



PICUM, the Platform for International Cooperation on Undocumented Migrants, is a network of organisations providing assistance to undocumented migrants in Europe. The aim of PICUM is to promote basic social rights of these migrants.

PICUM seeks to achieve this aim by (1) gathering information on law and practice regarding social rights for undocumented migrants, (2) developing a center of expertise in this field, (3) strengthening networking between organizations dealing with undocumented migrants in Europe, and (4) formulating recommendations for improving the legal and social position of these migrants.

1. The most pressing challenges posed by irregular migration and the presence of undocumented migrants in Europe

There are various challenges posed by irregular migration: the state authority is weakened; democratic control over migration issues is partially lost; criminal activities (trafficking, survival crimes) may be generated; undocumented workers cannot effectively contribute to the tax system, etcetera. PICUM is particularly concerned about the societal consequences of current policies to combat irregular migration.

1) Undocumented migrants are workers

The organisations in PICUM's network all observe how the great majority of undocumented migrants are being employed. An increasing amount of studies and researches reveal how, while being at the same time excluded from the welfare system, undocumented migrants are working. Even if they should therefore be considered as workers, they are often pictured as criminals by politicians and the media.

2) Undocumented migrants and the fight against criminality

All European policies regarding irregular migration frame in a 'fight against' this phenomenon, referring continuously and strongly to a criminal context. The distinction between on the one hand people who abuse the situation of undocumented migrants (like traffickers and unscrupulous employers), and on the other hand undocumented migrants themselves, is often not made. In some countries the irregular residence in itself is even considered as a criminal offence, to be penalised in the same way as other criminal offences.

Undocumented migrants are often being put in pre-deportation custody, for which in some countries regular prisons are used. In these cases undocumented migrants have to share cells with other prisoners, convicted for serious crimes. This represents a real traumatic experience and may have a devastating effect on the lives of the individuals concerned, especially when it results in the migrant's deportation.

Criminalisation of undocumented migrants forms a breeding ground for abuses, exploitation, human rights violations, and fear. It is also an obstacle to justice and prevents them from asserting their rights.

3) Creating “second class workers”

Various European economic sectors rely on undocumented workers to fulfill their needs for work. The percentage of work done by undocumented workers varies according to the country and sector, but it is observed that undocumented work is nonetheless a common element of European countries' economies.

By denying them fair working conditions, employers are able to respond to the growing demands of consumers to have inexpensive goods and services accessible at any time. To ensure a good profit margin, companies often resort to cutting costs by lowering the standards of working conditions. Nationals are not always willing to accept such work, and according to the logic of supply and demand, such jobs are often filled by undocumented migrants who are forced to accept substandard working conditions. These workers are increasingly being referred to as “slaves” by researchers, NGOs, journalists, etcetera.

Availability and flexibility are two important qualities in workers sought out by employers in these sectors. **The aim is to make the workforce a variable that can be reduced in periods of economic downturn.** Employers want workers who should be available when needed, are flexible, and will accept poor working conditions. Undocumented migrants are the perfect workers to respond to this demand. They rarely assert their right to fair working conditions due to their dependence on their earnings and fear of other possible repercussions.

4) Danger of a general downgrade of workers' rights

There is a risk in tolerating a situation in which a certain group of workers is denied their rights. Migrants and undocumented migrants have often been the experimental ground for the profound restructuring of the economic fabric and work models. The new orientation of capital-work relations can be described in two words: flexibility and externalization. All of the present trends of temporary work, precarious contracts, subcontracting, mobile schedules, dependency of employees and undeclared employees have all been tried out first on foreign workers. “Have work but not the worker” will be the core of the whole future labour policy, if it is not stopped in its present stage.

5) The price of social exclusion

The number of undocumented migrants residing in Europe is considerable, and there are enough reasons to assume that this number is increasing – despite the efforts made to reinforce Europe's borders. **To structurally neglect and exclude a large group of society is pernicious for social cohesion.** There are countless examples of undocumented migrants being denied access to health care, decent housing and education for minors, even in the richest countries in Europe.

Undocumented migrants whose right to anonymous **health care** is not safeguarded are not likely to visit a doctor when necessary. This provokes the re-appearance and spread of infectious diseases. Research has revealed that the cost of health care increases the longer people wait before consulting a doctor. This price of exclusion is too high to pay, and in practice many local authorities in Europe opt for the establishment of safe access to health care for undocumented migrants, even if this is contrary to their government's policies concerning undocumented migrants.

The same counts for repressive policies on **education**, which results in uneducated and principally disadvantaged children and youth, and on **housing**, where slumlords abuse undocumented migrants and deteriorate the living quality of complete neighbourhoods, or where people are forced to sleep rough.

6) Pressure on migrant communities, NGOs, and care professions

Equally disruptive for social cohesion is the additional pressure on already disadvantaged ethnic minority and immigrant communities. Research has revealed how undocumented migrants first rely on relatives and members of their community who are legally present. This puts pressure on these legal migrant communities, for whom this financial and social burden is considerable and slows down integration and upward social mobility.

When family- or community networks fail, undocumented migrants sometimes seek other types of assistance. Since there is often no room for them in the regular social services, they go to NGOs, which in many instances represent the last safety net for these migrants. There is thus serious pressure on NGOs and private sector agencies to provide services to irregular migrants in need. This situation is further complicated by the fact that several countries in Europe have provisions in their legislation that penalize the assistance provided to undocumented migrants.

Since access to social services is increasingly becoming an instrument in the fight against irregular migration, there are considerable ethical dilemmas faced by professionals who provide assistance, care and healing (e.g. social workers, doctors and nurses, carers) in statutory agencies and in NGOs.

7) Solution: the Supportive Approach

It is important to note that the negative consequences of irregular migration are mainly caused by **restrictive policies** rather than by irregular migration as such. The policies taken by most European countries are of an accusatory nature, trying to deter undocumented migrants by excluding them and thus making them extremely vulnerable and dependent on their employers.

PICUM does recognize the negative consequences of undocumented migration in Europe. Nonetheless, as a sustainable solution in the general public interest, PICUM promotes the development of a genuine migration policy with fulfilment of basic social rights to prevent major exploitation and dependency of undocumented migrants

2. Recommendations

1. First of all, PICUM invites governments to take into account the presence of a population living in an irregular administrative situation on their territory.
2. PICUM invites governments to make a clear distinction between a criminal offender and an undocumented migrant. A different juridical procedure should be applied for the treatment of the latter.
3. We invite governments to safeguard access to justice, i.a. to labour courts, for all migrants, independent of their migration status. Stimulating the legal assertiveness of informal workers and empowering them in their ability to deal with conflicts would reduce incentives for hiring this 'easily exploitable' workforce.

4. PICUM strongly recommends further investigating this reality and urges member states to develop a policy towards “non-removable” undocumented migrants.
5. PICUM urges member states to develop an effective access to health care for undocumented migrants.
6. PICUM invites governments to respect the Convention on the Rights of the Child assuring access to education for all children living on their territory, regardless of their migration status.
7. Regarding the assistance provided to undocumented migrants by civil society organisations, and the importance thereof for social cohesion, states should make a clear distinction between humanitarian work and assistance on the one hand, and actions such as trafficking done for financial gain on the other hand.
8. We encourage member states to reinforce their collaboration with NGOs to promote human rights and to develop projects to fight against all abuses of which undocumented migrants are the victims.
9. We invite governments to improve the possibilities for legal migration into their country.
10. PICUM invites governments to analyse all possibilities for regularising the undocumented migrants present on their territory.

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