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THE CASE FOR ADDING SOCIAL RIGHTS TO EUROPEAN CITIZENSHIP AND FREEDOM OF MOVEMENT

Background discussion document



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THE CASE FOR ADDING SOCIAL RIGHTS TO EUROPEAN CITIZENSHIP AND FREEDOM OF MOVEMENT

There is a strong argument in favour of strengthening the social dimension of European citizenship. The first right of the European citizen is to be able to move freely anywhere in the EU and to be treated equally to nationals of the host member state. The link between freedom of movement and non-discrimination on the grounds of nationality does provide guarantees that workers from other EU countries have the same rights as nationals and can access social security benefits, social assistance and other public services. The same rights are not available for jobseekers, students, retired persons and their family members, who must have comprehensive sickness insurance and sufficient income not to be a burden on the host Member State. Although there is little evidence of EU citizens moving to other countries just to access higher social benefits, Member States justify this conditional freedom of movement on the grounds of safeguarding their budgets to protect the most vulnerable in society. There is an underlying tension between the social rights of intra-EU migrants and those of the indigenous population. The result is that freedom of movement appears a right enjoyed unequally and most by those in work and with sufficient income, connections, language and professional skills. European citizenship appears therefore to be an incomplete status without a social dimension, even though in the post-WWII period social rights are seen as crucial to the ability of all citizens to participate fully in the community.

If questioned, most people who have knowledge of the EU would not associate social rights with freedom of movement so much as with rights enjoyed by workers at home. The social policy *Acquis* comprises 125 legal acts, generally directives incorporated in national law and administrative procedures. As a result - as the Commission notes on its [website](#) - "Millions of women and men across Europe enjoy these rights every day - but few of them know that the European Union is behind these laws." This is despite the fact that in some areas of social policy such as equal pay for equal work the EU has since the Treaty of Rome in 1957 played a pioneering role. On health and safety at work, legislation covers general rights and obligations, work equipment, specific rules for vulnerable workers and limiting exposure to dangerous substances. Equal opportunities laws cover equal treatment at work, pregnancy leave, maternity leave and parental leave. The EU remit has extended to cover all forms of discrimination since the Treaty of Amsterdam in 1995 with legislation to outlaw discrimination based on sex, race, religion, disability and sexual orientation. The EU has produced a [Working Time Directive](#) (2003/88/EC) and rules on part-time work, fixed-term contracts, employment of young people, informing and consulting employees. On the initiative of the EU, all member states have set up equality bodies, and European policy is supported by various agencies for health and safety at work and the improvement of living and working conditions. There are plans to set up a European Labour Authority by 2023.

EU citizenship could be more deliberately linked to EU activity on employment and social affairs from where it originated. This first legally based transnational citizenship was a reflection of different stages in the development of freedom of movement beginning with the [Regulation for workers](#) in 1968, adding rules for the self-employed and the recognition of professional qualifications and,

finally, extending freedom of movement for the non-working sections of the population. Whilst the Commission's department for Justice is responsible for the directive on freedom of movement for EU citizens and their family members (so-called [Citizens' Rights Directive](#) 2004/38), responsibility for much of the legislation relating to free movement of workers remains with DG Employment: the recently amended [Posted Workers Directive](#) for example and the [Regulation on the Coordination of Social Security Systems](#). In its opinion on the tri-annual report of 2017 from the Commission on activities related to Union citizenship, for example, the European Parliament called for a much more deliberate link between the right to freedom of movement and protection against discrimination not just on the grounds of nationality, but on any other grounds as provided for in EU legislation. In turn EU social policy may gain from the link with EU citizenship since there are limits on the competence of the Commission to propose legislation beyond safety, equality and conditions in the workplace.

How to make this link? It could be done through the [European Pillar of Social Rights](#). The Pillar should be constantly invoked in all policy and legislative initiatives related to EU citizenship alongside the Charter of Fundamental Rights. This text originates from social summit in Gothenburg on 17 November 2017. The word "pillar" is somewhat misleading implying a legally fixed instrument, which this is not, so much as a guideline and potentially dynamic programming document. The 20 articles of rights and principles in the publication both contain the existing and "acquis" and attempt to situate it in the broader context of the European social model. The approach is similar to the one recommended by ECIT with its [Guidelines on European citizenship](#) itself which aims to bring scattered elements together in a consolidated text around a citizenship of rights, participation and belonging, an idea picked up in an own initiative [report](#) by the European Parliament just before the 2019 European elections. The Pillar, if implemented, is about delivering new and more effective rights for citizens under 3 main categories: equal opportunities and access to the labour market, fair working conditions, social protection and inclusion. It will be supported by an online scoreboard to track trends and performances and which could well be applied to the area of free movement of persons. The 20 principles, if applied to freedom of movement, would mean placing this first right of the European citizens in a broader context and highlighting neglected aspects such as (11) Childcare and support to children, (12) Social protection, (13) Unemployment benefits, (14) Minimum income (15) Old age income and pensions, (16) Health care, (17) Inclusion of people with disabilities, (18) Long-term care, (19) Housing and assistance for the homeless, and (20) Access to essential services. It would make a difference to freedom of movement and equality of opportunity, particularly for vulnerable EU citizens on the move, if Member States agreed to apply such principles to each others' nationals on their territory.

In her [guidelines](#) and speech to the European Parliament in July 2109, the new President of the European Commission Ursula von der Leyen promised an action plan to fully implement the European Pillar of Social Rights and within 100 days of starting her mandate, a legal instrument to ensure that "every worker in our Union has a fair minimum wage. This should allow for a decent living wherever they work." She also proposes a European Unemployment Benefit Reinsurance Scheme to protect people and reduce pressure on public finances during external shocks. Freedom of movement is an undoubted advantage which can help reduce the impact of such external shocks by giving young European citizens in particular the opportunity to find work in the better performing economies. One of the findings of the [BEUCITIZEN](#) research project however is that "unemployed workers cannot afford to move to another Member State because they are not entitled to unemployment benefits....or are entitled to insufficient benefits" The ability to settle anywhere in the EU is stratified according to economic status and Member State of origin such are the differences between wages and the cost of living. The idea of the researchers is that "Providing unemployed

mobile EU citizens with an effective minimum social protection floor during the first three months in the destination country could effectively minimise the risk of exploitation and undercutting local working conditions” The cost of such a scheme to reduce the gap between unemployment benefits and the costs of living in countries of origin where they are low and countries of destination where they are high is estimated at just over 1 billion euros.

A proposal by the ECIT foundation for a European free movement solidarity fund could well be combined with such a proposal above to give a European dimension to unemployment benefits and minimum wages. The proposal goes in the same direction, to provide more support to unaccompanied jobseekers making use of their rights to freedom of movement, in addition to the EU-wide information and advice services such as Eures for job seekers, Your Europe or Solvit. Because patterns of EU mobility are so uneven and heavily concentrated on certain trajectories and in certain cross border areas whereas largely absent others, a selective place- based approach rather than one which is Europe-wide is needed. The number of EU citizens living and working in other Member States has though doubled in the last 10 years to reach 18 million. This increase has to a large extent been absorbed without any serious difficulties and is a win-win situation both for countries of origin, countries of destination and the mobile EU citizens. In some regions of countries of origin there are though serious problems of brain drain and loss of young workers, whereas in some regions of countries of destination there are visible strains on local services for housing, education or health as a result of a rapid increase in arrivals.

There is currently no fund like that for the integration of migrants from outside the EU for EU citizens within the EU. Such a fund would not necessarily require new resources since it could well fit in the context of EU cohesion policy, linking regions in countries of origin with those in countries of destination to provide social support and services for freedom of movement, based on needs assessment. The fund should be based on the principles of partnership with regional and city authorities as well as civil society. The social fund should be used to train mobile EU citizens before they leave so that job seekers in particular are better prepared and are then followed up in their country of destination with training such as language learning to help them integrate and possibly after a time return home or to another EU member state. This form of Interreg fund could work best in border areas or across longer distances where there are already transnational social networks. The regional fund which is the other arm of cohesion policy should be used to provide for infrastructure development both in regions of origin and in regions of destination-ie to encourage investments which could counter people being forced to leave or to reduce the burden on public services in countries of destination. Such a fund should rely on contributions from the region of origin, the region of destination and the EU budget.

In conclusion, it should be pointed out that in the current political climate there is no prospect that national governments will simply abandon the requirement that EU citizens should not become a burden on their already over-stretched resources for social assistance. On the contrary, the trend has been rather to ask for additional safeguards against so-called welfare tourism. The result has been that, with the increase in numbers of mobile EU citizens, more are looking for help at shelters for the homeless and more are risking threats of expulsion or actual expulsion. This makes a mockery of an EU citizenship gradually developing as a real citizenship beyond its economic origins. The challenge now is to use both the general approaches and the more specific and targeted measures outlined here to make it a more social citizenship.