



## Policy Paper

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

October 2014

## The context

Eurodiaconia is a European network of social of 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 countries<sup>1</sup>. 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

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<sup>1</sup> 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 evidenced<sup>2</sup>.

## 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

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<sup>2</sup> 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 reenter 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 Communication<sup>3</sup> (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.

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<sup>3</sup> 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](http://www.herzashamburg.de)