



BRIEFING FOR MEMBERS

SOCIAL SERVICES AND MIGRATION

Migration is a phenomenon that goes hand in hand with our ever increasingly globalised world. Europe is inevitably part of this flow of peoples as a place of emigration as well as immigration. In particular, Europe is experiencing greater intra-EU migration than ever before thanks to freedom of movement within the EU, seen as one of the Union's biggest achievements. At the same time, migration from outside the EU is also increasing and Europe remains a place of refuge for those escaping poverty, persecution, natural disasters, conflict and abuses of human rights.

Migration from inside and outside the EU, is a reality which undoubtedly impacts on the social dimension of Europe and presents both opportunities and challenges to the welfare state. As providers of social and health care services, one of the challenges that our members are conscious of is that the European social model as we know it is struggling to adapt and sustain itself due to migratory flows and this freedom of movement within the EU.

Migrants¹ across Europe are often socially excluded and face a higher risk of poverty² than those born in the country of residence and often suffer from discrimination³ in terms of access to rights, employment, education and social services. For many, they are simply not aware of their rights, for others, administrative or financial hurdles or lack of residence or work permit can be a barrier to accessing social services. For many migrants, precarious working conditions also mean precarious social security. Furthermore, our members say that migrants have greatly and disproportionately suffered from Europe's financial and economic crisis. Migrants are often the first to lose their jobs⁴ and because of the strong link between social protection and employment in many European countries, many migrants find themselves falling through gaps in the welfare system and consequently in situations of destitution when unemployed. As a result, members of Eurodiaconia witness greater demand in services designed to meet immediate basic needs, such as food banks, shelters, and housing and debt services. The consequent challenge for our members is to meet increasing demand in these services when financial support remains the same or decreases due to austerity measures and public spending cuts. Our members say they are then forced to stop some services altogether or refuse service users. Another challenge for our members concerns providing services for undocumented migrants. Health and social care professionals in some member states now face a dilemma in terms of professional ethics and incriminatory discourse related to providing services for undocumented migrants.

This briefing accompanies the [policy paper on social services and migration](#) and serves to assist members of Eurodiaconia use the policy paper and gives direction on how to engage in this topic with Eurodiaconia. The policy paper gives Eurodiaconia's opinion on access to services for migrants and recommendations for the EU and member states for more efficient and effective migration policy. In the policy paper we have focussed

¹ A migrant is a person who has left his or her country of origin or residence and moved to another country to take up temporary or permanent residence.

² <http://www.socialsituation.eu/monitoring-report/poverty/migrants-and-risk-of-poverty>

³ http://www.ohchr.org/EN/Issues/Discrimination/Pages/discrimination_migrants.aspx

⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0758:FIN:EN:PDF>





mainly on intra-EU and undocumented migrants since our members see these as particularly vulnerable migrant groups in society.

Why is migration important to Eurodiaconia and its members?

Eurodiaconia recognizes that migration is a topic which impacts many aspects of our members' work today and it will continue to do so as migration increases. According to our member survey carried out in 2010, members feel that there is a need for diaconal organisations to focus on migrants, including new groups of migrants, as a particularly vulnerable group:

"In our strategy document, we focus upon migrants (including new groups of migrants) as extra vulnerable groups. One example is our work in the HIV-AIDS field; during the last years we have raised migration and migrants as a main focus in this work" (Church City Mission, Oslo).

Members are already providing a wide variety of services for migrants, such as financial and legal counselling and assistance, food aid, providing clothes and other basic necessities, accommodation services, language courses etc. Parishes for example are also involved in providing health clinics for undocumented migrants and rejected asylum seekers, as well as lobbying and advocacy.

It is important that Eurodiaconia and its members take a position on migration and continue to be an advocating voice for vulnerable migrants. In this way, diaconal organisations can lead the way in the integration and social inclusion of migrants through the provision of social and health care services and can also be part of and influence the dialogue in which people are trying to make sense of a changing social Europe.

How is the European Union involved?

The issue of asylum and migration has become an EU competence with the entry into force of the Amsterdam treaty (1999). In the EU context it exclusively refers to non-EU citizens (so-called "third-country nationals") and has been dealt with from various angles within the EU institutions:

1. A set of binding framework legislation has been developed in the area of **asylum** with EU directives seeking to establish common standards throughout the EU on reception of asylum seekers, on the procedures of applying for asylum as well as criteria of who is recognised as a refugee. Reformulation of these standards is currently controversially discussed between the EU institutions.
2. Framework legislation on the right of **legally residing third country nationals** to family reunification as well as to long-term residence status has been adopted. In November 2011 the European Commission has launched a debate on the possible need to redraft the directive on family reunification with a green paper.
3. Common policies on dealing with **irregular migration** were put in place through framework legislation (e.g. the "Return directive" of 2009) and cooperation with third countries e.g. on readmission.
4. Efforts to develop a comprehensive common policy on **legal migration** have only generated limited success with the adopted instruments such as the "blue card" directive covering very limited groups of migrants. Further legislation e.g. on seasonal workers is currently being controversially discussed.

Integration of third country nationals has only with the Lisbon treaty become a (limited) EU competence. It has however been one of the most debated EU migration policy issues over the last decade. These policies are complemented by financial support in the context of funds on integration, refugees, borders and return as well as a number of rather technical initiatives (e.g. IT systems on Visa). Policies and funds in this area are managed by the DG Home Affairs in the European Commission.



The social inclusion of EU citizens and legally residing non-EU citizens however is addressed in DG Employment and Social Affairs. They address migration in terms of the European Employment Strategy, demographic change, and poverty and social exclusion. However there is little in either of these strands of EU policy that addresses the social protection of irregular and undocumented migrants. We are extremely concerned that undocumented migrants seem to be almost invisible to the European Institutions, or when visible, are dealt with as a threat to Europe's security.

Where are migrants mentioned in the Europe 2020 Strategy?

Europe 2020 is the name of Europe's latest strategy for "smart, sustainable and inclusive growth". The strategy has set five ambitious objectives on employment, innovation, education, social inclusion and climate/energy - to be reached by 2020. Migrants are mentioned in several areas:

In the following headline target, migrants are mentioned in terms of **employment**:

"The employment rate of the population aged 20-64 should increase from the current 69% to at least 75%, including through the greater involvement of women, older workers and the better integration of migrants in the work force;"

One of the flagship initiatives of Europe 2020 is the **European Platform against Poverty** (EPAP), in which the European Commission says it will work to:

*" design and implement programmes to promote social innovation for the most vulnerable, in particular by providing innovative education, training, and employment opportunities for deprived communities, to fight discrimination (e.g. disabled), and to develop a new **agenda for migrants'** integration to enable them to take full advantage of their potential;"*

In the Flagship Initiative "**An Agenda for new skills and jobs**" the Commission says it will work to:

*"Facilitate and promote intra-EU labour mobility and better match labour supply with demand with appropriate financial support from the structural funds, notably the European Social Fund (ESF), and to promote a forward-looking and comprehensive labour **migration policy** which would respond in a flexible way to the priorities and needs of labour markets;"*

Whilst these objectives are not wrong in themselves, they focus mainly on migrant integration only in terms of employment. Again, this puts an emphasis on migrant labour and makes an imbalanced economic argument for the integration of migrants. Whilst we are of course in favour of migrants being integrated into the labour market like all EU citizens, we must ensure that migrants are not viewed merely as economic units.

Apart from the Europe 2020 Strategy, the Commission has made progress on the integration of migrants with other relevant documentation. A directive which is a legal instrument addresses to the member states will have usually been adopted by the European Council and the European Parliament and require the member states to achieve a certain policy result within a certain amount of time. Green papers merely stimulate debate on a particular topic and may give rise to legislative developments that are then outlined in White Papers.

- [A Handbook on Integration.](#)
- [The Common Basic Principles for Immigrant Integration Policy in the EU](#)
- [Communication \(2011\): The Global Approach to Migration and Mobility](#)
- Immigration: status of third-country nationals who are long-term residents. Extension to beneficiaries of international protection (amend. [Directive 2003/109/EC](#))
- Application of the EU Charter of Fundamental Rights (2010) [Report](#)
- Active inclusion of people excluded from the labour market ([Recommendation 2008](#))



- [Green Paper](#): (2008) Migration & mobility: challenges and opportunities for EU education systems
- Modernising labour law to meet the challenges of the 21st century: [Green Paper](#) (2006)
- The Commission's 2005 [Common Agenda for Integration](#)
- [The Policy Plan on Legal Migration \(COM \(2005\) 669 final\)](#).
- [Green paper](#) on an EU Approach to managing economic migration (2004)
- International protection: minimum standards for the qualification and status of third country nationals or stateless persons and the content of the protection granted (repeal. [Directive 2004/83/EC](#)). Recast

The European Parliament

The Standing Committee for Civil Liberties, Justice and Home Affairs (known as the 'LIBE' Committee) is the main responsible for matters relating to immigrant integration. The Standing Committee for Employment and Social Affairs is also involved in discussions on this topic and in many cases; the European Parliament has been involved in a co-decision for the Directives and Green papers mentioned above.

The European Parliament contributed significantly to the European policy debate on integration with the publication of its 2006 report on *Strategies and means for the integration of immigrants in the European Union*⁵. More recently in March 2011, the European Parliament adopted a resolution for MEPs to call on member states to reduce health inequalities in the EU. This is the first time the European Parliament is clearly addressing the fundamental right to health of **undocumented migrants**. In the resolution, the European Parliament stresses that "health inequalities are not only the result of a host of economic, environmental and lifestyle-related factors, but also of problems relating to access to healthcare"; and that "equitable access to healthcare is not secured, not only in practice but also in law, for undocumented migrants in many EU countries". This is positive progress in addressing health care inequalities of undocumented migrants.

Other recent actions...

- Referring to Migrant workers:
 - Migration policy: single application procedure for a single permit to reside and work, common set of rights for third-country workers (proposal for a Directive in Parliamentary process vote end 2011)
- Referring to 3rd country nationals:
 - [European Agenda for the Integration of Third-Country Nationals](#) (2011 Communication from the Commission in preparatory phase in the Parliament)

Legal basis for the social protection of migrants

There is a number of EU legal instruments at that should safeguard the rights migrants in Europe.

- The [European Social Charter \(ESC\)](#) guarantees social and economic human rights, such as the right to housing, health care, education, legal and social protection of nationals and anyone lawfully resident or working regularly in Europe (articles 18 and 19 refer to migrant workers specifically).⁶
- The [European Charter of Fundamental Rights](#) (which the Lisbon Treaty makes legally binding) affirms the universal nature of rights and thus for the most part, is accorded to everyone regardless of nationality or place of residence, including undocumented migrants (unless specified otherwise).

⁵ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A6-2006-0190+0+DOC+PDF+V0//EN>

⁶ Each year the states parties submit a report to the European Committee of Social Rights on how they implement the charter into their national law and practice. The European Committee of Social Rights publishes its conclusions based on the state parties' reports. Under a protocol opened for signature in 1995, which came into force in 1998, complaints of violations of the charter may be lodged with the European Committee of Social Rights (source: PICUM: Undocumented migrants have rights).



“EU citizens can use it to challenge any decision taken by EU institutions, or by member states implementing EU law, that they felt infringe their fundamental rights. EU citizens can bring the matter before a judge in their country, who could request an interpretation from the Court of Justice in Luxembourg. The European Commission could also use the charter to challenge member states if it thought fundamental rights were being violated” (source PICUM.)

- [The International Convention on Economic, Social and Cultural Rights \(ICESCR\)](#) contains some of the most significant international legal provisions establishing economic, social and cultural rights, including rights relating to just and favourable working conditions, to social protection, to an adequate standard of living, to the highest attainable standards of physical and mental health, and to education. The Convention stipulates rights that apply to everyone, *including* undocumented migrants⁷.

(In the annex to this briefing there is a table listing European conventions and who they guarantee social protection for).

EU Funding in favour of migrant inclusion and integration

There are also several specific funding programmes at European level which benefit migrants living in Europe:

- [ESF](#) (European Social Fund) is supporting the sustainable integration of the disadvantaged and people with disabilities into the workforce.
- [ERDF](#) (European Regional Development Fund) aims to promote economic and social cohesion by correcting the main regional imbalances and participating in the development and conversion of regions, while ensuring synergy with assistance from the other Structural Funds.
- [European Fund for the Integration of 3rd country nationals](#) supports the efforts of EU States to enable non-EU nationals to integrate into European society. The Fund primarily targets action supporting the integration of new arrivals.
- [The European Refugee Fund](#): The ERF supports EU States' efforts in receiving refugees and displaced persons and in guaranteeing access to consistent, fair and effective asylum procedures. The Fund also supports resettlement programmes and actions related to the integration of persons whose stay is of a lasting and stable nature.

What is Eurodiaconia doing?

Eurodiaconia has been participating in the informal Christian Group on Migration where CCME, Caritas, EKD, JRS and COMECE and others come together to look at current migration issues and where possible develop common responses. We have also been cooperating closely with [CCME](#) (The Churches Commission for Migrants in Europe) more specifically on Roma issues.

In 2010 Eurodiaconia carried out a questionnaire among members to better understand how they approach the topic of migration from the point of view of service providers and in order to know what useful input Eurodiaconia can make in members' work and in the debate. We also wanted to be sure that we are not duplicating work done by CCME who look for example at the more legal aspects of migration such as refugee protection. Following discussions together with CCME we identified that access to social and health care services for migrants is an area that Eurodiaconia could work on and to which our members can contribute.

⁷ The ICESCR has a clear reference to the principle of non discrimination. Article 2 states that all of the articles in the covenant are applicable to all “without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” (source PICUM: Undocumented migrants have rights)



With the input from the questionnaire and contributions from a workshop at Eurodiaconia's 2011 AGM, we wrote a [policy paper on social services and migration](#) that represents the view of our members. With this policy paper, we have our position ready to influence political decisions made at EU level. Moreover, our members can use this policy paper to strengthen lobbying action at national level.

Migration is a very broad topic, and therefore we will look at the topic on a thematic basis during several of Eurodiaconia's Network meetings, in particular the Marginalisation and Exclusion Network. When concrete advocacy work is needed, we will call on those networks for their expertise and contributions.

Why is this relevant for you and what can you do?

Members of Eurodiaconia as social service providers are faced with the challenges as well as the opportunities presented by migration and are forced to question the way they provide services and the way the state and the EU supports them in doing so. Therefore we encourage members to participate in Eurodiaconia's various Network meetings through which they can help identify areas where diaconal organisations and Eurodiaconia can be active in advocating on behalf of migrants as well as share best practice examples of providing services for and working with migrant communities.

How can you use the policy paper?

- It can be used politically with the aim of influencing discussions on migration at national or local government level
- It can be used operationally in your church or organisations' institutions to show solidarity and a commitment to the inclusion of migrants
- It can be part of an internal discussion on migration to feed back to the Eurodiaconia secretariat.

We believe that the policy paper is an important document and we would encourage you to translate it into your own language, promote and disseminate it within your network. We welcome feedback on the document as it will be reviewed regularly. If you do translate it please send it to us so we can put it on our website. We would also like to know when and how you make use of it. If you have any questions please do not hesitate to contact the secretariat.

Further information and links

- Church's Commission for Migrants in Europe <http://www.ccme.be>
- PICUM (The Platform for International Cooperation on Undocumented Migrants) <http://picum.org/en>
- Jesuit Refugee Service Europe <http://www.jrseurope.org/index.htm>
- European Council on Refugees and Exile <http://www.ecre.org/>
- European Website on Integration (European Commission) <http://ec.europa.eu/ewsi/en/index.cfm>
- European Union Migration Policy http://ec.europa.eu/home-affairs/policies/immigration/immigration_intro_en.htm
- The Council of Europe; rights of migrants http://www.coe.int/t/commissioner/activities/themes/Migrants/rightsofmigrants_en.asp?
- The Council of Europe: The Human Rights of Irregular Migrants in Europe https://wcd.coe.int/wcd/ViewDoc.jsp?id=1237553#P257_37991
- OECD http://www.oecd.org/department/0,3355,en_2649_33931_1_1_1_1_1,00.html
- MIGHEALTHNET http://www.mighealth.net/index.php/Main_Page
- Health for undocumented migrants and asylum seekers network http://www.huma-network.org/averroes_be/?lg=&cp=be



ANNEX 1

Social protection for migrants according to EU and international conventions

THE INSTRUMENT	RECOGNISES	WHO IT PROTECTS
<p>The Revised European Social Charter (Part II, Article 16) http://conventions.coe.int/treaty/en/treaties/html/163.htm</p>	<p>Adopted in 1961 and revised in 1996, requires states to guarantee the right to social assistance, the right to housing and the right of the family to social, legal and economic protection which includes provision of family housing without discrimination on any ground (Article 16).</p> <p>Article 13 The right to social and medical assistance</p> <p>Article 14 The right to benefit from social welfare services</p> <p>Articles 18 and 19 cover migrant workers specifically</p>	<p>Nationals and anyone lawfully resident or working regularly (articles 18 and 19 refer to migrant workers specifically).</p>
<p>The Charter of Fundamental Rights of the EU http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:EN:PDF</p>	<p>Since the adoption of the Lisbon Treaty, the Charter of Fundamental Rights becomes legally binding.</p> <p>Article 34 <i>1. The Union recognises and respects the entitlement to social security benefits and social services providing protection in cases such as maternity, illness, industrial accidents, dependency or old age, and in the case of loss of employment, in accordance with the rules laid down by Community law and national laws and practices.</i></p> <p><i>2. Everyone residing and moving legally within the European Union is entitled to social security benefits and social advantages in accordance with Community law and national laws and practices.</i></p> <p><i>3. In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Community law and national laws and practices.</i></p> <p>Article 35 Health care <i>Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all the Union's policies and activities.</i></p>	<p>Applies to all unless specified otherwise.</p> <p>Health and education for example would apply to everyone</p>



<p>The International Convention on Economic Social and Cultural Rights (ICESCR) http://www2.ohchr.org/english/law/cescr.htm</p>	<p>Article 9 <i>The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.</i></p> <p>Article 11 <i>The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.</i></p> <p>Article 12 <i>The right of everyone to the enjoyment of the highest attainable standard of physical and mental health.</i></p>	<p>All human beings</p>
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For a more detailed overview of the international human rights framework, see here:
http://picum.org/picum.org/uploads/file_/Undocumented_Migrants_Have_Rights.pdf