



Northern Ireland
Assembly

Research and Information Service Briefing Paper

Paper 112/15

9 October 2015

NIAR 516-15

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Committee for the Office of the First Minister and deputy First Minister EU Priorities 2015: Update

1 Introduction

This paper gives a brief update on the developments in three initiatives from the Commission Work Programme of potential interest to the Committee for the Office of the First Minister and deputy First Minister (COFMdFM)¹. These initiatives are:

- Labour Mobility Package
- European Agenda on Migration
- EU Accession to the European Convention on Human Rights

A summary of activity will be given, along with potential relevance to Northern Ireland.

¹ See Research and Information Service Research Paper 25/15 European Commission Work Programme 2015, 30 January 2015, pp.36-39: <http://www.niassembly.gov.uk/globalassets/documents/raise/publications/2015/ofmdfm/2515.pdf>.

2 Initiatives of Potential Interest to COFMdFM

The European Commission Work Programme 2015 was published on 16 December 2014². The Work Programme sets out the legislative and non-legislative initiatives that the Commission intends to advance during 2015³. Updates to the three initiatives identified as being of potential interest to COFMdFM⁴ are summarised below.

8	Labour Mobility Package	Legislative/ Non- legislative
18	European Agenda on Migration	

Initiative No 8 of the Commission Work Programme states:

The package aims at supporting labour mobility and tackling abuse by means of better coordination of social security systems, the targeted review of the Posting of Workers Directive⁵ and an enhanced EURES⁶.

Initiative No 18 of the Commission Work Programme states:

The objective is to develop a new approach on legal migration to make the EU an attractive destination for talents and skills, as well as to improve the management of migration by intensifying cooperation with third countries, fostering burden sharing and solidarity and fighting against irregular migration and smuggling. The agenda includes the review of the Blue Card Directive⁷, the EU-wide work permit for highly skilled workers.

Commissioner Marianne Thyssen has set out the objectives of the Labour Mobility Package as follows⁸:

² Documents for the Commission Work Programme are available on the Commission website: http://ec.europa.eu/atwork/key-documents/index_en.htm.

³ These initiatives are listed at Annex 1 to EC (2014), *Commission Work Programme 2015: A New Start*, COM(2014) 910, Strasbourg: EC: http://ec.europa.eu/atwork/pdf/cwp_2015_new_initiatives_en.pdf.

⁴ These initiatives were presented to the Committee on 18 February 2015: <http://www.niassembly.gov.uk/globalassets/documents/ofmdfm/minutes/2014-2015/20150218-minutes-final.pdf>.

⁵ Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services: http://eur-lex.europa.eu/legal-content/EN/ALL/;ELX_SESSIONID=LShsJCvp1TL1tm46GTYyRZ2103ySWb56sp8SsQ53MLMzRsqYLpLq!-1794656578?uri=CELEX:31996L0071.

⁶ EURES, The European Job Mobility Portal: <https://ec.europa.eu/eures/page/homepage>.

⁷ Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32009L0050>.

⁸ From the speech of Commissioner Marianne Thyssen at the 3rd Labour Mobility Congress, Cracow, 23 April 2015: http://europa.eu/rapid/press-release_SPEECH-15-4841_en.htm.

- Analysis of mobility flows and their consequences to local labour markets and social security systems, both in sending and receiving countries
- Prevent errors, abuse and fraud
- Update provisions of the existing labour mobility rules to ensure they are fit for purpose

The Commission has consulted on the functioning of the current coordination rules on family benefits, unemployment benefits and posted workers to gather views on potential changes⁹.

The Labour Mobility Package is expected to be published by the end of the year.

The Commission launched the European Agenda on Migration in May 2015¹⁰. The Agenda includes some 'immediate actions' in response to the increased rate of migration in the Mediterranean region. These actions include saving lives at sea, targeting criminal smuggling networks and dealing with the high volumes of arrivals.

The longer term actions for the Agenda consist of four pillars:

1. Reducing the incentives for irregular migration
2. Border management – saving lives and securing external borders
3. Europe's duty to protect: a strong common asylum policy
4. New policy on legal migration

In September 2015 the Commission announced a package of proposals to help address the refugee crisis. This included, on top of the 40,000 proposed in May, the relocation of a further 120,000 refugees to other Member States to alleviate pressure on the Member States most affected by the crisis (primarily Greece, Italy and Hungary)¹¹.

Potential Significance for Northern Ireland

Immigration policy is not a devolved matter. However, the impacts on local employment markets, health and social security provision and integration policy are within the responsibility of the Northern Ireland Executive.

While the Labour Mobility Package mostly refers to the harmonisation of employment and social security policy and legislation, OFMdfM has responsibility for the integration of migrants from other EU Member States, as well as elsewhere. A draft Racial

⁹ The consultation ran from 17 July to 7 October 2015: 'EU social security coordination rules: have your say!', Commission website, accessed 5 October 2015:

<http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=2275&furtherNews=yes>.

¹⁰ European Agenda on Migration 2015: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_en.pdf.

¹¹ 'Refugee Crisis: European Commission takes decisive action', Commission press release 9 September 2015: http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/2015/20150909_1_en.htm.

Equality Strategy was published for consultation June to October 2014. The draft strategy outlines six shared aims as¹²:

- Elimination of racial inequality
- Combating racism and hate crime
- Equality of service provision
- Participation
- Social cohesion
- Capacity building

The scope of the draft Strategy encompasses the integration of new migrants and tackling discrimination and resentment in relation to migrants.

A final Racial Equality Strategy has not yet been published.

Similarly, the arrival of refugees in Northern Ireland, whether under an EU scheme or a specific UK programme, would also require actions in terms of integration and service provision. Unlike the Scottish and Welsh governments, Northern Ireland does not have a refugee integration strategy¹³.

The UK, along with the Republic of Ireland and Denmark, has an opt-out from the EU relocation scheme. The UK Government has consistently said it would not participate in the EU scheme. Initially, support to Syrian refugees was undertaken through humanitarian aid provision. In January 2014, this policy was supplemented by the Vulnerable Persons Relocation Scheme (VPRS), extended in September 2015, to take refugees directly through the UN High Commissioner for Refugees (UNHCR)¹⁴. 216 Syrian refugees have so far been taken under the VPRS and 20,000 in total have been pledged by 2020¹⁵.

No specific figures have been given for how many refugees are to be relocated to Northern Ireland. On 16 September 2015, the Home Secretary, Theresa May, stated¹⁶:

There will be a balance between the offers of accommodation and the availability of the appropriate support for individuals. It is a careful process to ensure that individuals are placed where their needs can be best met. For example, it might be

¹² OFMdfM (2014), *A Sense of Belonging: Delivering Social Change through a Racial Equality Strategy for Northern Ireland 2014 – 2024*, Belfast: OFMdfM, pp.22-3: <http://www.ofmdfmi.gov.uk/racial-equality-strategy-2014-2024-consultation.pdf>.

¹³ For a background on refugees and asylum seekers in Northern Ireland, see Research and Information Service Research Paper 63/14, *Refugees and Asylum Seekers in Northern Ireland*, 6 June 2014: <http://www.niassembly.gov.uk/globalassets/documents/raise/publications/2014/ofmdfm/6314.pdf>.

¹⁴ Ben Smith and Melanie Gower (2015), *Syrian Refugees and the UK*, House of Commons Library Briefing Paper 06805, 17 September 2015, pp.7, 8, 11: <http://researchbriefings.files.parliament.uk/documents/SN06805/SN06805.pdf>.

¹⁵ UNHCR (2015), *Resettlement and Other Forms of Admission for Syrian Refugees*, 2 October 2015: <http://www.unhcr.org/52b2febac5.pdf>.

¹⁶ House of Commons Debate 16 September 2015, Col 1065: <http://www.publications.parliament.uk/pa/cm201516/cmhansrd/cm150916/debtext/150916-0001.htm#15091632000166>.

appropriate for somebody with a particular medical need to be in the vicinity of a hospital with such a specialty. It is not a question of allocating on a quota basis across the UK, even if others might suggest we do that within Europe. It is important to fit the offers of support to the needs of the individuals.

While a quota allocation by region would suggest a UK intake of 20,000 would lead to around 600 coming to Northern Ireland¹⁷, the Home Secretary seems to be ruling out such an arrangement. However, it has been reported that the deputy First Minister has suggested that Northern Ireland could take as many as 2000 Syrian refugees¹⁸.

On 22 September 2015, the Northern Ireland Assembly resolved¹⁹:

That this Assembly expresses its despair at the ongoing international humanitarian crisis in Syria; notes the tragic deaths of refugees fleeing to Europe seeking sanctuary and the terrible conditions endured by those refugees in transport to Europe and in refugee camps upon arrival; believes that EU nations have a moral obligation to assist people seeking refuge from war and persecution; further notes the Prime Minister's eventual decision to accept 20,000 refugees; further believes that the UK Government and some other EU Governments have not acted in line with their humanitarian obligations; and calls on the Executive to ensure provisions are in place for Northern Ireland to welcome refugees from Syria.

In answer to a question regarding the numbers of refugees expected to arrive in Northern Ireland, the deputy First Minister stated the following on 5 October 2015²⁰:

Under the Syrian vulnerable persons relocation scheme, we propose to welcome between 50 and 100 refugees by December, with the expectation that further groups will arrive on a phased basis. Welcoming a modest number initially will assist with learning and with the identification and resolution of difficulties. We recognise that we have an existing population of refugees and asylum seekers from Syria and elsewhere. We will continue to work with NGOs and stakeholders to understand the experience of refugees and asylum seekers and provide our support throughout.

We believe that there is a strong case for a refugee integration strategy to ensure a smooth transition between being an asylum seeker and a refugee. We believe that this proposal would clearly demonstrate that, as a society, we have the capacity and maturity to react positively to a humanitarian crisis and extend the hand of friendship to those who are suffering. In doing so, we want to send a very powerful message about our support for Syrian refugees and our commitment to assist in this global

¹⁷ Calculated according to Northern Ireland comprising 3% of the UK population.

¹⁸ 'McGuinness says NI can take 2,000 Syrian refugees', *RTE News* 17 September 2015: <http://www.rte.ie/news/2015/0917/728522-northern-ireland-refugees/>; 'Parties agree NI 'can take in more refugees'', *UTV News* 22 September 2015: <http://www.u.tv/News/2015/09/22/Parties-agree-NI-can-take-in-more-refugees-45474>.

¹⁹ Northern Ireland Assembly Official Report: Tuesday 22 September 2015:

<http://aims.niassembly.gov.uk/officialreport/report.aspx?&eveDate=2015/09/22&docID=243655>.

²⁰ First and deputy First Minister Question Time, Northern Ireland Assembly 5 October 2015:

<http://aims.niassembly.gov.uk/officialreport/report.aspx?&eveDate=2015/10/05&docID=244867>.

issue. I am very comforted and pleased by the level of cross-party support in these institutions for that approach.

In response to a question regarding associated costs, he added:

A range of complex issues is to be addressed in taking forward this work, the coordination of which will be for the strategic and operational groups. We also acknowledge that, in some cases, there will be cost implications for Departments and agencies. The position is that the UK Government will meet the first-year costs for accommodation and orientation support; they would also provide a contribution towards education costs.

We are seeking clarification about any health and social care costs that may arise. Based on receiving 350 refugees each year, it is estimated that first-year costs could be in the region of £1 million, rising to £6 million in total over three years. The Executive need to consider how those costs could be met.

16 EU Accession to the ECHR

Legislative

Initiative No 16 of the Commission Work Programme states:

Proposals to allow for signature, conclusion and implementation of the accession agreement, in the light of the pending guidance from the Court.

The Court of Justice of the European Union considered the compatibility of the draft agreement with EU law and delivered its Opinion on 18 December 2014. The Opinion states that ‘the Court concludes that the draft agreement on the accession of the European Union to the ECHR is not compatible with EU law’²¹. The main areas of incompatibility are stated as follows²²:

- The EU would be subject to external control, specifically the EU would be subject to decisions by the European Court of Human Rights, which is not an EU institution, whereas the interpretation of EU law lies with the Court of Justice
- There is no provision in the draft agreement for co-ordination with the EU Charter of Fundamental Rights
- The agreement proposes treating the EU as an individual state, which misinterprets the intrinsic nature of the EU, as Member States will be required

²¹ Court of Justice of the European Union Press Release No 180/14, 18 December 2014: <http://curia.europa.eu/jcms/upload/docs/application/pdf/2014-12/cp140180en.pdf>.

²² ‘Court of Justice rejects draft agreement of EU accession to ECHR’, *Euractiv* 19 December 2014: <http://www.euractiv.com/sections/eu-priorities-2020/court-justice-rejects-draft-agreement-eu-accession-echr-310983>.

to check the observation of human rights in other Member States, undermining the EU principle of mutual trust

- The right of Member States to request advisory opinions of the European Court of Human Rights on compatibility with the ECHR undermines the autonomy of the preliminary ruling procedure provided for in the EU Treaty

The legal basis of a revised agreement would be required before there is further action. There has been no further progress to date.

Potential Significance for Northern Ireland

EU Member States are already signatories to the ECHR. The substantive clauses of the ECHR are also directly justiciable in the UK through the Human Rights Act 1998²³. Individuals in the UK therefore already have recourse to the ECHR through the UK courts and, if necessary, to the European Court of Human Rights in relation to actions by the UK government. EU accession to the ECHR will mean that cases can be brought to the European Court of Human Rights in relation to actions by EU institutions.

²³ Human Rights Act 1998: <http://www.legislation.gov.uk/ukpga/1998/42/contents>.