

AUGUST 2023

REPORT

HOW DID DESTITUTE MOBILE EU CITIZENS EXPERIENCE THE COVID-19 PANDEMIC?

Obstacles to accessing rights and dignified living conditions

Sergio Pérez Barranco, Project Officer at FEANTSA



FEANTSA

European Federation of National Organisations Working with the Homeless

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Contents

	Main Findings	4
1	Introduction	5
2	Obstacles to entry	6
3	Obstacles to residence	9
4	Obstacles in accessing social rights	12
	a. Healthcare (related to COVID-19)	12
	b. Employment and access to the welfare system	13
	c. Accommodation	14
5	Discrimination and criminalisation	16
6	Conclusions and recommendations	17
	References	20
	Acknowledgments	21

Main Findings

- The COVID-19 pandemic brought challenges to mobile EU citizens experiencing destitution and/or homelessness related to both their migrant and socio-economic statuses.
- Border checks have raised concerns over their scope, necessity, proportionality, and potentially discriminatory character. Furthermore, they were lifted when it was convenient to avoid labour shortage in critical sectors of the economy.
- Intensified border checks during the pandemic disproportionately affected mobile EU citizens in destitution, who had a harder time in obtaining a residence permit or employment contract prior to entry. Rogue employers took advantage of this vulnerability to exploit those who wanted to enter the country.
- Persistent obstacles for destitute mobile EU citizens to secure a stable residence status in their host countries (some of which were due to the ambiguity of certain concepts in the Directive 2004/38) increased during the pandemic, contributing to 'vicious cycles' of destitution.
- Some member states engage with limiting access to social rights and public spaces for destitute people, which may be considered as a tool for mobility control of intra-EU migration.
- Access to healthcare, financial support and emergency accommodation was generally made easier during the lockdown periods of 2020 for destitute mobile EU citizens, under governmental schemes to protect public health. Successful results in health and social well-being were observed as a result of these changes. However, these promising policies were rolled back afterwards and limited access to social rights and services was reestablished.
- Discrimination of mobile EU citizens continued under COVID-19, with people of Roma background especially affected. Discriminatory document checks, criminalisation of begging or sleeping rough, or negative discourses in the media against EU citizens have been observed.

1. Introduction

The COVID-19 pandemic changed the world as we know it, having an undeniable impact on the health and economic and social well-being of citizens worldwide. This impact goes beyond that of the virus itself; the periods of lockdowns implemented to control the spread of COVID-19 had a significant effect on the rights of people, of which vulnerable groups were disproportionately affected. Home isolation, restrictions on non-essential sectors and movement, and the closure of services, had a major impact on lower socioeconomic groups and minorities, reinforcing inequalities that were existent before the outbreak of the pandemic.

During this period, **mobile EU citizens¹ experiencing destitution and/or homelessness were confronted with challenges relating to both their migrant and socio-economic statuses.** In general, people experiencing homelessness were one of the groups with the highest health risks due to their precarious health and living conditions. Among people experiencing homelessness, migrants, including mobile EU citizens, faced additional vulnerabilities. Several different factors may explain this: the lack of a registered address and/or residence, jobs linking workplaces and dwellings, no entitlement to social protection because of undeclared or low-paid work, language barriers, policies banning undocumented migrants from the right to shelter, and so forth (Nicaise et al., 2022). It is also relevant to acknowledge that, for mobile EU citizens with Roma background who are experiencing homelessness, discrimination based on ethnicity adds to the already intersectional exclusion of being both migrants and destitute.

As it will be explained in the section of this paper focusing on accommodation, promising policy changes were also adopted at national level across member states during the first wave of the pandemic regarding access to support services for migrants experiencing homelessness. However, **there is increased evidence that these changes**

were only temporary and that 'going back to normal times', meaning the pre-COVID policy context, is leading to worsened living conditions and social exclusion of migrants living in homelessness.

This document builds on and complements previous research conducted by FEANTSA and published under the report "The impact of COVID-19 on homeless service providers & homeless people: the migrant perspective" (2021) while it focuses on mobile EU citizens. Since intra-EU migration is governed by a body of legislation different to other categories of migrants, the aim of this paper is to provide a more detailed analysis on how legal and policy developments during the pandemic impacted this group. First, obstacles faced by mobile EU citizens to both entry and residence will be discussed. Second, we address their access to different rights as reported by several homelessness service providers across Europe, namely healthcare, employment and welfare systems, and accommodation. Third, it is analysed whether there were any significant changes in terms of discrimination or criminalisation. The last section includes conclusions and recommendations that aim to contribute to future policies in the area of free movement and social protection of EU citizens.

¹ This term refers to citizens who are nationals of an EU Member State and who are living in a different one, under the framework of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States

2. Obstacles to entry

As a reaction to the outbreak of the COVID-19 pandemic in Europe in March 2020, many Member States implemented unprecedented measures for restricting entry both at EU's internal and external borders. Border controls and residence checks became stricter for mobile EU citizens and third-country nationals alike. For example, as will be explained further on in this section, authorities in Norway and Germany asked for an employment contract to permit entry.

Coordination among countries when enforcing measures to restrict free movement was minimal at first, then progressively improving as more was understood about the virus. An example of consideration given to measures applied in this period is the October 2020 Council Recommendation on a coordinated approach to the restriction of free movement in response to the COVID-19 pandemic.² In this recommendation the Council calls for Member States to take measures restricting free movement in a non-discriminatory, well-coordinated, and clearly communicated way.

The legal basis used by Member States to impose freedom of movement restrictions was article 29 of the Directive 2004/38 and articles 25-29 of the Schengen Borders Code (SBC). The former allows Member States to restrict the freedom of movement and residence of Union citizens and their family members in the case of diseases with epidemic potential, such as COVID-19. Likewise, SBC allows for the re-introduction of temporary border checks 'only as a last resort' and in cases of a serious threat to public policy or internal security.

However, **many concerns were raised on the scope, necessity, proportionality, and potentially discriminatory character of these checks.** For example, the general entry bans for foreigners may have contradicted a doctrine of the European Court of Justice expressing that, when reintroduced, internal border checks should not be equated with an external border. These issues were brought to

the attention of the European Parliament, which in a resolution on 19 June 2020 deplored the lack of sufficient information provided by the Member States to justify border restrictions. **The EP called on the Commission to exercise appropriate scrutiny over application of the Schengen acquis** (European Parliament, 2020).

The European Court of Auditors (2022) has also raised concerns about the lack of proper compliance with the requirements set by law to introduce internal border checks. Among others, it was found that: a) Member States did not provide sufficient evidence that the controls were a measure of last resort, proportionate, and of limited duration; b) they did not always notify the Commission of new border controls; c) compulsory ex post reports on the effectiveness and proportionality of controls were not always submitted or, when they were, there was not sufficient information on these two important aspects; d) the Commission did not properly scrutinise the compliance of new controls with the Schengen legislation, nor did it request additional information in this regard.

These restrictive measures had a direct impact on destitute mobile EU citizens, who often times had a harder time to present required documentation. They also allowed for a distinction between 'deserving' migrants, i.e., those with a regularised residence, and 'undeserving' ones, i.e., those without it - as though the likelihood of being infectious depended upon whether one had a residence permit or not. By making entry conditional on having prior residence in the country, the right to freedom of movement conferred in EU Treaties and Directive 2004/38 was de facto suspended and, instead, case-by-case examinations were put in place. **The goal of reducing the amount of people travelling to decrease infection rates was therefore met at the expense of free movement for EU nationals** (Manolova & Lottholz, 2021).

In Germany, for example, most EU citizens were

² Council Recommendation (EU) 2020/1475 of 13 October 2020, available here: https://eur-lex.europa.eu/legal-content/EN/TXT/?toc=O-J%3AL%3A2020%3A337%3ATOC&uri=uriserv%3AOJ.L_.2020.337.01.0003.01.ENG

refused entry starting with 18th March 2020 if they could not prove their long-term residence in the country. A study concerning the border controls at Frankfurt Airport found that many Bulgarian citizens without a registered address or a valid employment contract in Germany were detained and forced to sign a “refusal of entry” with their scheduled return, on the basis of being a threat to public policy, security, and health. Most of them were returning workers in seasonal, short-term, or temporary informal employment; family members coming to provide unpaid care work for relatives; or people with years of irregular work and living arrangements in the country (Manolova & Lottholz, 2021).

Similarly, FEANTSA members in Denmark report that many of the mobile EU citizens they support, and who often engage in circular migration, could not re-enter Denmark as they did not hold a residence permit. Proof of residence or of an existent work contract with a Danish company was asked for during several periods of the pandemic to allow entry into the country. When this restriction was lifted and people were only asked to provide a negative COVID-19 test result, digital exclusion of destitute mobile EU citizens posed additional challenges, since these procedures were digitalised in Denmark.

People supported by Norwegian FEANTSA members were also denied entry if they could not provide a proof of working contract, of a place to live and/or of formal legal residency in the country. **These restrictions increased the vulnerability of migrants to exploitation:** in Norway, employers were ‘selling’ working contracts for up to 5,000 kroner (approximately 500€) to those who wanted to enter the country. The same employers would often provide unsanitary accommodation for migrants to spend their quarantine period, as they were required an address where they could quarantine for border control.

While these measures were restricting the rights of EU citizens in search of job opportunities in some countries, **only several weeks after their adoption and in the midst of the pandemic, many EU countries opened their borders to seasonal workers in the agri-food system.** Every year, it is estimated that Europe needs between 800,000

and 1 million seasonal workers, and Western Europe is particularly dependent on those coming from Central Europe and the Balkans. By the end of March 2020, farmers associations estimated that 370,000 seasonal workers were needed in Italy, 150,000 in Spain, 276,000 in France, and 300,000 in Germany (Krakovsky, 2020).

In the latter, the national farmers’ association cooperated with the airline company Eurowings (a subsidiary of the German Lufthansa) so tens of thousands of Romanian nationals could work in the spring harvests of asparagus. In a short time, thousands of farm workers were crammed in buses and heading to a small regional airport in Romania to board the planes to Germany, while their country was in strict quarantine.³



Coincidentally, on March 30th 2020 the European Commission released practical guidelines on the free movement of critical workers in the health-care and food sectors.⁴ Despite the relevance of this Communication, it is unknown whether or how Member States followed the guidelines or whether there was any coordination at European level for the movement of critical workers, beyond bilateral agreements between Member States.

³ The Guardian, 16th April 2020, “Are western Europe’s food supplies worth more than east European workers’ health?”

⁴ European Commission, 30th March 2020, “Coronavirus: seasonal workers included in new guidelines to ensure free movement of critical workers”

Therefore, within a matter of weeks, mobile EU citizens that were treated by some countries as a threat to public health and turned away at border controls, were considered 'essential workers' - vital to secure the food supply chains of many Western European countries.

This dependence on Central and Eastern European migrant workers was also visible in the care and health sectors. For example, countries like Germany and Austria established 'care corridors' in the first months of lockdown, using charter flights from Bulgaria, Croatia, and Romania, and six special trains to bring care workers from Romania to Austria. However, the European Care Strategy⁵ does not take fully into account **the higher vulnerability to exploitation of migrant care workers** (fear of deportation, abusive practices by work agencies, etc.). Nor does it recognise the intra-EU dimension of it, exacerbating the care shortage in Eastern European countries and inequalities between Western and Eastern Europe, as well as contributing to social dumping (Foundation for European Progressive Studies & Friedrich-Ebert Stiftung, 2023).

At the same time, the pandemic exacerbated the precariousness and vulnerability of mobile EU citizens working in the agri-food sector, who often experience exploitation and poor living conditions. For example, in Germany many Eastern European workers were housed in overcrowded accommodation and forced to work when they should have been in quarantine. Similar patterns were observed in the Netherlands, Italy, Spain, and Sweden. In all these countries, the meat processing industry was an epicentre of COVID-19 contagion, which shed light on the lack of appropriate working and living conditions of the workers in this industry, most of whom are migrants (Palumbo & Corrado, 2020).

In conclusion, the main obstacles to entry for mobile EU citizens in 2020 were COVID-19 related restrictions enacted in almost all Member States, at least during the first months of the pandemic. However, these were lifted in some Western European countries when migrant workers were needed in key areas of the economy, including the agri-food industry and the care and health

sectors. In a very short time, mobile EU citizens were not considered a 'health threat' anymore, but essential to keep the economy and well-being of Western European societies. At the same time, no major improvements of their working or living conditions were observed. On the contrary, many migrants contracted the COVID-19 virus due to overcrowded working places and accommodation.

These contradictions only reinforced a **utilitarian rather than rights-based approach to intra-EU migration**, with many mobile EU citizens themselves feeling as 'second-class citizens' despite their EU citizenship status. This period and the actions of MS also served to highlight existing inequalities within Europe, as well as the vulnerabilities faced by mobile EU citizens not having secured their right of residence in the country they wanted to enter.

⁵ The European Care Strategy was launched by the European Commission on September 7th, 2022 to improve both the supply and demand sides of care services, in the form of a Communication. It was accompanied by a proposal for a Council recommendation on the access to affordable high-quality long-term care, and a proposal for a Council recommendation on the Revision of the Barcelona Targets on early childhood education and care.

3. Obstacles to residence

As a reaction to the outbreak of the COVID-19 In 2020, a joint policy paper drafted by FEANTSA, ECAS, Médecins du Monde and the EU Rights Clinic⁶ underlined the following main obstacles regarding the access to a residence certificate for mobile EU citizens: long waiting periods and delays in issuing residence documents, complicated registration formalities, the requirements to prove possession of sufficient resources and a comprehensive sickness insurance, or the ambiguity of concepts like “worker” and “genuine chance of being engaged”, which gave Member States a wide margin of interpretation to restrict the rights of free movement and residence.

Since then, no major improvements have been observed among the mobile EU citizens supported by FEANTSA members, i.e., organisations working with people facing homelessness. Where changes have occurred, they have been unfortunately negative, undermining the status of destitute mobile EU citizens and aiming at removing them from the territory. For example, the February 2022 ruling of the Danish Supreme Court condemning a Lithuanian citizen to 60 days of unconditional imprisonment for begging,⁷ or the missed opportunity of a first-ever specific plan on mobile EU citizens experiencing homelessness (in the Netherlands) to ensure access to emergency shelters for all mobile EU citizens.⁸

Concepts such as ‘worker’, ‘genuine chances of being employed’, or ‘comprehensive sickness insurance’ are only vaguely defined in the Directive 2004/38 regulating free movement, or not defined at all. **Under this legal uncertainty Member States impose more restrictive conditions for residence than what is set in the said Directive.**⁹ The lack of

certainty in numerous provisions has been identified as a challenge by the European Commission as well; in the European Citizenship report from 2020, the Commission committed itself to updating the guidelines on free movement (the previous ones date back from 2009), precisely to improve legal certainty for mobile EU citizens.¹⁰ Unfortunately, to this date, the guidelines have not been released yet.

The ambiguity in the Directive 2004/38 paves the way for Member States to introduce stricter requirements for granting residence than those foreseen in the text of the Directive, in relation to a registration address, recognition of low-wage or low-hours employment, or the validation of a health sickness insurance.¹¹ Furthermore, Member States are not always in compliance with case law from the Court of Justice of the EU, such as C-710/19 G.M.A. c. État belge.¹² The additional and stricter requirements disproportionately affect migrants facing precarious living and/or working conditions, who find it more difficult to obtain a residence permit, or to be registered as a worker rather than the less secure status of jobseeker. The fact of not having a stable residence permit leads to more exclusion and to the continuation of this precariousness, since people may not have access to social services or welfare benefits which could allow them to exit situations of destitution, as illustrated in Figure 1.

The situation in Brussels makes for a relevant example of the dramatic consequences of not being registered in the host member state: in 2020, only 6% of the mobile EU citizens encountered by the homeless service provider DIOGENES had a valid residence card. Out of them, more than three quarters had an official income. Comparatively, of

6 ECAS, FEANTSA, Médecins du Monde and the EU Rights Clinic (2020). “CORE Policy Paper - Analysis of the obstacles to freedom of movement and political participation: Policy Recommendations”

7 FEANTSA (2022) Press release: FEANTSA strongly denounces the criminalisation of homeless people in Denmark

8 FEANTSA (2022). Statement: A first time ever Government Plan of Action for mobile EU citizens in homelessness is adopted in the Netherlands but it falls short of expectations

9 For example, see FEANTSA (2019) The “working poor” and EU free movement: the notion of “worker” in the context of low-wage and low-hour employment

10 Action 7 of the EU Citizenship Report 2020: “In 2022, the Commission will improve legal certainty for EU citizens exercising their free movement rights and for national administrations by updating the 2009 EU guidelines on free movement. The updated guidelines will take into account the diversity of families (rainbow families), the application of specific measures, such as those introduced due to public health concerns, as well as the relevant judgments by the Court of Justice.”

11 Op. cit., note 6.

12 EU Rights Clinic and FEANTSA (2023) “Press release: European Commission takes next step in infringement proceedings against Belgium on EU jobseekers’ residence rights”

Figure 1: Vicious cycle of “precarious arrival”¹³



the 94% without a residence card, 95% had no source of official income (Bruss’help & DIOGENES, 2022).

The lack of a residence permit posed additional challenges with the outbreak of the pandemic, when most Member States closed their borders and only allowed those foreigners with a valid residence permit to enter.

For many who relied on short-term stays and circular movements between their countries of origin and destinations, together with the families who were dependant on them, the closing of borders was devastating in terms of livelihood and financial situation. Nevertheless, it is argued that this is not a distinct development of the pandemic, but instead the result of **“at least a decade-long trajectory of EU migration management that has led to the systematic entrenchment of vulnerability, impermanence, and irregularity for migrants in the EU”** (Manolova & Lottholz, 2021: 7).

This trajectory can be observed across Western Europe, from Germany, to the Netherlands, or to the Scandinavian countries.¹⁴ For example, in her analysis of Swedish policies towards foreigners resorting to begging on the streets (a majority of whom are assumed to be Bulgarians and Romanians with a Roma background), Persdotter (2018) concludes that **mobility control is exercised through destitution**. Since European law forbids systematic formal controls on the entry of mobile EU citizens, Swedish authorities “have attempted to discourage, regulate and otherwise manage the

presence of mobile Roma EU-citizens by regulating their access to social rights, and their access and use of public space” (Persdotter, 2018). A 2016 report from the Swedish National Coordinator for Vulnerable EU-citizens recommends municipalities to withhold access to social assistance and to adopt a zero-tolerance approach to unauthorised settlements, stressing that no obligation exists to provide shelter. It is even argued that children of these citizens should not enjoy a right to education in Sweden to not undermine their access to education in their countries of citizenship (SOU 2016, cited in Persdotter 2018).

This example shows that the ‘exceptional’ measures restricting free movement and residence during the pandemic, which could have art. 29 of Directive 2004/38 as legal basis, were not actually ‘exceptional’. **Instead, they were the last in a series of restrictive policies, with the only difference being that this time the measures were applied to the general population**, rather than targeting only the so-called ‘poverty migration’ from other EU countries.

This indirect control of freedom of movement, in the absence of a legal basis provided in Directive 2004/38, has been made through the back door with increasingly more stringent conditions at national level for registering a habitual residence or address, or to qualify as a worker. As illustrated in Figure 2, once out of this formal residence status,

¹³ Source: Bischof-Hermann-Stiftung Münster (2021) *Mobile EU citizens in precarious living conditions: results from a survey of 100 mobile EU citizens in Münster, Germany*; based on Haj-Ahmad and Riedner (2020)

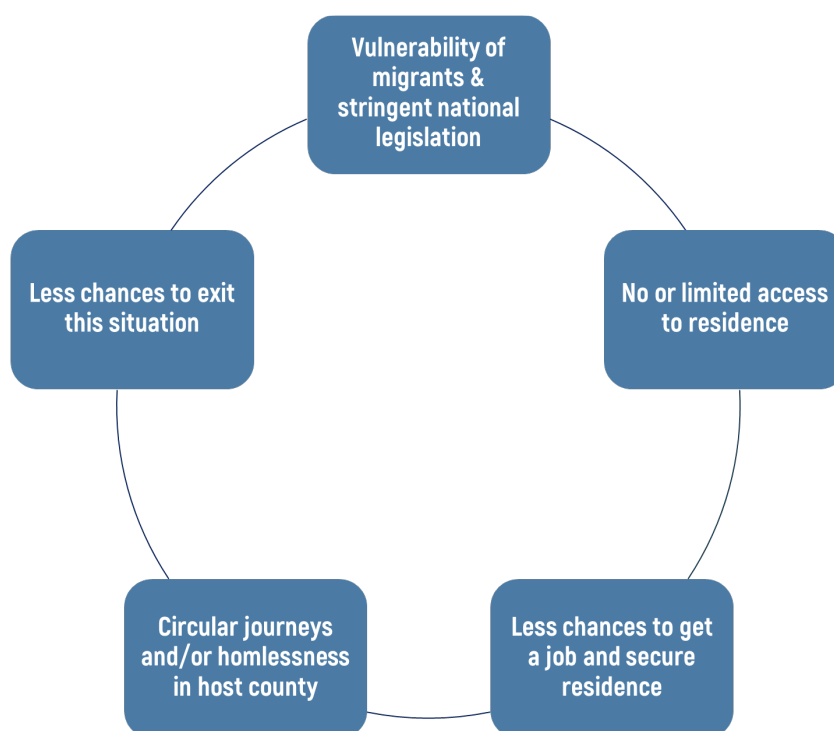
¹⁴ FEANTSA (2021, December 9). *Homelessness among mobile EU citizens: new data from four European cities*

it is extremely difficult to legally rent housing and provide an address for registration, or to find a stable job to gain the 'worker' status. As a result, many mobile EU citizens are put between a rock and a hard place: either experiencing destitution and homelessness for a long period of time in the host countries or engaging in short stays and circular movements, which in turn make it more difficult to prove the conditions to obtain a regular residence status (Manolova & Lottholz, 2021).

their countries of destination, which is often used as grounds for restrictions to public services, lacks sufficient supporting evidence though (European Parliament, 2020). However, none of these issues were addressed in the Commission's report on EU Citizenship of 2020.

These issues have been acknowledged by the EU institutions. **A special report of the European Court of Auditors from 2018 highlighted persistent obstacles to moving to and working in other Member States for EU citizens**, which are not properly tackled.¹⁵ Likewise, a study conducted by the Parliament in 2016 stressed the challenges mobile EU citizens face in connection with residence, work and access to social security, due to **persistent shortcomings in the transposition and implementation of EU law by Member States**. Discrimination on grounds of nationality was also observed when accessing employment, education, and other services. The alleged abuse by mobile EU citizens of social security rules and the welfare system in

Figure 2: Vicious cycle of "precarious residence"



¹⁵ European Court of Auditors (2018) "Special report no 06/2018: Free Movement of Workers – the fundamental freedom ensured but better targeting of EU funds would aid worker mobility"

4. Obstacles in accessing social rights

In this section, we will change our focus from the obstacles in the entry and residence of vulnerable EU citizens to the more specific difficulties they face when accessing certain services. The information that follows concerns mobile EU citizens in homelessness who were beneficiaries of the service providers that contributed to this paper.

A. HEALTHCARE (RELATED TO COVID-19)

i. Tests and treatments

Countries seemed to have had more flexibility when allowing access to covid-related treatments for people without (clear) insurance entitlements, compared to what is the usual practice (Burns et al., 2021). Mobile EU citizens in precarious living conditions also benefited from this flexibility. The reason for this policy change from national governments was most likely based on their objective to protect public health. Early diagnosis and treatment of COVID-19, especially among vulnerable groups such as people in homelessness, was key to reduce the spread of contagion as soon as possible.

In the Netherlands, for example, mobile EU citizens supported by Stichting De Tussenvoorziening in Utrecht had an easy, low-threshold access to covid-related care. Self-tests were provided at day and night shelters and PCR tests at both shelters and external locations, for which the municipality did not require a BSN (Dutch personal identification number). Mobile EU citizens could also access a centre opened by the municipality to isolate people experiencing homelessness in case they had contracted the virus.

A similar low-threshold approach was adopted in the Czech Republic. FEANTSA member Naděje reports foreigners had the same access to testing as Czech nationals, no matter their administrative status. In general, tests were done at a public

testing site with the help of a social worker. A good practice was also implemented by the city of Prague, which funded the NGO R-Mosty to set up a mobile team for testing people facing homelessness or transporting them to hospitals when needed.

In contrast, it took a bit longer in Berlin and Copenhagen to open access to care. During the first month of the pandemic, mobile EU citizens supported by GEBEWO in Berlin who tested positive were mostly excluded from healthcare, since they often lacked health insurance. In the worst cases, some people who tested positive were completely left on their own on the streets. The situation progressively improved and, during the winter of 2021, Berlin provided special quarantine centres for homeless people where they had their basic needs covered and medical help for as long as needed. On the less positive side, these centres were closed during summertime and unconditional tests were only accessible in specific centres for people experiencing homelessness, while the mainstream test centres in Berlin required to show a passport or ID.



Likewise, tests in Copenhagen were initially made available only to those with a registration number (CPR), as reported by Kompasset Kirkens Korshaer. However, it was quickly made available to everyone, including those mobile EU citizens without a registration number. A few months after the start of the pandemic, the regional authorities set up a mobile testing team that went directly to homelessness service providers, though mobile EU citizens without a CPR number were excluded of this service at first. In addition, mobile EU citizens with a deportation order were offered immediate testing and treatment if needed. However, in the case they tested positive, they would be forced to isolate in a specific establishment and leave the country afterwards. **Unsurprisingly, migrants in this situation were reluctant to get tested, increasing the risk to spread COVID-19.**

In Oslo, homelessness service provider Kirkens Bymisjon hosted in its premises a testing centre of the municipality, which would go on to provide vaccines for mobile EU citizens experiencing homelessness. In addition, several quarantine and isolation hotels accommodated people Kirkens Bymisjon was in contact with (as well as people supported by other NGOs). The collaboration between NGOs and health authorities, which was enhanced during the pandemic, proved therefore to have successful results.

In contrast, during the pandemic, GPs and nurses stopped going to the premises of NOAH, a homeless service provider in Luton (UK). As a result, mobile EU citizens supported by this organisation had to follow the same circuit as for the rest of population, making it more difficult to access COVID-related primary care due to lack of insurance, digital exclusion to ask for appointments, administrative hurdles, and so forth.

ii. Vaccination

Regarding vaccinations against COVID 19, the access of vulnerable mobile EU citizens seems to have been relatively easy across Member States. All organisations consulted report a very active approach from health authorities in this area, including outreach teams or deployment of staff at homeless service providers. Some of these organisations were also directly involved by providing the space for vaccination intake or by mediating

between the healthcare system and people in homelessness. For example, Kirkens Bymisjon in Oslo organised meetings with a social worker and a nurse so people who were sceptical about vaccination could solve their concerns. Collaboration with the healthcare system was also key for Naděje in Prague or Kompasset Kirkens Korshaer in Copenhagen.

However, **difficulties appeared when obtaining and keeping the appropriate vaccination or negative test certificate.** For example, many of the people supported by Kirkens Bymisjon could not get a vaccination certificate because they only had a temporary Norwegian identification number (the so-called D number), which could not be entered in the national register of vaccination. On testing, results were often given orally or by an SMS, which was not considered a valid proof. In contrast, Dutch certificates for vaccination, negative test results or recovery (which were linked to the personal number BSN) could be issued on paper if necessary. In Berlin, many homeless mobile EU citizens supported by GEBEWO were asked for a passport or ID card and an electronic device when certificates were made digital only, which relates to the broader issue of digital exclusion among people facing homelessness.¹⁶

B. EMPLOYMENT AND ACCESS TO THE WELFARE SYSTEM

Due to the vulnerability in the labour market and the precarious residence status of many destitute mobile EU citizens, as explained in the previous section on 'obstacles to residence', the economic impact of the pandemic was higher on this group.

The situation in the Netherlands was especially dramatic, since many mobile EU citizens have a contract linking employment and accommodation. Therefore, losing their job led in many cases to homelessness. Only during lockdowns, Dutch municipalities partially opened the access to basic forms of emergency shelter and support for mobile EU citizens, as reported by the homeless service provider Stichting De Tussenvoorziening.

Many of the EU citizens encountered by GEBEWO in Berlin lost their jobs with the outbreak of

¹⁶ For more information, please see FEANTSA (2021) "Digital Inclusion for Homeless People and Homeless Service Providers: An Analysis of Benefits, Challenges, and Solutions"

the pandemic and only received welfare benefits during the first month, after which access to this was as restricted as before. Usually, mobile EU beneficiaries of GEBEWO engage in 'minijobs' paying below minimum wages and which have no unemployment insurance,¹⁷ in the case they are hired in the formal job market at all. In Copenhagen, many of those supported by Kompasset Kirkens Korshaer returned to their countries of origin when the pandemic started, due to a sharp loss of jobs and increased precariousness. When restrictions were lifted, it was easy to find jobs in the cleaning or construction industries, but to open a bank account to receive the pay checks was extremely hard. This and other required procedures (e.g., registering with the tax office or applying for residence) took much longer than usual in Denmark, in addition to moving online in some cases which de facto discriminated those who face digital exclusion.

The same applied in Oslo with excessive delays to register as jobseekers, obtain a 'D number' or apply for a tax card, which allowed rogue employers to exploit people in the black market. On a more positive note, there was a big improvement for those who were working before the pandemic: the income level required to receive unemployment benefits was lowered, the processing times were significantly shorter, and it was easier to get emergency social support.

Finally, mobile EU citizens with pre-settled status in the UK could not directly receive cash support during the pandemic, leading to acute destitution in case people lost their jobs. However, NOAH (Luton) claims the charity sector could receive short-term, covid-related funding from the government to provide more in-kind support, though only on a temporary basis.

C. ACCOMMODATION

Following a similar pattern as for healthcare and the welfare system, **access to accommodation for mobile EU citizens facing homelessness was made easier during the first months of the pandemic (between March and June 2020), while a high restrictiveness was back in place after that.** Kirkens Bymisjon in Oslo even argues that people

they work with faced more vulnerability after the pandemic, since the demand for (sub-letting) small, private rooms increased and therefore also the prices rose, even though they live in inadequate, overcrowding conditions very often.

In the UK, derogation of free movement rights was suspended until the end of 2020, to allow local authorities to provide emergency accommodation and floating support to EEA (European Economic Area) nationals who would not otherwise be eligible. The suspension was introduced in 2019 in areas of the country with high levels of EEA migrants in homelessness, but it was extended nationally from the end of March 2020. This measure was very helpful for mobile EU citizens facing homelessness to secure a place to stay at least during the most difficult months of the pandemic (Crisis, 2020).

The 'Everyone In' policy during 2020, meant to put those sleeping rough or in collective shelters into safe emergency accommodation, was particularly beneficial for people with NRPF (No Recourse to Public Funds),¹⁸ including EEA nationals without entitlements to benefits (Crisis, 2020). For some of the mobile EU citizens supported by NOAH in Luton, **this short-term unconditional housing allowed for the necessary space and time to stabilise again their lives**, leading to long-term accommodation once this emergency support was over, instead of going back to rough sleeping. Unfortunately, these useful resources were only temporary and emergency accommodation has been reduced since then.

A similar policy change took place in the Netherlands, where mobile EU citizens experiencing homelessness were entitled to emergency shelter during the pandemic/lockdowns, while before this was only possible in the case of sub-zero temperatures. Hotels were opened to cope with the increased number of people needing accommodation, but any structural improvements were not observed. Therefore, winter-only emergency accommodation was back in place after the last lockdown.

In Berlin, accommodation in shelters was made accessible for mobile EU citizens experiencing homelessness until June 2020, when the barriers before the pandemic were back in place. Similarly,

¹⁷ Duell, N. (2018). "Case study – gaps in access to social protection for mini-jobs in Germany". Luxembourg: Publications Office of the European Union. Doi: 10.2767/928194

¹⁸ The Conversation (27th January 2021) "No recourse to public funds: a government policy that traps people in poverty"

most of the people supported by Kompasset Kirkens Korshaer in Copenhagen were accommodated during the first months of restrictions, so there were no more lotteries deciding who gets a place to sleep. The collaboration between NGOs, public authorities and hostels was enhanced, including setting up a shelter to house people requiring isolation. Although this service was at first only for people with CPR (personal identification number), excluding de facto many mobile EU citizens facing homelessness, this requirement was lifted after pressure from NGOs. During the third wave of the pandemic, a hotel was hired by the Copenhagen municipality to host mobile EU citizens, but by 2022 all these new spots were closed and mobile EU citizens experiencing homelessness again could only access emergency winter shelters.

Developments in Czechia were more mixed. In Prague, an increase in bed capacity and the opening of hotels allowed people experiencing long-term homelessness a new chance to exit this situation. They were mainly used by Czech nationals, but migrants (both mobile EU citizens and third-country nationals) accounted for 10% of the total. After the pandemic, around 200 of these new beds in hostels or hotels continued accommodating people in homelessness. However, in the city of Mladá Boleslav, where a significant number of mobile EU citizens experience homelessness, the pandemic did not bring any changes in the shelter capacity,

which remains scarce.

Finally, it is relevant to highlight the **increased precariousness during the pandemic of mobile EU citizens living in segregated formal or informal camps, many of whom are Roma**. For example, 'nomad camps' (campi nomadi) or 'villages' (villaggi) in the periphery of Italian urban areas are made up of overcrowded caravans, shacks, or shipping containers, often without access to drinking water and electricity. In some cases, such as in Vicenza (north-east of Italy), during the pandemic municipalities did not provide so much as drinking water, masks, sanitizing gel, or a place to quarantine and isolate. People also suffered from the lack of income, since many relied on informal jobs that had to stop during lockdowns and there was no financial support from government. In addition, European Roma Rights Centre (ERRC) has recorded at least seven evictions of Roma from informal camps in Italy between February and June 2020, even though in principle they were suspended with the government decree issued on 19th May (no. 34, law no. 77/2020). These evictions often do not comply with protections prescribed by international standards, overlooking any vulnerabilities in terms of health, minors, the elderly, or pregnancy of women; an alternative accommodation is not often provided either, leading to more acute forms of homelessness (European Roma Rights centre, 2020: 20).



5. Discrimination and criminalisation

Given the difficulties for mobile EU citizens facing homelessness to fully exercise and enforce their rights even before the pandemic started, we find it relevant to investigate whether COVID-19 increased the discrimination and criminalisation already experienced. Apart from the entry restrictions based on defending public health (despite being lifted when it was politically or economically convenient) that were already analysed in a previous section of this document, the following developments were observed:

In Oslo, Kirkens Bymisjon reported that **local police carried out arbitrary document checks to the people sleeping rough that they support**. Considering that police in border controls had already granted them the right to enter the country, these additional checks to assess the validity of documents can only be considered unnecessary and discriminatory. When a work contract was required to enter the country, some people were even held in custody for up to two days until their contracts were assessed.

Some of the sex workers that are supported by another service of Kirkens Bymisjon received expulsion orders on the basis of posing a risk for public health. This could be a breach of Free Movement Directive, since art. 29.1 only allows restrictions to freedom of movement on the grounds of public health for diseases with epidemic potential, or for other infectious diseases or contagious parasitic diseases when they also apply to nationals of the host Member State.

Furthermore, the same organisation stresses the role of the Norwegian media in shaping a **negative discourse against migrants, considering them the main source of infection**. This led to a generalised feeling of exclusion among migrants and to reinforce the narrative of 'us against them'. There was a peak around January 2021, when politicians and the media accused destitute mobile EU citizens and other migrants of not respecting quarantine restrictions, while asking for more fines and control

measures. Kirkens Bymisjon employees with a migrant background went to media themselves to uphold the rights of these citizens and to present their perspectives.

In Copenhagen, people supported by Kompasset Kirkens Korshaer were put between a rock and a hard place. If they decided to keep sleeping rough to avoid the threat of infection in emergency shelters, they risked **receiving fines under different provisions of the Law on Public Order (Ordenbekendtgørelse)**. Emergency night shelters often accommodated between 20 and 40 people in shared rooms, meaning an increased exposure to COVID-19. To avoid the risk of infection and receiving fines, many people opted for an alternative solution by staying in the outer parts of the city, where police are less present, but with less access to the resources and professional support they needed.

Criminalisation was also observed in public transport as well. When it was required to show a proof of vaccination, negative test, or recovery to access public transport in Berlin, many people were de facto excluded because of the challenges they faced to obtain this, especially in a digital form. Accordingly, some of the people supported by GEBEWO were fined or obliged to leave the transport in question because they could not show their COVID-19 certificate. Even though personnel from the public transport system in the city received guidance to take the situation of homelessness into account, this was not always the case in practice.

Finally, in Barcelona, Arrels Fundació registered that **at least 17 mobile EU citizens they supported were fined for sleeping rough during the lockdown periods**. An agreement reached between the city council and homelessness organisations made it possible to not impose these fines, though. In addition, they helped 15 people in making a complaint to the police during 2020, mostly due to aggression (33% of the complaints) and threats (7%).¹⁹

¹⁹ Arrels Fundació (2021) "Living on the street in Barcelona: A focus on mobile EU citizens", p. 33

6. Conclusions and recommendations

The goal of this paper was to provide a more detailed analysis on how legal and policy developments during the pandemic impacted mobile EU citizens living in homelessness across Member States. Generally, the changes brought by the pandemic were mostly negative in terms of living conditions, with the time-limited exceptions of COVID-related healthcare and the temporary provision of accommodation. Even when positive measures were implemented to protect public health, when the lockdown periods ended such measures were pulled back by the authorities.

Firstly, the scope, necessity, proportionality, and sometimes discriminatory character of border checks potentially distorted the safeguards rightly included in the Schengen Borders Code and the Free Movement Directive. Moreover, only a few weeks after the outbreak of the pandemic, borders were reopened for essential workers in the agri-food and care sectors through bilateral agreements of governments. **This prompted doubts about the coherence with previous strict border controls, introducing a double standard** - mobile EU citizens were no longer a threat to public health when their labour was needed. Besides highlighting inequalities in the treatment of mobile EU citizens across Member States, these actions also exposed many to coronavirus due to unsafe and COVID-19 uncomplying working and living conditions.

Regarding access to a stable residence status, this was not made easier during the pandemic, despite the potential to have greatly contributed to the monitoring of the health situation in a high-risk group, such as people facing homelessness. It is argued by Persdotter (2018) and Manolova & Lottholz (2021) that, in absence of legal mechanisms in the Directive 2004/38 to control freedom of movement within the EU (except for extreme cases on public security, policy and health), **several Member States have made use of other tools to try and limit 'poverty migration' from other EU countries**. Stringent conditions when registering an address, applying for residency, qualifying as a worker, or gaining access to social services or

welfare benefits, together with restrictive regulations on the public space, especially contributed to the destitution and/or homelessness of many mobile EU citizens, even before the COVID 19 pandemic. As illustrated in Figures 1 and 2, **there is a risk for many vulnerable migrants to end up trapped in 'vicious cycles' which prevents them from exiting destitution**.

In contrast, rules on access to healthcare were in general loosened in the same period, in order to contain the spread of the virus. Despite some obstacles in countries like Denmark or Germany in the very first weeks of lockdown, COVID-related tests, treatments, and vaccines were mostly accessible. However, access to employment and financial support was more difficult. Firstly, because the precarious residence status of many mobile EU citizens in destitution precludes them from enjoying access to welfare benefits or other kinds of support. Secondly, because when support schemes were opened for mobile EU citizens having lost their jobs during the pandemic, this was only temporarily, as in the case of Germany.

Likewise, **access to accommodation was also loosened during the first months of the pandemic, only to be restricted again shortly after that**. Hotels opened in the Netherlands, people were not asked a CPR (identification) number in Copenhagen to have a place to sleep, and accommodation was made available for mobile EU citizens experiencing homelessness in Berlin. However, these measures were only temporary in most of the cases, representing a missed opportunity to offer a more stable housing situation to help EU mobile citizens exit destitution. Despite several innovative measures being developed during the lockdown periods, governments rolled back all policies as soon as the emergency states were lifted.

In view of the positive and negative developments brought by the COVID pandemic for mobile EU citizens facing homelessness, we draft the following recommendations:

1. On obstacles to entry and residence

- We call on Member States to fully comply with the requirements set by law in the event of introducing internal border checks; in particular, on proportionality and non-discrimination. The Commission should make full use of its powers to monitor compliance of Member States with EU law.

- In cases when residence permits are required to enter or reside in the territory of a country, the vulnerabilities of mobile EU citizens in destitution or homelessness should be acknowledged, since many lack such permits not because they do not live in the country, but due to their precarious economic and residence status.

- Member States should facilitate access to registration and residence documents for vulnerable mobile EU citizens, since these are key to exit destitution cycles and ensure socio-economic inclusion.

- We call on Member States to introduce more flexibility for destitute mobile EU citizens to obtain residence, qualify as a worker or access social services. Member States shall also fully comply with EU law, since they may ask for requirements that do not exist in the Directive 2004/38 or are not in line with case law from the EU Court of Justice. Furthermore, the current strict interpretation of Directive 2004/38 exposes those vulnerable mobile EU citizens to more precariousness.

2. On living conditions and access to essential services

- Healthcare services available for destitute mobile EU citizens should be broadened beyond urgent treatments. The provision of medical assistance is not only fundamental for the well-being of every individual, but also for ensuring public health, as seen with COVID-19.

- Emergency welfare benefits should be accessible for those mobile EU citizens engaged in low-wage and/or low-hour employment, like 'minijobs' in Germany. Having recourse to social security was key to avoid destitution during the pandemic, therefore financial support schemes (complementary to salaries or not) should exist to prevent people falling

below the poverty threshold.

- In line with the previous recommendation, **we call the European Commission to put forward a proposal for an EU-wide unemployment benefit fund to support the free movement of persons.** The structure might resemble the successful SURE mechanism,²⁰ put in place after the COVID-19 outbreak. This programme has already been suggested in a study of the European Parliamentary Research Service into the unused potential of Treaty legal bases (European Parliament, 2020).

- On access to emergency accommodation, the open access for all implemented in the first months after the pandemic outbreak should be continued. Regardless of entitlements or administrative status, individuals should at least be able to access services to avoid sleeping rough, also because a stabilised housing situation is a major step to exit destitution and live autonomously. A good example to follow in the future would be the 'Everyone In' policy applied in the UK throughout the pandemic, which granted EEA nationals without entitlements to benefits the access to safe, independent accommodation.

3. On discrimination and criminalisation

- Rough sleeping is a situation where people are deprived of their most fundamental rights, and thus further punishment (e.g.: fining) on these grounds should not be allowed, in line with commitments made by Member States under the European Platform on Combatting Homelessness. Especially during pandemics like COVID-19 when people may be afraid to sleep in collective accommodation due to an increased chance of exposure to the virus.

- The needs of socially disadvantaged groups, such as people in homelessness, shall be acknowledged in future crises or emergencies. They were not met at the beginning of the first lockdown and socio-economic factors in health risks were not recognised, hampering the health and well-being of many. This has been recognised by the draft report of the EP "On the COVID-19 pandemic: lessons learned and recommendations for the future" (para. 154) (European Parliament, 2023).

- We call on the European Commission and Member States to step up their efforts to combat discrimina-

²⁰ The temporary Support to mitigate Unemployment Risks in an Emergency (SURE) could provide financial assistance up to €100 billion in the form of loans granted on favourable terms from the EU to affected Member States to address sudden increases in public expenditure for the preservation of employment. Source: European Commission, SURE homepage

tion against people of Roma background, including those who are mobile EU citizens. Especially when they live in informal settlements with no or limited access to essential services, such as healthcare, sanitation or running water.

- Media and policy makers shall not contribute to a negative discourse against migrants, especially in very sensitive situations such as during an epidemic. These messages only reinforce the likelihood of migrants suffering from hate speech and hate crime.



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Acknowledgments

We are very thankful for the contributions to this paper made by the following homeless service providers. Their expertise acquired after years of working with people in homelessness, including mobile EU citizens, is extremely valuable. We can only commend the great work they do daily to uphold the rights of those they support.

GEBEWO -Soziale Dienste, Berlin (Germany)

Kirkens Bymisjon, Oslo (Norway)

Kompasset Kirkens Korshær, Copenhagen (Denmark)

NADĚJE (Czech Republic)

NOAH Enterprise, Luton (UK)

de Tussenvoorziening, Utrecht (Netherlands)



This activity is part of the 3rd phase of the PRODEC project –Protecting the Rights Of Destitute mobile EU Citizens, which is run by FEANTSA, the European Federation of National Organisations Working with the Homeless. This project has been supported by the European Programme for Integration and Migration (EPIM), a collaborative initiative of the Network of European Foundations (NEF). The sole responsibility for the project lies with the organiser(s) and the content may not necessarily reflect the positions of EPIM, NEF or EPIM's Partner Foundations.

European Federation of National Organisations
Working with the Homeless
194 Chaussée de Louvain, 1210 Brussels, Belgium
T +32 (0)2 538 66 69 • information@feantsa.org

www.feantsa.org

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