



PRESIDÊNCIA DO CONSELHO DE MINISTROS
Alto Comissariado para a Imigração e Diálogo Intercultural, I.P.

EU-LEVEL CONSULTATION ON MIGRATION HEALTH

“BETTER HEALTH FOR ALL”

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THEMATIC SESSION ONE: *LEGAL AND POLICY FRAMEWORK*

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Under the first thematic session of this EU-Level Conference on *Legal and Policy Framework*, chaired by Michele Klein-Solomon (Director of the Migration policy Research Unit of IOM), several relevant stakeholders including governments officials, representatives from intergovernmental and non governmental organizations as well as academia, shared critically their expertise on the legal and policy framework governing migration and health in Europe. They focused on the impact such framework and its application has on the realization of the right to health for migrants and asylum seekers.

Specific attention was given to barriers in law and in facts that inhibit in particular migrants in an irregular situation to receive health care. In this context, examples of measures certain States have taken at the national or local level to comply with their obligation to ensure equitable access to health services of appropriate quality for all those residing on their territory were provided.



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Generally it was recognized that the diversification and increase of migration flows in the European Union and Canada created new challenges to the health systems and policies. Accordingly, and keeping in mind that migration has relevant impacts on both the individuals' and public health system of host societies, it was considered to be relevant to discuss the need of revision and development of the EU health policies in such a way that they become an answer to the present challenges of the globalised world.

All the speakers stressed that the right to health constitutes a basic right, regardless of the nationality, language, religion or political convictions of the person. In other words, the health protection of all persons represents a sign of a higher state of civilization. In a paradox way was however discussed whether all migrants and asylum seekers should have the full right of health protection in an EU border controlled society.

Further attention was given in this session to the kind of programmes and policies that have been developed to overcome the barriers migrants face in accessing health services. Divergence in the intervention measures used to address particular health needs of vulnerable groups in different countries was particularly noted.

In this respect, several aspects that explain and determine certain groups' health vulnerability – such as poverty, housing conditions, unemployment, food standards, conditions of access to the necessary health resources, language difficulties, lack of social support, etc. were mentioned.



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Several examples of interventions and actions were also presented during the session, namely: information campaigns about rights and duties in the health sector in several languages, translation services, intercultural mediation, and so on.

The role of civil society was also particularly highlighted and valorised. One presentation brought to the discussion that if on one hand in some countries' civil society organisations' intervention plays a fundamental role as compensators to policy absences it can also, on the other hand, contravene the national law in countries where migrants in an irregular situation are not entitled to benefit from the public health care system.

I will now give further details on each of the six individual presentations that were made under this session.

The first speaker, Paola Pace from IOM, presented AMAC's background paper on Migration and the Right to Health in Europe. She explained the substance of the right to health for all. The right to health is strongly related and depended on people's living and working conditions. This is particularly relevant for migrating persons who way too often are exposed to undignified living environment and exploitative working conditions. She then described the international, regional and national instruments recognizing the right to health for all EU MS are bound upon. She also mentioned measures promoting the right to health for migrating person in Europe as well as accountability mechanisms and provided some examples of effective remedies in case of violation of the right to health. Paola highlighted that mere commitment to emergency care is neither legally permissible nor justified and reasonable from a public health perspective. She also clarified that the assumption that "too generous" social rights are a "pull factor" for further unauthorized migrants disregards empirical evidence showing that most of them do not make rational choice



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of their destination countries after comparing the benefit of different welfare systems. Not to mention the fact that unauthorized migrants are indirect tax payers. This could have significant implications in those cases where the public health system receives a significant proportion of its foundlings from this kind of revenues. She stressed that good legislative and implementation measures based on a firm foundation of legal norms will not have a negative effect at home, they will not create a hostile environment among the nationals nor will they act as a pull factor. They will just represent good practices to adapt and reproduce elsewhere. It is feasible for EU health care systems to assume the burden of third countries nationals who are within their territories. It cannot be forgotten that non nationals are right holders. Additionally, migrating persons contribute to the host countries development and they also contribute economically to health care budgets. Finally, Paola asked to the government officials in the room whether they use to report to the UN Treaty Monitoring Bodies the measures they have taken or the challenges they have encountered to realize the right to health for migrants and asylum seekers.

The second speaker, **Duarte Miranda Mendes** from the High Commission for Immigration and Intercultural Dialogue (ACIDI) of Portugal, focused on the particular attention that the Portuguese government has been providing to the health care of migrants and the generalization of that right. Since 2001, Portugal guarantees the health care access to all persons independently of their legal status in the country. Also, since 2004, in a holistic integration policy approach was incorporated a Health Ministry branch in the National Immigrant Support Centres – the Portuguese One-Stop-Shops. Recognising that more should be done, under the Action Plan for Immigrants Integration 2007-2009, the Portuguese Government defined 9 measures to reinforce the health integration of migrants. A Special Programme (PADE) for the Support of Patients coming from African Portuguese Countries with whom Portugal has special health bilateral agreements was also mentioned.



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Also recognising that sometimes the fulfilment of rights and duties is linked to a misunderstanding or a lack of knowledge of those rights and duties, the Portuguese High Commission for Immigration and Intercultural Dialogue (ACIDI) has been also investing in the past years in the publication of several leaflets in different languages. The migrants' health has been one of the priority topics, addressed through the publication of informative brochures in several languages (e.g. general information on health rights in Portugal, tuberculoses, HIV, maternity).

Finally, recognising that several of the obstacles related to the full access to the right to health for all is namely related to health illiteracy and language difficulties – as mentioned by other presenters in several sessions of this conference – several special and mainstream programmes created by ACIDI and from which the health sector also benefits from – e.g. translation phone line, intercultural mediators programme to public services, were presented in detail.

The third presentation was made by **Roseline Ricco** (researcher from Center for Science, Society and Citizenship – Italy). In a very provocative speech Roseline dedicated her presentation to the “Privacy and body integrity of migrants in the context of mandatory public health measures”. She brought to the discussion of this session ethical and privacy aspects related to health checks of migrants. She left to reflection and debate how Member States could conciliate ethics and individual privacy with the current challenges and pressures that national authorities face to develop certain mandatory health measures. She ended the presentation with the following question: when we think about policy and measures, do we think about the information that is really needed and/or about the information that is not absolutely relevant and that interferes with people's privacy?

In the fourth presentation of the session **Ursula Karl-Trummer** (Head of the Centre for Health and Migration from Danube University Krems in Austria), presented a



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paper on “Health Care for Undocumented Migrants in the EU: Concepts and Cases” based on an EU funded project. She provided very relevant inputs on how different Member States deal with the paradox – on one hand, undocumented migrants to whom every right of residence in a giving country is absent; and, on the other hand, the universal right to health care provision to all the persons regardless of his/her legal condition.

She also brought to the discussion very useful and tested categories that were presented from a macro to a micro level, from policy to people, including both health professionals and undocumented migrants.

On the policy level she distinguished countries with *functional ignorance*, *partial acceptance* and *structural compensation*, depending on the way they provide access to health care for undocumented migrants. In other words, in some countries *functional ignorance* was identified (the legal status of the person who receives health care is not investigated), in others *partial acceptance* in which health care is provided under certain conditions, and *refusal but compensation through civil society* and informal solidarity.

Depending on the type of policies, different types of practices were also identified: made with structural compensation by NGOs and other civil society organisations, or by functional ignorance. The speaker reinforced through several country examples the fundamental role that NGOs have in the field of health care to undocumented migrants.

Finally on the people level she mentioned the informal solidarity shown by certain health professionals towards undocumented migrant patients and the survival strategies defined by undocumented migrants towards health care.

Reinforcing the message of the previous speaker, **Sara Collantes**, from Doctors of the World Organization in Spain, highlighted that NGOs are not interested in playing the role corresponding to public authorities as regards to health care. On the contrary,



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the focus is on creating awareness about vulnerable groups' health needs and to work as a group of pressure to the definition of new policies, or global directives. She also brought further contributions to the discussion of the improvement of health care access to asylum seekers and undocumented migrants in EU. Because of their specificities she argued that target policies and programmes should be defined.

She underlined that there is still a gap between the general principle of access to health care and its application in several Member States that tend to restrict access to health care. In other words, she reinforced the gap between the theoretical rights and its access in practice. She also launched the challenge to open the debate to the EU in terms of the promotion of equal access to health care for all residents, including undocumented migrants.

The last speaker of the session, **Danielle Grondin**, Assistant Deputy Minister of the Public Health Agency of Canada, provided the Canadian policymakers' vision about the health of migrants. As a historic country of immigration and of multicultural policies towards migrants' integration, Canada hosts migrants with enforcement measures of health control. With a universal insurance policy, Canada provides to foreigners with a permanent status the right to insurance and general health care.

Danielle also stated that there is more to health than just health care. Several indirect determinants influence the people's health standards (e.g. poverty, education, employment, food security, environment and housing, accessing health resources). Hence, health is influenced by the type of society that we choose, or the life that we have. Health policies therefore have to recognise and target inequalities as well as foster collective will and leadership in a way that showcases health as a shared responsibility that strengthens migrant communities and households' ability to access health care and the support they need.



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After the abovementioned presentations of the afternoon, during the short **discussion period**, the following comments and questions were raised:

- the urgent need to have more data available to underline better the specificities and determinants that health policies should target to overcome inequalities and vulnerability of certain groups;
- the gap between the policy and legal frameworks and their implementation or the practices that are being put in place;
- whether the translation programmes and the mediation professions really provide a fundamental answer to migrants' needs or raise other problems such as the lost of privacy among the patients, ethics interpretations, the linguistic barriers and difficulties particular to the health sectors that hardly are well translated, etc.;
- the challenges related to a fundamental cooperation between those who advocate the right to health and those who are responsible for the migrants' control. Further pressure should be given to a visible cooperation between the justice EU director and the health EU director.

Thank you for your attention.