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# For the generations on the move in Europe, still so many challenges to overcome.

## A European odyssey

Until the middle of the 20th century, living in another European country and encountering its traditions and customs was the preserve of the nobility, the clergy, scientists (Marie Curie, Alfred Nobel, Émilie du Châtelet), intellectuals (Goethe, Nietzsche, Pirandello), artists (Modigliani, van Gogh), musicians (Liszt, Chopin) and writers (Joyce, Stendhal, Rilke).

Democratising this experience is one of the promises of the European project. Living, working, studying or retiring in another Member State has become a reality for a considerable share of European citizens. [13.7 million Europeans](#) (i.e. 3.1% of the European population) are "*internal migrants*" whom we shall call "*mobile Europeans*", i.e. citizens who choose to live in a Member State of the European Union other than the one in which they were born or of which they are a national. If, by way of comparison, we were to reduce this figure to the population of a European State, it would correspond to a State with a population greater than Belgium - a State which has 21 Members of the European Parliament. If these citizens had a common voice, their political power would be considerable.

Often, however, mobile Europeans are identified more by their national passports than by their European citizenship - and the administrative and practical obstacles they face in their experiences as "*nationals of another Member State*" are very real.

Europeans have been guaranteed freedom of movement since the 1957 Treaty of Rome. Initially limited to workers, the case law of the Court of Justice of the European Union, changes

to the Treaties and successive enlargements have given new categories of Europeans the right to settle in a Member State other than that of their nationality. Intra-European mobility was made possible by the introduction of European citizenship in the Maastricht Treaty, which came into force in 1993. Mobility is guaranteed by [article 3 TEU](#), [article 21 TFEU](#) and [article 45 the European Charter of Fundamental Rights](#). The latter give Europeans political rights, as well as "*the right to move and reside freely within the territory of the Member States*".

At present, the principle of free movement - which was strengthened thanks to the Schengen Agreement of 1995 - applies to the 27 Member States of the European Union and to the countries of the European Economic Area, which includes Iceland, Liechtenstein and Norway. This principle also applies to Switzerland under bilateral agreements.

It is mainly nationals of Central and Eastern European or Southern European countries who decide to live in another Member State. In 2021, the Romanians, Poles, Italians and Portuguese [comprised](#) the main groups of Europeans living far from home. Flows are [particularly significant](#) from East to West and from South to the North of the continent, but there are also considerable flows between neighbouring countries, such as Germany and Austria, Sweden and Denmark or between the Baltic States. Incidentally Germany is the country which [hosts the greatest number](#) of these mobile Europeans (4.5 million), followed by Spain, Italy and France. Croatia, Bulgaria, Lithuania and Latvia are home to fewer than 1%. The free movement of people, goods and services

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is considered by Europe's citizens as the most positive achievement of European integration, followed by peace. In a geopolitical context that has brought the issue of peace in Europe back to the fore, this result, which dates from the winter of 2022, may come as a surprise. At the same time, it testifies to Europeans' attachment to a "tangible" Europe and underlines the importance granted to this achievement, whose impact is indeed a reality. Moreover, [58% of Europeans believe that the free](#) movement of people is beneficial to the labour market.

Despite the expression of attachment on the part of Europeans and the legal efforts made to support free movement, reality unfortunately reveals that there is still vast scope for progress and many areas for improvement. This is why it remains imperative to analyse the obstacles that, in practice, complicate citizens' mobility and prevent the creation of a more people-centred Europe.

## STARTING YOUR CAREER AS A FOREIGN NATIONAL

Most Europeans who live in another Member State do so [for professional reasons](#). [Article 45-1 TFEU](#) guarantees the free movement of workers and states that "*freedom of movement of workers shall be secured within the Union. Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment*".

In practice, mobile Europeans are still discriminated against. Employers sometimes ask prospective employees for additional documents, even though they are not necessary (for example [a work permit in France](#)), thereby unnecessarily complicating the recruitment process.

In other cases, qualifications acquired in another Member State are not automatically recognised, which limits access to the labour market in the host country. Recognition of diplomas exists *de jure* at European level. The [Lisbon Recognition Convention 1997](#) and the [Bologna Process 1998](#) are the most important legal instruments in this area. The professional recognition of qualifications is also governed by European law (and

has been since Article 57 of the Treaty of Rome[1]). Now, [article 53 TFEU](#) is the legal basis for it.

*De facto*, European rules are not systematically well respected or known. Employers, for example, do not always consider qualifications acquired in another Member State to be a reliable indicator of skills, and reject applicants who are not nationals of the company's country from the outset. Moreover, the procedures for recognising qualifications - in cases where this is necessary - are often very complex. A lack of knowledge among workers about the qualifications required in the country of arrival is also a [source of misunderstandings](#).

In addition, nationals from another Member State who wish to use employment-related services often encounter discrimination: this is what a recent study demonstrates, showing the institutional discrimination that exists in German employment agencies towards mobile Europeans. The main finding of the study is that "*many caseworkers are dedicated but are unable to deal properly with the often-complex cases of many EU citizens*[2]". Often, it is tacit rules or the day-to-day practice of agents that stand in the way of Germany applying its obligations under European law. The European institutions are aware that these rights are not always respected by national administrations and employers, and that Europeans themselves are not very familiar with them. In [Directive 2014/54/UE of the European Parliament and Council](#), a "*gap between the law and its effective application*" was identified. Nine years on, this gap still persists in the daily lives of many European workers.

## EUROPEAN STUDENT MOBILITY PUT TO THE TEST

Students can also take advantage of freedom of movement within the European Union to begin, continue or complete their studies in a Member State other than their own. Since 2014, European trainees have also been able to take advantage of grants from European mobility programmes. This mobility is very much appreciated: [more than 10 million students and trainees](#) have already benefited from the [Erasmus+](#) programme and its predecessors which have been facilitating academic exchanges and

[1] Article 57(1) of the Treaty of Rome states that "in order to make it easier for persons to take up and pursue activities as self-employed persons, the Council, on a proposal from the Commission and after consulting the European Parliament, shall, acting unanimously in the first stage and by a qualified majority thereafter, issue directives for the mutual recognition of diplomas, certificates and other evidence of formal qualifications."

[2] Ratzmann, Nora (2022) "We Treat Everyone the Same", *Formal and Informal Expressions of Institutional Discrimination Against Intra-EU Migrant Citizens in German Job Centres*, DeZIM Research Notes 13, <https://www.eumigra.de/news/nach-wie-vor-institutionelle-diskriminierung-von-eu-buergern-in-deutschland.html>

learning experiences abroad for many decades. This figure does not include all the mobility of students and apprentices outside the Erasmus programme, so the actual number of young Europeans on the move is much higher.

However, this mobility is not a given either, as the following Austrian example shows. The country's medical deserts and shortage of doctors are among the main challenges facing Austrian health policy. Solutions such as improving working conditions for doctors in Austria or opening up additional places on medical courses seem to have less resonance in the political debate than the following ones: [limiting](#) the number of medical students from other Member States or [obliging](#) medical students in Austria to undertake their profession in Austria itself for a certain number of years after having finished their studies. These two measures are strongly contested by European legal experts, as they both appear to run counter to citizens' freedom of movement.

This problem is not new: [Austria](#) has already been reprimanded by the Court of Justice in the past and an identical situation in [Belgium](#) has been the subject of a preliminary ruling. In both cases, these Member States have attempted to limit the influx of nationals from other Member States as medical students by introducing measures that infringe the right to free movement of students. The EUCJ has [stipulated](#) that these measures could be considered to be a form of "indirect discrimination" based on nationality, unless they are justified by the objective of protecting public health. It was to safeguard this objective that Austria introduced a quota of 75% of students with an Austrian *Matura* (baccalaureate), 20% from other European Member States and 5% from outside the EU. Although this situation may be justified *de jure*, it makes *de facto* mobility more complex.

### A NEW EUROPEAN ADVENTURE IN RETIREMENT

An increasing number of mobile Europeans are pensioners. Many of them are moving to another Member State in search of a warmer climate, another experience for this new phase of their lives, or a closer relationship with some of their children who have left to live elsewhere. For example, 510,741 retired French

nationals [were said to be living](#) in another Member State of the Union in 2022, 27,000 Germans are said to be [receiving](#) their pension in Austria and 22,000 in Italy, 3,500 Italian pensioners are said to [be living](#) in Portugal.

This situation is possible and legal within the European Union. Pensioners [have the right](#) to receive the pension for which they have contributed, even if they live in a Member State other than the one whose nationality they possess. However, the mobility of retired Europeans is not without its difficulties. The problem they most often face is the length of the procedures, which can be considerable. In some cases, citizens face administrative hurdles of up to a year to calculate their pension rights for the period during which they worked in another country.

In addition to this, the retirement systems of the different Member States [vary](#) significantly, which makes it harder for mobile Europeans to apply to national authorities. As illustrated by the examples on the "[problems solved](#)" page on the platform [Solvit](#) implemented by the Union, a European national who has worked in several Member States may be wrongly denied part of his pension rights by the national authorities because they do not recognise his time worked abroad.

Once again, these difficulties can be attributed to a lack of awareness on the part of national authorities of the rights to which mobile Europeans are entitled under European legislation.

### FINDING ACCOMMODATION IN EUROPE: A MAMMOTH TASK

To quote George Bernard Shaw, "*A man without an address is a vagabond*". To avoid being relegated to a life of wandering, finding a place to live is therefore a necessity for mobile Europeans who have just arrived in a new EU Member State. European Union primary law does not guarantee or regulate the right to housing. The Treaties make no mention of it. [Article 34](#) of the European Union's [Charter of Fundamental Rights](#), guarantees "*the right to social and housing assistance*", but does not establish the right to housing as a fundamental one, as French law does for example<sup>[3]</sup>.

[3] [Article 1 of the Act of 6 July 1989 to improve relations between tenants](#) states that "the right to housing is a fundamental right; it is exercised within the framework of the laws governing it".

[4] Court of Justice of the European Communities, 14 January 1988, *Commission of the European Communities v Italian Republic*, [available here](#).

In a judgment of 14 January 1988[4], the Court of Justice of the European Communities nevertheless considered that "*if complete equality of competition is to be assured, the national of a member state who wishes to pursue an activity as a self-employed person in another member state must therefore be able to obtain housing in conditions equivalent to those enjoyed by those of his competitors who are nationals of the latter state. Accordingly, any restriction placed not only on the right of access to housing but also on the various facilities granted to those nationals in order to alleviate the financial burden must be regarded as an obstacle to the pursuit of the occupation itself*". Consequently, the Court held that the Italian law which permitted "only Italian to purchase or lease housing built or renovated with the aid of public funds" was contrary to European Community law[5]. In this case, it was a specific type of housing, since the dispute concerned access by European workers to Italian social housing. It also involved a difference in treatment *de jure* and not *de facto*.

*De facto*, 35 years later, European workers and citizens still face major practical difficulties when looking for accommodation.

Let's take a (fictional!) example: Themistoklis, a Greek student, decides to study criminal law at the Law School of the University of Utrecht in the Netherlands. Once he arrives in the country, he faces a whole series of difficulties in finding accommodation. Firstly, in addition to the language barrier and the fierce competition on the property market, Themistoklis finds that for tax purposes, landlords may prefer tenants who have a guarantor who is a Dutch national or resident in the Netherlands.

Although it is banned in some Member States, such as France[6], this practice is common in many European countries. It constitutes *de facto* discrimination and disadvantages mobile Europeans who do not have such a guarantor.

Mobile Europeans may encounter other administrative obstacles when they wish to rent accommodation. Often, for example, a local bank account is required, which can prove complicated for a European citizen who has recently arrived in another Member State. The combination of all these difficulties means that mobile Europeans looking for accommodation face far

greater procedural delays and uncertainty than their local counterparts.

Surprisingly, these constraints are still largely ignored in academic literature and are rarely the subject of reports, studies or statistical analyses. The result is a lack of data to establish the discrimination suffered by European nationals in access to housing.

#### **OPENING A BANK ACCOUNT AND OBTAINING A TELEPHONE NUMBER: A EUROPEAN CONUNDRUM**

Opening a bank account and obtaining a telephone number are two essential steps in any move to a new Member State.

In an era of digitised services, [super-apps](#) and [fintech](#), these two steps should be easy to complete everywhere. The difficulties that mobile Europeans encounter in carrying out these procedures are not insignificant in terms of getting established in their new home. It is also, unfortunately, an indicator of how far behind Europe is in terms of innovation. It should also be stressed that the existence of a common market should result in the elimination of anything that might act as an impediment preventing the integration of mobile Europeans from one Member State into another country of the European Union.

Once again, there is a gap between regulations and reality. It is true that directives have been adopted to facilitate these processes. With regard to opening a bank account in another Member State, Directive 2014/92/EU, known as the "PAD" directive, allows EU citizens to request the opening of a "[basic payment account](#)" in a bank of their choice, regardless of where they live. However, each country has its own rules on how to open an account, which makes the process more complex. In Spain, for example, a tax identifier allocated to non-nationals, known as the "[Número de Identificación de Extranjero](#)" (NIE) is required of foreigners, without any real distinction being made between European and non-European citizens. This lack of differentiation is surprising and leads us to question the *raison d'être* of 'European citizenship'. This administrative morass is made even denser by the specific demands of each banking institute.

[5] *Ibidem*

[6] Article 22-1 of the law of 6 July 1989 stipulates that a guarantor cannot be refused "on the grounds that he or she is not a French national or does not reside in metropolitan France".

### Long live Banking Union!

Any discerning reader might ask why a mobile European would prefer to open a new bank account rather than keep the one in their country of origin. Mobile Europeans might rightly consider this step to be non-essential, given the various stages involved. But there is another major difficulty: [discrimination regarding bank account numbers \(IBAN\)](#), i.e. the fact that a bank, retailer, private individual or public body refuses to accept non-local IBANs.

According to the [European SEPA regulation \(Single Euro Payments Area\)](#), no distinction should be made on the basis of the country of origin of payment accounts. However, cases of IBAN discrimination have been reported on several occasions[7]. Between 15 March and 15 August 2021, more than 1,000 submissions were made via the platform [Accept My IBAN](#)[8]. France accounts for over 40% of cases, while Spain and Germany each account for around 15%[9]. A large number of reports have been shared with the European Commission, which has set up a [platform](#) to report any infringements to the competent national authorities to be able to use this data as additional information to ensure that Member States comply with the law. The European Commission also plans to initiate infringement proceedings against Member States that fail to comply with this rule[10].

It is worth mentioning cash withdrawals. [Regulation 2019/518](#) prohibits the application of additional charges for withdrawals in a eurozone country. In application of this regulation, the bank is obliged to apply the same charges as for withdrawals in the country of residence[11]. Spain and Greece are exceptions. In these countries, if there is no agreement between the European citizen's home bank and the Spanish or Greek bank, bank charges may be debited[12]. However, the reality is different to that envisaged by the European regulation. Many European citizens face exorbitant additional costs - sometimes up to €5 per withdrawal - when they withdraw money with a bank card that is not issued by a local bank.

### Mobile telephony ...within a national framework

A new telephone number is a *sine qua non* for carrying out certain operations. However, obtaining a new number can also pose significant problems for mobile Europeans. For example, in some EU Member States, such as France, Germany, Italy, Belgium and Spain, a local mobile phone number is required to open an online bank account[13]. While it is true that more information is generally required to carry out transactions online, a local telephone number can also be requested in a bank to open a new account.

Once the mobile European citizen resolves to obtain a new telephone number, he or she will have to deal with some Catch-22 situations[14]. When taking the necessary steps with certain telephone operators in countries such as Spain, Italy, France or Belgium, they find that it is impossible to subscribe to a new telephone number unless they have a number in the host country - a situation that is paradoxical, not to say absurd, for any newcomer[15]. Although this situation mainly concerns online procedures, the problem can also arise in at the bank itself[16]. In addition, some telephone operators require a document, a code or an application specific to the country in question[17].

All these difficulties highlight the need to simplify "administrative" procedures in the European Union so as to facilitate the mobility of citizens and their integration into a new Member State. Further efforts are needed to ensure equal access to banking and telecommunications services, regardless of the country of origin of EU citizens.

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So what might Europe's response be to the difficulties that mobile Europeans are still encountering in this area of free movement? The answer must lie in the spirit of "*concrete achievements*[18]".

Firstly, efforts should be made to produce studies, reports and surveys that might help European and national institutions to better understand the problems encountered by mobile Europeans and bear witness to their scale.

Secondly, precise European guidelines should be

[7] Wise, "Accept My IBAN: over 1000 cases of IBAN discrimination", 15 October 2021,

[8] Ibidem

[9] Ibidem

[10] ECB, "IBAN Discrimination", available here

[11] European Consumer Centre – Payment and Daily Life – Withdrawal of cash in Europe, available here

[12] Ibidem

[13] This is the case when opening an online bank account with UniCredit and Findomestic (Italy), Deutsche Bank (Germany), ING (Belgium), Société Générale and Banque Postale (France) and BBVA (Spain).

[14] i A term used in reference to the novel by Joseph Heller (1961), to designate a situation where an individual cannot avoid a problem because of conflicting rules or constraints

[15] This is the case when obtaining a new telephone number from the operators Wind3 and TIM (Italy), Proximus and Orange (Belgium), Orange, Bouygues, Free (France), Lowi, Orange, Yoigo, Más Movil, Movistar and Vodafone (Spain).

[16] This is the case, for example, at La Banque Postale (France)

[17] This is not the case when obtaining a new telephone number from Vodafone (Italy), where a tax code is required, or from Scarlet and VOO (Belgium), where the It's Me digital identity application is required.

[19] Schuman Declaration, 9 May 1950, available here

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made available, in the 24 official languages, for national and local administrations, employers and workers, universities and students, as well as tenants and landlords, bank and telephone operators and customers, illustrating the rights they have and the obligations they are subject to.

In addition, an extra effort should be made to combat de facto discrimination by imposing more frequent sanctions<sup>[19]</sup> and the creation of platforms to facilitate the reporting of offences (such as housing discrimination).

It would also be useful to promote uniform mechanisms for securing transactions for the payment of deposits or the authentication of any European tenant. These mechanisms would provide anyone looking for accommodation with a solid guarantee, while levelling the playing field and reassuring landlords and estate agents. Similar schemes already exist: in France, for example, the [Garantie Visale](#) exempts the tenant from presenting any other security to the landlord. Such mechanisms should be encouraged in all Member States, in accordance with uniform European provisions.

Finally, and more ambitiously, a single telephone code for the European Union could be created, to ensure that all administrative procedures run smoothly, without national prefixes constituting a constraint.

It is important to stress here that eliminating discrimination in the workplace, in administrative or banking procedures (IBAN), facilitating the procedures

required to open a bank account, or more generally, simplifying the lives of mobile Europeans, would have a number of benefits for the European Union. These include facilitating cross-border transactions, strengthening the single market, boosting consumer confidence, increasing internal mobility and, overall, developing financial integration. These benefits would help to strengthen European cooperation and integration, while stimulating economic growth and the well-being of European citizens who choose mobility.

Improving the free movement of people within the European Union would have a second positive effect: it would strengthen the sense of belonging to the Union. Mobile citizens exposed to a "Europe that works", a Europe that lives up to its promises, i.e. a Europe that is a genuine area of freedom of movement, will be the Europeans most convinced of the importance of building a stronger, more integrated Union.

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*[19] In France, for example, anyone guilty of discrimination with regard to access to housing is liable to 3 years' imprisonment and a €45,000 fine (article 225-1 of the Criminal Code). Unfortunately, this penalty is not enough to discourage the widespread practice of requiring guarantors of French nationality or resident in France for tax purposes.*