

Contributing to the right to health care for vulnerable migrants in Ireland

Session 1

Migrants in Ireland and the right to health

Session 1: Educational Aims

Increase knowledge in the areas of:

- **Right to health care - international instruments and law**
- **Migrants' rights & entitlements to healthcare in Ireland**
- **Ordinarily Resident vs Habitual Residency Condition**
- **Barriers and challenges faced by migrants in accessing health care**
- **The role of Primary Care Health Professionals**



**Coimisiún na hÉireann um Chearta
an Duine agus Comhionannas**

Irish Human Rights and Equality Commission



Social Support Agency of the
Catholic Archdiocese of Dublin

- Social care agency of the Dublin Archdiocese
- Service provision:
 - homelessness
 - youth and children
 - community services
 - food services
 - addiction support
 - **migrant issues and information & advocacy**



Social Support Agency of the
Catholic Archdiocese of Dublin

Information & Advocacy service:

- **Homelessness & risk of homelessness**
- Access to **social protection, medical cards, health care & other supports**
- **Immigration** issues
- **Settlement** help for people leaving the asylum system

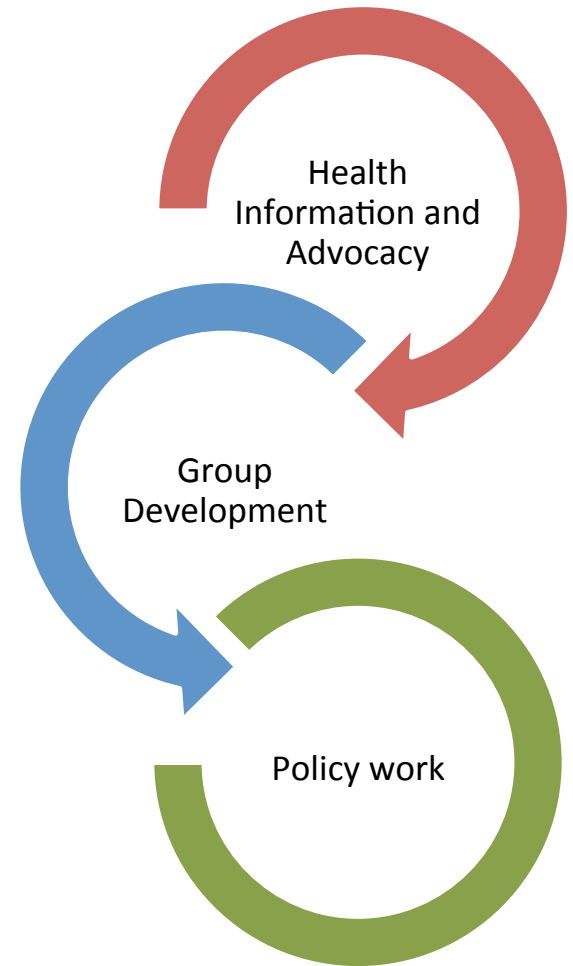


Social Support Agency of the
Catholic Archdiocese of Dublin

Information & Advocacy service cont'd:

- Support for **Irish emigrants** returning to Ireland incl. deportees
- **90% of our clients were born outside Ireland**
- **Approximately 5,000 individuals presented to our service in 2015**

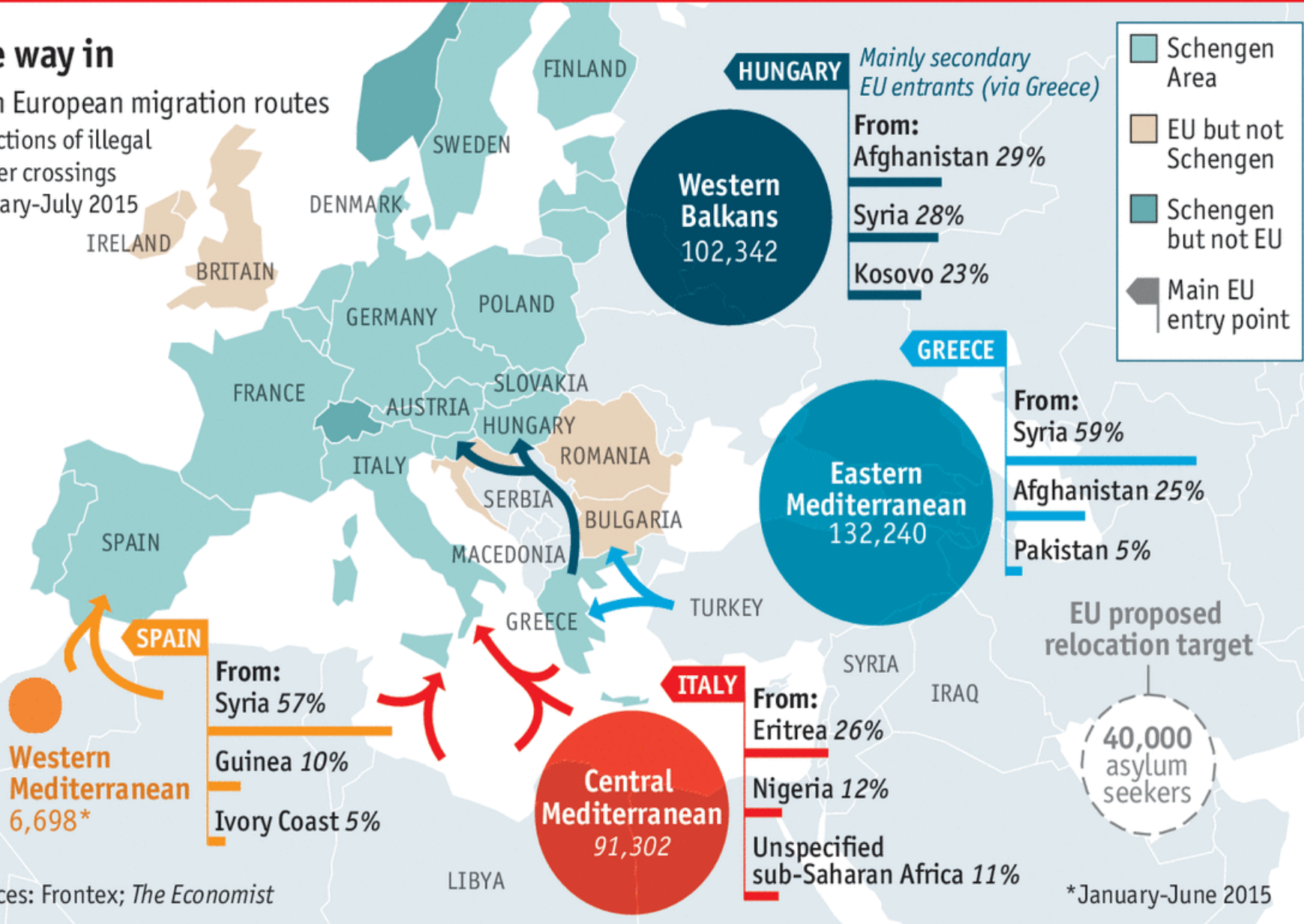
- NGO funded by the HSE
- **Operates Health Information and Advocacy Centres in Dublin North Central and Balbriggan**
- Health Advocacy (over 2,500 clients per year)
- **Supports and develops ethnic minority groups (integration, health, mental health)**
- Provides and develops health information
- **Outreach**
- Policy Work



The way in

Main European migration routes

Detections of illegal border crossings
January-July 2015



Sources: Frontex; *The Economist*

*January-June 2015

<https://www.youtube.com/watch?v=RvOnXh3NN9w>

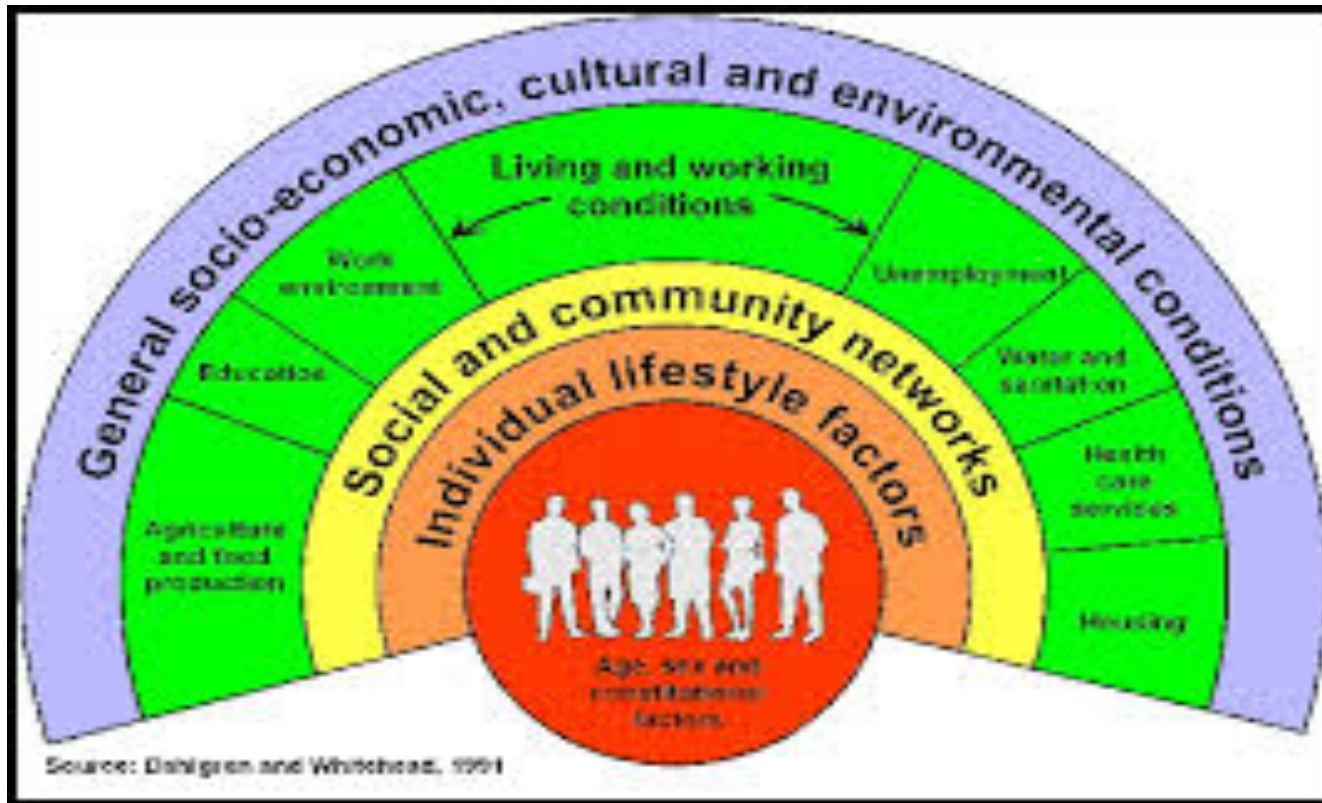
Group Work 1

Categories of Migrants

Examples

- **Asylum seeker** - medically assessed at reception and other accommodation centres
- **Programme refugees**- undergo pre-departure screening before arriving in Ireland.
- **Prescribed Family members of refugees**
- **Medical programme refugees**
- **European relocation programme**
- **Leave to remain**
- **Refugee**
- **Undocumented**
- **European Economic Area (EEA) Migrant**

The Right to Health



Social Determinants of Health

GLOBAL CONTEXT

- **International Covenant on Economic and Cultural Rights, art. 12**
- **International Treaties**
 1. **Constitution of the World Health Organization (1946)**
 2. **Charter of the United Nations (1945)**
 3. **European Social Charter (1961)**
 4. **International Convention on the Elimination of All Forms of Racial Discrimination (1965)**
 5. **International Covenant on Economic, Social and Cultural Rights (1966)**
 6. **International Covenant on Civil and Political Rights (1966) and its two optional protocols (1966 and 1989)**
 7. **Convention on the Elimination of All Forms of Discrimination against Women (1979) and its Optional Protocol (1999)**
 8. **African Charter on Human and Peoples' Rights (1981)**
 9. **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) and its Optional Protocol (2002)**
 10. **Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador) (1988)**
 11. **Convention on the Rights of the Child (1989) and its two optional protocols (2000)**
 12. **ILO Convention No 169 concerning Indigenous and Tribal Peoples in Independent Countries (1989)**
 13. **International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990)**
 14. **Convention on the Rights of Persons with Disabilities (2006) and its Optional Protocol (2006)**

Irish Context

- No constitutional protection for right to health!
- But courts have found a right to health in the unremunerated rights within **Article 40.3**



Health needs of migrant populations

- Communicable diseases (TB, Hep B, HIV)
- **Vaccination**
- Reason for leaving and impact of journey
 - Under nutrition, physical strain , mental stress
 - Trauma ++
- Similar to host population
 - routine care for acute and chronic diseases, reproductive and sexual health issues, intellectual and physical disabilities, mental health, and dental health

Major difficulties faced by migrants—particularly undocumented migrants- in accessing healthcare

- **Inadequate state cover**
- **Inadequate health service info**
- **Fear of deportation**
- **Unsafe unhealthy work conditions**
- **Living and social conditions** may be conducive to spread of disease
- **Trafficked persons subject to violence and abuse**
BBV, STI unwanted pregnancies and unsafe abortions

Entitlements to free or subsidised health services

ORDINARILY RESIDENT

VS

**HABITUAL RESIDENCE CONDITION
(HRC)**

‘Ordinarily Resident’

‘Ordinarily resident’ – a person who is living here and intends to continue to live here for at least a year (The Health (Amendment) Act, 1991).

Eligibility for health services for all people living in Ireland and who are ‘ordinarily resident’:

- 1. Medical card holders** (full eligibility – free access to primary and secondary healthcare)
- 2. Non-medical card holders** (limited eligibility – free access to secondary care in a public system).

CONT'D

Where a person is deemed not to be 'ordinarily resident' in Ireland the HSE may:

- apply the full economic charge for any services provided;
- or provide urgent necessary treatment at a reduced charge or without charge where application of the full economic charge would cause undue hardship.

NOTE: Undocumented non- EEA migrants have significant difficulty establishing they are ordinarily resident in the State

‘Ordinarily Resident’ – How to prove it

- In some instances, a self-declaration of ‘ordinarily resident’ status can be sufficient.
- Apply for a Medical Card where problem arise
 - if not entitled to Medical or GP card the letter will be issued outlining what public health services can be accessed thus showing ‘ordinarily resident’ status.
- Challenges??

Habitual Residence Conditions (HRC)

- In order to qualify for most non-contributory social welfare payments an applicant will need to meet the **Habitual Residence Conditions**
- Habitual Residence Conditions only apply to social welfare applications- **not health, not housing, not access to education**
- Social Welfare officials very often refer applicants to their GP to assist in providing evidence to support their habitual residence

Habitual Residence Condition

THE FIVE FACTORS

- 1. Length and continuity of residence in Ireland or in any other particular country (NB: GP support letter)**
2. Length and purpose of any absence from Ireland
3. Nature and pattern of employment
- 4. Centre of interest (NB: GP support letter)**
5. Future intentions as they appear from all the circumstances

GROUP WORK 2
Role Play

Migrants and payments on becoming ill/ unfit to work

FORMS

Contributory payments

- Illness Benefit (MC1)
- Invalidity Pension

Occupational Injuries Benefit Scheme

- Injury Benefit (26 weeks)
- Disablement Benefit (ongoing / lump sum)

Non-contributory payments

(subject to means test & **Habitual Residence Conditions**)

- **Disability Allowance** – subject to HRC
- **Supplementary Welfare Allowance (sick note benefit)** – may be subject to HRC, EEA Worker temporarily unfit – exemption applies due to EEA protections

Access to social housing supports

- Housing & Homelessness crisis – migrants can be disproportionately affected – they can struggle more to access long term & emergency accommodation
- They may need your support to get access to emergency accommodation and to homeless services
 - **NB: GP Support letter (medical priority)**
- There is no right to shelter in Ireland should you become homeless

THE ROLE OF PRIMARY HEALTHCARE PROFESSIONALS

WHAT CAN YOU DO?

UNDERSTAND:

- 'Ordinarily Resident'
- Habitual Residence Condition (HRC)

FAMILIARISE:

- Forms
- NGOs/Community Organisations/Clinics working with Migrants
- Governmental Departments

ASSIST :

- Forms
- Support Letters
- Medical Card
- GP Card
- Advocacy for Emergency Accommodation-Support letter

Group Work 3

FORMS

QUESTIONS

Post-session questionnaire
&
Handout