A SOCIAL PLATFORM FACT SHEET

INTRA-EU MOBILITY FOR EU CITIZENS

The risk of destitution

This fact sheet outlines Social Platform's position on intra-EU mobility for EU Citizens, who may be at risk of/or ending up in destitution. EU-citizens exercising their right to free movement can experience similar problems as migrants, despite the different legal framework and protection system applicable to. This fact sheet is therefore a part of 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.

Numerous EU citizens make use of the right to free movement every day and many people have permanently established a new life abroad, thus contributing to the wealth and growth of the host society. However, there is a small but significant proportion of EU citizens for whom moving to another member state has become a poverty trap. They are destitute and face difficulties in accessing the right support. Their vulnerable situation is closely linked to EU policies and legislation in the area of free movement of citizens as well as internal migration law and its interpretation at national level.

The increase of xenophobia and racism and the spread of anti-immigration discourses extending beyond the 'extreme' or 'far-right' political parties also influence the development of policy and legislation in the EU and its member states in regards to the intra-EU mobility of EU citizens.

Free movement is one of the foundations of the EU. However, despite being highly regulated and building on extensive case-law, interpretation of residence rights provided by free movement, especially for people who do not have, or no longer have any kind of income, is still unclear. Access to emergency support as well as access to social welfare benefits differs according to the host member state.

Some member states have implemented forced, arbitrary repatriations which do not take into account what is foreseen by EU law. Other member states offer as a last resort to pay for the travel back to the country of origin. However, considerable numbers of EU citizens do not wish to return despite their difficult situation. As a result, people are forced to adapt to a situation of destitution and risk accumulating other needs, for example in relation to their health.

Roma people moving across the EU, pose a unique set of challenges to the EU and member states. Despite often migrating due to persecution in their home country, Roma find integration into other member states incredibly difficult and are frequently denied the basic rights which they want to secure. Although the EU ensures free movement and residence, this fundamental right is not always granted to all EU citizens, especially to the Roma, who are often subjected to neglect, discrimination, and violation of rights.

POLICY RECOMMENDATIONS TO EU INSTITUTIONS

Legislative measures:

- Define better the sets of criteria on free movement to be considered by member states in an adequate and proportional way to ascertain if an economically inactive EU citizen is an unreasonable burden to the social assistance system in order to ensure that no EU citizen is left destitute.
- Guarantee social rights to all EU-citizens, including those from new member states, e.g. ensuring adequate income resources, as well as access to quality basic services.
- Guarantee that EU citizens who are not self-sufficient have at least access to emergency accommodation and support until the individual case regarding her/his residence rights has been assessed.
- Ensure that the transition period imposed on new member states does not restrict the movement of workers within the EU. Today the transition period imposed makes it so that a citizen of a new member state is treated as a third country national from the employment perspective.
- Call for the respecting of procedural safeguards and oppose arbitrary expulsion as set by the Freedom of Movement Directive (2004/38/EC), establishing that an expulsion measure shall not be the automatic consequence of a Union citizen's recourse to the social assistance system of the host member state (Art 14).
    - Before taking an expulsion decision, the host member state shall take account of considerations such as how long the individual concerned has resided on its territory, his/her age, state of health, family and economic situation, social and cultural integration into the host member states and the extent of his/her links with the country of origin (Art 28).
- Ensure clear legislation for family reunification and portability of social security and other rights across the EU, for EU citizens.
- Adopt EU regulation on pension portability to allow workers to transfer their occupational pension rights across sectors and countries, to secure their financial future.
- Develop a solidarity mechanism, i.e. an EU fund that would temporarily cover the expenses incurred by member states when they provide social support to EU nationals of other member states who are economically inactive, in a situation of destitution, and ineligible for social assistance.

Non-legislative measures:

- Develop guidelines on the procedure and decision-making process for deporting EU nationals along with an EU-wide strategy on destitute mobile citizens;
- Ensure that National Roma Integration Strategies include a strong human rights approach and sufficient measures are implemented at national and local level to secure the fundamental rights of all Roma including the most vulnerable, such as women and children. All Roma should be sufficiently involved in a meaningful collaboration during the implementation of such measures.

POLICY RECOMMENDATIONS TO MEMBER STATES

Legislative measures:

- Implement the Freedom of Movement Directive (2004/38/EC) and the principle of equal treatment to ensure that all EU citizens and their families can exercise their rights and prevent EU citizens from being deported and expelled to their member state of origin.
- Comply with international human rights law when evictions occur, common occurrence with Roma, and ensure alternative decent housing.
- Put additional pressure on Managing Authorities to make more use of underspent EU Technical Assistance Funds to increase the capacity of marginalised communities for meaningful participation combating social exclusion.

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