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MIGRANT WORKERS AND EUROPEAN
SOCIAL LAW: OF A RESPECTABLE AGE
OR TIME FOR A REBIRTH?

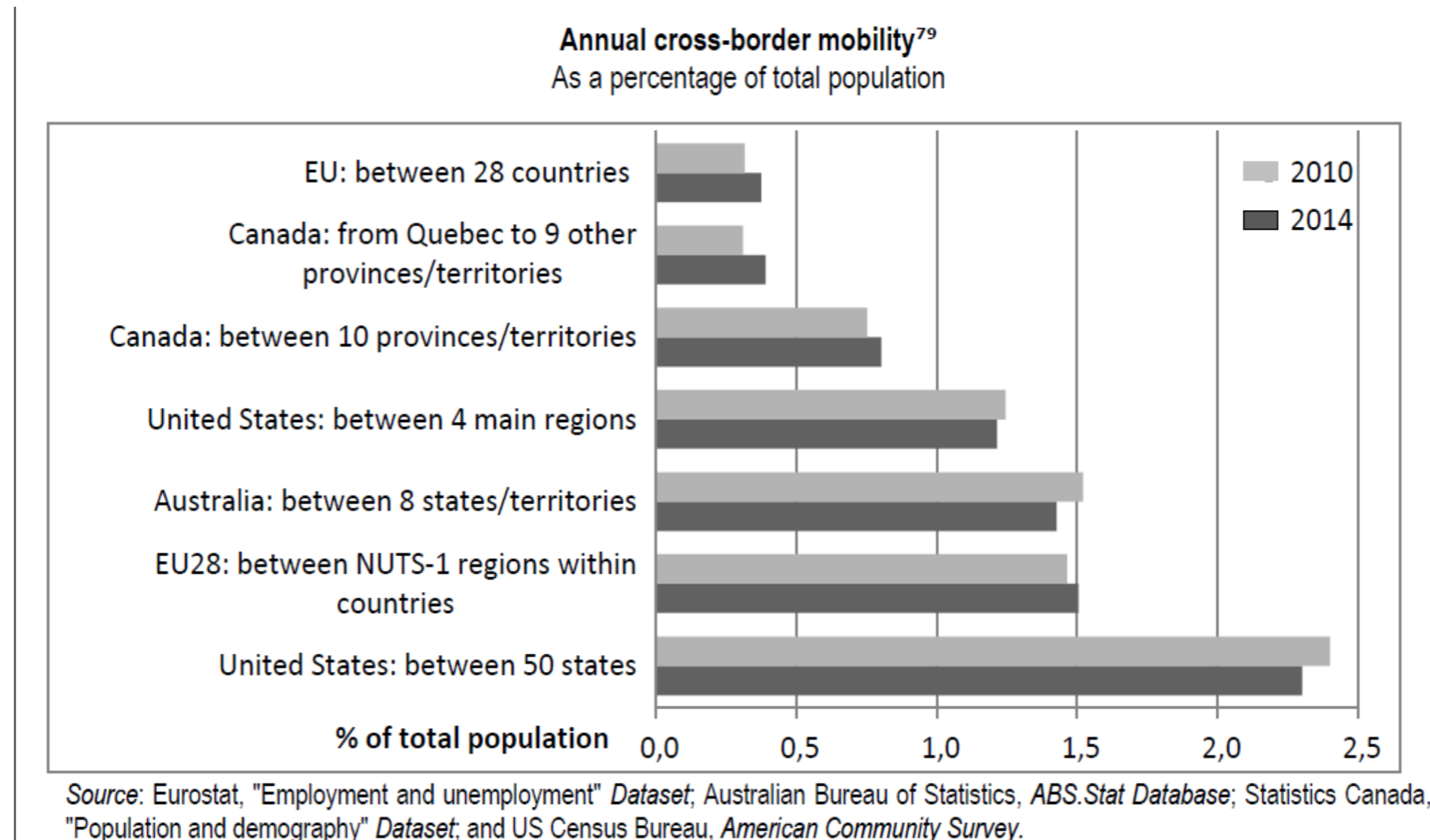
Prof. dr. Yves Jorens

70 YEARS OF INTRA-EUROPEAN MIGRATION

- Decolonization and colonial migrants
- Foundation of European community: new step in labour migration
- Until 1990ies: family reunification, labour migration and asylum
- After the 1990ies: other motives

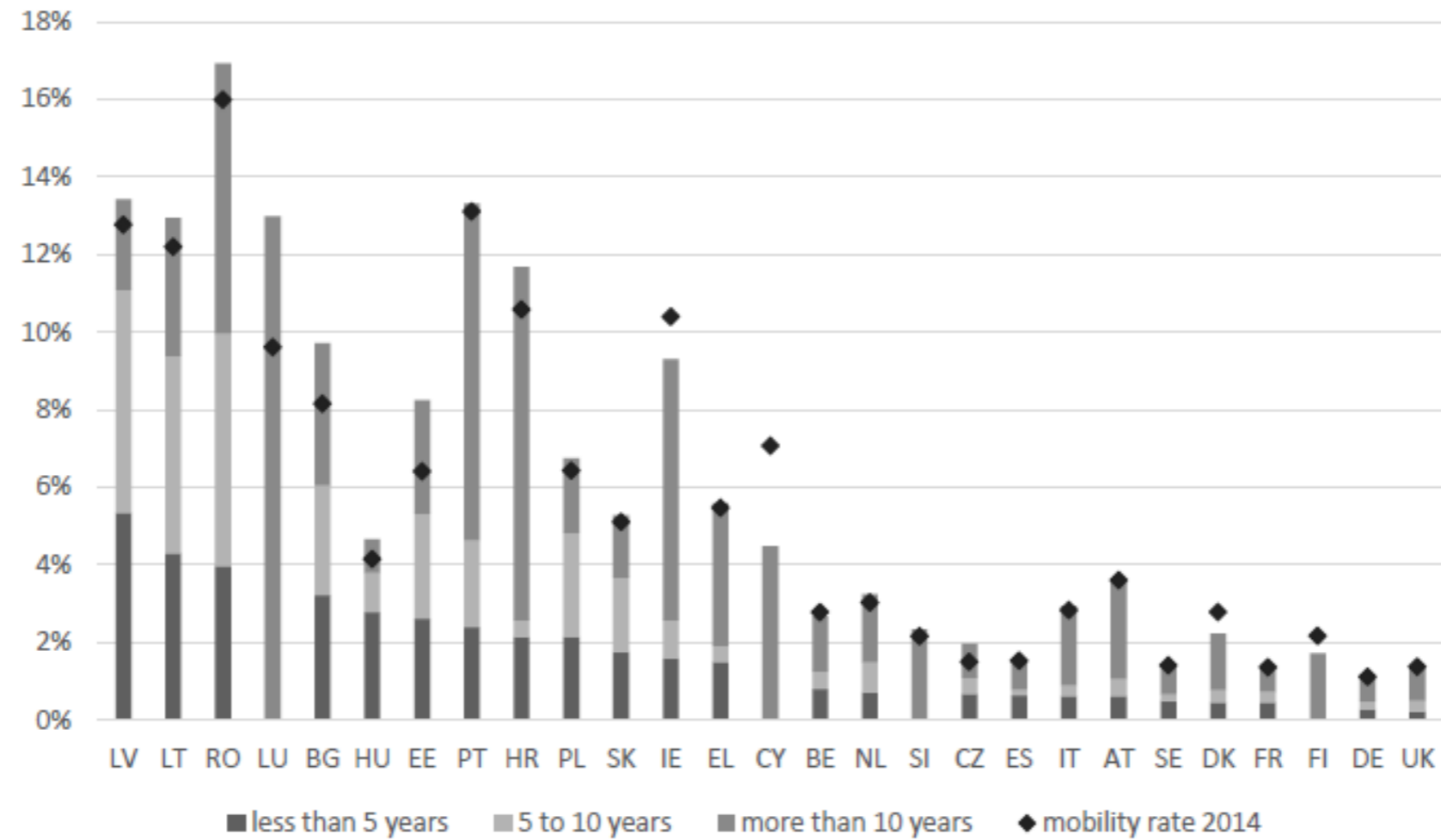
SOME FIGURES

Level of intra-EU labour mobility



SOME FIGURES

Figure 9 Mobility rate of nationals of working age (20-64), by years of residence abroad, 2015



NUMBER OF NATIONALS LIVING IN ANOTHER EU-28 MEMBER STATE AS SHARE OF TOTAL POPULATION IN COUNTRY OF CITIZENSHIP, BY YEARS OF RESIDENCE ABROAD.

TOTAL NUMBER IS USED FOR FI, CY, SI AND LU AS ONE OR MORE OF THE NUMBERS FOR AGE GROUPS ARE BELOW RELIABILITY LIMITS OR HAVE LOW RELIABILITY.

MT IS EXCLUDED BECAUSE FIGURES ARE BELOW RELIABILITY LIMITS.

SOURCE: EU-LFS 2015, MILIEU CALCULATIONS.

SOME FIGURES

Table 1 Composition of intra-EU mobility by different types, EU-28 citizens in the EU-28, 2015

| Type of mobility | Extent |
|--|----------------------------|
| 'Long-term' EU-28 movers of working age (20-64 years) living in EU-28* (Eurostat figures) | 11.3 million |
| <i>(as share of the total working-age population in the EU-28⁴⁰)</i> | <i>(3.7%)</i> |
| EU-28 movers of working age living in EU-28*(EU-LFS figures) | 10.5 million ⁴¹ |
| ...of which active EU-28 movers (employed or looking for work)** | 8.5 million ⁴² |
| <i>(as share of the total labour force in the EU-28)</i> | <i>(3.6%)</i> |
| Cross-border workers (20-64 years)** | 1.3 million |
| <i>(as share of the total employed in the EU-28)</i> | <i>(0.6%)</i> |
| Number of postings⁴³ (of employed and self-employed), (no. of PDs A1)*** | 2 million |
| Annual return mobility (20-64 years) (2014)**** | 630,763 |
| <i>(as share of EU-28 mobile workers)</i> | <i>(6%)</i> |
| Retired EU-28 movers (all ages) | 1.4 million |

(see Milieu, 2016: Annual Report on Intra-EU Mobility, 2017, Project Network Statistics FMSSFE, Brussels, European Commission, DG Employment, Social Affairs and Inclusion, <http://ec.europa.eu/social/main.jsp?catId=1154&langId=en>, 24.)

NEW CHALLENGES FROM MIGRATION ON THE EUROPEAN LABOUR MARKET

– New types of labour contracts

- interim management
- telework
- casual work (on call, employee sharing, voucher based work, ...)

– New work organization

- network and platform work
- international groups with integrated HR policy

IMPACT OF NEW THE NEW TRENDS ON SOCIAL PROTECTION OF MIGRANT WORKERS

- Migrant worker is less focusing on full integration in state of new workplace, but rather on further belonging to social security system of origin
- The current system: *lex loci laboris*
 - abstract connecting factor
 - single applicable legislation → evolution and loss of national acquired rights applied to the concept of competence
 - very volatile system: not always to the benefit of the migrant worker
 - why this connecting factor ?

IMPACT OF NEW THE NEW TRENDS ON SOCIAL PROTECTION OF MIGRANT WORKERS

- The lex loci laboris: inappropriate for current labour market
 - telework
 - short-term contracts
 - international groups
- Revision of fundamental principles
 - more than cosmetic operation
 - 3 stakeholders: worker / employer / social security institution, each with different interests
 - impact assessment for balance of interests

SOME OPTIONS FOR A NEW PARADIGM

- Two starting points
 - sufficient personal links
 - replace volatile system by maintaining protection with state of closest links

SOME OPTIONS FOR A NEW PARADIGM

– Fundamental options

- place from which the employee habitually carries out his/her work or from which activity is carried out
- notion of activity's centre of interest
- replace *lex loci laboris* by notion of closest link: in line with the balance of interests

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