

**PSI/EPSU/ETUI Conference on “Public services welcoming migrants”
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Introduction

- Europe2020 Strategy was launched in 2010 as the European Union’s strategy for smart, sustainable and inclusive growth.
 - The targets include concerted efforts to empower and activate disadvantaged groups across EU member states and find sustainable solutions for the future of the EU labour markets.
 - However, has not been a comprehensive approach that would promote economic growth that contributes to social justice, decent work, combating poverty, investing in an inclusive and universal education system and to the transition from informal to formal economy in labour market sectors vulnerable to exploitation.
- Inclusion of migrants irrespective of their migration status in the broader implementation of the Europe 2020 Strategy is crucial as migrants face an increased and disproportionate risk of poverty and social exclusion, human rights violations and discrimination.
- Due to the multiple failings of labour migration systems in Europe, migrant workers in low wage sectors face great difficulties in maintaining their regular migration status. Low-wage migrant workers often fluctuate between regular and irregular status, making a social strategy solely based on residence status counterproductive.
- While many undocumented migrants in Europe, including undocumented children and youth, are able to at one point regularize their status, the restrictions they may have faced in accessing education and health care services not only result in an abuse of their human right to education and health, but also result in wasted potential and can have harmful long term health impacts.
 - Event in EP yesterday on undocumented youth
- The inequality faced by Europe’s workers has resulted in increased labour segmentation, low wages and normalization of exploitative working conditions.
- The growth of ‘in work poverty’ may increase hostility towards undocumented workers, often viewed as unwelcome competition for scarce jobs, and blamed with lowering wages and safety standards.
- What are some suggested ways forward to ensure access to decent work, fighting precarious work, and publicly delivered and funded social protection?

1. Increase fair, flexible and rights-based regular channels for migration - across all skills levels

- Eurostat projects that **the EU workforce will shrink by 50 million over the next 50 years** and even if all the planned policies to create jobs for the unemployed succeed, it will not be enough to compensate for the shrinking European workforce without labour migration.
- **Labour market demand exists in low wage occupations across the EU.** Yet migrant workers able to work in these sectors are prevented by national and EU migration policies from obtaining work and residence permits for regular work.
 - The Spanish organisation, Fundación Surt launched a report (June 2015) that domestic work is an important sector of the Spanish economy as between **14% and 17% of Spanish households employ a domestic worker, that it is mostly carried out in the informal economy and that it is performed mainly by migrant women from specific regions** (Latin America, Eastern Europe and North Africa).
- **When a structural labour demand is not met through formal labour migration channels** there are losses in tax revenue and more irregularity, as these workers are pushed into the informal economy and into an irregular situation.

Recommendations on regular channels:

- Address the demand and supply for irregular work by establishing a better regulated EU labour market by facilitating the **creation of more entry and stay opportunities** for third country migrant workers across skill levels and labour sectors in member states.
 - The seasonal workers' directive is the first EU instrument in 16 years of common labor migration policies that goes beyond the predominant focus on highly-skilled migrant workers, and provides regular channels for migrant workers at other skills levels.
 - However, it only addresses one sector (agriculture) and will not resolve future demands of the economy or demographic predictions for the EU.
- Allow for **transition to permanent migration** in circular and temporary migration schemes as labour shortage in these sectors is not temporary and could lead into more irregularity and undeclared work.
 - Swedish circular migration scheme – 2-year permit can be extended to 4 years, with possibility of permanent residence (also family reunification possible)
- Reduce undeclared work and irregular migration by **strengthening the residence status of third country migrant workers by uncoupling residence and work**

permits so that loss of employment would not automatically lead to loss of residence status.

2. Enabling migrants' access to public services (health care, education, legal services) is key to ensuring social inclusion

- Some EU member states enacted legislation nearly 20 years ago allowing UDM to have access to a wide range of subsidized care:
 - The Belgian law on urgent medical care dates from 1996;
 - Italy's National Immigration Law of 1998 stipulates the health care provisions for undocumented migrants;
 - France's 1999 law states that UDM that have resided in France for more than three months are entitled to basic health care services through state medical aid.
- **Sexual and reproductive health care services** – PICUM upcoming report
- For undocumented migrants, access to basic health care, including sexual and reproductive health services, is the exception rather than the rule in the majority of EU member states.
 - Limited entitlements exist for pregnant women who, in 21 member states, can access some form of maternity care, from delivery-only to a full complement of reproductive services; and for HIV, for which free screening is available in 15 (and treatment available in 10) EU member states.
 - But in the majority of EU member states, entitlements carved out for these particular groups are disconnected from the primary care system: only 10 member states provide some access to primary care, which is a vital portal into the public health system that ensures continuity and coordination of care, and is instrumental in supporting prevention efforts through the provision of information, and in the case of pregnancy, of contraception and family planning counselling.
 - Undocumented migrants in the EU face several significant obstacles to achieving sexual and reproductive health
- **Children's health care access** – 8 EU member states provide access to undocumented children on same level as national children – varies from explicit equal rights in law to implicit inclusion in insurance coverage for all children (this results though in more ambiguity, difficulties in practice)
- Recent report from FRA suggests that providing wider health care coverage than emergency care is cost-saving.
 - **Costs to health system**
 - Increased costs for emergency care vs. preventative and curative care

- Increased costs for administration
- Other public health-related costs
- Strain on health professionals = contrary to medical ethics & practice & reality → many do provide in practice as volunteers
- Lack of regulation (“grey” health economy)
- **Costs to society in general**
 - Not respecting human rights = principle & legal obligation
 - Reduced productivity
 - Ethical implications = fairness (migrants contribute), medical ethics & humanitarian necessity
 - Costs of NGO service providers

3. FIREWALL

- Firewall: A clear separation in law and practice between migration law enforcement authorities and the powers and remit of those working in social services (e.g. health providers; shelters for victims of domestic violence) as well as in the justice system (e.g. labor inspectors, police).
- The Facilitation Directive states that anyone who intentionally assists an undocumented migrant to enter or transit across the EU is breaking the law, as well as those who profit financially by helping undocumented migrants to reside in the EU. In many cases, this means organised smuggling rings, employers or landlords who seek to exploit undocumented migrants’ vulnerable position.
 - However, the problem is that the Facilitation Directive does not rule out imposing similar sanctions on individuals or organisations that offer humanitarian assistance to undocumented migrants. This could include the provision of emergency shelter, food and medical attention, even if these services are delivered to the undocumented migrant free of charge.
 - Recent development of volunteers being arrested in Greece has led to initiatives such as online citizen’s petitions, in line with our call.
- Recommendation: We also ask for the EU to provide guidance to Member States to ensure that service providers are not obliged to report undocumented migrants they encounter when providing humanitarian assistance such as provision of emergency shelter, food, health care and other necessities, as also put forward by the EU Agency for Fundamental Rights. In cases of abuse and exploitation of undocumented migrants, systems for reporting should be developed that protect both the service provider and the undocumented migrant.

- **Commission consultation on smuggling – 6 April deadline (Facilitation Directive)**

Labor inspection:

- Article 6 – Employers’ sanctions directive - establishes several safeguards to protect the labor rights of UDM, including a requirement for the employer to pay any outstanding wages to the worker, the possibility to issue residence permits of limited duration in cases of particularly exploitative employment conditions.
- Main conclusion: no evidence that labor rights foreseen in the directive are being upheld for exploited undocumented workers.
 - In the directive, labor inspectors are tasked with being the responsible body to receive complaints of exploitation or abuse by undocumented workers.
 - Yet in the 4 countries studied, the police accompany labor inspectors, and nearly all contacts with undocumented workers resulted in apprehension on grounds of their migration status and deportation before the undocumented worker has a chance to defend their labor rights.
 - A firewall principle outlined both in policy and practice would ensure that undocumented workers could safely report exploitation to labor inspectors.
- Access to justice for undocumented victims of crime (e.g. gender-based violence, violence at the borders):
 - Firewall would also ensure that undocumented victims of crime could also safely access justice as well as integrated services (e.g. health care, women’s shelters)
 - **Issue and publicize a protocol to the police** making clear that they should not inform immigration authorities when undocumented victims seek help, so they can enjoy their right to immediate protection without fear of deportation.
 - **Suspend expulsion for undocumented victims** until the resolution of criminal procedures and until any application for residence has been finally determined.
 - **Ensure burden of proof for undocumented victims of crime is realistic**; as police reports, medical reports, attestations of a shelter or psychiatrists are unattainable for many undocumented victims, statements from NGOs and migrant rights organisations should be accepted as credible evidence.
 - **Victims’ Directive** – PICUM guide

4. Discourse/terminology – use of the term “illegal migrant” or “illegal migration”

- Choice of correct terminology is crucial, as often language contributes to shape the reality which national authorities present to their population and the world.
- In a context where the use of language associates the concepts of migration and criminality, irregular migration becomes, beyond language, intrinsically linked with security concerns and crime.
- PICUM campaign to use accurate terminology – also directed at languages other than English
- “Migrants” vs. “refugees”
- Public opinion
 - Recent citizens’ movements to offer welcome to migrants and refugees throughout Europe
 - “We apologize”; “We are ashamed” – targeting EU policy makers
 - Challenge also discriminatory statements by policy makers

 - “I am an immigrant” – positive images and messaging
- It is in the mutual benefit of European society as a whole to ensure fair and inclusive working conditions, quality services, protection and justice, and secure and regular residence statuses for migrant workers.