



THE SOCIAL CHALLENGES THAT THE LABOUR MOBILITY PACKAGE SHOULD ADDRESS

Response to the consultation on the Labour Mobility Package launched by DG EMPL of the European Commission – 30 June 2015

General position of Eurodiaconia

Eurodiaconia is a European federation of 45 social and health care organisations founded in the Christian faith and promoting social justice. Many of our members, particularly those based in Western and Northern European countries, are increasingly concerned by the impact of intra-EU mobility. Free movement is a key achievement of the European Union that enables many citizens to successfully live and work abroad. However, there are many for whom mobility has become a poverty trap. Although a relatively small number of people fall into this group of vulnerable EU mobile citizens, our members report that an increasing and significant number of users of facilities such as homeless services, emergency healthcare services, food banks and social centres are now citizens of other EU countries. Furthermore, the economic and financial crisis has made the situation worse, with more people moving from Central, Eastern and Southern countries to Western and Northern ones.

Our members testify that the great majority of citizens move to another EU country in search of employment and with valuable skills to offer. However, when they fail to enter the labour market or when they lose their job, they find themselves falling outside the social protection of the welfare system, with no or limited access to social benefits, shelter or health insurance.

Therefore, removing the existing barriers to the labour market must be a top priority. Nevertheless, our members also argue that this facilitation should go hand in hand with the fight against labour precariousness or labour trafficking: social rights and economic conditions of EU mobile citizens (including posted workers) have to be strictly the same as the nationals'. Also, EU mobile jobseekers and workers, after the three-month period, must be able to claim non-contributory benefits and access social services like shelter as any other national.

With regards to the specific proposals to update the EU social security coordination Regulations (Regulations 883/2004 and 987/2009), we would propose the following:

- Since the average duration of a search for a job in the EU increases and exceeds by far the three-month registration period, it is essential that EU mobile citizens can access unemployment benefits throughout the whole time period required to enter the labour market.
- Second, particularly in the context of ageing populations, it is important to guarantee the portability of long-term care benefits and ensure their integration into the national health systems, so as to align with the need for integrated care strategies for our aging populations. A future Labour Mobility strategy must stress the need for greater co-ordination between those responsible for the health and social wellbeing of EU mobile citizens of any age.





To achieve the aforementioned goals, the Labour Mobility Package should in priority:

- Set clearer rules which would ensure the dignity of all EU citizens is guaranteed and no one is left destitute due to lack of adequate support services or because of access barriers linked to the nationality of the person;
- Ensure the Member States' public employment services have the capacity and knowledge to provide quality services to EU job seekers;
- Extend the portability of social protection schemes between Member States, since they have proven their importance in mitigating the social consequences of the crisis;
- Remind Member States of their joint responsibility to uphold free movement and ensure social rights are respected, in particular guaranteeing that EU citizens who are not self-sufficient have at least access to emergency accommodation and support;
- Define minimum standards for emergency support services for destitute EU mobile citizens (i.e. housing);
- Monitor the implementation of the Directive 2014/54 and the establishment of advice bodies for EU workers.

Concrete barriers to the labour market – experience from our member organisations

Viewpoint of Kompasset Kirkens Korshær (Eurodiaconia member from Denmark):

"Simplifying access to labour market is essential."

Among its actions, Kompasset Kirkens Korshær supports and provides shelters to homeless migrants in Denmark. According to its [last annual report](#), nearly 70% of this public are EU/EEA citizens, the majority coming from Romania, Spain, Bulgaria and Poland. When asked about the question of the challenges at stake in the revision of the social security coordination regulations, the head of this institution, Morten M. Aagaard, explains that *"everyday, in our social organisation, we experience the immense and deliberated national red tape trying to keep socially excluded EU mobile citizens away from national social services and benefits. The number of rules and regulations that have to be met in order for a job-seeking romanian immigrant to get registered as a jobseeker in the public employment agency and thus entitled to receive social benefits, are almost endless and dissuasive. Instead, these people are forced to work illegally without any sort of social security."* He concludes that *"rules and regulations should be simplified and applied throughout the EU to create more equal labour rights and possibilities for EU citizens."*

The position paper *"Preventing destitution of homeless migrants in Denmark"* (See Annex 4), released by Kompasset in August 2014, highlights the fact that the *"lack of sufficient advice and guidance in relation to job search, registration and information about rights and possibilities has the consequences that the target group is not receiving the adequate assistance they are entitled to in relation to their job search. People often end up confused about the registration process once having obtained a job and the most vulnerable may give up if not given adequate support or advice. The clarification needed in order for the individual to make a sustainable decision about their future may be lacking when information is inadequate or in some cases incorrect."* Kompasset Kirkens Korshær currently offers this guidance and support, but it is a service which should be undertaken by public authorities and not a private humanitarian organisation.

Simplifying access to the labour market is therefore an objective that needs to be fulfilled by the review of the Social Security Regulations. Likewise, the conditions of access to the national registration through the social security number in Sweden are so restrictive that they form a barrier to the labour market and social benefits (See Annex 1, p.4: Example of administrative barriers to the labour market).



Viewpoint of Koefoeds Skole (Eurodiaconia member from Denmark):

“Involving the trade unions is key to ensure equal access to labour market and its related rights.”

In the views of this NGO, which runs social services aiming notably at helping jobseekers enter the labour market, the main challenge that the Labour Mobility Package should address is the fight against social dumping and labour trafficking.

Ole Meldgaard, senior advisor at Koefoeds Skole, regrets that *“irregular employers can dump wages by telling the employees coming from another EU country that they will receive social welfare for their children at home”*. He adds: *“It is important that those foreigners working in Denmark work on conditions that are acceptable for the trade unions; it means that all foreign employees should be paid a Danish normal wage and work on the Danish working and social conditions agreed upon by the social partners on the labour market.”*

For those at the margin of the labour market, there is a need for information about rules on the labour market and their social rights: *“The problem is that they often come without any knowledge about the rules and rights of the residing country. Most of these vulnerable workers come from a more chaotic labour market with few agreements and regulations.”*

Involving the trade unions is key to ensure equal access to labour market and its related rights. For those at the margin of society and excluded groups, there should be more resources to inform them about their duties and rights.

Viewpoint of the National Association of City Missions (Eurodiaconia member from Sweden)

According to Victoria Engman-Broadley, Development manager of this umbrella organisation that gathers City missions all over Sweden, there are three main challenges that should be addressed by the Labour Mobility Package.

Firstly, a minimum social security standard for all EU countries should be granted. Access to basic help, like shelter and food should be guaranteed to all EU mobile citizens, no matter what the circumstances are regarding their current position.

Secondly, there should be increased possibilities for EU citizens to take part in vocational training and other relevant parts of the educational system in Sweden.

Thirdly, the organisation would like DG Employment to address the following issue: the Swedish European Social Fund currently excludes poor EU mobile citizens as a target group in work integrating projects.



ANNEX 1: “EXAMPLE OF ADMINISTRATIVE BARRIERS TO THE LABOUR MARKET”

CROSSROADS IN GOTHENBURG, SWEDEN: CONTRIBUTION ON THE SOCIAL SECURITY NUMBER AS A BARRIER TO SOCIAL RIGHTS FOR EU MOBILE CITIZENS

Introduction

Please find below a short description of the most important barriers for EU citizens in Sweden. I would like to recall that, as an NGO, we already made several complaints to the Solvit-Sweden on behalf of our users. Moreover, in 2013 and 2014 we sent two complaints to the European Commission regarding the abovementioned issues and we are currently in contact with DG Employment who is dealing with social security issues and DG Justice Union citizenship and free movement.

Practical barriers to the right of residence for EU migrants

Domestic legislation: The Aliens Act (2005:716) was adopted on 31st March 2006 which implemented the directive 2004/38.

If EU migrants want to stay in Sweden for a period longer than three months (i.e. jobseekers or workers), they may apply to Skatteverket, the Swedish Tax Agency, for a *Personnummer* (Personal Identity Number or Social Security number). This Social security number entitles one to all rights in Sweden, the right to health and care services (including private insurance), the right to social allowances, and the right to register with the Employment Service and receives a full assistance as job-seeker, the right to register with private recruiting agencies, the right to open a bank account.

Since these rights are available only when one has a social security number, EU/EES citizens face hindrances to fully exercising the right to free movement according to the EU Directive 2004. In order to get these four digits, one has to have a work, however in order to have a work, one has to have these four digits. The vicious circle where EU citizens find themselves enhances the already escalating social exclusion in Sweden.

Complaints received by Crossroads Göteborg demonstrate that the Swedish authorities, in particular *Skatteverket*, the Tax Agency authority, often requests information and documents which are not listed in the Directive. For instance, EU citizens are being asked for irrelevant information not provided for under the Directive such as **1)** questions relating to their employment contract (a short-term contract is not considered long enough in order to get a *Personnummer*); **2)** questions relating to the residence requirement for EU jobseekers; **3)** some issues for inactive EU citizens and their access to the healthcare system.

1) *Skatteverket* authority rejects the application because of the short period of the employment contract; only a contract with duration at least of 1 year is considered sufficient for persons to be entitled to the *Personnummer*. This is clearly related to art. 3 of the *Folkbokföringslag* (Swedish Civil Registration Rules), which provides that EU citizens must spend at least one year in Sweden in order to enter in the population register and, consequently, to be entitled to the same rights as everyone else in the country. Thus, EU workers (employed and self-employed) during the first year in Sweden are asked to apply for a so-called *Samordningsnummer* (Co-ordination Number), which only allows those people to pay taxes; it excludes them from all rights linked to the right of residence and their status of worker within the meaning of EU law (i.e. health care, social contribution benefits). It follows that this condition of residence fails to comply with EU free movement of persons and workers regulations, discriminating de facto an EU worker legally resident in another member State on the grounds of his/her nationality.

2) In general, EU jobseekers are not allowed to register as resident in Sweden as *Skatteverket* does interpret the EU and Swedish legislation restrictively. The Alien act clearly states that EU jobseekers have the right of



residence while *Skatteverket* states officially on their webpage that EU jobseekers cannot register as they only have the right of residence up to 6 months. It should be noted that a residence requirement such as that at issue is a restriction on freedom of movement for workers within the European Union guaranteed by Article 45 TFEU.

3) The right of residence of self-sufficient persons or students (inactive persons) is conditional upon having comprehensive sickness insurance in place. It appears that the requirement in Directive 2004/38 that those persons obtain “comprehensive health insurance cover” is being used as a pretext by Swedish Authorities (*Skatteverket*) to make changes to national rules on healthcare coverage. The effect of these changes is to effectively require inactive persons to obtain private healthcare insurance, and deprive EU citizens from universal health coverage that EU citizens previously enjoyed in several member states. The Swedish authorities such as *Skatteverket*, requires to EU students/self-sufficient persons the EU card and S1 (before E106) certificate. The S1 certificate provides the right to health care for EU citizens who do not live in the country where they are insured. However, only pensioners, cross-workers and state employees are entitled to apply for the S1 certificate. The question is how the person who does not belong to this category can get the certificate, which the Swedish authorities require to register an EU citizen. Even when EU citizens get the right of residence by the Swedish Migration Board Authority, the Tax Office rejects the application because of the lack of that S1 form. According to the Swedish Tax Office which is in charge to issue the social security number, the European Health insurance card is not considered as a valid document to be registered in the system. EU inactive persons do not have the right to be covered by a private insurance neither as all the Swedish companies require them the *Personnummer* to stipulate the agreement.

All these categories, even if they fulfil the requirements stated in the directive 2004/38 and the Swedish alien act, do not have any access to services provided by both public and private sector, such as the health care system.

This is a clear infringement of the free movement rules and their rights as EU citizens.



ANNEX 2: “EXAMPLE OF BARRIERS TO SOCIAL BENEFITS FOR EU WORKERS”

DIAKONIE DEUTSCHLAND IN OFFENBURG, GERMANY: SUMMARY OF CASE OF MISS V FROM LITHUANIA, PART-TIME EMPLOYMENT, APPLICATION FOR JOBBSEEKERS, ALLOWANCE AND THE REACTION OF THE LOCAL IMMIGRATION AUTHORITY

Miss V's partner, Mr. S, also Lithuanian, had worked in Germany in 2011/2012, had been issued with a EU mobility certificate which was still being issued at the time. His family subsequently joined him. He unfortunately lost his job shortly after his family's arrival. Miss V was in part-time employment in mid-2012, earning about 460 euros. The family then applied for social assistance, including jobseekers' allowance.

The local immigration authority then wrote to Miss V and her partner, threatening to start a procedure to examine whether they were still entitled to hold mobility certificates, arguing that their income was not sufficient to cover their costs and that their application for a welfare benefit, a non-contributory cash benefit, triggered a reassessment procedure according to §5 Paragraph 5 of Freedom of Movement Act/EU from 30/07/2004 (i.e. the German implementation of the Free Movement of Citizens Directive 2004/38/EC). If the immigration authority ruled that the family should leave Germany, then they must leave within a certain time period, at least after one month according to §7,1 of the same Act.

Our first question was whether Miss V was deemed a worker under EU law. If she was, then she must actually enjoy mobility and enjoy residence rights. We were of the opinion that the nature of her work was both “genuine and effective.” Miss V wrote to the local immigration authority citing the European Court of Justice *Genc* (C- 14/09 from 04/02/2010) as well as a German Higher Administrative Court judgment from Berlin-Brandenburg (12 B 15.10 from 30/03/2011) which had both argued for a generous interpretation of the term “worker.”

If one is deemed to be a worker, then one enjoys freedom of movement rights according to the (German) Act on Freedom of Movement (30th July 2004) Article 2 Paragraph 2 Number 1: “Workers enjoy mobility within the Union.” (Article 7 Paragraph 1 (a)/Directive 2004/38/EC)

It then follows according to the Free Movement Directive EU Regulation 492/2011 that those in work enjoy the same social benefits as the nationals of that country. Threatened expulsion was also contrary to Directive 2004/38 Article 14.3: “An expulsion measure shall not be the automatic consequence of a Union's citizen's or his or her family member's recourse to the social assistance system of the host Member State.” The Directive also refers in Article 14,4 (b) to citizens actively seeking employment with the genuine chance of being engaged. Miss V's partner was a lorry driver and mechanic who had had job interviews in the week the family received the letter from the local immigration authority.

The local immigration authority did not reply either in written or verbal form to Miss V's letter. But they did not proceed further against the family. Mr. S started a new full-time job. Miss V was able to get another job with more hours and better pay. Child V is a “high-flyer” at his local school.



ANNEX 3:

POSITION PAPER: “PREVENTING DESTITUTION OF HOMELESS MIGRANTS IN DENMARK”



PREVENTING DESTITUTION OF HOMELESS MIGRANTS IN DENMARK



POSITION PAPER

Kompasset Kirkens Korshær
Frederiksberg, August 2014





ABOUT KOMPASSET KIRKENS KORSHÆR

Kompasset Kirkens Korshær is an independent advisory service for homeless migrants without registration in Denmark. Kompasset was established by Kirkens Korshær (Dan Church Social) in 2012 to help relieve and support Copenhagen's existing shelters, which have experienced a growing demand from an increasing number of homeless migrants. Kompasset opened in January 2013 and focuses on counseling and helping unregistered homeless migrants in being able to navigate the social services in Denmark, thereby reducing social destitution. Kompasset has three employees and 21 multi-lingual volunteer advisors (e.g. lawyers, law students and social workers). Nearly 800 homeless migrants have used Kompasset's services.

SUMMARY

Kirkens Korshær has been following the impact of existing policies and practices for homeless migrants in Denmark for many years. Since opening in 2013, Kompasset has collected data and documented the experiences of unregistered homeless migrants seeking help and support. Based on this monitoring and documentation, Kompasset reports that despite various efforts by a number of private humanitarian organizations trying to make the government take responsibility for the structural problems, no significant improvements have been made. NGOs have needed to stretch the capacity of their services and are under increasing pressure, often uncertain of the future due to limited funding possibilities and lack of governmental support. The present position paper is aimed at raising awareness about homeless migrants' rights and living conditions in Denmark by providing facts, rather than myths. The paper presents an overview of the current situation for homeless unregistered migrants in Denmark, an analysis of how current policies and practices impact the group and finally it provides recommendations for future action addressed to decision makers at national and European level.





LEGAL RIGHTS AND PRACTICES: ACCESS TO INFORMATION, HEALTH CARE AND SHELTER

The group of homeless migrants in Denmark is very diverse but a common denominator is seeking and reaching a better life than the one they left behind. Most homeless migrants are unskilled, job-seeking males who have not been homeless in their home country. Many start out healthy, eager to work and with no knowledge of the Scandinavian welfare system. At the moment this group of people is primarily made up of EU/EEA citizens, in particular Europeans from Central and Eastern Europe, who by virtue of the freedom of movement in EU have the right to be and seek employment in Denmark. Another group is people from West Africa (third country nationals) who have achieved temporary or permanent residency in one of the Southern European EU countries and who therefore are legally mobile in the EU for a limited period of time.

Homeless migrants without a CPR number or Alien Identification number do not have access to assistance by the government. There are some basic rights, but the extent of these rights depends on the person's citizenship.





Residency and tourism

EU-citizens have the right of free movement within the EU, which means that they can stay in Denmark for three months provided that they carry a valid national ID card or passport. Hereafter EU-citizens are allowed to stay in Denmark for more than six months if they actively seek and have a realistic chance of employment. During this period they are not allowed to become an “unreasonable burden” to the social welfare system. The State Administration has the authority to evaluate when an EU-citizen has become an “unreasonable burden” to the host state’s social welfare system. In such cases a citizen must have received some kind of social benefit. According to the EU legislation a person cannot be characterized as an “unreasonable burden” merely by having sought shelter at a publicly funded shelter¹⁾.

Third country nationals with a residence permit in another EU-country are allowed to stay in Denmark for three months as tourists provided they have the means to support themselves whilst in the country. Unlike many other EU-countries, third country nationals with a residence permit in another EU-country are not allowed to work in Denmark without a work permit, which few homeless migrants are eligible to obtain. Current work permit schemes have been established mainly to assure highly qualified professionals in getting a residency and work permit in Denmark. These include the Green Card scheme, the Positive List and the Pay Limit scheme which very few homeless third country nationals qualify for. Many have permanent residency permits in other EU-countries (mainly Spain or Italy) which they hope will access the labor market in Denmark. They are unaware of the impossibility of getting a work permit.

Third country nationals without a residence permit in another EU-country need a visa to visit and a work permit to work in Denmark. With a tourist visa they can stay in the country as tourists for up to three months.

¹⁾ As stated in the EU Directive 2004/38/EC preamble, The European Court of Justice Case C-184/99 Grzelczyk and in a note by the former Danish Ministry for Refugees, Immigrants and Integration.





Health care

Every person, independent of legal status and citizenship, has the right to access acute health care in case of emergencies. However, the extent of such help is limited leaving homeless migrants without sufficient access to the needed medical care. Currently there is only one health clinic (Red Cross clinic in Copenhagen and Aarhus) available to undocumented and unregistered migrants in Denmark. It is entirely privately funded. However, necessary operations that need to take place in a hospital and that are not life-threatening or acute, remain inaccessible for unregistered and undocumented homeless migrants. Whilst some homeless migrants may be covered by national or private health insurance, the vast majority are not.





Access to shelter

Homeless migrants without registration in Denmark are currently not given access to publicly funded shelters²⁾ in most Danish municipalities. The state has granted funding for emergency shelters during the coldest winter months through the so-called "Nødherbergspulje". However this funding is far from sufficient as it doesn't respond to the urgent need for help and support many homeless migrants face year-round.

Due to a change in practice, homeless EU-citizens have been, since 2007, denied access to publicly funded shelters in Denmark as the former Minister of Welfare Karen Jespersen (V) argued that Denmark would otherwise be at risk of becoming EU's shelter for homeless migrants.

The Danish Service Act, under which publicly funded shelters adhere, states that as long as a person's stay in the country is legal and a person is within the target group of the Service Act (by being socially marginalized and in need of help and support), they must be granted access to temporary shelter. However, the practice remains that homeless EU-migrants are denied access to most publicly funded shelters (§110 shelters) across the country.

The common practice is that homeless migrants are denied access when they are not able to show a Danish CPR-number, assuming that their stay in Denmark is illegal. The vast majority of homeless EU-citizens initially come to Denmark in the search of a job and better living conditions exercising their legal right of free movement within the EU.

This practice has been subject to criticism by a juridical working group in Kompasnet and a range of legal experts stating its illegality. After much public debate and media coverage the current Minister of Social Affairs Manu Sareen (R) has agreed to issue a new orientation on the matter (to be released autumn 2014).

Only privately funded humanitarian organizations give shelter to homeless migrants without registration in Denmark, which currently means one in Copenhagen: Kirkens Kors-





hør's night café "Stengade 40" (33 persons/night) is open year-round. However, the need is much greater and many are left to sleep rough. Despite various efforts no changes have been made.

Assistance with job search, registration and other types of support

Homeless EU-citizens who are actively seeking a job in Denmark have the right to receive the same kind of assistance from the authorities as financially self-supporting Danish citizens. This includes guidance and support on expanding their skills and qualifications, job training and salary subsidiaries for relevant jobs that will improve employment opportunities. However, Kompasset's users have consistently reported that when they ask for help at the Job Center or Citizens Service centers they are often given incomplete or incorrect information about their rights as EU-citizens in Denmark. Also, when asking for help during the registration process, the information and support were insufficient, leaving users confused and often unable to register without Kompasset's assistance. A small sample survey conducted by Kompasset during winter 2013 -spring 2014 confirms these reports.

The municipality of Copenhagen states that unemployed migrants have access to job support at the Job Centers by, for instance, uploading their CV on their electronic job databases. However, homeless migrants without registration in Denmark do not have a CPR-number and are hereby denied access to the Job Center's services. According to the municipality, job-seeking migrants can receive support and advice from the other existing job-seeking service Workindenmark (WiD). However Kompasset's users are repeatedly turned away at WiD since their services are mainly aimed at highly skilled migrants.





MULTIPLE EXCLUSIONS: NEGATIVE IMPACTS OF CURRENT POLICIES AND PRACTICES

The current policies and practices for homeless migrants without registration in Denmark have a range of negative side effects for the target group. Whilst other European countries³⁾ give access to basic homeless services, such as shelter, health care, information and food, indiscriminate of nationality, Denmark has chosen a rather restrictive approach. The most prominent problems are:

1. Lack of access to sufficient health care:

results in rapid deterioration of the target group's health. Bad conditions may rapidly worsen and become more costly for the state supplying healthcare in acute or life threatening situations.

2. Lack of access to publicly funded shelters and homeless services:

homeless migrants are left to sleep rough when shelters and homeless services have reached their capacity. This results in deterioration in health due to humid and cold sleeping conditions, increased vulnerability as rough sleepers are more prone to violent attacks whilst sleeping and alarming living conditions in general. Private humanitarian organizations often find that their services are under increasing pressure, due to both lack of public funding possibilities and support by the government in addressing these issues.

3. Lack of sufficient advice and guidance in relation to job search, registration and information about rights and (im-)possibilities:

has the consequences that the target group is not receiving the adequate assistance they are entitled to in relation to their job search. People often end up confused about the registration process once having obtained a job and the most vulnerable may give up if not given adequate support or advice. The clarification needed in order for the individual to make a sustainable decision about their





future may be lacking when information is inadequate or in some cases incorrect. Kompasset Kirkens Korshær currently offers this guidance and support, but it is a service which should be undertaken by public authorities and not a private humanitarian organization.

SOLUTIONS TO PREVENTING DESTITUTION OF HOMELESS MIGRANTS

Within recent years the situation for homeless migrants in Copenhagen has become increasingly difficult. Since the government in 2007 denied homeless migrants access to publicly funded shelters and services, destitute homeless migrants have been left with the very limited help. Denmark is facing a new reality since the expansion of the EU in 2004 and 2007 with 12 new member states⁴⁾ resulting in higher rates of intra-European poverty migration.



4) In 2004 the expansion included Cypress, Estonia, Latvia, Lithuania, Malta, Slovakia, Slovenia, Czech Republic, Hungary and Poland and in 2007 Bulgaria and Romania.





The diverse group of homeless, mobile migrants continues to seek a better life in Denmark but the government has failed to address the structural problems concerning destitute migrants living in the streets of Denmark. Kompasset Kirkens Korshær believes that there is an urgent need for the government to take action and address the current problems in order to improve the living conditions for homeless migrants through a range of initiatives. We believe that by implementing the following initiatives the government will resume its responsibility by facing the current challenges met by homeless migrants in Denmark. These initiatives will help alleviate the desperate situation of many homeless migrants:

- 1.Reducing the risk and/or effect of social destitution setting in amongst the target group.
- 2.Reducing the negative impact of long-term homelessness through targeted support and assistance to the small group of very vulnerable homeless migrants.

Basing the following recommendations on Kirkens Korshær's as well as fellow partner organizations' experience Kompasset argues that decision makers at national and European level must:

1. **Adopt a long term strategy: Assure access to a minimum of social protection schemes.** To improve the situation for destitute homeless migrants living on the streets in the EU politicians must adopt a range of minimum standards and assure access to shelter, food, medical care and independent guidance. Early intervention reduces medical costs of treatment and prevents further humanitarian and financially costly social destitution setting in. Member states progress towards implementation must be monitored and evaluated.
2. **Recognize and support the role of private humanitarian organizations in improving the conditions for homeless migrants, both politically and financially.** Assure access to public funding for organizations working with homeless migrants. Make sure that national strategies towards homeless migrants build on existing knowledge and lessons learned gathered by organizations working in the field.





3. Assure permanent solutions. Abolish the state funded “Nødherbergspuljen” since this only provides temporary shelter for a small group of migrants. There is an urgent need of sheltering for the target group throughout the year. Kompasset recommends a permanent solution as a sustainable solution needs to be addressed by allowing the target group access to existing shelters year-round. Also permanent access to health care, counselling and support need to be put into effect in order to prevent further destitution.

Estimated budget: DKK 9 million towards opening a publicly funded facility specifically aimed towards homeless migrants’ basic needs. The facility should have the capacity of shelter space to 150 individuals year round, a health care clinic, food, access to laundry facilities, showers, rest during the day and a support and advice facility with qualified staff and volunteers. An outreach facility staffed by professional multi-lingual outreach workers who can approach the most vulnerable homeless migrants on street-level should be included.

4. Capacity building at municipal level. Too often homeless migrants are given lacking or incorrect information at municipalities throughout the country. Hence, training of staff needs to take place at the job centers and citizen service centers in the main municipalities of Denmark. These initiatives must assure that municipalities assume their responsibility according to EU- and national legislation by supporting and giving guidance to homeless EU-citizens who are actively seeking a job in the country.

5. Stop criminalization of homeless rough sleepers. Homelessness is not a crime and should not be treated as such. End current practices by the police of giving fines to homeless rough sleepers for sleeping outside. Such practices criminalize the individual, who most often has no other alternatives, and reduce trust in public authorities. Also thorough knowledge and information exchange with police officers must take place in order to reduce cases of homeless migrants experiencing police violence and/or harassment and threats.





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ANNEX 4:

EURODIACONIA POLICY PAPER:

FREE MOVEMENT IN THE EU:

“PREVENTING DESTITUTION OF MOBILE EU CITIZENS”





Policy Paper

Free movement in the EU: preventing destitution of mobile EU citizens

October 2014

The context

Eurodiaconia is a European network of social health care services founded in the Christian faith and working in the tradition of diaconia. Many of our members are increasingly concerned by the impact of intra-EU mobility. Whilst free movement is a key achievement of the European Union and we see many citizens successfully working and living abroad, there are many for whom mobility has become a poverty trap. Although a relatively small number of people fall into this group of vulnerable EU mobile citizens, the number is growing: in a number of Member States an increasing and significant number of users of homeless services, medical care services for people without a residence permit or irregular migrants, community work projects, and pregnancy counselling are now citizens of other EU countries¹. Furthermore, the economic and financial crisis has made the situation worse as more people are moving between the Member States for work and experience reduced access to the labour market and lack of job opportunities.

Many citizens move to another EU country in search of employment and with valuable skills to offer, but when they don't succeed in entering the labour market or they lose their job, they find themselves falling outside the social protection of the welfare system, with no access to social benefits or health insurance. The reality is that many mobile citizens face barriers in accessing their rights or are unaware of their rights. Unable to navigate themselves in a foreign system, or unable to find information, they become homeless and destitute, turning to homeless service providers such as NGOs and faith based organisations like members of Eurodiaconia to meet their basic needs such as shelter and food. Furthermore, after long periods of homelessness, people's needs become complex including physical and mental health needs, which further limits their capacity to access their rights and provide the necessary documentation to do so. Evidently people left without support for long periods of time develop more complex needs that are more costly to address than preventive action.

Free movement is one of the foundations of the EU as acknowledged by the Treaty (art. 20) as well as by secondary law, notably regulation 1612/68 and Directive 2004/38. However, despite being highly regulated and building on extensive case-law, interpretation of residence rights provided by free movement is still unclear, especially for people who do not have or no longer have any kind of income. For example access to emergency support and accommodation as well as access to social welfare benefits and long-term homeless accommodation differ according to the host Member State. Many Member States offer as a last resort to pay for the travel back to the country of origin. However, despite their difficult situation, considerable numbers of homeless EU citizens do not wish to return due to poor socio-economic conditions in their country of origin.

More recently, negative rhetoric about free movement from several EU Member States has started to spread unsubstantiated fears among the general public of 'benefit tourism'. Eurodiaconia is disappointed to see

¹ The UK department of Communities and Local Governments latest rough sleeping figures reveal that 28% of people sleeping on the streets of London are from Central and Eastern European countries and 11% from other EU member states.





political leaders use this group as a scape goat in times of economic downturn and stress that unfounded negative political rhetoric undermines the integration and social cohesion of the European Union. Furthermore claims of benefit tourism has clearly been proven unfounded, and the overall benefits of free movement have been evidenced².

What our members say

Eurodiaconia has identified a number of reasons that lead people into situations of destitution. One is **precarious employment**. According to our members the main motivation for moving to another EU country is for employment purposes. However our members meet many EU citizens who have been tricked by pseudo employers or tricked into illegal work. In some cases, accommodation is part of an employment contract which makes the worker particularly vulnerable to homelessness. Precarious work situations lead to massive labour exploitation or even trafficking for labour or sexual exploitation, which is punishable by criminal law but often not prosecuted. Labour exploitation often takes place in sectors like the building industry, the hotel and restaurant trade, agriculture, seasonal labour, food processing, seaport and logistics industries. With many jobs in the informal economy, it becomes difficult for people to access social security as they are unable to prove their work or residence history, and so even though they are EU citizens, they lose their social rights.

Our members stress that EU mobile citizens often lack access to social or health protection. The **European Health Insurance Card (EHIC)** is intended as a travel health insurance but is sometimes the only health care solution for mobile EU citizens even when their main place of residence is in the host country. For example in Germany to avoid bureaucracy EU citizens are either sent away or they are offered a 'private contract' to receive medical care and consequently an invoice which they have to pay in the same way as if they were covered by private health insurance (which they are often unable to pay). The problem is the public health insurance (EHIC fund) in the country of origin is not obliged to pay this invoice because it is only a "private contract" between the doctor and the EU citizen. Furthermore there is often a reluctance of the health insurers in Germany to pay because they expect the EU applicants not to pay their monthly contribution. The result is that many job-seeking EU mobile citizens have no access to any social and health protection, even families with children. They are therefore increasingly seeking help and medical care in NGO institutions provided for undocumented migrants.

Lack of effective public employment services capable of supporting EU migrants also creates an obstacle for the inclusion of EU mobile citizens. Many public services are not prepared to receive non-national users who perhaps require different support such as language support, legal advice, or information on unemployment and welfare payments etc. This has meant that our member organisations are increasingly being called on to act as employment agencies, providing support and information on how to access the labour market.

First time job seekers are particularly vulnerable to **administrative difficulties**. For example in Denmark, you cannot register unless you are officially a worker, but it is impossible to work without an address and so the vicious circle goes on. Furthermore, lack of know-how and administrative capacity often poses a **challenge for local authorities** who are often not fully aware of the social rights of EU mobile citizens and the EU rules of free movement. National authorities are often confused by EU legislation on free movement and are thus not in a position to help. The lack of support and knowledge by local authorities mean that people are coming to NGOs for help like Eurodiaconia members who are in a way replacing public employment and administrative services.

Some of our members face difficulties in finding **financial resources** to support the group as national policy towards this group vary. In some member states no publicly funded shelters are open to EU citizens, and they must therefore rely on privately funded support services (i.e. Denmark) whilst in other Member States

² Fact finding analysis on the impact on Member States' social security systems of the entitlements of non-active intra-EU migrants to special non-contributory cash benefits and healthcare granted on the basis of residence



the state provides unconditional support to all in need. In others, tensions rise as choices have to be made whether accommodation places are made available to national homeless people or non-nationals. In general, our members say that with increased demand for social services, the funding they receive is not usually increased accordingly and therefore their resources are being stretched and in some cases, they are forced to stop services altogether or they are forced to refuse service users.

Our members also receive a number of **third country nationals** (TCNs) with long term residency permits from another EU Member State. However in some countries a residency card does not ensure social rights. This is particularly problematic in countries where a residency card doesn't allow them to work, for example in Denmark. However improving the intra-EU mobility and access to the labour market of TCNs would prevent many situations of destitution and at the same time could contribute to making the EU more attractive for migrant workers and can help to address labour shortages.

In terms of returning people, some of our members find that as long as the government is not willing to create better facilities like accommodation etc. the best advice for some of these mobile citizens is to go back to their country of origin. Those without financial means, appropriate language skills or relevant formal working education will find it very difficult – or impossible – to find his or her way towards a position in the labour market. However, if they do go “home”, it is essential to try to ensure reintegration services and support networks to ease the transition. However our members also stress that sending people back to their country of origin without their consent is an inefficient approach to managing the issue, given that re-entry bans are not allowed under EU legislation and therefore people can immediately re-enter the country if they wish (and in the meantime public money has been spent to send them ‘home’). Our members say that despite their difficult circumstances in the host member state, they find their situation is often better than the one at home. The element of shame often experienced is often so great it prevents people from going home even when they have been advised that this might well be a better option for them. Therefore involuntary **expulsions are an unsustainable solution** to the issue.

Our member also say that change is needed from the side of the sending countries. **Poverty, social exclusion, poor living conditions and lack of social assistance** is in itself a push factor of intra-EU mobility. Many are leaving situations of poverty in hope of better standards of living in another EU country. Some of the mobile homeless people are already homeless and destitute in their home countries and it is due to this situation they try to escape by travelling to another country. However they often arrive in the new country as homeless and destitute, without being able to speak the national language or an international language and they do not know anything about the labour market and job opportunities in the host country. They go from destitution to destitution. In the sending countries the conditions in homeless institutions are often poor, and the users do not feel they are being treated decently or that they are offered social services that can help them in their plight. The homeless are referred to squalid shelters or a living on the streets without opportunities to be reintegrated into society, therefore they chose to leave their home countries.

In general our members are concerned with the **lack of political will**, acknowledgement and responsibility taken by national and local authorities to respond to these issues. This then results in a lack of financial support such as lack of long term funding opportunities for the service providers, accompanied by a lack of understanding among the general public and media in some cases, which makes it difficult for NGOs to work with this group in a positive and pro-active way. Regarding the media, it would be important to clarify terminology of EU mobile citizens who are often referred to as ‘illegal migrants’. This misuse of language only confuses issues and stigmatises people.

The role of Diaconia

Currently the responsibility to assist EU mobile citizens who have fallen through the gaps in the welfare system is left to humanitarian and faith based NGOs, such as members of Eurodiaconia. Our members carry out a wide variety of services to support this group ranging from meeting immediate basic needs such as food, clothing and medical help to longer-term inclusion services such as language courses and help desks. Our members provide essential information on accessing social, education and health services and on administrative duties, employment opportunities and housing solutions. As major providers of social and



health care services with extensive experience with vulnerable groups, our members are willing and capable to support and care for them, but they cannot succeed alone. Service providers need to be supported to assist mobile EU citizens and therefore public funding should be made available to provide such assistance (and not only through providing shelter during winter months).

Our members provide a holistic and personalised care with an integrated approach, going beyond meeting only material needs, which we consider essential when empowering people in complex life situations. Meeting initial basic needs of destitute people with material provisions such as clothes; food and short term accommodation is not the ideal or a sustainable solution and cannot address the causes of poverty and social exclusion. Long term solutions should be sought to prevent situations of destitution, which in the case of free movement means ensuring a speedy and simplified path to inclusion in the new host country. Our members aim to empower and invest in people in order for them to provide for themselves, their families and eventually to contribute to the wider society.

Diaconal organisations and church-related service providers can also provide expertise to other NGOs as well as local authorities in this specific field. In particular we would stress the need for local authorities to engage with NGOs and civil society in this process of training and mutual learning. Cooperation between governmental and non-governmental bodies can create better local know-how to deal with local issues, to ensure more effective integration of newcomers and reduce miscommunication between all stakeholders. Eurodiaconia members are already aware of the gaps in the system and have been filling them as their capacity allows, but urgently need support from their national/ regional or local governments as demand for services increase.

Eurodiaconia also acts as a platform for cross-border information exchange and can also provide contacts between sending and receiving countries and thus provide better information before people move country and arrange for reintegration support as they return home. For example, some of our members inform the authorities when people are coming home so that they can be supported with shelter and relevant contacts, to ensure and smooth reintegration.

Church related organisations also can help people on very personal levels, whereby families and volunteers can provide a social network and provide ongoing support to individuals to help them find their way in the community, such as help finding a doctor, or help to read job adverts. Whilst this social network can be helpful, it is not an alternative to professional assistance. People need professional, accessible and personalised support to help them successfully integrate into society.

What is the role of the EU and the member states?

Given that free movement is an EU 'acquis', Eurodiaconia believes that the EU, and its Members States, *together*, have the responsibility to ensure the dignity of all EU citizens who exercise their right to free movement, and that no one is left destitute. This also means the EU must clarify rules on free movement. A legal framework for EU citizens in a situation of emergency would create legal certainty to people and therefore address some of the barriers to free movement. The EU also needs to encourage national, regional and local authorities to be sufficiently trained and prepared to receive citizens from the EU, and be ready to provide citizens with the information they need about their social rights, and about employment opportunities etc.

Social security coordination is already to some degree a responsibility of the EU, but could be enhanced, through close cooperation between the European Commission and the Council, in particular the Administrative Commission for the Coordination of Social Security Systems of the European Union. This Commission should also be more open for dialogue with civil society actors with expertise in this field.

The role of the EU, together with civil society is to also to monitor and evaluate the Member State's progress in protecting the social rights of EU citizens. And whilst the number of people exercising their free movement in Europe is relatively small, the EU must acknowledge its role to protect its citizens and ensure that free



movement does not become a cause of growing poverty and social exclusion. The European Semester is an important process that can help monitor progress made in achieving the Europe 2020 poverty targets and the implementation of the active inclusion strategy.

Finally, Eurodiaconia welcomed the European's Commission's promotion of Social Investment as highlighted in the Social Investment Package (2013) which gives guidance to member states on adopting more efficient and effective social policies. We would argue that EU mobile citizens also need to be invested in to avoid greater costs incurred through their exclusion. Social and labour market inclusion of this group is also a question of 'smart, sustainable and inclusive growth' and contributes towards the goals of Europe 2020. National governments should create action plans for the successful inclusion of EU mobile citizens (similarly to integration plans for TCNs), accompanied by a realistic budget for its implementation.

Recommendations to the EU

- Set **clearer rules** which would ensure the dignity of all EU citizens is guaranteed and no one is left destitute due to lack of adequate support services or because of access barriers linked to the nationality of the person
- **Raise the visibility** of the issue of intra-EU migration and destitution among the Member States and the need for a pan-European response
- Promote, and recognise the portability of **social protection schemes** between Member States which have proven their importance in mitigating the consequences of the crisis as a safeguard against poverty and social exclusion
- Remind Member States of their agreements to ensure the access to European and international **social and fundamental rights** of all through the European Charter of Fundamental Rights and the International Convention on Economic, Social and Cultural Rights. This includes the right to work, to housing, to health, to social assistance and services of general interest
- Ensure that conditions improve in the countries in which the intra-EU homeless people come from; better homeless institutions, improved education for social workers and better social services that can help them homeless integrate into their own country. The EU should encourage the Eastern European countries to develop and implement effective homelessness policies.
- Ensure **funding** is made available from an EU programme specifically to combat the destitution of EU migrants (this could for example be made up of proportionate contributions from sending and hosting Member States)
- Remind Member States of their joint responsibility to uphold free movement and ensure social rights are respected, in particular guaranteeing that EU citizens who are not self-sufficient have at least **access to emergency accommodation and support**
- Define minimum standards for **emergency support** services for destitute EU mobile citizens (i.e. housing)
- Urge the Member States to work in **collaboration with NGOs** and not-for-profit service providers to make the most of their experience and on-the-ground expertise in this area.
- Ensure research findings on free movement are effectively communicated to the Member States to correct misguided information and ensure **a balanced and evidence-based picture** of free movement
- Work more closely with the Member States to ensure the **public employment services** have the capacity and knowledge to provide quality services to EU job seekers
- Improve **coordination of social security** between the Member States to ensure no EU citizen exercising their right to free movement is left destitute
- Ensure all EU citizens, including those living furthest from the labour market can live in dignity by urging Member States to implement the guiding principles of the **Active Inclusion Recommendation (2008)**
- Monitor the implementation of the Directive 2014/54 and the establishment of advice bodies for EU workers



- Monitor the correct implementation of the **legal framework of free movement** in the different Member States. We would ask the Commission to better coordinate Member States' efforts in this area in particular working more closely with local and regional authorities and civil society active in this area
- Monitor how **mutual learning** has been effective and whether Member States and local authorities improve in their capacity to deal with mobile EU citizens.

Recommendations to the Member States

- Design and implement national strategies for the inclusion of mobile EU citizens and allocate a realistic budget for its implementation
- Provide obligatory legal and administrative training to all relevant staff of local and regional authorities dealing with mobile EU citizens
- Encourage local authorities to maintain regular dialogue with and support (including financially) **civil society and NGO social service providers** who assist EU mobile citizens, and who work to foster their integration
- Facilitate **access to information** on social and employment rights, including on social services, health care and identity documents
- Monitor together with the European Commission progress made in local authorities' capacity to deal with mobile EU citizens including actions proposed in the Commission's Communication³ (such as training tools and the habitual residence guide).
- Do not to restrict the right of free movement by using re-entry bans or restricting the period of job seeking

Recommendations for local and regional authorities

- Implement **national inclusion strategies** for mobile EU citizens (provide information, language courses, legal advice, housing services etc.)
- Minimize the bureaucracy involved in obtaining residence cards and break the **vicious circle of administration** by providing a temporary "EU job seeker" card that would allow people to access housing, work, social benefits and health insurance.
- Hold regular national level meetings for **sharing good practice** and identifying challenges
- Provide continued support to mobile EU citizens in need until the individual case has been assessed and a **permanent solution** has been found which ensures the dignity of the person
- Provide national and TCN residents with **information** about work opportunities and requirements before they move to another Member State

Conclusion

Eurodiaconia, believes that this small, yet significant number of vulnerable EU mobile citizens could be better supported and that a pan-European response could ensure that EU free movement remains to be seen as an asset rather than a burden on the Member States. Our hope is that situations of destitution are prevented through better support, information and cooperation. Indeed preventing people from destitution will always be more cost-efficient in the long-run. Prevention includes facilitating access to basic services that empower people to have control over their lives and to integrate successfully, both in the sending and host countries. However if EU mobility is to be a real success in the long-run, the EU and its Member States must recognise that the challenges of free movement **require a pan-European solution** and genuine political will at all levels of governance.

³ Free movement of EU citizens and their families: Five actions to make a difference



Examples of our members work

1. "Crossroads" City Mission Stockholm, Sweden For more information:

<http://stockholmcrossroads.se/en/article/welcome-to-crossroads/>

2. "Kompasset", Kirkens Korshær (Dan Church Social), Copenhagen, Denmark -

<http://www.kirkenskorshaer.dk/sider/kompasset>

3. Projects "Plata" and "Herz as", City Mission Hamburg, (Diakonie Deutschland), Germany -

<http://stadtmission-hamburg.de/plata-EU-Wohnungslosenhilfe.73.0.htm> / www.herzashamburg.de