and Southall Black Sisters 2008).

15 Note that this does not account for any individuals who may have acquired British citizenship after applying for a national insurance number.

4. AN AGENDA FOR REFORM

In its recent report on a fair deal on migration for the UK, IPPR (2014) argued that the UK's immigration policy should rest on three equal pillars – a framework of principles, a strong evidence base and public consent. There are clearly more constraints when it comes to exercising control and management of migration from within the EU. However, we believe that, as far as possible, the government should aim to apply the same three considerations in its approach to reforming European free movement arrangements.

As set out in chapter 2, free movement does present some challenges for both origin and host countries in the EU. The 'benefit tourism' issue may be minimal, but something can be unfair even if it rarely occurs, and the existence of apparent 'procedural unfairness' in terms of EU migrants coming to the UK and UK migrants going to other EU member states risks weakening the overall case for European membership.

We strongly support efforts to make the welfare system more fair and consistent, and more clearly linked to a record of contribution (for migrants and citizens alike). However, as a strategy for assuaging wider concerns about European migration, a reform agenda which focuses solely on beefing up welfare restrictions is insufficient and only likely to reinforce the many misperceptions and inaccuracies which have characterised the debate thus far. A more progressive approach is required both in terms of narrative and policy, one which is honest about the advantages and disadvantages of free movement, and which sets out a programme of reform that is designed to maximise the former and minimise the latter.

In the UK, this will require making changes that go well beyond migration policy, including addressing the chronic shortage in housing supply, restoring the contributory principle in the welfare system, identifying the jobs that are predominantly filled by migrant workers and building up the skills of the domestic workforce, and enforcing payment of the national minimum wage. It is beyond the scope of this paper to set out detailed recommendations in these areas.

Instead, we have identified a number of areas where targeted policy interventions – either at the national or European level – could help move to the free movement debate away from a reductive focus on benefits and towards a more constructive discussion about making EU mobility work better and more fairly for the UK.

4.1 Priorities for UK-level reform

Addressing the causes of vulnerable employment

Many European migrants are attracted by the flexibility of the UK's labour market. Yet this flexibility can lead to problems. EU citizens who only intend to work in the UK for a few years and then return home may be more willing to accept lower wages and worse living conditions for a temporary period in order to support a better life in their country of origin.

The issue is how much regulation to allow before flexibility is compromised and, more importantly, how much resource, power and legislative clout governments should give to workplace regulators following decades of light-touch regulation. In our view, there are two areas where the government could make immediate changes that would help to address the problems of undercutting and worker exploitation.

To prevent European workers from being hired as temporary employees on lower rates of pay than full-time staff – which undercuts both British and migrant workers – the UK government should no longer permit the use of Swedish derogation contracts for EU agency workers, and should enshrine this in legislation.

The UK must also take action on harder cases of exploitation. The Gangmasters Licensing Authority (GLA) was established in 2005 to regulate the agriculture and food production sector, which was deemed to be particularly vulnerable to abuse. The GLA appears to have achieved some impact in this area (Scott et al 2007). A significant number of licence revocations prompted by the GLA have involved labour providers who had successfully passed the voluntary licensing regime in place before the GLA was established. However, the government has recently announced plans to reduce the remit of this body and has substantially reduced its funding.

An independent review of the work of the GLA in 2009 concluded that the construction and care sectors were also vulnerable to poor employment practices (Wilkinson et al 2009). These sectors exhibit similar issues with problems arising from the recruitment of labour by exploitative intermediaries or gangmasters (Stanescu 2012). The GLA itself has warned that gangmasters who have failed to secure a licence to provide labour to agricultural business are known to have shifted their operations into other sectors, particularly construction and social care (Adams 2010). Reports from 2014 have highlighted recent instances of workers being recruited for jobs in these industries for minimal levels of pay.

The government should reverse its decision to scale back the GLA and instead expand its remit to other sectors where exploitation is prevalent and where EU workers are concentrated. We recommend that the powers of the GLA should be expanded to the social care and construction industries in the first instance, and that there should be an assessment of the feasibility of doing the same for the hospitality and manufacturing sectors at a later date.

This process should be relatively straightforward, due to the administrative relocation of the GLA from the Department for Environment, Food and Rural Affairs to the Home Office in 2014. This was done in part to boost the law enforcement functions of the GLA and to support the Home Office's work to tackle worker exploitation. The current bill on modern slavery passing through parliament provides an opportunity to put our recommendation into practice in relatively short order.

The committee overseeing the development of the modern slavery bill should introduce an amendment to extend the powers of the GLA to the social care and the construction sectors. The committee and the GLA should then work with sectoral bodies to ensure that the registration and due diligence that would be introduced by this change is harmonised into current regulatory regimes.

Creating a local registration system for all citizens, including EU nationals

One of the major challenges associated with EU migration is its unpredictability, as evidenced by recent unexpected increases in the number of migrants from the 'old' EU countries to the UK. It is perhaps unsurprising that the debate about the lifting of transitional controls on Romania and Bulgaria at the beginning of 2014 was so fixated on absolute numbers, given how unprepared most local authorities were to receive them.

The absence of accurate and timely data on how many EU migrants come to the UK and their employment situation and family situation (such as whether they have children in need of schooling) means that local authorities are incapable of planning effectively for unanticipated spikes in new arrivals. This is also true of internal migration within the UK, given how quickly census data becomes outdated.

Many other countries in Europe operate a system of registration where all residents are required to register with local authorities when they move into an area. In Germany, residents and foreign nationals (including EU citizens) must go to the Residence Registration Office (which is usually at the town hall) within a week of moving into a new residence, taking their passport, a copy of a tenancy agreement and a registration form. Norway operates a registration scheme where all EEA nationals who wish to stay in Norway for more than three months have to register with the police, providing evidence of their basis for residence, a valid identity card or passport, and proof that they will not be a burden to public welfare services.

Instituting a system of this kind in the UK would not be in conflict with EU free movement regulations, and would offer clear benefits in the form of better data on the background and numbers of all local residents, including migrants. It could also assist the practical integration process for EU migrants. Some municipal areas in other European countries (such as Berlin) issue new residents with a welcome pack with details of the political, legal, cultural and practical aspects of living there. A registration system would be an opportunity to provide migrants to the UK with this kind of information and contacts.

We recommend that the UK implements a straightforward registration system for all residents (including EU nationals). Households are already required to register to pay council tax when they move into a new area – this process could be expanded with the introduction of a form that includes additional questions about the age of all residents in a home (to identify the number of children living there), and their countries of birth and citizenship. We would suggest that this process should be managed by the local authority. This would allow council workers to formally greet new arrivals and provide information about how to access services, register for a GP and get involved in voluntary opportunities and community activities.

Further changes will be needed to collect information on people living in accommodation registered as a ‘house in multiple occupation’ (HMO). In these set-ups, council tax is payable by the landlord and the names of those residing in the property are not recorded. The number of people living in HMOs in every local authority is small. However, this accommodation is favoured by temporary residents – including EU migrants, who are particularly poorly picked up in other datasets. Therefore, it is appropriate for reforms to be made so that information is also collected on these residents.

We recommend that a minor change be made to the regulations for landlords running HMOs. In addition to their existing duties, landlords of HMOs should be required to report the same details as on the new council tax form to the local authority once new residents have moved in.

Having more up-to-date information on demographic changes in local areas would allow for better planning and better management of any impacts caused by new migration flows. We reiterate our earlier recommendation that the government establishes a fund to perform a similar role to the former Migration Impacts Fund in addressing specific and localised impacts of all migration to the UK (see Glennie and Pennington 2013). This funding should be concentrated in areas that receive significant new migrant populations, and granted in response to applications from local authorities and service providers.

This should primarily be funded through visa fees rather than additional taxation, in recognition that it is fair to ask migrants to make a contribution to the communities into

which they move. Given that EU migrants do not pay visa fees, the government should supplement the resources available for this fund by applying for additional money through the European Social Fund, which now includes a specific budget line for promoting social inclusion.

Greater focus on the integration of EU migrants

In the UK, EU nationals have generally been left out of broader debates about integration. It is usually assumed that they will have relatively fewer difficulties settling in than those from outside the EU, or that they will not be staying in the country long enough for it to be necessary. In our view, this does not constitute a sustainable long-term strategy. Although the migration debate in the UK has recently been dominated by discussions about overall numbers and net migration, there is evidence that the public are equally concerned by high levels of population churn, and are more accepting of those migrants who intend to stay for longer, put down roots and make a clear contribution to their communities (IPPR 2014).

Even though many EU nationals who have come to the UK over the past decade have returned home or moved elsewhere, larger numbers have stayed, suggesting that there is a significant group who now consider the UK their permanent home. In our view, it is right to expect these migrants to make a strong effort to integrate into the society that they move to, including through demonstrating their ability to communicate successfully in the language of their host country and potentially through acquiring British citizenship. However, it is equally important that host societies facilitate this to an extent that is possible and reasonable.

As set out in IPPR's recent *Fair deal* report, we believe that all migrants – including EU citizens – who have been in the UK for a five-year period of permanent residence should be 'auto-enrolled' onto a 'pathway to citizenship' (ibid). EU nationals may apply to exempt themselves from this, but the default would be a move towards citizenship.

We also recommend that the government explore other practical options for facilitating the integration of EU nationals, such as by subsidising the costs of English language classes to individuals in need of additional support, and by ensuring that these are available at times and in locations that would suit those working in professions with 'antisocial' hours, such as the hospitality or agricultural industries. Any additional costs incurred as a result of this should be met through the European Social Fund budget for social inclusion, rather than being paid for through tax receipts.

4.2 Priorities for EU-level reform

Placing greater conditionality on access to social security

In David Cameron's recent statement of seven priorities for renegotiation of the UK's relationship with Europe, he asserted that there was a need to push for changes so that 'free movement is to take up work, not free benefits' (Cameron 2014). No further policy details have been provided, but ideas that have been proposed by those within and outside the Conservative party have focused on limiting access to welfare benefits for EU migrants until they have lived in the country for a period of one, two or even five years (see Murray 2014, Grice 2014, BBC 2014).

As we have suggested, the major impact of doing this would be symbolic. EU migrants are already less likely to claim benefits than UK citizens, and the evidence shows that the majority move to work or study rather than to live off welfare. Restricting access

to in- and out-of-work benefits for this group will therefore have a limited effect on government spending and on immigration flows. There is certainly a strong political argument for imposing greater restrictions, given how popular this would be. Indeed, some have argued that if it will make no real difference to migration flows then Britain might as well up the limits, since it will not prevent anyone coming to the UK who intends to work and will not impose a burden on the UK's social services.

IPPR has argued elsewhere for reforming the UK's welfare system as a whole to help reverse the erosion of the contributory principle (see Cooke 2011). It is very important to ensure that all migrants to the UK, including from the EU, are making a clear contribution to the economy and public finances and are able to support themselves over the long term. However, significantly increasing the length of time that they must wait before they are entitled to any non-contributory benefits will primarily penalise those who are most vulnerable and could entrench situations of worklessness and homelessness among those who might only need a small and time-limited amount of support in order to find work.

The government has claimed that increasing restrictions on benefits will reduce the overall numbers of people coming to the UK. However, if these policy changes do not succeed in their stated goal, there is a risk that already-low levels of public trust on this issue will drop further, and that the case for maintaining any kind of free movement – and the UK's membership of the EU – will be fatally weakened. Support for free movement across the EU as a whole will also diminish if European national governments and the European Commission are not clearer than they have been to date in emphasising that the principle of free movement should overwhelmingly facilitate the movement of those engaged in productive activities, such as work and study, or those who are able to support themselves.

Rather than introducing lengthy qualifying periods that could result in some EU nationals (and indeed, some returning British citizens) slipping through the cracks and so not being covered by the social assistance systems of any state, a more constructive focus would be on negotiating for an increase in the length of time that each sending state is legally responsible for covering the social assistance needs of their own citizens. At present, European procedures allow the unemployed to transfer their status and benefits to another EU country while preserving the financial interests of their country of citizenship for up to six months.

We recommend that the government seeks to renegotiate the principle of exportability so that origin states are legally responsible for covering any unemployment and non-contributory benefits required by their own citizens for a *minimum* of six months.

We also suggest that instead of seeking to increase relatively arbitrary time limits on EU migrants' access to benefits, the government should be negotiating with European partners on increasing other, fairer forms of conditionality on access to social security. One way to do this would be to require European jobseekers with poor language skills to be enrolled in language classes before access to unemployment benefits such as JSA would be granted (in recognition of the fact that poor language skills can often be a major impediment to finding work and settling into communities). Longer-term access to JSA would then be conditional on an improvement in language abilities.

The UK government has announced plans to unilaterally introduce new language requirements for EU jobseekers from the end of April 2014. This may well be challenged legally on the grounds that it is incompatible with the principle of equal treatment of all EU citizens. However, this kind of reform would signal an overall move towards enabling the movement of those most able to integrate and find employment in another country, and so we recommend that this should be a key aspect of the renegotiation strategy pursued at the European level.

Finally, we suggest that the government should focus on renegotiating aspects of the current benefit exportability system which are justifiably regarded as unfair, such as the ability of EU migrants to claim child benefits for non-British children living in another European country at the rate paid by the country they are residing in themselves. The UK is one of just a few countries that permits this, and it would be in its interests to push for a revision of the system as a whole.

The UK government should negotiate for reform of the free movement directive so that at most any child benefits or tax credits paid out for non-resident children of EU nationals would be set at the rate that would be offered in the country the child is living in.

More clearly defining the scope of free movement and improving the process of return

At present, the free movement directive is vague on the grounds for expulsion of EU nationals not exercising their treaty rights. Individuals may be removed on grounds of ‘public policy, public health or public security’, but these are ill-defined and subject to interpretation. In our view, the European Commission should articulate a much clearer set of criteria for removal, not least to address the perception that the principle of free movement has been expanded so far from its original purpose as to effectively enable any EU national to stay for as long as they like in another country irrespective of their individual financial circumstances.

For those who find themselves unable to remain in another country without long-term dependence on benefits, the presumption is and should be that they will return to their country of origin or try their luck elsewhere. However, there is also scope for making it easier for these individuals to return that does not rely on an enforcement-based approach.

The government has announced a robust approach to dealing with people sleeping rough or ‘aggressively begging’. Unless migrants can show they have a genuine chance of gaining employment the UK will force removals and implement a re-entry ban for 12 months. It remains to be seen whether this will work in practice or be challenged on legal grounds. We also believe that it is a very blunt response to dealing with those who may have experienced a relationship breakdown or sudden job loss and need some short-term support in order to leave the country.

The UK Home Office offers some support to migrants from non-EU countries to return to their country of origin through assisted voluntary return, but no equivalent service is offered for migrants from within the EU. Charities have helped migrants who find themselves in situations of destitution and exploitation particularly to return home. However, funding for these activities is dwindling and the support needed to run reconnection schemes is beyond the reach of voluntary organisations alone. A more sustainable response is needed that clarifies who is responsible for people who fall on hard times outside of their country of origin.

In the short term, we recommend that the European Commission should provide funding through the European Social Fund that can be drawn on by countries who need to return migrants who are unable to find work. In the medium term, options should be explored for this process being funded proportionally by member states according to how many of their citizens leave to reside elsewhere in the EU for a year or more.

Reforming transitional controls

There has been some discussion of how the transitional controls regulating access to the labour markets for citizens of new EU member states could be improved. At present, controls can be kept in place for five years, and then extended for a maximum of two more years if it is judged necessary. These are rightly seen as an important way of phasing the impacts of new migration flows and protecting labour markets and local communities from suffering sudden ‘shocks’. We would therefore accept that that UK should be arguing within the EU that the citizens of future accession countries should be subject to transitional controls at least as long as currently apply. These periods could possibly be longer than at present, with more scope provided for particular countries to make a case to the EU Commission that the impact on their own labour markets or on community cohesion would be such that extensions on those controls should be introduced.

However, transitional controls only serve to postpone the impacts of migration from new EU states if the governments applying them do not use the time they have to prepare properly for the impacts of these flows. This contributed to the very negative debate surrounding Romanian and Bulgarian migration in the UK at the end of 2013, which could have been muted by a more proactive approach on the part of government (see Glennie and Pennington 2013 for more on this).

Looking ahead, it has been suggested that one way of preventing large movements of labour from future states that join the EU would be to require them to reach a certain percentage of the EU’s average per-capita GDP (say, 75 per cent) before transitional controls on the working rights of their citizens would be fully lifted (Goodhart 2013). This idea has received some support, including from the prime minister (Cameron 2013).

While this proposal sounds reasonable, we judge it to be impractical for a number of reasons. For one thing, imposing limits of this kind would remove one of the key drivers of GDP growth: the mobility of labour. It would also fail to account for regional disparities in poorer economies. Recent Eurostat data shows that in 2010, the central region of Mazowsze in Poland (which contains the capital Warsaw), reached a higher per-capita GDP than the EU average for the first time (Eurostat 2013). However, the next best performing region in the country – Lower Silesia – achieved only 70 per cent of the EU’s average GDP. It takes time for economic convergence, but new member states should not be subjected to ‘second-tier’ status and have this process unnecessarily prolonged through the use of variable controls.

More practically, expending time and energy negotiating for this kind of change at the European level will pay no quick dividends. As discussed above, current candidate countries for EU membership are a long way off successfully completing negotiations and have relatively small populations (excepting Turkey, for which membership arrangements would likely be very different). We are still having the debate about free movement that we should have had a decade ago, even though from this point forward, flows from any future member states will not be large.

A more fruitful area to look at with respect to future transitional controls would be the regulations around those who move as a 'self-employed' person. There is evidence from the UK and elsewhere that many lower-skilled workers who move to other EU countries on this basis (if they do not enjoy full labour market access) end up in situations of vulnerable employment or exploitation.

We recommend that the UK government opens discussions with European partners about the options around tightening up this system so that there are stronger criteria and stricter checks on the legitimacy of self-employed work.

Tackling imbalanced migration flows

To address the more immediate pressures created by the imbalanced flows of people in search of employment opportunities in Europe's better-performing economies, there needs to be a concerted effort to improve working conditions and pay and to increase the retention of skilled and unskilled workers in countries that see regular and high levels of emigration, such as Poland and Romania.

It has been proposed that member states such as the UK should be allowed to restrict inflows from certain countries (in the way that Switzerland currently does) if they breach a certain annual level, with the aim of cutting down on low-skilled migration without threatening freedom of movement for higher-skilled EU migrants (Goodhart 2013). If such a system was implemented, it might reduce the absolute numbers of mobile citizens.

However, it is almost impossible to imagine that this proposal would receive the kind of pan-European political consensus required for treaty reform. It would also be an incredibly difficult and expensive system to administer and police. It would likely involve reintroducing border controls in the Schengen area, and establishing criteria for the number and types of migrants from which countries would still be permitted to move. In essence, it would put an end to free movement.

We recognise the challenges – both economic and social – that arise from disproportionate movements from one country to another, but propose that instead of setting numerical annual limits, any member state experiencing high outflows of economic migrants in a single year should be required to report to the European Parliament on the reasons for this, and to set out an action plan for addressing them. This would create a set of targets for governments to be held accountable against, both by other member states and, critically, their own citizens.



The case for European free movement is strong. Millions of businesses and jobs in Europe depend on it, and it directly benefits citizens in search of employment or study opportunities. There are challenges, but these can be addressed through negotiation and compromise at the EU level. This process can take time, which is less problematic for countries more deeply invested in the European project. However, in the UK, there is a real risk that if steps are not taken soon to address the imbalances that free movement can create, the case for EU membership as a whole may be seriously undermined.

Without clear political leadership and a positive agenda for change, immigration could be the issue that would prompt people to vote to leave the EU in a future referendum. Under these circumstances, it is both right and pragmatic to pursue reforms that can address these issues and increase confidence in the clarity and fairness of the system.

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