

Limitations to welfare to work: the prohibition of forced labour and the right to freely chosen work

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Research question

- The justification of WTW from a legal perspective – human rights
- Two specific issues
 - Chapter 1: conditions under which WTW could eventually find their foundation on the right to work (*right as goal*)
 - Chapter 2: limits set by the prohibition of forced labour and the right to freely chosen work to WTW (*right as limit*)

Material

The international human rights case law on the prohibition of forced labour and on the right to freely chosen work

Prohibition of forced labour

- proclaimed in international covenants dedicated to civil and political rights (Art. 4, par. 2 and 3 of ECHR and Art. 8, par. 3 of the ICCPR)
- included in the right to freely chosen work

Right to freely chosen work

- Component of the right to work proclaimed in international covenants dedicated to social rights (Art. 1, par. 2 of the ESC and Art. 6 of the ICESCR)
- enlarged protection of the freedom of work

Research results

- The emergence of a proportionality criterion in the general case law
- The embodiment of the proportionality requirement in the specific case law
- Identification of six criteria for assessing the conformity of WTW measures with the prohibition of forced labour and the right to freely chosen work

CRITERA	ITEMS
1. Quality of work in the programme	<ul style="list-style-type: none">• Working conditions• Level of remuneration
2. Exit options secured to the participants	<ul style="list-style-type: none">• Severity and number of sanctions in practise• Right to means of subsistence during the sanction
3. Capability for voice guaranteed to social assistance recipients	<ul style="list-style-type: none">• Possibility to refuse to take part in the programme for various reasons (physical, psychological situation or family situation...)• Criteria for assigning participants to work (personal preference, qualifications, transportation, abilities, etc.)• Right to appeal an independent body

4. Time to train and to look after a regular job	<ul style="list-style-type: none">• Duration of the work programme• Number of working hours
5. Goals and effects of the programme	<ul style="list-style-type: none">• Positive impact of the programme on the participants' chances of finding regular employment
6. Procedural requirements concerning the adoption of the programme	<ul style="list-style-type: none">• Impact analysis of the programme• Examination of existing alternatives• Consultation of social assistance recipients