



EUROPEAN

POLICYBRIEF



BEUCITIZEN
BARRIERS TOWARDS EU CITIZENSHIP

LIMITED SOCIAL RIGHTS AND THE CASE FOR A EUROPEAN MINIMUM INCOME SCHEME

Policy scenarios and recommendations from bEUcitizen, a research project on the barriers to realise and exercise citizenship rights by European Union citizens

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INTRODUCTION

This is a policy brief in the bEUcitizen policy brief series. The bEUcitizen project - funded by the European Union - set out to identify, investigate, discuss, and ameliorate the barriers to the active use of rights (and knowledge of duties, the concomitant to rights, in so far as there are any) by European citizens. The project aimed to provide a comparative overview and classification of the various barriers to the exercise of the rights and obligations of European Union citizens in the member states. Simultaneously, the project analysed whether and how such barriers can be overcome and the future opportunities and challenges the European Union and its member states face to further develop the idea and reality of European Union citizenship.

This policy brief examines the current status of social rights in the European Union and makes the case for a European Minimum Income Scheme. Since the ratification of the Maastricht Treaty (1992), European Union citizenship has formally become a reality and citizens of European Union member states are no longer only citizens of the respective member states, but also 'multinational citizens' of the European Union.¹ According to Dahrendorf, "[c]itizenship is ... an idea that finds its expression in law ... Citizenship creates a Rechtsgemeinschaft, a community under law..."² Substantive social rights have in turn been characterised as crucial for the ability of all citizens, irrespective of class, to participate more fully in the Rechtsgemeinschaft and to

¹ Aron, R. 'Is Multinational citizenship possible?', *Social Research*, 41(4), pp. 638-656, 1974.

² Dahrendorf, R. 'Citizenship and beyond: The social dynamics of an idea', *Social Research*, 41 (4), pp. 673-700, 1974, p. 674.

enjoy their political and civil rights.³ In this view, social rights are a precondition to full citizenship, or the “the final stone in the arch which holds up the roof of citizenship”.⁴

Social rights are typically realised and conceptualised within the context of nation states. Therefore, it is also not surprising that the concept of social rights does not have a uniform meaning across European Union member states. Moreover, definitions of social rights and social citizenship vary with the institutional design of social policy systems at the nation-state level, which may be built on the principle of universalism, on promoting social stability, or mitigating poverty and lead to very different outcomes. Within the European Union, we are witnesses of very large differences in the level of inequality and poverty among member states, which is not related to the level of economic development, but largely a consequence of political choice.⁵

KEY OBSERVATIONS

THE STATUS QUO

Although European Union citizens derive their access to social rights through their supra-national membership in the European Union, or their ‘multinational citizenship’, the substantive social rights are defined by the respective member state. In other words, there are no specific European social rights, as the European Union Treaty does not stipulate a set of rights. Instead, European Union citizens can access rights according to the rules of the particular place they work or reside in or export benefits from a member state of previous residence according to the principles of social security coordination.⁶

Although freedom of movement per se is not usually referred to as a social right, this too may be considered a social right of European Union citizens. In so far as social rights are conceived of as entitlements “associated with the provision of benefits and services designed to meet social needs and enhance capabilities”,⁷ **the right to move freely within the Union and take up work in other member states can constitute a fundamental and very important social right associated with European Union citizenship.** And as a recent European Commission report highlights – intra-European Union migration has indeed helped to attenuate unemployment in the Union.⁸

European Union citizens have the right to reside on the territory of another member state for a period longer than three months if they are ‘workers’ or ‘self-employed’ persons; have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the host member state and have comprehensive sickness insurance; are students with comprehensive sickness insurance; or family members accompanying or joining a European Union citizen.

In addition, access to social rights in the host country varies with European Union citizens’ economic status. European Union workers (employed or self-employed) have the same rights as nationals from the first day of their employment in another member state, based on the principle of non-

³ Marshall, T.H. ‘Citizenship and social class’, in Marshall, T.H. (ed.), *Citizenship and social class: And other essays*, Pluto, pp. 3-51, 1950.

⁴ Dahrendorf, R. *Law and Order*, Westview Press, 1985, p. 94.

⁵ See Ferragina, E., Seeleib-Kaiser, M. and Spreckelsen, T. ‘The Four Worlds of ‘Welfare Reality’: Social Risks and Outcomes in Europe’, *Social Policy and Society*, 14(2), pp. 287-307, 2015; see also Brady, D., *Rich Democracies, Poor People*, Oxford University Press, 2009; Goodin, R.E. et al. *The Real Worlds of Welfare*, Cambridge University Press, 1999.

⁶ Pennings, F. *European Social Security Law*, Intersentia, 6th ed., 2015.

⁷ Taylor-Gooby, P. *Reframing Social Citizenship*, Oxford University Press, 2008, pp. 4-5.

⁸ European Commission. *Labour Market and Wage Developments in Europe 2015*, 2015, pp. 87-129, available at

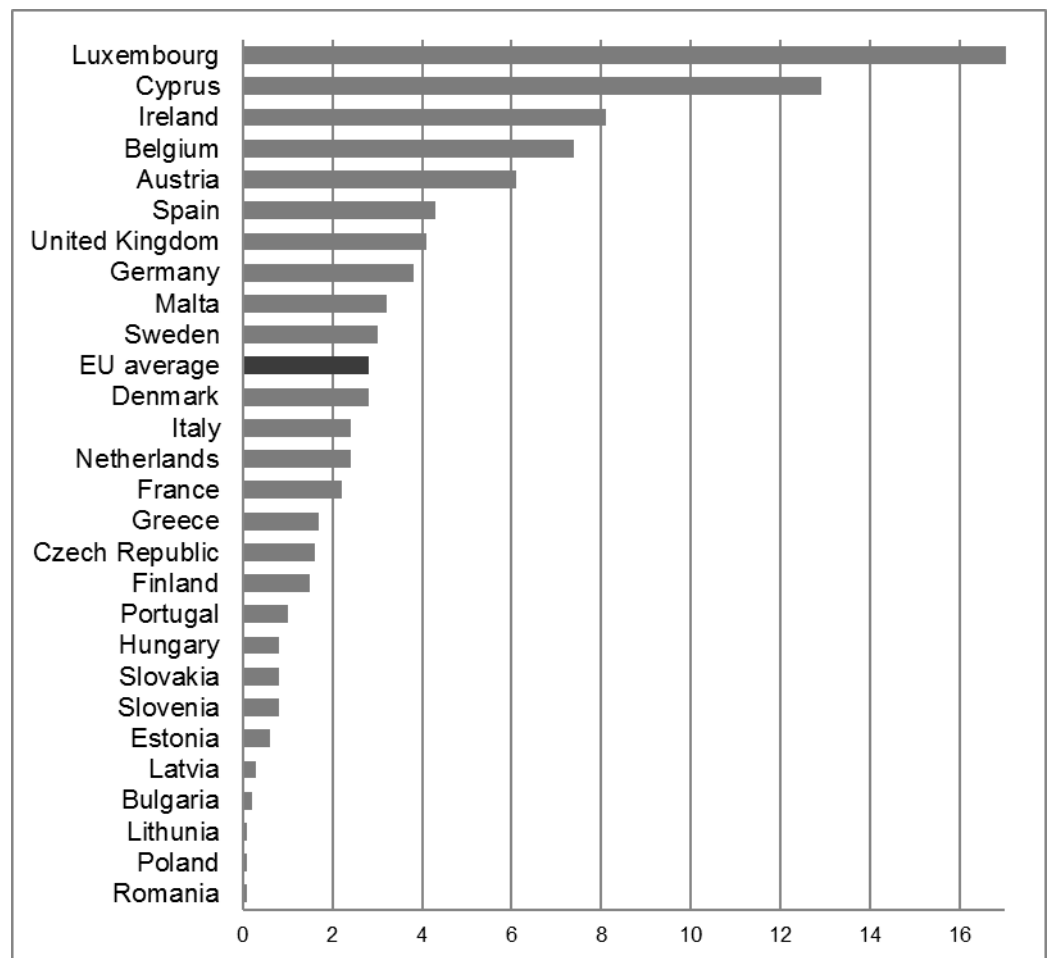
<http://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=7811&furtherPubs=yes>.

discrimination. Pensioners living in another member state largely export their rights; similarly, unemployed workers can export their unemployment benefit for a minimum duration of three months.⁹ In line with these regulations, member states have the right to withhold social assistance payments from economically non-active European Union citizen during the first three months of their residence; only after five years of legal residence do European Union migrant citizens have the same rights as nationals. Thus, social rights associated with European citizenship are inherently tied to free movement within the Union.

Until the early 2000s, intra-European mobility remained rather low and issues relating to European Union citizenship and social rights were limited to a very small minority of the European Union population. **The share of intra-European Union migration has, however, doubled as a result of the accession of the Central and Eastern European member states in 2004 and 2007 and the severe economic crisis and high youth unemployment rate in Southern Europe.**

The overwhelming majority of European Union migrant citizens reside in the European Union-15 member states, with significant variations among these countries.¹⁰

**EUROPEAN UNION
MIGRANT
CITIZENS IN
PERCENT OF
TOTAL
POPULATION IN
2014¹¹**



⁹ Pennings, *European Social Security Law*.

¹⁰ See bEUcitizen report *Social rights of EU migrant citizens: A comparative perspective*, D 6.1, by Seeleib-Kaiser, M., Bruzelius, C., and Chase, E., 2015, <https://doi.org/10.5281/zenodo.20295>.

¹¹ Eurostat, *Population by sex, age group and citizenship*.

Nevertheless, **the overall stock of European Union migrant citizens in the member states is still quite small, as only 2.8 per cent of the total European Union-27 population live in another member state.**¹² In absolute numbers Germany and the United Kingdom are the top destination countries.¹³

On average, European Union migrant citizens are more likely to be in employment than nationals living in the same country which can partly be explained by the fact that European Union migrant citizens are overall younger than national citizens.¹⁴ This is largely due to the strong increase in intra-European Union mobility of citizens from Central and Eastern European countries, who are more likely to be economically active than migrant citizens from European Union-15 countries. Member state with the highest rates of non-active long-term residents are Spain, Italy, and France – all countries which are typical destinations for European Union pensioners.¹⁵

‘WELFARE TOURISM’ OR ITS LACK THEREOF

Notwithstanding the rather low, albeit increasing, level of intra-European Union migration, the increase in numbers in conjunction with the expansion of European Union citizens’ social rights has prompted heated political debates and concerns about the ensuing consequences in a number of member states. A recurring theme in the context of freedom of movement is the concern with so-called ‘welfare migration’ or ‘benefit tourism’ – the fear that European Union citizens will use their right to move first and foremost to access more generous welfare benefits. In a number of countries, politicians have called for restrictions of social benefits for European Union migrant citizens,¹⁶ indicating limited solidarity with European Union citizens from other member states, in line with the argument that it is difficult to organise solidarity beyond the nation state.¹⁷ The underlying question associated with the debates about ‘welfare tourism’ is that of solidarity within bounded worlds of justice in the European Union and boils down to the simple question: who is us?

Robust evidence to substantiate claims of ‘welfare tourism’ or the welfare magnet theory is generally lacking.¹⁸ Existing accounts typically show that **European Union migrant citizens constitute a very small share of benefit recipients.**¹⁹ This is not surprising, as the overwhelming majority of **European Union migrant citizens migrate for reasons of work due to better job opportunities and wages in destination countries.**²⁰

¹² Eurostat. *Population by sex, age group and citizenship [migr_pop1ctz]*, 2014 (last updated 16 June 2015), available at http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_pop1ctz&lang=en.

¹³ European Commission. *Memo: Labour mobility within the EU*, 25 September 2014, available at [http://europa.eu/rapid/press-release MEMO-14-541_en.htm](http://europa.eu/rapid/press-release_MEMO-14-541_en.htm).

¹⁴ European Commission, *Memo: Labour mobility within the EU*.

¹⁵ ICF/GHK. *A fact finding analysis on the impact on the Member States’ social security systems of the entitlements of non-active intra-EU migrants to special non-contributory cash benefits and healthcare granted on the basis of residence*, prepared for the European Commission’s Directorate-General for Employment, Social Affairs and Inclusion, 2013.

¹⁶ Bruzelius, C. et al. ‘The Social Construction of European Citizenship and Associated Social Rights,’ Barnett Papers in Social Research 14/01, University of Oxford, 2014.

¹⁷ Offe, C. ‘Demokratie und Wohlfahrtsstaat: Eine europäische Regimeform unter dem Stress der europäischen Integration’, in Streeck, W. (ed.) *Internationale Wirtschaft, Nationale Demokratie. Herausforderungen für die Demokratietheorie*, Campus, pp. 99-136, 1998.

¹⁸ Giuliotti, C. and Kahanec, M. ‘Does generous welfare attract immigrants? Towards evidence-based policy-making’, in Guild, E. et al. (eds.), *Social benefits and migration: A contested relationship and policy challenge in the EU*. Centre for European Policy Studies, pp. 111-127, 2013; see also Ehata, R. and Seeleib-Kaiser, M. ‘Benefit tourism and EU migrant citizens: Real-world experiences,’ in Hudson, J. et al. *Social Policy Review* 29. Policy Press, 2017 forthcoming.

¹⁹ ICF/GHK, *A fact finding analysis*.

²⁰ See Blanchflower, D.G. and Lawton, H. ‘The Impact of the Recent Expansion of the EU on the UK Labor Market’, in Kahanec, M. and Zimmermann, K.F. (eds.), *EU Labor Markets*

BARRIERS TO SOCIAL RIGHTS

The fact that the destination countries also tend to have more comprehensive welfare states would seem of minor importance.²¹ This should also be considered in conjunction with research findings demonstrating that European Union migration has been overall fiscally beneficial for destination member states.²²

This does not mean, however, that no significant problems relating to accessing social rights exist. In addition to language and some bureaucratic barriers,²³ European Union migrant citizens primarily from Central and Eastern European as well as Southern European countries are confronted with the shortcomings of the system of social security coordination within the European Union. As has been highlighted above, European Union migrant citizens are not entitled to social assistance payments in the country of destination within the first three months after their arrival. Moreover, jobseekers should in theory be able to take advantage of the possibility to export their unemployment benefit from the country of origin to the country of destination.

As long as the European Union was made up of member states with by and large similar levels of economic development and welfare state arrangements, the institutionalization of social security coordination would seem a reasonable approach to, on the one hand, support intra-European Union mobility and, on the other hand, provide some limited social protection to European Union migrant citizens.

As a result of the stark differences in economic development present in the European Union, job-seeking European Union migrant citizens, largely from Central and Eastern Europe and Southern Europe, are very likely to lack any social protection.

For example, an unemployed worker from Romania having moved to Denmark in search for a new job would only receive a weekly unemployment benefit of €27, whilst someone who lost his/her job in Denmark would receive a weekly benefit of €368. In other words, an unemployed worker from Romania would be more than €340 worse off than a Danish unemployed. The exportable weekly unemployment benefit of €27 would constitute the theoretical reservation wage, as the unemployed person from Romania would not be entitled to any social assistance benefit.

In other words, **jobseekers that move with only an insufficient or no entitlement to unemployment benefits are exposed to exploitation, as their reservation wage tends to be extremely low, and leaves these jobseekers in extreme poverty.**²⁴ Even if member states were to strictly enforce the minimum rights of European Union workers, jobseekers without sufficient unemployment benefits would have to live in extreme poverty, as the system of social security coordination was designed for countries with similar levels of economic development and they have no recourse to social assistance.

After Post-Enlargement Migration, Springer Verlag, 181–218, 2009; see also Bonin, H. et al *Geographic Mobility in the European Union: Optimising its Economic and Social Benefits*, IZA Research Report 19, 2008.

²¹ Giulietti and Kahanec, 'Does generous welfare attract immigrants?'

²² Dustmann, C.; and Frattini, T. 'The Fiscal Effects of Immigration to the UK', *The Economic Journal*, 124(550), pp. 593-643, 2014; see also Ruist, J. 'Free immigration and welfare access: The Swedish Experience', *Fiscal Studies*, 35(1), pp. 19-39, 2014.

²³ See bEUcitizen report *Social rights of EU migrant citizens* (2015).

²⁴ See reports of exploitation in Germany and the United Kingdom <https://next.ft.com/content/43dacc0-410d-11e5-9abe-5b335da3a90e>; <http://www.zeit.de/2014/51/schlachthof-niedersachsen-fleischwirtschaft-ausbeutung-arbeiter>.

SCENARIO 1: THE RACE TO THE BOTTOM

Despite a lack of evidence, **the perceived threat of costs associated with European Union migrant citizens contributes to a ‘race to the bottom’, among member states, in restricting access to labour markets and to social policy benefits.** Member states follow the British example and retrench social rights for European Union migrant citizens, testing the limits of what is legally feasible as well as negotiating new settlements. The growing strength of populist ring-wing parties in countries such as Austria, France, Germany and Italy increase the likelihood of this scenario,²⁵ as irrespective of their participation in government also centrist and centre-left parties seem inclined to propose further restrictions for European Union migrant citizens to access social rights.²⁶ As more countries implement restrictions, the principle of freedom of movement and associated social rights is undermined. The policy degenerates to a ‘beggar thy neighbour policy’ in the domain of social protection. Eventually, this approach leads to widespread welfare chauvinism and a dramatic loss of support for the European integration process with the result of European Union disintegration.

SCENARIO 2: EUROPEAN UNION-WIDE SOCIAL SOLIDARITY

Based on the political will for further integration and political leadership of a small group of core member states, the European Union develops explicit minimum social rights for the euro zone, including **the introduction of a European Minimum Income Scheme.** A comparatively modest proposal of a European Minimum Income Scheme could initially be limited to mobile job seekers, subsequently extended to pensioners and developed in the long run into a basic income guarantee for all European Union citizens.

In order not to negatively impact the labour markets in many of the poorer member states, an European Minimum Income for mobile jobseekers should be paid at a level of 25 per cent of the equivalized net median income (the level of social assistance in a number of European Union member states)²⁷ in the country of destination for a maximum duration of three months within a 24-month period. For instance, in 2014 the monthly EMI benefit for an unemployed mobile jobseeker coming to Germany would have been €379, only slightly lower than the €391 ALG II [HartzIV] benefit paid to the long-term unemployed, but significantly higher than the monthly average exportable benefit of €112 of a young Romanian jobseeker, should she be entitled to an exportable unemployment benefit.

A European Minimum Income Scheme could be administered by the local labour offices, building on the administrative capacities and experiences associated with the export of unemployment benefits within the social security coordination framework.

A PLAUSIBLE SCENARIO

Currently there seems to be a consensus among those supporting European integration that **strengthening the European Union’s social dimension, which is often referred to as Social Europe, is a necessity from both an economic and a political perspective.** The Social Rights Pillar proposed by the European Union Commission, which focuses on strengthening the national

²⁵ See ‘Across Europe, distrust of mainstream political parties is on the rise’, *The Guardian*, 25 May, 2016, available at <https://www.theguardian.com/world/2016/may/25/across-europe-distrust-of-mainstream-political-parties-is-on-the-rise>.

²⁶ ‘Kindergeld Kürzung: Gabriel bekommt Gegenwind aus Brüssel’, *Frankfurter Allgemeine Zeitung*, 20 December 2016, available at <http://www.faz.net/aktuell/wirtschaft/wirtschaftspolitik/sigmar-gabriel-stoesst-bei-kindergeld-kuerzung-in-eu-auf-widerstand-14583739.html>.

²⁷ Peña-Casas, R. et al. *Towards a European Minimum Income*. Contribution Workers’ Group, European Economic and Social Committee, EESC/COMM/03/2013, November 2013.

minimum subsistence schemes²⁸ as well as the most recent proposals to reform elements of social security coordination by European Union Commissioner Marianne Thyssen, would do little to address the lack of social protection for many free movers;²⁹ however, these initiatives provide a window of opportunity to rethink the European Union's approach to social rights.

From a financial perspective, a European Minimum Income Scheme for mobile jobseekers would be a rather modest undertaking. Assuming that roughly one million people of working age citizens move within the European Union each year and taking 25 percent of the European Union median income for purposes to calculate the cost,³⁰ the **maximum price tag for a European Minimum Income Scheme for mobile jobseekers would be a little more than 1 billion euro per annum**. Starting with an initially rather small programme has the potential of making this proposal more feasible, especially as it falls within the competence of the European Union. Such an initiative could be based on the current Article 153.1 of the Treaty for the Functioning of the European Union, which provides the European Union with the competence to enact minimum requirements with regard to social security and social protection of workers and the integration of persons excluded from the labour market.

POLICY IMPLICATIONS

Providing a benefit for mobile jobseekers would significantly increase the decommodification potential or the reservation wage, thereby providing these workers with some additional time to search for a job and minimising the risk of having to accept an exploitative job offer below the local minimum working conditions.

As a result, the benefit would make European Union citizenship for unemployed workers more relevant as well as minimise the real or perceived negative impact on wages for local low-wage earners. By funding the European Minimum Income Scheme through European Union funds and setting the level for mobile jobseekers uniformly at 25 percent of the median income in the destination country, such an approach should significantly dampen allegations of 'benefit tourism'. Furthermore, **such a minimum social protection might allow more unemployed workers to be mobile and thereby contribute to a more efficient allocation of human capital within the European Union.**

MOVING FORWARD

Europe is at a crossroad. Without further integration and the development of a Social Europe, populist anti-European parties are very likely to further grow and the European Union to enter a phase of disintegration. A European Minimum Income Scheme might provide an important element for a Social Europe of the future and contribute to fostering solidarity across member states.

²⁸ European Commission, *Communication from the European Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions, Launching a Consultation on a European Pillar of Social Rights*, COM(2016) 127 final, see also Annex 1 to the document *First preliminary outline of a European Pillar of Social Rights*, both available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2016%3A127%3AFIN>.

²⁹ Bruzelius, C. and Seeleib-Kaiser, M. (2016) 'The case for a European minimum income scheme', EUROPP, LSE, available at <http://blogs.lse.ac.uk/europpblog/2016/12/15/european-minimum-income-jobseekers/>.

³⁰ Eurostat, [ilc_di04]; available at http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=ilc_di04&lang=en.

RESEARCH PARAMETERS

OBJECTIVES OF THE PROJECT

bEUcitizen is an European Union-funded research project focused on the barriers that still exist to realise and exercise citizenship rights of European Union citizens. The project aims to:

- understand the problems European citizens experience when they try to exercise the rights provided - or perform the duties required - by the legal concept of European citizenship;
- examine where, when, and why they run into hindrances and explain their nature thereof;
- identify the causes of the existence of these barriers, both direct and indirect
- explore whether these barriers can be reduced or even lifted;
- investigate which actors have already taken initiative to do so and assess how successful have they been;
- evaluate the unintended and perhaps unwanted consequences of some possible solutions to reducing these barriers.

METHODOLOGY OF THE PROJECT

The research into the rights of European Union citizens and the barriers to them exercising these is pursued within a multidisciplinary and multidimensional approach. By combining normative and empirical disciplines, bEUcitizen also integrated diverse methodological paradigms, tools and instruments. Taking into consideration that European Union citizenship is not only a legal principle but also a social practice as well as a historical process, the project raises mutual multidisciplinary understanding on the multidimensional character of citizenship, formulates linguistic and conceptual principles that enforce this mutual understanding and exchanges methodological approaches that improve mutual understanding.

The research is carried out in clusters and employs the following approaches:

- a horizontal approach, dividing citizenship rights into policy domains, i.e. economic, social, civil and political rights, recognising the multidimensionality of rights;
- a vertical approach, starting from the premise that citizenship rights and duties affect various categories of citizens differently, recognising the multitudinous effects of rights on different categories of citizens;
- comparisons over time and space, providing a comparative and historical approach;
- a cross-sectoral and conceptual approach, running like a red thread through all work packages—from the beginning to the end.

PROJECT IDENTITY

PROJECT NAME

All Rights Reserved? Barriers towards European CITIZENship (bEUcitizen)

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WEBSITE

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FURTHER READING

Bruzelius, C and Seeleib-Kaiser, M. (2016) 'The case for a European minimum income scheme', EUROPP, LSE, available at <http://blogs.lse.ac.uk/europpblog/2016/12/15/european-minimum-income-jobseekers/>.

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