Getting out of limbo

Policy brief v.1

KEY MESSAGES

- Governments and local administrations should work towards the provisions of the Withdrawal Agreement (free movement within the EU, equal rights for citizens), while maintaining as valid the decisions already taken on the recognition of qualifications.
- Administrative procedures should be simple, easy and based on objective criteria.
- UK government consulates in collaboration with local UK and EU country governments should develop plans to facilitate and assist the return process, working closely with the third sector.

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RETORNO study

Interventions on Social Determinants of Health – A comparative study of returned migrants from the UK and Spain post-Brexit referendum

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Introduction

The principal purpose of the EU-funded RETORNO study is to develop an evidence-based, context-sensitive theory of how intra-EU returned migrants' health could be improved. The objectives are to investigate how Brexit is affecting social and health issues in returned migrants, especially between the United Kingdom and Spain, but also at a European level. Intra-EU migration policies interact with social determinants of health, which are the circumstances in which people are born, grow, live, work and age. These vary depending on how policies distribute money, power and resources, and have an impact on people's health.

The Welfare State at the European level is designed for a sedentary status (for nationals and permanent residents), and linked to labour (by having contributions), which does not allow citizens to come and go within a framework of guaranteed rights[1,2]. Social citizenship has been dismantled because there is no access to justice or to free legal aid, both civil rights. Other social and political rights are then put at risk[3]. This whole situation has been aggravated by the UK's withdrawal from the EU[4] and by the Covid-19 pandemic. Moreover, in these countries/regions there are no return plans or they are unclear; in addition, the different levels of government (state, local) generate territorial inequalities[5,6].

Our approach

We used an innovative literature review methodology (realist synthesis) with five co-productive workshops with stakeholders (returnees, NGOs, charities, diplomatic representations, policy makers, etc.).

- ✓ The first workshops were held in phase one of the realist synthesis, in order to map initial contextual differences between Spain and the UK, helping to refine initial knowledge and consolidate the scope and objectives of the study.
- ✓ The second round of workshops was carried out in the evidence analysis and synthesis phase, in order to refine and validate the identified recurring patterns of contexts and outcomes and then explain these through the mechanisms by which they were produced.
- ✓ In the final phase, a final co-productive stakeholder workshop was held to develop joint strategies from an inter-sectoral approach on Return Migration and Health.

What we found

Key findings from our study are:

Being in limbo: In the context of Brexit, a long and unsettling event, coupled with the Covid-19 pandemic, and a static and weakened Welfare State, with non-transportable migration policies, conditional and inflexible entitlements and unfavourable tax systems, uncertainty and confusion is created for British citizens living abroad, with administrative procedures conditional on being resident in the UK and physically there, when many have difficulty travelling.This whole situation generates unequal access to health and social care in the UK, as well as in other countries (Spain) if they are unable to return,

deteriorating their living conditions, diminishing their quality of life and causing health problems.

- ✓ The **administrative procedures** to be completed by British citizens who have been living abroad for years in order to be considered residents in the UK (the "Ordinary residence test" and the "Habitual residence test") are complex (digital skills and technological devices are required, which not everyone have, especially not the elderly and socially vulnerable), unclear and even arbitrary, which generates confusion and uncertainty for those who are returning or contemplating a return. If they do not pass these tests, they will not be able to access social and health services and benefits.
    - o To be considered a resident you have to pass the **"Ordinary residence test"**, proving that you live or work in the UK. The **"Habitual residence test"** is used to determine eligibility for benefits and home help from the local authority (local council and housing associations). To pass this last test, it may be necessary to have passed the "Ordinary residence test". The procedure for returning British nationals is confusing; is not clear what criteria will be used (the decision-maker will assess the intensity of the intention to settle and whether an appreciable period of time has elapsed since the return to the UK). **There is no legal definition** of "Ordinary residence" or "Habitual residence".
- ✓ At the moment, those who have not applied for **European Union Settlement Scheme (EUSS)**, or even if they have applied, have had no response, or have been refused status, risk not receiving NHS care, or incurring a debt to the NHS; also those on a visa for less than 6 months, or those who do not have Global Health Insurance Card or S1/S2 (entitlement to receive care from another country's pension or contributions).
- ✓ If returnees, especially if they are in a **vulnerable situation**, have a support network in the UK (family, friends), this can be of great help because family or friends, in advance, can make an appointment with social services and register them at the health centre.
    - o It should be noted that many of the British citizens who are in the process of returning are elderly and in frail health, conditions that make it even more difficult, if not impossible, for them to travel to complete all the formalities. **Without financial support and a socio-familial network in the UK**, return is virtually impossible.
- ✓ Arguably, it is **the charities that explain/ help/ accompany the return** process (they can also provide financial assistance for the return journey), because as such the UK government is only responsible for explaining (with a lot of bureaucracy) how to obtain residency status, and from there, access benefits and services.
    - o All this advice is provided in an attempt to prevent highly vulnerable people from being left "on the street" and without care. The waiting list to recover services and benefits could be months long. All this points to the existence of inequalities in access to health and social services and benefits.
- ✓ Some British citizens living abroad are in an **irregular administrative situation or in legal limbo** having not obtained residency in the EU country and neither regained residence in the UK, which in itself becomes a trigger for increased vulnerability (problems of reintegration, deteriorating living conditions) and risk factors that negatively impact on their quality of life and health.

Policy implications / Recommendations

➢ The governments (national policies) and administrations (local government in the case of the UK, autonomous communities in Spain) of the member states, as well as the UK, must work **towards the provisions of the Withdrawal Agreement** which state that all residents must have the same conditions for free movement within the EU, as well as the same rights in terms of social security and as workers, maintaining as valid the decisions already taken on the recognition of qualifications.

➢ Administrative procedures, as the Withdrawal Agreement also underlines, must be **simple, easy and based on objective criteria** (namely resident status, considering families when EU citizens in the household, family reunion (proof of salary, ethylism)), something that is not being fulfilled according to the results obtained.

➢ As also stated in the Withdrawal Agreement, the public administrations must speed up the development of the necessary **agreements and arrangements to guarantee the social, civil and political rights** of citizens.

➢ It is essential that the UK government consulates (also possibly drawing on EU funds), by Local Governments-signposting in coordination with the local councils in the EU country (Spain), develops or utilise **plans to facilitate** (e.g. loan return scheme, flights paid, etc.) **and assist in the return process** (providing information on the barriers to implement current schemes, reducing bureaucracy and the requirements for regaining residency, as well as establishing financial aid and social and health support without delay), working closely with **the third sector**, which plays a crucial role in this process.

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