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CORE Policy Paper

Analysis of the obstacles to freedom of movement and political participation
Policy Recommendations



Explanatory remarks

The Civic Observatory on the Rights of EU Citizens (CORE) is a joint venture between the European Citizens Action Service (ECAS), the European Federation of National Organisations Working with the Homeless (FEANTSA) and Medecins du Monde (Mdm).

CORE's mission is to **strengthen protection of mobile EU citizens, including citizens in vulnerable life situations through improved enforcement of their freedom of movement rights.**

ECAS empowers citizens to exercise their rights and campaigns for an inclusive, transparent and democratic Europe, where the benefits of EU citizenship can be fully tapped. In the framework of its EU Rights focus area, ECAS provides personalized advice to mobile EU citizens through the Your Europe Advice service and advocates for promotion and enforcement of citizens' rights through:

- analysis of problems faced by EU mobile citizens, presented at ECAS's annual Brussels-based forum 'State of the Union Citizens' Rights' conference;
- strengthening the capacity and knowledge of civil servants and relevant national, regional and local experts on EU citizenship and related rights;
- complaints and petitions filed by the EU Rights Clinic against Member States that have failed to secure the rights of EU citizens;
- identification of good practices in the implementation of the EU Citizenship Directive (2004/38/EC) at national level.

FEANTSA works towards ending homelessness by engaging in constant dialogue with the European institutions and national and regional governments in:

- promoting the development and implementation of effective measures to end homelessness;
- conducting and disseminating research and data collection to promote better understanding of the nature, extent, causes of and solutions to, homelessness;
- promoting and facilitating exchange of information, experience and good practice between FEANTSA's member organisations and relevant stakeholders with a view to improving policies and practices addressing homelessness; and
- raising public awareness about the complexity of homelessness and the multi-dimensional nature of the problems faced by homeless people.

Mdm is an international medical development NGO which is part of an international network. It focuses its activities on those who do not have access to healthcare. Médecins du Monde structures its work around five axes: people on the margins of society (homeless, undocumented, drug users, sex workers, etc.); children in vulnerable situations; women (for example those in their fight for equality or against sexual violence); migrant or displaced persons; and victims of crises or conflicts.



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Executive summary

There are approximately 17.5 million EU citizens residing in an EU country other than their own (Eurostat 2019). The conditions under which EU citizens can exercise their free movement rights are specified in Directive 2004/38/EC¹, which aims to encourage freedom of movement and minimize administrative formalities in the Member States. The Directive gives EU citizens a right to reside in another Member State for a period of less than three months without imposing any requirements (except for possession of a valid identity card or passport) and more than three months for workers and all other EU citizens if they can prove that they have sufficient resources and comprehensive sickness insurance cover in the host Member State.

Even though the Directive has been in force for 15 years, EU mobile citizens still encounter obstacles to their rights as a result of imperfect implementation at national level. This has been highlighted by European Commission and European Parliament reports and studies²; infringement proceedings against certain Member States for incorrect or incomplete transposition; the number of complains and petitions submitted by citizens to the European Commission (EC) and the European Parliament (EP); as well as the increasing number of citizens' enquiries to EU advice services, such as Your Europe Advice (YEA)³ and SOLVIT. Certain undefined concepts in the Directive are subject to restrictive interpretation by some Member States creating additional challenges and unpredictability for mobile EU citizens and their family members.

The aim of this Policy Paper, developed by the European Citizen Action Service (ECAS), the European Federation of National Organisations Working with the Homeless (FEANTSA) and Médecins du Monde (MdM), in the framework of the Civic Observatory on the Rights of EU Citizens (CORE), is to outline the most pressing problems and obstacles in the field of EU citizenship; propose recommendations on how to overcome these; and render more effective the freedom of movement for EU mobile citizens, including those in vulnerable life situations.

The evidence is based on citizens' enquiries and testimonies provided by ECAS, including YEA data between January 2015 and December 2018, and the findings from the FAIR EU⁴ crowdsourcing exercise on the obstacles to free movement and political participation of mobile EU citizens. The information on the situation of destitute mobile EU citizens is based on data and case studies provided by FEANTSA and its member organisations, including the organisations' annual reports, studies, surveys, street counts and the legal fitness check (2017-2019) on national implementation of the Citizens Rights Directive in Belgium, Germany and the United Kingdom. Finally, an in-depth examination of access to medical care for people in vulnerable situations such as migrants, homeless people and EU mobile citizens, was carried out by MdM, based on testimonies from 29,359 people who participated in surveys in Belgium, France, Germany, Luxembourg, Sweden, Switzerland and the United Kingdom between January 2017 and December 2018.

¹ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC, OJ L 158

² For example: [https://www.europarl.europa.eu/RegData/etudes/STUD/2016/571375/IPOL_STU\(2016\)571375_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2016/571375/IPOL_STU(2016)571375_EN.pdf); [https://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_STU\(2016\)556964](https://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_STU(2016)556964), https://www.europarl.europa.eu/cmsdata/109222/pe%20556%20954%20en_All_Online_Poland.pdf

³ Your Europe Advice is an EU advice service for the public, provided by the legal experts from the European Citizen Action Service (ECAS) operating under contract with the European Commission. It consists of a team of 60 independent lawyers who cover all EU official languages and are familiar with EU law and national laws in all EU countries. YEA provides free and personalised advice within a week, clarifies the European law that applies to specific cases and explains to citizens how they can exercise their EU rights.

⁴ FAIR EU was a project led by ECAS and implemented between 2018-2019. FAIR EU was co-funded by the Rights, Equality and Citizenship Programme (2014-2020) of the European Union.

An EC Communication⁵ on Directive 2004/38/EC was published in 2009. Building largely on case-law of the Court of Justice of the European Union (ECJ), it addressed and provided clarification on several aspects of the Directive with the aim of improving its implementation in the Member States. However, the Communication did not address all challenges experienced by citizens exercising their right of freedom of movement, many of which have become more pronounced in recent years as a result of various factors. The increase in EU and non-EU citizens moving around the EU often makes it difficult for public authorities to cope with related administrative requirements and gives rise to negative narratives around migration and diversity in many EU Member States, reinforcing populist trends in politics.

Considering these developments and the fact that since 2009 there have been several important ECJ judgements clarifying various aspects of the Directive, it is necessary that the EC adopt a new Communication with the aim of providing Member States with up-to-date guidelines. This would contribute to improving implementation of the Directive at national level for the benefit of EU citizens and their family members.

Aspects which require clarification include:

- “comprehensive sickness insurance” requirement;
- the concept of “sufficient resources”;
- the initial three months of unconditional residence;
- requirements to obtain permanent residence documents;
- the notion of “worker”;
- the concept of a “genuine chance of obtaining employment”;
- the notion of “public policy”.

This policy paper also identifies persistent obstacles and recommends positive action in several EU Member States, including:

- Sweden, regarding the problems related to issue of personal numbers;
- Spain, Italy, France and Portugal, concerning the refusal of public authorities to accept marriage and birth certificates from EU citizens and their non-EU family members issued by a non-EU country;
- Sweden, Ireland and the UK, in relation to excessive delays in issuing residence cards to non-EU family members; and
- Belgium, as regards the systematic verification of residence rights.

The situation of destitute mobile EU citizens tends to be particularly complicated, as they are often among those working poor with irregular working hours and atypical contracts. As a result, they are often deprived of their residence rights, lack access to health services and social benefits, and risk expulsion from their host countries. Their unrealised healthcare needs are not in accordance with the principles of the European Pillar of Social Rights, which states that “everyone has the right to timely access to affordable, preventive and curative healthcare of good quality”. Recommendations for this group of EU citizens therefore include:

- *Better reporting on access to healthcare*: The monitoring instruments of the European Pillar of Social Rights should be complemented with information about those living in communal housing or institutional care and the homeless, as they are currently excluded from reporting;
- *Data collection*: Member States should commence gathering reliable data on mobile EU citizens who are homeless to identify factors of vulnerability to homelessness and the reasons behind these unintended consequences of EU free movement. Member States should actively develop and employ research

⁵ Communication from the Commission to the European Parliament and the Council on guidance for better transposition and application 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, COM/2009/0313 final

methods to include currently excluded EU mobile citizens and those who are homeless, in their national health reporting;

- *Strengthened cooperation between countries of origin and host countries*, which would improve Member States' ability to react once an EU mobile citizen becomes homeless;
- *Cross-sectoral partnerships at local level*: Cooperation between various services (housing, employment, health and education) would help cities to develop holistic homelessness strategies;
- *Strengthened collaboration and exchange of knowledge* between homeless organisations and legal experts specialised in EU free movement;
- *Availability of funding*: National and EU decision-makers should ensure the availability of funding for implementation of programmes which provide destitute mobile EU citizens with social inclusion services and healthcare.

Finally, as regards the political rights of mobile EU citizens: due to multiple obstacles encountered throughout the electoral registration process and a general low awareness of electoral rights; political participation of mobile EU citizens remains very limited. In order to enhance this participation, several recommendations are proposed, the most important ones being:

- *Regular communication and outreach activities* targeting mobile EU citizens by local authorities, the EU institutions and relevant civil society organisations (CSOs);
- *Availability of training for municipal authorities* who work in direct contact with mobile EU citizens, so that the information they provide on political rights is reliable and accurate;
- *Regular education about the functioning of the EU and EU citizens' rights* at each level of education.
- *Automatic or quasi automatic registration on the electoral roll for local elections*;
- *Placing registration deadlines closer to elections* to allow mobile EU citizens sufficient time to register.
- *Introduction of online registration on the electoral roll* to facilitate and speed-up the process;
- *Monitoring implementation of political rights* by the EU and national decision-makers to ensure that there are no EU mobile citizens precluded from exercising their political rights due to incompatible national and local rules or administrative hurdles.

Introduction

Background

Free movement is one of the most cherished accomplishments of the European Union. According to the Eurobarometer survey in spring 2018, more than 8 out of 10 Europeans support "free movement of EU citizens who can live, work, study and do business anywhere in the EU"⁶. In the words of Commissioner Marianne Thyssen, *"free movement is more than a fundamental right established in the EU Treaties. It is a living reality, enjoyed by millions"*.⁷

The conditions under which EU citizens can exercise their free movement rights are determined by Directive 2004/38/EC. This Directive provides further expression to several articles of the Treaty on the Functioning of the European Union (TFEU)⁸, in particular those on EU citizenship (Art. 20), free movement of persons (Art. 21) and workers (Art. 45), freedom of establishment (Art. 49) and the provision of services (Art. 56), as well as the prohibition of discrimination on the grounds of nationality (Art. 18). The Directive gives substance to the fundamental right to free movement guaranteed by Article 45 of the EU Charter⁹.

Despite the fact that EU citizens are increasingly mobile - between 2017 and in 2018, there was an increase of around 600 thousand mobile citizens residing in an EU country other than their own (Eurostat 2019) - they and their non-EU family members continue to experience challenges and obstacles to their free movement rights as a result of a lack of harmonised residence and visa requirements in different Member States and unclear definitions of certain concepts, such as "comprehensive sickness insurance", "worker", and others.

The tendency towards corrosion of the fundamental right of freedom of movement of EU mobile citizens in recent years has also been reflected in the number of cases and problems identified by the EC advice services. Your Europe Advice enquiries increased by 40% in the period 2012 – 2019 (from 16,761 in 2012 to 28,000 in 2019). Access to social security and entry and residence procedures are among the most problematic issues EU-wide. Obstacles related to entry are particularly burdensome for non-EU family members, who often face delays, excessive administrative requirements to receive visa or residence documents and visa refusal on invalid grounds. Not only do these issues impact on their and their EU family members' life-long decisions, but they also undermine EU citizens' rights to family and professional life, as enshrined in Article 33 of the EU Charter on Fundamental Rights.

Other people particularly at risk of having their free movement rights denied or endangered are destitute mobile EU citizens. In fact, in many European cities, mobile EU citizens account for a significant proportion of the homeless population and, where access to homeless services is limited to those who have a right to reside, they are highly represented among people sleeping rough. In fact, according to data collected by Médecins du Monde/Doctors of the World (MdM), 29.4% of mobile EU citizens using their care services¹⁰ are homeless. Those people are often unaware of their rights and struggle to find adequate support.

Vulnerable, undocumented and uninsured people, including mobile EU citizens, are often excluded from healthcare services in Europe. The WHO global monitoring report states that at least half of the world's population

⁶ https://ec.europa.eu/commission/presscorner/detail/en/IP_18_4148

⁷ <https://ec.europa.eu/social/main.jsp?catId=89&langId=en&newsId=9220&furtherNews=yes>

⁸ Treaty on the Functioning of the European Union, OJ C 326

⁹ Charter of Fundamental Rights of the European Union, OJ C 326

¹⁰ Médecins du monde or Doctors of the World provides emergency and long-term medical care to the world's most vulnerable people

still lacks access to essential health services¹¹ and previous MdM Observatory Reports have shown there are populations living in Europe with little or no access to healthcare. Neglected healthcare needs have also been recognised as an important aspect of social protection by EU Member States and, thus, included in the Social Scoreboard monitoring EU Member States' performance in relation to the European Pillar of Social Rights¹².

Objective, Methodology and Structure

This policy paper is developed in the framework of the Civic Observatory of the Rights of EU Citizens (CORE), which is an initiative co-created in 2019 by ECAS, FEANTSA, and MdM. The overall aim of the CORE is to monitor and take stock of legal and political developments in the field of EU citizenship, including the right to free movement, political inclusion, access to health care and tackling homelessness among mobile EU citizens in order to strengthen protection for mobile EU citizens, including citizens in vulnerable life situations through improved enforcement of their freedom of movement rights.

The objective of this report is to present the most persistent obstacles to freedom of movement encountered by EU mobile citizens based on the evidence and to formulate policy recommendations for improvement.

The evidence is derived from:

- citizens' enquiries and input, provided by ECAS, namely:
 - Your Europe Advice data between January 2015 and December 2018;
 - Findings from the FAIR EU crowdsourcing exercise on the obstacles to free movement and political participation of mobile EU citizens in their host countries conducted by ECAS between August 2018 and May 2019.
- data and case studies provided by FEANTSA and its member organisations on homeless mobile EU citizens from 2011 to 2019, namely the organisations' annual reports, studies, surveys, street counts and the legal fitness check (2017-2019) on national implementation of the Citizens' Rights Directive in Belgium, Germany and the United Kingdom, particularly with regard to access to social benefits and safeguards against expulsions; and
- Data and testimonies from 29,359 people who attended MdM programmes in seven countries (Belgium, France, Germany, Luxembourg, Sweden, Switzerland, and United Kingdom) between January 2017 and December 2018 and participated in surveys (15.9% of the MdM country clinics' visitors are mobile EU citizens).

The structure of the Policy Paper comprises an Executive Summary, Introduction (outlining context, objectives and methodology), Main Findings stating the challenges illustrated by case studies and Conclusions and Recommendations.

¹¹ World Health Organization and International Bank for Reconstruction and Development/The World Bank 2017. (2017). *Tracking universal health coverage: 2017 global monitoring report*. Geneva: World Health Organization and International Bank for Reconstruction and Development/The World Bank 2017. Licence: CC BY-NC-SA 3.0 IGO.

¹² https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights_en

Main findings

Citizenship of the EU (as defined by Art. 20 of the Treaty of the Functioning of the EU (TFEU)) confers on every citizen of the Union the right to move and reside freely within the territory of the Member States.

Art. 9 of the TFEU states that the Union “shall take into account requirements linked to the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health”. According to Art. 35 of the Charter of Fundamental Rights of the EU, “everyone has the right to access preventive healthcare 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 Union policies and activities.” In 2017, the EP, the Council and the EC proclaimed the European Pillar of Social Rights, setting out 20 key principles and rights to support fair and well-functioning labour markets. According to Principle 16, “everyone has the right to timely access to affordable, preventive and curative healthcare of good quality”¹³. The President of the European Commission, Ursula von der Leyen, committed to the Pillar in her speech before the EP in Strasbourg in July 2019 and in her political guidelines on the mandate of the new European Commission, announcing further actions to implement these principles and rights. The latest action is the Communication from the Commission entitled “A Strong Social European Union for Just Transition”¹⁴

Despite all these guarantees, mobile EU citizens and their non-EU family members continue to face obstacles when entering other Member States, applying for residence documents, accessing healthcare or the job market, etc. While Member States have a duty to properly implement free movement rights; in recent years, there has been a tendency to restrict exercise of these rights, especially in the context of vulnerable and destitute mobile EU citizens¹⁵.

Obstacles to freedom of movement

According to data collected by Your Europe Advice, more than 1/2 of all enquiries concern citizens’ entry and residence rights in the EU and these issues have been of increasing concern to citizens in the recent years¹⁶. The problems identified in this area affect both EU citizens and their non-EU family members. They touch upon various issues, including long waiting periods and significant delays in issuing visas or residence documents, difficulties in obtaining clear and reliable information from consular services or national authorities, lack of recognition of EU citizens’ birth or marriage certificates (making family re-unification impossible), etc. These issues are described in detail below.

Obstacles to entry

On a positive note, entry into other EU Member States is straightforward for most EU citizens. They face few obstacles, the main ones being:

- Difficulties in obtaining travel documents from consular authorities when they are resident in another EU country;

¹³ https://ec.europa.eu/commission/sites/beta-political/files/social-summit-european-pillar-social-rights-booklet_en.pdf

¹⁴ Communication COM (2020) 14 from the Commission to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Region. A Strong Social Europe, for just Transition. European Commission. Brussels. 14/01/2020.

¹⁵ In 2017, the UK, for instance, introduced the concept of rough sleeping as constituting an abuse of rights, which allowed the Home Office to arrest and deport mobile EU citizens merely for sleeping rough. This policy was deemed unlawful by the UK High Court and put to an end, but begging and rough sleeping are considered as threats to public policy in many EU Member States.

¹⁶ Nicolau A., Freedom of Movement in the EU: A Look Behind the Curtain, ECAS, 2018

- Refusal to accept EU citizens' national ID cards as valid travel documents by airport staff, e.g. Greek and Hungarian citizens face problems when they present their ID cards in paper format.

The situation is however much more complicated for non-EU family members of EU citizens: 90% of all entry enquiries received by YEA concern the rights of non-EU family members travelling with their family member who is an EU citizen or joining an EU mobile citizen in the host EU country¹⁷.

The main problems reported by non-EU family members are the following:

- Difficulties in obtaining clear and correct information on the specific entry rules that apply to non-EU family members from consulates and visa service providers;
- A visa is required when it should not be:
 - from non-EU family members travelling in and out of the Schengen area, who hold a family member residence card issued by an EU country on the basis of EU law;
 - from non-EU family members whose EU residence card will expire in less than three months after their intended date of departure from the destination country;

The Austrian Consulate in Bucharest told a visa exempt family member of an EU citizen that he would require a visa to enter Austria. The French Consulate in London did not recognize that a residence card issued by the UK, exempted the spouse of an Irish national from the visa requirement for France.

- Long term or family reunification visas are required when a short-term visa should be adequate;
- Visas are issued with limited duration when family members have an unconditional right to stay with their EU family member for three months;
- Those non-EU family members who require visas cannot apply for their visa in the EU country where they are visiting or even resident. They are told to return to their country of origin and apply for a visa from there;
- Detention and delays at the border because border control officers were not aware of or did not apply EU rules.

Additional obstacles concern difficulties in accessing the accelerated procedure for visas. According to Article 5(2) of Directive 2004/38/EC, non-EU family members of an EU citizen who require an entry visa and want to accompany their EU family member to another Member State must be issued with a visa under an accelerated procedure and free of charge. However, the evidence based on the inquiries received by YEA, suggests that this condition is not always satisfied.

Additionally, non-EU family members have reported excessive requirements and fees and long delays in obtaining a visa. Directive 2004/38/EC does not specify a timeframe for processing family members' visa applications, but the EC Communication from 2009 clearly indicated that delays of more than four weeks are not reasonable. In Ireland, delays of up to two years have been reported by citizens.¹⁸

The Italian consulate in Algiers refused to apply the accelerated procedure to the non-EU spouse of a French national, even though the citizens provided evidence of their family link and copies of Directive 2004/38/EC. They were told that the spouse had no special privileges. She should pay the visa fee and follow the normal tourist visa procedure.

¹⁷ Ibid.

¹⁸ Nicolau A., Freedom of Movement in the EU: A Look Behind the Curtain, ECAS, 2018

Obstacles to residence

Residence rights have always been of great concern to citizens in the EU. In 2018, enquiries relating to this issue exceeded 20% of all YEA enquiries. Citizens are particularly concerned about the rights of their non-EU family members, with such enquiries comprising more than 1/3 of all residence enquiries¹⁹.

Long waiting periods and delays in issuing residence documents

Directive 2004/38/EC provides that EU citizens must immediately be issued with a certificate of registration which contains their personal details and the date of registration. Similarly, permanent residence documents should be issued as soon as possible. Yet, between January 2015 and December 2018, YEA received 364 enquiries concerning delays in issuing residence cards. In Austria, some EU citizens had to wait up to 15 months to receive their registration certificates. Other countries where long delays were registered include Ireland, Sweden, the UK, Belgium²⁰, Cyprus, Czech Republic, Denmark, France²¹, Italy²², Malta and the Netherlands.

These delays have been particularly problematic for non-EU family members who are not always able to obtain an appointment before their entry visa expires. Some citizens have been directed to return to their home country and re-apply for a long-term visa as no registration appointment was possible within six months²³.

The Turkish husband of a Romanian worker, who entered Germany on a short-term Schengen visa, was told his application for a residence card would not be accepted unless he left Germany and reapplied for a long-term family reunification visa.

Complicated registration formalities

According to EU case law, EU mobile citizens moving to another EU Member State with the purpose of finding a job should only need to prove they are looking for a job during their first six months of residence. They can unconditionally stay in the host country beyond 6 months if they continue to seek employment in the host Member State and have a 'genuine chance' of finding work²⁴. However, the British and Belgian authorities generally try to limit recognition of residence rights and restrict access to social welfare for first-time jobseekers.

In Belgium, jobseekers are required to prove registration with the employment office and demonstrate a genuine chance of being employed after three months of residence, whereas under EU law, these requirements should only be imposed after six months of residence. It has been reported that Belgian authorities often refuse to recognise the EU citizens' rights of residence when they are unable to find work within a period of four to five months following their arrival in Belgium. Similarly, in the UK, jobseekers have a right to reside for only 91 days rather than 6 months. This period is calculated to include any period spent in the UK as a jobseeker.

Residence formalities are particularly problematic for third-country family members of EU citizens who present marriage or birth certificates issued by non-EU countries in order to prove their family link²⁵. This problem has

¹⁹ Ibid.

²⁰ N. Meurens, J. Van Caeneghem, *Obstacles to the right of free movement and residence for EU citizens and their families. Country report for Belgium*. June 2016

²¹ V. Leigh, J.C. Nicaise Chateau, S. Morel, I. Büschel, *Obstacles to the right of free movement and residence for EU citizens and their families: Country report for France*. June 2016

²² S. Brunello, A. Perego, *Obstacles to the right of free movement and residence for EU citizens and their families: Country report for Italy*, June 2016

²³ Nicolau A., *Freedom of Movement in the EU: A Look Behind the Curtain*, ECAS, 2018

²⁴ Judgment of 26 February 1991, Antonissen, C-292/89, EU:C:1991:80, paragraph 21

²⁵ A. Nicolaou, *Freedom of Movement in the EU: A Look Behind the Curtain*, ECAS, 2018

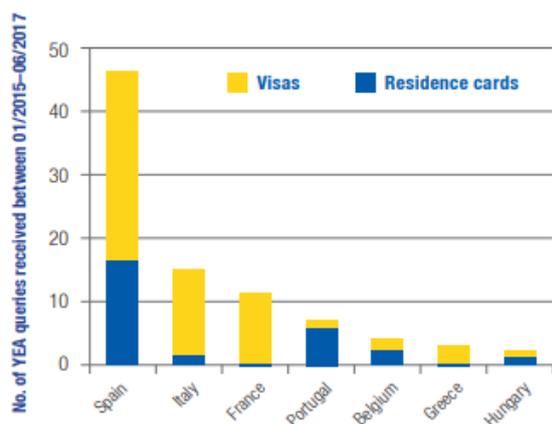


Figure 1: Non-recognition of foreign marriage certificates for the purpose of granting visas or residence cards
 Source: A. Nicolaou, *Freedom of Movement in the EU: A Look Behind the Curtain*, ECAS, 2018

been frequently identified in France²⁶, Italy, Portugal and Spain²⁷. The authorities in these Member States do not recognize such documents and require that the certificates are apostilled or legalised; registered in the Member State of the EU citizen's nationality; and dated within 90 days of presentation. All these requirements imply significant costs and are time-consuming. Citizens are often given just a number of days to provide all the necessary documents.

If they do not meet these conditions, non-EU family members are unable to receive their residence documents. If they entered on a short-term visa, they often fear they must leave the country or bear the consequences of overstaying. As a result, they are often unable to stay in a chosen Member State, cannot work or have a normal life with their EU family member. This

is contrary to Article 33 of the EU Charter of Fundamental Rights which states that "the family shall enjoy legal, economic and social protection".

I am a British National resident in Spain. My wife has been domiciled in Bangkok for more than 35 years, having been a teacher in international schools in Bangkok. She now lives in Bangkok on a retirement visa. After three years or more of obstruction by the Spanish Embassy in Bangkok in processing her visa application, the Spanish authorities have finally advised that because the UK does not recognise foreign marriages and as there is no system for registering/storage of these marriages in the UK, they cannot recognise the foreign marriage.

Requirement to prove possession of sufficient resources

Directive 2004/38/EC grants a right of residence for more than three months to all EU citizens who "have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the host Member State during their period of residence"²⁸ and "comprehensive sickness insurance cover"²⁹. At the same time, it clarifies that "Member States may not lay down a fixed amount which they regard as "sufficient resources" but must take into account the individual situation of each person concerned"³⁰.

However, according to several YEA enquiries, some Member States tend to impose arbitrary thresholds. This has been reported in Italy, where the authorities have decided that retired EU nationals and students should possess around €5,800 in order to be able to register³¹. In addition to proof of sufficient financial resources, students have

²⁶ For example, Quarterly Feedback Report No. 11, Your Europe Advice, Quarter 1/2015 (January-March)

²⁷ Quarterly Feedback Report No.6, Your Europe Advice, Quarter 4/2013 (October-December)

²⁸ Art. 7 of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC, OJ L 158

²⁹ Ibid

³⁰ Art. 7 of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC, OJ L 158

³¹ A. Nicolaou, *Freedom of Movement in the EU: A Look Behind the Curtain*, ECAS, 2018

reported that they have been requested to present proof of accommodation or other documents such as birth certificates, police records and tax numbers.

Belgium has also set a fixed minimum amount of sufficient resources, referring to the threshold applicable to social assistance (currently €892.70 per month) as the level of minimum resources which a person needs to possess in order to be considered self-sufficient³².

Another frequently occurring problem in relation to the concept of sufficient resources concerns the origin of such resources. The Court of Justice³³ and the Commission Communication on guidance for better transposition and application of Directive 2004/38/EC clearly state that “it is sufficient for the nationals of Member States to 'have' the necessary resources, and there is no requirement whatsoever as to their origin”. However, several Member States do not accept the non-EU spouse’s income as sufficient resources for residence purposes, leading to a situation in which an EU citizen cannot receive residence documents and their non-EU spouse cannot work because the employer requires a residence card as a prerequisite for employment.

A Bulgarian national wished to move to Belgium with her Turkish husband, who had a job offer there. She did not intend to work as she had a baby. Neither she nor the husband’s future employer could find any information confirming that the husband could start working in Belgium immediately without needing a work permit.

The Indonesian wife of a Bulgarian job seeker in Ireland, who had located a job in Ireland and was working and paying taxes there, was refused a residence card on the ground that her EU husband was not economically active. The husband was a registered job seeker and enrolled in on an Insight Training Course.

“Comprehensive sickness insurance” condition and access to healthcare in the host country

According to Directive 2004/38/EC, students and economically inactive EU citizens must have comprehensive sickness insurance cover. As this requirement is not clearly defined in the Directive, national authorities have a wide margin of interpretation.

This leads to problems, especially for citizens who cannot provide evidence of coverage by their home Member State, e.g. self-sufficient persons in pre-retirement, students who transferred their residence to the host Member State, unemployed people who no longer receive unemployment benefits, homeless people without any link to their home country, etc.

In Member States with contribution-based healthcare, citizens can voluntarily contribute to the system in order to be covered. However, in countries with a residence based national health system, such as the UK and Sweden, or those with a hybrid system, such as France and Spain, citizens may be unable to access the system. In addition, if no private insurance policy is available on the market that can satisfy the “comprehensive sickness insurance” criterion, as is the case in Sweden, EU citizens lose their right of residence.

In Sweden, EU citizens face additional problems. If they are unable to prove that they satisfy the “comprehensive sickness insurance” requirement, they cannot receive their *personnummer*, which is indispensable for all basic life situations, such as opening a bank account, signing employment contracts, collecting mail at a post office,

³² Valcke A., Fitness Check Report for Belgium, A review of the state of compliance of Belgium’s implementation of Directive 2004/38 on residence rights of EU citizens and their family members, 2018

³³ Judgment of 23 March 2006, Commission v Belgium, C-408/03, EU:C:2006:192, paragraph 40 et seq.

registering children at school, etc.³⁴ This problem has been frequently reported to the EC and the EP³⁵, but no effective solution has yet been advanced by Sweden.

As regards access to healthcare, the European Pillar of Social Rights introduced the Social Scoreboard which reported on the self-reported neglected healthcare needs of EU citizens. However, as the data excludes children under 16 and people living outside a private household such as those living in communal housing or institutional care, undocumented people and homeless EU mobile citizens³⁶, the Social Scoreboard conclusions are not comprehensive and de facto exclude a significant segment of the vulnerable population.

The initial three months of unconditional residence

Directive 2004/38/EC provides that EU citizens can reside unconditionally in another Member State for the first three months and after that, they may be required to register. Non-EU family members must register if they intend to stay for longer than three months.

However, the situation becomes problematic for citizens who do not stay for a continuous three months after they first arrive, but come and go, e.g. long-distance truck drivers or persons who work on rotation contracts. While this atypical form of employment does not create issues for EU citizens, it is problematic for their non-EU family members, whose residence rights are conditional on their spouses' intention to stay longer than 3 months in the host Member State.

Excessive requirements for the purposes of permanent residence documents

Article 16 of Directive 2004/38/EC states that after five years of lawful, uninterrupted residence in their host Member State, EU nationals and their family members have the right to remain there indefinitely and unconditionally. Articles 19 and 21 of Directive 2004/38/EC provide that upon receiving an application for permanent residence, national authorities can check the duration of residence and that continuity of residence "may be attested by any means of proof in use in the host Member State".

However, certain Member States, e.g. France, Belgium and Italy, require that the relevant period should immediately precede the date of application, when there is no such requirement in the Directive. Other excessive requirements identified in several Member States include possession of sufficient resources or healthcare coverage; having worked or having paid social security contributions throughout the five year period; knowledge of the local language and culture; or even notarised confirmation from neighbours attesting to continuity of residence.³⁷

The Italian authorities would not allow a UK national to apply for a permanent residence card because he could not provide evidence of a continuous work contract or of being registered as self-employed during the past five years. Instead, the citizen provided evidence of lawful work and of being paid each time he completed a job. This was not accepted as being 'continuous' work and was not considered as evidence of sufficient resources.

³⁴ A. Nicolaou, Freedom of Movement in the EU: A Look Behind the Curtain, ECAS, 2018

³⁵ For instance, [complaint](#) and [petition](#) against Sweden regarding the systematic refusal of the Swedish tax authorities to issue personal identification numbers (personnummer) to EU mobile citizens by Anthony Valcke, on behalf of EU Rights Clinic, a joint venture of ECAS and the University of Kent in Brussels.

³⁶ The population base for the indicator "self-reported unmet need for medical care", drawn from the EU Statistics on Income and Living Conditions (EU-SILC) is defined as "people living in private households above 16 years of age". According to the data collected by MdM, 78.5% of beneficiaries of their services do not live in private households.

³⁷ A. Nicolaou, Freedom of Movement in the EU: A Look Behind the Curtain, ECAS, 2018

The notion of “worker” and “genuine chance of being engaged”

With the emergence of new and flexible forms of employment, defining the notion of “worker” is crucial. There is evidence that certain Member States tend to interpret the genuine and effective nature of a work activity narrowly in order to exclude residence rights and access to social benefits for those mobile EU citizens engaged in low-wage jobs or working only a few hours a week. Within the framework of EU free movement, being regarded as a worker is the least burdensome way to fully enjoy residence rights for mobile EU citizens. However, both the requirement to prove the status of jobseeker and the conditions determining a “genuine chance of finding employment” may differ widely, not only between but also within the Member States. This leads to uncertainty on the part of mobile EU citizens and 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.

Over the past few years, FEANTSA members have come across several cases of homeless mobile EU citizens employed in low paid, precarious and atypical work who are not entitled to residence rights because they did not qualify as “workers”. The data from the PRODEC (Protecting the Rights of Destitute EU Mobile Citizens)³⁸ comparative report shows that in Germany, responsible authorities tend to exclude activities of less than eight hours per week. In Belgium, municipalities often refuse to register EU mobile citizens engaged in short-term or atypical contracts³⁹ and, in the case of the United Kingdom, there is a minimum income threshold, which in 2018/19 was 185 Euros per week. This narrow interpretation affects mainly mobile EU citizens in precarious working conditions who are also more likely to be homeless and jeopardises the possibility for destitute mobile EU citizens to access social benefits and find a way out of destitution.

This approach does not appear consistent with EU case law, which does not set any requirements as to the minimum number of hours, the duration of the working relationship, or the level of remuneration in order for the citizen to be considered as a worker. While the ECJ has not provided an official definition of “marginal” and “ancillary” activities, it has confirmed that an activity of three to fourteen hours per week should be adequate to be considered work⁴⁰ and that an activity generating an income which does not allow for sufficient subsistence may nonetheless be viewed as work⁴¹.

Dana, a mobile EU citizen, lives in Germany. She was employed as a cleaner in the low-income bracket and her funds did not stretch to health insurance. After an accident where a gas heater exploded due to poor housing conditions, she was admitted to a city hospital as an emergency. This left Dana with hospital bills she was unable to pay. She was later refused a follow-up operation on her eye. Dana contacted Mdm Germany because she could not afford the medication she was prescribed. The team managed to establish contact with a volunteer specialist from another charity, who carried out the eye surgery free of charge. Without this operation, Dana might have gone blind. Almost two years after the horrible incident, Dana received a private bill from the hospital. She has been asked to cover her treatment costs which are more than 115,000 euros.

³⁸ PRODEC is a project run by FEANTSA between 2017-2021, it is funded by the European Programme on Integration and Migration (EPIM)

³⁹ According to Eurofound: “Atypical contracts are generally defined as employment contracts that do not conform to a standard, open-ended and full-time contract. This can encompass many types of contract, including part-time, fixed-term, temporary, casual and seasonal”

⁴⁰ Judgment of 18 July 2007, Geven, C- 213/05, EU:C:2007:438

⁴¹ Judgment of 23 March 1982, Levin, C-53/81, EU:C:1982:105, paragraph 15

Tina, a 26-year-old Italian arrived in London in January 2017. She stayed temporarily with friends and found a menial job as a housekeeper. She was paid around 11 euros per hour. She worked 12 hours per week and earned approximately 132 euros per week. She applied for housing assistance but was refused because she was not considered a worker pursuant to the minimum earning threshold test.

Accommodation in London is expensive, so she stayed overnight here and there, sometimes in shelters for the night. She began staying in a squat. The police raided the squat and arrested her at the time that the Home Office considered any mobile EU citizen sleeping on the street as abusing the right to freedom of movement. She spent a day in custody and was issued with a deportation order.

Dariusz is 65. He arrived in Belgium in 1984 when he was 30 and Poland was a communist country. He did not regularise his residence and took up undeclared work. He earned just enough to pay rent. In 2004, when Poland entered the European Union, he was 50 years old. He continued to work in undeclared employment and did not consider registering. He does not speak French or Dutch. In 2011, at the age of 57, he had a work accident. He had no medical insurance. He paid his medical expenses out of savings and was able to continue to pay his rent for a number of months. Because of mobility problems and his age, he was unable to find work after the accident and after a few months, he became homeless. In 2019, aged 65, he has been homeless for several years. He sleeps from time to time in shelters where access is unconditional, but he is often without shelter for the night. He has health problems but no income or medical insurance. Although he has lived in Brussels for 35 years and worked for 27 of these, he has never been registered and therefore has no access to social assistance or specific services. An organisation, funded by the Belgian federal public authorities, offered him voluntary return to Poland where he would have access to services, but Dariusz has no desire to return to Poland.

The notion of public policy

The EU rules allowing a host Member State to limit EU residence rights for reasons related to public policy and security are generally correctly transposed and implemented. However, a wide interpretation of the notion of public policy has been adopted in isolated cases with the aim of targeting citizens living in encampments and sleeping rough.

In Germany, it was reported that, in 2017, Hamburg police officers distributed official letters to EU citizen rough sleepers requesting them to attend interviews at the immigration office. During these meetings, they were asked to provide documents proving their right of residence. This policy may amount to a systematic verification of residence rights which is forbidden under EU law⁴². If the people sleeping rough who received the letters failed to attend the interviews within the deadline provided, they were served with notice communicating loss of their right of residence with a resultant obligation to leave the country. It is not clear on which legal grounds these deportation orders were adopted, but references to criminal offences and violation of laws and social norms may suggest that public policy is being used as a ground for expulsion.

⁴² FRA, Making EU citizens' rights a reality: national courts enforcing freedom of movement and related rights, 2018

Obstacles to political participation of mobile EU citizens

In addition to the right of free movement, EU citizenship also gives every EU citizen the right to vote and stand as a candidate in elections to the EP and in municipal elections in their Member State of residence, under the same conditions as nationals of that State. This right is enshrined in Article 22 of the Treaty on the Functioning of the European Union and is also a fundamental right laid down by Article 40 of the Charter of Fundamental Rights of the European Union. It has been further specified in Directives 93/109/EC (on elections to the European Parliament)⁴³ and 94/80/EC (on municipal elections)⁴⁴.

While the number of EU citizens of voting age has been steadily increasing in the EU, many citizens are not aware of their electoral rights and experience challenges when they want to participate in the elections. A public consultation carried out by the European Commission found that 21% of respondents experienced difficulties in trying to vote in EP or local elections whilst living in another EU country: 51% of them said they encountered difficulties related to registering on the electoral roll; and 47% said they had insufficient or unclear information on how to vote⁴⁵.

In order to analyse these obstacles in-depth, ECAS conducted a crowdsourcing exercise between August 2018 and May 2019. The results of this analysis are presented below.

Registration procedures

Registration for local elections is automatic for mobile EU citizens in only 13 of 28 Member States. In 12 Member States, registration is required and endures for subsequent elections. Three Member States require registration for each election (Greece, Malta and United Kingdom)⁴⁶. In order to participate, mobile EU citizens have to request to be added to the electoral roll, with deadlines often several months before the elections and sometimes before the official start of the electoral campaign. This issue has been frequently reported by mobile EU citizens as one of the key barriers to their political participation. In addition, mobile EU citizens face challenges such as inadequate registration deadlines, inaccurate electoral registers and cumbersome registration procedures.

Disadvantaged groups of citizens, in particular homeless EU citizens who do not have a fixed address, experience even more difficulties with voter registration compared to the general population. However, solutions have been implemented in some Member States. For example, since 2012, homeless persons in France have been allowed to register to vote in the municipality where a centre of social assistance to which they are affiliated is located⁴⁷.

Communication and outreach

The lack of communication and outreach from local and national authorities has been perceived as a key obstacle to mobile EU citizens' political participation. Consequently, many citizens have never been informed about their right to participate in the local and EU elections or have been wrongly informed that they are not eligible to participate. More than 25% of mobile EU citizens who replied to the ECAS crowdsourcing questionnaire, stated they were not aware of their right to vote.

In most Member States, public authorities provide electoral information only in the national language. However, several local authorities have been identified which contact mobile EU citizens using English or even citizens' mother tongues. For instance, the regional Brussels government sent letters to all mobile EU citizens, informing them of the local elections in October 2018 and explaining how to register. Seven out of 19 Brussels municipalities

⁴³ Council Directive 93/109/EC of 6 December 1993 laying down detailed arrangements for the exercise of the right to vote and stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals, OJ L 329

⁴⁴ Council Directive 94/80/EC of 19 December 1994 laying down detailed arrangements for the exercise of the right to vote and to stand as a candidate in municipal elections by citizens of the Union residing in a Member State of which they are not nationals, OJ L 368

⁴⁵ https://ec.europa.eu/info/sites/info/files/factsheet-public-consultation-2015_en.pdf (accessed on 1/12/2019)

⁴⁶ https://faireu.ecas.org/wp-content/uploads/2019/02/FAIREU_Synthesis-Report-1.pdf (accessed on 1/12/2019)

⁴⁷ Ibid.

sent similar letters in French, Dutch and German, while Sint-Gilles addressed EU citizens in their mother tongues, and Etterbeek translated the official letter into English⁴⁸.

The respondents to the crowdsourcing exercise pointed out that the way the information is provided can also have an important impact on citizens' propensity to vote. Local authorities usually rely on traditional channels of information, such as letters or leaflets, reaching only a limited group of foreigners. It seems that the use of more innovative tools, including social media campaigns and e-mail communication, could potentially enhance mobile EU citizens' engagement.

Political environment

Political parties carry out electoral campaigns targeting non-national EU voters only in a few Member States, e.g. Belgium and the UK⁴⁹. This involves campaigning in different languages, meeting with communities of non-nationals and proposing their names on parties' electoral lists. In other countries, political parties usually limit themselves to translating their websites and programmes into English.

Mobile EU citizens also face challenges in establishing political parties and becoming members of political parties in several countries. These challenges relate to laws that reserve party formation to nationals or impose limits on the non-national quota of members.

⁴⁸ <https://www.impeu-project.eu/wp-content/uploads/2019/07/Comparative-analysis-report-on-existing-best-practices-political-inclusion-policies-and-transferability-assessment-2.pdf> (accessed on 1/12/2019)

⁴⁹ https://faireu.ecas.org/wp-content/uploads/2019/02/FAIREU_Synthesis-Report-1.pdf (accessed on 1/12/2019)

Conclusions and Recommendations

From the above analysis, it is evident that EU mobile citizens continue to experience obstacles to their free movement and EU rights. Even though the Directive 2004/38/EC has been in force for 15 years, its implementation remains problematic in some EU Member States.

The right to free movement

In 2009, the EC published a Communication⁵⁰ designed to provide guidance to Member States on how to implement the Directive more efficiently. Since then, there have been several key ECJ judgments that have clarified various aspects of the Directive together with legislative changes made to the Schengen Border Code among others⁵¹. Considering these developments, it is now necessary that the **European Commission adopts a new Communication** clarifying certain key concepts. This would provide Member States with up-to-date guidelines on implementation of the Directive and would contribute to improving application of the Directive at national level for the benefit of EU citizens and their family members.

Based on the obstacles analysed, the following key aspects of the Directive should be clarified by the EC:

- *“Comprehensive sickness insurance” condition*: Member States should take appropriate measures to allow economically inactive EU citizens to either rely on their national health systems or to voluntarily contribute to the national system in a proportionate manner.
- *The concept of “sufficient resources*: Member States cannot impose arbitrary thresholds as regards the amount they consider sufficient, and they should take into account the non-EU spouse’s resources or evidence of current or potential employment for the purpose of establishing the right to reside.
- *The initial three months of unconditional residence* – This three-month period should not re-start every time an EU citizen leaves the territory of the Member State, with the effect that, in the absence of an official system of registration, transient residents struggle to establish residence-based rights.
- *Requirements to receive permanent residence documents* – For EU citizens who comply with the criteria for permanent residence, EU Member States should not impose arbitrary requirements for the purposes of issuing a permanent residence card, such as possession of sufficient resources, knowledge of the local language and culture, etc.
- *The notion of “worker”*: The notion of “worker” requires sharper definition and should be established by providing a broad and inclusive definition of “marginal and ancillary activity” in line with ECJ case law to counter any restrictive interpretation that excludes mobile EU citizens in precarious working conditions.
- *Genuine chance of being engaged*: the conditions determining a “genuine chance of finding a job” differ widely between the Member States, leading to uncertainty about what EU mobile citizens need to prove to have the right to reside and access services and social benefits. The EC should clarify the necessary conditions and ensure that Member states understand that those mobile EU citizens who are seeking employment and have a chance of finding it are entitled to equal treatment with nationals of the host Member State.

⁵⁰ Communication from the Commission to the European Parliament and the Council on guidance for better transposition and application 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, COM/2009/0313 final

⁵¹ https://ec.europa.eu/info/sites/info/files/xiii-10-a-social-security-coordination_en.pdf (accessed on 1/12/2019)

- *The notion of “public policy”*: Automatic expulsion of mobile EU citizens as a result of them sleeping rough or begging, on the grounds of public policy or public security, are not in line with Directive 2004/38/EC. Before issuing an expulsion order on the grounds of public policy or public security, the host Member State should consider the individual situation of each mobile EU citizen.

As regards other obstacles identified, positive action at EU level is necessary to address the problems that mobile EU citizens and their non-EU family members experience in attempting to exercise their entry and residence rights in the following countries in particular:

- **Sweden**, where problems caused by the personal number requirement have been reported by citizens on a regular basis for more than 10 years;
- **Spain, Italy, France and Portugal**, as regards the refusal to accept marriage and birth certificates issued by a non-EU country;
- **Sweden, Ireland and the UK**, in relation to excessive delays in issuing residence cards to non-EU family members;
- **Belgium** as regards systematic verification of residence rights.

These obstacles have been the subject of several complaints to the EC as well as petitions to the EP⁵². Both the EC and the EP have contacted the relevant Member States to obtain further information. Some Member States have taken action to resolve the identified problems, e.g. the Swedish authorities introduced a substitute identification number: the so-called "coordination number", for mobile EU citizens who are unable to obtain a personal number. However, enquiries that YEA continues to receive indicate that this solution has not been satisfactory and more should be done to facilitate mobile citizens' rights of residence. Concrete actions which should be undertaken either at EU or national level have been elaborated upon in ECAS' report, "Freedom of Movement in the EU: A Look Behind the Curtain".⁵³

As regards the needs of vulnerable mobile EU citizens, **the European Commission** should counter any restrictive interpretation of free movement rights at national level and make sure that the fundamental rights of the most vulnerable – those with high support needs who are at the margins of society – are properly respected. Mobile EU citizens who struggle to make ends meet, who are looking for a job, working poor, experiencing precarious working conditions and unable to afford to pay rent, must be supported through protection of their EU free movement rights, particularly in terms of access to social benefits and services. Leaving people on the street and targeting them with anti-social behaviour measures is an attack on human dignity and should be considered as degrading treatment.

The **European Commission** should ensure that the monitoring instruments of the EU Social Pillar include information on people living in communal housing or institutional care, undocumented people and homeless, as the omission of these populations in the EU's data severely undermines policymakers' ability to address neglected

⁵² For example: <https://petiport.secure.euoparl.europa.eu/petitions/en/petition/content/1158%252F2016/html/Petition-No-1158%252F2016-by-G.G.-%2528American%2529-on-the-infringement-of-EU-legislation-on-family-reunification-waiting-times-by-the-Swedish-immigration-authorities>, <https://petiport.secure.euoparl.europa.eu/petitions/en/petition/content/1211%252F2017/html/Petition-No-1211%252F2017-by-Anthony-Valcke-%2528Belgian%2529%252C-on-behalf-of-the-EU-Rights-Clinic-and-Crossroads-G%25C3%25B6teborg%252C-on-failure-to-comply-by-Sweden-with-EU-law-in-respect-of-issuing-the-personal-identification-number-%2528personnummer%2529-to-EU-citizens-and-their-families>, <https://petiport.secure.euoparl.europa.eu/petitions/en/petition/content/0927%252F2018/html/Petition-No-0927%252F2018-by-Anthony-Valcke-%2528Belgian%2529%252C-on-behalf-of-EU-Rights-Clinic%252C-on-the-implementation-of-Directive-2004%252F38%252FEC-in-Belgium>, <https://petiport.secure.euoparl.europa.eu/petitions/en/petition/content/0925%252F2018/html/Petition-No-0925%252F2018-by-Anthony-Valcke-%2528Belgian%2529%252C-on-behalf-of-EU-Rights-Clinic%252C-on-the-implementation-of-Directive-2004%252F38%252FEC-in-France>

⁵³ A. Nicolaou, Freedom of Movement in the EU: A Look Behind the Curtain, ECAS, 2018

healthcare needs of mobile EU citizens in vulnerable situations. In addition, **EU Member States** should actively develop and employ additional methods, such as participatory qualitative research to include currently excluded EU mobile citizens and the homeless in their health reporting.

The newly elected **European Commission** should bear mind Article 16 of the European Pillar of Social Rights in its upcoming actions and make sure that all EU citizens, including those living in another EU Member State, have the right to timely access to affordable, preventive and curative health care of good quality.

It is necessary that **Member States** commence collecting reliable data and carrying out comparative research on the profiles of homeless mobile EU citizens to identify the factors of vulnerability to homelessness and the reasons behind the unintended consequences of EU free movement. This knowledge, together with better cooperation between 'sending' and 'host' countries, would improve Member States' ability to react once an EU mobile citizen becomes homeless.

European cities are directly affected by issues relating to homelessness among mobile EU citizens. Firstly, because financial resources are provided to homelessness services, including emergency accommodation, especially during winter programmes. Secondly, because of public policy and security reasons that are often raised when there is a significant number of people sleeping rough. In order to respond more effectively to the problem of homelessness among mobile EU citizens, local councils should work towards developing cross-sectoral partnerships between various services, including housing, employment, health and education services. This would help cities to develop integrated homelessness strategies, which would effectively meet the diverse needs of destitute mobile EU citizens and properly address public policy issues, without the necessity to rely on measures that criminalise homelessness.

In addition, **Member States** and the **European Commission** should actively support (financially and structurally) collaboration between organisations providing services to destitute mobile EU citizens and legal experts specialising in EU free movement. Such an exchange of knowledge would help professionals working with destitute mobile EU citizens to acquire knowledge regarding the EU legal framework and propose adequate solutions to beneficiaries. In addition, this exchange of knowledge would assist legal experts in becoming acquainted with obstacles faced by destitute mobile EU citizens in exercising their rights to free movement.

Finally, **national and EU decision-makers** should ensure that an appropriate level of funding is available to those organisations which provide destitute mobile EU citizens with social inclusion services and healthcare. In particular, financial instruments such as the European Social Fund Plus (ESF+) must be available to fund initiatives and programmes responding to the healthcare needs of those who have been excluded from healthcare. Funds must be made available in the new Multiannual Financial Framework of the EU to encourage innovative low threshold accessibility healthcare services throughout Europe. Mobile clinics and outreach by healthcare professionals have proven effective to target the most excluded and to regain trust in the healthcare system.

Coordination between **social services and healthcare providers** needs to be improved in order to provide effective follow-up treatments and housing, especially for homeless people suffering from chronic illness, drug users, mental health patients and discharged hospital patients.

Political rights

EU citizens have become increasingly mobile, but their political participation remains limited. **Local authorities** are closest to citizens and they are the ones who put into practice the national governments' policies and decisions.

Mobile EU citizens are usually not the main target of local integration policies, as these focus on third-country nationals and asylum seekers, whose needs are deemed more urgent. Nonetheless, in recent years, several

municipalities have attempted to improve social integration and political inclusion of mobile EU citizens living in their cities, particularly in the context of local and European elections. The following practices serve as an example: project INCLUDE⁵⁴, implemented by the Paris municipality; project APProach⁵⁵, run by Etterbeek, Milan, Lisbon, Warsaw and several other cities; and activities conducted by Brussels Commissioners prior to the last local election in Belgium in October 2018.

Based on the obstacles analysed above, the following recommendations should be considered by **the EU and national and local decision-makers** to improve political inclusion of mobile EU citizens:

- **Raising awareness of political rights:**
 - Local and national authorities should conduct regular communication activities targeting mobile EU citizens. They should use various forms of outreach, including traditional media (TV, radio, press) and social media;
 - Information about upcoming elections and related procedures should be provided by local and/or national authorities in English and other foreign languages;
 - Local, national and regional authorities should provide more training opportunities to their employees, so that civil servants can provide reliable and accurate information on voting rights to mobile EU citizens;
 - Civil education and education about the functioning of the EU and EU citizens' rights should be compulsory at each level of education;
 - The EU institutions should conduct regular information campaigns on EU citizens' rights, following the example of the "This Time I'm Voting" campaign;
 - Local authorities should promote the involvement of citizens in political and non-political activities during the period between elections;
 - To enhance the effectiveness of outreach, communication activities should be carried out in cooperation with civil society organisations working with mobile EU citizens.

- **Facilitating registration on the electoral roll:**
 - Registration for local elections should be automatic or quasi automatic, depending on whether voting is compulsory in a Member State;
 - The deadlines for registration should be closer to elections to allow mobile EU citizens sufficient time to register;
 - Local/regional/national authorities should consider introducing online and email registration to facilitate and speed-up the process.

- **Monitoring the implementation of political rights:**
 - EU and national decision-makers should develop and implement a monitoring system to ensure that EU mobile citizens are not precluded from exercising their political rights due to incompatible national and local rules or administrative hurdles.

⁵⁴ <https://www.paris.fr/pages/europe-lancement-du-projet-include-5607> (accessed on 1/12/2019)

⁵⁵ <https://project-approach.eu/> (accessed on 1/12/2019)