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

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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

Annual cross-border mobility\(^\text{22}\) As a percentage of total population

- EU: between 28 countries
- Canada: from Quebec to 9 other provinces/territories
- Canada: between 10 provinces/territories
- United States: between 4 main regions
- Australia: between 8 states/territories
- EU28: between NUTS-1 regions within countries
- United States: between 50 states

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

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