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)”
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Project funded by the EU
Meeting of Experts on the Social Rights of Migrants and their Portability under a Transnational Framework

Rabat, Morocco
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Session 7
Key elements for a transnational system of social rights benefits
(Host country – country of origin)

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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

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