

Support for the Rabat Process on Migration and Development

“Meeting of Experts on the Social Rights of Migrants and their Portability under a Transnational Framework”

Rabat, (Morocco) 31st March – 1st April 2011

Session 7. “The key elements for a transnational system of social rights benefits (Host country - Origin country)”

Dr. Christoph Schumacher,
Senior Social Security Specialist, Regional Office for Africa, (Addis Ababa), ILO

Mr. Aly Cissé,
Social Security and International Migration Specialist, Regional Office for Africa (Addis Ababa), ILO

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Key elements for a transnational system of social rights benefits (Host country – country of origin)

Dr Christoph Schumacher-Hildebrand

Mr Aly Cisse

ILO-ROAF

Content

- Introduction
- Key elements of a transnational system
- Principles of agreements
- Access to social benefits within the EU
- Transnational agreements with and within African countries
- Proposals for a new strategy
- ILO conventions

Introduction

- Migration not a marginal phenomenon
- 214 million migrants, 3% of world population
- Immigration of third country nationals a key element for economic growth and social stability
- Risk of lost of acquired rights in origin country and absence of access in host country for migrant workers a major issue
- Lack of protection and loss of acquired rights should be avoided

Transnational system: key element

Coordination (not harmonization) of different social security systems through bilateral or multilateral agreements

Principles of agreements

- Personal and material scope
- Equality of treatment
- Applicable legislation
- Aggregation for entitlement and calculation
- Portability of benefits

Access to social benefits within the EU

- National laws
- Regulation 859/03 and 1231/10 applicable to third country nationals moving within the EU.
- Regulation 2003- Equality of treatment for long term residents
- Blue card
- Draft Directives

Transnational agreements EU-African countries: Portability of benefits

- **Agreements:** few agreements with African countries
 - ❑ Morocco and Tunisia with traditional receiving countries;
 - ❑ Francophone countries with France
- **Association agreement**
with Morocco, Algeria and Tunisia. If approved, EU MS must apply equality of treatment and export acquired rights pensions to those countries
- **Blue Card**
- **Draft EU Directives.** Will improve the legal status of third country nationals

Proposals for a new strategy EU-Africa

- Export of benefits based on contribution from EU to Africa
- Access to voluntary insurance
- Reimbursement of contributions
- Cooperation between group of countries
- UN Social Protection Floor initiative

Export of benefits based on contribution from EU to Africa

- Portability and maintenance of acquired rights considered as basic right (*ECtHR*)
- Right to pension based on employment assimilated to property right
- Compulsory affiliation to a old age pension scheme gives rise to legitimate expectation to receive pension benefits...

Transnational agreements within African countries

- **Bilateral agreements:** limited agreements
 - ❑ Morocco and Tunisia and Algeria, Cote d'Ivoire and Burkina Faso, Mali and Senegal, etc.
- **Multilateral agreements**
 - ❑ CIPRES convention (francophone African countries)
 - ❑ ECOWAS General convention on social security
 - ❑ EAC (East African Community) on discussion
- **National laws: export of benefits**

ILO Conventions

Migration for Employment

- Migration for Employment Convention (Revised), 1949 (No. 97) (49 ratifications)
- Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) (23 ratifications)

Social security

- Equality of Treatment (Social Security) Convention, 1962 (No. 118) (38 ratifications)
- Maintenance of Social Security Rights Convention, 1982 (No. 157) (4 ratifications)
- Maintenance of Social Security Rights Recommendation, 1982 (No 167)

Social Protection Floor

A UN initiative to extend social
protection

Objectives

- Ensuring a basic level of social protection and a decent life for all is an obligation under the Human Rights Instruments.
- Sufficient income for adequate food, housing, water and sanitation, education, good health... are all human rights that should be enjoyed by everyone

Social security guarantees

- all **residents** have ...access to a nationally defined set of essential health care services
- all children have income security, at least at the level of the nationally defined poverty line level
- a minimum income security to all those in active age groups who are unable to earn sufficient income on the labour markets
- all **residents** in old age and with disabilities have income security

Questions for discussion

- Transnational Framework protects migrant workers partly. How can the system be improved?
- Cooperation EU-Africa not well developed in the field of social protection. What can be done?
- ECtHR ruled that pensions based on contributions are protected by European Convention of Human Rights. Can this judgment influence the debate on portability?

Thank you for your attention

schumacher@ilo.org

cissealy@ilo.org