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Preventing the destitution of Mobile EU Citizens

The free movement of persons is one of the most important achievements and a fundamental principle of the European Union. However, the free movement of persons has always provoked discussion about the level of rights that should be accommodated for and has always been challenged by Member States that have tried to impose restrictions on it or limit it outright, especially when it comes to persons who are not, or not anymore, economically active. Over the last few years, controversial debates on the consequences of the 2004 and 2007 enlargements and of the economic recession, along with a political crisis related to migration flows in general, put into question EU free movement and the right of EU citizens to move and settle in another Member State. This situation of instability, coupled with EU rules on free movement that are open to interpretation and implemented in different ways at national level, has been jeopardising the living situations of that small minority of mobile EU citizens who have not succeeded and for whom moving to another Member State has led to destitution. Indeed, in several European cities, a significant proportion of homeless people are mobile EU citizens who, in some cases do not have access to publicly funded shelters and are pushed to sleep rough.

Some Member States in principle provide unconditional support to all people in need. However, if resources are scarce this obviously puts a lot of strain on service provider organisations and risks creating a situation where not all those who need support will effectively receive it. In addition, many homeless service providers are not sufficiently prepared to deal with a group of service users who have specific needs particularly with regard to administrative practicalities, job support and language barriers. Homeless services are less acquainted with the sometimes complex legislation regarding unemployment and social benefits that apply to EU citizens. This negatively impacts on homeless services' capacity to support people and help them claim their rights and move out of homelessness again.

To properly help homeless mobile EU citizens, what is needed is a combination of advice and support activities. In order to fight against social and economic exclusion, it is necessary to develop a strategy based on advice and information with the aim of ensuring the respect of their rights and maintaining, through adequate financial resources, the sustainability of the interventions. Even basic needs support can help to address structural challenges faced by the target group. For instance, in order to increase the chances for mobile EU citizens to access the labour market, shower and laundry facilities or the use of computers and access to the internet are all important services in order to be prepared for job interviews or to look for jobs. If basic services are combined with training and the provision of advice, the chance for destitute mobile EU citizens to find viable solutions becomes higher. The obligation to develop strategies to survive day-by-day prevents destitute mobile EU citizens from focusing on activities that would help them integrate into society. Therefore, it is important to work on the short-term by alleviating daily challenges that they face but these actions should be supplemented by housing and employment support so as to prevent paths in and out of homelessness.



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Policy Statement

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The European Union has been struggling to solve the contradiction between, on the one hand the concept of European citizenship and the rights attached to it, and on the other, an EU legislation that is vague with regard to access to the social benefits for those mobile EU citizens who are economically inactive. Uncertainty in European law allows Member States to establish criteria that *de facto* prevents mobile EU citizens without resources from accessing social assistance. Homeless people are often considered as not linked to the labour market and thus not a matter of EU law, but rather a local issue to be tackled according to national law. However, most mobile EU citizens who become homeless have worked for a certain period of time or at least moved with the aim of finding a job; they recurrently lose their living quarters due to seasonal unemployment, illness or other incidents. They thus face specific difficulties in proving that they have been actively looking for a job or even that they have worked, due to lack of formal contract or because of intermittent employment. By doing odd jobs for short periods of time, their access to the social assistance system is limited.

Moreover, in order to achieve common and sufficiently clear rules that would cover all EU mobile citizens, two significant concepts need to be clarified at EU level. The first is 'genuine chance of being engaged'. Indeed, those who are seeking employment and are deemed to have a chance of finding it are entitled to equal treatment with nationals of the host Member State. Both the requirement to prove that one is looking for a job and the conditions determining what a 'genuine chance of finding one' may differ widely, not only between but also within Member States. This therefore leads to uncertainty about what is needed, not only for the individuals concerned but also for those who have to determine who has the right to reside and to which services and social benefits EU mobile citizens are entitled. The second concept that needs to be better regulated is the definition of 'unreasonable burden on the social assistance system'. The European Commission has listed a few criteria, i.e. whether it is a matter of temporary difficulties, the duration of residence, the personal circumstances and the amount of aid granted, but they might easily be interpreted in inappropriate ways in order to justify the non provision of services – including emergency services, such as night shelters and other low threshold services – to destitute EU mobile citizens.

Over the past few years we have witnessed local initiatives aimed at rapidly expelling mobile EU citizens who sleep rough and an increasing number of orders to leave the territory in some Member States. People who receive an order to leave the territory, even when they are not expelled *manu militari*, are prevented from accessing social security and have left without any social support. Some local authorities organise voluntary returns, or reconnections. These actions should be carried out only when the individual concerned wishes to opt for this solution, are involved in the process from the beginning and have an actual chance to lead a decent life in their country of origin.

Destitution among mobile EU citizens requires strategies where homeless service providers are only one of the relevant stakeholders. In order to find long-term solutions, collaboration between stakeholders is needed. Cities and local authorities are often the most affected by the lack of solutions and are very interested in developing effective strategies. Moreover, in some cases the possibility exists to link to cities' activities aimed at helping homeless people. Local contexts can be very different but generally, depending on the size of the city and of the problem, there are several organisations working with homeless people, including mobile EU citizens, or at least organisations that are in some way concerned by the situation in which destitute people live. Also organisations



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providing legal help, employment or housing services, health treatment, language or other educational training, have expertise and experience with various forms of interventions for the target groups concerned. The collaboration between all these stakeholders is more likely to deliver effective support and to help handling the challenges homeless mobile EU citizens have been facing.

Therefore, FEANTSA call on the EU to:

- Acknowledge that even though free movement allowed many EU citizens to build a better life in another Member State, a small minority did not succeed and their situation needs to be tackled at EU level;
- Address the precariousness of the labour market and simplify the rules concerning the access to the social security system;
- Ensure that no mobile EU citizen is left destitute due to the lack of adequate support services or access barriers linked to the nationality of the person;
- In accordance with the Treaty provisions to combat against social exclusion (art. 3 TEU and art. 9 TFEU) and art. 34(3) of the EU Charter of Fundamental Rights, guarantee that mobile EU citizens who are not self sufficient and therefore might not fulfil residence criteria to have at least access to emergency accommodation and emergency support (food, clothes, necessary health care, including mental health care and psychological support);
- Develop housing and employment support so as to help individuals to find stability and prevent them from going in and out of homelessness;
- Set clearer rules in order to better define the sets of criteria to be considered by Member States to ascertain if an EU citizen is an unreasonable burden to the social assistance system and the conditions that determine a genuine chance of finding a job;
- Oppose arbitrary expulsions and call for the respecting of procedural safeguards as set by the directive 2004/38, which also established that an expulsion measure shall not be the automatic consequence of a Union citizen's recourse to the social assistance system of the host Member State;
- Supervise reconnections to ensure they are carried out with the will of the individual concerned and in the respect of her/his dignity;
- Facilitate the cooperation between all the relevant service providers, local authorities and national authorities.

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