FREE MOVEMENT OF PERSONS
part 1(Intro)
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FOCUS ON WORKERS AND SOME CITIZENS
BRING THESE NOTES TO CLASS on Monday July 1st

SINGLE MARKET INTEGRATION GOAL

Art 45- workers, Art 49- establishment, Art 56 services
Art 18 TFEU (ex Art 12) discrimination on nationality
Art 3(2) TFEU
Citizens- Art 20, 21, 26TFEU

legislation

http://ec.europa.eu/social/main.jsp?catId=457&langId=en

WORKERS - Article 45 TFEU (ex Article 39 EC Treaty) (prev Article 48)
1. Freedom of movement for workers shall be secured within the Union.
2. Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment.
3. It shall entail the right, *subject to limitations justified on grounds of public policy, public security or public health*:
(a) to accept offers of employment actually made;
(b) to move freely within the territory of Member States for this purpose;
(c) to stay in a Member State for the purpose of employment in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action;
(d) to remain in the territory of a Member State after having been employed in that State, subject to conditions which shall be embodied in implementing regulations to be drawn up by the Commission
4. The provisions of this Article *shall not* apply to employment in the public service.

Employment etc rights derived from the Treaty are amplified by secondary legislation

REG 1612/68 rules on equal treatment and substantive rights

Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States

Defines public policy, public security and public health:

Formalities and conditions of entry and residence of worker

CODIFICATION

REG 492/2011 FREE MOVEMENT OF WORKERS WITHIN EU:

DIRECT EFFECT

Commission v. France [1974] ECR 359

DEFENDANT?...

Rules made by international sporting associations

Walrave and Koch v. Association Union Cycliste Internationale [1974]

Case C-415/93 *Bosman*

Employer *Angonese v. Cassa di Riparmio di Bolzano* [2000] ECR I-4139

DISCRIMINATION direct or indirect prohibited:

'The rules regarding equality of treatment […] forbid not only overt discrimination by reason of nationality but also all covert forms of discrimination which, by the application of other criteria of differentiation, lead in fact to the same result' Case 152/73 S*otgiu* [1974] ECR 153 para 11

Potential discrimination banned C-237/94 *O'Flynn* [1996] ECR I-2617

an obstacle based approach is adopted – *Bosman*... *Graf v. Filzmoser*

excuses/justifications - ECJ scrutinise purported justification: purely economic grounds are not accepted