



EUROPEAN ANTI POVERTY NETWORK

REPORT

Migrants in Europe's age of austerity

ANNEX Tools for Making Progress

Report of the EAPN Task Force on Migration

April 2015



Introduction

This annex provides ideas about tools that members can use to raise awareness and develop advocacy actions to highlight the plight of migrants and to promote action on migration and poverty.

Organisation of events

Events such as workshops, seminars and conferences offer an excellent opportunity for all relevant parties to discuss current migration themes and issues. The purpose is to involve relevant stakeholders and provide the opportunity for communication and understanding. These events recognise that all partners, including individuals directly concerned, have expertise and perspectives to share and aim to ensure that each has an equal opportunity to put forward their opinion.

It is important to ensure that all participants are engaged throughout the duration of the event. This can be facilitated by the structure of the event that can include discussion groups, question and answer panels, Open Space techniques and focus groups. Also it is paramount to plan the event taking into account as many contributions from relevant stakeholders as possible.

The active participation of individuals concerned should be taken into account. Coupling policy discussions and reports from those migrants who daily face social exclusion is likely to have an added value. With this aim, organisers must ensure that events provide a genuine forum of equality and that everyone present is able to speak freely and discussion groups should each contain low numbers of participants making it is easier for people to speak up and to allow time to get points across.

It is also paramount to provide delegates and organisers with the opportunity to evaluate the event and to develop a report in order not only to record the event but also to push for ongoing dialogue, further discussion and action.

Organising events have several advantages, among which building social networks, showcasing services and projects, providing advice and information. On the other hand it might sometimes require high resources and high level of expertise.

Participation of immigrants

Most immigrants have few opportunities to actively participate in the policies that affect them. According to the Migrant Integration Policy Index (MIPEX) 11 countries, mostly in Central Europe, still have laws denying immigrants basic political liberties. In Europe, non-EU nationals can stand as municipal candidates in 13 of the countries surveyed, vote locally in 19, regionally in 7, and nationally in 2 (PT, UK). Consultative bodies exist at local level in 15 countries and at national level in 11. However, they do not provide enough meaningful opportunities for immigrants to improve policies. About half of the countries fund immigrants' political activities, while a third inform them of political rights.

It is very important to involve as much as possible immigrants in the way services and projects addressed to them are managed and more broadly in the way migration policies are developed. Positive participation is about using a wide range of tools and techniques to meet the needs of different people and situations.

To this end, it is paramount to promote participation of migrants in the work of civil society organisations and to lobby in order to include their contributions in policy making. Decision makers need to recognize that migrants have the right to have their opinions and perspectives heard and that appropriate structures need to be put in place in order not only to make migrants participate but also to allow them to actually influence policies and services.

Different practices and tools can be used - some inspiration might be found in EAPN publications on participation, particularly highlighting case studies of promising practices¹. and in FEANTSA toolkits on participation². Remember that all types of participation can be appropriate and empowering in different circumstances – no type is ‘better’ or necessarily more empowering than others.

The benefits of participation can be far reaching for individuals involved, the practices of the organisations working with immigrants, planners and policy makers and for communities by raising awareness, improving perceptions of migrants, correcting images and dispelling myths and stereotypes.

The priority is of course that migrants receive empowerment from being involved, through increased confidence, knowledge, skills or awareness. However, in order to make participation meaningful, it needs to have positive impacts in at least another area: in the management and development of services, by better identifying needs and adjust practice in response; in the policy making, although there might be long time lapses between the participation and any resultant change at policy level; in the perception of immigrants – there are many participative projects that can assist in improving perceptions and that involve communities, service providers, researchers, academics, politicians and the media.

Media campaign

There is generally a low awareness of migration issues in society, often accompanied by myths, prejudices and stereotypes about its causes and the characteristics of people who experience it. Media often reinforce these wrong images instead of correct them thus civil society organisations working with immigrants need to counter this trend by spreading fair representations of immigrants and migration issues.

As European societies constantly become more multi-cultural, there is the need to raise awareness of the many reasons for which people choose or are forced to leave their own countries. This understanding can help to promote respect for diversity and encourage social cohesion. Moreover, it is important to highlight the positive impact that migration has not only on Member States economies but also on societies that have the chance to gain in variety and specific skills.

There generally are several steps to follow in order to run effective campaigns. First and foremost, set a realistic goal and think of a clear message that communicates your aim – if possible, the message should be constructive and positive rather than explicitly against a way of thinking about migration. Also, take into account whether the chosen message can be visualized on a T-shirt, a banner or any other support that might be used.

Secondly, it is paramount to gather evidence that sustains the main messages of the campaign and to find testimonials about the importance of the cause and back them up with facts. Building on evidence and with the help of testimonials, put together a concise argument and be prepared to answer provocative questions.

¹ Breaking Barriers – Driving Change: <http://www.eapn.eu/en/news-and-publications/publications/eapn-books/breaking-barriers-driving-change-eapns-new-book-on-participation-is-out>; and Small Step – Big Changes, driving participation of people experiencing poverty <http://www.eapn.eu/en/news-and-publications/publications/eapn-books/eapn-book-small-steps-big-changes>

² FEANTSA toolkits on participation: <http://www.feantsa.org/spip.php?article122&lang=en>

Thirdly, it is needed to gather significant stakeholders – to find like-minded organizations on the issue – and target people who have a connection to the cause. It might be very helpful to get endorsement from a celebrity and to ask your supporters to sign a petition in favour of the cause.

Fourthly, develop a lobbying strategy to adequately deliver the messages on which the campaign is built involving MPs, MEPs and any other relevant policy maker.

Last but not least, it is vital to develop campaign material such as leaflets, regular newsletters, and a good designed website. The use of social media is of course very important. Moreover, it is important to constantly assess how the campaign is going taking into consideration elements such as media coverage, discussions in Parliament, number of hits on the website, number of followers on Twitter, and so on.

There are good examples of campaigns on migration, such as “Undocumented, not illegal” promoted by PICUM <http://picum.org/en/our-work/terminology/> ; “Migration Means” by the IOM <http://www.iom.int/cms/en/sites/iom/home/news-and-views/press-briefing-notes/pbn-2014/pbn-listing/iom-launches-social-media-campai.html> ; “Not just numbers” by UNHCR and IOM <http://www.iom.int/cms/njn> - very interesting is also a report published by the Migration Policy Centre that questions eight stereotypes on migration http://cadmus.eui.eu/bitstream/handle/1814/31832/Migration_Report_EUI.PDF?sequence=3

Litigation

Migrants have rights and there are fundamental rights instruments as well as EU law that have to be properly enforced by Member States. However, the implementation of these instruments is often not done adequately and there is evidence of infringements at the expense of migrants residing in the EU.

With regard to infringements of EU law, the European Court of Justice (ECJ) is the reference juridical body in charge of the interpretation of EU law and that makes sure that it is applied in the same way in all EU countries. The ECJ also settles legal disputes between EU governments and EU institutions. Individuals, companies or organisations can also bring cases before the Court if they feel their rights have been infringed by an EU institution.

The Court gives rulings on the cases brought before it. The five most common types of cases are:

- requests for a preliminary ruling – when national courts ask the Court of Justice to interpret a point of EU law
- actions for failure to fulfil an obligation – brought against EU governments for not applying EU law
- actions for annulment – against EU laws thought to violate the EU treaties or fundamental rights
- actions for failure to act – against EU institutions for failing to make decisions required of them
- direct actions – brought by individuals, companies or organisations against EU decisions or actions

Particularly relevant in order to guarantee individuals’ rights – including regularly residing immigrants - are the preliminary ruling procedure and the procedure for failure to fulfil an obligation (infringement procedure).

- **Preliminary ruling procedure.** This procedure is open to all Member States' national judges. They may refer a case already underway to the Court in order to question it on the interpretation or validity of European law. The reference of a preliminary ruling is a question presented on the application of European law thus promotes the uniform application of European law throughout the EU. Important to point out that whereas national courts which are not a final resort are not obliged to exercise the reference for a preliminary ruling, national courts which act as a final resort, against whose decisions there is no judicial remedy, are obliged to exercise the reference for a preliminary ruling if one of the parties requests it. The added value of this procedure is that it might be quicker than other ECJ procedures if in the selected case the referral is managed to be done at first instance.
- **Proceedings for failure to fulfil an obligation.** The Commission can start these proceedings if it believes that a Member State is failing to fulfil its obligations under EU law. In this case, the Court investigates the allegations and gives its judgment. If the country is found to be at fault, it must put things right at once. If the Court finds that the country has not followed its ruling, it can issue a fine. Therefore, when a civil society organisation considers that the rights provided by EU law are not respected by a Member States' practice, it can contact the Commission in order to encourage the start of infringement proceedings. The added value of this procedure is that there are limited costs and there is no need for a case to be brought before a national court.

There is a very useful manual published by the Migration Policy Group, the European Roma Rights Centre and Interights on the theory and practice of strategic litigation with particular reference to the EC Race Directive:

http://www.migpolgroup.org/public/docs/57.StrategicLitigationofRaceDiscriminationinEurope-fromPrinciplestoPractice_2004.pdf

With regard to the European Court of Human Rights, which is an international court based in Strasbourg and applies the European Convention on Human Rights. All EU Member States have signed and ratified the European Convention on Human Rights and have to properly respect the rights provided by it. European Court of Human Rights task is to ensure that States respect the rights and guarantees set out in the Convention. It does this by examining complaints lodged by individuals or, sometimes, by States. Where it finds that a member State has violated one or more of these rights and guarantees, the Court delivers a judgment that is binding: the countries concerned are under an obligation to comply with them.

It is not needed that complainant be a national of one of States bound by the Convention, thus migrants are included in the scope. The violation must simply have been committed by one of those States within its "jurisdiction", which usually means within its territory. The complainant must have directly and personally been the victim of the violation, i.e. it cannot be a general complaint about a law or a measure, nor can the complaint be lodged on behalf of other people.

The procedure might require a long time since in order to lodge an appeal before the European Court of Human Rights, all the remedies in the State concerned that might have been able to redress the situation must have been used. The appeal to the ECHR must be lodged within six months from the date of the final decision at domestic level. After that period the application cannot be accepted by the Court.

Another instrument of litigation that can be used is the collective complaint procedure based on the European Social Charter (ESC) and its protocols. The ESC is the counterpart, in the field of economic and social rights, of the European Convention on Human Rights. The basic rights set out in the Charter are housing, health, education, labour rights, equal pay for equal work, parental leave, social security, social and legal protection from poverty and social exclusion, free movement of persons and non-

discrimination, and very importantly the rights of migrant workers. The European Committee of Social Rights (ECSR) is the body responsible for monitoring compliance in the States party to the Charter. Certain organisations are entitled to lodge complaints with the ECSR. A special list of NGOs has been established, made up of NGOs enjoying participatory status with the Council of Europe. Also national trade unions can lodge a complaint if the State does so allow. A list of entitled organisations is available at http://www.coe.int/t/dghl/monitoring/socialcharter/OrganisationsEntitled/OrgEntitled_en.asp

The ECSR examines the complaint and, if the formal requirements have been met, declares it admissible. The State Party may then respond in writing, and a hearing may be requested by either party to the procedure. Finally, the Committee comes to a decision on the merits. The decision is not legally binding but might have a significant political value.

FEANTSA has used this mechanism in a few cases and recently two important decisions on rights of migrants irregularly residing were delivered on the merits of the complaints *Conference of European Churches (CEC) v. The Netherlands* concerning the fundamental social rights of undocumented migrants, and *FEANTSA v. The Netherlands*, on the homeless – including irregularly residing migrants - and access to shelter. More information can be found here:

http://www.coe.int/t/dghl/monitoring/socialcharter/NewsCOEPortal/CC90Merits_en.asp and http://www.coe.int/t/dghl/monitoring/socialcharter/NewsCOEPortal/CC86Merits_en.asp

Use of Asylum, Migration and Integration Fund

For the period 2014-2020 a new fund has been set up, namely the Asylum, Migration and Integration Fund (AMIF) – that merges the pre-existing Integration Fund, Refugee Fund and the Return Fund. This fund provides a total of EUR 3.137 billion for the seven years. The main aim of this fund is to promote the efficient management of migration flows and the implementation, strengthening and development of a common Union approach to asylum and immigration. It is supposed to contribute to the achievement of four specific objectives:

- Asylum: strengthening and developing the Common European Asylum System by ensuring that EU legislation in this field is efficiently and uniformly applied;
- Migration and integration: supporting economic migration to EU States in line with the labour market needs and promoting the effective integration of non-EU nationals;
- Return: enhancing return strategies;
- Solidarity: making sure that EU States which are most affected by migration and asylum flows can count on solidarity from other EU States.

This Fund will also provide financial resources for the activities and future development of the European Migration Network (EMN). EMN aims to respond to EU institutions' and to EU State authorities' and institutions' needs for information on migration and asylum by providing data, with a view to supporting policy-making. Special financial incentives for EU States have been built into the AMIF to support the Union Resettlement Programme, including with focus on common Union priorities. A similar financial mechanism is foreseen for the transfer of beneficiaries of international protection from an EU State with high migratory pressure to another.

The largest share of the total amount of the AMIF (approximately 88%) will be channeled through shared management. EU States will implement their multiannual National Programmes, covering the whole period 2014-20. These programmes are prepared, implemented, monitored and evaluated by the responsible authorities in EU States, in partnership with the relevant stakeholders in the field, including the civil society. Around 11% of the funding under shared management will be allocated for Specific Actions (implemented under the national programmes of EU States, but responding to specific Union priorities) and to support the Union Resettlement Programme. The remaining 12% of the total

amount will be divided between Union actions and Emergency assistance, to be implemented through direct management, in the framework of annual work programmes.

Concrete actions to be funded through this instrument can include a wide range of initiatives, such as the improvement of accommodation and reception services for asylum seekers, information measures and campaigns in non-EU countries on migration channels, education and language training for non-EU nationals, assistance to vulnerable persons belonging to the target groups of AMIF, information exchange and cooperation between EU States and training for staff on relevant topics of AMIF.

All EU States except Denmark participate in the implementation of this Fund. Beneficiaries of the programmes implemented under this Fund can be state and federal authorities, local public bodies, non-governmental organisations, humanitarian organisations, private and public law companies and education and research organisations.

For more information:

http://ec.europa.eu/dgs/home-affairs/financing/fundings/index_funding_en.htm

'Two way' integration projects

Integration is often seen as an exclusive competence of migrants that does not involve Member States nationals. However, in order to effectively achieve an inclusive society, integration should rather be a two-way process involving not only immigrants but also nationals of Member States. This principle is equally taken into account by the EU in its common basic principles on integration and when providing funds for integration projects.

Therefore, when planning and managing projects, it is paramount to provide activities that are not only addressed to immigrants but also to those nationals who are directly concerned by the inclusion of immigrants in hosts' societies. This has an impact on the effectiveness of integration practices and on the fight against stereotypes, prejudices and myths.

For more information about the political EU framework on integration and of projects that are built on the principle of 'two-way' integration, consult the European Website on Integration (EWSI) <http://ec.europa.eu/ewsi/>

Collaboration with MEPs

Members of the European Parliament (MEPs) can be important allies in order to lobby and organise activities with the aim of defending migrants' rights and improve policies that concern them.

One of the main instruments is the drafting of parliamentary questions to other European Union Institutions and bodies, particularly to the Commission and the Council. They are a direct form of parliamentary scrutiny of EU institutions. There are three categories of parliamentary question: 1) questions for oral answer dealt with during plenary sittings, and included in the day's debates and that may be followed by a resolution; 2) questions for Question Time asked during the period set aside for questions during plenary sittings; 3) written questions with a request for a written answer. The first category of questions may be put to the Council or the Commission by a committee, a political group or at least 40 Members with a request that they be placed on the agenda of Parliament

For more information:

<http://www.europarl.europa.eu/sides/getLastRules.do?language=EN&reference=RULE-128>

The resolution that may follow is a significant political instrument though does not have any binding effect.

The second category of questions – the Question Time with the Commission – is held at each part-session for a duration of 90 minutes on one or more specific horizontal themes to be decided upon by the Conference of Presidents one month in advance of the part-session. The Commissioners invited to participate have a portfolio related to the specific theme.

For more information

<http://www.europarl.europa.eu/sides/getLastRules.do?language=EN&reference=RULE-129>

The third category of questions is submitted by an individual MEP and is therefore easier to get.

For more information:

<http://www.europarl.europa.eu/sides/getLastRules.do?language=EN&reference=RULE-130>

Asking MEPs to address a specific question or helping them in drafting is a way to call for attention for a specific issue and sometimes can also provide questions that can be helpful in developing lobbying strategies.

Collaborating with MEPs is also very important in order to influence the content of EU legislative tools, particularly directives or regulations. Civil society organisations might want to be in contact with rapporteurs in order to propose amendments to specific EU legislation that addresses migrants' rights (see for instance the recent involvement of a group of NGOs – including PICUM and FEANTSA – in the drafting of the Seasonal Workers Directive).

MEPs have also the right to ask the Commission for specific pilot projects and preparatory actions funded by the EU and they often welcome proposals from civil society organisations for specific projects that might solve problems to be challenged on the ground.

Finally, MEPs can also help civil society organisations to organise events in the European Parliament, such as seminars, conferences and hearings. In some cases MEPs, or political groups, can help not only from an organisational point of view but also financially.

INFORMATION AND CONTACT

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See EAPN publications and activities on www.eapn.eu



The European Anti-Poverty Network (EAPN) is the largest European network of national, regional and local networks, involving anti-poverty NGOs and grassroots groups as well as European Organisations, active in the fight against poverty and social exclusion. It was established in 1990.

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