



# Preventing Undocumented Women and Children from Accessing Health Care: Fostering Health Inequalities in Europe

INITIATED BY:



Group of the Progressive Alliance of  
**Socialists & Democrats**  
in the European Parliament



PLATFORM FOR INTERNATIONAL COOPERATION ON  
UNDOCUMENTED MIGRANTS



EUROPEAN WOMEN'S  
**LOBBY**  
EUROPEEN DES FEMMES



This report highlights the presentations and discourse which took place during the public hearing on 8 December 2010, in the European Parliament on “Preventing Undocumented Women and Children from Accessing Health Care: Fostering Health Inequalities in Europe”. The event was coordinated by the European Anti-Poverty Network (EAPN), European Women’s Lobby (EWL), Médecins du Monde (Mdm), and the Platform for International Cooperation on Undocumented Migrants (PICUM). This report was prepared by PICUM.

MARCH 2011



Since 1990, the European Anti Poverty Network (EAPN) has been an independent network of non-governmental organizations (NGOs) and groups involved in the fight against poverty and social exclusion in the Member States of the European Union.



The European Women’s Lobby (EWL) is the largest umbrella organization of women’s associations in the European Union (EU), working to promote women’s rights and equality between women and men. EWL membership extends to organizations in all 27 EU member states and three candidate countries, as well as to 21 European-wide bodies, representing a total of more than 2500 organizations.



Médecins du Monde’s (MDM) mandate is to provide care to the most vulnerable populations and report on their situation. MDM organizations are active throughout the world, through medical programs in their own countries and abroad.



The Platform for International Cooperation on undocumented Migrants (PICUM), is a non-governmental organization based in Brussels, Belgium, at aims to promote respect for the human rights of undocumented migrants within Europe. PICUM also seeks dialogue with organizations and networks with similar concerns in other parts of the world.

PICUM promotes respect for the basic social rights of undocumented migrants, such as the right to health care, the right to shelter, the right to education and training, the right to a minimum subsistence, the right to family life, the right to moral and physical integrity, the right to legal aid and the right to fair labor conditions.

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# Executive Summary

## **PUBLIC HEARING IN THE EUROPEAN PARLIAMENT ON “PREVENTING UNDOCUMENTED WOMEN AND CHILDREN FROM ACCESSING HEALTH CARE: FOSTERING HEALTH INEQUALITIES IN EUROPE”**

*Brussels, 8 December 2010*

This report highlights the presentations and discourse which took place during the public hearing in the European Parliament on “Preventing Undocumented Women and Children from Accessing Health Care: Fostering Health Inequalities in Europe”. The timing of the hearing was ideal as not only did it coincide with the closing of the 2010 European Year for Combating Poverty and Social Exclusion but as well the European Parliamentary Committee Environment, Public Health and Food Safety (ENVI) was in the midst of drafting its report on the “Reduction of Health Inequalities in the EU”.

One intention of the hearing was that many of the sentiments, facts and figures that were shared by the speakers in regards to access to health care for undocumented pregnant women and children would be reflected in the upcoming ENVI report on health inequalities, and in future European policies concerning undocumented migrants.

The event was co-organized by the Confederal Group of the European United Left/Nordic Green Left (GUE/NGL), the Group of the Greens/ European Free Alliance, and the Group of the Progressive Alliance of Socialists and Democrats in the European Parliament (S&D) and coordinated by the European Anti-Poverty Network (EAPN), European Women's Lobby (EWL), Médecins du Monde (MDM), and the Platform for International Cooperation on Undocumented Migrants (PICUM). The panels were composed of health care practitioners, migrants and representatives of NGOs, Members of the European Parliament (MEPs) from a variety of political parties and representatives from EU institutions, including the Commission and the EU Fundamental Rights Agency. Nearly 200 participants from across Europe attended the hearing, representing NGOs and the European institutions, medical associations, think tanks, trade unions, journalists and researchers.



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The first panel focused on undocumented migrants' access to maternal and child health care and the public health perspective. Speakers highlighted the differences in law regarding access for undocumented migrants among EU Member States. Undocumented pregnant women throughout the EU face many disparities in gaining access to appropriate pre- and post-natal care, as well as to childbirth care. As an example, in Greece, an undocumented woman would have to pay the full costs of any care they received from hospitals during childbirth (except in cases of emergency), while in Italy an undocumented woman would be able to have identical access to care as any other woman. Medical practitioners on the panel reinforced that health care professionals are required to provide care to those in need, and to not act as immigration officials and denounce undocumented migrants to authorities. Several speakers referred to the incoherencies of all EU Member States which are party to international legislation giving rights to the child as well as to women, but at the same time, deny them access to health care due to immigration status.

The second panel presented institutional responses by local authorities and the European Union (EU) in regards to access to maternal and child health care for undocumented migrants. Speakers discussed the discrepancies between international human rights obligations and the national policies of a number of EU Member States which clearly contradicted their legal obligations. As well, a number of speakers highlighted the progress made in EU policy developments that could offer some advances in the legal rights available to undocumented migrants, such as in the Charter of Fundamental Rights. Several panelists spoke about successful projects between NGOs and the local government authorities that were providing access for undocumented migrants, and called for replication of such initiatives on the national and European levels.

This report concludes with policy recommendations for the European Commission, Parliament and Member States.



## Panel One: Maternal and Child Health Care Access and the Public Health Perspective

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Panel 1: Ms. de la Mata, Ms. Flautre, Ms. Estrela, Ms. Göncz and Mr. Juvin.

**Ms. Kinga Göncz (S&D)**, a Hungarian MEP, welcomed participants and speakers and thanked all for attending the public hearing. Ms. Göncz chaired the first panel which focused on access for maternal and child health care and the perspective of public health. She began by stating that barriers exist in many EU Member States which prevent undocumented migrants from accessing health care. Many MEPs only want to focus on returning undocumented migrants to their countries of origin but it is important to speak about these issues and develop policies in terms of health care.

“Barriers exist in many EU Member States which prevent undocumented migrants from accessing health care. Many MEPs only want to focus on returning undocumented migrants to their countries of origin but it is important to speak about these issues and develop policies in terms of health care.”

MS. KINGA GÖNCZ (S&D)

She then introduced the first presentation which was video testimony from Ginette, an undocumented woman from Cameroon living in France. Ginette's story was part of a compilation of testimonies provided by **Médecins du Monde** in the video “**Exil, Exit? Life as an undocumented migrant in Europe**”. The video was released with a larger research project conducted by Médecins du Monde in September 2009 on “Access to Healthcare for Undocumented Migrants in 11 European Countries”. Ginette discussed the difficulties of living

undocumented in France, not only in terms of finding work and housing but as well the outside pressures that she faced from people pushing her to work in prostitution or drugs. Her life became further complicated when she became pregnant and the father of the child left her. She feared that social workers would want to take her child away because of her precarious situation due to her undocumented status. Ginette's story ends on a good note as she and her child were given legal permission to stay and she was able to find work as a chambermaid in a hotel. She credits people who sympathized with her situation and offered her assistance in order to help her manage and survive through the situation.

“Sometimes you work and you don't get your money but you can't complain because you don't have papers. You're sort of sub-human. You've got nothing, no roof over your head. You're afraid of tomorrow. . . . When, on top of everything, you're pregnant, and the father has left, and you don't have papers, it's pure hell. . . . It's really difficult, you have to fight. Fortunately there were people who helped us, who sympathized, who put themselves in our shoes.”

GINETTE, UNDOCUMENTED WOMAN FROM CAMEROON LIVING IN FRANCE



Ginette, her daughter and her new born leaving the hospital. © Jobard / SIPA / MdM

Following the video presentation, **Dr. Olivier Bernard**, Chair of **Médecins du Monde (MdM) France**, stated that the situation of undocumented migrants was very worrying and the circumstances of accessing care were deteriorating. He pointed to country examples such as Sweden and Poland which did not provide access to care and other countries which allowed access only in extreme cases, like Germany, Slovenia and Greece. He found the tendency to restrict access to undocumented migrants was becoming more widespread and even in countries that did guarantee care, for example France, there were debates taking place in parliament to restrict the legislation.

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“The United Nations Convention on the Rights of the Child states that no child should be barred from accessing health care, including pre-natal and post-natal care. All EU Member States have ratified this convention and have legal obligations to provide health care for undocumented children.”

DR. OLIVIER BERNARD, MÉDECINS DU MONDE

Some countries have systems in place which provide access to care; however, there is a gap between legal rights and access in practice. Dr. Bernard spoke about his experience as a pediatrician in France, where France is a signatory to the United Nations (UN) Convention on the Rights of the Child. This convention states that no child should be barred from accessing health care, including pre-natal and post-natal care. All EU Member States have ratified this convention and have legal obligations to provide health care for undocumented children, yet in reality there are numerous cases of children being denied health care.

Dr. Bernard presented a table of sixteen EU Member States, studied by Médecins du Monde’s HUMA project, according to the coverage provided for undocumented pregnant women and children, ranging from the widest access to the most limiting access. Dr. Bernard felt that the resulting table painted a somber picture for undocumented pregnant women and children (see table 1). In the first group, although in law the right to access exists, it is sometimes difficult to access the service. For example, MdM France found that access was worsening which resulted in a 30% increase of children at MdM’s consultation centers. In the second group, the situation and procedures for access vary among the countries; for example, undocumented women in the United Kingdom may access care but are expected to pay for their maternity delivery. EU Member States in the third group

**Table 1. Categorization of sixteen countries studied by MdM depicting levels of access to health care for undocumented pregnant women and children**

Group 1	Group 2	Group 3
Countries where the rights of undocumented children and pregnant women are nearly identical to nationals, sometimes with some differences in terms of conditions of access.	Countries where certain rights for undocumented children and pregnant women are guaranteed, but there is discrimination against one or both of these groups.	Countries without rights for undocumented children and pregnant women, except in rare circumstances, such as an emergency.
Belgium, France, Italy, Malta Portugal, Romania, Spain.	Czech Republic, Greece, Netherlands <sup>1</sup> , Slovenia and United Kingdom.	Cyprus, Germany, Poland and Sweden.

strongly discriminate against undocumented women and children by completely restricting their access to health care, except in rare instances, such as emergencies. The case of Germany merits particular mention, because public administrative offices are required to denounce undocumented migrants to the authorities when they are aware of their situation. In order to access health care, undocumented migrants’ files first are examined by public authorities, which means that the reporting duty of these officials overrides the right that they may have to access health care. Only in 2010 a law was passed which exempted public administrative offices from this duty to denounce for emergency situations. Undocumented pregnant women can benefit from a temporary leave to remain during their pregnancy but they run the risk of being deported after the baby is born.

Referring to the table, Dr. Bernard summarized that the situation of accessing health care was not equal across Europe. Despite the disjointed policies in Member States, Dr. Bernard welcomed the progress that had been made on various levels of the EU on children’s rights and migrant women’s rights. He mentioned several recent policy developments in these areas:

- the mainstreaming of children’s rights into all EU policies through the Lisbon Treaty;



Panel 1: Mr. Juvin, Dr. Bernard and Dr. Wolff.

1 In the Netherlands, for undocumented pregnant women not able to pay their (entire) bill, midwives or the hospital treating the pregnant person are able to get a 100% compensation of the unpaid bill. For children less than 5 years old, access to vaccinations, medial basic care and prevention is free of charge. Regarding regular health care such as general practitioners, pharmacies and hospitals, children until 18 years have the same right as nationals, and if they/ their parents cannot pay, the health professional or institution can receive a reimbursement of up until 80% to 90% of the unpaid bill.

- the 2006 Council conclusions which reaffirmed values in European health systems, including universality, access to quality health care, equity and solidarity, and “equal access for all, according to need”<sup>2</sup>;
- the June 2010 Council recommendation made under the EU Spanish Presidency on universal health care access for pregnant women and children<sup>3</sup>;
- the October 2009 Communication from the European Commission on health inequalities, highlighting vulnerable groups of migrants and children living in poverty<sup>4</sup>; and
- the European Parliament resolution voted in plenary session on 7 September 2010 on the social insertion of women belonging to minority ethnic groups<sup>5</sup>.

In addition, he noted that on 7 March 2011, the European Parliament would vote on a resolution on reducing health inequalities in the European Union, and on behalf of the four NGOs co-organizing the hearing, urged all MEPS to ask for equal access for all, including undocumented migrants.

Dr. Bernard closed by referring to an action launched by MdM, a declaration calling for all European health professionals to promote non discriminatory access to health care.<sup>6</sup> Dr. Bernard reported that a number of organizations had already signed onto it, both from the medical sector as well as migration groups. He urged other organizations to sign on and stressed that there needed to be continued progress in order to ensure fair health policies which guaranteed access for all.

**Mr. Philippe Juvin (Group of the European People's Party-EPP)**, a French MEP, was the shadow rapporteur on the ENVI committee report on “Reduction of Health Inequalities in the EU.” As a doctor and head of the emergency department of a hospital in a low-income suburb of Paris, he felt that he was able to provide insight into access and the situation on the ground. He began by stating that access to health care is a mark of social equality. In the 20<sup>th</sup> century, mortality in Europe and quality of life were improved thanks to health care access. In order to maintain an appropriate standard of health, first, having

proper accommodation and food were essential. Second, being able to simply access health care was important. He noted that access could often times be difficult for undocumented migrants because of administrative reasons.

In order to best move forward in conducting appropriate policies for vulnerable groups, he believed that it was necessary to avoid falling into traps which would introduce contradictory policies. The first trap was one of paranoia that promoted the idea that undocumented migrants were trying to undermine the European health care system. The paranoia trap was usually used in political debates and it was important to counter such arguments. The second trap he described was that of “*angélisme*”, where groups in support of undocumented migrants would argue that everyone should be able to receive treatment. He noted this was not possible either and questioned where the line of full access would be drawn, for example if treatment such as plastic surgery be covered.

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**“Doctors should not be required to enforce immigration policy. As a doctor, it is technically impossible to refuse access to someone who requires care.”**

MR. PHILLIPPE JUVIN (EPP, MEP)

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Mr. Juvin closed by stating that the role of health professionals was not to solve political problems. Public authorities liked to avoid entering into the debate about access for undocumented migrants and would rather put the responsibility to decide on others, such as health professionals. But he emphasized that doctors should not be required to enforce immigration policy; as a doctor, it is technically impossible to refuse access to someone who requires care. He concluded by saying that the European Parliament should make quite clear that there is a need for uniform policies on access to health care for undocumented migrants throughout the EU, as it was not right that different policies concerning access to health care for undocumented migrants existed in various EU Member States.

2 Council Conclusions on Common Values and Principles in European Union Health Systems of 22 June 2006 (2006/C 146/01), available at <http://eur-lex.europa.eu/JOHtml.do?uri=OJ%3AC%3A2006%3A146%3ASOM%3AEN%3AHTML>.

3 Council Conclusions on Equity and Health in All Policies: Solidarity in Health of 8 June 2010, available at [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/lsa/114994.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/lsa/114994.pdf).

4 Commission communication “Solidarity in Health: Reducing Health Inequalities in the EU” (COM(2009)0567).

5 Resolution of the European Parliament of 7 September 2010, “Social integration of women belonging to ethnic minority groups”, available at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2010-0305+0+DOC+XML+V0//EN>.

6 To sign on to the declaration either as an individual or an organization, visit the HUMA network website at <http://www.huma-network.org/>.





Next on the panel was **Dr. Hans Wolff** from the **University Hospitals of Geneva**, who discussed his work with undocumented migrants in Geneva. He believed that Geneva took a progressive and pragmatic approach as undocumented migrants were able to have access to the basic standard of care equal to

that accessed by the general population since 1996. He warned that such access was only the case in Geneva and that other cantons in Switzerland had different and generally more restrictive systems.

Dr. Wolff outlined some general global trends concerning migration, first showing the need for migrants in order to meet the work demands, the increase of women in migration and lastly the danger that inequality posed for the full population. In the canton of Geneva, a population of around 430,000, he estimated that there were about 10,000 undocumented migrants, of which 70%-80% were from Latin America, and of that, two-thirds of which were mostly young and female. Usually they were living in difficult conditions, did not speak the language, had limited finances, limited education regarding reproductive health and were not familiar with the Swiss culture. Dr. Wolff wanted to focus on this group in a study that looked at the access and coordination of health care available, as well as determine other factors such as their exposure to violence, their family planning methods and the health problems encountered during the pregnancy.

The study was conducted from February 2005 to October 2006 in Geneva among undocumented pregnant women and with a control group of pregnant women with legal residency status in Switzerland. The study showed some surprising results. For example, the study overwhelmingly confirmed that 75% of undocumented women that were pregnant did not intend to get pregnant, compared to 20% from the control group. In the responses given by the women, it was apparent that the high percentage was due to the lack of information that the undocumented women had regarding contraception methods, for example the emergency pill (61% of the undocumented women were not aware of the emergency pill). As well, 13% of the undocumented women had never received screenings for cervical cancer whereas all of the women in the control group had.

Regarding exposure to violence, the statistics were rather alarming for both groups, where 26% of the undocumented women said they had experienced violence in their lifetime while 32% of the control group had as well. During the first four months of pregnancy, 11% of undocumented women experienced violence while the number in the control group

dropped to 1%. Of the undocumented women in the study, 9% of the births were pre-term compared to 4% in the control group. Compared to the control group, undocumented women are eight times higher at risk of unintended pregnancies, ten times higher at risk of starting pre-natal care late, and eight times higher at risk of exposure to violence during pregnancy. Dr. Wolff also emphasized that the results would probably have been much worse if the study had been conducted in a city where access to health care for pregnant women is not at all available.

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**“Data have shown that undocumented women are eight times higher at risk of unintended pregnancies, ten times higher at risk of starting pre-natal care late, and eight times higher at risk of exposure to violence during pregnancy than pregnant women with legal status.”**

DR. HANS WOLFF, UNIVERSITY OF GENEVA, SCHOOL OF PUBLIC HEALTH

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Dr. Wolff stressed that preventative measures could be taken to improve the reproductive health of undocumented women, such as providing more information on reproductive health and having cervical examinations. He believed that although it was a difficult population to reach, with trust building approaches, working within the community and financial support in the beginning, it would be possible to avoid the large costs accrued when people go to emergency services at a later stage.

He concluded by saying that there was a need for equitable access for all because once countries started refusing access to care for one group, other groups might be omitted as well.



The last speaker on the panel was **Ms. Isabel de la Mata** who represented the **European Commission's Directorate General for Health and Consumers (DG SANCO)** and was the Principal Adviser with special interest in public health.

She began by stating that the EU was based on fundamental and shared values and that non-discrimination and respect of human rights were at the core of those values. Seeing as the EU valued health care as a human right, all EU policies and activities should take into account an excellent level of protection of health, just as the Treaty of Lisbon upholds. She stated that all people living in Europe should benefit from a high level of health, independently of who they are or where they come from, including persons living in Europe as undocumented migrants.



The Lisbon Treaty indicated that all EU policies should focus on a high quality and protection of health. Article 35 of the EU Charter of Fundamental Rights states that everyone should have the right to preventative care as well as the right to benefit from treatment based on the conditions laid out in national legislation. She emphasized that this right applied to all regardless of their legal status. Ms. de la Mata added that human rights law was incorporated in EU law, confirming the right of all persons regardless of his or her legal status to receive urgent and necessary medical care and treatment. For children, there was the moral and legal obligation for accessing both types of care.

She realized that although there may be such rules in law, there were often differences in practice. Often times there were barriers that would make it difficult to reduce health inequalities and instead, the health of undocumented migrants was actually put at risk. For example, poor living conditions were often associated with high infant mortality rates, chronic and infectious diseases. Poor working conditions were often associated with exploitation resulting in mental and physical disorders. Lastly, poor access to health care could result in a high level of preventable diseases. The overall situation was worsened by poor social integration and discrimination.

Ms. de la Mata felt that the EU had a major role to play in considering these problems and as well a responsibility in dealing with inequalities in accessing health care. Also the activities on behalf of the EU should respect the obligations of the EU Member States in the organization and provision of health care services and medical attention.

In October 2009, the Commission adopted a strategy entitled “Solidarity in Health: Reducing Health Inequalities in the EU” which outlined a framework of action to reduce the inequality in access to health care in Europe.<sup>7</sup> The needs of migrants are identified in this strategy as a key priority and include a commitment to specific provisions which should be implemented with Member States on access to health care for migrants.

She noted that the Commission was working to develop the contribution of all the policies related to inequalities in access to health care and this included health, labor, equal opportunities, regional policy and research policies. In these areas, the Commission aims to support and facilitate the actions of Member States, local governments, regional governments and other stakeholders.

As well, the Commission was looking to identify and support projects which reduced inequalities for vulnerable groups. A recent project was the development of a network of good practices concerning access to health care for undocumented migrants. Another is the development of an interactive website in 16 EU countries which will share information on individuals, organizations and resources that are dedicated to the health of migrants and minorities. She felt that this project complemented the work of other organizations and was meant to foster networks and good practices. Lastly, the Commission is also working with the International Organization of Migration (IOM) on the revision of legal frameworks and raising awareness on access to health care for undocumented migrants.

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“Poor living conditions are often associated with high infant mortality rates, chronic and infectious diseases. Poor working conditions are often associated with exploitation resulting in mental and physical disorders. Poor access to health care can result in a high level of preventable diseases. The overall situation is worsened by poor social integration and discrimination. . . . The EU has a major role to play in considering these problems and as well a responsibility in dealing with inequalities in accessing health care.”

MS. ISABEL DE LA MATA, DG SANCO

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7 Communication From the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, “Solidarity in Health: Reducing Health Inequalities in the EU”, Brussels, 20 October 2009, available at [http://ec.europa.eu/health/ph\\_determinants/socio\\_economics/documents/com2009\\_en.pdf](http://ec.europa.eu/health/ph_determinants/socio_economics/documents/com2009_en.pdf).



## Panel Two: Institutional Responses by Local Authorities and the EU

“Our local contact point in Munich for undocumented migrants without health insurance has shown that building trust in the community is an important issue. Visitors of the center seek advice in regards to changes in their residency status as well as information on how to get medical help. . . . There is a need for such projects that offer access to medical care regardless of status at the national and European levels.”

MS. NADJA HIRSCH (GROUP OF THE ALLIANCE OF LIBERALS AND DEMOCRATS FOR EUROPE- ALDE)

The first panel speaker was **Ms. Ludovica Banfi**, from the **EU Fundamental Rights Agency (FRA)**, who spoke specifically about the upcoming research that FRA had funded on the fundamental rights of irregular migrants in the EU. She noted that the preliminary findings for the study showed a need for an arching policy for health care access, irrespective of status and that a uniform approach was needed. She highlighted three results in the study which directly addressed access to health care for undocumented pregnant women and children.

The first point was that some EU countries granted different access to health care to undocumented migrant children and women. For example, in 11 EU countries there is absolutely no protection mechanism in place to guarantee access to health care for undocumented migrant children. Rather, they are treated in the same manner as undocumented adult migrants. Only in ten EU countries is maternal care and medical assistance provided at birth for undocumented migrant women. In some countries, such as Austria and Greece, undocumented migrant women only have a right to treatment if complications arise at birth.

Secondly, in countries which have protections for undocumented children, only particular groups are protected. The study found that in six EU countries (Belgium, France, Italy, Lithuania, Luxembourg and the UK), undocumented migrant children have access to inclusive health care only if they are unaccompanied, whereas undocumented migrant children living with their families often face considerable difficulties in accessing basic preventive and follow-up care. In three countries (Austria, Germany and Sweden) access to health care is granted only to non-removable<sup>8</sup> children and in six countries access to pre-natal care is granted only to non-removable women.

While the first session focused on access to health care for undocumented women and children, and the perspective of public health providers, the second panel focused on the responses and policies that were being taken at the European and local level in regards to accessing care. The chair of the panel, **Ms. Nadja Hirsch (Group of the Alliance of Liberals and Democrats for Europe- ALDE)**, a German MEP, opened the discussion by highlighting a project that was established at the local level, in Munich, Germany. The project established a contact point for undocumented migrants without health insurance who needed to access medical care. The contact point was a place which provided care in addition to a sense of security as no one would be arrested because of their legal status. Building trust in the community was an important issue particularly because visitors of the center would seek advice in regards to changes in their residency status as well as information on how to get medical help.

Ms. Hirsch closed by saying that this was simply one example of a project taken at the local level and that there was a need for such projects that offered access to medical care regardless of status at the national and European level. She opened the panel to discuss other institutional responses that were taking place regarding access to care for undocumented pregnant women and children.

8 The phrase “non-removable” is used to describe third country nationals who are not able to be removed from the country. Although they may remain in the country with the knowledge of the authorities, they are not granted a legal status and can be deported any time, if the reason for suspension of deportation ceases to apply. Such situations may include persons who were in a regularization procedure, women whose deportation was delayed due to pregnancy or recent childbirth, or people who have been unsuccessful in their asylum claim who could not be deported due to lack of identity documents or other reasons.

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**“The preliminary findings of the FRA’s report emphasize the dire need for a coherent and harmonized policy across the EU Member States that grants access to health care for migrant women and children, irrespective of status.”**

MS. LUDOVICA BANFI, EU FUNDAMENTAL RIGHTS AGENCY (FRA)

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For the third point, Ms. Banfi reported that even in countries where undocumented migrants have the right to access health care, there were economic and cultural barriers and a lack of information that often hindered them from seeking medical advice. Having to pay for the treatment they received was a major obstacle and so was the lack of awareness of right to health care of both health staff and irregular migrants. Professionals also had difficulties in meeting costs, since in some countries with insurance-based health care systems, if doctors treat an undocumented migrant they are not fully reimbursed by the health system for their services.

Ms. Banfi closed by reminding the participants that on 9 November 2010 the European Parliament presented a draft report on reducing health inequalities in the European Union. The draft report called for a more equitable distribution of health as a goal for social and economic development and for Member States to promote policies aimed at ensuring healthy life conditions for all children, including actions to support pregnant women and parents.

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Following a presentation on the state of rights at the national level, **Ms. Virginia Wangare Greiner**, speaking as the Chair of the **European Network of Migrant Women**, discussed the partnership that was taking place between Maisha, where she is the Executive Director, and the local authorities in regards to providing health care to undocumented women and children. Maisha is an African NGO in Frankfurt, Germany that is working in partnership with the Health Authority of Frankfurt, the Women’s Department and the Department of Multicultural Affairs on a project which provides access to health care for

undocumented women. Because of the various departments are involved, there is the opportunity for a number of services to be provided, including not only medical but as well social work, with the assistance of cultural mediators.

The families that benefit from the service are undocumented, without insurance or hold an uncertain residence status. The organization deals with a number of issues; for example, there are some situations where the German father refuses to sign the legal document for the child and uses the situation to oppress and punish the woman. The longer he waits to sign the document, the longer the woman must wait before she can legally enter the German system and claim rights. If he refuses to sign, then there is no case for the woman and she is left in a precarious situation. Other situations might involve a woman that has been living in an abusive relationship but who was undocumented and unable to seek help.

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**“Partnership between local authorities and NGOs is important when reaching out to undocumented migrants. Health service providers should be trained in intercultural dialogue and should work in cooperation with migrant women’s organizations. In addition, funding should be made available to develop projects and support services which should specifically address the particularly vulnerabilities encountered by undocumented migrants.”**

MS. VIRGINIA WANGARE GREINER, EUROPEAN NETWORK OF MIGRANT WOMEN

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In addition to the services provided in the centre, they have also negotiated agreements with hospitals in the case that a pregnant mother arrives who is unable to pay the full fee. The established agreements involve only basic fees which will be requested from the mothers; in this way they will not be denied medical help for delivery on the account that they do not have medical insurance.

In closing, Ms. Greiner recommended that similar programs be established in other European cities as it was important that mothers should not be victimized during such a vulnerable time in their lives. She felt that partnership between local authorities and NGOs is important when reaching out to undocumented migrants. Health service providers should be trained in intercultural dialogue and should work in cooperation with migrant women’s organizations. Funding should be made available to develop projects and support services which should specifically address the particular vulnerabilities encountered by undocumented migrants. In addition, the criteria for entitlements to health care for undocumented migrants should be broadened: health is not an emergency but a fundamental right that should be granted at all times.



Panel 2: Ms. Paraskevas and Mr. Ostropolski.

**Mr. Tomasz Ostropolski** representing **the European Commission's Directorate General for Home Affairs (DG HOME)** was the next panelist and began my thanking the other panelists for their practical testimonies.

Mr. Ostropolski stated that the issue of migrants' rights, including access to health care should not be an ornament of migration policy, but is rather a very practical issue and something faced in everyday life. There was no doubt that it should form an integral part in the EU agenda in the field of immigration policy.

In recent years, while the EU had developed a framework of rights for legally residing third country nationals, there were only a few possibilities or tools that addressed the access to rights and could boost the situation of undocumented migrants. He noted that the available instruments cannot always be immediately transferable in all cases but at least they gave a certain perspective, which could be used to the maximum potential.

He first pointed to the new legal and policy framework for example Article 35 on the right to health care in the Charter of Fundamental Rights, a new tool, as well as the upcoming accession by the EU to the European Convention on Human Rights (ECHR). There were also some elements of the Stockholm Program which addressed the situation of undocumented migrants, including the protection of unaccompanied minors and protection for people who are trafficked.

**"The Commission is concerned about the phenomenon of denunciation of undocumented migrants to the authorities. The implementation provisions of the EU Return Directive should not be used to justify the practice. The observance of confidentiality between a health care provider and patient needs to be held high and kept as important."**

MR. TOMASZ OSTROPOLSKI, DG HOME

He also pointed to the EU Return Directive as Articles 14 and 16 drew attention to the health of undocumented migrants and gave the right to emergency care and essential treatment. Mr. Ostropolski noted that there was a concrete role for NGOs to monitor the implementation and the application of certain segments of the directive on the ground, once the directive would be transposed into national law (deadline was 24 December 2010). He felt that the Returns Directive should not be seen just as a repressive instrument but as a concrete tool which could also address some rights of undocumented migrants.

The Commission is concerned about the phenomenon of denunciation of undocumented migrants to the authorities. He said that the implementation of provisions of the EU Return Directive should not be used to justify the practice. The observance of confidentiality between a health care provider and patient needs to be held high and kept as important.



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Mr. Ostropolski closed by mentioning that the Commission will launch a study on the treatment of third country nationals who cannot be returned to their countries of origin and are left in limbo situations.

The final speaker of the panel was **Ms. Marie-Anne Paraskevas** representing **the European Commission's Directorate General on Employment, Social Affairs and Inclusion (DG EMPL)** who opened by commenting that undocumented women and children faced a triple discrimination: as women and children, as migrants, and furthermore, as undocumented. For ten years now the Commission has had an Open Method of Coordination (OMC) on social inclusion and social protection policies, which had focused heavily on vulnerable groups and health inequalities.



Ms. Paraskevas said that work at the Commission had mostly focused on children as it was an easy access point in projects given that they represented the future of society. At DG EMPL, a focus had been on health issues regarding children in the sense that early intervention was a means to deter future problems. She also mentioned the European 2020 Strategy<sup>9</sup>, which establishes five measurable EU targets, combating poverty being one of them. The idea is to later translate the five EU targets into national targets with the hope to influence better policies.

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**“The Commission has focused on health issues regarding children in the sense that early intervention is a means to deter future problems and it is an investment in the future.”**

MS. MARIE-ANNE PARASKEVAS, DG EMPL

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In addition to the work coming from the Commission, Ms. Paraskevas discussed the importance of the work that was being done by the rotating EU presidencies and how the Belgian Presidency had made child poverty a top priority during its presidency. For example, in September 2010 a conference on child poverty was held by the trio of EU presidencies (Spain, Belgium and Hungary) where a declaration was signed that called on the EU to give particular priority to the issue. One of the aims of the declaration is to push the European institutions to come up with a legislative document, in the form of a recommendation that would promote the fight against poverty as well as go further in addressing children.

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## Conclusions

MEPs Ms. Helene Flautre and Ms. Edite Estrela wrapped up the hearing by providing a few short conclusions and insights.

**Ms. Helene Flautre (Greens/EFA)**, a French MEP, believed that the current situation in the EU for undocumented pregnant women and children was a brutal contradiction as the best way to receive high quality care was to be in a regular situation. In addition, if someone was in a legal limbo, accessing services was not always simple and complications were often faced, such as harassment.

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Ms. Flautre believed it was necessary to reconsider the processes created in accessing health care but in so doing, it was necessary to ensure that further problems were not created for undocumented migrants. She felt that the European Commission's

action plan on accompanied minors is missing its policy focus as it contains no provisions at all concerning access to health care for these children. She said that there was a need to address the situation of undocumented migrants, as many are working in horrible conditions and often, since they lack paperwork, are left without any assistance. She also questioned whether the particularly precarious working conditions of undocumented migrants were not in themselves a health risk. She concluded by stressing that improving the integration of migrants in societies would also improve access to health care.

**“There is a need to address the situation of undocumented migrants, as many are working in horrible conditions and often, since they lack paperwork, are left without any assistance. Aren't the particularly precarious working conditions of these migrants also a health risk?”**

MS. HELENE FLAUTRE (GREENS/EFA, MEP)

Presenting the final conclusions for the day was the Portuguese MEP, **Ms. Edite Estrela (S&D)**, who also held the responsibility of being the **ENVI rapporteur for the committee report on “Reduction of Health Inequalities in the EU”**. She began by thanking all the speakers because their input would help enrich the report which she was preparing. Ms. Estrela appreciated the flow of the hearing, beginning with the reality and the personal story of the undocumented woman with her child, her fears and the difficulties she faced in addition to the studies and statistics that were provided by the other speakers.

She said that it is unacceptable that 16 EU Member States deny children's rights by preventing undocumented children from

access health care. Not providing access only increases health risks and problems. She said that the EU had positioned itself as a leader for the world in terms of human rights, but these rights are not even upheld within the EU. She added that it is incomprehensible that developed countries which have ratified international conventions on human rights deny rights to undocumented women, particularly those that are pregnant, and thought that it is necessary to work harder to raise awareness about these incoherencies amongst EU Member States. In doing this, she pointed to available instruments such as the Fundamental Rights Charter.

**“The EU has positioned itself as a leader for the world in terms of human rights, but these rights are not even upheld within the EU. It is unacceptable that 16 EU Member States deny children's rights by preventing undocumented children from accessing health care. It is incomprehensible that developed countries which have ratified international conventions on human rights deny rights to undocumented women, particularly those who are pregnant. It is necessary to work harder to raise awareness about these incoherencies amongst EU Member States.”**

MS. EDITE ESTRELA (S&D, MEP)

She mentioned that the World Health Organization (WHO) Commission on Social Determinants of Health had stressed that lack of money, accommodation, and housing were amongst the social determinants which determined inequality. This entity also said that poverty was the basis of such inequality. She felt that there was truth to the assessment and that and that the inequality also related to the current economic crisis. Ms. Estrela believed that if the EU was to focus on combating poverty, this would in turn create better living standards for all in the future.

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In regards to accessing health care, there are still barriers that undocumented migrants face, such as lack of information about entitlements, cultural barriers, and the fear of being denounced. She noted that accessing information is

fundamentally important but there are even difficulties in addressing such barriers as the information provided may not be perceived as reliable. Ms. Estrela closed by saying that irregular migration should not be fought with repressive measures but by addressing the root causes of migration which drives people to migrate. Policies to tackle irregular migration should be focused on strengthening development in countries of origin so that people can make an informed choice which may result in not having to migrate.

## Policy Recommendations

The EU networks that organized the hearing, European Anti-Poverty Network (EAPN), European Women's Lobby (EWL), Médecins du Monde (MdM), and PICUM Platform for International Cooperation on Undocumented Migrants (PICUM), propose the following list of recommendations that MEPs, the European Commission and Member States should keep in mind when making future policies:

When adopting a resolution on health inequalities, or other relevant resolutions:

- To ensure that the most vulnerable groups, including undocumented migrants, are entitled to and are effectively provided equitable access to health care, including sexual and reproductive health, health prevention and mental health;
- To ensure that all pregnant women and children, irrespective of their status, are entitled to and effectively benefit from social protection;
- To adopt a resolution that would cover the principles that should govern access to health care for undocumented migrants, namely equitable access to health care, no penalization of providing humanitarian assistance to undocumented migrants and a ban on transmitting patients' data to migration authorities.

They urged the European Commission and the Member States when designing and implementing the European Flagship Initiative on a European Platform Against Poverty:

- To make sure that tackling health inequalities and the situation of migrants/ ethnic minorities will be two core priorities monitored through the Social Open Method of Coordination (i.e. the National Action Plans for social protection and social inclusion and the National Reform Programs) so as to ensure equitable access to health care for all and to prevent and alleviate social exclusion of undocumented migrants through access to fundamental rights;

Lastly, when defining a Strategy on the Rights of the Child or when drafting a Recommendation on Child Poverty:

- To promote policies allowing all children, including children of undocumented migrants, to fully enjoy their fundamental rights, in particular their right to health.





