

FEANTSA STATEMENT

25 May 2022, Brussels

Joint civil society statement Calling for protection of the rights of destitute mobile EU citizens

In 2022, the European Commission is preparing a new Communication regarding Directive 2004/38 on the right of citizens of the Union and their family members to move and reside freely within the EU. The goal of this new guidance is to clarify certain aspects of how the Directive should be interpreted and transposed by member states.¹ **This occasion represents a key moment to address instances of misinterpretation of the EU legislation at national level. Together, the signing organisations urge the European Commission to use this opportunity to consider the experiences of destitution which many mobile EU citizens are confronted with across the EU. The new Communication should address the causes of destitution among mobile EU citizens, to ensure that no one is left behind in the context of free movement, one of the most treasured European values.**

Despite the considerable success and the appreciation of this important right enshrined in the EU Treaties, data and evidence from the field suggest that mobile EU citizens often face multiple legal and administrative challenges, which prevent them from fully enjoying their rights and participating in their societies on equal footing. Additionally, discrimination against minorities, such as the LGTIB+ community or people with Roma background may play an important role in the destitution of those mobile EU citizens who belong to these groups.²

Destitution among mobile EU citizens has been signalled in the past decade across many Member States in the EU, while Eurostat³ provides data pointing to a higher risk of poverty, social exclusion, housing cost overburden, or overcrowding rate among this group. **Ultimately, some mobile EU citizens may experience several types of homelessness**, from living in informal dwellings or renting unsafe and overcrowded accommodation, to sleeping in shelters or in public spaces.⁴ Official European-wide data on the extent of this phenomenon are missing. However, homeless service providers from many European cities work daily with a large number of mobile EU citizens.

In London, 31% of those seen rough sleeping in 2018/19 were from Central and Eastern European countries.⁵ Similar trends have been observed in Denmark, Austria, France, or Luxembourg.⁶ In November 2020, in Barcelona (Spain), 27% of the interviewed beneficiaries of Arrels Foundation were EU migrants. In Münster (Germany), 88% of the people interviewed for a survey at the end of 2020 among beneficiaries of Bischof-Hermann-Stiftung had experienced homelessness for at least 6 months. Similarly, in Stockholm, 69% of the respondents met by

¹ European Commission (2020) [EU Citizenship report 2020](#).

² As noted by the European Commission, "The fact that people in the EU continue to face discrimination weakens the EU's social cohesion, deprives the economy of its full potential, and is a direct challenge to fundamental rights and EU values" *Ibid.*

³ Eurostat: [migrant integration statistics](#)

⁴ For more information, see FEANTSA website on [ETHOS - European Typology on Homelessness and Housing Exclusion](#)

⁵ [London Combined Homelessness and Information Network \(CHAIN\) reports](#)

⁶ European Commission (2019) [Fighting homelessness and housing exclusion in Europe. A study of national policies](#), p. 43

Crossroads in 2020 were roofless or had inadequate housing.⁷

It is particularly difficult for many mobile EU citizens in homelessness to exit destitution. Many of them are not registered despite having lived in the same country for a long time, therefore they do not have access to social assistance. It is the case for DIOGENES's beneficiaries interviewed in Brussels in 2020, the majority not having an address (57.2%) and/or a residence permit (67.3%), even though almost three out of five people have been living in Belgium for more than 5 years.⁸ This lack of access to social assistance can also significantly impact access to healthcare. In the case of Vienna, 44% of the 3.895 people treated in 2021 in the health centre run by neunerhaus, which is open to people without health insurance, were mobile EU citizens without social security entitlements.⁹ At the same time, some mobile EU citizens do not have any connections to their country of origin anymore and they lack support there as well, making the possibility of return undesirable or unrealistic.

Many factors may lead to destitution among EU citizens when moving to another country, such as having a precarious or undeclared job, experiencing health issues, suffering domestic violence or being under exploitation or human trafficking. These circumstances may be related to the barriers in the labour market for migrants, in general, and the lack of safety networks after their arrival. However, some **factors are related to identified gaps in the Directive 2004/38 (governing EU free movement) and/or the national legislations transposing it.**

To ensure that the Commission will uphold its commitment to tackling inequality in the EU, we put forward the following recommendations for the consideration of European Union policy makers when formulating the new guidelines on free movement:

- Address some of the main **obstacles in the legislation regulating free movement**¹⁰ that contribute to the destitution of many mobile EU citizens, such as: the vague definition of a 'worker'¹¹, complicated formalities and procedures for registration, access to healthcare and education, the requirement to prove possession of sufficient resources, and the comprehensive sickness insurance condition¹².
- Streamline and facilitate the **registration** process for mobile EU citizens, which should be easier to follow and as accessible as possible. In that regard, there should be more financial and administrative support for low-threshold civil society organisations, including homeless service providers, currently supporting mobile EU citizens in destitution to navigate the national systems.
- Explore the inclusion of a **specific category of residence** in the rules governing free movement for those who find themselves in highly vulnerable situations. Such a category would allow many mobile EU citizens who have experienced homelessness for a long time (and hence, are unable to fit in any of the existing categories) to regularise their status. A temporary access (of at least 6 months) to social rights, healthcare, or employment, could be key to exit destitution.

⁷ The reports on these three cities, together with one on Brussels, are available at ['Homelessness among mobile EU citizens: new data from four European cities'](#)

⁸ DIOGENES and Striano, M. (2022) [Mobile EU citizens experiencing homelessness in Brussels: access to rights, employment, and healthcare](#)

⁹ Extracted from neunerhaus's internal data collection in 2021 (not publicly available).

¹⁰ To know more about these and other obstacles, please read Civic Observatory on the Rights of EU citizens (2020) [Policy Paper: Analysis of the obstacles to freedom of movement and political participation](#)

¹¹ For more information, please read FEANTSA (2019) [The "working poor" and EU free movement: the notion of "worker" in the context of low-wage and low-hour employment](#)

¹² These and other obstacles were identified in FEANTSA (2018) [EU Free Movement Fitness Check Reports](#)

- Establish the right of mobile EU citizens to access **safe and stable accommodation support** regardless of their administrative status, starting with emergency shelters, and work with MS to increase accommodation possibilities to avoid people falling into homelessness.¹³ Likewise, access to job training, employment support and non-emergency healthcare should be guaranteed regardless of the administrative status.
- **Improve social security coordination** under the current discussions on the Commission's proposal for a revision of the EU legislation on this issue¹⁴, to ensure a fast and effective portability of rights. Access to social security should be ensured either by the country of residence or the country of origin, so that **no person ends up in destitution**. Lastly, obtaining social security certificates should be facilitated.
- Monitor closely the wide interpretation in some Member States of the notions of **public policy and security** when used as grounds for expulsion. Even if it has been adopted only in isolated cases, this practice seems to target people who live in informal dwellings and are sleeping rough.¹⁵ Mechanisms should also be set in place to monitor any returns of mobile EU citizens, so that their rights are protected when returning to their country of origin, either voluntarily or after an expulsion order.
- Strengthen monitoring processes regarding the implementation of Directive 2004/38 by Member States to ensure that **EU citizens' rights are respected regardless of their economic circumstances**.¹⁶ When needed, initiate infringement procedures to correct MS's practices that are not in conformity with EU legislation.
- Consider **discriminatory factors in the new guidelines, such as gender, ethnic origin, age, or disabilities** as they can contribute to destitution when moving to another Member State. Some examples include: mobile EU citizens with a Roma background who face additional challenges because of the widespread antigypsyism/anti-Roma racism; disability status not being automatically recognised among EU countries, which creates challenges for people with disabilities to settle down in another Member State; elderly people without any right to welfare services in the MS of residence, having very limited possibilities of support and potentially being left in destitution.
- Include **a more coherent approach** between the announced Communication and related EU policy frameworks, namely the EU Child Guarantee, the Action Plan on the European Pillar of Social Rights (EPSR), the 2020-2025 EU gender equality strategy, the EU anti-racism action plan, the strategic frameworks on LGBTIQ and Roma or the future Recommendation on an EU minimum income.

Other supporting measures the European Commission should proceed with:

- Work towards removing barriers which make it impossible for mobile EU citizens in homelessness to **register for voting** (or to stand for elections), primarily the condition of **proof of address** which is established by the Council Directive 93/109/EC and in Directive 94/80/EC regulating the voting rights of mobile EU citizens and electoral candidacy.¹⁷

¹³ This right is not currently guaranteed in all Member States. For example, it is the case of Netherlands, as shown in this [article by 'de Gelderlander'](#); Brussels in DIOGENES & Striano, M. (2022) [Mobile EU citizens experiencing homelessness in Brussels: access to rights, employment, and healthcare](#); Denmark and Sweden in Borevi, K. (2021) [Scandinavian approaches to begging as a policy problem and the double insider/outsider status of marginalised intra-EU migrants](#); Germany as described in the website of the [Office for the Equal Treatment of EU Workers](#) [last accessed 15th April 2022]

¹⁴ European Commission: [EU social security coordination](#) [last accessed 17th May 2022]

¹⁵ See the last FEANTSA reaction on the criminalization of homelessness [here](#).

¹⁶ See the case of Belgium in FEANTSA (2021) [Breach of EU jobseekers' right of residence - EU Rights Clinic and FEANTSA send complaint to the European Commission against Belgium](#)

¹⁷ European Parliament (2020) [Report on stocktaking of European elections \(2020/2088\(INI\)\)](#)

- Ensure Directive 2014/92/EU on **access to payment accounts** is adequately implemented. Currently, many mobile EU citizens in homelessness are denied access to bank accounts or face unnecessary complications during the process. Thus, specific measures (including sanctions if needed) should be taken to ensure the adequate implementation of this Directive by Member States and bank companies.¹⁸
- Protect the rights of **mobile EU citizens in the UK**, in the framework of the EU-UK Withdrawal Agreement, while developing targeted support measures for the most vulnerable. Mobile EU citizens who face destitution and homelessness, and sometimes exploitation in the workplace as well¹⁹, have encountered many difficulties when applying for the EU Settlement Scheme²⁰, and very worryingly those experiencing rough sleeping remain at risk of deportation from the UK.²¹
- Include homelessness among the categories considered under the proposal to expand the list of **protected grounds within anti-discrimination law in the EU**.²² People experiencing homelessness, and especially those sleeping in public spaces (as they are very visible) are often victims of discrimination and as such they should have an additional layer of legal protection.²³
- Improve existing **research** on destitute mobile EU citizens by including them in the future pilot project to collect data on homelessness in Europe²⁴ and complement this with qualitative information, which will allow for a better understanding of life conditions and specific challenges of intra-EU migrants.
- Facilitate access to **EU funds for Civil Society Organisations (CSOs) working with mobile EU citizens in destitution and/or homelessness**, with dedicated streams and supporting materials (e.g., toolkits). The scope of the Fund for European Aid to the Most Deprived (FEAD) should be widened to facilitate the provision of counselling on labour and social law. The role of other funds should also be considered, such as the European Social Fund plus (ESF+) in the access to vocational training, employment, and education for children, or the European Regional Development Fund (ERDF) in investments for social housing.

"Activity organised under 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 with support from the [European Programme for Integration and Migration \(EPIM\)](#). Sole responsibility for the project lies with the organiser and the content may not necessarily reflect the positions of EPIM, NEF or EPIM's Partner Foundations."

¹⁸ FEANTSA (2022) [Homelessness services provide solutions to increase financial inclusion of people experiencing homelessness in increasingly cashless societies](#)

¹⁹ Crisis (2021) [No way out and no way home: Modern slavery and homelessness in England, Wales and Northern Ireland](#)

²⁰ PILC (2022) ['This system was created for people with easy lives'](#) [last accessed 11th April 2022]

²¹ PILC (2021) [Report: Rough sleeping as a ground for refusal or cancellation of leave to enter or remain in the UK](#)

²² European Commission: [COM\(2021\) 777 final](#)

²³ For more information - [FEANTSA webinar: Apophobia: Challenging Hate Crime Against People Experiencing Homelessness in the EU](#) [last accessed 9th May 2022]

²⁴ "The 2022 EU budget is due to include a €990,500 allocation for the European Homelessness Count (EUHC) pilot project. EUHC aims to stimulate the regular collection of data on homelessness at local level.", extracted from the [Action Plan of the European Platform on Combating Homelessness](#)

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