

The free movement of citizens in the European and International right

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Abstract

In antiquity and during the middle Ages, the right of free movement was limited by the feudal power and authorities. This situation remained so until the promulgation of the "French Declaration on the Rights of Man and Citizen of 1789", which recognized the right of free movement as part of internal public law of the countries that were represented by liberal democracy regime. On the right of free movement is discussed and will continue to be discussed in different contexts. One of the first philosophers to speak about the right of free movement is Francisco de Vitoria, who spoke for the first time for the *ius peregrinandi ed degenti*. The right of free movement of persons constitutes a fundamental right and can be applied in different ways. On September 11 in the attempt against the Twin Towers and the Pentagon, all the victims were civilians, but also the means used to be such; just to mention airliners, public transport, which represent in some way the freedom of free movement of persons. Concrete limits which may prohibit certain entities to apply this right within the European unique space, have contributed to the development of the harmonization transnational line rates at European level. Prof. Papisca (2010) in a comment of Article 13 of the Universal Declaration of Human Rights stated that the free movement of persons constitutes a necessary condition for the free development of a human being. This right is closely linked to the rights of freedom and personal safety, the point that various writers have called it as "a right supplementary freedom physical" being distinguished from them by the understanding of its limiting, as it refers to places where citizens can move or stay. However, the right of free movement has gradually emancipated as the right to personal freedom, as a result of several different factors. Initially due to theoretical process emancipation of personal freedoms, later, by the need to ensure by means of the latter, it was considered an essential area for the development of personal freedoms of citizens, as well as the opportunity to protect these freedoms by actions of the political power.

Keywords: free movement of citizens, European, International right.

Introduction

The Universal Declaration of Human Rights addresses from Article 12 to Article 17, the rights of the individual against the community, and among them, namely Article 13 deals with the right of free movement and residence within the borders of each State, by the latter guaranteed the opportunity to leave the territory of any State, including that of origin, and return to them. Freedom to leave the country of origin is a right enshrined in many international legal acts and regional character. The first international act that sanctioned this right was precisely the Universal Declaration of

Human Rights of 1948. Regarding the latter, it should be noted that the text contains a lot of weak points, it appears that stands only the fundamental principle of free movement, but state laws are subject to many exceptions.

The free movement of normative standpoint is considered in different ways, if applicable within the territory of a state or from a state to another one. In any case, however, it prohibits discrimination and each state should guarantee a much cheaper exercise of this fundamental right, without interference from private entities as well as from public and ban any transfer of force. The right to leave the country of origin includes the right of receiving the documentation needed for travel, although political and bureaucratic barriers are endless and include norms regarding citizenship, immigration, which ignore the rights of a single citizen.

Starting from Maastricht Treaty, Member States have given life a form of cooperation between them. Through these areas the European Union guarantees the lack of control of persons at the internal borders and develops a common policy with regard to asylum, immigration and external borders standard solution.

Discipline of migratory phenomena, although formally remain within the competence of the Member States, began to become part of the community policy areas.

After the changes brought in the Treaty of Rome by the Single European Act, which aimed at the repeal of the Internal Control border in order to establish the common market, it became necessary strengthening of border controls at external and policy coordination in the field of visas Asylum and immigration.

In this way, intergovernmental cooperation has intensified, but the latter has been the object fundamental phenomenon of illegal immigration, which has been developed in parallel with the growth of inter-state cooperation in the fight against crime and terrorism.

In 1948, after the tragedy of the Second World War, the state members that had given birth to the United Nations in 1945 realized that the recognition of dignity and equal rights and inalienable rights of all members of the family, is the foundation of freedom, justice and peace in the world. The Universal Declaration of human rights of 1948 in its Article 13 states that the right of free movement is a condition for the free development of People. "Movement" cannot be understood only in connection with tourism or for study, as more and more people immigrate to other countries for various reasons, be it family, work or, as noted above, study. This article distinguishes the way of free movement if the latter is made within the territory of a state or a state in another state. In this hypothesis, freedom is made of the right to leave the borders of the country of origin and the right to re-enter it. Article 12 of the International Covenant on Civil and Political Rights specifies and enriches even more the content of Article 13 of the Declaration, in particular pointing out that freedom of movement within a state belonging to the citizen who is legally in, and that this right may not be subject to restrictions, excluding those which are necessary for national security, public order, health or morals, and the limits placed on the rights and freedoms of other citizens. Committee of human rights (civil and political) confirmed that the issue is to decide whether a "foreigner" found legally on the territory of a state, is part of the internal jurisdiction of the state host itself, and at the same time if it must comply with the international obligations of the host country.

In all cases, it notes that it is forbidden to discriminate against, and the host State shall guarantee the exercise of the right of free movement and residence, stopping interventions both public and private in her own practice. This warranty is valid against any transfer made by force in the host country.

The right of free movement, which includes the right of departure from the country of origin, is made of the right to be equipped with the necessary documentation. Political and bureaucratic barriers that countries decide on the exercise of this right are endless, and go from the regulations regarding citizenship and immigration, to the deep interventions in various countries by embassies, consulates and police offices. Freedom of free movement enshrined in Article 13 of the Universal Declaration of Human Rights, including the right of every person to move and to stay within the boundaries of a State, as well as the right to leave any country and returning to the country of origin. The declaration calls for the advent of a world in which human beings shall enjoy freedom of speech and religion, freedom of religion and freedom from fear and need, also called the "doctrine of the four freedoms". These freedoms contained in the doctrine are seen as the foundation of the world society and as a necessary and indispensable condition for a stable qualified international peace.

Conclusions

Today, in a time where the risk of terrorism felt strong, and where prejudice and inequality has reached more large size, the Declaration of '48 resemble be like a light at the end of the tunnel. As it has been mentioned several times a above, a very important role in terms of free movement of persons and of their families at the same time, have played the 1976 international pacts. The provisions contained in these covenants once again spell out the rights enunciated in the Universal Declaration of Human Rights, further enriched by them. A "regular" migrant can undergo various violations in the workplace, or may be subjected to poor conditions of work, not to mention a significant decrease in the protection of rights at work. This Convention is extremely important in terms of free movement of passive subject, as regards migrant workers not only as labor force or economic entities, but above all, recognizes them as social entities, together with their families. So what results important, it is that migrant workers, viewed in this light, have the right to be accompanied by their family members, passive subjects of the right of free movement. Union of migrants with their families constitutes an essential condition for adoption social worker's own well-being and for the receiving State; otherwise separation from family of origin means creating a situation of stress and difficulty, not allowing the creation of a normal life for both sides.

Union within the framework of the comprehensive family of free movement has turned into the main legal instrument migrant, thanks to tools such that the international community has made available. Besides the international convention of 1990, another Covenant which states, in particular those rights, is the International Convention on the Rights of the Child (1989), Convention which in Article 8, paragraph 1, provides the obligation of the States to respect the rights of the child to protect his identity, including nationality and family relations.

This Convention, in Article 9 establishes the principle of separation of the child from his parents, putting, and emphasis again on the right of family reunification as a fundamental right for social development of the child.

States have the obligation to respect the right of the child or his parents to leave any country, including those of origin, and to return to them.

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