

## **PICUM Submission to the UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families**

### **Day of General Discussion on the role of migration statistics for treaty reporting and migration policies**

22 April 2013, Geneva

The Platform for International Cooperation on Undocumented Migrants (PICUM) was founded in 2001 as an initiative of grassroots organisations. Now representing a network of more than 140 organisations and 160 individual advocates working with undocumented migrants in more than 38 countries, primarily in Europe as well as in other world regions, PICUM has built a comprehensive evidence base regarding the gap between international human rights law and the policies and practices existing at national level. With over ten years of evidence, experience and expertise on undocumented migrants, PICUM promotes recognition of their fundamental rights, providing an essential link between local realities and the debates at policy level.

#### **I. Introduction**

This submission gathers PICUM's concerns regarding the need for reliable and high-quality information data and statistics to better understand the situation of migrant workers and their families in Europe and to promote consistent and coherent migration policies that guarantee the respect for undocumented migrant workers' and their families' human rights.

This submission also highlights key challenges and good practices related to both the issues of collecting reliable data on migration and ensuring data protection and correct data sharing. Recommendations included in this submission aim at improving and developing effective systems for data collection, strengthening the role of civil society, promoting coordination amongst other stakeholders, and guaranteeing data protection by ensuring that information collected on undocumented migrant workers and their families are used to their benefit and by delinking data collection on migration from immigration and border control.

#### **II. Estimates of undocumented migrants on the global level**

According to estimates produced by the IOM in 2010, approximately 10 to 15% of the world's 214 million international migrants are undocumented.<sup>1</sup> Yet on the global level, there is no authoritative source specifically focusing on global trends and numbers on irregular migration and, as a result, the available sources are either not comprehensive or not adequately shared. For example, the Organisation for Economic Cooperation and Development (OECD), through its SOPEMI<sup>2</sup> initiative, and the UN Statistics Division collate data from various countries, which usually include estimates on irregular migration, although this is not the primary focus of data collection. Similarly, the IOM regularly publishes data on international migration trends and on how the issue of migration, including irregular migration, is perceived by the public opinion.<sup>3</sup>

## Estimates in the United States

The United States is one of few countries worldwide with credible estimates of the undocumented population, due to the use of the government data collected through the census (see text box below). Recent statistics on irregular migration estimate that 11.1 million undocumented migrants are currently living in the country.<sup>4</sup>

### Analysing Census Bureau data to gather qualitative information on undocumented migrants in the United States

Research led by the Pew Research Center in the United States and by Jeffery Passel, a senior demographer at the Pew Hispanic Center, provides a statistical portrait of the 11.1 million of undocumented migrants living in the US.<sup>5</sup>

The Pew Hispanic Center estimates the stock of undocumented population using a “*residual method*,” a widely accepted technique based on official government data. Under this methodology, a demographic estimate of the foreign-born population with a regular residence status is subtracted from the total foreign-born population: the residual is the source of population estimates of undocumented migrants. The statistical findings of the Pew Research Centre are based on the Census Bureau’s 2011 American Community Survey and feature not only the estimated number, but also detailed characteristics of undocumented migrants living in the US. Topics covered include age, citizenship, origin, language proficiency, living arrangements, marital status, fertility, schooling, health insurance coverage, earnings, poverty and employment.

The research also analyses the work and social conditions faced by undocumented migrant workers and the findings also focus on the situation of undocumented migrant children, and in particular on: school enrolment, estimates of educational attainment, income, poverty rates and health conditions.<sup>6</sup> According to recent estimates, around 1 million children in the United States are undocumented and approximately 5.5 million children are born to undocumented migrant parents.<sup>7</sup> The research also show that 46% of undocumented migrants in the United States are parents of children under 18 years of age and analyses of the Census Bureau data also estimate that 9 million people currently live in “mixed-status” families.<sup>8</sup> The Pew Research Center has also published several reports on public opinion about immigration.<sup>9</sup>

## Estimates in the European Union

In Europe, the Organization for Economic Cooperation and Development (OECD) estimates that each year around half a million undocumented migrants enter the European Union. The OECD’s most recent figures concerning undocumented migrants in Europe date from 2007, in which it was estimated that between 10% and 15% of Europe’s 56 million migrants were undocumented.<sup>10</sup>

Current estimates on irregular migration in the European Union are characterised by a generalised inaccuracy and reliable and systematic data collection mechanisms still have to be developed and implemented. In recent years, a number of studies have focused on measuring the total number of irregular migrants in the EU.<sup>11</sup> However, analyses of irregular migration are often confronted by inconsistent terminology and incomplete and incomparable data between states. EU Member States often rely on different standards to identify undocumented migrants and recorded irregular migration mostly covers apprehensions at borders or irregular entries.

Research from the European Commission-funded “Clandestino” project refers to 1.9 to 3.8 million undocumented migrants in Europe (see text box below). Prior to the completion of this project, estimates ranged from 4.5 million to 8 million undocumented migrants in Europe and were quoted in policy documents of the European Union.<sup>12</sup> According to the findings of the Clandestino project, it seems that the previous estimates quoted by the European Commission are the result of a long quotation chain, initially relying on an old newspaper article that was quoted and re-quoted until it was called a “recent estimate”.<sup>13</sup>

**The Clandestino Project: “Undocumented migration: Counting the Uncountable – Data and Trends across Europe”**

Easy access to well-documented and structured information is a necessary first step for creating more transparency concerning the size of irregular migration. The Clandestino Project, funded by DG Research, European Commission, was developed from 2007 to 2009 with the aim of collecting reliable data on trends in irregular movement across Europe. The project aimed at providing an inventory of data on migration stocks and flows in selected EU countries and at analysing the comparative data collected. The project also aimed at developing a methodology for the use of data in the context of the formulation of migration policies and at discussing the ethical issues involved in the collection of data and in their use.<sup>14</sup> The project also took into account and analysed policy-related factors that drive migrants into irregularity.

In 2009, the Clandestino project produced minimum and maximum estimates of the size of the irregular migrant population for 2008.<sup>15</sup> The aggregate estimate presented by the Clandestino Project for the 27 EU Member States ranged from 1.9 to 3.8 million undocumented migrants.<sup>16</sup>

As a result of the project, a database on irregular migration in Europe has been created. The Clandestino database provides an inventory of the data collected and estimates based on country reports and indicators (i.e. the composition of the irregular migrant groups in the selected countries, age, gender, nationality and economic sectors where regular migrants tend to overstay their work or residence permits). The data collected through the Clandestino Project provided the basis for an in-depth analysis of irregular movements at different entry points. The research results demonstrated that irregular entry is the least frequent path of entry into the EU, and that consistent and evidence-based migration policy could reduce patterns of irregularity in Europe.

### **National-level estimates**

Most estimates of irregular migration are elaborated at the national level and available data are usually scattered and largely incomparable. A comprehensive estimate of the number of foreign-born residents, based on data collected through national censuses within 196 countries, is provided by the Population Division of the United Nations Department of Economic and Social Affairs (UNDESA).<sup>17</sup> However, national censuses might underestimate the number of irregular migrants within a given country, as undocumented migrants may avoid census interviews for fear of apprehension or data sharing with public authorities.

**The Spanish Municipal Population Register (*Padrón Municipal*):  
collecting data on irregular migration at a national level**

In Spain, local authorities are responsible for collecting demographic information within the Municipal Population Register (*Padrón Municipal*) on an on-going basis. The National Statistical Institute (INE) is responsible for centralising, processing and publishing all data collected by local municipalities. The

Padrón collects data on resident population irrespective of migration status and therefore undocumented migrants can be duly registered within national demographic statistics. The number of undocumented migrants residing in Spain can therefore be inferred by comparing the number of residence permits issued with the number of third-country nationals who have registered in the *Padrón*.<sup>18</sup>

Estimates calculated in line with this methodology in 2012 show that the total number of undocumented migrants in Spain was approximately 600,000.<sup>19</sup>

Some studies have focused on quantifying the number of undocumented migrants currently not recorded within national censuses, such as in Argentina, where it is estimated<sup>20</sup> that the undercount of undocumented migrants could be equivalent to the 1.3% of the total population. Estimates of the number of undocumented migrants in South Africa, Thailand and the Russian Federation, range from 25% to 55% of the national population.<sup>21</sup> In particular, according to the OECD, undocumented migrant workers in the Russian Federation are estimated to reach a total of almost 5 to 6 million.<sup>22</sup>

The United Nations Development Programme (UNDP) estimates that irregular migration could average around a third of all migration flows for developing countries, around 30 million migrants, based upon an undercount of 100% of undocumented migrants who are not accounted for in country-level censuses.<sup>23</sup>

### **Disaggregated data on gender and age**

Better data collection and estimates are of crucial relevance for policy-making in a number of fields such as the provision of basic services and protection of undocumented migrant workers' and their families' human rights. Evidence-based and effective policy-making should take into account the important gender and family component of irregular migration. However, in most countries, data collection systems on irregular migration do not collect disaggregated information concerning socio-demographic features such as gender and age. In this context, undocumented women and undocumented migrant children tend to be omitted within qualitative migration statistics, that often fail to address the specific barriers faced by undocumented migrant women and undocumented children when seeking access to basic social rights, such as healthcare, education, housing and access to justice. As a consequence, migration policies and other relevant social policies fail to take into account the specific situation faced by undocumented women and children and to mainstream both a gender and a family-oriented approach that would grant them social protection.

### **Data on women in the context of migration**

The most recent UN figures indicate that 49% of the 214 million international migrants worldwide are women.<sup>24</sup> In 2000, the number of migrant women exceeded the number of migrant men in Latin America and the Caribbean, North America, Oceania, Europe and the former Soviet Union.

According to a study conducted by the Pew Hispanic Research Center, women constitute 39.4% of the adult undocumented population in the US and 58% of undocumented women in the US are in the labour force.<sup>25</sup> In Europe, in 2010, women averaged 18% of the migrants apprehended in the EU 27.<sup>26</sup>

In developed countries, the demand for caring and cleaning work, which has traditionally been performed by women and to some extent by welfare services, is increasing. Undocumented women employed in domestic work are at heightened risk of exploitation and abuse, including sexual abuse. The fact that most domestic workers are female migrants performing informal, poorly paid and unprotected work is a clear example of multiple discrimination, which should consistently be addressed

by labour migration policies. However, reliable estimates on the number of undocumented migrants employed in the domestic sector have not yet been developed. The EU Fundamental Rights Agency noted however that an estimate of the number of undocumented migrants employed in the domestic work sector could be implied from data on recent regularisations in Spain and Italy, according to which about 500,000 irregular third-country nationals employed in domestic work have been regularised in those countries since 2002.<sup>27</sup>

### Data on undocumented children

Data on undocumented migrant children remains particularly limited. For dependent migrant children, this is partly due to the fact that children's movements are often not recorded separately from their parents. The Population Division of the United Nations Department of Economic and Social Affairs reports that, globally, 16% of migrants are under the age of 20.<sup>28</sup> However, there is a general lack of official estimates on the number of undocumented children both at global and regional levels.

In Europe, Eurostat figures show that 41,455 of migrants apprehended in Europe in 2011 were children.<sup>29</sup> This figure included 16,250 children below the age of 14 and 25,205 between the ages of 14 and 17.

The Council of Europe Parliamentary Assembly stated in 2011: "*The rapporteur is at a loss to estimate the number of undocumented migrant children in Europe*".<sup>30</sup> However, some national level estimates on undocumented children in Europe do exist. The Clandestino project estimated between 44,000 and 144,000 UK-born undocumented children out of a total of 417,000 - 863,000 undocumented migrants. Following the data collated by Clandestino, the COMPAS research project at the University of Oxford found an estimate of 120,000 undocumented children in the UK in 2011, of which over 85,000 are thought to be UK-born.<sup>31</sup>

For comparison, Clandestino estimated 26,314 undocumented children in 2007 in Greece. This number was derived from taking the number of third country nationals on the school and birth registry, and subtracting an estimated number of regularly residing children aged below 18. In 2009 draft proposals were brought forwards for a regularisation scheme for children born in Greece to migrant parents, or for children who had been in Greece from early, formative years, and undertaken Greek school education. Official discussion over the proposed scheme anticipated it to affect about 250,000 children, many of whom would have been undocumented. It is unclear how figures were sought in the latter instance.

According to a study conducted by the Swiss Monitoring Office for Asylum and Foreigners' Law, children make up at least the 10% of undocumented migrants in Switzerland. This quote has also been referred to by the Council of Europe Committee on Migration, Refugees and Population in 2011 when discussing the issue of undocumented migrant children as a real cause for concern in Europe.<sup>32</sup>

In the United States, research conducted by the Pew Hispanic Center estimates that around 5.5 million children in the US are born to undocumented migrant parents. Among children of undocumented migrants, an estimated 4.5 million are born in the US and have acquired birthright citizenship and 1 million are foreign-born and therefore undocumented.<sup>33</sup>

The lack of migration statistics that give careful consideration to the specific issues facing undocumented migrant women and mainstream a gender-based approach, leads to further inequalities, discrimination and increased vulnerability of undocumented migrant women. Women and children are disproportionately impacted by limitations of basic rights and by restrictive migration policies; in particular, the lack of an independent residence status is a very common challenge faced by women

and children migrating to the European Union. Migration policies in Europe are often insensitive to the needs of women and, for those experiencing violence, exploitation or misinformation, may actually increase their chances of becoming undocumented. The issues around dependent residence status also apply to children, and while not specifically discriminating against girls, may place them disproportionately in situations of vulnerability to violence, abuse and exploitation. In this context, it is crucial to promote better data collection on the specific situation faced by undocumented women and children, especially in relation to health needs, access to justice and protection from violations of their human rights, for migration policies to mainstream a gender perspective and to ensure adequate protection of undocumented children's and women's human rights.

In light of the above, PICUM submits that the collection of reliable data on migration is a fundamental prerequisite for consistent policymaking and that the development of sound statistics on migration would have a direct impact on both increasing transparency and accountability of decision-making processes on migration and on promoting inclusive social policies ensuring adequate protection for vulnerable groups.

### **III. Migration and social policies: discrepancies about representation of undocumented migrants in data collection and utilization of available data**

In line with the policy framework established by the European Union's Global Approach to Migration and Mobility in 2011<sup>34</sup> and in line with the priorities set out within the Stockholm Programme for the EU area of freedom, security and justice, "*preventing and reducing irregular migration*" is an issue that remains at the forefront of the EU policy agenda.<sup>35</sup> In this context, the lack of reliable, exact, timely and comparable data on the number, living conditions and human rights of undocumented migrant workers and their families in the European Union negatively affects the development and management of coherent public policies on migration and on migration-related issues.

Although reliable statistical data is the key to the basic understanding of irregular migration and labour migration, in Europe, quantitative and qualitative statistics on irregular migration are generally incomplete, out of date or unreliable. In the absence of consistent statistics, policy decisions and public opinions may be based on erroneous information possibly provided by biased sources. Improvement in this area requires strong cooperation amongst all stakeholders involved, and better coordination at the European level in order to gather comparable data and to implement consistent data collection systems on irregular migration focused not only on acquiring information upon entry and exit of third country nationals within the European Union, but also centred on documenting the living conditions and human rights of undocumented migrant workers and their families currently living in Europe.

#### **Developing reliable statistics on undocumented migrants to debunk myths**

With the Tampere Agreement, the EU has situated migration around the prevention of irregular migration and the facilitation of return, with a strong focus dedicated to border control, the fight against trafficking in human beings and repatriation of migrants.<sup>36</sup> The increasing securitisation and criminalisation of cross-border movements of people and emphasis on border control has overshadowed the relevance and need to address other causes of irregularity, such as inadequate visa and residence policies, administrative failures, difficulties in understanding the complex procedures of residence and work permits.<sup>37</sup>

Combating irregular entry is the key focus within EU migration policies in the fight against irregular migration. However, when data on irregular migration are carefully contextualised, it becomes clear that the political significance of irregular migration far outweighs its numerical significance.<sup>38</sup> Frontex reports

that the number of annual refusals of entry at the European borders amounts to 115,305 refusals,<sup>39</sup> however, according to the findings of the Clandestino research project, irregular entry is the least relevant pathway into irregularity.<sup>40</sup> Academics have long established that due to the militarisation and intensification of border controls, migrants are forced to seek out alternative, more dangerous routes, which increases the number of fatalities.<sup>41</sup> Civil society organisations monitoring and mapping the numbers of fatalities report that since 1988, nearly 15,000 migrants have died while trying to reach Europe, the majority in the Mediterranean Sea area.<sup>42</sup>

Although Frontex<sup>43</sup> publicly admits that border control alone will not solve the issue of irregular migration<sup>44</sup>, it has still sought to broaden its activities, increase its budget and staff<sup>45</sup> and supported the EU’s plans for heavy investments in border technology and equipment such as satellites and drones.<sup>46</sup> Considerable financial resources have been invested in border and visa management, detection of irregular migrants, detention and expulsions to counteract the perceived threat posed by migrants entering Europe.

Nonetheless, a number of EU legislative initiatives on migration, such as the EUROSUR regulation<sup>47</sup> have been allowed to be built on a very weak evidence base in terms of the necessity, suitability and cost-effectiveness *vis-à-vis* the objective - reducing numbers of irregular migrants.<sup>48</sup> In the context of the Smart Borders initiatives, launched by the European Union in order to allegedly better manage travel flows and movements of third-country nationals across all external border crossing points of the Schengen area, the European Union recently proposed the establishment of a European Entry-Exit System (EES).<sup>49</sup> The new system would provide data and systematically collect all entry and exit records of third-country nationals crossing EU external borders.

Automated border-crossing procedures and controls, allowed within both the Smart Borders initiatives and the draft EUROSUR Regulation, allow for a vast amount of personal data to be collected and retained for a range of purposes, including the identification of specific “profiles” of third-country nationals who might imply a threat to national security. In order to avoid the risk of profiling and in order to ensure the safeguards established within the principle of non-discrimination and the right to private life, PICUM submits that data collection systems that aim at gathering reliable data on migration should be clearly delinked and separated from border control or surveillance purposes.

<b>Importance of data to debunk myths about irregular migration</b>
<p>▶ <b>Detention for migration purposes does not deter irregular migration.</b></p> <p style="text-align: center;"><i>“We already have the toughest mandatory detention regime in the Western developed world, yet people still come to Australia...So I don’t think mandatory detention should be seen as a deterrent”.</i> Chris Bowen, former Australian Minister for Immigration and Citizenship, 2 November 2010.<sup>50</sup></p> <p>While detention is used worldwide as a mechanism for states to control migration, research has found that detention is not an effective deterrent of irregular migrants and asylum seekers in either destination or transit contexts.</p> <p>A recent study<sup>51</sup> highlighted that detention fails to impact on the choice of destination country and does not reduce numbers of irregular arrivals, as undocumented migrants are usually not aware of detention policies in the country of destination and do not convey the deterrence message in their countries of origin. The study also underlined that, rather than being influenced primarily by immigration policies such as detention, migrants usually choose destinations where they will be reunited with family or</p>

friends; where they believe they will be in a safe, tolerant and democratic society; where there are historical links between their country and the destination country; or where they can already speak the language of the destination country.

In May 2011, a Global Roundtable organised by OHCHR and UNHCR on the issue of alternatives to migration-related detention concluded that there is no empirical evidence that detention deters irregular migration, despite the often significant cost to States of maintaining such a detention infrastructure.<sup>52</sup>

▶ **No clear evidence shows that regularisation programmes encourage irregular migration.**

*"The Assembly is aware of the criticism put forward, including in Spain, that regularisation programmes have a pull effect on irregular migration. The Assembly however considers that this pull-factor may be exaggerated."*

Council of Europe, Parliamentary Assembly, 6 July 2007.<sup>53</sup>

In Europe, critics of regularisation often argue that regularisation programmes encourage increased irregular migration. There is still, however, little evidence in support of this claim and scarce academic research dedicated to this issue in Europe.<sup>54</sup>

Although recognising that regularisation programmes may have a subsequent "pull effect" for further irregular migration, the Council of Europe has acknowledged that these concerns may be exaggerated if other factors contributing to irregular migration, such as narrow front-door policies for regular migration and difficulties in returning irregular migrants, are not taken into account.<sup>55</sup> The Council of Europe has also recognised that regularisation programmes offer the possibility to protect the rights of undocumented migrants, to tackle the underground economy and to ensure that social contributions and taxes are duly paid.<sup>56</sup>

▶ **No clear evidence shows that granting access to healthcare to undocumented migrants encourages irregular migration.**

*"There is a difference between being civilised and being taken for a ride. [... Irregular migrants] are effectively stealing treatment from the people of this country".*

John Reid, former UK Secretary of State for Health, 30 December 2003.<sup>57</sup>

Many policy makers regard access to social services and access to healthcare as a concession rather than a right, often arguing that granting access to social services and care would constitute a pull factor that would lead to phenomena of increased irregular migration and health tourism. However, evidence shows that access to healthcare is not a pull or a push factor for irregular migration.

In a report released in April 2013, Doctors of the World present hard data collected among their users on the reasons for migration.<sup>58</sup> The report shows that undocumented migrants are usually not aware of their pathologies before migrating and often lack awareness on the functioning of the healthcare systems in Europe and on their entitlements to health treatment. According to the findings of the report, in 2012 health represented only a 1.6% share of the reasons for migration.

Moreover, concrete statistical evidence on substantial health tourism is usually difficult to produce. This has been confirmed by the former UK Minister of Public Health, Melanie Johnson, who stated that: *"it is very difficult to produce figures. Historically, figures have not been collected by the Health Service, over decades – never, basically – about levels of people using the service who are not resident or normally resident in the UK"*.<sup>59</sup>

**Social policies: collecting qualitative information on undocumented migrants to promote adequate protection of vulnerable groups**

The collection of reliable qualitative data on undocumented migrants is a fundamental prerequisite for consistent policymaking on social issues, such as adequate protection for victims of crime, access to justice, access to healthcare, housing and access to education for undocumented migrants.

For example the European Commission, in its Third Annual Report on Immigration and Asylum, noted that in 2010, 32.4% of third-country nationals aged 20-64 were at risk of poverty, compared to 15.0% of the total population in the same age group.<sup>60</sup> However, in order to develop its messages on poverty, the European Commission relies on data provided by the Eurostat's Labour Force Survey and their EU Statistics on Income and Living Conditions, which do not develop specific indicators to count and monitor the situation of undocumented migrants. Thus EU indicators on poverty do not include undocumented migrants, although the latter have been found to be overwhelmingly in situations of poverty.<sup>61</sup>

Similarly, the European Commission highlighted that, in 2010, the rate of early school leaving among third-country nationals aged 18-24 was 33.0%, compared to 14.1% of the total population in the same age group. However, being based on findings of the EU Statistics on Income and Living Conditions, this data also does not include undocumented children. According to UNICEF, undocumented children are often excluded from accessing higher education, which in some countries includes education from the ages of 16 to 18, as well as post-18 education.<sup>62</sup> The lack of opportunities for undocumented children to pursue further education can have significant negative effects for children's identity formation, friendship patterns, aspirations and expectations, and social and economic mobility. Under these circumstances, undocumented children are at risk of leaving school early, even when education is accessible, due to limited chances for further education and job opportunities. Although specific concerns relating to undocumented children are highlighted within official documents, the collection of disaggregated data on undocumented migrants is urgently needed in order to properly address the issue of social exclusion.

The lack of inclusive social policies providing adequate protection for vulnerable social groups disproportionately places undocumented migrants in situations of increased vulnerability to violence, abuse and exploitation. In this context, it is crucial to promote better data collection on the specific situation faced by undocumented migrants, especially in relation to health needs, access to justice and protection from violations of their human rights, for migration and social policies to ensure adequate protection of undocumented migrants' human rights.

<p><b>Lack of representation of undocumented migrants as a vulnerable group in EU statistics in relevant social policies</b></p>
<p>▶ <b>Gender-based violence against women: addressing lack of statistics on undocumented women</b></p>
<p><i>“By gathering information you can state: ‘300 undocumented women approached us’ [...] but that doesn’t impact on many people [...]. But, when you can show the human face behind that, someone who has come here in good faith, has children, worked, and now find themselves trapped in an exploitative situation, this has an impact”.</i></p> <p>Bethan Lant, Praxis, UK<sup>63</sup></p>

In the Council Conclusions on the Eradication of Violence Against Women in the European Union, the Council of the European Union highlighted the problem of a persistent lack of comparable data, as have various civil society organisations and researchers.<sup>64</sup> To address this problem, the European Parliament, in its Resolution of 25 November 2009 on the Stockholm Programme, asked the European Union Agency for Fundamental Rights (FRA) to collect comparable data on violence against women.<sup>65</sup> Following the parliamentary resolution, the FRA is currently preparing a survey aiming at gathering information on women's exposure to gender-based violence across Europe. As part of the survey, 40,000 women across the 27 EU Member States and Croatia will be interviewed on barriers they face in reporting crimes to the police and in accessing justice, healthcare and victim support services.

Although this initiative is a crucial step towards the collection of nuanced evidence on gender-based violence for policy-makers, undocumented women are not included in the survey. Hence, specific barriers they face unlikely to be included within the results of the research, unless a specific focus within the survey is dedicated to analysing the situation of undocumented women by also collecting anonymous background information on the issues faced by undocumented migrant women.

► **Child poverty in the European Union: addressing invisibility of undocumented children within EU statistics**

*“Children living in a migrant household face a much higher risk of poverty than children whose parents were born in the host country. In most countries the risk of poverty rate they face reaches 30% or more and is two to five times higher than the risk faced by children whose parents were born in the country of residence”.*

European Commission, January 2008<sup>66</sup>

In order to effectively address the issue of children's well-being in Europe and in order to tackle child poverty, it is essential to rely on statistics that include the specific issues faced by undocumented migrant children residing in the European Union, either accompanied or unaccompanied.

The European Commission recently issued a recommendation on *“Investing in children: breaking the cycle of disadvantage”* with the aim of encouraging regional and local authorities to follow EU guidelines on reducing child poverty and social exclusion, and promote child well-being.<sup>67</sup> The recommendation recognises the particular vulnerability of undocumented migrant children and calls for EU Member States to ensure access to healthcare for all children, listing undocumented children as one of the groups requiring special attention.

Although the explicit recognition of the increased vulnerability of undocumented migrant children is a considerably positive development within EU policies, a lack of specific indicators accounting for issues faced by undocumented children would lead to inaccurate monitoring frameworks that would eventually jeopardise the implementation of measures addressed at tackling child poverty.<sup>68</sup>

In parallel to the implementation of the European Commission's Recommendation against child poverty, a recent report released by the EAPN and Eurochild, highlights that one out of four children in the European Union is at risk of poverty or social exclusion, that is 25 million children. However, specific data and indicators on child poverty and social exclusion of undocumented migrant children are still not available. Recognising that undocumented migrant children are particularly exposed to the risk of poverty and social exclusion, the study highlights that improving the overall collection of survey data on children's well-being at national and EU levels is important but not sufficient, as surveys will not capture the situation of undocumented migrant children and other groups of children who remain “hidden” or invisible in data collection.<sup>69</sup> Specific additional studies on undocumented children are

urgently needed, using both statistical as well as qualitative data, to develop a comprehensive picture of the situation of their social exclusion.

► **Homelessness and access to shelters in the EU: addressing lack of official data on undocumented migrants**

*“The limited available data suggests considerable social difficulties, and a worrying state of health, both physical and psychological. The situation of children – the majority of whom are not considered children at risk despite unsafe living conditions – seems particularly alarming... The tightening of policies on asylum and immigration, along with the limitation of planned lodging solutions, seems to relegate more and more people, including families, to the domain of assistance to the homeless.”*

Observatory of the Paris Samusocial<sup>70</sup>

Access to homeless shelters is not guaranteed for undocumented migrants in most countries, but is an increasing concern as service providers across Europe see growing numbers of undocumented migrants reaching out to their services. Belgian organisations have reported that around 80% to 90% of users of winter shelters in Brussels are undocumented.<sup>71</sup> According to a survey conducted in 2008 in Spain, 63% of homeless services users were migrants and street counts in Barcelona and Madrid reported that respectively around 14% and 10% of people found sleeping rough were undocumented.<sup>72</sup> State run long-term shelters often set conditions such as regular residence status or social security registration to allow access. In a similar vein, private facilities are also reluctant to accept undocumented homeless migrants for long-term shelter programmes.

According to the civil society survey conducted by the European Union Agency for Fundamental Rights as part of a study on the fundamental rights of undocumented migrants in Europe, NGOs consider the share of undocumented migrants as rather high among the homeless population in Belgium, Cyprus, Denmark, Italy and Greece.<sup>73</sup>

According to estimates reported by the European Commission for 2009, every night, around 410,000 people were found to be either roofless or houseless in the European Union: this could imply that around 4.1 million people in the European Union are exposed to rooflessness and houselessness every year.<sup>74</sup> According to studies conducted by the European Commission, in most EU Member States homelessness seems to be on the rise: over the past five years up to mid-2011 homelessness significantly increased in fifteen Member States.<sup>75</sup> However, disaggregated data showing the percentage of homeless undocumented migrants are currently not available.<sup>76</sup>

In many countries the obligation to share data with immigration authorities and detection practices that undermine fundamental rights continue to be among the difficulties faced both by undocumented migrants and service providers. Better data concerning access to homeless shelters for undocumented migrants and the practical barriers preventing them from accessing basic social services is of key importance for the development of inclusive policies on access to housing and homeless shelters.

#### **IV. Collecting data on undocumented migrants through qualitative studies and implementation of relevant legislation**

Although estimates of the size of undocumented population may not reach the degree of accuracy that estimates of the size of regular migration achieve, developing reliable methods for data collection is of key importance. A variety of methods can be used for estimating the size and structures of irregular migration. However, studies providing qualitative information on undocumented migrants are also

essential both for the development of sound migration policies and as a tool for monitoring the implementation of existing provisions addressing the issue of irregular migration.<sup>77</sup> Moreover, in order to serve to the ultimate purpose of informing coherent and consistent migration policy-making, data on irregular migration needs to be carefully analysed and properly contextualised.

### **Qualitative data collection on undocumented migrants**

In terms of data collection and analysis of reliable migration statistics, linkages and close cooperation amongst researchers, civil society organisations and policymakers are essential to promote evidence-based policies and ensure appropriate monitoring of the impact of current migration legal systems on undocumented migrant workers and on their families. In this context, civil society organisations play a key role in promoting evidence-based policies as a mean to improve the efficiency and *rationale* of migration policies and to promote the transparency of the policy-making process.

#### **Promoting qualitative data collection on undocumented migrants through studies on legal entitlements and access to services in the EU**

##### **▶ European Union Fundamental Rights Agency (FRA): mapping the fundamental rights of irregular migrants in the European Union**

The European Union Fundamental Rights Agency (FRA) published a comprehensive comparative report on the fundamental rights of irregular migrants in the European Union in 2011.<sup>78</sup> The FRA reviewed available literature and legal sources, sent a set of questionnaires to national and local authorities as well as civil society representatives and interviewed migrants in an irregular situation and those who work with them. Based on the findings of this research, the report advises on how fundamental rights should be incorporated in policies, laws and administrative practices affecting migrants in irregular situations.

##### **▶ Médecins du Monde – European Observatory on Access to healthcare**

The European Observatory on Access to healthcare, an initiative of Doctors of the World, collects data on undocumented migrants accessing healthcare treatment within the organisation's health centres across Europe. A report recently published by Doctors of the World provides data on undocumented migrants accessing healthcare within 14 cities across seven countries in the course of 2012.<sup>79</sup> It covers a sample of 8,412 patients, 19,302 consultations (including 10,968 medical consultations) and 11,921 diagnoses. The report combines quantitative data with qualitative information on the issues faced by undocumented migrants seeking access to healthcare, on their mental health, perceived health, housing situation and situations of violence or abuse.

##### **▶ National Working Group on Migrant Children (Italy): disaggregated data collection on access to healthcare**

The Italian Paediatric Society National Working Group on Migrant Children (GLNBI) was established within the network of SIp (The Italian Paediatric Society). The working group was initially established to identify trends of health problems and challenges facing migrant children in Italy on a daily basis. To this end the group undertakes local and national epidemiological investigations, creating the evidence base for GLNBI's research initiatives. By conducting isolated research on specific groups of migrant children, the study is able to compare the core barriers to accessing healthcare for each "category" of migrant child. By focusing on the prevalent health needs of undocumented children nationwide, the

group of professionals is well placed to advise government on gaps in service provision.

To collect data on migrant children, the GLNBI use ISTAT, Italian national statistics as a baseline. Nonetheless, ISTAT statistics tend not to reflect monitoring of irregular migrants, and therefore GLNBI also cross-refer to CARITAS/MIGRANTES data.<sup>80</sup> This data, published in annual reports on migration, is disaggregated to provide specific data on irregular migrants. GLNBI's methodology includes the comparison of data from official sources such as ministerial data from police reports, with other data from regularisation programmes and the Italian social services and border controls.

## **Monitoring the implementation of relevant legislation to gather data on undocumented migrants**

Monitoring and evaluating the outcomes of the implementation of migration policies and assessing the achievement of the ultimate objectives of legal measures concerning irregular migration is of key importance in order to assess the effectiveness of migration policies. Monitoring and evaluation frameworks might also serve as effective tools to gather information on the impact of social and migration policies on undocumented migrants.

Although undocumented migrants are increasingly being recognised within several policy documents as a particularly vulnerable group, monitoring frameworks established within EU migration policies and laws do not usually provide for specific indicators aiming at recording the impact of migration and social policies on undocumented migrants.

### **Gathering data on undocumented migrants through implementation of relevant EU directives**

#### **► Employers' Sanctions Directive**

The Directive 2009/52/EC on "*providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals*" aims both at reducing irregular migration and at tackling labour exploitation of undocumented migrant workers in the European Union by introducing measures that criminalise irregular migration and impose sanctions on individuals employing undocumented migrants.<sup>81</sup> EU Member States had to transpose the directive by 20 July 2011 and the European Commission is currently assessing the implementation of the directive at national levels. The European Commission will publish a report assessing the implementation of the Directive within EU Member States by 20 July 2014.

As part of the monitoring process, the Commission should consider whether national policies transposing EU measures at national levels ensure that the ultimate aim of the directive is achieved, in other words, the Commission should assess whether introducing sanctions against employers of undocumented migrants has in effect led to an overall decrease of irregular migration in the EU. In assessing the impact of the measures introduced by the directive, it is crucial that specific concerns faced by undocumented migrant workers are taken into account. In particular, the enhancement of migration control that has to follow the introduction of sanctions against employers who hire undocumented workers, has the unintended counter-effect of preventing undocumented migrant workers who may face exploitation to approach labour authorities and might encourage stigmatisation of the employment of third-country nationals.

The monitoring process of the implementation of the Employers' Sanctions Directive should also serve the purpose of collecting more accurate information on the levels of exploitation and violation of

undocumented workers' labour rights at national levels. In order to effectively strengthen the protection of undocumented migrant workers facing exploitation and abuse, accurate indicators for the monitoring process of the directive's implementation have to be developed.

#### ► **Return Directive**

The impacts of the application of Directive 2008/155/EC on "*common standards and procedures in Member States for returning illegally staying third-country nationals*" are currently under assessment by the European Commission.<sup>82</sup> The Commission will have to report on the impacts of the implementation of the directive by the end of 2013.

The evaluation will have to take into account the impacts on undocumented migrants of the provisions introduced by the directive by identifying the practical implementation of the benchmarks set out by the Return Directive and by identifying potential shortcomings of the practical implementation of the directive's provisions at national levels. The evaluation of the European Commission will also have the ultimate aim of informing the debate on possible further development of the EU return policy and it is therefore of crucial importance that issues directly concerning the situation faced by undocumented migrants within the return process are analysed and given careful consideration.

#### ► **Anti-Trafficking Directive<sup>83</sup>**

Following the passing of the deadline for EU Member States to transpose the EU Anti-Trafficking Directive, the European Commission recently published its first report on trafficking in human beings in Europe.<sup>84</sup> The findings of the report show that trafficking in the EU has increased between 2008 and 2010. 23,632 people were identified or presumed victims of trafficking in the EU over the 2008-2010 period. Data collected across Europe also show that about half of the traffickers convicted have EU citizenship (mostly from Bulgaria, Romania, France and Germany) and that the number of identified victims who are not EU citizens disproportionately increased: from 12 % in 2008 to 37 % in 2010 for the men and from 18 % to 39 % for women. To date, only 6 out of the 27 EU Member States have fully transposed the EU Anti-Trafficking Directive.

The directive reflects the Commission's approach to trafficking focused on prevention, prosecution of perpetrators and protection of victims, and establishes specific provisions on victims' protection and unconditional assistance. The Commission is now tasked with assessing the extent to which EU Member States have taken all the necessary measures in order to comply with the directive and with reporting, by 6 April 2016, on the impact of the provisions established within the directive on the prevention of trafficking in human beings.

In order for the Commission to adequately assess the impacts of the directive, it is crucial that clear indicators that consider undocumented migrants' particular vulnerability are developed, in order to better assess the effectiveness of the EU measures for preventing trafficking, exploitation and abuse.

#### ► **Victims' Directive**

The Directive 2012/29/EU, establishing "*minimum standards on the rights, support and protection of victims of crime*," was adopted on 25 October 2012.<sup>85</sup> The directive aims at strengthening the rights of all victims and their family members, irrespective of their residence status, to information, support and protection as well as their procedural rights when participating in criminal proceedings. In particular, Article 1 of the Directive states that the rights set out in the Directive shall apply to victims in a non-discriminatory manner, including with respect to their residence status. The directive also includes

provisions aimed at ensuring that victim support services are effectively made available and accessible to all victims of crime in the European Union.

Although the directive sets out minimum rights for *all* victims, including undocumented migrants, to be respected and ensured within the whole territory of the European Union, practical measures that would allow undocumented migrants who have been victims of crime to benefit from the guarantees provided by the directive would have to be implemented in order to ensure that all victims have access to the rights of information, support, respect and protection. Similarly, the monitoring process on the implementation of the directive within EU Member States national legal frameworks will have to specifically assess the extent to which undocumented victims of crime are ensured effective access to justice and victim's support services.

#### ► Indicators on integration of migrants – Eurostat

The European Parliament adopted on 14 March 2013 a resolution on the integration of migrants, its effects on the labour market and the external dimension of social security coordination.<sup>86</sup> The resolution emphasizes the importance of domestic work, including personal care work, as a source of employment among migrant women in the European Union and, recalling that often migrant domestic workers have no formal contract or social protection and earn very low wages, the Parliament calls on all Member States to ratify ILO Convention 189 on domestic work without delay.

Within their motion for a parliamentary resolution presented to the European Parliament by the Committee on Employment and Social Affairs, the committee called for solutions to be found in relation to the “*desperate situation of undocumented migrants and failed asylum seekers*” and highlighted that undocumented migrants have very few prospects for integration and that opening up channels for regularisation would improve integration prospects.<sup>87</sup> In this context, it is interesting to note that, although the European Union seem to acknowledge the increased vulnerability and low integration prospects of undocumented migrants, specific indicators aiming at measuring the integration of undocumented migrants in Europe have not yet been developed.

In line with the Zaragoza Declaration<sup>88</sup>, calling upon the European Commission to establish common indicators on migrant integration, a pilot study developed by Eurostat in 2011 identified relevant indicators of integration within the policy areas of employment, education, social inclusion and active citizenship.<sup>89</sup> Although the Eurostat indicators of migrant integration aim at monitoring the impact of migration policies within the European Union, these indicators do not take into account the impact of migration policies on the integration of undocumented migrants and therefore do not ultimately provide a reliable overview of migrant integration.

## V. Data sharing: ensuring data protection and isolating data collection from law enforcement

Data collection and the creation of specific databases to register irregular migration are often related to the establishment of border or in-country migration control mechanisms that would allow for a large amount of data on border crossings to be stored as part of national or regional databases. These practices might however become highly problematic in terms of the potential impact on undocumented migrant workers' and their families' fundamental rights, privacy, data protection, due process, the presumption of innocence and democratic accountability.

Moreover, databases that aim at gathering data on migration based merely on the collection of information upon border crossing usually fail to take into account the vulnerability inherent to certain groups of migrants, who might experience significant barriers in accessing information on their personal data and in accessing effective remedies in case of violation of their fundamental rights to privacy or non-discrimination.<sup>90</sup>

### **The role of civil society organisations, professionals, local authorities and public institutions in data protection and sharing**

#### **▶ Sanctuary cities in the United States and in Canada: emblems of social inclusion**

When approaching the issues of ensuring data protection and correct data sharing, it is important to highlight the key role played by local authorities in ensuring the realisation of the human rights of undocumented migrants. In this context, local and municipal authorities both in Canada and in the United States are increasingly accepting to become “sanctuary cities”: local and municipal realities that offer comprehensive protection measures for undocumented migrants’ human rights. As part of other broader “sanctuary policies” addressed at promoting the social inclusion of undocumented migrants, local authorities in the United States and in Canada also adopt confidentiality principles that would guarantee to undocumented migrants the right to access justice and other social services without the risk of being apprehended or reported to the immigration authorities.<sup>91</sup>

#### **▶ Guidelines on fundamental rights considerations in apprehension of undocumented migrants**

The EU Fundamental Rights Agency (FRA) has reported that while states have a right to control immigration, certain enforcement measures, such as reporting obligations, data sharing, or arresting migrants in front of schools, have a negative and often disproportionate impact on the effective exercise of the fundamental rights of irregular migrants,<sup>92</sup> and has subsequently developed guidelines for immigration enforcement officials.<sup>93</sup>

As reported by the EU Fundamental Rights Agency, practices of data sharing of sensitive and non-anonymised data on irregular migration have a highly detrimental effect on undocumented migrants’ human rights. For example, in the UK, rules that came into effect on 1 August 2011 impose a duty on National Healthcare System (NHS) staff to provide the UK Border Agency with details of patients owing to the healthcare system £1,000 or more.<sup>94</sup> This practice would have seriously detrimental effects for destitute undocumented migrants seeking access to health treatment and is clearly in breach of the universal right to health.

#### **▶ Public nurseries in Crete (Greece)**

In a context of rising xenophobic tensions and racist violence against migrants in Greece, the Greek Vice-Minister of Interior, Evripidis Stylianidis, sent a letter to municipalities in the island of Crete on 2 October 2012, requesting public nurseries to compile a list of non-Greek children currently attending nurseries including their country of origin. The Vice-Minister stated that the aim of the survey was to collect information as a response to a specific Golden Dawn MP’s question raised in the Greek Parliament.

As a result of the call of the Vice-Minister of Interior, civil society in Ierapetra, in the island of Crete, mobilised in order to protect the right of all children to access public nurseries, irrespective of their

ethnicity, religion, race, nationality or residence status.<sup>95</sup>

► **“Non siamo spie” (“We aren’t spies”) (Italy)**

In February 2009, the Italian government sought to introduce a provision requiring public officials and health professionals to report the personal details of undocumented migrants they came into contact with to the immigration authorities. In requiring doctors to report the status of their undocumented patients to the authorities, the proposed provision contravened Article 32 of the Italian constitution, which protects the right to health without limitations or qualification.

In response to the proposed provision, Società Italiana di Medicina delle Migrazioni (SIMM), Médecins sans Frontières (mSF), Associazione Studi Giuridici immigrazioni (ASGi) and Osservatorio italiano sulla Salute Globale (OISG) came together to launch a joint public statement entitled “*Prohibition of Reporting: We are doctors and nurses, not spies*”.<sup>96</sup> The statement drew attention to the discriminatory proposed provision, highlighting that uniting healthcare provision with the detection function of immigration authorities would marginalise health for undocumented migrant patients and propel them into a health protection chasm. The statement continued to admonish that the proposed provision would only create alternative, underground healthcare provision that would not fall under the supervision or control of Italian authorities. The statement was co-signed by healthcare professionals and lay members of civil society before being sent to the Italian Senate and subsequently to Parliament.

To raise awareness about the discriminatory provision and to support the joint statement, the coalition organised a torchlight procession on 2 February 2009 in front of the Italian Senate. Health professionals, NGOs, representatives of civil society and concerned citizens joined the procession to show solidarity for the statement and the greater symbolic concern for undocumented migrants’ access to healthcare. As a result of the civil society mobilisation, the proposed provision was not implemented in Italian law. The Italian Home Office issued a circular on 2 December 2010 publicly confirming that access to healthcare services does not impose any sort of duty to report upon healthcare professionals or public security authorities except where the Law explicitly imposes a duty upon public officials to report.<sup>97</sup>

The misperception that irregular migration poses threats on national security and state sovereignty needs to be corrected through careful and objective analysis and contextualisation of available data. As discussed above, the political sensitivity of the issue of irregular migration generally outweighs its numerical significance. Irregular migration does occur in significant numbers, but it represents a fairly small proportion of total migration and consistent and inclusive policies that avoid further categorisation of vulnerable groups and that promote social inclusion shall therefore be adopted.

PICUM submits that safeguards are necessary in data collection and data sharing in order to guarantee the privacy, confidentiality and security of personal information in accordance with data collection standards.

## **VI. Recommendations**

In light of the reasons detailed above, PICUM calls for the UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families to take into account and to give careful consideration to the following recommendations aimed at addressing the importance of reliable migration statistics for treaty reporting and migration policies:

### **1. Develop evidence-based policy making on the basis of data collection.**

Efforts should be made to develop a system to collect data on international irregular migration flows and the impact of all public policies – migration control mechanisms, regularization programs, etc. - on the rights and living conditions of undocumented migrants on a regular basis.

Data disaggregated by age, sex, country of origin, education, occupation, skill level and other relevant information such as residence status, issuance of entry, exit and work permits, and changes in nationality should be collected and disseminated.

States should ensure the inclusion of households affected by migration in local statistical and data systems, as well as in nationally-representative living standards, expenditure, and labor force surveys. Consultation with vulnerable groups, including populations affected by migration, should take place before formulating a particular policy or program. States should ensure that such data collection is not used for immigration control purposes. Reliable data on migration would ultimately support the creation of inclusive social systems that guarantee undocumented migrants' fundamental rights, such as fair working conditions, access to health care, education, housing and access to justice.

### **2. Existing data on irregular migration should be harmonised for a full comparability between estimates in different countries to be achieved.**

In line with the UN Recommendations on Statistics of International Migration (1998), standardised definitions and methodologies for data collection on irregular migration should be adopted in order for migration statistics and estimates to achieve a full degree of comparability. Data comparability would allow for migration policies to be better shaped, managed and evaluated.

### **3. Transparency within the processes of data collection and of data sharing should be ensured.**

Although most countries already collect a range of administrative data on migrant workers, the information available is not always sufficiently disseminated or shared. Allowing for anonymised data (microdata) on migration (i.e. number of visas issued, border control, residence and work permits, asylum applications, and apprehensions of undocumented migrants) to be released by public authorities, would offer a wider and clearer perspective of migrant flows and stocks which would be a key tool for producing timely and detailed statistics on irregular migration.

### **4. Full respect of the principles of data protection, confidentiality, non-discrimination and right to private life should be ensured when developing data collection and data sharing systems on labour migration.**

Clear safeguards should be established in the process of developing data collection and data sharing systems. In line with the guidelines developed by the EU Fundamental Rights Agency on apprehension of irregular migrants, data collection should not entail a violation of migrant's fundamental rights to

privacy, data protection, confidentiality and non-discrimination. Data collection on migration should not become a by-product of administrative data collection systems. In this sense, the processes of data collection and data sharing on irregular migration should be clearly delinked from security, border and immigration controls. The risk of “profiling”, caused by the implementation of automated processing of personal data at border controls aimed at identifying security threats should be avoided.

**5. Awareness should be raised as to the importance of reliable data on irregular migration in order to develop evidence-based migration policies and public services that guarantee cohesion and social inclusion.**

Informed public debate and evidence-based policy-making on migration requires clarity and transparency about timely data on labour migration and about the human rights situation of migrant workers and their families. Awareness should be raised amongst all relevant stakeholders as to the importance of collecting and sharing reliable information on irregular migration. Cooperation amongst researchers, international organisations, civil society organisations and policy-makers should be strengthened in order for comprehensive and inclusive migration and social policies to be shaped.

## END NOTES

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<sup>1</sup> See: "World Migration Report 2010. The future of migration: building capacities for change", IOM, 2010, p. 29, available at: [http://publications.iom.int/bookstore/free/WMR\\_2010\\_ENGLISH.pdf](http://publications.iom.int/bookstore/free/WMR_2010_ENGLISH.pdf).

<sup>2</sup> For more information see: "International Migration Outlook, SOPEMI 2011", OECD, available at: <http://www.iadb.org/intal/intalcdi/PE/2012/11325.pdf>.

<sup>3</sup> See: "World Migration Report 2011. Communicating effectively about migration", IOM, 2011, available at: [http://publications.iom.int/bookstore/free/WMR2011\\_English.pdf](http://publications.iom.int/bookstore/free/WMR2011_English.pdf).

<sup>4</sup> See: "A Nation of Immigrants. A Portrait of the 40 Million, Including 11 Million Unauthorized", Pew Hispanic Center, 29 January 2013, available at: [http://www.pewhispanic.org/files/2013/01/statistical\\_portrait\\_final\\_jan\\_29.pdf](http://www.pewhispanic.org/files/2013/01/statistical_portrait_final_jan_29.pdf).

<sup>5</sup> See: "A Nation of Immigrants. A Portrait of the 40 Million, Including 11 Million Unauthorized", Pew Hispanic Center, 29 January 2013, available at: [http://www.pewhispanic.org/files/2013/01/statistical\\_portrait\\_final\\_jan\\_29.pdf](http://www.pewhispanic.org/files/2013/01/statistical_portrait_final_jan_29.pdf).

<sup>6</sup> For more information see: J. Passel, D. V. Cohn, "A Portrait of Unauthorized Immigrants in the United States", 14 April 2009, available at: <http://www.pewhispanic.org/files/reports/107.pdf>.

<sup>7</sup> See: "Unauthorized Immigrant Population: National and State Trends, 2010", Pew Hispanic Center, 1 February 2011, p. 13, available at: <http://www.pewhispanic.org/files/reports/133.pdf>.

<sup>8</sup> P. Taylor et al., "Unauthorized Immigrants: Length of Residency, Patterns of Parenthood", December 2011, available at: <http://www.pewhispanic.org/files/2011/12/Unauthorized-Characteristics.pdf>.

<sup>9</sup> See for example: "Immigration Rises on Washington's Agenda, Not the Public's", Pew Research Center, 28 January 2013, available at: <http://www.pewresearch.org/2013/01/28/immigration-rises-on-washingtons-agenda-not-the-publics/> and: "Any Court Health Care Decision Unlikely to Please. Immigration: Public Backs AZ Law, But Also Path to Citizenship", Pew Research Center, 18 June 2012, available at: <http://www.people-press.org/2012/06/18/any-court-health-care-decision-unlikely-to-please/>.

<sup>10</sup> For more information on global trends and data on migration see: "International Migration Outlook 2012", OECD, 2012, available at: <http://www.npdata.be/BuG/165-NV-A-migratie/OECD-Migration-Outlook-2012.pdf>. For specific data on global trends on undocumented migration see: "International Migration Outlook 2007", OECD, 2007, available at: [http://www.oecd-ilibrary.org/social-issues-migration-health/international-migration-outlook-2007\\_migr\\_outlook-2007-en](http://www.oecd-ilibrary.org/social-issues-migration-health/international-migration-outlook-2007_migr_outlook-2007-en).

<sup>11</sup> See for example: Morehouse, C and M. Bloomfield, "Irregular Migration in Europe", Migration Policy Institute (MPI), December 2011, available at: <http://www.migrationpolicy.org/pubs/TCMirregularmigration.pdf>. See also: "PROMINSTAT: Statistics on Migration, Integration and Discrimination in Europe", PROMINSTAT Final Report, Vienna, Kraler Albert & Reichel David, ICMPD 2010; CLANDESTINO Research Project: Size and Development of Irregular Migration to the EU, Comparative Policy brief. Vogel, Dita, December 2009, available at: [http://clandestino.eliamep.gr/wpcontent/uploads/2009/12/clandestino\\_policy\\_brief\\_comparative\\_size-of-irregularmigration.pdf](http://clandestino.eliamep.gr/wpcontent/uploads/2009/12/clandestino_policy_brief_comparative_size-of-irregularmigration.pdf); International Centre for Migration Policy Development (ICMPD) REGINE, Final Report.

"Regularisations in Europe: Study on practices in the area of regularisation of illegally staying third-country nationals in the Member States of the EU", Martin Baldwin-Edwards and Albert Kraler, ICMPD, 2009, Ref. JLS/B4/2007/05 and K. Koser, "Irregular Migration, state security and human security", Global Commission on International Migration (GCIM), September 2005, available at: [http://iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/policy\\_and\\_research/gcim/tp/TP5.pdf](http://iom.int/jahia/webdav/site/myjahiasite/shared/shared/mainsite/policy_and_research/gcim/tp/TP5.pdf).

<sup>12</sup> According to the European Commission: "Precise figures [on the size of irregular migration] are difficult to obtain, but recent estimates of illegal migrants in the EU range between 4.5 million and 8 million, with an estimated increase of 350,000 to 500,000 per year", see: European Commission, Press statement: "Towards a comprehensive European Migration Policy: Cracking down on employment of illegal immigrants and fostering circular migration and mobility partnerships", 16 May 2007, IP/07/678, available at: [http://europa.eu/rapid/press-release\\_IP-07-678\\_en.htm](http://europa.eu/rapid/press-release_IP-07-678_en.htm).

<sup>13</sup> See Clandestino project final report, November 2009, p. 109, available at: <http://cordis.europa.eu/documents/documentlibrary/126625701EN6.pdf>

<sup>14</sup> For more information about the ethical issues involved in data collection analysed as part of the Clandestino Project refer to: <http://clandestino.eliamep.gr/category/irregular-migration-ethics-in-research/>.

<sup>15</sup> Clandestino project "Undocumented Migration: Counting the Uncountable. Data and Trends Across Europe", European Commission, DG Research, Sixth Framework Programme, Priority 8: Scientific Support to Policies.

<sup>16</sup> The results of the Clandestino project are now cited, amongst other institutions, by Eurostat, the European Commission and the FRA. See for example: EU Fundamental Rights Agency, "Fundamental rights of migrants in an irregular situation in the European Union", 2011, available at: [http://fra.europa.eu/sites/default/files/fra\\_uploads/1827-FRA\\_2011\\_Migrants\\_in\\_an\\_irregular\\_situation\\_EN.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/1827-FRA_2011_Migrants_in_an_irregular_situation_EN.pdf).

<sup>17</sup> See: "International Migration Report 2009. A Global Assessment.", UN Department of Economic and Social Affairs, Population Division, December 2011, pp. 16-31, available at: <http://www.un.org/esa/population/publications/migration/WorldMigrationReport2009.pdf>.

<sup>18</sup> For more information see: Á. Solanes Corella, "Inmigración y responsabilidad municipal", Instituto de Derechos Humanos, Universitat de València, Documentación Social, 2010, pp. 191 – 210, available at:

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[http://www.proyectos.cchs.csic.es/politicas-migratorias/sites/proyectos.cchs.csic.es/politicas-migratorias/files/Inmigracion\\_y\\_Responsabilidad\\_Muni\\_-\\_A\\_SOLANES.pdf](http://www.proyectos.cchs.csic.es/politicas-migratorias/sites/proyectos.cchs.csic.es/politicas-migratorias/files/Inmigracion_y_Responsabilidad_Muni_-_A_SOLANES.pdf)

<sup>19</sup> These estimates are obtained by comparing the number of residence permits issued by the Spanish Home Office (Secretaría General de Inmigración y Emigración), which amounts, according to statistics of 30 June 2012, to 2.7 million, with the number of third-country nationals who have registered in the *Padrón*, i.e. 3.3 million, according to data from the National Statistical Institute (INE) at 1 January 2012. Data can be consulted at: Secretaría General de Inmigración y Emigración, [http://extranjeros.empleo.gob.es/es/estadisticas/operaciones/con-certificado/201206/Principales\\_resultados\\_30062012.pdf](http://extranjeros.empleo.gob.es/es/estadisticas/operaciones/con-certificado/201206/Principales_resultados_30062012.pdf) and National Statistical Institute (INE),

<http://www.ine.es/jaxi/menu.do?type=pcaxis&path=%2Ft20%2Fe245&file=inebase&L=0>.

<sup>20</sup> P. A. Comelatto, A. E. Lattes and C. M. Levit, *Migración Internacional y Dinámica Demográfica en la Argentina Durante la Segunda Mitad del Siglo XX.*, Estudios Migratorios Latinoamericanos, 2003.

<sup>21</sup> See for example: J. S. Passel and D. Cohn, *Trends in Unauthorized Immigration: Undocumented Inflow Now Trails Legal Inflow*, Pew Hispanic Center, 2008 and E. A. Marcelli and P. M. Ong, *2000 Census Coverage of Foreign Born Mexicans in Los Angeles County: Implications for Demographic Analysis*, 2002 Annual Meeting of the Population Association of America, 2002 in *Human Development Report 2009. Overcoming barriers: Human mobility and development*, United Nations Development Programme (UNDP), 2009, p. 23, available at:

[http://hdr.undp.org/en/media/HDR\\_2009\\_EN\\_Complete.pdf](http://hdr.undp.org/en/media/HDR_2009_EN_Complete.pdf).

<sup>22</sup> See: *International Migration Outlook 2012*, OECD, 2012, p. 266-267, available at: <http://www.npdata.be/BuG/165-NV-A-migratie/OECD-Migration-Outlook-2012.pdf>.

<sup>23</sup> See: *Human Development Report 2009. Overcoming barriers: Human mobility and development*, United Nations Development Programme (UNDP), 2009, p. 23, available at: [http://hdr.undp.org/en/media/HDR\\_2009\\_EN\\_Complete.pdf](http://hdr.undp.org/en/media/HDR_2009_EN_Complete.pdf). See also data from: *World Migration Report 2010. The future of migration: building capacities for change*, IOM, 2010, p. 29, available at: [http://publications.iom.int/bookstore/free/WMR\\_2010\\_ENGLISH.pdf](http://publications.iom.int/bookstore/free/WMR_2010_ENGLISH.pdf); *International Migration Outlook, SOPEMI 2011*, OECD, available at: <http://www.iadb.org/intal/intalcdi/PE/2012/11325.pdf> and *Migration in an Interconnected World: New directions for action*, Report of the Global Commission on International Migration, 2005, available at: <http://www.queensu.ca/samp/migrationresources/reports/gcim-complete-report-2005.pdf>.

<sup>24</sup> See: United Nations Department of Economic and Social Affairs, Population Division, *International Migration 2009*, available at: [www.un.org/esa/population/publications/2009Migration\\_Chart/ittmig\\_wallchart09.pdf](http://www.un.org/esa/population/publications/2009Migration_Chart/ittmig_wallchart09.pdf).

<sup>25</sup> See: J. Passel, D. V. Cohn, *A Portrait of Unauthorized Immigrants in the United States*, 14 April 2009. The report highlights that there were 6.3 million men, 4.1 million women and 1.5 million children under age 18 living in the United States as unauthorized immigrants in March 2008.

<sup>26</sup> Eurostat (2011) *Enforcement of Immigration Legislation Statistics*, extracted on 7 July 2011, and own calculations.

<sup>27</sup> See: *Migrants in an irregular situation employed in the domestic work: Fundamental rights challenges for the European Union and its Member States.*, European Union Agency for Fundamental Rights (FRA), July 2011, available at: [http://fra.europa.eu/sites/default/files/migrants\\_in\\_an\\_irregular\\_situation\\_employed\\_in\\_domestic\\_work\\_en.pdf](http://fra.europa.eu/sites/default/files/migrants_in_an_irregular_situation_employed_in_domestic_work_en.pdf).

<sup>28</sup> See: United Nations Department of Economic and Social Affairs, Population Division, *International Migration 2009*, available at: [www.un.org/esa/population/publications/2009Migration\\_Chart/ittmig\\_wallchart09.pdf](http://www.un.org/esa/population/publications/2009Migration_Chart/ittmig_wallchart09.pdf).

<sup>29</sup> Eurostat (2011) *Enforcement of Immigration Legislation Statistics*, extracted on 7 July 2011, and own calculations.

<sup>30</sup> Council of Europe, *Undocumented migrant children in an irregular situation: a real cause for concern*, Council of Europe Committee on Migration, Refugees and Population, Doc. 12718, 16 September 2011, para. 9, available at: <http://assembly.coe.int/main.asp?link=/Documents/WorkingDocs/Doc11/EDOc12718.htm>.

<sup>31</sup> For more information see: N. Sigona and V. Hughes, *No way out, no way in. Irregular migrant children and families in the UK.*, University of Oxford, COMPAS, May 2012, pp. 6-8, available at:

[http://www.compas.ox.ac.uk/fileadmin/files/Publications/Reports/NO\\_WAY\\_OUT\\_NO\\_WAY\\_IN\\_FINAL.pdf](http://www.compas.ox.ac.uk/fileadmin/files/Publications/Reports/NO_WAY_OUT_NO_WAY_IN_FINAL.pdf)

<sup>32</sup> Council of Europe Parliamentary Assembly, Doc. 12718, 16 September 2011, *Undocumented migrant children in an irregular situation: a real cause for concern*, available at:

<http://assembly.coe.int/ASP/Doc/XrefViewHTML.asp?FileId=13007&Language=EN>.

<sup>33</sup> See: *Unauthorized Immigrant Population: National and State Trends, 2010*, Pew Hispanic Center, 1 February 2011, p. 13, available at: <http://www.pewhispanic.org/files/reports/133.pdf>.

<sup>34</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on The Global Approach to Migration and Mobility, COM(2011) 743 final, 18.11.2011, available at: [http://ec.europa.eu/home-affairs/news/intro/docs/1\\_EN\\_ACT\\_part1\\_v9.pdf](http://ec.europa.eu/home-affairs/news/intro/docs/1_EN_ACT_part1_v9.pdf).

<sup>35</sup> The Stockholm Programme, An open and secure Europe serving and protecting citizens, OJC115, 4.5.2010, available at: [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52010XG0504\(01\):EN:NOT](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52010XG0504(01):EN:NOT).

<sup>36</sup> Presidency Conclusions, Tampere European Council, 15-16 October, 1999, point 3, available at: [http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/polju/en/EJN360.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/polju/en/EJN360.pdf).

<sup>37</sup> For more information see: M. LeVoy and K. Soova, *How Relevant, Effective and Humane is the EU Border Control Regime?*, Government Gazette, March 2013.

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<sup>38</sup> For example, it could be noted that the total number of visas issued at EU level (13.8 million), plus the number of new residence permits issued over the same period (2.5 million), amounts to a very low statistical rate, if compared to the total of 115,305 refusals at EU external borders reported by Frontex. (i.e. 0.7%). See Eurostat data on residence permits: [http://epp.eurostat.ec.europa.eu/statistics\\_explained/index.php/Residence\\_permits\\_statistics](http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Residence_permits_statistics). Data on visas issued at EU level is available at: Frontex Annual Risk Analysis 2013, p. 16:

[http://www.frontex.europa.eu/assets/Publications/Risk\\_Analysis/Annual\\_Risk\\_Analysis\\_2013.pdf](http://www.frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2013.pdf).

<sup>39</sup> See: Frontex Annual Risk Analysis 2013, available at:

[http://www.frontex.europa.eu/assets/Publications/Risk\\_Analysis/Annual\\_Risk\\_Analysis\\_2013.pdf](http://www.frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2013.pdf). The European Commission estimates on the number of annual refusals of entry at the European borders, based on data collected by Eurostat, amount to 343,000. For more information see: Communication from the Commission to the European Parliament and the Council, 3<sup>rd</sup> Annual report on immigration and asylum (2011), COM(2012) 250 final, 30.5.2012, available at:

[http://ec.europa.eu/home-affairs/doc\\_centre/immigration/docs/COM%202012%20250%20final%201\\_EN\\_ACT\\_part1\\_v5.pdf](http://ec.europa.eu/home-affairs/doc_centre/immigration/docs/COM%202012%20250%20final%201_EN_ACT_part1_v5.pdf).

<sup>40</sup> See: F. Düvell, "Comparative Policy brief Clandestino project. Pathways into Irregularity: The Social Construction of Irregular Migration", December 2009, available at: [http://research.icmpd.org/fileadmin/Research-Website/Startseite/Clandestino/clangestino\\_policy\\_brief\\_comparative\\_pathways.pdf](http://research.icmpd.org/fileadmin/Research-Website/Startseite/Clandestino/clangestino_policy_brief_comparative_pathways.pdf).

<sup>41</sup> Tomas Spijkerboer, European Journal of Migration and Law 9 (2007) 127–139 The Human Costs of Border Control [http://www.academia.edu/183097/The\\_Human\\_Costs\\_of\\_Border\\_Control](http://www.academia.edu/183097/The_Human_Costs_of_Border_Control).

<sup>42</sup> See: United for Intercultural Action, Interactive Map, available at: [owni.eu/2011/03/04/app-fortress-europe-a-deadly-exodus/](http://owni.eu/2011/03/04/app-fortress-europe-a-deadly-exodus/).

<sup>43</sup> European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, available at: [http://www.frontex.europa.eu/assets/About\\_Frontex/frontex\\_regulation\\_en.pdf](http://www.frontex.europa.eu/assets/About_Frontex/frontex_regulation_en.pdf).

<sup>44</sup> Frontex website section on migratory routes states: "The single biggest entry route for migrants into the EU is via international airports: most of those who currently reside in the EU illegally, originally entered in possession of valid travel documents and a visa whose validity period they have since overstayed". For more information see:

<http://www.frontex.europa.eu/intelligence/migratory-routes>.

<sup>45</sup> Frontex budget has seen a 180% increase between 2005 and 2011. See Frontex General Report 2011, p. 23, available at: <http://www.europarl.europa.eu/document/activities/cont/201207/20120725ATT49372/20120725ATT49372EN.pdf>.

<sup>46</sup> The amendment to Frontex Regulation (EU) 1168/2011 the European Parliament and the Council tasked Frontex "to provide the necessary assistance to the development and operation of a European border surveillance system, and (...) to the development of a common information sharing environment, including interoperability of systems". For more information see: [http://www.frontex.europa.eu/assets/About\\_Frontex/frontex\\_amended\\_regulation\\_2011.pdf](http://www.frontex.europa.eu/assets/About_Frontex/frontex_amended_regulation_2011.pdf).

<sup>47</sup> Proposal for a Regulation Establishing the European Border Surveillance System (EUROSUR), 12.12.2011, COM(2011) 873 final, available at: [http://ec.europa.eu/home-affairs/doc\\_centre/borders/docs/eurosur%20final.pdf](http://ec.europa.eu/home-affairs/doc_centre/borders/docs/eurosur%20final.pdf).

<sup>48</sup> Ben Hayes and Mathias Vermeulen, "Borderline- The EU's New Border Surveillance Initiatives: Assessing the Costs and Fundamental Rights Implications of EUROSUR and the "Smart Borders" Proposals", pp.49-50, available at: <http://www.statewatch.org/news/2012/jun/borderline.pdf>.

<sup>49</sup> Proposal for a Regulation of the European Parliament and of the Council on establishing an Entry/Exit System (EES) to register entry and exit data of third country nationals crossing the external borders of the Member States of the European Union, COM(2013) 95 final, 28.2.2013, available at: [http://ec.europa.eu/dgs/home-affairs/doc\\_centre/borders/docs/1\\_en\\_act\\_part1\\_v12.pdf](http://ec.europa.eu/dgs/home-affairs/doc_centre/borders/docs/1_en_act_part1_v12.pdf).

<sup>50</sup> See: Owen, M. and T. Barrass, "Getting tougher 'won't stop boats' says Chris Bowen", The Australian, 2 November 2010, available at: [www.theaustralian.com.au/news/nation/getting-tougher-wontstop-boats-says-chris-bowen/story-e6frg6nf-1225946353586](http://www.theaustralian.com.au/news/nation/getting-tougher-wontstop-boats-says-chris-bowen/story-e6frg6nf-1225946353586).

<sup>51</sup> See: "There are alternatives. A handbook for preventing unnecessary immigration detention", International Detention Coalition, 2011, available at: [http://massivefishball.com/IDC\\_Handbook.pdf](http://massivefishball.com/IDC_Handbook.pdf).

<sup>52</sup> See: OHCHR-UNHCR Global Roundtable on Alternatives to Detention, 11-12 May 2011, available at: <http://www.ohchr.org/EN/Issues/Migration/Pages/Roundtable.aspx>.

<sup>53</sup> Council of Europe Parliamentary Assembly (2007): Resolution 1568, Regularisation programmes for irregular migrants, para. 4, available at: <http://assembly.coe.int/ASP/Doc/XrefViewHTML.asp?FileID=11614&Language=EN>.

<sup>54</sup> For more information see: REGINE (Regularisations in Europe), "Study on practices in the area of regularisation of illegally staying third-country Nationals in the Members States of the EU", International Centre for Migration Policy Development (ICMPD), Vienna, January 2009.

<sup>55</sup> Council of Europe (CoE) Assembly (2007): Resolution 1568, Regularisation programmes for irregular migrants, para. 13.

<sup>56</sup> Council of Europe (CoE) Assembly (2007): Resolution 1568, Regularisation programmes for irregular migrants, para. 4.

<sup>57</sup> BBC News, "Health tourism' rules unveiled", 30 December 2003, available at: <http://news.bbc.co.uk/go/pr/fr/-/1/hi/health/3355751.stm>.

<sup>58</sup> See: "Access to Healthcare in Europe in times of crisis and rising xenophobia", Doctors of the World, April 2013, available at: [http://www.mdm-international.org/IMG/pdf/MdM\\_Report\\_access\\_healthcare\\_in\\_times\\_of\\_crisis\\_and\\_rising\\_xenophobia.pdf](http://www.mdm-international.org/IMG/pdf/MdM_Report_access_healthcare_in_times_of_crisis_and_rising_xenophobia.pdf).

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<sup>59</sup> House of Commons Health Committee, *New Developments in HIV/AIDS and Sexual Health Policy*, third report of session 2004–05, vol. II, 8 March 2005, HC 252-II, Q210.

<sup>60</sup> Communication from the Commission to the European Parliament and the Council of 30 May 2011, 3<sup>rd</sup> Annual Report on Immigration and Asylum (2011), SWD(2012) 139 final, p. 7, available at: [http://ec.europa.eu/home-affairs/doc\\_centre/immigration/docs/COM%202012%20250%20final%201\\_EN\\_ACT\\_part1\\_v5.pdf](http://ec.europa.eu/home-affairs/doc_centre/immigration/docs/COM%202012%20250%20final%201_EN_ACT_part1_v5.pdf).

<sup>61</sup> See, for example: R. Sabates-Wheeler, "The Impact of Irregular Status on Human Development Outcomes for Migrants", Human Development Research Paper 2009/26, United Nations Development Programme (UNDP), July 2009, p. 2 and pp. 21-23, available at: [http://hdr.undp.org/en/reports/global/hdr2009/papers/HDRP\\_2009\\_26.pdf](http://hdr.undp.org/en/reports/global/hdr2009/papers/HDRP_2009_26.pdf).

<sup>62</sup> UNICEF, "Access to Civil, Economic and Social Rights for Children in the Context of Irregular Migration", Written Submission to the Committee on the Rights of the Child on the occasion of the 2012 Day of General Discussion on "The Rights of all Children in the context of international migration", p. 8, available at: [http://www.unicef.org/socialpolicy/files/Access\\_to\\_Civil\\_Economic\\_and\\_Social\\_Rights\\_for\\_Children.pdf](http://www.unicef.org/socialpolicy/files/Access_to_Civil_Economic_and_Social_Rights_for_Children.pdf).

<sup>63</sup> "Strategies to End Double Violence Against Undocumented Women. Protecting Rights and Ensuring Justice.", Platform for International Cooperation on Undocumented Migrants (PICUM), March 2012, p. 36, available at: <http://picum.org/picum/uploads/publication/Double%20Violence%20Against%20Undocumented%20Women%20-%20Protecting%20Rights%20and%20Ensuring%20Justice.pdf>.

<sup>64</sup> Council conclusions on the Eradication of Violence Against Women in the European Union, 3000th employment and social policy Council meeting, Brussels, 8 March 2010, available at: [http://www.consilium.europa.eu/uedocs/cms\\_Data/docs/pressdata/en/lsa/113226.pdf](http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/lsa/113226.pdf).

<sup>65</sup> See: European Parliament resolution of 25 November 2009 on the Communication from the Commission to the European Parliament and the Council – An area of freedom, security and justice serving the citizen – Stockholm programme, available at: <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2009-0090&language=EN>.

<sup>66</sup> European Commission Directorate General for Employment, Social Affairs and Equal Opportunities, "Child Poverty and Well-Being in the EU", Office for Official Publications of the European communities, January 2008, available at: [http://ec.europa.eu/employment\\_social/publications/2008/ke3008251\\_en.pdf](http://ec.europa.eu/employment_social/publications/2008/ke3008251_en.pdf).

<sup>67</sup> Commission Recommendation of 20 February 2013, "Investing in children: breaking the cycle of disadvantage", (2013/112/EU), available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:059:0005:0016:EN:PDF>.

<sup>68</sup> The monitoring framework proposed within the Commission Recommendation on "Investing in children: breaking the cycle of disadvantage" highlights indicators that would be applied for monitoring the Recommendation's implementation. However, most indicators rely on Eurostat, OECD or WHO statistics, which do not provide for disaggregated data specifically referring to the situation of undocumented migrant children.

<sup>69</sup> See: "Towards children's well-being in Europe. Explainer of child poverty in the EU", EAPN and Eurochild, 2013, pp. 19 and 24-25, available at: [http://www.eapn.eu/images/stories/docs/eapn-books/2013\\_Child\\_poverty\\_EN\\_web.pdf](http://www.eapn.eu/images/stories/docs/eapn-books/2013_Child_poverty_EN_web.pdf).

<sup>70</sup> See: Observatoire du SamuSocial de Paris, "The Study of Homeless Families" (ongoing). Project page available at: <http://observatoire.samusocial-75.fr/index.php/en/our-surveys/family>.

<sup>71</sup> For example, the Brussels based organization La Strada (Steunpunt thuislozenzorg Brussel/Centre d'appui au secteur bruxellois d'aide aux sans-abri), a support centre for homeless people, counted the number of people living on the streets in Brussels-Capital Region on one night in November 2008 and found that a significant number were undocumented migrants, all data collected available at: <http://www.medimmigrant.be/newsletter43.asp>.

<sup>72</sup> For more information see: J. Bosch-Meda, "Homelessness among Migrants in Spain", European Journal of Homelessness, Homelessness Poverty and Social Exclusion, Volume 4, December 2010, p. 143, available at: [http://eohw.horus.be/files/freshstart/European%20Journal%20of%20Homelessness/Feantsa\\_EJH\\_v4\\_12-2010.pdf](http://eohw.horus.be/files/freshstart/European%20Journal%20of%20Homelessness/Feantsa_EJH_v4_12-2010.pdf).

<sup>73</sup> See: "Fundamental Rights of Migrants in an Irregular Situation in the European Union", European Union Agency for Fundamental Rights, 2011, p.64.

<sup>74</sup> See: H. Frazer, E. Marlier and I. Nicaise, "A Social Inclusion Roadmap for Europe 2020". Non-validated figures. For more information on specific definitions related to homelessness, see: FEANTSA (2005) *ETHOS - European Typology of Homelessness and housing exclusion*.

<sup>75</sup> See: Social Investment Package, Commission Staff Working Document, *Confronting Homelessness in the European Union*, accompanying the document "Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, "Towards Social Investment for Growth and Cohesion", 20.2.2013, SWD(2013) 42 final, p. 6 and: "Homelessness during the crisis.", European Commission Research Note, August 2011, pp. 6-16 and Annex I, available at: [http://www.socialsituation.eu/research-notes/SSO%20RN8%20Homelessness\\_Final.pdf](http://www.socialsituation.eu/research-notes/SSO%20RN8%20Homelessness_Final.pdf).

<sup>76</sup> See: "On the way home?", FEANTSA Monitoring Report on Homelessness and Homeless Policies in Europe, FEANTSA, September 2012, pp. 26-29, available at: <http://www.feantsa.org/spip.php?article854&lang=en>.

<sup>77</sup> Gathering qualitative data as opposed to quantitative data is of key importance for the process of monitoring the effectiveness of policies originally created with the aim of preventing or "fighting" irregular migration. In this sense, policies that criminalise irregular migration or that impose sanctions on individuals employing irregular migrants (as for example the

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Employers Sanctions Directive, Directive 2009/52/EC, currently under assessment by the European Commission) have to be assessed in line with core and qualitative data on irregular migration.

<sup>78</sup> See: “*Fundamental Rights of Migrants in an Irregular Situation in Europe*”, European Union Agency for Fundamental Rights (FRA), 2011, available at: [http://fra.europa.eu/sites/default/files/fra\\_uploads/1827-FRA\\_2011\\_Migrants\\_in\\_an\\_irregular\\_situation\\_EN.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/1827-FRA_2011_Migrants_in_an_irregular_situation_EN.pdf).

<sup>79</sup> See: “*Access to Healthcare in Europe in times of crisis and rising xenophobia*”, Doctors of the World, April 2013, available at: [http://www.mdm-international.org/IMG/pdf/MdM\\_Report\\_access\\_healthcare\\_in\\_times\\_of\\_crisis\\_and\\_rising\\_xenophobia.pdf](http://www.mdm-international.org/IMG/pdf/MdM_Report_access_healthcare_in_times_of_crisis_and_rising_xenophobia.pdf).

<sup>80</sup> Caritas/Migrantes statistics are available at: <http://www.dossierimmigrazione.it>.

<sup>81</sup> Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 on “*providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals*”, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:168:0024:0032:EN:PDF>.

<sup>82</sup> Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on “*common standards and procedures in Member States for returning illegally staying third-country nationals*”, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:pdf>.

<sup>83</sup> Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF>.

<sup>84</sup> “*Trafficking in Human Beings*”, Eurostat, 2013, available at: [http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/2013/docs/20130415\\_thb\\_stats\\_report\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/2013/docs/20130415_thb_stats_report_en.pdf).

<sup>85</sup> Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision, 2001/220/JHA, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:315:0057:0073:EN:PDF>.

<sup>86</sup> European Parliament resolution of 14 March 2013 on the integration of migrants, its effects on the labour market and the external dimension of social security coordination (2012/2131(INI)), available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2013-0092+0+DOC+XML+V0//EN>.

<sup>87</sup> See: available at: [http://picum.org/picum.org/uploads/file\\_/Report%20-%20EMPL%20-%20integration%20of%20migrants%20effects%20on%20labour%20market.pdf](http://picum.org/picum.org/uploads/file_/Report%20-%20EMPL%20-%20integration%20of%20migrants%20effects%20on%20labour%20market.pdf).

<sup>88</sup> Declaration following the European Ministerial Conference on Integration, Zaragoza, 15 and 16 April 2010, available at: [http://ec.europa.eu/ewsi/UDRW/images/items/doc1\\_13055\\_519941744.pdf](http://ec.europa.eu/ewsi/UDRW/images/items/doc1_13055_519941744.pdf).

<sup>89</sup> “*Indicators of Immigrant Integration. A Pilot Study*”, Eurostat, 2011, available at: [http://epp.eurostat.ec.europa.eu/cache/ITY\\_OFFPUB/KS-RA-11-009/EN/KS-RA-11-009-EN.PDF](http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-RA-11-009/EN/KS-RA-11-009-EN.PDF). Eurostat data collected on the basis of the indicators on migrant integration are available at:

[http://epp.eurostat.ec.europa.eu/portal/page/portal/employment\\_social\\_policy\\_equality/migrant\\_integration/indicators](http://epp.eurostat.ec.europa.eu/portal/page/portal/employment_social_policy_equality/migrant_integration/indicators).

<sup>90</sup> While nationality and residence status may not be considered as connecting factors for activating the EU non-discrimination system of protection for third country nationals, any person (irrespective of their residence status) is a beneficiary of the general non-discrimination protection which constitutes a well-established principle in the EU legal regime now expressly enshrined in Article 21 of the EU Charter. These apply equally to EU citizens and foreigners.

<sup>91</sup> For more information on the concept of “sanctuary cities” refer to: B. O. Hing, “*Immigration Sanctuary Policies: Constitutional and Representative of Good Policing and Good Public Policy*”, UC Irvine Law Review, 2012, University of San Francisco, Law Research Paper No. 2012-03, available at: [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1969604](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1969604).

<sup>92</sup> European Agency for Fundamental Rights, “*Fundamental rights of migrants in an irregular situation in the European Union*”, 2011.

<sup>93</sup> European Agency for Fundamental Rights, “*Apprehension of irregular migrants – fundamental rights considerations*”, available at: [http://fra.europa.eu/sites/default/files/document-on-apprehensions\\_1.pdf](http://fra.europa.eu/sites/default/files/document-on-apprehensions_1.pdf).

<sup>94</sup> The government announced these changes on 18 March 2011, but they are not yet in force, and further guidance will be issued (Department of Health (2011) Implementing the Overseas Visitors Hospital Charging Regulations, para 5.55, *ibid*)

<sup>95</sup> See: PICUM Bulletin, 24 October 2012, available at: [http://picum.org/en/news/bulletins/37246/#news\\_37232](http://picum.org/en/news/bulletins/37246/#news_37232).

<sup>96</sup> Full text statement available at: <http://www.ordinemedicivenezia.it/files/Brochure%5B1%5D-1.pdf>.

<sup>97</sup> See Circular of 2 December 2012, available at:

[http://www.ordinemedicitermi.it/index.php?option=com\\_docman&task=doc\\_download&gid=361&itemid=86](http://www.ordinemedicitermi.it/index.php?option=com_docman&task=doc_download&gid=361&itemid=86).