

The Challenges of Constructing a South American Citizenship based on the EU's experience

Dr Diego Acosta Arcarazo

d.Acosta@Bristol.ac.uk

Twitter: @dacostaarcarazo

The human right to migration and the recognition of migrants as subjects of Law, must be at the centre of State's migration policies. In line with this, we claim the unconditional respect of the Human Rights of migrants and their families and we condemn all xenophobic, discriminatory and racist acts, as well as the utilitarian treatment of migrants, regardless of their migratory status, and reject any attempt to criminalize irregular migration.

Main Pillars



- The right to migrate as a human right.
- Non criminalization of migration.
- The defence of the rights of migrants including irregular migrants.
- The importance of opening borders in order to deepen regional integration.

Liberal Discourse

Reasons:

Emigration at the turn of the century.

Critiques of the EU and the US.

Coherence.

Regional integration.



Translation into Law



International level:

1990 UN Convention

Mercosur Residence Agreement

Proposals for:

Andean Migration Statute.

Mercosur and associate States Migration Statute.

Both include TCNs legally residing.

South American Citizenship



Translation into Law

National level

Argentina (2004), Uruguay (2008), Bolivia (2013),
Ecuadorian Constitution (2008). Right to Migrate?

Proposals for new laws in:

Brazil and its *ad hoc approach*.

Ecuador and its contradictions.

Chile and the changes in government.

South American Citizenship?

- **MERCOSUR.** Decision 64/10. Action plan to conform a Mercosur citizenship statute by 2021.
- **UNASUR Treaty, Art. 3(i)** consolidation of a South American identity through progressive recognition of rights aiming at South American citizenship.
- **Andean Community.** Possible Andean Migration Statute to consolidate all legislation and contribute to an Andean and South American citizenship.
- **Pacific Alliance.** Objectives to move progressively toward the free circulation people.
- **South American Conference on Migration.**

Mercosur Residence Agreement

- Free movement to deepen integration but also solve irregular migration challenge.
- Arts. 1, 4 and 5. Temporary and permanent residence. Right?
- Enjoyment of rights in Articles 8-9.



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Differences with EU



- Fundamental freedom vs International Agreement.
- Entry: Sufficient resources?
- Fees.
- Burden of proof clean criminal record.
- Art. 6 Mercosur Agreement.
- How to interpret rights? No Court of Justice or Commission.



A Real Paradigm shift?

Migration Governance as a process.

Time.

Regional Integration.

Conclusions

Clear shift in discourse.

Clear shift in agenda setting and consensus building.

Important steps on law and policies.

Difficulties in implementation.

Future? Crucial possible new laws in Brazil, Chile and Ecuador. A new residence agreement?