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*Systemes juridiques et l'évolution d'un métier:
traduire et interpréter dans la diversité*

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Labour mobility (of translators) within the EU: principles and practise

- I. Introduction to the Free movement of persons
- II. Free movement of persons in practise: European citizenship; Schengen cooperation; residence rights
- III. Free movement of translators: mobile workers x posted workers x self-employed

1.1 Free movement in general

- The free movement of persons is one of 4 fundamental freedoms of the EU internal market
- Internal market is characterised by the abolition between Member States (MS) of obstacles to the free movement of factors of economic production
 - 1) Goods
 - 2) Persons
 - 3) Services
 - 4) Capital

1.2 Free movement of persons in particular

- travel to another Member State using just passport or ID without a visa or other permission
- live and/or work in another Member State without the need for any residence or work permit
- study in another Member State
- live in retirement in another Member State
- set up a new business in another Member State

1.3 Free movement of persons: legal basis

- The free movement of persons is a fundamental right guaranteed to EU citizens by the Treaties and secondary legislation
 - Art. 21 TFEU: Free movement of EU citizens
 - Art. 45 TFEU: Free movement of workers
 - Art. 49 TFEU: Freedom of establishment
 - Art. 56 TFEU: Freedom to provide services
- Derogations and barriers
 - Public order and security, public health, public administration
 - Language requirements and requirements on qualifications
 - Different social security schemes and taxes

1.4 Free movement of persons: history

- Free movement of persons initially reserved for workers
- x Self-employed (and companies) could benefit from Freedom of Establishment (permanent) and Freedom of provide services (temporary)
- Gradually extended to other categories of persons
 - Family members
 - Retired people
 - Students
- EU citizenship extended it to every nationals of MS irrespective of their economic status = no need to be economically active but economically self-sufficient
- It was developed in practical way by *Schengen acquis*

II.1 European citizenship

- = introduced by Maastricht treaty in 1992, this complementary status to nationality of a MS gives to its holders a set of rights:
- **to move, reside and work freely in the EU**
 - to vote and stand as a candidate in
 - Elections to EP
 - Municipal elections in their MS of residence
 - to benefit from diplomatic / consular protection from any MS when traveling to 3S
 - to address (and obtain an answer) any EU body in one of 24 official languages
 - to petition to EP and to complain to EU ombudsman

II.2 Schengen cooperation

- = no police and/or customs checks on internal borders
- Founded on the Schengen Agreement of 1985 (FR, DE, BE, LUX, NL) x currently 26 states
 - incorporated into the European Union legal framework by the Treaty of Amsterdam of 1997
- Common control of single external borders and cooperation between police services and judicial authorities
 - SIS II
 - Frontex, Europol, Eurojust
- Common rules and procedure applied with regard to visas, asylum and border controls
 - Regulation 539/2001: list of countries whose citizens must have a visa and whose citizens are exempt from
 - Common procedure of treatment of requests for asylum

II.3 Residence rights

- Provided by Directive 2004/38
 - Distinction according to the length of stay
 - Distinction economically active x non-active EU citizen
- Residence up to 3 months: no formalities, only ID
 - Jobseekers up to 6 months or more
- Residence for period of more than 3 months:
 - mobile workers may be asked to register
 - family members have right to reside with the worker
 - students can stay for their studies when proving they have financial support and sickness insurance
 - non-active persons have the same obligation
- Permanent residence after 5 years of uninterrupted lawful residence

III.1 Labour mobility

- Free movement for the purpose of work in the EU has different faces:
- 1) labour mobility = free movement of workers
- 2) cross-border commuting = free movement of workers
- 3) posting of workers = free movement of services
- 4) self-employed providing services temporarily = free movement of services
- 5) self-employed providing services permanently = freedom of establishment

III.2 Mobile workers

- Regulated by TFEU + Directive 2004/38 + case law of ECJ
 - = person who undertake genuine and effective **work** for which he is paid **under the direction** of someone else (66-85 Lawrie-Blum) who moved for work to another MS
 - = subject to the law and Social security system of **host MS**
- has equal rights as its nationals to
 - equal access to jobs
 - equal treatment in working conditions (pay, time, leaves...)
 - equal social and tax advantages
 - equal access to training
 - equal trade unions rights
 - equal right to housing
 - equal right on education for their children...

III.3 Posted workers

- Regulated by TFEU + Directive 96/71/EC + case law of ECJ
= employee who is sent by his employer (normal or agency of temporary work) to carry out a **service** in another MS on a temporary basis (until 24 months) who maintains his residence at home state
= subject to the law and Social security system of **home MS**
- but has rights in host MS to:
 - equal rates of pay
 - maximum work periods and minimum rest periods
 - minimum paid annual leave
 - health, safety and hygiene at work
 - equal treatment between men and women...

III.4 Self-employed

- Regulated by TFEU + Directive 2006/123/EC + case law of ECJ
- = persons pursuing a gainful activity for their own account and such exercise always involves a large measure of independence in the accomplishment of the professional activities
- = subject to the law, taxes and Social security system of **home MS** when providing services in other MS in a **temporary** way
- x subject to to the law, taxes and Social security system of **host MS** when providing services in other MS in a **permanent** way via an established representation

Case studies

- 1) Suzana, a Portuguese free-lance interpreter has a 1 month job of interpreting in port of Vigo, Spain
- 2) Matúš, a Slovak employee of RWS Moravia, is sent by his employer to Bucharest for 12 months to carry out for a Dacia company a localisation project
- 3) Kristis, a Latvian free-lance translator, went through the EPSO competition and obtained a job in Latvian section of DGT in Luxembourg
- 4) Sophia, a Czech translation agency, decides to create an office in Lorient, France

Conclusion

- EU = 503 M inhabitants
- 17 M of Europeans living abroad
 - Romania (2.3 M), Poland (1.9 M), Italy (1.7 M), Germany (1.5 M), UK (1.4 M)
- 11.3 M working
- 1.7 M studying
- 1.4 M frontier workers
- 2.3 M of posted workers

THANK YOU FOR YOUR ATTENTION!

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