



Forget about the law: Systematic and multiple exclusion of destitute mobile EU citizens in Denmark

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KOMPASSET – ASSISTING HOMELESS MIGRANTS

Kompasset (The Compass) is a Copenhagen-based service for unregistered homeless migrants, founded by the national NGO Dan Church Social (Kirkens Korshær). Since 2013 we have been working to assist unregistered homeless newcomers in navigating the Danish system and society, as well as providing basic social services, such as shelter, shower, food, storage facilities, outreach services etc. 75 % of Kompasset's users are unregistered mobile EU citizens, and 20 % are unregistered Third Country Nationals with residence permits in other EU countries². By *unregistered* we mean unregistered in Denmark. Around 1000 different people use Kompasset's services every year, some for a very long time and others very briefly. Apart from the direct social work and relief, we also approach the issue of homelessness and migration from an investigative angle and do advocacy work to try to secure the rights of our service users on an institutional level.

The reason for opening Kompasset was the increase in street homelessness that followed the expansion of the EU in 2004 and 2007 – as seen in many other northern and western European cities. An increase powered mainly by poor and job seeking migrants from central, southern and eastern European countries, exercising their right to free movement within the EU. This resulted in intensified pressure on Dan Church Social's existing homelessness services, that found themselves unable to accommodate the newcomers, in terms of space but also in terms of the guidance and counselling.

Another reason for opening Kompasset was the way public homelessness services had responded to the newcomers; following a political statement in 2007 from the social minister at the time³ - that legally speaking was incorrect - all of them were denied access. This resulted in a split: Danish homeless people remained in the public services and the newcomers filled the privately-run ones to the absolute limit. We therefore needed to rethink the organisation of our services, and after running Kompasset as a small counselling unit, exclusively funded by private donations, it was in 2016 merged with two of DanChurch-Socials day shelters and became the multi-service house Kompasset we have today.

FREE MOVEMENT AND THE WELFARE SOCIETY

Free movement of labor within the European Union is and has been an enormous financial advantage for Denmark. It creates growth, jobs, and GDP has risen 5 % as a direct consequence of the inner market, amounting to more than 13 billion EUR in 2016⁴. Each mobile EU citizen from Poland, Romania and Lithuania who lives and works in Denmark contributes with a net surplus of more than 2000 Euros per year, where a Dane in comparison makes a deficit of almost 1000 EUR. One article concludes that roughly speaking, this means that each of the mobile citizens is worth 3000 more than a Dane and the idea that they should be welfare tourists could not be farther from the truth. On the contrary, they are - as a group - welfare givers⁵.

However, this seems to be a one-way street. The small group of mobile EU citizens whose migration endeavors temporarily or permanently fail, and who find themselves in destitution, are de facto still cut off from receiving the social assistance that they need. While many of them do have formal rights to access a variety of public services - as explained below - these rights most often do not materialise in practice. Although the destitute are in those exact situations where the social legislation ought to come into force and protect them, the opposite seems to be the case: they are systematically being excluded at almost all levels: from emergency accommodation facilities to municipal job centres to banks when trying to open an account, and by the municipal and administrative offices that are supposed to assist them.

WITHOUT A "YELLOW CARD" YOU'RE NOBODY

Why is this?

Through the experiences that we have gained during the past 6 years working with this issue, we can say that there are multiple answers to this question, of which I will elaborate on just a few in this article.

One major explanation is that Denmark is a highly regulated society, in which the ability to present a "yellow card" with a Danish personal number de facto equals legal residence⁶. The fact that someone can reside legally, but not possess this yellow card, is as strange to a Dane as celebrating Christmas without

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2 Due to the Danish opt out, the latter do not have similar rights as mobile EU citizens, primarily in the way that they are not allowed to access to formal labor market, without a specific work permit, which is impossible to obtain for low skilled workers

3 <https://politiken.dk/indland/art4777407/Illegale-%C3%B8steurop%C3%A6ere-lever-p%C3%A5-gaden>

4 <https://www.da.dk/politik-og-analyser/eu/2018/den-fri-bevaegelighed-er-en-gevinst-men-ikke-ubetinget/>

5 <https://europabevaegelsen.dk/myten-om-velfaerdsturisten-eu-borgeres-ret-til-sociale-ydelser-i-danmark/>

6 The "yellow card" is a health insurance card widely used for identification purposes as Danes have no national ID card.



“The survival strategies of destitute people have been criminalised by the passing of new restrictive laws”

a tree. If you do not speak Danish and you cannot present this card and number, more or less everyone will think you are “illegal”.

The problem for the mobile EU citizens we meet is that they remain unregistered until they have found a job, can present a work contract and register as workers. It is not possible to register at the State Administration as a jobseeker. At the same time, it is very hard to find employment when they cannot present a yellow card that proves their right to reside and work. Without it, they literally cannot enter the job centres in order to receive guidance on how to find a job and most employers will not hire them. And those that will, tend to be those that also exploit their workers and offer unreported employment.

This trap is just the first of many ‘catch 22’s’ that effectively maintain mobile EU citizens - if not pull them - into homelessness and destitution. And for those who manage to pass this critical point, there awaits a nightmare of bureaucracy and vicious administrative circles that in our experience are almost impossible to overcome. Only the strongest and most resilient make it through.

During this process people try to survive and find themselves in need of social assistance. According to Danish law on social services⁷, to be eligible for social assistance from e.g. homelessness services, you’d have to i) reside legally (§2) and ii) be in the target group of the service in question. Social workers are well trained to assess the latter, but not the former, as it is very complicated and unclear (see below). So, to be on the safe side, most of them ask to see the yellow card before letting people into their services. Especially because it is a criminal offence to assist a person to reside illegally in the country⁸. There has been an unprecedented focus on this issue in recent years⁹.

UNCLEAR CONCEPTS CREATE AN UNFORTUNATE LIMBO

This brings us to the second major reason why destitute mobile EU citizens are being excluded: the complexity and lack of clarity in central concepts of the free movement directive and its implementation.

First of all, many of the people we deal with travel back and forth, in and out multiple times a year, and since there is no border control or passport stamps, the time frames of 3 and 6 months seem really just fictive. Secondly, what does it mean to be a jobseeker, when there is no official place to register as such? To have a genuine chance of finding work? Last, what does it take to become an unreasonable burden to the

social system for someone who is not registered – and who makes this assessment? These are some of the questions we and our service-users are confronted with on a daily basis, and that can be very important for the situation of the person involved.

There is little or no help to be found from the authorities. It is our experience that the lack of clear definitions of central concepts creates a limbo, in which street level bureaucrats lose sight of the intentions of the free movement directive and are left with too much uncertainty and confusion. This has the unfortunate consequence that they tend to administer more in accordance with the current political atmosphere, than what is most correct according to instructions and current case law, as research supports¹⁰. The destitute citizen is most often not given the benefit of the doubt. And calling the EU-hotline is more likely to provide the caller with insight into the personal political preferences and moral assessment of the employee picking up the phone, than to provide legal clarity.

CRIMINALISATION OF SURVIVAL STRATEGIES

Meanwhile, the issue of destitute mobile EU citizens and their misfortune is being dealt with from a criminal perspective on street level. The survival strategies of destitute people have been criminalised by the passing of new restrictive laws in 2017 and 2018 that are vigorously enforced by immigration police: law prohibiting ‘intimidating camps’, law expelling people from whole municipalities - effectively cutting them off from collecting bottles or accessing social services - and a law increasing the penalty for begging. The latter is ironically now penalised much harder than pickpocketing.

In addition, we have received accounts of repeated abuse of power by the police: cases of homeless people being examined and held in custody for weeks, after which they have been released to the street without any explanation and without their documents. Cases where police have driven people outside of the city and pointed them in the direction of Romania and cases of police violence.

Does this sound a bit harsh or unlikely to take place in a nice and small welfare state like Denmark? Forget about what you heard about this little paradise. And forget about what is in the legislation and case law. When politicians and bureaucrats have decided to point out a scapegoat, there is no mercy. And for the time being, those who have been pointed out are homeless and destitute mobile Europeans from eastern Europe.

7 <https://www.retsinformation.dk/Forms/R0710.aspx?id=202239>

8 https://www.retsinformation.dk/Forms/R0710.aspx?id=194003_§_59_stk_2

9 Following increased support to right wing nationalists in Danish politics in recent years, it has come so far, that public funds have been withdrawn from an emergency night shelter in a local church, because the management could not provide a guarantee, that all service users resided legally, as the majority of them were unregistered mobile EU citizens. See: <http://nyheder.tv2.dk/samfund/2017-09-29-efter-tv-2-dokumentar-nu-skal-kirkens-korshaer-betale-170000-kroner-tilbage>

10 Thierry, Jessica Sampson and Martinsen, Dorte Sindbjerg (forthcoming 2018). Lost in Translation: How Street-Level Bureaucrats Condition Union Solidarity. *Journal of European Integration*, 40(6), 819-835