

Fundamental Rights Conference

Dignity and rights of irregular migrants

Warsaw, 21-22 November 2011



FUNDAMENTAL RIGHTS CONFERENCE 2011

Dignity and rights of irregular migrants

The Copernicus Science Centre, Warsaw
(Wybrzeże Kościuszkowskie 20)

21–22 November 2011

This year, the Agency's annual Fundamental Rights Conference (FRC) will be held in Warsaw, with the support of the Polish Presidency of the Council of the European Union. The FRC will address the issue of access to fundamental rights for migrants with an irregular migration status who are living in the European Union. Discussions will be informed by the results of the Agency's research on this issue, which will be released in the run-up to the conference.

The FRC is the Agency's flagship event, and gathers senior officials and experts from national governments, EU bodies, intergovernmental organisations, local authorities, civil society and specialised human rights bodies. The conference promotes the sharing of information on innovative policies, promising practices and projects through practice-oriented workshops and interactive plenary discussion.



OBJECTIVES

- Inform debate among policy-makers, specialists and practitioners at EU and national level about the situation of irregular migrants across the 27 Member States and raise awareness about the need to develop appropriate policies and practices that guarantee the rights of irregular migrants.
- Discuss practical follow-up to the FRA research to promote the mainstreaming of fundamental rights standards into migration management.
- Provide a forum for networking and sharing promising practices to support access to fundamental rights for irregular migrants.

BACKGROUND

While no fully verifiable estimates exist on the number of irregular migrants in the EU, a recent EU-funded project (CLANDESTINO) estimated that it could range from 1.9 to 3.8 million people. This amounts to approximately 6% to 12% of all those born outside the EU who are currently residing in the EU Member States. While some of them are living in hiding, others are known to the authorities but cannot be removed for administrative or humanitarian reasons. The FRA research indicates that their lack of a legally recognised status makes them vulnerable to severe fundamental rights violations, including various forms of exploitation, lack of access to basic services, and arbitrary detention.

The abuse and widespread exploitation at work of third country migrant workers in irregular (and sometimes regular) situations remains a major challenge. Measures taken by the EU to fight trafficking in human beings address a small portion of irregular migration and only the worst forms of abuse of migrants. While recognising that policies to prevent irregular migration are legitimate, the FRC will focus on the need to ensure that the fundamental rights of irregular migrants are respected at all times. Discussions will be framed by the EU Charter of Fundamental Rights as well as international and regional (Council of Europe) human rights standards, including the international labour law framework.



The conference topics relate to current and future EU policy and legislative developments, as laid out in the Stockholm Programme in particular. Current EU policy aims at preventing irregular migration by reducing pull factors, but it also recognises the strong demand for foreign labour across the EU and the need to facilitate regular immigration by developing legal immigration schemes. Immigration control tools adopted include the 2008 Return Directive as well as the 2009 Employer Sanctions Directive. Proposals for directives on 'seasonal workers' (a group particularly vulnerable to labour exploitation) and a 'single permit' have been put forward by the European Commission in 2010 and 2007, respectively, and aim to facilitate regular labour migration.

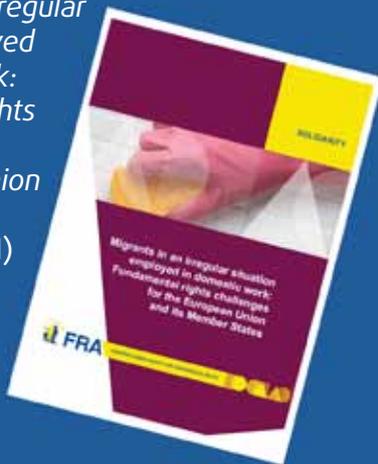
Within this wider policy context, the conference will contribute to an informed debate about the rights of irregular migrants. Building on the research findings of the FRA and others, the aim is to support policies and action at various levels that will help uphold these rights in practice. Although the FRC is not intended to produce formal or agreed conclusions, the results of the conference will be summarised and shared with all the relevant actors and will feed into the Agency's work.

FRA WORK ON THE RIGHTS OF IRREGULAR MIGRANTS

In 2010, the FRA published a report on the detention of third-country nationals in return proceedings. This report describes the policies of the 27 EU Member States regarding when an irregular migrant can be detained and what procedural safeguards apply. It also encourages the use of alternatives to detention and highlights safeguards to be applied to children.

In 2011, migrants in an irregular situation have been one of the focus themes of the Agency with three main reports being released by the FRA:

- *Migrants in an irregular situation employed in domestic work: Fundamental rights challenges for the European Union and its Member States* (July 2011)
- *Migrants in an irregular situation: Access to healthcare in 10 European Union Member States* (October 2011)
- *Fundamental rights of migrants in an irregular situation in the European Union Comparative report* (forthcoming November 2011)



These reports identify a number of areas that require action, including, among other things, the need to:

- address the fundamental rights of migrants in an irregular situation who have been given a return decision but who have not been removed, and to have mechanisms in place that put an end to situations of legal limbo deriving from protracted circumstances of non-removability;
- avoid disproportionate measures which undermine access by irregular migrants to basic rights (such as apprehensions near schools or hospitals and reporting requirements by social service providers) when detecting and apprehending irregular migrants;
- remove legal and practical obstacles that make it difficult or impossible for migrants in an irregular situation to seek justice, for instance, when they are exploited or abused by employers.

PROGRAMME

SUNDAY, 20 NOVEMBER

19.30

WELCOME RECEPTION

Hosted by the European Union Agency for Fundamental Rights (FRA)
(Hotel Novotel Warsaw, ul Marszalkowska 94/98)

MONDAY, 21 NOVEMBER

8.30 – 9.30

REGISTRATION

9.30 – 9.45

WELCOME

Ilze Brands Kehris, Chairperson of the Management Board, FRA

Radosław Sikorski, Minister of Foreign Affairs, Poland

Cecilia Malmström, European Commissioner responsible for Home Affairs,
European Commission (video message)

9.45 – 10.45

KEYNOTE ADDRESSES

Claude Moraes, Committee on Civil Liberties, Justice and Home Affairs (LIBE),
European Parliament

Belinda Pyke, Director - Migration and Borders, DG Home Affairs, European
Commission

Kyung-wha Kang, Deputy High Commissioner for Human Rights, United
Nations (UN)

Morten Kjaerum, Director, FRA

10.45 – 11.00

A MEMBER STATE PERSPECTIVE

Feliciano Barreiras Duarte, Secretary of State to the Deputy and
Parliamentary Affairs Minister, Portugal

11.00 - 11.30

COFFEE BREAK

11.30 – 13.00

FUNDAMENTAL RIGHTS IN MIGRATION MANAGEMENT: A REALITY CHECK

Panel debate and plenary discussion with policy makers and practitioners:

Nikolaos Dendias (EPP/CD), Chair of the Sub-Committee on Migration,
Parliamentary Assembly of the Council of Europe

Ilkka Laitinen, Executive Director, FRONTEX

Luc Van den Brande, Chair of the Commission for Citizenship, Governance,

Institutional and External Affairs (CIVEX), Committee of the Regions
Henrik Ankerstjerne, Deputy Permanent Secretary, Ministry of Refugee,
Immigration and Integration Affairs, Denmark
Oleksandra Gusak, Committee 'Migrants for Amnesty', Poland

13.00 – 14.00 LUNCH

**14.00 – 15.00 FUNDAMENTAL RIGHTS SITUATION OF IRREGULAR MIGRANTS IN THE EU -
FRA FINDINGS**

Adriano Silvestri, Programme Manager – Legal Research, FRA

Commentary by:

Michele LeVoy, Director, Platform for International Cooperation of
Undocumented Migrants (PICUM)

Questions & Answers

**15.00 - 16.00 MARKETPLACE OF IDEAS
Networking and knowledge exchange**

Interactive presentations, new reports and initiatives in the field presented
by international organisations and civil society

16.00 – 17.30 WORKING GROUPS:

**POLICY IN THE MAKING: INNOVATIVE SOLUTIONS AND PROMISING
PRACTICES**

Working groups will have an interactive format aimed at pooling and sharing
experience between participants on challenges and solutions in four key areas.
Introductory presentations by practitioners in the field will highlight promising
practice examples and share their lessons learned.

*Each working group will address a number of specific problem areas as well as
the following cross-cutting issues:*

- *cooperation between national and local authorities, and with NGOs
and service providers*
- *access to redress mechanisms (judicial and non-judicial)*
- *gender dimension*
- *access to public services*
- *criminalisation of undocumented migrants and those providing them
with assistance*

1. RIGHTS OF ACCOMPANIED CHILDREN IN AN IRREGULAR SITUATION

Chaired by: **Gordon Alexander**, Global Director of Research, UNICEF

- birth registration
- access to right at the local level, including access to pre-natal and
post-natal health care, access to education and housing

2. LABOUR EXPLOITATION

Chaired by: **Rudi Delarue**, Director, Office for the European Union and the Benelux countries, International Labour Organization (ILO)

- access to justice and the use of complaint mechanisms;
- occupational safety and health
- fair working conditions (pay, time off, etc.)
- workers' rights (consultation, collective action etc.)
- the situation of those employed in domestic work
- child labour: working migrant children

3. DETENTION OF IRREGULAR MIGRANTS

Chaired by **Christos Giakoumopoulos**, Director of Monitoring, Directorate General of Human Rights and Legal Affairs, Council of Europe

- detention conditions
- alternatives to detention
- detention of families with children

4. SOLUTIONS FOR PROTRACTED IRREGULARITY

Chaired by **Fabian Lutz**, DG HOME, European Commission

- legal bars and practical barriers to removal (protection needs and lack of documents)
- situation of persons who are neither returned nor provided with a residence permit
- impact of protracted irregularity for the individual and the state
- options to end irregularity

19.30

RECEPTION in the Warsaw Uprising Museum

Hosted by the Polish Ministry of Foreign Affairs (ul. Grzybowska 79)

Welcome by **Radoslaw Sikorski**, Minister of Foreign Affairs, Poland

Guest speaker: **Wladyslaw Bartoszewski**, Secretary of State in the Chancellery of Prime Minister, Plenipotentiary of Prime Minister for International Dialogue, Poland

TUESDAY, 22 NOVEMBER

9.00 - 9.15

KEYNOTE ADDRESS

Monika Prus, Director of the Migration Policy Department, Ministry of Interior, Poland

9.15 - 10.30

LABOUR EXPLOITATION OF IRREGULAR MIGRANTS

Panel debate and plenary discussion with policy makers and practitioners:

Michel Quillé, Deputy Director and Head of Operation Department, EUROPOL

Padraig Dooley, Deputy Director, National Employment Rights Authority (NERA), Ireland

Irena Lipowicz, Human Rights Defender of the Republic of Poland

Luca Visentini, Confederal Secretary, European Trade Union Confederation (ETUC)

Pedro Augusto Almeida Freire, Vice-President, Confederation of Portuguese Commerce and Services (CCP), Member of the European Economics and Social Committee

10.30 - 10.50

COFFEE BREAK

10.50 - 12.45

WORKING GROUPS

FROM PROMISING PRACTICES TO MAKING RIGHTS A REALITY

- How can a real impact on the lives of irregular migrants be achieved?
- Which are the actors to be involved and which means should be used (possibilities for trans-national European cooperation, exchange of good practice etc.)?
- What future steps should be taken?

12.45 - 13.30

RIGHTS-BASED APPROACH TO MIGRATION POLICIES – Summary from the working groups and next steps

Panel debate with the working group chairs from UNICEF, International Labour Organization, Council of Europe and European Commission.

13.30 - 13.45

CLOSING REMARKS

Maciej Szpunar, Undersecretary of State, Ministry of Foreign Affairs, Poland

Morten Kjaerum, Director, FRA

13.45 - 15.00

LUNCH

The FRC 2011 will be moderated by **Friso Roscam Abbing**, Head of Department Communication and Awareness Raising, FRA; and **Shirin Wheeler**, BBC Correspondent in Brussels

PRACTICAL INFORMATION

Attendance of the conference is only possible for registered participants.

For more information please consult the conference website at <http://fra.europa.eu/fraWebsite/frc2011/> or contact the FRC secretariat at frc@fra.europa.eu.

The FRC 2011 will be held in the Copernicus Science Center, situated on the Vistula river bank on the east of Warsaw's old city center.

Copernicus Science Center
Wybrzeże Kościuszkowskie 20
00-390 Warsaw
Poland
Web: <http://www.kopernik.org.pl/en/>



The conference venue and the locations of the evening receptions are all accessible to persons with disabilities. In case you need further assistance, please get in touch with the organisers, who will make any effort to accommodate your needs.

WI-FI is available free-of-charge to all participants.

