

A SOCIAL PLATFORM FACT SHEET

MIGRATION - SERVICES OF GENERAL INTEREST

Guarantee to migrants access to necessary basic services

This fact sheet outlines Social Platform's position on migration in relation to services of general interest. It is based on Social Platform's position paper on migration, which includes the human rights concerns of regular and irregular migrants, asylum seekers and beneficiaries of international protection.

Practical, administrative and legal obstacles as well as extreme poverty combined with exclusionary practices often prevent migrants, in particular undocumented migrants, from accessing essential basic services such as health care. These obstacles include the requirement to provide identity documentation or documentation proving their ability to cover expenses, the lack of information about their rights, the duty of service providers to report them to the authorities in some member states, and also the lack of translation services and cultural mediators.

Doctors of the World witness how groups that were already facing vulnerability before the crisis, such as undocumented migrants, have seen a reduction in social safety nets which provide them with basic help.

Service providers should be able to offer their services to all without the risk of penalties or legal uncertainties to ensure the protection of fundamental rights. In some member states, service providers report that the government threatens to cut their subsidies if they continue helping undocumented migrants. This contradicts the law that states that undocumented migrants should have access to emergency aid. Undocumented migrants also face particular barriers to education and training, endure precarious housing situations, are denied access to homeless shelters, and shelters for victims of violence against women and girls and gender based violence.

Undocumented children tend to have more rights than their parents but largely depend on their parents to know where to get care and what institution provides the treatment they need. Parents of these children are afraid of being exposed and denounced to the authorities and then deported, they also fear their children being taken away by child protection. These issues should not be underestimated as factors that prevent parents from seeking medical help for their families.

POLICY RECOMMENDATIONS TO EU INSTITUTIONS***a) Overarching measures***

Legislative measures:

- In line with the UN International Covenant on Economic, Social and Cultural Rights, revise the Facilitation Directive (2002/90/EC) to make it compulsory for member states to abolish laws that criminalise humanitarian and social assistance to undocumented migrants; this implies that humanitarian and social assistance should not be regarded as facilitation of illegal stay and financial support to providers of services to undocumented migrants should not be cut.

- Earmark funding to support the provision of services for migrants, irrespective of their status. Services shall include emergency care (food and clothing banks, accommodation services, and health care), debt counselling, free or affordable language courses, literacy courses, providing information about migrants' rights and the services available to help them. Funding shall also include interpreting and cultural mediation services to make services more accessible for migrants, such as for healthcare services, in particular mental health services and victims support.

Non-legislative measures:

- Adopt guidelines on access to essential services developed by the EU Fundamental Rights Agency as a part of EU policy.

b) Access to health care services

Legislative measures:

- Prohibit through legislation the criminalisation of service providers and health professionals who provide health services and victim support services for undocumented migrants.
- Ensure through legislation that national migration-control authorities do not impose a duty to report migrants in an irregular situation upon healthcare providers or authorities in charge of healthcare administration. The absence of this duty to report should be clearly communicated to them.
- Issue EU legislation that guarantees migrants' access to emergency care as well as other forms of basic healthcare. This includes the possibility to see a general practitioner or receive necessary medicines, as well as access to safe, equal, culturally sensitive health services, particularly sexual and reproductive health services and rights. The same rules for payment of fees and exemption from payment for EU-citizens should apply to all migrants, including those in an irregular situation especially if they are working.

c) Access to housing

Legislative measures:

- Adopt the Proposal for a Council Directive implementing the principle of equal treatment (COM(2010)426) between persons irrespective of religion or belief, disability, age or sexual orientation to ensure protection in the area of access to housing which is currently devoid of legislative remedies.
- Coordinate and facilitate national efforts by establishing a European framework that recognises the right to emergency accommodation and social support for all homeless migrants regardless of their legal status.

Non-legislative measures:

- Support member states to better understand the impact of inadequate migration and integration policies related to poverty and extreme poverty as well as the role of EU anti-discrimination legislation to prevent and combat housing exclusion, for example through awareness raising actions and facilitating of good practices sharing.
- Establish measures to provide incentives and support to member states with a view to promoting integration policies that tackle severe housing exclusion of third-country nationals residing legally in their territories.

- Support member states to establish specialised services and shelters for survivors of violence against women and girls and gender based violence as a practical implementation measure of the Victim's Directive and ensure that migrant women, who often face multiple forms of violence and discrimination, are guaranteed access irrespective of their residence status.

d) Access to education

Legislative measures:

- Prohibit the reporting of irregular migrant children to migration law enforcement bodies and the exchange of information with such bodies and instruct school authorities not to require documentation for school enrolment which migrants in an irregular situation cannot procure.

Non-legislative measures:

- Promote minimum standards and the exchange of good practices in the provision of quality education on the basis of equality and non-discrimination. This should include all levels of education and training, including non-compulsory education, on the basis of EU priorities in the Europe 2020 Strategy (education, training and skills development) and regarding promoting quality early childhood education and care, as well as tackling early school leaving.

e) Access to financial services

Legislative measures:

- Revise EU law, such as the [Directive on Financial Crime](#) (2005/60/EC) in order to enable providers to offer access to a basic bank account to all migrants, irrespective of their legal status. The directive prevents banks from opening a bank account for specific target groups who do not fulfil the traditional legal requirements such as a national residency address. Apply a *simplified consumer due diligence* to recognise civil society organisations that can act on behalf of the beneficiary or vouch that the beneficiary is not involved in any terrorist or money laundering activity. Ensure that bank regulations are communicated to the migrant regarding these options and restrictions so that the client is well informed.
- Adopt the Proposal for a [Council Directive on access to basic bank accounts](#) (COM(2013)266) with a proposed new article that gives the right to open a bank account but with an obligation to give the possibility to provide administrative documents after a set period of time, to give time to migrants to clear their situation, e.g. this would enable their families to transfer money if needed.
- Appoint a competent authority in all member states to assist people, including migrants, in the case of a refusal from the bank, and to impose sanctions on financial institutions.

Non-legislative measures:

- Set up a structural dialogue with financial institutions, including "alternative providers", public authorities, civil society organisations and consumer associations, to set up measures and pathways to prevent and tackle financial exclusion and over-indebtedness, paying particular attention to vulnerable users, such as migrants, including undocumented migrants.
- Acknowledge and recognise the contribution by migrants to the global economy by sending home remittances. Many migrants send money to family members who have remained in their countries of origin and for which access to a bank account is vital in order to avoid reliance on unscrupulous intermediaries and/or other forms of corruption.

POLICY RECOMMENDATIONS TO MEMBER STATES

a) Overarching measure

Non-legislative measures:

- Provide necessary financial and human resources to enable service providers and civil society organisations working with people in vulnerable situations to also have the means to provide for all migrants to be empowered to participate, assist and volunteer in service provision.

b) Access to health care services

Legislative measures:

- Recognise that access to health care is a basic human right for all, in compliance with the UN International Covenant on Economic, Social and Cultural Rights. This should also include reproductive and sexual health care for all migrants, irrespective of residence status.

Non-legislative measures:

- Provide free interpretation in order to enable all migrants, irrespective of their residence status, to receive adequate and safe health care services. In the case of migrant women, interpreting services are particularly important since they often bear the responsibility for their children's health. Also, when reporting cases of domestic violence to their general practitioner, migrant women should be able to express themselves in confidence and without fear (family members often do the interpreting). Professional interpreters should be culturally-sensitive and sensitive to gender equality issues (e.g. not biased in cases of seeking medical care as a result of having been subjected to female genital mutilation or when seeking an abortion).

c) Access to housing

Legislative measures:

- Implement the [Racial Equality Directive](#) (2000/43/EC) and the [Gender Equality Directive](#) (2006/54/EC) in order to protect migrants against racial or gendered discrimination in access to housing.

Non-legislative measures:

- Ensure access to shelters to all migrants, irrespective of their residence status, including shelters for homelessness and for survivors of violence against women and girls, and gender based violence.
- Guarantee access to basic services and facilities to all, no matter nationality or residence status. Service providers are often confronted with not being able to provide services (such as accommodation, bathing facilities, laundry and storage) because they lack resources or because they cannot use public funding for hosting people who are not regularly residing.

d) Access to education

Non-legislative measures:

- Enable regularisation of undocumented children to avoid the risk of interruption of education due to expulsion from the member state.
- Guarantee access to quality and free or affordable education for migrant children and training and learning opportunities for migrant youth regardless of residence status and identification documents; implement strategies to accommodate these children and youth in adequate pedagogical frameworks.
- Ensure that education providers facilitate access to quality and affordable language and training courses.
- Support and facilitate inclusion of migrants' family members into host countries through adapted measures, (including language classes, access to education and after school activities for children).
- Adopt guidelines developed by the EU Fundamental Rights Agency in order to prohibit discriminatory practices; "Migrants in an irregular situation should not be apprehended at or next to the school which their children are attending," and "Schools should not be required to share migrants' personal data with immigration law enforcement authorities for eventual return purposes".
- Ensure that migrant students are properly included in the education system by avoiding segregation tactics such as placing newcomers not yet proficient in the host society language or who have come from a war-torn area and deemed 'traumatised' into schools with too few resources or into special schools for pupils with learning disabilities.
- Guarantee access to quality and free education for migrant children and training and learning opportunities for migrant youth regardless of legal status and identification documents; implement strategies to accommodate these children and youth in an adequate pedagogical framework.
- Call on education providers to facilitate access to quality and affordable language and training courses.

e) Access to financial services

Non-legislative measures:

- Acknowledge, encourage and support the commitment and expertise of "alternative providers", such as social economy or non-profit initiatives (e.g. credit unions, ethical banks, cooperative banks). They should also be part of a structural dialogue with public authorities, financial institutions, NGOs and consumer organisations to bring their knowledge of the needs of groups facing financial exclusion or difficulties in accessing financial services, as well as their experience concerning the support services or tailored products to ensure financial inclusion, irrespective of residence status.

For more information on our position and other fact sheets on migration (including Human Rights, Employment, Social Inclusion and Civil Dialogue) visit www.socialplatform.org/migration