

**Re: Comment on Green Paper on an EU Approach to Managing Economic Migration**

*Medimmigrant strives for a guaranteed access to health care for undocumented persons and persons who have a precarious residence status. In this respect, the organisation is concerned with the abovementioned Commission Green Paper, putting questions forward relating to which (social) rights apply to migrants.*

*Medimmigrant is a member of PICUM (The Platform for International Cooperation on Undocumented Migrants) and has based this contribution on PICUM's comment on the Green Paper.*

***I. Medimmigrant asks the Commission to take into account the presence of undocumented migrants in Europe***

Due to the difficulties in legally entering the European Union, many migrants have entered illegally, or have entered legally and became undocumented after their visa/residence permit expired. Even though the EU is now starting to develop a common policy for admission of migrant workers, it is not very probable that the number of undocumented migrants residing in Europe will decrease in any considerable extent in the near future.

These undocumented migrants do not hold the right to work due to their lack of an official work permit. Nevertheless, it is relatively easy for an undocumented migrant worker to find employment, in almost all Member States of the EU. As indicated in the PICUM publication on "Undocumented Migrant Workers in Europe"<sup>1</sup>, the main reason for their attraction lies in their flexibility, availability, and in the fact that they are cheap to employ.

By denying fair working conditions to undocumented migrants, employers are able to respond to the growing demands of consumers to have inexpensive goods and services accessible at any time. To ensure a good profit margin, companies often resort to cutting costs by lowering the standards of working conditions. Nationals are not always willing to accept such work, and according to the logic of supply and demand, such jobs are often filled by undocumented migrants who are forced to accept substandard working conditions.

*To tolerate the conditions they are working in implies a danger of a general downgrade of workers' rights. This problem will not disappear (but rather be reinforced) with new migrants entering the EU.*

Medimmigrant therefore urges national and European governments to undertake the following measures to ensure that undocumented migrants can effectively fulfil their workers' rights as outlined i.a. in the International Convention for the Protection of the Rights of All Migrant Workers and Members of Their Families, the ILO Conventions N° 143 and N° 97, the European Convention on the Legal Status of Migrant Workers (Council of Europe), and the European Convention on Human Rights:

- a. **Informal workers should always be covered by labour legislation.** As soon as there is an employment relation, the legal status of the worker should never be an impediment to respect workers' rights.
- b. The repressive approach in dealing with undocumented migrant appears to have failed. Incentives for hiring this 'easily exploitable' workforce could also be reduced by undertaking a **supportive approach**. Such an approach could entail stimulating the legal assertiveness of informal workers and empowering them in their ability to deal with conflicts.
- c. Legislation and policies should be formulated with special focus on the needs of **undocumented women and children**, who are particularly vulnerable.

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<sup>1</sup> LeVoy, Michele, Nele Verbruggen and Johan Wets. *Undocumented Migrant Workers in Europe*. Leuven: PICUM and HIVA, 2004.

**III. Medimmigrant requests the Commission to thoroughly think through the application of the right to health care and social security for all migrants: workers, people waiting for decisions on their request for a residence permit, undocumented persons,...**

As is the case with the danger of downgrading worker's rights, we see the creation of harmful precedents by apparently accepting that to those in a precarious residence situation other (and lesser) human rights apply.

This situation is not only in flagrant contradiction to European, universal and national constitutional and human rights legislation, it also disregards the Commission's Communication<sup>2</sup> suggesting Member States to strive for universality in health care: "*Social cohesion is reinforced by access to quality care based on the principles of universal access, fairness and solidarity (...) i.e. covering all the population*". The mentioning of populations in particular need for improved access "*such as ethnic minorities and migrants*"<sup>3</sup> needs to be made more explicit.

In reality no country should accept marginalized people to become fatally ill. It is important to start realising that the financial burden to society is always greater when people are forced to delay care, rather than be included in preventive health care. Granting easier access to social security, especially for undocumented minors, is just a first step.

The Commission could take up an important role in putting this difficult issue on the agenda.

**II. Medimmigrant urges the Commission to stimulate the Member States to include an element of regularisation of undocumented migrant workers in a new migration policy**

The Commission stated in its "Study on the links between legal and illegal migration" (COM(2004) 412 final) that there are limits to the existing channels for legal immigration, and that therefore many Member States establish ways to regularize undocumented migrants. The Commission also states that by carrying out regularisation operations, governments attempt to bring such migrants into society rather than leaving them on the margins, subject to exploitation.

Medimmigrant, as does PICUM, fully endorse these findings, and urges the Commission to include the following measures:

- a) At the same time as opening vacancies for 'new' migrants, PICUM urges the Commission to **open these vacancies also for undocumented migrants** who in many cases have already for a long time lived and worked in Europe, and are often relatively well integrated.
- b) Upon implementation of the new EU economic migration policy, the Commission should urge Member States to implement a regularisation campaign to be able to **start with the new policy on a clean slate**.

*MEDimmigrant*  
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<sup>2</sup> Brussels, 20.4.2004, COM(2004) 304 final, Communication From The Commission To The Council, The European Parliament, The European Economic And Social Committee And The Committee Of The Regions. Modernising social protection for the development of high-quality, accessible and sustainable health care and long-term care: support for the national strategies using the "open method of coordination".

<sup>3</sup> Joint Commission and Council report: supporting national strategies for the future of health care and care for the elderly (CS 7166/03, 10/03/2003)