

Procedure file

Basic information		
INI - Own-initiative procedure	2013/2115(INI)	Procedure completed
Undocumented women migrants in the European Union		
Subject		
4.10.09 Women condition and rights		
7.10.06 Asylum, refugees, displaced persons; Asylum, Migration and Integration Fund (AMIF)		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	FEMM Women's Rights and Gender Equality		19/06/2013
		ALDE NICOLAI Norica	
		Shadow rapporteur	
		PPE MATERA Barbara	
		S&D GURMAI Zita	
		Verts/ALE LUNACEK Ulrike	
		ECR YANNAKOUidakis Marina	
	Committee for opinion	Rapporteur for opinion	Appointed
	EMPL Employment and Social Affairs		22/05/2013
		PPE KASTLER Martin	
European Commission	Commission DG	Commissioner	
	Migration and Home Affairs	MALMSTRÖM Cecilia	

Key events			
13/06/2013	Committee referral announced in Parliament		
16/12/2013	Vote in committee		
06/01/2014	Committee report tabled for plenary	A7-0001/2014	Summary
03/02/2014	Debate in Parliament		
04/02/2014	Results of vote in Parliament		
04/02/2014	Decision by Parliament	T7-0068/2014	Summary
04/02/2014	End of procedure in Parliament		

Technical information	
Procedure reference	2013/2115(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 54
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Procedure completed
Committee dossier	FEMM/7/12938

Documentation gateway					
Committee draft report		PE519.756	26/09/2013	EP	
Amendments tabled in committee		PE522.892	05/11/2013	EP	
Committee opinion	EMPL	PE516.820	10/12/2013	EP	
Committee report tabled for plenary, single reading		A7-0001/2014	06/01/2014	EP	Summary
Text adopted by Parliament, single reading		T7-0068/2014	04/02/2014	EP	Summary
Commission response to text adopted in plenary		SP(2014)414	18/06/2014	EC	

Undocumented women migrants in the European Union

The Committee on Womens Rights and Gender Equality adopted the initiative report by Norica NICOLAI (ALDE, RO) on undocumented women migrants in the European Union.

Members recalled that undocumented migrants are third-country national whose whose presence on the territory of a Member State does not fulfil or no longer fulfils the conditions of entry as set out in Article 5 of the Schengen Borders Code or other conditions for entry, stay or residence in that Member State and whose detection by the immigration authorities would lead to a return decision or an expulsion. They also recalled that undocumented migrants often lack financial resources, which means that they have to seek unacceptable solutions to secure the means of subsistence.

In this context, undocumented women migrants are particularly vulnerable. This is why Members called on the Member States and the Commission to recognise undocumented women migrants explicitly as a vulnerable social group exposed to trafficking, discrimination and exploitation on the labour market.

While emphasising that illegal immigration is a very topical issue, Members recalled the need for a common legal framework on migration policies in order to protect migrants and potential victims, especially women and children, but also to reduce illegal immigration.

Members condemned the fact that many migrant women are misled in their countries of origin with promises of employment contracts in developed countries and called on the Member States to apply the [Facilitation Directive](#) in order to reduce the risk of exploitative or abusive situations.

Vulnerability and protection of human rights: Members encouraged the Member States to waive, for undocumented migrants in the most vulnerable situations, the requirement to provide documentation in order to access state-run shelters. They insisted that account be taken of the particular vulnerability of people with special needs, such as children and adolescents, the elderly, the disabled, the illiterate or poorly qualified.

In particular, Members called on the Member States to provide undocumented women with proper psychological, health and legal support, with the right to housing and to combat all forms of forced labour. They condemned all forms of violence, human trafficking, abuse and discrimination against undocumented women. They also encouraged these women to lodge complaints against any abusive employer.

Among other things, Members called on the Member States to take the necessary steps to:

- prevent the proliferation of prostitution among women migrants;
- set in place mechanisms enabling undocumented migrant workers to lodge claims against an employer for any remuneration due;
- put an end to discriminatory practices and to combat undeclared work and labour exploitation;
- establish suitable training courses for their police forces and other state services that may be asked to deal with undocumented migrant women;
- ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, as well as the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families;
- ensure that all migrant women, including undocumented migrant women, who have been victims of abuse or gender-based violence,

- are provided with protection and support;
- implement the Returns Directive fully and to issue certification of the postponement of removal, as required by the directive, in order to avoid the situation of legal limbo.

They called upon the Commission to:

- as part of a future revision of the [Employer Sanctions Directive](#), introduce the possibility of mechanisms enabling irregular migrants to lodge anonymous formal complaints against an abusive employer and strengthen the protection of the human rights of migrants placed in detention;
- amend the [Returns Directive](#) so as to ensure respect for the human rights of irregular migrants, especially pregnant women and children;
- ensure that the standards established by the UN Convention on the Rights of the Child remain at the heart of any action on child rights.

Lastly, Members called on the Member States and the Commission, each in their respective ways, to:

- provide funding avenues for organisations offering legal, humanitarian and social assistance to undocumented women migrants;
- extend the scope of the European Social Fund and the European Integration Fund to include all migrants, irrespective of their residence status;
- close the gaps in reliable data and existing knowledge regarding the number and situation of undocumented people in the EU and develop EU-wide awareness campaigns to educate undocumented migrant women about their rights;
- make provision for sufficient numbers of appropriate female staff who are aware of the cultural and religious background of these undocumented women migrants.

Undocumented women migrants in the European Union

The European Parliament adopted by 327 votes to 303, with 36 abstentions, a resolution on undocumented women migrants in the European Union.

The Parliament noted that the term undocumented migrant is defined as a third-country national whose presence on the territory of a Member State does not fulfil or no longer fulfils the conditions of entry as set out in Article 5 of the Schengen Borders Code or other conditions for entry, stay or residence in that Member State and whose detection by the immigration authorities would lead to a return decision or an expulsion. It also noted that undocumented migrants often lack financial resources and means that they have to seek unacceptable solutions to secure the means of subsistence.

In this context, women migrants are particularly exposed and vulnerable.

However, Parliament did not support the proposal of its lead committee to recognise undocumented women migrants explicitly as a vulnerable social group exposed to trafficking, discrimination and exploitation on the labour market.

While emphasising that illegal immigration is a very topical issue, Parliament recalled the need for a common legal framework on migration policies in order to protect migrants and potential victims, especially women and children, who are vulnerable to various forms of organised crime in the context of migration and human trafficking. It highlighted that lesbian, bisexual and transsexual immigrants without legal documents are the victims of double discrimination, and that their fragile condition as foreigners without papers adds to their complicated situation.

It condemned the fact that many migrant women are misled in their countries of origin with promises of employment contracts in developed countries, and called on the Member States to apply the [Facilitation Directive](#) in order to reduce the risk of exploitative or abusive situations.

Vulnerability and defence of human rights: Parliament encouraged the Member States to waive, for undocumented migrants in the most vulnerable situations, the requirement to provide documentation in order to access state-run shelters. It insisted that account be taken of the particular vulnerability of people with special needs, such as children and adolescents, the elderly, the disabled, the illiterate, members of minorities, immigrants persecuted in their countries of origin for their beliefs, sexual orientation, physical characteristics, etc., and female victims of gender violence.

It pointed out that the right to health is a fundamental human right and therefore encourages the Member States to delink health policies from immigration control. Consequently, Parliament called for leaving off imposing on healthcare practitioners the duty to report undocumented migrants and encourages the Member State to ensure the provision of appropriate care and assistance geared to gender-specific needs.

Similarly, Parliament encouraged the Member States to:

- provide special training on gender issues to officials dealing with these people, and to refrain from requiring schools to report attending children of undocumented migrants;
- provide undocumented women with proper psychological, health and legal support.

It condemned all forms of violence, human trafficking, abuse and discrimination against undocumented women. It particularly encourages them to denounce their aggressors.

Thereafter, Parliament called upon Member States to:

- prevent the proliferation of prostitution among women migrants;
- ensure the correct implementation of the safeguard contained in the Employer Sanctions Directive, which requires the Member States to make available mechanisms enabling undocumented migrant workers to lodge claims against an employer for any remuneration due;
- put an end to discriminatory practices, to combat undeclared work and labour exploitation, inter alia by means of labour inspections, and to recognise undocumented women migrants as victims, and to allow them access to basic health services
- establish suitable training courses for their police forces and other state services that may be asked to deal with migrant women who are victims of violence;

- ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence;
- look for means of acknowledging the value of the work done by women who provide worthwhile services and contribute to the functioning of the host society;
- ensure that all migrant women, including undocumented migrant women, who have been victims of abuse or gender-based violence, are provided with protection and support;
- implement the Returns Directive fully and to issue certification of the postponement of removal in order to avoid the situation of legal limbo.

For its part, the Commission is called on to:

- propose the revision of the [Employer Sanctions Directive](#), by introducing the possibility of mechanisms enabling irregular migrants to lodge anonymous formal complaints against an abusive employer and to strengthen the protection of the basic rights of detained migrants;
- amend the [Returns Directive](#) so as to ensure respect for the human rights of irregular migrants, especially pregnant women and children;
- ensure that the standards established by the UN Convention on the Rights of the Child remain at the heart of any action on child rights;

Finally, the Member States and the Commission are called upon to:

- close the gaps in reliable data and existing knowledge regarding the number and situation of undocumented people in the EU and to develop EU-wide awareness campaigns to educate undocumented migrant women about their rights;
- provide undocumented migrant women with sufficient female contact staff out of respect for other religions and cultures.

On the other hand, Parliament does not call upon Member States and the Commission to propose formulas for funding for organisations providing legal, humanitarian and social assistance to undocumented migrant women and to extend the scope of the European Social Fund and the European Integration Funds to include all migrants, regardless of their residence status.