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No regional integration without free movement of persons

challenges and issues

Yves Jorens



Free movement: a story of immigration and integration

- crucial in every story of regional organisations
 - Positive elements: Optimum allocation of supply and demand through complete movement of economic operators
 - Negative elements: fear for own labour market, social dumping
- Free movement is also crucial within the African context
ECOWAS, COMESA, AU, SADC

How do states look to immigration?

- Rights of people are often dependent from type of employment, immigration status, citizenship, the regulatory framework, (existing one or not), the state interests (and reason why state want to limit access (legitimate/proportional)
(-eg ECHR: preferential treatment of EU)
- Non existence of nationality condition is not the end of the story: territoriality replaces nationality in national Welfare State
 - exc. soc. assistance: link with legal residence

How do states look to immigration?

A) very favourable?

-Free movement as cornerstone of integration: EU: high level of protective standards where migration is changed into free movement

B) Migration as a compromise

-Temporary migration: a bridge between no migration and need for labour force

How do states look to immigration?

C) Very restrictive vision on Migration

- Legal rights are often very limited
- Residence determines rights
 - Social assistance: the conondrium



Integration

- Who is member of the society? Depends on the migration status

- Nationality is in social security often irrelevant

A) permanent residents:
equal par with own citizens

B) Temporary migrants:
-Debate between host state and state of origin
-Problem is often we do not want to pay contributions in countries when difference in level and much higher (issue of GATT's?)



Integration

C) Irregular people

- How does international law look to these people?
- There is a lot of unclarity when looking to international texts and applicability to irregular people



Integration

- Migrants encounter several problems that cannot be solved unilaterally: need for bilateral and multilateral agreements
- Free movement and transnational relationships: Which labour law is applicable in case of an international situation ?
 - “a South African national working in Botswana on behalf of a Zambian employer who have decided that Zimbabwean law would apply”
- Resolved by international private law: looking for the place of gravity: depends from country to country: African solution?



Yves Jorens

Senior full Professor of (European) Social Security Law Ghent University

Promotor SIOD-Chair Reducing Social fraud and Social Dumping

**(Social Information and Investigation Service: Belgian Federal Public Service,
Employment, Labour and Social Dialogue)**

Director of IRIS

DEPARTMENT CRIMINOLOGY, CRIMINAL LAW AND SOCIAL LAW

RESEARCH GROUP SOCIAL LAW

IRIS|INTERNATIONAL RESEARCH INSTITUTE ON SOCIAL FRAUD