



Report of the Second Workshop on “Fighting Discrimination-Based Violence Against Undocumented Children”

4 April 2008, Brussels

The **Platform for International Cooperation on Undocumented Migrants (PICUM)**, held a workshop on 4 April 2008 in Brussels, Belgium, on the protection of undocumented children in their access to basic social rights. The workshop brought together nearly 100 participants, including representatives of NGOs, local authorities, professionals from diverse fields, and other actors to share experiences and discuss ways to address the problems associated with insufficient access to basic social services for undocumented children.

This report provides an overview of the contributions of the speakers as well as the main themes of discussion in the plenary and workshop sessions.

Opening Remarks

Don Flynn, Chair of the **Platform for International Cooperation on Undocumented Migrants (PICUM)**, opened the conference by welcoming the participants and stating that this workshop was part of a wider research project on “Fighting discrimination-based violence against undocumented children in Europe” that had started in February 2007. The project, co-financed by the DAPHNE-Programme of the European Commission, DG Justice Freedom and Security, aims at fighting discrimination-based violence against undocumented children in Europe, by developing the capacity of concerned partners to protect undocumented children from discrimination in gaining access to housing, education and health care. This project will be finalised by a final conference and publication in December 2008.

Don Flynn went on to describe the needs of undocumented children and explained that in many countries in Europe, various NGOs and international institutions have denounced the increasing difficulties faced by undocumented migrants in gaining access to social services. A growing number of non-governmental organisations, local authorities and professionals from diverse fields, witness that an irregular status is an obstacle and a way of discriminating against undocumented migrants, preventing them from accessing basic social services and realising their human rights.

He stressed that within this progressive erosion of the basic rights for undocumented migrants, undocumented children (both unaccompanied and with their family in irregular status) are evident victims of discrimination. Don Flynn stated that in some countries undocumented children are refused access to school because they lack an identity card or practical barriers significantly limit their access. And there are other countries where the foreigners’ police use the educational system to detect undocumented parents through their children.

He continued by describing that undocumented families are excluded from any kind of social housing in almost all European countries and this also affects access to adequate housing for undocumented children. Often the only possible solution for these children is to be separated from their parents and taken into care, even when it is in the best interests of the children to remain with their family.

Don Flynn ended his introduction by saying that this workshop intended to provide an opportunity to investigate the specific needs and problems that undocumented children face in Europe when trying to access their basic social rights. The event meant to enable the participants to share experiences of good practices regarding the provision of protection to undocumented children subjected to discrimination-based violence particularly in the fields of housing and education, since a workshop on access to health care for undocumented children took place in April 2007.



MORNING SESSION: GOOD PRACTICES AND EXPERIENCES

Presentation of the Daphne project and some results regarding access to housing and education

Tommaso Bicocchi, PICUM program officer of the Daphne project, held a brief presentation about the project and some results regarding access to housing and education in the nine EU-member states analysed. He stressed that this workshop was part of the Daphne project but did not mark its conclusion but rather an opportunity for the exchange and discussion of ideas. He also stressed that the points he raised were not to be taken as definite conclusions, but rather as open problems that could stimulate the discussion during the day.

He briefly mentioned some of the principal aims of the project in order to give a general picture to those who were not familiar with it. The project started on February 2007 and will end February 2009, and it has involved PICUM along with four other European associations: Save the Children (Denmark), Defence for Children International (the Netherlands), Association Jeunes Errants (France) and Andalucia Acoge (Spain). The main focus of the research has been to investigate discrimination against undocumented minors in their access to basic social rights in nine European countries: Belgium, France, Hungary, Italy, Malta, the Netherlands, Poland, Spain and the UK. In each of the countries investigated those who work in the area of protection of the rights of foreign minors were contacted. More than 80 interviews were undertaken in the nine countries involved to pinpoint the weaknesses and strengths of the laws protecting undocumented minors.

After having presented the general outline of the project and before showing some findings that came out of the interviews, Tommaso Bicocchi raised some general remarks about the situation of undocumented children in Europe. He highlighted the special vulnerability of undocumented children and stated that there is a general lack of protection of these children that has been observed in almost all EU member states and has been indicated both by civil society organizations as well as institutional bodies. At this regard he recalled some of the most recent appeals done at European level such as statements released in 2007 by the Commissioner for human rights of the Council of Europe on the situation of migrant children in Europe, and a study, published in January 2008 by the European Commission, Committee of Social Affairs and Equal Opportunities, on ‘Child Poverty and Well-Being in the EU’. In both of these examples particular concern is raised about the situation of migrant children in general and undocumented children more specifically.

Along with the vulnerability of these minors, Mr Bicocchi also highlighted their invisibility. The category of undocumented children is by its nature a mobile and open one. Undocumented children can be minors arriving in Europe to be reunited with their family but not falling under the official family reunification schemes or those who entered with one or more relatives irregularly, but also unaccompanied children who prefer to keep outside the reception circuits for unaccompanied minors and are invisible to social services. The reasons to remain hidden to

the authorities can be many: from the search of a job in the informal market to the fear of being detained and repatriated once detected. This issue deals with a category difficult to define and quantify, the point being that there are no reliable figures or even estimates of the number of undocumented children in Europe. Even if there are some figures on the number of undocumented migrants in general there are no specific surveys on the number of children. Even if at the national level major attention is given to the registration of separated children, little or no attention is given to undocumented children.

These two general remarks on the vulnerability and invisibility of undocumented children lead to a third general remark that, Mr Biccocchi thinks, somehow includes both of his previous points: that undocumented children are increasingly becoming victims of the repressive policies on migration control that all European states have developed and enforced. He went on to explain that a tension exists between protecting the needs of a child on the one hand and immigration controls on the other. At this regard he named two examples: in France where the police was sent to many schools in order to detect undocumented parents who collected their children from school, and in the United Kingdom where the destitution of undocumented families was capitalized to push them towards voluntary return.



After these general remarks Mr. Biccocchi presented some results of the interviews. First of all he highlighted that from many of the NGOs and institutions interviewed there was a general request for more studies and information on this subject, a demand that arose from the awareness that the real situation of these children was not really well known. Another aspect that he underlined was the fact that NGOs often reported that practical and concrete barriers were what made laws ineffective, rather than direct legal discrimination. The last general remark he mentioned was the fundamental role of protection and advocacy of these children carried out by NGOs, in particular in informing and accompanying these minors to the services.

Mr. Bicocchi continued to present some of the general findings regarding, more specifically, access to education and housing. Regarding the access to education he firstly recalled the international legislation that must always be the point of reference. Looking at the national legislation he said that, generally speaking, the right to primary education for all children is granted in all the states. However he noticed that in most of the cases what have been reported as the major problem are the practical barriers, like for example the fear of undocumented families of being detected, their lack of money for extra expenses or the fact that in some cases schools ask for IDs to accept children.

Mr. Bicocchi reminded that the right to housing is also protected at international level and in this regard he recalled some the UDHR - Universal Declaration of Human Rights, Article 25(1) and the CRC - UN Convention on the Rights of the Child, Article 27(3). However, what he noticed is that at national level accommodation is generally granted to unaccompanied children but that there is no accommodation for irregular families. This clearly leads to the risk of dividing the family (even though it is not in the best interest of the child). Exceptions are made for mothers with children, but only temporarily and often in “bed and breakfasts”. These are usually used for single men and are clearly not suitable for children. Undocumented families have no access to social housing and experience increased difficulties in gaining access to private markets. In most cases they are housed by family members, community members or friends. Cases of undocumented children leaving their shelters in fear of being detected, for example in Spain, were also reported on.

To conclude his presentation Mr. Bicocchi highlighted some areas of work where NGOs play an important role in upholding the rights of these children. Concerning education he mentioned the advocacy done by many NGOs in different countries, the language and educational support programs developed by many NGOs at different levels, and finally various raising awareness activities. With regard to housing, the major problems NGOs have to face are: their limited capacities and funding, the fact that they are unable to cope with high demand, and the legal problems related with the irregular status of the families. The activities of NGOs in this field are principally to give support to the families and introduce them (where possible) to social services or to advocate with local authority or defend them against the landlords’ exploitation. The only exception is for NGOs that work with unaccompanied children out of the system; in this case we have encountered some NGOs that offer accommodation for these children (usually small numbers) and help them in their social integration process.

Advocacy in defending the rights of undocumented children

Benoit Van Keirsblick from the **Service droit des Jeunes Plate-forme Mineurs en exil, Belgium**, reported on the experience of the “Tribunal D’Opinion” (court of opinion) organized in Belgium this year. He explained that this court of opinion was made up of a group of Belgian citizens, engaged in the promotion and defence of the basic rights for children, including those who are detained due to their immigration status. The question put to the Court was: “does the confinement of children in closed detention centres constitute a violation of the Convention on the Rights of the Child (CRC) or other provisions that regard basic rights?”

One of the main results of the court was the fact that it drew the attention of the public to the problems of the confinement of children in closed detention centres. The tribunal was composed of two juries, a jury of adults, consisting of seven adult persons with high knowledge on children’s rights both at international and national level (the chair of this jury was Mr Jaap Doek, the former chair of the UN committee on rights of the child) and a jury of youngsters, consisting of twelve children.

Mr. Van Keirsblick stated that the aim of the tribunal is to raise awareness of the violation of children’s rights committed by the government. He reported, “there are many European countries where children are held in detention centres, without having caused any crime”. He stated that in practice children are often detained together with their parents and treated as adults in the asylum process. The process of detention can take many months, the average in Belgium being one month, which is a long time for a child. In 2007 there were an estimated 600 children held in detention centres, but no reliable data is available. Children of all ages are kept in detention centres, even babies and pregnant women. Further down the line, there are many NGOs announcing that detention has psychological consequences for children. Mr. Van Keirsblick reported on one case, where a pregnant woman had to give birth to her child in a detention centre. He clarified that “those centres are not adapted to children at all”, because none of the rights to health care or education are guaranteed there.

Mr. Van Keirsblick recalled that the Belgian government was condemned both in the final judgment of the adults’ and youngsters’ jury. He said that the youngsters’ jury has expressed in an informal way the fact that, as children, they found what they had heard about the inhuman condition of the detention of other children unacceptable. He stated that the youngsters’ jury is going to meet the prime minister and the minister of migration in Belgium. The conclusion of both of the juries has been that the Belgian state must immediately put an end to the detention of foreign minors in closed centres. In conclusion, Mr Van Keirsblick invited all lawyers who defend the rights of children in Europe to put pressure on the European governments to stop this practice.

Jean-Jaques Piard from **Réseau Education Sans Frontières (RESF), France**, explained the experience of Réseau Education Sans Frontières in France. He explained that Réseau Education Sans Frontières is more a movement than an organisation, made up of different volunteers such as students, parents, pupils, citizens and organisations. This movement was born in response to the government’s attempt to use children to detect irregular families. The main aim of the movement is to protect the rights of education for migrant children and to protect their families from expulsion.

He explained that RESF is made up of several support committees and each committee has a list of contact email addresses and telephone numbers. The network advocates the rights of undocumented migrants in individual cases in the form of demonstrations. If anyone in a support committee hears about a case where an undocumented migrant is kept by the police, he or she quickly spreads the news to the whole network. The next step is to meet at the place in question, for example a police station, a detention centre or an airport, and then put pressure on the officials in charge of the expulsion procedure. In rotative shifts there is always one person responsible for the emergency hotline, active 24/7.

As an example of the work of RESF, Mr Piard named a case where two undocumented girls were not allowed to attend school because they had to stay in a closed detention centre. The RESF network lobbied for the defence of the girls’ rights and their consequent liberation was

secured. He reported on the usual procedure when an emergency call comes in. When a member of the network is informed that an undocumented migrant was caught and should be deported, the network is activated. Normally the arrested person/people in question stay at the police station for 48 hours and then are sent to a detention centre. The activists make use of these 48 hours to put pressure on the officials in charge in by demonstrating in front of the police station, sending them faxes and emails, and calling them. In 2007 they were successful in nearly every case, and only very few people were expelled.

Regarding access to education, Mr. Piard stressed that arrests at school in France are illegal as police officers are not allowed to enter the school. Mr Piard pointed out that there had recently been only one case where a grandfather was arrested at the school exit, but powerful demonstrations by the neighbourhood concluded in his release after 48 hours. He stressed that arrests in or close to schools are intolerable.

In conclusion he explained that the work of RESF is based around actions such as these, made possible by the quick reaction of its volunteer members and their organised network of contacts.



Youssouf Brahim from **Salusbury World, United Kingdom**, presented his own experience of being an unaccompanied child in the UK. He told the story of how he left Chad and had entered in the UK alone and explained his personal experiences of being an unaccompanied child there.

For him, “the key problem for unaccompanied children is the communication”. Often unaccompanied children do not speak the language of the country in which they are seeking asylum, but being able to communicate is especially important in this case. He strongly criticised the whole asylum procedure and the way in which unaccompanied children are treated. Mr Brahim said that the people in charge of them do not have enough preparation and do not care about them seriously.

He reports that unaccompanied children are often moved from one place to another many times every few weeks. From his own experience he recognised the difficulties in children

being moved so often because, having just adapted to their new environment and having made some friends, they then have to leave and again experience a totally new and foreign world. Mr Brahim stayed in London for one year to study before efforts were made to disperse him to Doncaster. At the last possible moment, his solicitor prevented the removal because of a recent test case. Talking about the situation, he described that “I was treated like a killer, but I did not do anything, I just asked for asylum because of problems in my country.” His parents were killed in his homeland, he was traumatised from his experiences and moreover when he fled to Europe he was then treated badly.

Mr Brahim criticised the anonymous treatment unaccompanied children have to face. When he applied for asylum, the social worker who was in charge of him did not even know his country (Chad). Mr Brahim advocates for more individual and more caring treatment for unaccompanied children from all involved: social workers, the immigration authorities, etc. He called for people in charge to listen to them, to talk to them, to acquaint themselves with their special case and to understand their reasons. From his own experience, the speaker said that there is a constant feeling of imprisonment and of distrust from others. They are never free, but in fact all they want is safety. Reporting about cases he experienced, he mentioned that he had been detained when 18 years old and that, whilst it had only lasted two weeks, this experience had been terrible and inhumane. Mr Brahim also denounced the beatings which were carried out on longer-term detainees, which he said were not compatible with human rights.

He ended his presentation by explaining that it took five years for him to be granted Indefinite Leave to Remain and to be eligible to apply for citizenship. After this he obtained citizenship in December 2007 and is now working with the NGO ‘Salisbury World’, which provides educational support for migrant children.

Discussion

A participant asked the speakers to describe the environment and the circumstances in Belgian detention centres.

Benoit Van Keirsblick, Service droit des Jeunes Plate-forme Mineurs en exil, explained that there are five detention centres in Belgium and that three of them accommodate children. The largest is near the airport and the noise of the planes is incredibly loud. Adults are allowed to go out for one hour per day, while children can go out for two hours. The persons detained in the centre have no visiting rights (not even from their families or classmates) and they are not allowed to receive presents or cards. Mr Van Keirsblick stressed that within the centre there is ongoing violence and he reported on one case where one of the children went on hunger strike, lost weight and became ill. This condition worsened over the weekend, during which time there was no doctor on duty. Mr Van Keirsblick’s intention was to demonstrate the conditions of these centres.

A participant working in a Belgian center for unaccompanied minors underlined that there are constant changes and improvements taking place in these centres and that she did not sense a recognition of this fact during the workshop.

Tommaso Bicocchi stressed that in his presentation he had briefly mentioned some good practices, but had not expanded on them because a specific section of the afternoon program

would be dedicated to highlighting and promoting good practices. Moreover, he agreed that emphasis should not be placed solely on negative points, but that as a fact undocumented children mainly live in difficult circumstances and their basic social rights are mostly not guaranteed.

Benoit Van Keirsblick (Service droit des Jeunes Plate-forme Mineurs en exil) agreed that the positive developments in this field should definitely be underlined, but he also made clear the huge number of grievances that remained and he added that “the most vulnerable persons are children of undocumented migrants.”

Jean-Jaques Piard (RESF) did not agree that the improvement in conditions should be highlighted during the workshop. He underlined that as long as there are grievances and intolerable conditions for children, people need to call attention to them. He also made clear that “children should not be in jail - that would be a real improvement!”



**Access to basic social rights for undocumented children
in some European member states**

Judith Balogh from **Multikultura Egyesület, Hungary**, presented the experience of ‘Multikultura’ in the Hungarian context. She started her presentation by introducing her organisation, Multikultura Egyesület. The organization was founded in 2002 by teachers and works mainly in the field of securing education for the children of migrants. She went on to give some figures concerning migrants in Hungary: the number of registered asylum seekers grew from 2041 persons (2003) to 3419 persons (2007). The number of recognised refugees in turn decreased from 178 (2003) to 169 (2007). The number of deported persons amounted to 579 in 2003 and 443 in 2007.

Unaccompanied minors and children of undocumented migrants face different conditions than adults, but the law also differs between the two groups, so unaccompanied minors have more rights than children of undocumented parents. The Hungarian asylum law guarantees special care for unaccompanied children and youngsters (under the age of 18); the asylum procedure is faster for them and a guardian is appointed to protect the child's rights. A medical examination is carried out to identify the age of the child, but only with their consent. Detention of children is forbidden in Hungary.

Ms Balogh reported on the rights of unaccompanied children in Hungary: she stated that they have the right to access health care and the right to education from elementary to advanced level. They receive support for the fees of student hostels as well as for books and other materials related to education, and housing can be provided for them at refugee reception centres, which are a kind of refugee integration centre. Children of undocumented parents only have the right to essential medical treatment in Hungary, Ms Balogh stated. Although in theory Hungarian law grants access to education to all children, in practice children without residence permits cannot go to school. She reported on cases where at the local level children have been asked for their ID before being accepted at school. She continued by explaining that no special services exist for dealing with accommodation for undocumented children.

There are very few undocumented children in Hungary and undocumented families are often totally out of the view of local authorities and the social system. She also added that undocumented children are usually at work and hence are often involved in illegal activities. Active bodies in the field of integration of migrants in Hungary are NGOs, churches and social workers. She relayed the “mission of the reformed church” in assisting integration into the Hungarian educational system in the form of offering special preparation for migrant children. As another example she named non-formal education programs like leisure activities, sport and language teaching and social workers who assisted in finding housing. But she also made it clear that the children of undocumented parents in Hungary are rarely connected to NGOs.

Ms Balogh ended her presentation by talking about the projects of her organisation, Multikultura. They offer weekly activities for children in the reception centre in Bicske, for instance a handicraft club, a video club and English language practice. Two Saturdays per month they offer leisure activities in Budapest, for example excursions to the theatre or museums and trips to the zoo or to the circus. Within their work they involve volunteers and university students (teacher trainees). Multikultura also incorporates migrant children in each

phase of their projects: planning, implementation and documentation. Because undocumented children and unaccompanied minors often have few goals and little with which to occupy their time, Multikultura aims for participation and activity from the children themselves.



Agnieszka Kosowicz from the **Polish Migration Forum, Poland**, opened her presentation by recognising that in her eyes “the workshop is quite advanced by focusing on rights and integration of undocumented migrants, while in my home country Poland NGOs and other activists are trying to get recognition for *documented* migrants”.

She continued with her definition of undocumented children: these are children stopped by the police or border guards for their illegal stay in the country, children of undocumented parents as well as children seeking asylum. Unaccompanied children are the most ‘privileged’ of those, because they can seek asylum and so fit into an ‘organised’ and ‘regulated’ category. Children who are stopped by border guards (only a few isolated cases) have the right to have a guardian appointed. Children whose parents or caretakers can be located will be deported; if the child cannot be deported because no responsible persons can be located, then the state is obliged to take care of them and their stay will be legalised. She said that Poland usually serves as a transit country in the migration process.

Ms Kosowicz presented some numbers relating to unaccompanied children in care institutions: in 2005 and 2006, there were 318 children in emergency care centres and children homes. Some of these children were undocumented and only a few were subsequently regularised, so a majority fled and therefore have disappeared from data capture. The main countries of origin are Ukraine, Romania, Vietnam, Belarus and Russia. The gaps concerning the work with unaccompanied and undocumented children was underlined: there are language barriers, no human capacity and no funding.

Ms Kosowicz stated that in Poland there is no data available on children of undocumented parents. She talked about some indications from schools, which show cases of undocumented migrants being accepted and not being reported to migration authorities. However, mentioning the disparities in this field, Ms Kosowicz explained that in Poland there exists no legislation to assure the right to education for every child, but on the other hand there is no legislation

excluding undocumented children from the educational system either. She continued by describing the right to health care, which is only provided for undocumented migrants in life-saving situations. In one case she mentioned, an undocumented child with toothache was taken to a dentist and the social worker concerned paid with his own money. The speaker criticised the fact that there is too little care for undocumented children and no follow-up on what happens to them when they disappear. She accused the police of just waiting until children vanish, since Poland is a transit country.

Ms Kosowicz then focused on unaccompanied children seeking asylum in Poland and stated that in 2006 there had been 269 applications. The vast majority came from Russia, and other main countries of origin were Turkey and Kyrgyzstan. There were also a few isolated cases of undocumented children (only two or three per year) coming from Asia and Africa. Ms Kosowicz recognised that in this case they are able to have access to the asylum procedure and obtain a residence permit. Concerning the legal frame, she stated, there are no specific ‘exclusion causes’ mentioned in the law regarding migrants without documents. Moreover, she continued, every child, if unaccompanied, has to have a guardian. The problem, Ms Kosowicz suggested, is the implementation of the law, the practical barriers, and lower-level legal acts. She went on by commending the fact that every child can apply for asylum and can have his or her claim reviewed. In addition, she explained that undocumented children can only be deported to their country of origin if their family or care arrangements are found, otherwise they are granted a ‘tolerated stay’ in Poland. Unfortunately, this happens very rarely in practice.

Underlining some points of concern, Ms Kosowicz mentioned that the existing laws are often not implemented. She stressed that children seldom benefit from the standards envisioned by law. In 2005, for example, out of 131 asylum seeking separated children, only 22 were interviewed in the premises of the Nobody’s Children Foundation. And both the appointed parents and the right to schooling can often exist only on paper, while in practice there are no provisions for children who do not speak Polish. She was also concerned about the right to health care: in fact, all children who are out of the asylum procedure without insurance only receive life-saving treatment. Ms Kosowicz ended her presentation by underlining the big difference between theory and practice, and that although the law grants some rights to undocumented and unaccompanied children, in practice these rights are often not guaranteed.

Sanna Vestin from **Save the Children, Sweden**, presented the experiences of a helpline for undocumented children in Sweden. She began her presentation by explaining to the participants that in Sweden the term used for undocumented migrants is ‘utan pepper’, which means ‘without papers’. Her estimate was that there are between 2,000 and 3,000 undocumented children staying in Sweden. Her organisation, ‘Save the Children’, is a voluntary non-governmental organisation. They started the ‘Utanpapper.nu-project’ in 2005, with a view to finishing in 2008. For two years they ran a helpline where children and adults could contact them by calling on the phone, filling out a form on the website or e-mailing. They received emails and calls from around 450 children and young adults. ‘Save the Children’ has a website that informs undocumented children in Sweden about their rights and possibilities in six different languages and provides the contact information of many organisations that care for people without residence permits or offer advice on asylum and residence issues.

By running this helpline and acquainting themselves with the children and parents involved, Ms Vestin and her colleagues learned a lot about what it is like to live in hiding without a residence permit. They are currently writing a report on their experiences and newly-acquired knowledge in order to inform politicians and local authorities in Sweden. Ms Vestin described one case of

two sisters, Marina and Vera, that she dealt with through the help line. Marina was 23 and came to Sweden as a young girl with her family to seek asylum, but they were denied. Her sister Vera was born in Sweden. They stayed without documents and were arrested and deported then to their parents’ home country. However, they then returned to Sweden illegally without seeking asylum. Ms Vestin asked them why they came back and said that the answer was quite logical; Marina said, “my sister is born here, she is illegal everywhere and I was educated here and speak Swedish fluently”. Marina and her father are working in the informal sector, and were reportedly angry about what they see as a hopeless situation.

The speaker underlined that this project is not based around victimisation, but helping undocumented children to obtain access to their rights. She explained that in general Sweden has an effective welfare state and social system, but undocumented migrants are not included. School, for example, is free for children, but undocumented children are not allowed to attend. The general right to education for every child has not been transferred the Swedish law yet, so it is up to every teacher individually if he or she wants to follow the CRC (UN Convention on the Rights of the Child). Ms Vestin surmised that if children are not in school they spend their days either on the street or inside, often in places such as cellars, and stressed the unsuitability of these arenas for children’s daytime activities. Concerning access to health care in Sweden, she continued, persons without papers can only be treated as tourists and hence have to pay full cost for medical treatment. “Many undocumented children were denied medical treatment when they were ill.” She added that undocumented migrants often cannot afford medications.

Further, Ms Vestin explained that most undocumented migrants in Sweden are former asylum seekers and most applications for asylum are turned down. Those who are refused leave have often been living legally in Sweden for a long time, up to as much as one or two years, waiting for a decision. Their children have attended school and learned to speak Swedish. They have been inside society but are then placed in the position of an outsider, whether under sanctions or in hiding. The speaker remarked that the first email the organisation received when starting the helpline was a woman describing her suffering who wrote about how she had hidden in school rooms and basements, worked illegally in an office, and been sexually abused there.

She mentioned another case study about a boy called Hamid. His parents died in Afghanistan when he was seven years old, and relatives brought him to Pakistan. When they could no longer take care of him, he was sent to Iran with some friends of the family. A few years later, he was deported back to Afghanistan. By this time, Hamid had turned sixteen. With some assistance he managed to travel to Greece where he intended to get by on his own, but was arrested and told to leave the country. Hamid went to Sweden. However, Swedish authorities found that his fingerprints had been taken in Greece and decided to deport him there again. While waiting for an answer from Greece the Swedish authorities took Hamid from the youth home where he was staying and from school, dismissed his guardian and solicitor, and sent him alone to another town. Hamid called the ‘Save the Children’ helpline and asked “Why shall I go to Greece? They already beat me up. I’m here now. I want to go to school. I’ve never been to school before. And what about the football, I must stay for the game next Saturday! I am good at football. I’m the best. I must stay for the game next Saturday.” The organization lost contact with Hamid a couple of weeks later, when his phone number stopped working.

Ms Vestin pointed out that during their work ‘Save the Children’ has found that undocumented children are primarily treated as undocumented, and secondarily as children. Some officers in social service are, for example, quite sure that it is prohibited to help an undocumented child, but she underlined that this not true and that according to law they should take an interest in

any child that runs the risk of bad treatment. Some schoolteachers and nurses even believe they could be punished for helping an undocumented child, which is also not true. Ms Vestin closed her presentation by reminding the audience of her encounter of Vera, an undocumented girl, and explaining the outcome of the situation. Whilst Vera had not originally been able to go to school, when Ms Vestin met Vera again some months later she had been accepted to a pre-school. Ms Vestin explains how she seemed to be an entirely different person and finally felt like the child that she was.



At the end of the presentations in the morning, people of the panel had the possibility to say some words as conclusion.

Tommaso Bicocchi, PICUM, noted as a final remark that what stands out quite clearly from the morning is that, particular in terms of access to education, there seems to be a rather strong difference between what the law says and what happens in reality.

Judith Balogh, Multikultura, insisted on the fact that regarding undocumented children there is a major lack of reliable data and that the government should pay attention to this in addition to data on undocumented migrants, in order to protect their rights.

Agnieszka Kosowicz, Polish Migration Forum, ascertained that the subject of undocumented children is quite new for country like Poland and for this reason more capacity is needed to fight for these children’s rights.

Sanna Vestin, Save the Children, in conclusion stressed that the laws and the regulation on this matters should be changed in order to give the social workers more possibilities, “so that we can do the best for the child.”

AFTERNOON SESSION: WORKSHOPS

First workshop session: Identification of common needs and problems

The afternoon session was dedicated to a workshop on the discrimination that undocumented children might face in gaining the access to education and housing. The workshop was divided in two sessions: the first addressed the needs of undocumented children to access their basic social rights, especially regarding housing and education, whilst the second session intended to explore some of the good practices and relevant experiences of actors in the field. Three simultaneous workshops were held at the same time in order to have smaller discussion groups. The workshop sessions were moderated by: Morten Johnson of Save the Children (Denmark), Lise Brun of Separated Children in Europe Programme and Carla Von Os of Defence for Children International (the Netherlands).

In the first session the participants of the workshop were invited to focus on these main issues:

- The lack of data concerning undocumented children
- Which are the sources of information available regarding the situation of undocumented children?
 - Is any statistical data available?
 - What instruments could be used or developed in this regard?
- Housing for undocumented children
- Can irregular families have access to shelter or other kinds of social housing?
 - All the families, mother with children, only the children?
- Access to private market
 - quality of the housing
 - any form of discrimination reported
- Is anybody aware of any case of homeless undocumented children/ families (living in the street but also in occupied buildings etc.)
- Education for undocumented children
- Identify some specific problems in the access to school:
 - Economic, bureaucratic, fear of being detected etc...
- What are the causes of these problems?: identify legislative and practical barriers
- Some specific problems regarding access to education:
 - Language problems
 - Vocational classes
 - No diploma released



The lack of data concerning undocumented children

Many participants highlighted the fact that there is very little data available on the presence of undocumented children in their countries. The participants also pinpointed some possible sources of information that could be useful in this regard, like school or hospital registers etc. Finally, it was noted that it is important that this information is used for the protection of the migrants and not against them.

- One idea to facilitate the collection of data was taking schools as a source, because they mostly know which of their pupils are undocumented. But not all undocumented children attend school, which presents another problem. A participant from Germany reported that the law in Germany concerning the right to education for undocumented migrants differs in the 16 Federal States; in some they are allowed to go to school, in some they are not. Underlining another problem, she said that even when the children are officially allowed to attend school, their parents often do not want them to go due to the fear of detection.
- A participant mentioned the possibility of using numbers of denied asylum seekers who did not officially leave the country, but not all undocumented migrants have sought asylum before and not all denied asylum seekers tell the authorities when leaving the country.
- On the different possibilities for collecting data on undocumented children, the following suggestions were made:
 - Schools – most school administrations know which of their pupils have documents and which have not.
 - Denied asylum seekers which did not officially leave the country
 - Health care system – doctors may have numbers on how many persons without papers they treated
 - Churches – many undocumented migrants contact churches

- The participants agreed that sources exist, but that they should be developed and the state and NGOs should work together in order to collect numbers and data on undocumented migrants.
- PICUM recently started a project under DG Research entitled “Clandestino – counting the uncountable”. In this project, sources of estimation would be put together on different countries and the numbers would then be compared. Five research institutes involved had involved themselves in this project, with PICUM as the NGO-partner.
- One participant mentioned that care should be taken not to scare people with the creation of databases. It is important to have an aim with this data: it should be used for helping and protecting undocumented migrants.

Access to education for undocumented children

Many participants underlined the gap between the theoretical entitlements that the law grants to all children, even those who are undocumented, and the concrete practice of exclusion that the latter children consistently experience.

- A participant from France explained that Article 375 of the French law stipulates that the state should provide support to every child, whose access to education, healthcare, etc. is in danger. In theory, no difference is made between a French child and a foreign child, but in practice things look different. One of the main issues is the problem of whether to define an undocumented child as primarily a child or primarily a foreigner. In France schooling is compulsory from the age of six, and most children even start at 2 ½ or 3 years. Some undocumented migrants forcefully keep their children at home, but it is safer for the whole family to send the children to school (since then they cannot be deported). Enrolling undocumented migrants at university level is nearly impossible.
- Concerning access to education for undocumented children, a Greek participant explained, undocumented migrants in Greece have no rights at all. In terms of the law undocumented children are allowed to go to school, but in practice no school director accepts them due to the lack of facilities, language barriers and the extensive paper work the process brings with it. Furthermore, Greece has a very complicated social service system, which makes it hard for migrants to clearly know what their rights and entitlements are.
- Another participant talked about access to education for undocumented children in the UK. There is a legal obligation that allows every child to attend school, but the head teachers have a large margin of discretion on whom they accept. Theoretically, there is no problem in enrolling a child. As regards vocational training and internships, there is no technical procedure. Universities and colleges do usually check identity papers due to the university fee system.
- In Norway all children have the right to go to school up to 16 years, but in practice the parents are often afraid to send their children to school because they fear registration.
- In Switzerland, on the other hand, the law forbids school authorities to denounce undocumented children to other authorities, especially those dealing with immigration. The law guarantees access to education. Schools get support for every child

(irrespective of immigration status) and integration measures. The education authorities are not allowed to give information to immigration services; the problem emerges when teachers betray names of undocumented children to immigration services.

- Another participant added that in the Netherlands school authorities are not allowed to give information on undocumented children to the immigration authorities.
- A Swedish participant explained the situation of many undocumented children who are refused by schools, for example rejected asylum seekers. During the asylum procedures they attend school, but once the asylum claim has been rejected they are excluded. There is no law in Sweden giving undocumented children the right to go to school yet. That means that it is up to the head teacher’s discretion whether or not he leaves the child in school.
- Attendants from Azerbaijan reported that many laws had recently been adopted, but that the gap between theory and practice remained. An undocumented child cannot get access to education unless he or she came with his or her parents and they obtained refugee status.

Another point that was discussed was that the law usually grants access to education for compulsory school, from 6 to 16 years old, while much more problematic is the access to kindergarten and to higher education classes after turning 16.

- In Belgium, access to education is not disputed. There is only an issue at kindergarten level, as children are not obliged by law to attend. Access to education is not the problem, but the language difference. The participant advocated for more possibilities (‘classe passerelle’) to be given to children to learn French at school before following the general curriculum. One issue surrounding ‘classe passerelle’ in Belgium is that they are often located in (or create) ‘ghetto’ schools, which is not a stimulating environment for education.
- A Swiss participant stated that in Switzerland access to school is not a problematic issue, and that even kindergarten is no exception. The only issue is access to professional education, since a working permit is required. He stressed that the most urgent problem is that most undocumented families have no prospect of regularization in Switzerland.
- A participant from the Netherlands reported on problems in smaller villages: School officials are sometimes not very familiar with the law and undocumented migrants often fear being detected. Another issue arises after the child’s schooling ends; after ten years of school, undocumented children do not have access to vocational training because it is linked to working practice, which migrants without papers are of course denied.
- In Spain, education is compulsory until the age of 16. Until then, undocumented children also have the right to attend school. In the case of undocumented children between 16 and 18 years old, they do not have access to education or vocational training. They often face problems when their school education is not finished by the

age of 16 and they do not have the possibility to graduate from school or, if they did graduate, cannot start with vocational training.

Finally some specific problems were addressed such as language problems for undocumented children, their need to be prepared before enrolling in school, or the problem of what happens to these children once they turn 18.

- A Belgian participant noted that there is a constant stress over the future of undocumented migrants and the question of what will happen after they turn 18. Children in closed detention centres in Belgium have no access to education at all. In Belgium there have been some cases where undocumented migrants were able to access university, but only if they were excellent students. In general, undocumented children at school have difficulties following the classes and cannot participate in all activities such as ‘classe verte’ or school trips abroad, because they have no papers.
- A participant from Spain experienced quite different things; she noted that the authority’s duty to provide education is often seen as an obligation and not a right for undocumented children. Therefore the provisions put in place are often minimal and inadequate, and children are forced to attend school even if they do not understand the language. She thought it might be more helpful to create specific ‘adaptation’ classes. Education is seen by the authorities as a way to assimilate and not as providing a service.



Access to housing for undocumented children and undocumented families

A first aspect discussed was the impossibility for families with irregular status to secure access to social housing, and how the state often accepts responsibility for the accommodation of the child but not the family, with the related risk of dividing the family even if it is not in the best interests of the child to do so.

- Governments often accept their responsibility for accommodating the child but not the family. Therefore the child would be separated from his or her family, which is never in the best interests of the child. A participant reported that “the child and his or her mother are accommodated but they leave the father to cater for himself.”
- In the Netherlands there is no right for housing due to the social security system. Generally, there are no social services for undocumented migrants. A participant reported on the case of an undocumented woman who was raising two boys (15 and 16 years old). They were found living on the street, so the Dutch child protection council took the boys away from their mother. They could only see each other at the child protection office. None of the three agreed with the decision to separate them. After a regularisation procedure four years later, the mother could afford adequate accommodation and the family was reunified. However, after four years of separation, the family faced major problems due to changed relations.
- A participant from the Netherlands also mentioned that children are often taken away from their families. “The government gives basic social rights to children, but takes them away from their parents.” She defined the problem as the following: the authorities cannot put children in closed centres, so they separate them from their parents.
- In Sweden, if a person cannot be deported the person can stay in housing provided by the Swedish Migration Board. As soon as the person can be deported, the order will be enforced. Housing is, however, only provided for rejected asylum seekers and therefore does not cover all undocumented migrants.
- Another contributor mentioned the fear to access any social services because many undocumented migrants are terrified of being reported and so usually no contact is made with officials. Legally, every municipality has to arrange housing, but most of the time it is not applied for, because of the reporting duty of the authorities.

Besides access to social housing, a number of participants also described the problems that families with irregular status might face in gaining access to the private market. In some cases a residence permit is asked for, while in others there are reported cases of abuse and exploitation from the landlords.

- In the Netherlands people need documents to rent a flat on the official market, and this is impossible for undocumented migrants. In Switzerland, undocumented migrants only have a chance on the private market if private owners are willing to rent them a flat. In Hungary it is possible for undocumented migrants to stay in refugee centres.
- A participant from Belgium gave an example of housing exploitation in Brussels: In Anderlecht an apartment block had been sub-let, the flats inside had been sub-let again, and finally the rooms were also sub-let. Each room was filled with six to eight people, and even the cellar was full. In 2006 the whole block was inspected.

Ventilators in the basement were found to aerate because of the heat caused by the central heating unit. In this basement they found a mother with a 15-week-old child. The building was declared insalubrious and all of the occupants were expelled directly to his or her country of origin (most were from Brazil).

A participant from Germany reported on so-called ‘guest apartments’ in churches for undocumented migrants, who can stay there for a short period of six to twelve weeks receive assistance from the church after their departure. She also mentioned that this is not without risk as it is not legal to help undocumented migrants with anything except their health care and that it is a crime punishable by up to two years in prison.

- There are an estimated 15,000 to 20,000 undocumented migrants in The Hague, Netherlands, and it is generally hard for them to get apartments so more and more people have to live in small rooms, often shared. There is much profit made from this. One contributor talked about some places in the Netherlands, where the Salvation Army takes care of undocumented families and pays all their costs.
- Another participant, who talked about a fight that had occurred at a high school, pointed out another case study from France. The police were called in and they arrested the fighters; one of them was undocumented. He was living in a small hotel room with his family because his brother was severely ill, and the father had to rent a small studio because there was not enough room in the hotel room for all of them. “Unfortunately this leads these children to explode quite easily.”



Second workshop session: Successful strategies in working with undocumented children

After having analyzed the main problems that undocumented children might experience in their access to basic social rights, the participants were asked to reflect on some possible solutions that could be developed to overcome these problems.

In the second session the participants of the workshop were invited to focus on these main issues:

- Starting from the problems/ needs highlighted identify some concrete experiences to give an answer to these needs
- Gather the various good practices on the access to education/ housing and try to identify the central aspect of the good practice reported:
 - reaching undocumented migrants (e.g. helpline etc.)
 - raising awareness and creating public support
 - advocacy
- How can these strategies been spread among the partners?
- How can we help local authorities and policy makers to assess the experiences of NGOs?



General observations on the protection of undocumented children’s rights

Some participants underlined the importance of informing undocumented families about their rights and the fundamental role that NGOs play in this regard. The participants also agreed on the fact that it should be the government’s responsibility to care for these families.

- A number of participants reported on projects carried out by their organisations as some undocumented migrants only survive through the help of NGOs and other volunteers. All agreed that it should be the government’s responsibility to care for them.
- A Swedish participant showed an example of good practices in Sweden: the national board of social workers in Sweden plans to establish guidelines on how to apply human rights in the daily work of social workers, including undocumented migrants, and also special guidelines on unaccompanied and traumatized minors.
- A participant said that since one of the obstacles of school attendance of undocumented children is the fear of their parents, it is important to encourage the parents to send their children to school if they have the right to. They need to know what their rights are.
- A Dutch participant stated that her organisation experienced great difficulties in contacting the children of families that are hiding. She suggested that they should have the possibility to contact these parents in order to let them know they will not be prosecuted for sending their children to school.

Education for undocumented children

One of the aspects discussed regarding possible good practices on education was the importance of some preparatory classes for children before school-going age in order to help them to enrol in school. Some examples were cited and the theoretical debate on offering specialized service for these children, from one side, and more general services from the other were addressed.

- A participant from France described a project of his organisation ‘Jeunes Errants’. He said that in terms of education, this section of the population often does not speak the language of the host country. Some of them are ‘obliged’ to beg or clean windows while they should be at school. He explained that simply registering them at school is not effective. The organisation set up a three-month adaptation period, where the children would follow a specialised education programme run by ‘Jeunes Errants’. After these three months the undocumented children were sent to normal school, resulting in a far higher percentage of children remaining in mainstream education. The experience was mainly positive, and he suggested the providing of more resources to NGOs to enable them to help these children at pre-school level. Many participants agreed with the idea of preparing children before their entry into normal schools; it is vital to prepare undocumented children, especially regarding language.
- A participant highlighted that, on the one hand, providing special courses for undocumented children could create segregation, but on the other hand, non-specialised classes can hamper the child’s education. He advocated an ideological debate about this issue and examination of different experiences. The specific system in Belgium ‘classe

passerelle’ seemed to him to be suited to the undocumented children’s needs. He mentioned other projects such as ‘Befriending’ in the UK that helps to create bonds between foreigners and citizens of a country. In addition, the network of specialist lawyers in Belgium appeared to him to be a good practice for.

Some additional examples of good practices on how to raise awareness of the situation of undocumented children and advice on working in collaboration with local authorities were cited.

- A participant from France informed that RESF provided all their information on their website, in order to create a global RESF group to improve the dissemination of their information. Mailing lists, he said, are very helpful. He added that a big problem with regard to good practices is that legislation is not the same in each country.
- A participant from the Netherlands reported on a project of teachers and health care practitioners working together, who stated that they would not exclude undocumented migrants from health care and education. Another example from the Netherlands was mentioned: cooperation of NGOs called “learning without papers” urged local governments to make education for undocumented children possible by giving financial help, their goal being to enable undocumented children to exercise their right to education. The government accepted and gave money to support undocumented children without money.

Housing policies for irregular families and their children

Only a few examples regarding good practices on the theme of housing were cited, and in general the participants agreed that housing is a very problematic aspect and that it is very difficult for NGOs to intervene.

- A participant from the Netherlands reported that the national government had decided to give shelter to people in the streets, but only to those undocumented migrants who were still being processed in the system.
- An unaccompanied child cannot not be deported from Hungary and children must have housing, but this participant also mentioned that problems may emerge when the child turns 18.
- A participant from France talked about the work of his organisation RESF, which is normally focused on education but has a small internal section which focuses on housing. Young people living in special centres must leave when they turn 18. A group of RESF is trying to pressure the government to allow these people to continue living where they are after 18 in order to be able to finish their education.

The importance of international and national legislation

Some participants also highlighted the importance of international legislation and how it can be used by NGOs for advocacy purposes to put pressure on governments that do not respect the rights of undocumented children. The importance of giving legal support to irregular families was also recalled.

- One participant pointed out that there is always the possibility of suing the government for violating the CRC. Article 31 of the European Social Charter stipulates that everybody has

the right to proper housing, and the Dutch government has violated its obligations under this article by not providing proper housing for undocumented migrants. She added that detention cases are also working very well, for example in terms of getting children out of detention centres based on the CRC. The same organisation also launched a website dedicated to the rights of undocumented children. It lists the particular rights undocumented children have and is addressed to all persons working with undocumented children: social workers, policemen, teachers, etc.

- A contributor from the UK mentioned that the ECHR (European Court of Human Rights) has ruled that a child that has lived most of his life in a country should not be removed just for becoming a juvenile delinquent. Cooperation of legal experts in different countries, especially concerning education laws, is very important and should be promoted.
- Participants from Azerbaijan underlined that assistance for undocumented children from lawyers is often the most effective method. They advocated for cooperation between organisations and governments. The aim of their organisation is to give ID cards and birth certificates to undocumented children. According to the Azerbaijan constitution a person born there should have the country’s nationality and should therefore always be given identification documents.



Closure of the workshop

Michele LeVoy, Don Flynn and **Tommaso Bicocchi** thanked all attendants for participating and Don Flynn announced the final conference of the project “Fighting discrimination-based violence against undocumented children in Europe” in December 2008.