



House of Commons  
Home Affairs Committee

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**Bulgarian and Romanian  
Accession to the EU:  
Twelve months on**

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**Second Report of Session 2007–08**

*Report, together with formal minutes, oral and  
written evidence*

*Ordered by The House of Commons  
to be printed 18 December 2007*

## The Home Affairs Committee

The Home Affairs Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Home Office and its associated public bodies.

### Current membership

Rt Hon Keith Vaz MP (*Labour, Leicester East*) (Chairman)  
Mr Jeremy Browne MP (*Liberal Democrat, Taunton*)  
Ms Karen Buck MP (*Labour, Regent's Park and Kensington North*)  
Mr James Clappison MP (*Conservative, Hertsmere*)  
Mrs Ann Cryer MP (*Labour, Keighley*)  
David TC Davies MP (*Conservative, Monmouth*)  
Mrs Janet Dean MP (*Labour, Burton*)  
Patrick Mercer MP (*Conservative, Newark*)  
Margaret Moran MP (*Labour, Luton South*)  
Gwyn Prosser MP (*Labour, Dover*)  
Bob Russell MP (*Liberal Democrat, Colchester*)  
Martin Salter MP (*Labour, Reading West*)  
Mr Gary Streeter MP (*Conservative, South West Devon*)  
Mr David Winnick MP (*Labour, Walsall North*)

### Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the Internet via [www.parliament.uk](http://www.parliament.uk)

### Publication

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at [www.parliament.uk/homeaffairscom](http://www.parliament.uk/homeaffairscom) A list of Reports of the Committee since Session 2005–06 is at the back of this volume.

### Committee staff

The current staff of the Committee are Elizabeth Flood (Clerk), Jenny McCullough (Second Clerk), Elisabeth Bates (Committee Specialist), Sarah Harrison (Committee Specialist), Mr Tony Catinella (Committee Assistant), Mr Ameet Chudasama (Chief Office Clerk), Sheryl Dinsdale (Secretary) and Ms Jessica Bridges-Palmer (Select Committee Media Officer).

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## Background: access to British labour market

1. Bulgaria and Romania (the A2) acceded to the European Union on 1 January 2007. As Member States cannot restrict freedom of movement within the Union, all Bulgarian and Romanian nationals have an initial right of residence in the UK for three months and a right to remain indefinitely if they are students, self-employed persons, or self-sufficient persons.

2. Member States do, however, have discretion to restrict migration of workers for up to seven years. The UK Government chose to impose restrictions for an initial two-year period, to be reviewed on an annual basis. Low-skilled Bulgarian and Romanian nationals may only apply to work as seasonal agricultural workers or on sector-based schemes (currently limited to food processing); highly-skilled Bulgarian and Romanian workers and workers with specialist skills are admitted, as previously, on the basis of work permits.

3. According to the then Home Secretary, Rt Hon John Reid MP, the restrictions were imposed in order to “deal with” and avoid exacerbating the “transitional impacts” experienced by some areas following the 2004 EU enlargement, in terms of increased school admissions, overcrowding in private housing, and cost pressures on English language training.<sup>1</sup> This rationale was reiterated to us by the Minister of State for Nationality, Citizenship and Immigration, Mr Liam Byrne MP, on 6 December 2006.<sup>2</sup>

4. The Government announced on 30 October 2007 that, following a review of A2 arrangements, it had decided to maintain the restrictions until at least the end of 2008.<sup>3</sup>

## Oral evidence

5. On 27 November we took oral evidence from the Minister of State for Borders and Immigration, Mr Liam Byrne MP, on the impact of Bulgarian and Romanian accession and the decision to continue to restrict access to the UK labour market; and from the Romanian Under-Secretary of State for European Affairs, Mr Aurel Ciobanu-Dordea, and the Acting Romanian Ambassador to the UK, Mrs Raduta Matache, on the reaction of the Romanian Government to this decision. We wish to draw the attention of the House to the following points raised in evidence.

## Numbers of A2 migrants

6. In the first three quarters of 2007, 32,238 Bulgarian and Romanian migrants were registered on A2 schemes out of 38,365 applicants.<sup>4</sup> The Government is unable to measure exactly how many Bulgarians and Romanians are living in the UK but envisages an

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1 HC Deb, 24 October 2006, cols 82WS–84WS [Commons written ministerial statement]

2 HC 143-I, Q 1

3 HC Deb, 30 October 2007, cols 34WS–35WS [Commons written ministerial statement]

4 Ev 19

improvement in its ability to provide statistics when new systems for counting people in and out are put in place.<sup>5</sup>

### ***Scheme costs***

7. Set-up costs for the A2 schemes were £1.1 million and projected running costs for 2007 are £1,516,000, marginally less than the overall figure of £1.6 million predicted in December 2006.<sup>6</sup>

### ***Illegal workers***

8. Fines have been served on 159 Romanian and 30 Bulgarian nationals in relation to the new offence of taking employment without authority. No-one has been imprisoned for this offence. Border and Immigration Agency operations to combat illegal working have not encountered large numbers of Bulgarian and Romanian nationals.<sup>7</sup>

### ***Benefit claims***

9. 380 child benefit claims and 137 tax credit claims from Bulgarians and Romanians residing in the UK were approved in the period July-September 2007. In total, 1,322 child benefit claims were approved in the period January-October 2007. As at 31 October 2007, 7 children in receipt of benefits were not resident in the UK.<sup>8</sup> The Minister of State acknowledged the potential risk of migrants continuing to claim benefits fraudulently on return to their native countries, but has no knowledge that this is a genuine problem.<sup>9</sup>

### ***The decision to continue restrictions***

10. The Minister of State assured us that the rationale behind the Government's decision to continue the restrictions on Bulgarian and Romanian workers was the need for a balance in immigration policy in recognition of the fact that the impact of immigration on British public life is wider than simply economic:

When there is evidence of specific, isolated pressures my sense is that we just should not take risks. This is not about Bulgarian and Romanian; it is about getting the right balance for Britain's immigration policy.<sup>10</sup>

11. Italy is the only major economy in Europe to lift restrictions on workers from the A2.<sup>11</sup>

12. While the Minister of State is not persuaded of the need for further low-skilled schemes for migrant workers, owing to native unemployment rates, this is contrary to the views

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5 Qq 1, 3

6 Q 30

7 Q 35

8 Ev 20

9 Qq 19, 23

10 Q 14

11 Q 6

expressed by the agricultural industry and the anecdotal evidence some of us have received regarding labour shortages in our constituencies.<sup>12</sup>

### **Romanian reaction**

13. We took evidence from the Romanian Under-Secretary of State for European Affairs and the Acting Romanian Ambassador to the UK. They told us that the Romanian Government was surprised and disappointed by what it regards as a discriminatory decision to continue restrictions, given the UK's support for enlargement and the expectations it places on its Romanian ally. In its view, the restrictions were politically-motivated given the low unemployment rate in Romania, the long-term trend for economic growth and that preferred destinations for Romanian migrants are in fact Italy, Spain and Germany:

We believe that the measures taken by the British authorities are not sufficiently fair or sound ... They are not fair because we think we are paying the cost of measures taken by the British authorities in 2003–04 in respect of the accession of the first eight central European countries to the European Union on 1 May 2004.<sup>13</sup>

14. He also told us that the Romanian Government supported views expressed by the Joint Council for the Welfare of Immigrants and the recruitment industry that the A2 regulations present procedural problems.<sup>14</sup> The Minister of State has undertaken to look at any further evidence of complexity to see if the regulations can be simplified.<sup>15</sup>

### **Conclusion**

15. The UK Government is committed to reviewing the labour market restrictions for Bulgarian and Romanian workers again in 12 months time. We reserve the right to revisit the issues outlined in this report at that time.

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12 Qq 5, 17

13 Qq 37, 39, 67

14 Qq 44–46, Ev 18–19

15 Q 32

# Formal Minutes

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**Tuesday 18 December 2007**

Members present:

Rt Hon Keith Vaz , in the Chair

Ms Karen Buck	Patrick Mercer
Mr James Clappison	Gwyn Prosser
Mrs Ann Cryer	Bob Russell
David T C Davies	Martin Salter
Mrs Janet Dean	Mr David Winnick

Draft Report (Bulgarian and Romanian Accession to the EU: Twelve months on), proposed by the Chairman, brought up and read.

*Ordered*, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 15 read and agreed to.

*Resolved*, That the Report be the Second Report of the Committee to the House.

*Ordered*, That the Chairman make the Report to the House.

[Adjourned till Tuesday 15 January at 12.45 pm



## Witnesses

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**Tuesday 27 November 2007**

*Page*

<b>Mr Liam Byrne MP</b> , Minister of State for Borders and Immigration, Home Office	Ev 1
<b>Mr Aurel Ciobanu-Dordea</b> , Romanian Under-Secretary of State, Department for European Affairs, and <b>Mrs Raduta Matache</b> , Acting Romanian Ambassador to the UK	Ev 5

## List of written evidence

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1	Recruitment and Employment Confederation	Ev 10
2	Social and Labour Affairs Office, Embassy of Bulgaria, London	Ev 11
3	Home Affairs Section, Bulgarian Embassy	Ev 14
4	Border and Immigration Agency, Home Office	Ev 15
5	Embassy of Romania	Ev 18
6	Letter to Rt Hon Keith Vaz MP, Chairman, Home Affairs Committee, from Mr Liam Byrne MP, Minister of State, Home Office	Ev 19
7	Mr Liam Byrne MP, Minister of State, Home Office	Ev 19

# List of Reports from the Committee during the Parliament

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The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

## Session 2007–08

First Report	The Government's Counter-Terrorism Proposals	HC 43 -I, III
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## Session 2006–07

First Report	Work of the Committee in 2005–06	HC 296
Second Report	Young Black People and the Criminal Justice System	HC 181 (Cm 7217)
Third Report	Justice and Home Affairs Issues at European Union Level	HC 76 (HC 1021)
Fourth Report	Police Funding	HC 553 (HC 1092)

## Session 2005–06

First Report	Draft Corporate Manslaughter Bill (First Joint Report with Work and Pensions Committee)	HC 540 (Cm 6755)
Second Report	Draft Sentencing Guideline: Robbery	HC 947
Third Report	Draft Sentencing Guidelines— <i>Overarching Principles: Domestic Violence and Breach of a Protective Order</i>	HC 1231
Fourth Report	Terrorism Detention Powers	HC 910 (Cm 6906)
Fifth Report	Immigration Control	HC 947 (Cm 6910)
Sixth Report	Draft Sentencing Guideline: Sexual Offences Act 2003	HC 1582
First Special Report	Memorandum from the Home Office: Progress in implementing accepted Committee recommendations 2001–05	HC 1007

# Oral evidence

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## Taken before the Home Affairs Committee

on Tuesday 27 November 2007

Members present

Rt Hon Keith Vaz, in the Chair

Mr Jeremy Browne  
Ms Karen Buck  
Mr James Clappison  
David T C Davies  
Mrs Janet Dean

Gwyn Prosser  
Bob Russell  
Martin Salter  
Mr David Winnick

*Witness:* **Mr Liam Byrne MP**, Minister of State for Borders and Immigration, Home Office, gave evidence.

**Chairman:** Minister, we should like to discuss Romania and Bulgaria. Very shortly, we shall be hearing from your fellow Fulbright scholar, the Romanian Minister for European Affairs. We will begin with questions from David Winnick.

**Q1 Mr Winnick:** Minister, I want to ask questions about Bulgaria and Romania. You will be pleased to know that they will not be based on xenophobia which will perhaps be a relief after the past 10 or 15 minutes. The official figures given by the Home Office about Bulgarians and Romanians are known to us. How far do those figures match the estimates made by the Government prior to those two countries joining the EU?

**Mr Byrne:** The number of applications to A2 schemes up to September 2007 and across all schemes is about 32,000, but when I came before the Committee last time to explain the restrictions we proposed I said that it was not wise to project what the future estimates would be. I did not make future estimates. Some other organisations did so. I have seen estimates from some think tanks like the IPPR which estimate that about 50,000 A2 migrants might come in the first 18 months. I merely note for the Committee that to date about 38,000 have registered under schemes, but I was quite careful not to make estimates.

**Q2 Mr Winnick:** There has been much media reporting about the disparity between registered migrants from those two countries and the number of Bulgarians and Romanian nationals who are living in the United Kingdom at the moment. What is your comment on that?

**Mr Byrne:** I go back to some of the things I said to Karen Buck. Because A2 nationals have the right of free movement and come to the UK unhindered it is quite difficult at this stage to estimate exactly how many A2 nationals live in this country. The last figures that I saw were those in the labour force survey for the second quarter of 2006, but this is a reasonably fast-moving picture. We have a sense of how many people have registered, but I do not think we have an especially good sense of how many A2

nationals live in Britain because as EU nationals we would not necessarily spend a lot of time counting them at the moment.

**Q3 Mr Winnick:** Do you accept that it is difficult to obtain such a figure?

**Mr Byrne:** It is difficult to estimate. When new systems come into place for counting people in and people out the job will become much easier, but at the moment it is a difficult estimate to call.

**Q4 Mr Winnick:** Let us clarify the position about Romanians and Bulgarians. The phasing in, as it were, in the sense that they need jobs and so on, is for the first seven years. There is no doubt that after seven years they will have as much right to come into the United Kingdom as UK nationals are able to go to other EU countries. That is the position, is it not?

**Mr Byrne:** Yes—and there is freedom to work. That is right. The EU has fairly strict rules about how long transitional arrangements can last.

**Q5 Mr Winnick:** It is better to get that quite clear. The Trade and Industry Select Committee was not altogether happy about information, data and so on. Bearing in mind what you have just said, do you believe there is a way that the Government can improve the collection of data on Romanians and Bulgarians in the United Kingdom?

**Mr Byrne:** I think there is but it will take time to come through. In the short term we rely on the Migration Advisory Committee to make sure that they canvass views of the business community about where there are shortages in low-skilled occupations. I will take some convincing that further low-skill schemes are needed because I represent a constituency which has the fourth highest unemployment in the country. There are labour market reform programmes being put in place by DWP which are important. At this stage I am just not persuaded that further low-skill schemes are needed, but the reason we set up the Migration Advisory Committee is to give us independent evidence on precisely that question. A big part of the task of David Metcalfe, chairman of the Migration Advisory Committee, is to make sure that he is

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connecting to those sectors which talk about pressure. The agricultural industry was I believe one of the sectors that the Trade and Industry Select Committee identified. The agricultural sector has also been lobbying me on this matter. We will take independent advice on this question, but we will need some persuading.

**Q6 Mr Winnick:** From the British Government's point of view, in relation to Romania and Bulgaria what does it consider to be future migration trends?

**Mr Byrne:** It is a difficult question to answer. Obviously, we must look at what is going on in other countries because that affects the choice of Bulgarian and Romanian nationals. It is true that we are amongst the most conservative countries when it comes to lifting restrictions, but the only other major economy in Europe that really lifted restrictions was Italy. Finland, Sweden, Cyprus, the Czech Republic, Estonia, Latvia, Lithuania, Poland, Slovakia and Slovenia also did not have any restrictions, but Italy was the only big country without them. Because it was difficult to predict the answer to such a question I felt that the right course of action was one which had the least risk of big movements of people attached to it. That is a major factor in why we set the balance in the way we did.

**Q7 Mr Browne:** Can you tell me what proportion of your ministerial time is devoted to borders and immigration and what proportion to the West Midlands?

**Mr Byrne:** That is a very difficult question to answer because it varies from week to week.

**Q8 Mr Browne:** What is your experience since you were appointed to the two positions?

**Mr Byrne:** I have not done that calculation.

**Q9 Mr Browne:** Approximately?

**Mr Byrne:** It varies from week to week and depends on what is going on in the constituency and also my family life.

**Q10 Mr Browne:** Taking purely your ministerial, not constituency, time, since you became minister what have been the percentages?

**Mr Byrne:** My job as minister for borders and immigration consumes the lion's share of my time.

**Mr Browne:** Is it 51% or possibly more?

**Q11 Chairman:** Could you write to us on this?

**Mr Byrne:** Perhaps I should.

**Q12 Mr Browne:** It may be a point of genuine interest—not everybody lives in the West Midlands—whether you devote as much time as you would otherwise be able to that function.

**Mr Byrne:** I shall be happy to go through my diary.

**Chairman:** Perhaps you would do that and talk to Mr Browne later.

**Mr Browne:** It is also a controversial issue for the Secretary of State for Defence and the Secretary of State for Scotland; the position is the same.

**Chairman:** Absolutely.

**Q13 Mr Browne:** On Romania and Bulgaria, let me put the following supposition to you. In my view, Britain had an extremely enlightened policy with the 10 new EU entrant states, most notably Poland with the largest population, in allowing people from those countries to come and work here, unlike many other large economies of Western Europe. The Government then got cold feet when its estimates were so inaccurate in terms of the numbers coming and, rather than anything else, that was the reason it decided not to extend that invitation to Romanian and Bulgarian nationals in the initial phase. Essentially, it was not a decision about immigration but a straightforward political calculation.

**Mr Byrne:** I do not think it was a straightforward political calculation but a genuine attempt to try to create immigration policy in a new way. It will not come as a surprise to the Committee to know that I do not believe there is widespread public confidence in the immigration system. That is why the reform programme we are undertaking is so sweeping and important, but migration is a big issue for the British public; it is often the number one issue in the public mind. It touches on many different aspects of public policy. That is why I believe immigration policy must be made in a much more open way in future based on transparent advice. We have to be explicit in recognising that immigration does not simply have an economic impact but a wider one on British public life. The decision to extend the restrictions on Bulgaria and Romania was the first big one we had to make where we tried to bring to bear independent evidence of both the benefits and the wider impact. Therefore, the decision we took was simply the outcome of what we hope will be a much more sustainable and rigorous way of making immigration policy decisions in future.

**Q14 Mr Browne:** If I were a Romanian or Bulgarian citizen who aspired to come and work in the United Kingdom I might not understand why Poland, with a bigger population, was treated so much more generously by the British Government than my country. Why does it seem to be so keen to allow Poles to work in Britain but not give them that opportunity?

**Mr Byrne:** I am paid to go to work to help set the right immigration policy for Britain. I am also a member of a government that rightly has led the debate about enlargement. That was why we thought the right balance was gradually to open our labour markets to Bulgaria and Romania. But I have to get right our immigration policy. I think that the right immigration policy today is to take a prudent approach to get the balance right. That was why I thought there was a case for restrictions. When there is evidence of specific, isolated pressures my sense is that we just should not take risks. This is not about Bulgaria and Romania; it is about getting the right balance for Britain's immigration policy.

**Q15 Mr Browne:** Can I venture the suggestion that it may also be about the Ukraine and Turkey? Bulgaria and Romania are quite small countries in the great scheme of things, but there are a couple of

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European nations—there is a dispute about Turkey—with very large populations that may at some point aspire to join the European Union. In the case of Turkey its population is bigger than that of Germany. The Government is therefore trying to put down some sort of marker or express caution about the limits that may have to be imposed on freedom of movement of people within the European Union were it to extend beyond the current 27 Member States.

**Mr Byrne:** I believe that we have to make judgments like that much closer to the time. That was why I said to Mr Clappison I did not speculate on the number of work permits issued next year because the cut in the number of such permits might be bigger than the 35,000 that he read about in the newspapers. We have to take a decision closer to the time based on what is happening in Britain at the time, that is, what is happening in the economy and public services. We have to set the balance in a much more dynamic, open way. I hope you do not mind if I do not speculate on what the situation will look like in future.

**Q16 Mr Browne:** Was there, as I read, a lot of dispute within government particularly between the Home Office and Foreign and Commonwealth Office? There were some ministers right up to cabinet level who felt we were missing an opportunity to extend Britain's influence into parts of Eastern Europe where previously we had not necessarily had such good diplomatic relations and there were competing concerns between diplomacy and wider foreign policy considerations and the needs of the UK labour market?

**Mr Byrne:** You will know that the way government makes decisions is collective and seamless.

**Q17 Mr Browne:** I have observed that! It is interesting you observe that your constituency has the fourth highest unemployment in England. I have employers in my area who appear to have labour shortages particularly in the area of seasonal work, for example fruit-picking and that sort of thing. You referred to agriculture. What is your assessment of the impact on those specific areas of the economy as a result of the decision regarding Romania and Bulgaria?

**Mr Byrne:** I do not think it has especially aggravated the problem. In the last quarter for which we published data the number of applicants for the seasonal agricultural workers scheme was very low; it was about 625. In part that is a reflection of the fact that the scheme is seasonal, but the feedback from the industry is that the restrictions on Bulgaria and Romania have not especially aggravated concerns—I put it no stronger than that—about low-skilled labour shortages. That is part of the reason why we asked the Migration Advisory Committee to help us monitor the need in the labour market for low-skill schemes. I have already said that I would need some

persuading that such schemes are necessary, but is it right to keep it under review? I think it would be irresponsible not to do so.

**Q18 David Davies:** How many people have come here under the A2 scheme who are in receipt of working and family tax credits?

**Mr Byrne:** I will have to retrieve that page from the report.

**Chairman:** Perhaps one of your officials can look for it whilst Mr Davies proceeds with the next question.

**Q19 David Davies:** Given that there has been a lower than expected take-up of A2 schemes for low-skilled workers, why is it necessary to continue to apply these restrictions on such workers?

**Mr Byrne:** Because I do not think that we should take any risks in migration policy at the moment. If we lifted those restrictions over night in a blanket way we would create new risks. When I had the Migration Impact Forum report to me that there were specific isolated concerns about pressure on public services my advice to the Home Secretary was that we should not be taking any risks. I now have the figures for both child benefit and tax credits. There were 634 child benefit claims of which 380 were approved. There were 195 tax credit claims of which 137 were awarded.

**Q20 Chairman:** How many people are there from those two nations in this country?

**Mr Byrne:** Just over 35,000 people have registered under the A2 scheme.

**Q21 David Davies:** How many more will become eligible to make those claims when they have been working for 12 months? I think the first tranche will arise some time next year.

**Mr Byrne:** I shall be happy to try to get that information.

**Q22 David Davies:** The answer is that there is likely to be a huge increase in the number of people claiming various forms of benefit, because not only will A2 migrants be eligible for working and family tax credits but many will subsequently be eligible to claim income support and the full range of benefits when they can show they have been working for 12 months. Is that not correct?

**Mr Byrne:** People do build up rights to benefits, particularly contributory benefits, if they have been here and can prove residence, but that is part of the free movement directive approved unanimously by Parliament.

**Q23 David Davies:** I was told by a very senior member of the DWP that there has been a problem with people from some accession states who come here and make themselves eligible for benefits and then disappear back to their countries in Eastern Europe where standards of living are much lower but continue to claim benefits in Britain fraudulently. Have you been told that? I am not asking you whether you are aware that it is a problem.

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**Mr Byrne:** I do not believe I have been told that formally but, like you, that is a risk in the system of which I am aware. It is for DWP to police it and that is the kind of issue we talk about when we weigh up whether or not restrictions should continue. For example, when we took this decision some of the evidence we commissioned related to the take-up of benefits. That is why in the quarterly statistics we also publish that kind of information to keep a close eye on it. The free movement directive that set out the principles of the policy and reciprocity in benefits is not a new one; it was set out in nine directives before it was consolidated. Seven of those were passed under Conservative governments and two under Labour governments, so it has quite a long heritage in British political life.

**Q24 David Davies:** Perhaps I may ask about the 640 people who claim child tax credit benefit.

**Mr Byrne:** There were in total 634 of which 380 were approved.

**Q25 David Davies:** Those children do not necessarily reside in the UK, do they? Do you know how many of those children are resident in the UK and how many are not?

**Mr Byrne:** I have not brought the child benefit records with me.

**Q26 David Davies:** But they could well be back in the accession countries.

**Mr Byrne:** I shall be happy to talk to my DWP colleagues and give the Committee that information.

**Q27 Chairman:** You can ask HM Customs and Revenue. I am sure they will send you a disk. You gave the figure of 35,000 but the figure is much higher. Is it right that these are 634 cases out of many hundreds of thousands of people from the A2 countries who are working here and not claiming benefits? We are not talking of just 35,000 people.

**Mr Byrne:** No, and that was why I said that 35,000 were registered under our schemes.

**Q28 Chairman:** We are talking about a very small percentage?

**Mr Byrne:** Tiny.

**Q29 Mr Clappison:** You will have seen press reports from teachers and head teachers about the problems in schools with the number of Eastern European A8 children. Obviously, we want to help schools and teachers give those children a good education. Do you have a rough estimate of how many school age children who are dependants of A8 and A2 emigrants there are in the country?

**Mr Byrne:** Again, I shall be happy to write to the Committee about our estimates.

**Q30 Bob Russell:** What is the annual cost of administering the A2 regulations?

**Mr Byrne:** The scheme set-up costs were £1.1 million and for 2007 the projected running costs are £1,516,000.

**Q31 Bob Russell:** that is marginally less than the figure you predicted last December?

**Mr Byrne:** Indeed. We constantly strive for efficiency and economy in all aspects of BIA operations.

**Q32 Bob Russell:** How do you respond to the claim by the Joint Council for the Welfare of Immigrants that the A2 regulations are confusing and inconsistent, and how will you improve communication of the regulations to employers and A2 nationals?

**Mr Byrne:** There are two answers to that. I saw that evidence and did not fully understand it. Obviously, it is open to A2 nationals to come and register as self-employed and get a card which they can show in order to prove to employers that they are self-employed. It should say 'engagers'—these people are self-employed so do not have employers. I am happy to look at further evidence of complexity to see if we can introduce simplification. Over the next couple of months we shall write to employers in Britain to remind them not only of their obligations to do right-to-work checks but also to publicise services like the employer checking service which BIA is now dramatically expanding.

**Q33 Bob Russell:** Will that involve contacting recruitment agencies? We have been told that sometimes there is confusion about taxation among the self-employed, particularly in the case of nannies and construction workers.

**Mr Byrne:** Again, we work quite closely with the recruitment companies. We talk about this a good deal with the members of the employers' task force. In the case of construction workers, the simplest route is to register as self-employed, get a card that proves it and they can show that they have that right and so on, but when it comes to nannies it is slightly different. In order to prove that you are self-employed obviously you need to work for several families rather than just one. Again, I am happy to look at people's concerns about whether or not the system needs further simplification. We have tried to make it as simple as possible.

**Q34 Bob Russell:** We are told that the sector has requested further guidance as to what documentation the Home Office would deem proof of self-employment for taxation purposes. Will that be forthcoming?

**Mr Byrne:** We are happy to look at it. It is not enormously complicated. We will consider evidence like details of business, the lease of premises, contracts, bank statements, invoices, National Insurance contributions and audited accounts. When people say they are self-employed we will look at all such evidence. People can then get a card to show that they qualify as someone who is recognised by us as self-employed, but if concerns still exist in the minds of recruitment companies our commitment is to carry on working with them on those matters.

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**Q35 Bob Russell:** Has the legislation creating the new offences of taking employment without authority and employing workers without authorisation been enforced? How many fines have been imposed, and how many people have been imprisoned?

**Mr Byrne:** Fines have been imposed. We have not needed to imprison anybody, but as of 1 October we had issued about 190 fixed penalty notices. Of those, 159 were served on Romanian nationals and about 30 on Bulgarian nationals.

**Q36 Bob Russell:** Is there any evidence that the restrictions have led to higher levels of undeclared workers in the UK as well as bogus self-employed migrants and criminals?

**Mr Byrne:** There is not evidence of this. I have asked that BIA increases the number of illegal working operations that it undertakes because I am concerned that illegal work undercuts British wages. In the operations we have undertaken overall we have not encountered large numbers of Romanian and Bulgarian nationals. Where we have done so we have issued fines, if needed.

**Chairman:** Minister, thank you very much for coming to give evidence today. Originally, we asked you to talk just about Romania and Bulgaria, but you will know that immigration is a hot topic. You have answered over 100 questions from the Committee. You promised to write to us with respect to a number of other issues, in particular the chronology of the SIA. It would be helpful if we could have it by Monday as we shall be seeing your permanent secretary on Tuesday.

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*Witnesses: Mr Aurel Ciobanu-Dordea, Romanian Under-Secretary of State, Department for European Affairs, and Mrs Raduta Matache, Acting Romanian Ambassador to the UK, gave evidence.*

**Q37 Chairman:** Minister and Ambassador, *buna dimineata*. Welcome to London and thank you for coming to give evidence on this subject. You had the benefit of hearing from our minister for immigration who made the decision concerning Romania and Bulgaria. Minister, I know that you want to start with a very short statement to the Committee.

**Mr Ciobanu-Dordea:** Chairman and members of the Committee, thank you very much. First, I should like to express the satisfaction of my Government for the opportunity offered to it to express its views about the restrictions imposed by the UK Government on the free movement of Romanian workers in the European Union after Romania's accession on 1 January 2007. I express my personal gratitude for this opportunity today. Having said that, I come here to express the deep dissatisfaction and surprise of the authorities in Romania because of the imposition of these measures by the British Government. That surprise and dissatisfaction is caused by the fact that not only did we not expect to see the United Kingdom impose these measures on 1 January 2007 but we also did not expect the British authorities to maintain these measures after October of this year. We believe that the measures taken by the British authorities are not sufficiently fair or sound and I shall try to express in a few words what we mean by this. They are not fair because we think we are paying the costs of measures taken by the British authorities in 2003–04 in respect of the accession of the first eight central European countries to the European Union on 1 May 2004. Nobody except a few NGOs has adequately calculated the potential impact of the accession of Romania and Bulgaria on the labour market of the United Kingdom, but, being fully aware of the fact that the British Government takes stock of the transition period enshrined in our accession treaty, as it was enshrined in the accession treaty of Poland, Hungary and so on in 2003, the British authorities apply it differently. This is why we think we are paying the costs of the measures then taken. We

consider that the same measures concerning Poland, Hungary, the Baltic states and so on should have been taken also in our case, namely the non-imposition of restrictions, because we think that the circumstances which qualify our case are different from Poland. To take just one example, by the date of accession of Poland to the European Union it had 17% unemployment in its labour market and therefore there was a considerable mass of labour force which could be predicted to direct itself towards other EU Member States including the United Kingdom. What was the situation in Romania at the date of accession? Our unemployment rate is somewhere between 3.7% and 3.9% of the labour force. Therefore, it is natural unemployment due to competition in the labour market. What would you expect of these people?

**Q38 Chairman:** Minister, that is extremely helpful and we are grateful for that introduction. We shall be raising a number of questions on what you have said. Clearly, the Romanian Government is disappointed by the decision taken by the United Kingdom. What about other EU countries? Have you faced similar problems in respect of Romanians being allowed into other countries? For example, how has it affected the number of Romanians working in Italy where there are no restrictions?

**Mr Ciobanu-Dordea:** It is true that more recently Romanian nationals have encountered a number of problems in particular in Italy due to the large number of Romanians there and the criminal conduct on the part of some of our nationals. Nevertheless, the situation there was not due entirely to the conduct of our nationals, at least not the entire community. To a large extent it was due to the attitude of the Italian authorities which for a number of years have been complacent in assisting the creation of illegal communities around cities and in rural areas. The danger has deepened until this year when an outburst took place.

**Q39 Chairman:** Do you think that the reasons why the restrictions were continued for another year were political rather than economic ones? You have heard what our minister has just said. He talked about economics rather than politics. Do you agree that that was the reason?

**Mr Ciobanu-Dordea:** Essentially, we think that the decision to maintain the restrictions in respect of the Romanian labour force is motivated more by politics than economics. The capacity of the Romanian labour force to generate economic migrants in particular to the United Kingdom is a very limited one. I believe that such capacity to create economic migration is over, first because the Romanian economy has resumed growth for a number of years and is steadily growing; second, the majority of the migration already took place before its accession to the European Union. About 20% of the Romanian migrants in the European Union are already settled in Italy; another 20% are settled in Spain; and maybe another 18% are already settled in Germany. This means that my compatriots have migrated to countries where they have found similar social relationships and cultural similarities. The UK is extreme in geographical terms; it is very far from Romania and culturally very different. I think that is reflected even in the Government's statistics which indicate very low numbers.

**Q40 Mr Winnick:** You have given us an indication of the employment situation in your country. You have also stated that most Romanians if they wish to go abroad choose countries other than Britain. What is the economic situation in Romania?

**Mr Ciobanu-Dordea:** This was precisely my point. The economic situation has constantly and gradually improved since 2000. The growth rate of the Romanian economy is even higher than Britain's.

**Q41 Mr Winnick:** Is this the long-term trend?

**Mr Ciobanu-Dordea:** Yes. To take objective statistics, not that Romanian statistics are not objective, figures published in Europe by EUROSTAT offer us a cross-border situation. I have just downloaded from the Internet this morning statistics showing the real GDP growth rate. It indicates that in 2008 the GDP growth rate for Romania is 5.9% while for the United Kingdom it is 2.2%; in 2009 it is 5.2% for Romania and 2.4% for the UK. The growth rate of real GDP per capita in 2008 is 5.56% for Romania; for the UK it is 2.01%. The most recent statistics for employment growth, which indicates the capacity of the economy to absorb the labour force, show that for 2007 it was 2.8% and for the UK it was worse: 0.8%. The total investment rate, which also indicates the vitality of the economy, for 2008 for Romania will be 29.4% and 18.4% for the United Kingdom. I do not want to mislead you. Of course, the starting point for the growth of the Romanian economy is somewhat lower than the starting point for the British economy, but certainly the pace of growth is steady and the Romanian economy is able to reabsorb

those who went across Europe a number of years ago in order to find jobs and to retain within it those who now enter the labour market.

**Q42 Mr Winnick:** You have given us statistics which are certainly useful for our report, but with your ministerial colleagues do you consider that there is an impression in Western Europe that as a result of membership of the EU there is a desire on the part of many Romanians to leave the country and go abroad?

**Mr Ciobanu-Dordea:** Whether there is a strong potential for migration from Romania?

**Q43 Mr Winnick:** Yes.

**Mr Ciobanu-Dordea:** We think that there are such fears and exaggerated impressions and they have motivated the governments of a number of other older Member States of the European Union also to maintain restrictions against penetration by the Romanian labour force, but we did not expect the UK authorities to impose such restrictions given their approach to the 2004 enlargement.

**Q44 Mr Winnick:** You have expressed great disappointment on behalf of your country over what Britain has done. If you had to give an opinion why it has been treated differently from other EU countries who joined in recent years what would it be? It is all right to speak frankly.

**Mr Ciobanu-Dordea:** I do not express disappointment on behalf of an abstract country or only on behalf of my Government. Primarily, I am expressing the disappointment of my compatriots who are directly affected. If there are 1,000, 500 or 100 compatriots or only one we have a duty to defend their cause and interests. We fight even for one case. As to the reasoning behind the decision of the UK authorities, we believe that the Home Office must demonstrate that it is effective in fighting migration and we have paid the cost of a number of decisions which have been taken in the past by the Home Office. We regret to say that but we are not critical only of the imposition of the restrictions but how the restrictions have been framed and implemented in practice by the authorities. We believe that only God and the officials of the Border and Immigration Agency know how cumbersome and complicated the procedures are and how much time they take. There are nine procedures for very different cases.

**Q45 Chairman:** Are these the procedures under which people apply currently?

**Mr Ciobanu-Dordea:** Yes, absolutely.

**Q46 Chairman:** There are nine different procedures?

**Mr Ciobanu-Dordea:** Yes, for various categories of employees or self-employed persons—agricultural workers, food-processing workers and so on. The procedures are very complicated and the conduct of the authorities is not always predictable. The procedures tend to last for months and months. There is a problem arising from the fact that the burden is on the employer, not the employee. The



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employer would rather get rid of a Romanian applicant than to have a Polish worker for whom he does not have to engage in any bureaucracy.

**Q47 Chairman:** Has the Romanian Government raised these concerns with the Foreign and Commonwealth Office?

**Mr Ciobanu-Dordea:** We are in the process of raising these aspects with all the authorities.

**Q48 Mr Winnick:** No doubt the same would apply in Romania if a large number of people wanted to come into the country. Sensitivity and prejudice about immigration is not confined to the United Kingdom; it would be odd if it was. Do you accept that immigration into Britain is a very sensitive subject and is politically controversial, as you have heard from some of the questions put to the minister? Do you believe that to some extent that sensitivity reflected in constituencies undoubtedly has affected the British Government's attitude to people coming from Romania?

**Mr Ciobanu-Dordea:** Certainly, we are aware that immigration is a sensitive matter not only to British society but any society, particularly in Europe and those confronted by mass influx of immigrants. There is a cultural, economic and social problem attached to it. We are also aware about the particularities of British democracy which we very much admire. Many have taken the example of your democracy and the conduct and behaviour of your media and the way in which they control the Government and hold it responsible for a number of acts that it commits. This is very important for a living democracy, but we believe that sometimes too much passion is injected into the Government by the media, or at least by some newspapers.

**Mr Winnick:** You are not the only ones.

**Q49 David Davies:** You have reflected great anger, but you have concerns about the impact of integration. Why is it so difficult to buy a house in Romania if you are a British subject?

**Mr Ciobanu-Dordea:** It is not difficult at all. A British individual can build there and buy a house. I believe there is a three-year transitional period, but that is enshrined in the accession treaty, and you have a number of practical solutions that you can use. For instance, you can set up a company and buy a house and land there as of now.

**Q50 David Davies:** But the reality is that you put these restrictions in place, quite rightly, as have the Hungarians and other countries, because you are afraid that people with large amounts of money will go over there, buy all sorts of housing and push up prices to make it difficult to Romanians to buy their own houses. I perfectly well understand that; that is one of the impacts and why you put in place safeguards. We are doing the same thing. If I may say so, is it not a little hypercritical to have a go at the British Government when your own Government takes steps to safeguard its own people against the impacts of EU integration?

**Mr Ciobanu-Dordea:** No. I do not believe the situations are comparable. First, there are a number of legal loopholes.

**Q51 David Davies:** As there are for Romanians who can come here as self-employed people.

**Mr Ciobanu-Dordea:** Romanians are very restricted in finding a solution; they are in a very different situation from Hungarian or Polish citizens who look for work here.

**Q52 David Davies:** There are loopholes that Romanians can use. You talked earlier about economic growth which is all well and good, but the reality is that migration is driven by living standards and wages. Can you tell us the average wage of a farm labourer or waiter in Bucharest?

**Mr Ciobanu-Dordea:** It is certainly lower than here.

**Q53 David Davies:** Can you tell me approximately what the wage would be in euros so we can make a comparison?

**Mr Ciobanu-Dordea:** It may be about €300 a month. Living costs are also lower.

**Q54 David Davies:** But you will appreciate that with a minimum wage of about £6 or €10 in London someone who works a 40-hour week will earn €1,600 a month, which is five times as much as he can otherwise earn. Clearly, there is a much bigger incentive for someone from Romania or Bulgaria to come here than someone from Hungary or Poland.

**Mr Ciobanu-Dordea:** Do you see this as being illegal?

**Q55 David Davies:** I see it as a practical problem, just as you see the housing issue as a practical problem. The reality is that the living standards in the last lot of accession states were significantly higher than in Romania or Bulgaria. This migration is really driven by living standards. I know that because my wife is Hungarian and I am very familiar with that country. I am aware that there is a marked difference in the standard of living between Hungary and Romania, which is why I think we have to put in place transitional arrangements and why your Government has done likewise to protect itself.

**Mr Ciobanu-Dordea:** Those transitional arrangements are not imposed only by my Government but by most governments of the central European countries.

**Q56 David Davies:** Yes.

**Mr Ciobanu-Dordea:** But how do you explain this discrimination? How do you explain the difference between the regime applied to Polish nationals and that applied to Romanian nationals? All are being driven by higher standards of living and salaries. The problem is whether this damages the UK economy and there are or are not prospects of people returning to their home countries after a number of years.

**Q57 David Davies:** To be clear, it is not so much the transitional arrangements put in place that affect Romanian and Bulgarian workers that upset your

Government but the fact that they have been applied only to Romania and Bulgaria and not other EU accession countries.

**Mr Ciobanu-Dordea:** Exactly.

**Q58 David Davies:** The principle of having a transitional arrangement is not something about which you have an issue?

**Mr Ciobanu-Dordea:** Exactly. We are surprised to note that the circumstances do not justify the enforcement of these transitional arrangements. We do not see the reasons for it.

**Q59 Mrs Dean:** Let me turn to something which I hope is more positive. Would you like to comment on co-operation between Romanian and UK law enforcement agencies since accession? How successful do you believe that co-operation has been in tackling organised crime?

**Mr Ciobanu-Dordea:** The co-operation between Romania and British law enforcement agencies dates from a few years before accession, so it is of long standing. But after the accession of Romania to the European Union my authorities have become aware of the fact that an additional practical dimension arises in our bilateral relationship. My authorities have been sensitive to the concerns expressed by the British authorities that something should be done in respect of petty crimes committed by some Romanian nationals once on British territory. That is why a number of liaison officers have been transferred from Bucharest to London by my Government in order to co-operate with the Metropolitan Police and other law enforcement agencies of the United Kingdom to ensure smooth handling of cases involving Romanian criminals.

**Q60 Mrs Dean:** Do you have any examples of where there have been successes and co-operation has resulted in arrests?

**Mr Ciobanu-Dordea:** I think one could bring into the discussion the success with which our embassy in London and the relevant people working within it have handled cases involving 88 Roma minors. Perhaps the ambassador can develop it a little since she is better informed.

**Mrs Matache:** We can give examples. One relates to Slough where over 80 unaccompanied children went into the care of the local authority. We co-operated with the local authority over a number of months. We were continually on the phone with the authority. At this moment we have two Roma children of Romanian origin in the care of the local authorities in Slough. A lot of resources and efforts have been put into solving that. More specifically, in the field of law enforcement operations are ongoing in which policemen in the UK and in Romania work together and co-operate to address organised crime. I am also aware of several successes registered in the past two weeks. I am very wary to speak about them publicly but I hope that at some point the Metropolitan Police and Romanian law enforcement agencies will speak about them publicly.

**Q61 Mr Winnick:** Minister, earlier you touched on the position of Italy. There has been a lot of media coverage in Britain about the steps taken by the Italian authorities to expel Romanians. Do you think there is a wave of xenophobia in Italy against Romanians?

**Mr Ciobanu-Dordea:** Unfortunately, I think there is. The complexity of law enforcement authorities in Italy has led to the development of a feeling within a number of Italian communities that the presence of at least part of the Romanian nationals endangers security and compliance with the law and public order of that country. That has led to a number of Italians placing a question mark over the disturbance of public order by Romanians. Yes, xenophobic feelings have developed around this.

**Q62 Mr Winnick:** It is only against Romanians that steps have been taken?

**Mr Ciobanu-Dordea:** Yes, inasmuch as the view of the Italian authorities is aimed mainly at Romanians although it is defined in sufficiently general terms as to cover EU nationals.

**Q63 Mr Winnick:** Do you think there is a danger that that sort of backlash and feeling, which seems to be encouraged by the Italian authorities, could be replicated in other Member States of the EU?

**Mr Ciobanu-Dordea:** Not really. We believe that the situation in Italy was a particular one due to the concentration of a large number of Romanian nationals in some areas. This is to a certain extent replicated in Spain, but it is far less serious. It is not replicated in other EU Member States. Anyway, my Government is working in close contact with both the Italian authorities and the authorities of other Member States to prevent that.

**Q64 Mr Winnick:** The European Commission has expressed ongoing concerns about threats at the Romanian border and about trafficking in human beings, illegal immigration and smuggling. Obviously, your authorities are well aware of those concerns. I take it that they are shared equally by your Government. How far are effective steps being taken to deal with those problems?

**Mr Ciobanu-Dordea:** In respect of what?

**Q65 Mr Winnick:** I am referring to the trafficking in human beings.

**Mr Ciobanu-Dordea:** This is mainly the mission of the Romanian border police who often work in close co-operation with a number of national border authorities of other EU Member States, in particular Germany, Hungary and Austria, in order to improve the situation at the eastern border of Romania.

**Q66 Mr Winnick:** Is it being improved?

**Mr Ciobanu-Dordea:** Yes, considerably. Due to some EU assistance which has been provided to Romanian border guards for about six or seven years and the close supervision of the EU agency for border controls situated in Warsaw the situation has improved significantly.

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**Q67 Chairman:** Despite your disappointment, how would you assess British-Romanian relations at this moment?

**Mr Ciobanu-Dordea:** I think the substance of the friendship, solidarity and alliance which define Romanian and the United Kingdom relations cannot be significantly altered by such incidents. I do not want to make a cheap argument, but I would urge your Government and you personally as a Committee of the House of Commons to think that there also needs to be constant predictability in the relations between Romania and the United Kingdom. We are currently your partners in the European Union in many respects; we have been your allies outside the European Union in many respects. Romania is not such a global player as the United Kingdom. Nevertheless, we understand that there is an expectation from the British authorities

that we stand alongside you in Iraq and Afghanistan and our soldiers are alongside yours; they are fighting there and being wounded and killed there alongside your soldiers. We did this with a sense of predictability and we expect that to be shown on both sides, and we are convinced that relations between Romania and the United Kingdom are principled ones.

**Chairman:** The core of your argument appears to be equality. You want to be treated equally as a first-class citizen of the European Union. It would be very helpful if the Committee could have a note on what you say are the procedural problems encountered by people who apply for self-employed status. We are producing a very short report on this matter, but it would be helpful to have it. Minister, thank you so much for coming all the way from Bucharest to address this Committee. Ambassador, thank you for all the help you have given.

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# Written evidence

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## APPENDIX 1

### Memorandum submitted by the Recruitment and Employment Confederation

#### 1. KEY CONCERNS OF THE RECRUITMENT INDUSTRY

*Unfilled vacancies in the economy indicate a need for more open labour markets*

1.1 REC has taken the position that the labour market should be fully open to nationals from Bulgaria and Romania (hereafter referred to as A2 nationals). Labour market data indicates that there are over 600,000 vacancies in the UK economy. Our monthly tracking survey Report on Jobs (produced in association with KPMG and NTC economics and attached to this submission for information) reports difficulties in recruiting in many sectors.

*Shortages in social care and hospitality persist*

1.2 In addition to this data REC members have highlighted their concerns about recruitment in the hospitality and social care sectors after the tightening up of work permit procedures in these sectors. It has been necessary to recruit from outside of the EEA for these positions in the past. If the Government believes that certain positions in these sectors should not qualify for permits under tier 2 of the points based system it may be necessary to consider them under tier 3.

1.3 However no sector based schemes under tier 3 are expected to be allowed until the labour market has been opened up to A2 nationals. Therefore restricting labour market entry to these countries is creating barriers to resolving skills shortages in certain sectors of the economy. Whilst it could be argued that raising wages in these sectors would help to resolve some problems, in the case of social care this would have to be reflected in the money local authorities have to pay for social care coverage. It is also the case that this would not immediately resolve these issues as even basic social care and hospitality industry jobs require a degree of training.

*The current regime for self employed A2 nationals does not offer enough legal certainty for recruitment agencies*

1.4 Whilst candidate shortages are of deep concern to the recruitment industry, REC's greatest concern is that the current regime leaves recruitment agencies in a very uncertain position regarding the self employed. Recruitment agencies will engage temporary workers as employees for taxation purpose. When doing this it is their obligation to make the relevant immigration checks if they wish to use the Section 8 defence. Recruitment agencies also regularly engage the services of those who are self employed for taxation purposes (such as limited company contractors and those working on the Construction Industry Scheme). In these circumstances the recruitment agency will pay the relevant company gross and the self employed worker is then responsible for settling their tax affairs with HMRC.

1.5 It is therefore possible for agencies to engage self employed A2 nationals, the uncertainty surrounds how the Home Office would view this. Very little guidance has been provided to date about who would be deemed as self employed for immigration purposes.<sup>1</sup> This leaves recruitment agencies in a catch 22. If they choose to turn away genuinely self employed A2 nationals they will be discriminating. If they choose to engage them, but they are later found by HMRC to be employees of the agency the agency has committed an immigration offence.

1.6 REC raised this concern with the Immigration Minister in a letter of 23 January 2007. REC also raised the matter with the Minister directly when attending the Illegal Working Stakeholder Group meeting of 2 May 2007. To date no further advice or guidance from the Home Office has been forthcoming.

1.7 This is of deep concern to the REC as this theoretical problem is now becoming a reality. REC members in the childcare division have all been approached directly by agencies in Romania offering "self employed" nannies. The service is being aggressively marketed to UK agencies when it seems unlikely that a nanny, who works for one family, could be truly self employed. Meanwhile in the construction sector REC members have reported the creation of agencies in the A2 countries aimed at facilitating the movement of self employed construction workers to the UK. In this case the workers could be genuinely self employed (as many are in the construction industry) however agencies who take these workers run the risk that HMRC finds them to be employees at a later date.

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<sup>1</sup> One paragraph of advice for A2 nationals on registering as self employed is provided in this BIA document: <http://www.bia.homeoffice.gov.uk/6353/21395/livingandworkingromaniabulg2.pdf>

1.8 In short if the Home Office chooses to prevent A2 nationals from being employees then recruitment agencies should be provided with guidance as to what documentation the Home Office would deem as “proof” of self employment for immigration purposes. If HMRC considers them to be employees at a later date then the agency should, of course, cease to use their services. The guidance from the Home Office would simply serve as a defence should the agency be subjected to an immigration inspection.

## 2. ABOUT THE RECRUITMENT AND EMPLOYMENT CONFEDERATION

2.1 The REC represents over 8,000 recruitment company branches, estimated to constitute half of all branches by number but a higher proportion by turnover. Over 85% of the industry is made up of small businesses. In 2006–07 the recruitment industry generated a turnover in excess of £26 billion and placed 1.3 million people into temporary jobs every week. In addition to this almost 800,000 permanent placements were made by the recruitment industry.

2.2 REC members sign up to our Code of Professional Practice, which it polices through a complaints procedure and an inspection team. REC supports its members through the provision of a free legal helpline, standard documents, and training and professional qualifications for the industry.

2.3 These support services are all routes for informing REC members of their duties when checking candidates’ right to work in the UK.

*15 November 2007*

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## APPENDIX 2

### **Memorandum submitted by the Social and Labour Affairs Office, Embassy of Bulgaria, London**

The policy on labor migration is set apart as an independent priority policy. By an order of the Minister of Labor and Social Policy in 2005 Interdepartmental working group is created on migration and integration of immigrants which serves as a wide forum for discussion of the policy in this area. In it take part representatives of all ministries and other departments which have a relation to the problems of migration and integration of immigrants, representatives of the local power—National Association of the Municipalities, as well as social partners. Separately, working group is created on free movement of persons in the framework of which all problems relate to the policy of Bulgaria regarding the access of citizens of European Union to the labor market and free movement of workers, coordination of social security schemes and the citizens’ rights are discussed.

In 2007 by an order of the Prime Minister of the Republic of Bulgaria Interdepartmental working group on the problems of the migration policy is created. This working group is on the level of deputy ministers. In it take part also social partners. The task set for the working group is to actualize the migration policy of the Republic of Bulgaria.

Another important step which Bulgaria undertook in the policy on labor migration is the preparation of National strategy on migration and integration of immigrants which is expected to be accepted by the Council of Ministers up to the middle of 2008.

In the frames of the above indicated working groups the formulation and application of this policy are set for a debate on different levels and at the same time decisions are taken after arriving at a consensus. The result of such a discussion was the decision taken in December 2006 by the Council of Ministers for application of the Community Law in this area, ie opening of the labor market of Bulgaria. This means that the Republic of Bulgaria applies entirely Regulation 1612/68. By this act Bulgaria expressed on union level its responsible position regarding free movement of workers between all member countries in order that EU can meet the challenges in the area of migration in a global scheme.

From the other side Bulgaria has set to itself a goal that every year it will make a study of the Bulgarian citizens’ disposition to travel abroad and in particular, in another member states. This statistics is a necessary basis, together with the needs of the Bulgarian labor market, for the every year reformulation of the policy in the area of the labor migration.

In this connection in June 2007 was made an Empirical Sociological Survey by ASSA-M. According to the comparison data, the total amount of the potential external migration for the period June 2003—June 2007 contracts.

The fear and some fearful prognoses, that after the accession of Bulgaria to the EU the stream of emigrants will increase sharply, are not justified. The general tendencies are clearly outlined by the data at the comparison between 2003 and 2007. The contingent is oriented most of all toward Spain and Portugal. The interest toward Greece, Italy and France has relatively increased as well.

Spain is the most desired destination among Bulgarian active emigrants (21%). The most desired EU country is Spain with 18%, while 12% of the people want to settle permanently in Britain. Only 5% of these 12% has the possibility to settle permanently in Great Britain.

Neither quantitatively in the form of emigration stream, nor qualitatively as a structure, is the Bulgarian emigration dangerous for the countries of the EU. According to the conclusion of the survey of ASSA-M Bulgarian emigration is not dangerous for Europe, actually it is dangerous for Bulgaria itself.

In this connection Bulgaria endeavours to reduce the factors for emigration. The establishment of the Labor and Social Affairs Service at the Embassy of Republic of Bulgaria in London in the end of January 2007 aims at assisting for successful implementation of Bulgarian policy in the sphere of management of the labor migration and the protection of the Bulgarian citizens' interests in this field in United Kingdom. The Service activity is closely bound with the search of satisfying solution for both sides of the problem about opening of the labor market in United Kingdom for Bulgarian workers. The efforts of the Service's head are directed to the faster reconsidering of the transitional measures for access to the labor market imposed for Bulgarian workers from the United Kingdom. The popularization of the policy of the Ministry of Labor and Social Policy for termination of the transitional period is one of the main goals of the Service.

By the representative of the Ministry of Labor and Social Policy the Bulgarian citizens in United Kingdom have the possibility to obtain information and support on problems regarding the practicing of their legal employment.

An important component in the Service activity is also the consultation and giving information about the Bulgarian legislation in the field of employment and social policy to citizens and companies in United Kingdom regarding practicing employment in Republic of Bulgaria.

Regular contacts with the Representative of the European Commission in London who is responsible for the labor and social issues as well as with the labor attaches of other diplomatic representations (Germany, Romania, Spain etc.) are kept.

Under the initiative of the press center of Home Office information about Bulgarian citizens who have successfully achieved realization and integration in Great Britain was presented from the Service. The goal was to find positive examples about Bulgarian emigration.

In Bulgaria was undertaken concrete steps of active policy and the results are already a fact. During the first six months of 2007 the implementation of a purposeful policy with the main goal to the integration of the groups in risk on the labour market, raising their employability and facilitating their access to the labour market has been continued. The economic activity rate of the population between 15 and 64 is rising from 60.7% in 2000 up to 64.9% for the first quarter of 2007. During the last years a firm trend of growth of the number of employed people is observed. For the first three months the number of employed people aged 15–64 is 3,099.2 thousands (employment rate 59.7%).

A stable trend of a decrease in the registered unemployment is observed. The undergoing active programs, measures as well as professional qualification and effective labour mediation at the primary labour market also contribute to the unemployment decrease in the country in 2007. The annual average unemployment rate for 2006 is among the lowest levels since September 1991. Just for a year the number of unemployed have dropped with 68,327 people. The level of unemployment in Bulgaria began to be in a range that is comparable to the EU countries and is stably keeping its position ahead of Poland, Slovak Rep., France, Germany and other member states. In 2007 the level of unemployment in Bulgaria is getting closer and closer to the average rates in EU (June 2007—6.9%). At the end of June 2007 the unemployment drop compared to June 2006 is 19.2%. In July 2007 the unemployment rate is 7.25%. The unemployment for August, according to the preliminary data, drops to 7.06%, said on a press-conference at the Ministry of Labour and Social Policy Deputy Minister Dimitar Dimitrov.

With the aim to effectively support integration of the unemployed people at the labour market and creation of new workplaces in 2007 under different programs and measures, funded by the budget for active labour market policy, employment to 78 thousands unemployed people has been provided and 21 thousands have been included in trainings.

The workforce demands are growing. Only for the first half of 2007 155,579 free workplaces were submitted to the Employment Agency. The taken workplaces are 146,928. Labour mediators have arranged job for 138,936 people and 66,312 of them are in the private sector.

With the fulfilment of the measures and programs under the Employment Encouragement Law a decrease of the regional diversity in employment is aimed. The funds are shared out according to Criteria for Allocation of National Programs and Measures for Training and Employment Encouragement under Employment Encouragement Law to Regions. The criteria are: unemployment rate, relative share of the target group to the common number of unemployed and declared needs. The regional approach is applied to the whole active labour market policy.

For the reduction of the regional diversity the activity of the regional labour market partners to develop and implement regional employment initiatives (Art. 31 of Employment Encouragement Law) is stimulated, thus increasing the employment rate and encouraging the development of some regions with the view of overcoming the regional diversity in the country. In fulfilment of the National Employment Action Plan from the beginning of this year Ministry of Labor and Social Policy has approved 14 new programs, nine of which regional.

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The employment policy is targeted to increase the employability and to promote the activeness on the labor market of the disadvantaged groups of unemployed: young people, persons with low education and qualification, long-term unemployed, Roma people, people with disabilities, persons over 50 years of age. The realization of the programs and measures creates workplaces for permanent employment, for practicing and apprenticeship. During 2007 the programs and measures for providing of greater flexibility of the labor market will become more varied.

Active measures on the labor market are successfully applied:

- National Program “From social aid to employment”;
- National Program “Assistants of disabled persons”;
- National Program “Aid for retirement”;
- National Program “Start in the career”.

In the frames of the project JOBS for a net of business centers policy for promotion the development of business in distant rural regions is carried out.

Under the project of “Beautiful Bulgaria” of Ministry of Labor and Social Policy education for professional qualification of long term unemployed persons is conceded and an employment in the field of construction and tourism is ensured.

In the field of employment on European level unusual dynamic processes are developing which reflect directly on the necessity for reforming of the national market of labor and are aiming at achievement of much closer binding of macroeconomic and microeconomic policy and the policy of employment in the framework of the Lisbon strategy. Regarding this I will inform you about some of the basic achievements and about what we plan concerning the development of employment policy in Bulgaria.

The situation of the labor market is changing for the better every new month as a result of the purposeful and consecutive social-economical policy of the Government. According to the data of National statistical institute during 2006 the overall number of the persons employed in Bulgaria has reached 3.1 million and only for one year their number has increased with 130,000. This positive tendency continues also during 2007. The coefficient of the employed has increased. The registered unemployment steadily decreases. The active programs, measures and professional qualification as well as the efficient labor intermediation of the primary labor market have contributed for the decreasing of the unemployment in the country. The data for June 2007 shows a record low level of registered unemployment. The unemployment rate has decreased with 5.7 points compared to the beginning of the 2005.

The success is due to not only the steady economic development but also to the considerably improved planning and fulfillment of the national policy on employment and in the same time on the efforts for implementation of the Lisbon strategy in its part “Employment”.

With the help of the National Action Plan for employment during 2007 Bulgaria will ensure subsidiary employment of over 87,000 persons and education of over 43,000 persons. The accent is on the enhancement of the adaptation for high efficient and high quality employment of the labor force by larger investments in the human capital and life long learning; accelerated integration of the disadvantaged groups by activating for search and staying at work and enhancement of the flexibility of the labor market.

Providing workers with appropriate qualification for the needs of the Bulgarian economy in the context of the integration in the Common market is gaining greater and greater importance. That is why we undertake a number of actions in order to bind the education with the concrete necessities of the employers, to enhance its quality and to ensure higher knowledge and skills for Bulgarian citizens. The acquirement of key skills as the enhancement of the participation of the population in the different forms of the life long learning will be priority of the Strategy for Life Long Learning which is being developed at the moment.

In the context of the exclusively active debate on European level regarding the necessity of achieving new balance between flexibility and security these topics are also discussed in Bulgaria. The better balance between flexibility and security helps more people to start working or to stay on the labor market. That is why in cooperation with the social partners Ministry of Labor and Social Policy elaborate changes in the legislation. For the fulfillment of the objectives of Lisbon in the field of employment and in respect with the Integrated Guidelines for Growth and Employment Bulgaria has developed National Program for Reforms in the period 2006–09. In the frames of the National Strategic Referent Framework the Ministry of Labor and Social Policy has been determined as a management body of the National Operative Program for Development of Human Resources. Among all operative programs developed from Bulgarian side and presented in the European Commission that one is in the most advanced stage of approval. In the period of 2007–13 a resource of 1.2 billion EUR will be invested. In this way our state will obtain support for achieving better living standard for the people in Bulgaria by improving human capital, increasing of productivity, access to education of good quality and life long learning, strengthening of social inclusion, and of course achieving high levels of employment.

## APPENDIX 3

**Memorandum submitted by the Home Affairs Section, Bulgarian Embassy**

**THE BILATERAL CO-OPERATION BETWEEN BULGARIA AND THE UNITED KINGDOM  
IN THE AREA OF JUSTICE AND HOME AFFAIRS AFTER  
THE ACCESSION OF BULGARIA TO THE EU**

## EXECUTIVE SUMMARY

Bulgaria and the United Kingdom have close relations and dynamic bilateral co-operation in virtually all spheres of justice and home affairs. There are no open questions or problematic areas between them. Bulgaria and the UK work together in countering the new threats of international terrorism, organised crime and illegal migration, both bilaterally and within the EU. There is no evidence of criminal pressure created by Bulgarian nationals on the territory of the UK. This fact has been officially admitted by two consecutive Home Secretaries in April 2006 and April 2007 respectively.

1. In July 2005 the Ministry of Interior (the Home Office) of the Republic of Bulgaria posted me as official representative at the Bulgarian Embassy in London, sometimes referred as “Police Attaché”. My remit covers bilateral and multilateral police co-operation, data and intelligence exchange, advice on national legislation, promotion and coordination of police-related projects and training. In addition, I am support the Embassy’s work related to the EU policies in the field of justice, freedom and security.

2. The Bulgarian and the UK law enforcement authorities maintain close operational contacts and collaboration, directly or through their liaison officers posted in Sofia and London. In the last couple of years there were several joint operations against international criminal networks involved in drugs trafficking and smuggling of illegal migrants. Due to its strategic geographic location on the traditional drugs and migration routes, Bulgaria faces the same challenges as the other transit countries in Europe. As a result of its commitment and the assistance of its EU partners, the recent criminal intelligence shows a trend of avoiding the territory of Bulgaria by some of the traffickers. It is worth mentioning that though there are Bulgarian nationals involved in international drugs trafficking networks, there is no data available so far of a Bulgarian criminal group supplying drugs directly to the UK or selling them on its territory.

3. The Bulgarian Embassy in London is aware of only one case of human trafficking for sexual exploitation on the territory of the UK involving Bulgarian nationals in the last two years. The investigation, conducted in close cooperation between the UK and Bulgarian police and judicial authorities, has not found any evidence linking the case to a wider criminal network. In addition, the Operation Pentameter I did not identified any Bulgarian victims or traffickers.

4. The number of prisoners in British prisons is an important and objective indicator of the level of criminal activities of foreign nationals. According to the statistics provided by the Home Office as written ministerial answer to the House of Commons, in March 2007 the number of the Bulgarian prisoners in the prisons of England and Wales was in the lowest category of “Less than 50 prisoners”.

5. The UK law enforcement agencies provide valuable assistance and share their experience with their Bulgarian colleagues in a number of areas:

- combating terrorism: the Counter Terrorism Command within the Metropolitan Police Service (MPS) strongly supported the entry of Bulgaria as member of the Police Working Group on Terrorism (PWGT)—one of the most effective European police organisations for practical cooperation in this field;
- investigation of murder cases: the MPS Homicide and Serious Crime Command shared their best practices and exchanged officers with the Bulgarian Criminal Police;
- assets recovery: the UK assisted in drafting the relevant Bulgarian legislation;
- information and communication security: twinning project;
- tackling internal corruption in the Police: twinning project (completed);
- border security: the UK BIA provided technical equipment and advice on combating forgery of travel documents;
- online crime reporting, etc.

6. In the beginning of January 2007, a senior Bulgarian border police officer was seconded, together with a Romanian officer, at Heathrow airport. His task was to provide advice and support to the UK Immigration Officers about Bulgarian documentation following accession. According to the BIA (then IND), this exercise was very successful. A great deal of information on the abuse of European documents was exchanged. Furthermore, the Bulgarian officer played a leading role in the detection of a third country national trying to enter illegally the UK with sophisticated counterfeit Bulgarian passport.



7. In September and October 2007 another Bulgarian police officer was seconded for six weeks to work with the British Transport Police. His main task was to assist his British colleagues in tackling the problem of Bulgarian pickpockets in the London transport system. Though relatively few in numbers, the latter are traditionally difficult to deal with as they come from specific closed ethnic group. This exercise has also been quite successful. Although not officially confirmed, there is already information of members of the criminal group starting to leave the UK.

8. Last but not least, the accession of Bulgaria to the EU provided new opportunities for cooperation within the EU institutions. Bulgarian participation in the JHA Councils during the German and Portuguese Presidencies of the EU has already demonstrated that Bulgaria is an active and reliable Member State and partner. Furthermore, Bulgaria and the UK share similar positions on a number of important issues like the strengthening of the European Police Office, EUROPOL, the role of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU, FRONTEX, the incorporation of the Treaty of Prum in the *acquis communautaire*, the access to the data stored in the EU information systems (SIS, VIS, etc) by the Member States' security and law enforcement authorities fighting terrorism and organised crime, and so on.

9. In conclusion, the gloomy predictions of parts of the British media and some politicians of "criminal and immigration influx" from Bulgaria to the UK have proved to be entirely unfounded. This fact has been officially admitted by two consecutive Home Secretaries in their bilateral meeting with the Bulgarian Minister of Interior, in April 2006 and April 2007 respectively.

*19 November 2007*

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## APPENDIX 4

### Memorandum submitted by the Border and Immigration Agency, Home Office

#### SUMMARY

1. Prior to accession, the UK Government announced that transitional restrictions would be introduced gradually to open the UK's labour market to Romania and Bulgaria on their accession in January 2007. This decision was made taking account of the needs of the UK labour market, the impact of EU enlargement and the positions adopted by other Member States. On 30 October 2007, the Government confirmed that these transitional restrictions would remain in place.

2. This memorandum provides an overview of the operation of these restrictions.

#### ARRANGEMENTS FOR A2 WORKERS

3. EEA Nationals have a right of residence in any other Member State for their first three months of residence on an unrestricted basis. Provided that they are exercising a "treaty right", that is, either engaged in work, study, self employment, or are self sufficient, that right will continue beyond three months. Following the exercise of a treaty right for a period of five years the individual obtains a right of permanent residence. These rights are set out in Directive 2004/38/EC (on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States) as transposed into UK law in the Immigration (European Economic Area) Regulations 2006 (SI 1003) (see Annex 2 for further detail).

4. However, the EU accession treaties for Romania and Bulgaria gave the existing EU member states the option to introduce transitional measures to limit the labour market access of the Romanian and Bulgarian nationals ("A2 nationals"). There are three phases to these measures<sup>2</sup>:

- Phase 1: Two years following accession: initial transitional measures which have to be reviewed after two years.
  - Phase 2: Three to five years following accession: measures can be continued following notification to the European Commission.
  - Phase 3: Six to seven years following accession: The only ground for continuing transitional measures is to avoid serious disturbance to the labour market.
5. There are limitations on the restrictions that EU states can introduce:
- Restrictions imposed can be no more severe than at the time the accession treaties came into force (ie 2005). This is known as the standstill clause.
  - A2 workers must be given priority over workers from third countries ie non-EU citizens.
  - Once the worker has obtained access to the labour market, he/she benefits from equal treatment.

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<sup>2</sup> European Commission: Employment and Social Rights  
[http://ec.europa.eu/employment\\_social/free\\_movement/enlargement\\_en.htm#genpros](http://ec.europa.eu/employment_social/free_movement/enlargement_en.htm#genpros)

6. The current UK restrictions on A2 labour market access are set out in the Accession (Immigration and Worker Authorisation) Regulations 2006 (SI 3317) (as amended). There continues to be access for skilled workers who meet the requirements of the UK's work permit restrictions and the Highly Skilled Migrant Programme. However, access for lower skilled workers, is quota limited and restricted to existing schemes—the Seasonal Agricultural Workers Scheme (“SAW”) and the Sectors Based Scheme (“SBS”) (for the food processing sectors). From 2008, applications for both these schemes will only be accepted from the A2 countries only. The SBS quota is 3,500 and the SAWS quota is 16,250.

7. A2 migrants only generally have a right to reside as an EU worker (and therefore access to “in work” benefits) if they are working in accordance with the A2 scheme.

8. Other Bulgarian and Romanian nationals exercising a Treaty right in the United Kingdom may seek a “registration certificate”. This includes those exempt from the worker authorisation restrictions; highly skilled migrants; those with restricted access to the labour market—students, the self-employed, and self-sufficient persons; and Bulgarian and Romanian family members of main applicants.

9. An information campaign supported by the British Government was run in both countries ensuring the message that “if you don't have permission to work here, you won't find a job” would get through.

## NUMBERS

10. There is a total population of 40,000 A2 born, resident in the UK according to the Labour Force Survey (LFS) Q2 2007—this includes 15,000 Bulgarians<sup>3</sup>.

11. The number of migrant workers registering under the A2 schemes is relatively low. In the first two quarters of 2007 the Border and Immigration Agency received 21,425 applications under the A2 arrangements, of these 17,270 were approved.

12. Of those applications approved there were:

- 1,095 applications for accession worker cards after the individual's employer has applied for a work permit.
- 365 Family members of A2 work permit holders and the “other” category (see below).
- 3,400 exempt registrations.
- 75 highly skilled.
- 980 students.
- 7,775 self employed.
- 430 self sufficient.
- 2,755 family members of registered workers.
- 385 other (including sector based scheme, ministers of religion, au pairs etc).

13. In addition to these, in the first two quarters of 2007, 6,405 SAWS cards were issued. Since then, further cards have been issued, exceeding the minimum proportion of the SAWS quota that was reserved for Romania and Bulgaria (40% of the 16,250 SAWS quota, ie 6,500).

14. Overall, the majority of those applications that were not granted relate to cases where the applicant failed to provide evidence that the employer had obtained approval of the employment against work permit criteria.

15. Where nationals from the A2 countries are coming to the UK to work legitimately they are contributing to the success of the UK economy. Evidence shows they are working in health and social services, in administration, business, management and the financial sectors, as well as in the entertainment and leisure industry.

16. In part due to the A2 schemes, the majority of the Romanians and Bulgarians in the UK are here to work. The Labour Force Survey Q2 2007 shows that A2 born have an employment rate of 87.8%:

- (i) An employment rate of 83.0% for Romanian born.
- (ii) An employment rate of 95.3% for Bulgarian born<sup>4</sup>.

<sup>3</sup> These estimates are based on Q2 2007 Labour Force Survey (LFS) microdata which is weighted to an estimate of the 2007 population made in 2003. They are not directly comparable with the employment figures (see below) also based on LFS reported in the monthly ONS published Labour Market Statistics Release as these are weighted to an estimate of the 2007 population made in 2006.

<sup>4</sup> See note above on LFS data.

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## REVIEW OF RESTRICTIONS FOR A2 WORKERS

17. At the time of announcing the restrictions on labour market access of Romanian and Bulgarian workers, the Government committed to reviewing these restrictions within a year of them coming into place.

18. On 30 October 2007, Liam Byrne, Minister for Borders and Immigration, laid a Written Ministerial Statement (WMS) before Parliament announcing the Government's decision to maintain those restrictions (see annex 1).

19. The A2 restrictions have been reviewed and a balance struck between the needs of the UK labour market, the wider impact of the migration of accession state nationals on the UK and the positions adopted by other EU countries (as that affects access to the UK labour market).

20. The Government looked at the evidence of the benefits and the impacts of migration from the A2 and from the A8 (eight countries which joined the EU in 2004), which was used to inform this decision.

21. While the initial evidence showed that there was a clear positive contribution to the economy from migration, there were some reports of pressures in other areas, including public services. The prudent balance was therefore to maintain restrictions as the medium to long term effects of accession migration are monitored.

22. As had been previously announced, the WMS also confirmed that from 2008, applications to the existing "Seasonal Agricultural Workers Scheme" will be accepted only from Romania and Bulgaria as was announced last year. The overall number of migrants coming to the UK through SAWS is unchanged.

23. The Romanian and Bulgarian governments were invited to contribute evidence prior to the Government's decision on the A2 restrictions. Both Governments provided evidence which was carefully considered and there was regular contact with both governments before the final decision was made.

## ENFORCEMENT AND COMPLIANCE

24. The Border and Immigration Agency is committed to ensuring that the A2 arrangements are properly implemented and to tackling illegal working in the UK.

25. Under the Accession Treaty, it is possible to introduce restrictions on employees only—not on the self-employed, self-sufficient or students. Through enforcement and compliance inspections we are ensuring that those who are working as self-employed are genuine. This includes joint working with HMRC to ensure that the right to self-employment is not abused.

26. We have targeted areas across the UK where intelligence shows we can expect to encounter people most likely to break the law.

27. From 01/01/07 to 01/11/07 200 Fixed Penalty Notices were served on those guilty of breaching A2 migration laws.

28. Employers and employees face prosecution if they break the rules, with the possibility of a £5,000 fine or imprisonment. An illegal employee may alternatively opt to pay a fixed penalty of £1,000.

29. We worked with the International Organisation for Migration (IOM) to ensure that the right messages were conveyed overseas. Before accession there was an information campaign to remind Bulgarians and Romanians that they needed a work permit before they came here if they wished to work, and emphasising the realities of life in the UK.

30. The Home Office and other Government agencies, such as the Health and Safety Executive, Department for Work and Pensions, Department for Business and Regulatory Reform and HMRC, engage with employers in relation to employment terms and conditions. Where appropriate, workplace enforcement authorities cooperate to tackle serious breaches of legislation, including by rogue employers. For example, the Home Office has worked closely with Defra and the Gangmasters Licensing Authority (GLA) to support the development of the new gangmaster licensing regime.

31. The Serious Organised Crime Agency has assisted in the establishment and development of a multi-agency task-force (Project REFLEX Romania), based in Bucharest, which tackles organised immigration crime.

## SERVICE DELIVERY

32. The BIA also recognises the importance of ensuring that the A2 arrangements are applied efficiently and effectively.

33. As part of this the Government has laid before Parliament an amendment to the existing Regulations (the Accession (Worker Authorisation and Worker Registration) (Amendment) Regulations 2007 (SI 3012) which were made on 23 October, laid on 25 October and will come into force on 19 November).

34. This amendment will remove some administrative requirements on the labour market access of A2 family members of A2 nationals who are self-employed, self-sufficient or students (the sponsor A2 national) but will ensure that the access is limited during their first 12 months of lawful work to when their sponsor A2 national is actively exercising the relevant treaty right.

35. Alongside this change, two further amendments are being made, firstly making family members of diplomats exempt from the work authorisation process (such family members are generally exempt from immigration restrictions) and secondly updating the definition of “Highly Skilled person” to reflect the equivalent recently amended Immigration Rules. Bulgarian and Romanian nationals who fall within this definition are exempt from the need for worker authorisation. The definition is being updated to ensure that Bulgarian and Romanian nationals benefit from changes made to corresponding provisions in the Immigration Rules.

36. Similar changes are being made to the Accession (Immigration and Worker Registration) Regulations 2004 (SI 1219) (as amended), which created the worker registration scheme for nationals from the eight Accession States in 2004 (“the A8”), to allow the A8 family members of a sponsor A2 national to work without A8 worker registration and to exempt the A8 family members of diplomats from worker registration.

37. In terms of the practical application of the arrangements, the Bulgarian and Romanian Casework (BaRC) teams are operating above the agreed Service Level Agreements (SLAs) of 70% of cases completed within 20 working days from date received by the business. The year to date (as of 30/06/07) figure stands at 76.7%.

38. All decisions are made after scrutinising the case against the Accession (Immigration & Work Authorisation) Regulations 2006, published on the Home Office website. All guidance and application forms are also published on the Home Office website along with the SLA’s and our current performance.

39. To maintain the quality of all decisions made by BaRC, a number of randomly selected cases are subject to a quality check undertaken by an independent BIA team. This check examines the quality of the decision as well as the accuracy of data and spelling. Results are fed back to the unit, thus helping to highlight trends and correction action that may require attention.

40. BaRC are committed to a quality service and are currently evaluating training packages with a view to ensuring new staff are effectively trained and mentored as well as offering additional training support for staff in the form of refresher courses.

41. As the structure of the Bulgarian & Romanian scheme progresses BaRC are utilising continuous improvement methods to refine our internal process to maintain a high quality of service.

42. The application forms and guidance are currently being reviewed and key stakeholders will be contacted and feedback will be requested as part of the process. BIA will be releasing new application forms this month in order to make it easier for applicants to apply.

43. Support and advice is provided to applicants via the Customer Contact Centre by telephone. Any queries that cannot be resolved directly by the Customer Contact Centre are forwarded to the appropriate BaRC units’ points of contact.

*19 November 2007*

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## APPENDIX 5

### Memorandum submitted by the Embassy of Romania

#### OPERATION OF THE SYSTEM

- The high number of schemes in operation leads to confusion amongst applicants as to which procedure applies to them. Intimidated by this complexity some A2 nationals may be discouraged to attempt to comply with the Regulations.
- In many cases employers are unwilling to navigate the complex administrative procedures accompanying the employment of a Romanian.
- Applications are taking many weeks to process—sometimes far in excess of published service standards. There are situations of Romanians losing out on legal employment opportunities as a consequence of these extended processing times.
- The imposition of worker restrictions on A2 nationals marks them out as a separate group and therefore as a potential target for discrimination. An impact is felt not only by the newcomers, but in many instances by Romanians already working legally in the UK.
- Information on the Border and Immigration Agency’s website concerning the procedures the Romanian citizens have to comply with is not all the times updated and no distinction is made between the procedures applicable to A2 citizens and those that are applicable to the third countries nationals. Some of the guidance notes available on [www.workingintheuk.gov.uk](http://www.workingintheuk.gov.uk) still place A2 nationals in the same category of employment as the third countries nationals.

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- As the current regulations limit the access on the labour market for the A2 nationals only where a genuine vacancy exists for a skilled job (excepting the limited number of low skilled jobs available under SAWS and SBS), it is unclear what type of qualifications and awards are necessary to qualify under the Work Permits Scheme. Also it is not clear whether the Romanian awards should be recognised by the relevant British authorities prior to lodging the work permit application.
  - The current procedures bind the Romanian work permit holders to a specific employer. The anticipated ending of the employment relations will require a new application to be submitted by the new employer. This condition makes Romanian workers vulnerable in front of their employers as many of them might accept inadequate working conditions, knowing the difficulty of obtaining a new work permit when changing the employer.
  - The system of worker regulations and apparent attitude to their enforcement, leaves Romanian's open to intimidation and exploitation by unscrupulous individuals or employers. Agencies are advertising both in the UK and Romania offering bogus jobs in Britain in exchange for hefty administration fees. Some accounts have been received of language schools arranging work placements for Romanian students, and of their employer mistreating them but threatening them with expulsion should they complain about their conditions. Similarly there are reports of Romanian employees being abused or mistreated and feeling unable to complain because of their fragile standing in the UK labour market.
  - The extensive Home Office advertising campaign in the period around accession has contributed to a climate—fostered further by the media—in which Romanians can be viewed with distrust.
  - Away from the employment sphere, Romanian's also report problems with accessing the NHS medical services, opening bank accounts, and of having difficulty renting housing because of suspicions held about their entitlement to be in the UK.

3 December 2007

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## APPENDIX 6

### **Letter to Rt Hon Keith Vaz MP, Chairman, Home Affairs Committee, from Mr Liam Byrne MP, Minister of State, Home Office**

Thank you for your letter of 27 November in which you recorded the further information I had agreed to provide following my appearance before the Committee of the same date.

I previously wrote to you with the required SIA chronology included. Enclosed in this letter is the A2 evidence also requested:

- the number of Bulgarians and Romanians working in the UK under the A2 regulations who will become eligible to receive working family tax credits and/or child benefits once they have been working in the UK for a 12 months period;
- the proportion of the 380 Bulgarian and Romanian children in receipt of child benefits who are currently residing in the UK; and
- the number of school pupils who have migrated to the UK from A2 and A8 countries.

10 December 2007

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### **Supplementary evidence submitted by Mr Liam Byrne MP, Minister of State, Home Office on follow up questions on A2**

I would like to begin by correcting the impression that there were 38,000 *approved* applications under the A2 schemes in the first three quarters of 2007. In fact, this was the total number of applications (38,365, which includes 7,370 SAWS cards issued). Since January 2007 there have been 32,238 approved applications under the A2 schemes (which again includes the 7,370 SAWS cards issued).

- *The number of Bulgarians and Romanians working in the UK under the A2 regulations who will become eligible to receive working family tax credits and/or child benefits once they have been working in the UK for a 12 month period.*

Eligibility for child benefit, child tax credit and working tax credit is not based on the period of time the migrant has been working in the UK.

For child benefit and child tax credit purposes, A2 nationals must be present, ordinarily resident and have a right to reside in the UK. An A2 national who is authorised to work in the UK under A2 schemes or who is exempt from registration (such as the self-employed) has a right to reside and may therefore receive child benefit and child tax credit, provided they meet all the other relevant conditions of entitlement.

For the working tax credit, A2 nationals may receive such support provided they are present and ordinarily resident in the UK and, again, meet all the other relevant conditions of entitlement.

For both tax credits and for child benefit, the term “ordinarily resident” means that the claimant must normally reside in the UK.

- *The proportion of the 380 Bulgarian and Romanian children in receipt of child benefits who are currently residing in the UK.*

There were 380 approved Child Benefit claims from Bulgarian and Romanian nationals in the UK from July to September 2007, the equivalent number for the period 1 January to 31 October 2007 is 1,322. These figures include all claims from A2 nationals and is not restricted to those who are authorised to work in the UK under the A2 schemes.

In the vast majority of cases where a decision has been made, the children are based in the UK. As at 31 October 2007, in well over 99% of the cases where A2 migrants were receiving child benefits in the UK the children were also resident in the UK, there were only seven cases where this was not the case.

All claims for child benefit and tax credits are subject to a wide range of checks throughout the life of each claim. Where claims are made on behalf of children living in another EEA Member State, HM Revenue and Customs do further checks to verify the information provided by the claimant, including verifying the composition of the family and to find out whether there are any other family benefits in payment in the other Member State. HMRC and other Member States have well established processes in place to ensure payments only go to those who are entitled. For child benefit, these cases are also subject to a regular annual review to see whether there have been any changes of circumstances that may affect entitlement. Where a claimant fails these checks, the award is terminated. For tax credits, all awards are subject to an annual review.

- *The number of school pupils who have migrated to the UK from A2 and A8 countries.*

A8 and A2 migrant children cannot be identified in school census data as the census does not hold data such on nationality or country of birth. Schools will receive extra resources to help them with A2 and A8 migrants via the weighting in mainstream funding to children with English as an additional language (EAL).

Local authorities also receive funding through Ethnic Minority Achievement Grant to provide support for minority ethnic pupils and pupils with EAL. The grant is £179 million in 2007–08 and is set to rise to £206 million by 2010. It must also be remembered that the amount of money spent on education has risen by more than 60% in real terms since 1996–97.

Nevertheless, we are aware that it is vital that we take the social impact of immigration into account when we make migration decisions. That’s why we set up the Migration Impacts Forum, so public services can help shape our points system which is introduced in early 2008.

10 December 2007