Undocumented women migrants in the European Union

2013/2115(INI) - 04/02/2014 - Text adopted by Parliament, single reading

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.