

OR.C.A Organization for Undocumented Migrant Workers

Master in Democratic Governance: Human Rights and Democracy in the MENA  
REGION

27/06/2015

**Protection of Labour Rights of Undocumented Migrant Workers  
against Severe Labour Exploitation in the EU: A Case for  
Supporting Clandestine Workers in Belgium**

Author: Suhail Taha

Supervisor: Mr. Jan Knockaeret

## Contents

<b>Introduction.....</b>	<b>3</b>
Executive Summary.....	3
Overview .....	3
Who Are The Undocumented Migrant Workers?.....	4
<b>Severe Labour Exploitation in the EU:.....</b>	<b>5</b>
Brief Overview.....	5
Forms of Severe Labour Exploitation.....	6
EU Legal Framework: Protecting Undocumented Migrant Workers?.....	7
EU Policy on Migration: Criminalizing or Decriminalizing Migrants? .....	9
<b>Undocumented Migrant Workers in Belgium.....</b>	<b>11</b>
An Attempt to Present Statistics .....	11
Rights of Undocumented Migrant Workers in Belgium .....	13
Assessing ‘Protection of Rights’ in Practice.....	16
<b>Reflections from the Training.....</b>	<b>17</b>
What is OR.C.A? .....	17
Reflections From OR.C.A.....	18
Selected Case .....	19
<b>Recommendations.....</b>	<b>21</b>
<b>Conclusion .....</b>	<b>22</b>
<b>Bibliography .....</b>	<b>23</b>

## Introduction

### Executive Summary

The purpose of this report is to provide reflections on labour rights and the issue of exploitation of undocumented workers in Belgium based on my enriching experience I received from the Organization for Undocumented Migrant Workers (OR.C.A) in Brussels for the last two months, the conference on ‘severe labour exploitation in the EU’, which was held at the Council of the EU, and organized by the European Union Agency for Fundamental Rights (FRA). In addition, I participated in a workshop entitled ‘Ending the Criminalisation of Migrants’ organized by the Platform for International Cooperation on Undocumented Migrants (PICUM).

The report is also a fulfillment for my graduation requirements of the professional master program in Democratic Governance and Human Rights organized by the European inter-university center for Human Rights and Democratization (EIUC) in cooperation with Ca’ Foscari university in Venice/Italy and Cadi Ayyad University in Marrakesh/Morocco.

### Overview

The issue of migration is a current growing reality in the European Union. In response, the EU has continuously been legislating and enacting laws to tackle migration. However, it currently faces criticisms for its response, which focuses mainly on securing the border. One neglected aspect has been the fundamental rights of undocumented migrants.

In general, exploitation is a daily aspect of the lives of undocumented migrants in Europe, with a large proportion of immigrants being smuggled into the EU by traffickers for the purposes of labour exploitation. The EU has to deal with a community that is increasingly escaping from their countries due to violations of their fundamental rights.

The economic migration to EU countries, and within the EU, is also a reason for the growing undocumented population in Belgium. Many of these workers are unaware of the fact that despite their involvement in illegal employment, they are still entitled to labour rights.

As is the case in most EU countries, in Belgium, the rights of undocumented migrants are not respected. They endure tough living conditions due to the fact that they are unprotected by law. Belgium has set up a legal framework to provide for labor rights of undocumented migrants. However, implementation of this law has been lacking. Non-governmental organizations have called upon the EU member states to create new mechanisms that will ensure implementation of the laws that can guarantee the protection of the undocumented.

As for now, the EU has put into legislation many directives that address the rights of the undocumented migrant workers, namely the Employers Sanctions Directive, the Anti-Trafficking Directive and the Seasonal Worker Directive. The EU has demanded that the member states transpose the directives into their national laws. Yet despite the transposition, the reality on the ground contradicts the directives.

This gap between theory and practice has raised criticisms against the EU and its member states. Meanwhile, many far right parties are pressuring the EU and national governments to focus their national policies on migration towards reducing illegal migrants and combatting irregular migration within and into the EU.

This report aims to shed a light on the gap between the legal frameworks of the EU on migration, specifically the legal acts protecting labour rights of undocumented migrants, and the vulnerable living conditions and exploitation of the undocumented.

The first part of the report presents the EU legal framework for combating forms of labour exploitation. The report will also shed light on the migration policy, while examining its objectives, and determining whether the policy in place focuses more on either criminalizing or decriminalizing the undocumented migrants. The second part of the report will highlight the situation in Belgium, where exploitation of undocumented migrants prevalent. The third section will present my reflections based on my training at OR.C.A and will include an interview with an undocumented migrant worker. The aim is to present a practical case of an undocumented migrant whose rights were violated.

## **Who Are The Undocumented Migrant Workers?**

For the purpose of this report, undocumented migrant workers are defined as the people who work in a country without having work permit or legal status in the country. They can be migrants who entered another country in illegal way or without having the necessary documents and permission. Or they can be students or tourists who entered the country legally with a tourism or student Visa, and stayed in the country after the end of their residence permit (OR.C.A, 2012: 11).

In today's democratic Europe, there are hundreds of thousands of such migrants, who are deprived of basic social rights. They have no rights, and they are unprotected from all forms of exploitation (PICUM, 2004: 2).

In 2014, 3200 illegal migrants lost their lives trying to cross the Mediterranean, and in 2015 the number stood at 2000. These incidents of migrants dying while attempting to cross the Mediterranean Sea is not exceptional, and has only become more prevalent in the recent years.

A significant majority of migrants cross the waters to come into the EU are either seeking to improve their economic conditions, or they are fleeing conflict as well as harsh political realities in their home countries, which threaten their families and livelihoods. A good case in point is the Syrian refugees. Given the inhumane living conditions at the refugee camps based in Jordan, Syria and Turkey, many Syrian refugees are often forced to risk their lives by crossing the Mediterranean Sea into Europe.

Many often get arrested at the border, and for those who cross successfully, they become undocumented migrants. Once they find employment, they are officially undocumented migrant workers. According to OR.C.A definition; 'An undocumented migrant worker is someone, mostly without a legal residence permit, who works without a valid work visa.'<sup>1</sup>

## **Severe Labour Exploitation in the EU:**

### **Brief Overview**

The European Union Agency for Fundamental Rights (FRA) has recently published a report on the severe labour exploitation in the EU<sup>2</sup>, the report illustrates the barriers to Labours' rights and the most common reasons of Labour exploitation. In addition, the report underlines the necessity to combat labour exploitation accusing the EU of being tolerant towards fundamental rights violations.

The issue of labour exploitation has become a phenomenon in the European Union member state countries. Difficult economic and social circumstances are the driving forces that cause migrants to work in conditions that do not adhere to the minimum legal standard or employment. The employers are taking advantage of the vulnerable situation of these migrants, many of whom live in constant fear due to their illegal status.

Research reveals that labour exploitation in the EU is frequent in agriculture, construction, hotel and catering industry, domestic work and manufacturing. The research indicated that "in general, these sectors are characterized by a cyclical or seasonal variability of their activities and by the brutality of conditions and working relations" (PICUM, 2004: 27).

The reasons behind labour exploitation vary based on the type of migration, as well as the political, social and economic situation in a given EU country. Regardless of the reasons, the characteristics of the exploitative work force remain the same.

In most cases, employers prefer undocumented migrants, who offer cheap labour, in comparison to citizens or documented migrants, who are well aware of their rights.

---

<sup>1</sup> Orcasite.be, 'OR.C.A.'. *Who are the Undocumented Migrant Workers?* N.p., 2015. Web. 10 June 2015.  
<http://www.orcasite.be/?id=52>

<sup>2</sup> FRA, 2015, 'Severe labour exploitation: workers moving within or into the European Union States obligations and victims' rights'. [http://fra.europa.eu/sites/default/files/fra-2015-severe-labour-exploitation\\_en.pdf](http://fra.europa.eu/sites/default/files/fra-2015-severe-labour-exploitation_en.pdf)

## Forms of Severe Labour Exploitation

Severe Labour Exploitation takes on different forms, with one such severe and prevalent one being trafficking for the purposes of labour exploitation. During the Conference on Severe Labour Exploitation in June 2015<sup>3</sup>, the EU anti-trafficking coordinator in the European Commission Myria Vassiliadou, emphasized the seriousness of the issue as a form of severe labour exploitation, and underlined the position of this crime under the EU law, in which the EU recognizes trafficking of human beings as a fundamental human rights violation and a form of organized crime. (FRA Conference, 2015)

### The distinction between migrant smuggling and human trafficking<sup>4</sup>

**Trafficking of human beings** is defined as: ‘the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat, or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation’. **The smuggling of migrants** is defined as: ‘The procurement, in order to obtain, directly or indirectly a financial or other material benefit, of the illegal entry of a person into a state Party of which the person is not a national or a permanent resident’

*Sources: UN Protocol to Prevent, Suppress and Punish Trafficking in Persons (2000); UN Protocol against the Smuggling of Migrants by Land, Sea and Air (2000)*

The FRA desk research has documented the three main forms of labour exploitation in the EU.

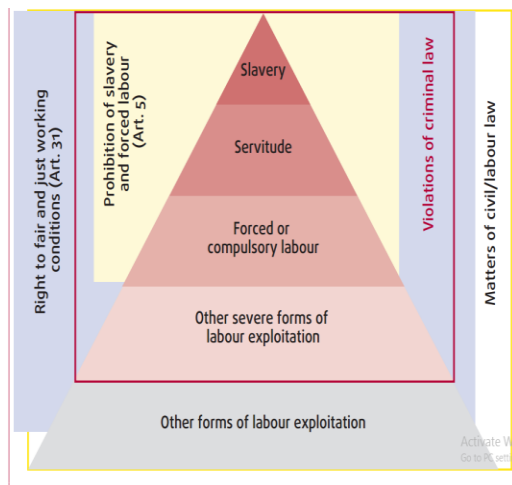


Figure 1: Forms and severity of labour exploitation.

Slavery, servitude and forced labour are the most prevalent forms of severe labour exploitation in the EU. Moreover there are other forms of labour exploitation such as trafficking, exploitation in employment relationships, and exploitation of children. Severe labour exploitations are not only about making the migrant work extra hours, or paying them less than the legal minimum wage, but also involve serious criminal activities and violations of human dignity.

*Source: (FRA, 2015:34)*

<sup>3</sup> The conference was held on the 2 June 2015 at the Council of the EU in Brussels in the occasion of the official launch of the EU Agency for Fundamental Rights (FRA) report on Severe Labour Exploitation in the EU.

<http://fra.europa.eu/en/event/2015/how-address-severe-forms-labour-exploitation>

<sup>4</sup> (Koser, 2005: 7)

## EU Legal Framework: Protecting Undocumented Migrant Workers?

In general rights of undocumented people are protected under many international treaties that contain provisions applies to undocumented people. The principal treaties are the following: The Universal Declaration of Human Rights, the international covenant on civil and political rights (1966), the international covenant on economic, social and cultural rights (1996), the European Convention for protection of human rights and fundamental freedoms (1950), the European convention for the prevention of torture and inhuman or degrading treatment or punishment (1987), the Geneva convention on the status of refugees (1951). In addition to the conventions of the International Labour Organization and certain numbers of UN and EU treaties.

Under the EU legislation all forms of labour exploitation are considered criminal. Certain rights of undocumented migrant workers are protected under EU law; European Convention on Human Rights (ECHR), Treaty on the Functioning of the European Union (TFEU) the charter of fundamental rights of the EU (CFREU) includes many articles addressing rights of undocumented migrant workers.

Charter of the Fundamental Rights of the European Union <sup>5</sup>
<ul style="list-style-type: none"><li>• <b>Human dignity (Article 1)</b></li><li>• <b>Prohibition of slavery and forced labour (Article 5)</b></li><li>• <b>Freedom to choose an occupation and right to engage in work (Article 15)</b></li><li>• <b>Non-Discrimination (article 21)</b></li><li>• <b>Workers' right to information and consultation within undertaking (Article 27)</b></li><li>• <b>Right of access to placement services (Article 29)</b></li><li>• <b>Protection in the event of unjustified dismissal (Article 30)</b></li><li>• <b>Fair and just working conditions (Article 31)</b></li><li>• <b>Prohibition of child labour and protection of young people at work (Article 32)</b></li><li>• <b>Social security and social assistance (Article 34)</b></li><li>• <b>Consumer protection (Article 38)</b></li><li>• <b>Right to an effective remedy and to a fair trial (Article 47)</b></li><li>• <b>Prohibition of child labour and protection of young people at work (Article 32)</b></li><li>• <b>Social security and social assistance (Article 34)</b></li></ul>

In addition the EU Employers sanctions directive establishes focuses in criminalizing the employers of undocumented migrants, emphasizing rights of workers to back payments to be made by employers (Article 6), and to the facilitation of complaints (Article 13).<sup>6</sup> The anti-trafficking directive also highlights specific rights of victims of trafficking.

<sup>5</sup> Charter of Fundamental Rights of the European Union (2010/C 83/02). Brussels: European Union. OJ (C 83/389), 30.03.2010.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:en:PDF>

<sup>6</sup> DIRECTIVE 2009/52/EC of the European Parliament and the European Council of 18 June 2009, *Providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals*, Official Journal of the European Union, 30.6.2009. Retrieved from: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009L0052&from=FR>

The European Social Charter highlights specific rights that apply to undocumented migrants workers, such as Article 2 of the RESC on just working conditions, and Article 3 and 4 on protection of workers against severe violations and exploitation (RESC, 1996).

In general, rights of undocumented workers fall under many EU directives<sup>7</sup> adopted by the EU. The following Figure 2 summarizes all the directives that include provisions protecting rights of undocumented migrant workers.

**Figure 2: Overview of relevant EU directives**

<b>Social policy</b>	<b>Posted Workers Directive</b> Directive 96/71/EC 16 December 1996 Transposition deadline 16 December 1999 (EC report by 16 December)	<b>Working Time Directive</b> Directive 2003/88/EC 4 November 2003 Entry into force 2 August 2004 (EC report by 23 November 1996 (and every 5 years); MSs every 5 years)	<b>Temporary Agency Work Directive</b> Directive 2008/104/EC 19 November 2008 Transposition deadline 5 December 2011 (EC report by 5 December 2013)	<b>Enforcement Directive</b> Directive 2014/67/EU 15 May 2014 Transposition deadline 18 June 2016 (EC report by 18 June 2019)
<b>Transparency</b>	<b>Consumer Rights Directive</b> Directive 2011/83/EU 25 October 2011 (amending 93/13 and 1999/44) Transposition deadline 13 December 2013 (EC report by 13 December 2016)	<b>Public Procurement Directive</b> Directive 2014/24/EU 26 February 2014 Transposition deadline 18 April 2016 (MSs stats by 18 April 2017)	<b>Disclosure Directive</b> Directive 2014/95/EU 22 October 2014 (amending 2013/34) Transposition deadline 6 December 2016 (EC guidelines by 6 December 2016; review by 6 December 2018)	
<b>Free movement</b>	<b>Free Movement of Citizens Directive</b> Directive 2004/38/EC 29 April 2004 Transposition deadline 30 April 2006 (EC report by 30 April 2006)	<b>Free Movement of Workers Regulation</b> 2011/492 5 April 2011		
<b>Migration policy</b>	<b>Employer Sanctions Directive</b> Directive 2009/52/EC 18 June 2009 Transposition deadline 20 July 2011 (EC report by 20 July 2014 (and every 3 years); MSs stats for EC report)	<b>Single Permit Directive</b> Directive 2011/98/EU 13 December 2011 Transposition deadline 25 December 2016 (EC report by 25 December 2016; MSs stats by 25 December 2014)	<b>Seasonal Workers Directive</b> Directive 2014/36/EU 26 February 2014 Transposition deadline 30 September 2016 (EC report by 30 September 2019; MSs stats by 30 June 2018)	
<b>Criminal justice</b>	<b>Residence Permit Directive</b> Directive 2004/81/EC 29 April 2004 Transposition deadline 30 April 2006 (EC report by 6 August 2008 (and every 3 years))	<b>Anti-Trafficking Directive</b> Directive 2011/36/EU 5 April 2011 Transposition deadline 6 April 2013 (EC report by 6 April 2015 and by 6 April 2016)	<b>Victims' Directive</b> Directive 2012/29/EU 25 October 2012 Transposition deadline 16 November 2015 (EC report by 16 November 2017; MSs stats by 16 November 2017 (and every 3 years))	

Past transposition deadline

Adopted

DK not taking part

UK not taking part

IE not taking

(FRA report, 2015: 29)

<sup>7</sup> EU directive is a form of legislation of specific policy directed at the EU member states, when a directive is adopted by the EU, the member states of the EU have to transpose the directive into their national laws.



## EU Policy on Migration: Criminalizing or Decriminalizing Migrants?

One current debate on migration focuses on whether the EU policy on migration aims at criminalizing or decriminalizing undocumented migrants. Following a special meeting held on 23 April, a statement was in response to the deaths of migrants in the Mediterranean, citizens and non-governmental organizations responded to the EU commission, demanding that they put Human Rights at the forefront of their agenda

The EU agenda on migration decided on the following:

- Strengthen their presence at sea.
- To fight the traffickers.
- To prevent illegal migration flows.
- To reinforce internal solidarity and responsibility.

(Council of the EU, 2015)

Based on the EU agenda on migration, it is obvious that the EU scrutinizes the issue of migration through a security lens. For instance, the EU military has plans in place to destroy the vessels used by the migrants, according to the migration agenda set to be unveiled in the next four years (Nielsen, 2015).

In addition, the European Union promised to mobilise all efforts to prevent more people from dying at sea and to address the root causes of migration (Council of the EU, 2015). However, in the upcoming annual EU meeting scheduled for July, migration has not been listed on the agenda. The focus has rather been on security at the borders, a priority which aligns with the EU military plan.

During the conference on severe labour exploitation, Vassiliadou, the EU anti-trafficking coordinator, stated that the EU sees victims as 'rights holders' (FRA Conference, 2015). It is however evident that the EU agenda on migration does not prioritize violations against migrants' human rights, but rather focuses on securing the borders.

The EU Anti-trafficking Directive adopted in 2011, specifically addresses exploitative employers as well as traffickers of undocumented migrants. Vassiliadou underlined the importance of the Directive as a milestone in the EU's efforts against illegal migration. Member states are required to ensure that the directive is fully transposed into national law. However, as at the last deadline for transposition, which was 6 April 2015, Germany and Belgium had yet to ratify the transposition. Twenty-five EU member states have officially agreed to the transposition. (European Commission, 2015)

Vassiliadou also stated that there was need to use the directive to move in a direction to protect victims, while keeping a close eye on the perpetrators. She mentioned that the directive is

targeted at punishing the employers who exploit illegal migrants, and includes provisions guaranteeing protection of specific rights of migrants who have been victimized (FRA Conference, 2015). Non-governmental organizations criticized the directive, stating that it ignores measures to defend and protect the rights of migrants. They also found that the directive failed to recognize that undocumented workers had labour rights and that priority needed to be given to enforcing such rights (OSCE, 2011: 26). In addition PICUM (The Platform for International Cooperation On Undocumented Migrants) stated in a recent position paper that EU Employer's Sanctions Directive adopted in 2009 does not protect undocumented workers; they refuted any effectiveness of the directive mechanisms as far as protecting and enforcing the labour rights of undocumented workers. (PICUM, 2015)

In a recent interview following the deaths of migrants in the Mediterranean Sea, the professor of migration at Oxford University, Bridget Anderson, refused to frame the tragedy only as an immigrant issue, stating that the issue of illegal immigration is rooted in deeper problems such as global inequality, injustice, neo-liberal capitalism, and wars in countries neighboring Europe. Anderson criticized the current policy mind-set by introducing the concept of 'violent humanitarianism' referring to EU responses and policy on migration that rhetorically aims to implement humanitarian objectives, while in terms of practice it contributes to the suffering of victims by choosing 'violence' or military response to this tragedy.<sup>8</sup>

Scholars in the field of migration supported by civil organizations have criticized the EU policy, accusing it of tolerating labour exploitation of undocumented migrants, which has led to serious violations of fundamental rights. FRA reckons combating severe labour exploitation requires EU member states to fight systemic labour exploitation in order to achieve national and international labour standards (FRA, 2015: 3).

---

<sup>8</sup> Anderson, Bridget. "Europe's 'Violent Humanitarianism' In the Mediterranean". 2015. Interview with Ceasefire Magazine. <https://ceasefiremagazine.co.uk/interview-bridget-anderson/>

# Undocumented Migrant Workers in Belgium

## An Attempt to Present Statistics

There are hardly any numbers on undocumented migrants or undocumented migrant workers in the EU, in 2009 a report was published following a two years research project (The Clandestine Project)<sup>9</sup> entitled ‘Undocumented Migration: Counting the Uncountable. Data and Trends Across Europe’. The report states the number of undocumented migrants in the EU range between 1.9 million and 3.9 million. (Clandestino, 2009: 151)

In Belgium, ironically, serious violations against undocumented migrants often take place in Brussels, the city where most of the EU legislations are adopted and enacted. In Belgium, most of the undocumented community lives in Brussels, the capital city. The data and statistics on undocumented population in Belgium are inadequate, scarce and unreliable. There are various reasons for data inadequacy, including these: undocumented migrants don’t have a registered address, social security, social aid or official jobs (Observatoire de la Santé et du Social de Bruxelles-Capitale, 2014: 6). Secondly, some migrants remain in the country after their residence permit expires; often times, migrants “shift overnight between regular and irregular statuses” (Koser, 2005: 7)

The available data includes all undocumented persons who submitted an official application for asylum, asylum seekers whose applications were not approved, as well as arrested undocumented persons. Based on these categories, it is evident that data represents only a proportion of the totality of undocumented migrant population. “Most sources agree that the majority of irregular migrants are not recorded (Clarke et al. 2003), and this is probably unsurprising given the desire of many of these migrants not to be identified by the authorities for fear of prosecution or deportation” (Koser, 2005: 7).

The Brussels-Capital Social and Health Observatory provided estimates of the number of undocumented people in Belgium in their 2014 annual Social Barometer report. The report estimates that approximately more than 100,000 undocumented people live in Belgium with a great majority located in Brussels (Observatoire de la Santé et du Social de Bruxelles-Capitale, 2014: 7).

Table 1 shows the number of undocumented people found to be illegally present in Belgium. The numbers probably represent either the undocumented migrants were either arrested, or those who were recorded as asylum seeking applicants.

---

<sup>9</sup> ‘The Clandestine Project’ (2008-2009) is the only study attempted to find data on undocumented migrants in the EU.

**Table 1: Third country nationals found to be illegally present - annual data (rounded)<sup>10</sup>**

GEO/TIME	2008	2009	2010	2011	2012	2013	2014
Belgium	13,800	13,710	12,115	13,550	15,085	15,075	15,540

As indicated, there is a significant difference between the expected number of undocumented migrants in Belgium and the estimated official number.

However, comparing the numbers in both Table 2 and Table 3, we can see the disparity between the number of undocumented migrants ordered to leave Belgium in a given year and the number of migrants who actually left.

**Table 2: Third country nationals ordered to leave - annual data (rounded)<sup>11</sup>**

GEO/TIME	2008	2009	2010	2011	2012	2013	2014
European Union (28 countries)	603,360	594,600	540,080	491,310	483,650	430,450	470,080
Belgium	28,545	24,035	22,865	36,885	50,890	47,465	35,245

**Table 3: Third country nationals returned following an order to leave - annual data (rounded)<sup>12</sup>**

GEO/TIME	2008	2009	2010	2011	2012	2013	2014
European Union (28 countries)	241,965	252,790	225,415	194,110	206,675	215,885	190,165
Belgium	3,965	4,060	4,415	5,890	7,840	7,170	5,575

Based on the tables, it is evident that few people actually leave after being ordered to do so. And their decision to stay in the country brings numerous challenges, including limited access to health care, labour exploitation, discrimination, lack of social security among other challenges.

In general, the available statistics of illegal and clandestine migratory flows whether in Belgium or in the EU remains misunderstood on both the quantitative and qualitative levels (Martiniello and Rea, 2004). Nevertheless, all estimations agree that the numbers are many more than we think.

<sup>10</sup> Eurostat, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_eipre&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_eipre&lang=en) last update: 15.04.2015.

<sup>11</sup> Source of data: Eurostat, [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_eirtn&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_eirtn&lang=en) last update: 01.06.2015. [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_eiord&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_eiord&lang=en)

<sup>12</sup> Source of data: Eurostat. Last updated: 01.06.2014. Extracted on 20.06.2015

## Rights of Undocumented Migrant Workers in Belgium

For a long time, only civil organizations and trade unions provided assistance to undocumented migrants in areas of health care, education and legal status. The NGOs were at the time largely absent from the undocumented migrant domain.

Most illegal immigrants are often at the bottom of the Belgian labour market, forced to take up menial jobs that locals are not interested in (Reynieri, 2001:41). OR.C.A refers to them as “The hidden face of our neoliberal economic system” (OR.C.A, 2012: 9). Migrant workers take up the ‘3-D’ jobs, namely dirty, degrading and dangerous (PICUM, 2004: 10).

Employees in the legal work force pay taxes, contribute to the social security, and can join the health insurance and pension fund. These measures ensure that the government monitors the employment, thus ensuring the job is declared. On the other hand, undeclared work or ‘black job’ holds none of the mentioned benefits. Anyone seeking work in Belgium must apply for a work permit, which requires that this person legally resides in the country and has a valid residence permit. Undocumented workers are those who work without having a work permit.

Employers caught violating rights of migrant workers risk imprisonment or a fine. In the case of an undocumented worker, the punishment is more severe. Once arrested, they are taken to a closed center, for deportation from Belgium territory; they also receive an entry ban to the EU (OR.C.A, 2012: 12). Nevertheless, undocumented workers still have rights in Belgium, and legal labour standards apply to all workers including undocumented workers. Based on OR.C.A guideline<sup>13</sup>, this section represents general rules on the commonly violated rights by the employers of undocumented migrants.

### ➤ Right to be Paid

Undocumented migrant workers in Belgium are entitled to the same salary as documented workers. The general minimum wage in Belgium is € 9.12 per hour or €1,501.82 per month. From the general minimum wage of (€1,501.82), €196.29 is deducted from the gross wage for social security contribution and €167.69 for taxes. Therefore the net wage for documented workers is €1137.84. Undocumented workers don’t pay for social security contribution or taxes, and should therefore receive the wages without deduction, amounting to €1,501.82 (OR.C.A, 2014a: 55-56).

---

<sup>13</sup> OR.C.A published a guideline “*Undocumented Workers: a Guide to Rights*”, to inform undocumented workers about their rights at work.

<http://www.orcasite.be/userfiles/file/Rechtengids%202014%20alles%20zonder%20cover.pdf>

In reality, however, employers exploit the fact that undocumented workers don't pay for taxes and social security. They pay these workers even less than the general minimum wage. Moreover, the workers have long hours, with no overtime or breaks. There is no evidence of these violations, as there is often no written contract stipulating the working arrangements. In fact, the most complaints that OR.C.A help desk receives from undocumented workers is unpaid salary (OR.C.A, 2012: 15)

One of OR.C.A helpdesk main tasks is to help unpaid undocumented workers to be reimbursed for their unpaid wages. OR.C.A pursues two procedures to achieve that, first by contacting the employer and acting as a mediator between the unpaid undocumented workers and their employer, however OR.C.A doesn't find this procedure very effective. The second one is by filing a complaint to the Inspection Service (CLS)<sup>14</sup>. According to OR.C.A 2014 annual report on undocumented workers, OR.C.A registered € 71,282.65 of unpaid wages, and managed to restore € 4534.24 only from three exploiter employers, in which 3000 were restored via the CLS, and the rest amount was restored through mediation.

➤ **Right to safe and healthy work place and right to compensation after work-related accident.**

The employer must provide protective measures to avoid accidents at work, and is responsible for securing a healthy and safe work place. In general, the employer is obliged to take responsibility in case of work-related accidents by providing insurance that covers his employers (OR.C.A, 2014a: 57). Undocumented workers are hardly covered by insurance, which would otherwise enable them to report any accidents to the Industrial Accidents Fund office, which covers their medical costs. According to law, the employer must inform the insurance company about work accidents (OR.C.A, 2012: 18), otherwise he/she will be subject to sanctions.<sup>15</sup> (OR.C.A, 2012: 50).

---

<sup>14</sup> CLS 'Controle des Lois Social' is an official governmental service for inspecting compliance with social law. When the CLS receives a complaint for unpaid wages, then it tries to convince the employer to recognize the rights of the worker, otherwise the case is closed unless the worker agrees that the CLS transmit his complaint file to the labour auditor or court, this last option is mostly done when sufficient evidence exists.

<sup>15</sup> In most cases paying the fine is around 50 to 500 Euros.

➤ **Rights of victims of violence or discrimination.**

Undocumented migrants are exposed to various forms of labour exploitation. Physical mistreatment, violence, sexual harassment, rape, discrimination because of colour, nationality and gender are considered serious crimes against fundamental rights of undocumented workers. Undocumented workers have rights to dignity and protection of their health while at work.

**Article 23**

*Everyone has the right to lead a life in keeping with human dignity.*

**Article 191**

*All foreigners on Belgian soil benefit from the protection provided to persons and property, except for those exceptions provided for by the law.*

**Belgium Constitution<sup>17</sup>**

OR.C.A encourages undocumented workers to immediately report in case they are subjected to some form of violence such as physical mistreatment or sexual harassment. The law often provides victim protection, especially when violence is linked to human trafficking. Victims of discrimination or racism can make a complaint to the Belgian Centre for Equal Opportunities and Opposition to Racism (OR.C.A, 2014a: 60).

In general, working conditions of undocumented workers must meet the standards of working conditions of documented workers. The following are also other rights mostly abused in case of undocumented migrant workers:

- Right to sick leave, sick pay and maternity leave.
- Right to urgent medical aid.



Commemoration of Samira, 2005<sup>16</sup>

**Samira Adamu**, a 20-year-old rejected asylum applicant who ran away from forced marriage in Nigeria was killed by suffocation by the Belgium police during her expulsion in 1988. The tragedy resulted in the resignation of the interior minister Louis Tobback. It also sparked an intense debate in media after it drew the attention of the Belgian society to the plight of undocumented community in the country. (Martiniello and Rea, 2002: 89)

<sup>16</sup> In the photo people in Brussels commemorating the tragedy of Samira Adamu in 2005 and demanding regularization of undocumented people in Belgium.

<http://regularisation.canalblog.com/archives/2005/09/29/849530.html>

<sup>17</sup> Belgium Constitution, Article 23 and 191 [http://www.const-court.be/en/basic\\_text/belgian\\_constitution.pdf](http://www.const-court.be/en/basic_text/belgian_constitution.pdf)



- Right to get paid for overtime hours.
- Right to at least one full rest day each week.

### Assessing ‘Protection of Rights’ in Practice

In reality there is never a guarantee of job security for undocumented workers, and they are often subject to firing, in case of sickness, an accident at work, maternity leave, economic setback or other (OR.C.A, 2012: 9). The undocumented migrant workers are always threatened of job loss; “they well know that filing a complaint against an employer would have negative consequences on their chances of employment” (PICUM, 2004: 2). This feeling makes them accept working under severe working conditions, and encourages the employers to take advantage of this feeling amongst undocumented workers.

The law makes provision for protection of undocumented workers, but there is not sufficient implementation in place. This is because undocumented workers do not report any violations for fear of being deported. The legal framework has loopholes and fails to adequately to protect rights undocumented migrant workers. Also, the positive aspects of the framework do not provide adequate protection for the migrants’ rights, either. (OR.C.A, 2012: 52)

However, the reality remains that undocumented migrants are present in Europe, working in severe conditions and unprotected by law, OR.C.A argues that tolerating the poor and exploitative working conditions of undocumented migrants “implies a danger for a general downgrade of workers’ rights”, (OR.C.A, 2005) and reinforces the problem, In addition, it argues that certain aspects of the legal migration system increases the risk of illegal migration and thus leads to labour exploitation, specifically in these listed instances:

- When migrants are not allowed to change employers (when they do it they lose their residence permit and end up in an illegal situation).
- When the residence permit is strictly linked to the work permit and when no reasonable time is given to look for a new job when the first job is lost (many migrants will be tempted to stay anyway, thus ending up in an illegal situation).
- When there is no option to but leave the job in case of exploitation (many migrants will be forced to leave the job anyway and end up in an illegal situation).

(OR.C.A, 2005)

In addition, one dilemma confronts the undocumented workers is that when they’re caught in the workplace, the inspection service is obliged to report to the foreigners office in such case, in which the undocumented workers probably will be sent to a close center and then sent back to their countries of origin. Meanwhile, being caught in the workplace increases the undocumented chances of recollecting their wages (OR.C.A, 2014b: 14). In which according to the law which is transposed from the EU Employers Sanctions directive stipulates that undocumented worker



caught on the workplace is assumed to have worked for at least three months.<sup>18</sup> However, most of undocumented workers are not willing to get in contact with the Inspection Service, as they are feared to be deported. This dilemma hinders the undocumented workers from realizing their rights.

## Reflections from the Training

### What is OR.C.A.?

Organisatie voor clandestine arbeidsmigranten (OR.C.A), also known as the Organisation for Undocumented Migrant Workers, is an NGO working exclusively on the issue of undocumented workers to address labour rights of undocumented migrants, and to fight the exploitation encountered by the undocumented. OR.C.A was founded in 2003, out of the concern for the vulnerable state of the undocumented labour community in Europe.

The growing undocumented population in Belgium is not allowed to work, as they do not hold a residence working permit. Regardless, they are still entitled to their rights as workers. Many employers often risk hiring undocumented workers because they want to reduce the burden of labour costs. They do not provide these workers with health insurance, pay taxes, social security contributions and compensation, and often pay them less than the legal minimum wage.

The OR.C.A works to ensure the realization of these workers' rights, regardless of their status. OR.C.A defined its main activities as follows<sup>19</sup>:

- Developing a help desk specialized in defending the rights of undocumented workers.
- OR.C.A. published a practical guide on the basic labor rights of undocumented workers in Belgium, with information about where workers can go if they have a work-related problem.
- OR.C.A. also aims to stimulate cooperation amongst trade unions, labor inspection, employers and NGOs to strengthen support for undocumented workers.
- OR.C.A. *informs* through publications, workshops and other.
- OR.C.A.'s *helpdesk* can be contacted by undocumented workers, their assistants and anyone else, for concrete advice or general information on the issue of undocumented workers.

---

<sup>18</sup> Law of 11 February 2013 on sanctions and measures against employers of illegal staying third country nationals. Belgian Official Gazette of 22 February 2013.

<sup>19</sup> OR.C.A Mission statement, <http://www.orcasite.be/?id=51>

- OR.C.A. does *awareness rising* activities towards authorities, civil society and the general public.
- OR.C.A. does *advocacy work* to improve the situation of undocumented workers and to create alternatives for their irregular employment.

## Reflections From OR.C.A

I underwent my training in Brussels at OR.C.A. At the time, was updating the fifth version of its guide: “Undocumented workers: a Guide to rights,” including an Arabic version of the guide. I was responsible for editing and translating the updated materials in the Guide. In addition, I was asked to provide translation between OR.C.A team and the Arabic speaking undocumented migrant workers.

This practical guide gave me an insight into the most commonly violated labour rights of undocumented migrant workers in Belgium, in addition enabling me to learn about procedures that the undocumented can follow when demanding for their rights.

In addition, attending the meetings between OR.C.A team and undocumented workers for the purpose of providing translation, and meeting the undocumented workers in person and listening to them, helped me establish how much awareness they had regarding their rights, and how long it often took for them to complain or contact OR.C.A for help.

As previously mentioned, the OR.C.A provides all the information through a helpdesk that is specifically charged with informing the undocumented about their rights and procedures of filing a complaint. According to the coordinator, Jan Knockaert, the three main issues often brought up are: back wages, declaring a labour accidents and the possibility of working legally.

The first two issues reveal the reality of exploitation, indicating that employers do not pay them or take responsibility for their work-related accidents.

The third question is very important, as it reveals that undocumented workers are willing to work legally where possible. Working illegally deprives undocumented workers from social welfare benefits, family allocation, and access to health care, pension, and unemployment benefits, among others.

The OR.C.A guide largely depends on the undocumented workers’ initiative to take all the necessary steps to ensure their rights are realized. The guide advises the undocumented to collect all the necessary information about their employer and the workplace, which involves taking photographs of the workplace for evidence.

Unfortunately, most of the undocumented workers contact OR.C.A only after they stop working with their employers (OR.C.A, 2014b: 14), when they have failed to resolve employment issues. This makes it difficult for them to successfully pursue their cases. Very few actively employed workers reach out to the organization.

In 2014, OR.C.A help desk received 302 demands from undocumented workers from 68 different nationalities, in which the most of them were migrants from North Africa region counting for 104 of the 312 cases. In general most of the demands come from undocumented workers originally from Morocco and Brazil (OR.C.A, 2014b: 23). Most of those undocumented workers were working in construction and restaurants (OR.C.A, 2014b: 27). In which the majority of demands which counts for 68 out of the 302 demands received were cases of non-payment of salaries (OR.C.A, 2014b: 28).

## Selected Case

I conducted an interview with an undocumented migrant worker from Egypt. I first learned about his case at OR.C.A when I was asked to provide translation between OR.C.A and the undocumented migrant worker.

The undocumented migrant worker had experienced various forms of severe labour exploitation. His exploitation began before he started working for the building contractor- he was tricked into accepting a significant underpayment. Initially the building contractor offered to secure his legal status in Belgium, which included a residence permit and work permit for 20,000 Euros. The worker was unable to offset this bill, and was asked to work in exchange for the service. The migrant worked for 2 years in several construction places. According to the first article of the CFREU, human dignity is inviolable and must be respected and protected.<sup>20</sup> However by setting this precedent, the building contractor exploited the migrant's unawareness of the laws on residency and work permit, and offended the human dignity of a person in a vulnerable position.

According to labour law in Belgium, someone who works for a building contractor should receive at least 13.17 Euros per hour<sup>21</sup>. The migrant was paid around 40 – 50 Euros per week. This significant underpayment was justified by the agreement that the rest of the salary was to be deducted from the 20,000 Euros.

International Covenant on Civil and Political Rights, Article 7 states:

*“The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favorable conditions of work which ensure in particular: remuneration which provides all workers, as a minimum, with: (1) fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work. (b) safe and healthy working conditions; (..) (d) rest, leisure and reasonable limitation of working hours and periodic holidays with pay as well as remuneration for public holidays.”*

---

<sup>20</sup> Article (1) of the Charter of Fundamental Rights of the European Union.

<sup>21</sup> The general minimum wage is adjusted regularly. According to the Labour law in Belgium, the general minimum wage (since 1 December 2013) is at least 9.12 Euro per hour or 1,501.82 per month (for a 38 hours week).

Article 45.2 of the Treaty on the functioning of the EU (European Union, 2012), Article 23.1.(a) of the Seasonal Workers Directive (Seasonal Working Directive, 2014) and Article 6.(a) of the EU Employer Sanction Directive (Employers Sanctions Directive, 2009) also guarantee the rights of illegally employed third country nationals of remuneration to be at least as high as the general minimum wage.

Over the two years, the migrant slept at the construction workplaces which he stated were unhygienic. This is contrary to Article 2(i) of the Employer Sanctions Directive, Article 23.1.(a) of the Seasonal Workers Directive, Article 12 of the Single Permit Directive, Article 153.1.(g) and Article 31 of the CFREU that guarantee the right to just working conditions and a healthy, safe working environment for everyone including third-country national workers or undocumented workers.

Moreover, he worked six days a week from 8:00 am to 9 pm, except for Saturdays, where he was let off working around 6:00 to 7:00 pm. Which is contrary to Article 23 (1) (a) of the Seasonal Workers Directive and Article 31.2 of the CFREU that affirms that *“Every worker has the right to limitation of maximum working hours, to daily and weekly rest periods and to an annual period of paid leave.”*

After two years, the migrant was arrested by police and sent to a closed center. He now faces deportation. He contacted OR.C.A. when he became aware that his employer had no intention of meeting their terms of agreement.

OR.C.A is working to help the migrant to be compensated for violations of his rights. Unfortunately the migrant does not have any proof that he worked for the building contractor for two years. Apparently, the employer was aware of the risk involved, and he always paid the migrant in cash, to avoid writing receipts. The only proof the migrant has is the witness testimony of two of his colleagues who worked with him. Unfortunately, his colleagues are not willing to testify as they are afraid to lose their jobs.

The migrant didn't report his working conditions until his exploitation became apparent, which exemplifies a common attitude of exploited undocumented migrant workers. This issue, in addition to the workers' lack of knowledge of their rights, is what propels the vicious cycle of exploitation by employers.

## Recommendations

Here are some recommendations on labour rights of undocumented migrants in Belgium, based on reflections from my work experience at the O.R.C.A

- 1) The OR.C.A should take measures to ensure that more undocumented workers are aware of the organization. They should also find ways of reaching the undocumented workers while still employed. Being in contact while still working helps facilitate the procedures much more efficiently, when the undocumented encounter problems with their employers.
- 2) The lack of knowledge of labour rights amongst undocumented migrants is evident, and the OR.C.A should develop ways to counter this ignorance.
- 3) Concerned NGOs should conduct a study that will give a clear estimate of the undocumented population in the country, which will help assess the community from qualitative level. This would help NGOs to develop their activities and programs based on accurate statistics, thus reaching more undocumented migrants.
- 4) The NGOs should further work to push for the government's immigration department to use a rights-based approach to tackle the problem of illegal immigration.
- 5) Raising awareness among the general public about the reality of exploitation and generate solidarity for the needs of undocumented workers. (PICUM, 2005: 20) In order to achieve a climate of zero-tolerance towards exploitation of the undocumented.
- 6) EU Member States are called to ratify the International Convention for the Protection of the Rights of All Migrant Workers and the Members of Their Families (1990), the convention guarantees protection of various social rights to undocumented migrant workers. (PICUM, 2005: 106)
- 7) "Effective cooperation between public and private organisations is essential and should be based on a shared understanding of the problems caused by labour exploitation, of the fundamental rights at stake and of the interventions required." (FRA, 2015: 15)
- 8) Encouraging and helping undocumented migrant workers of whom meet the 1951 Geneva refugee convention to regularize her/his legal status in Belgium, by submitting an application for asylum.

## Conclusion

Today in democratic Europe, millions are deprived of their basic social rights, and are exposed to various forms of severe labour exploitation. The issue of illegal migration has several problematic aspects, and each aspect needs to be dealt with separately respect to the other aspects. For example, policies on border security ought to take fundamental rights of undocumented migrants into consideration.

It is not enough for the European Union to call upon member states to transpose the provisions of the directives into their national laws. The EU must ensure that the member states develop mechanisms to ensure that the law is implemented on the ground, and that the labour rights of undocumented migrants are protected in practice.

Belgium is a state of law, and has ratified and adopted numerous laws that protect undocumented workers. However, Belgium has to take greater measures to ensure these laws are put into practice.

There are hundreds of thousands of undocumented migrant workers in Belgium. While the Belgian law and organic laws in Belgium are in favour of rights of undocumented migrant workers, labour exploitation in Belgium and European Union at large remains a growing problem. The reason is because employers are more informed about the legal framework than the undocumented workers they hire, and thus they are able to protect themselves from prosecution, while exploiting these workers. OR.C.A. was the first organization to focus uniquely on the issue of undocumented workers, and has focused on decreasing the level of exploitation against those workers in the workplace through defending their labour rights.

The EU reckons that the main motivation for illegal migration into the EU is employment (Employers Sanctions Directive, 2009: 1). However research indicates that most refugees meet the 1951 Geneva refugee convention, and yet many of them do not even start with the asylum application. According to the Migration Policy Institute (MPI) many immigrants do not apply for asylum because of their fear of the police, the government, and the consequence, should they be rejected (Martiniello and Rea A., 2004). Even migrants who qualify for asylum hardly pursue that course of action, indicating a great lack of awareness of rights.

## Bibliography

- Organization for Undocumented Migrant Workers (OR.C.A), 2012. '*Un Accident De Travail? Les Travailleurs en Séjour Illégal sont Doublement Pénalisés*'. Brussels: N.p., 2012. Web 21 June 2015. <http://www.travailleurssanspapiers.be/downloads/WERKO-FR.pdf>
- OR.C.A, 2014a. "*Undocumented Workers: A Guide to Rights*", Brussels. Retrieved From: <http://www.orcasite.be/userfiles/file/Rechtengids%202014%20alles%20zonder%20cover.pdf>
- OR.C.A, 2014b. '*Travailleurs sans Papiers*', Annual Report, Brussels. Retrieved From: <http://www.orcasite.be/userfiles/file/ORC%20jaarverslag%202014%20FR%20DK.pdf>
- OR.C.A, 2005. 'Comments on Green Paper on an EU Approach to Managing Economic Migration'. OR.C.A Communication with EU Commission, Brussels 12 Apr. 2005. [http://ec.europa.eu/dgs/home-affairs/what-is-new/public-consultation/2005/pdf/0016/contributions/orca\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-is-new/public-consultation/2005/pdf/0016/contributions/orca_en.pdf)
- The Platform for International Cooperation on Undocumented Migrants (PICUM), 2004. '*Undocumented Migrant Workers in Europe*'. Brussels, Belgium. Web. 9 June 2015. [http://picum.org/picum.org/uploads/file/\\_UM\\_workers\\_in\\_europe\\_1.pdf](http://picum.org/picum.org/uploads/file/_UM_workers_in_europe_1.pdf)
- PICUM, 2005. 'Ten Ways to Protect Undocumented Migrant Workers'. Brussels, Belgium. Available at: [http://picum.org/picum.org/uploads/file/\\_PICUM\\_Ten\\_Ways\\_to\\_Protect\\_Undocumented\\_Migrant\\_Workers.pdf](http://picum.org/picum.org/uploads/file/_PICUM_Ten_Ways_to_Protect_Undocumented_Migrant_Workers.pdf)
- Koser, K. 2005. *Irregular migration, state security and human security*, Global Commission on International Migration: Policy Analysis and Research Program. [http://www.childtrafficking.com/Docs/koser\\_05\\_migration\\_sec\\_0708.pdf](http://www.childtrafficking.com/Docs/koser_05_migration_sec_0708.pdf)
- FRA, 2015, '*Severe Labour Exploitation: workers moving within or into the European Union States obligations and victims' rights*'. [http://fra.europa.eu/sites/default/files/fra-2015-severe-labour-exploitation\\_en.pdf](http://fra.europa.eu/sites/default/files/fra-2015-severe-labour-exploitation_en.pdf)
- FRA Conference, 2015. *Conference: Severe Labour Exploitation in the EU*. 2015. Web. 9 June 2015. <http://video.consilium.europa.eu/webcast.aspx?ticket=775-982-15798>
- RESR, 1996. Council of Europe, *European Social Charter (Revised)*, 3 May 1996, ETS 163. Retrieved from: <http://conventions.coe.int/treaty/en/Treaties/Html/163.htm>
- Nielsen, Nikolaj. 2015. '*EU Mulls Boat-Sinking Plans To Curb Migrant Smugglers*'. *Euobserver.com*. N.p., 2015. Web. 27 June 2015. <https://euobserver.com/justice/128394>
- European Commission,. *EU Takes Eradication Of Trafficking In Human Beings From Words To Action*. 2015. Web. 15 June 2015. [http://europa.eu/rapid/press-release\\_SPEECH-14-700\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-14-700_en.htm)

OSCE, 2011. *'An Agenda For Prevention: Traffickers For Labour Exploitation'*, Vienna, Austria. <http://www.osce.org/secretariat/86293?download=true>

PICUM, 2015. *'Employers' Sanctions Directive do not Protect Undocumented Workers from Exploitation'* position paper, 1<sup>st</sup> May 2015. Brussels.

[http://picum.org/picum.org/uploads/file\\_/1MayStatement\\_EmployerSanctions.pdf](http://picum.org/picum.org/uploads/file_/1MayStatement_EmployerSanctions.pdf)

Council of the EU, 2015. *'Statement following a Special meeting of the European Council, 23 April 2015'*. <http://www.consilium.europa.eu/en/press/press-releases/2015/04/23-special-euco-statement/>

Clandestino, 2009. Final Report: *'Undocumented Migration: Counting the Uncountable. Data and Trends Across Europe'*. Retrieved from: [http://www.gla.ac.uk/media/media\\_147171\\_en.pdf](http://www.gla.ac.uk/media/media_147171_en.pdf)

Charter of Fundamental Rights of the European Union (2010/C 83/02). Brussels: European Union. OJ (C 83/389), 30.03.2010.

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:en:PDF>

Observatoire de la Santé et du Social de Bruxelles-Capitale (2014). Baromètre social 2014: *'Rapport bruxellois sur l'état de La pauvreté'*. Bruxelles: Commission communautaire commune.

[http://www.observatbru.be/documents/graphics/rapport-pauvrete/barometre\\_social\\_2014.pdf](http://www.observatbru.be/documents/graphics/rapport-pauvrete/barometre_social_2014.pdf)

Clarke, J., Dobson, J., Koser, K., Pooley, C., Salt, J. (2003). *The ins and outs of migration*, Connections: Quarterly of the Commission for Racial Equality.

Martiniello M, Rea A., 2004. *'Belgium's Undocumented Hold Lesson for the EU'*, Migration Policy Institute (MPI) 1. Feb 2004 <http://www.migrationpolicy.org/article/belgiums-undocumented-hold-lessons-eu>

Reynieri E. (2001), "Migrants in Irregular Employment in the Mediterranean Countries of the European Union", International Migration, ILO, Geneva.

Martiniello M, Rea A, 2002. *'Les sans-papiers en Belgique'*, N° 1238, 2002 [http://www.revues-plurielles.org/\\_uploads/pdf/8\\_1238\\_10.pdf](http://www.revues-plurielles.org/_uploads/pdf/8_1238_10.pdf)

Seasonal Workers Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers, OJ 2014 L 94, p. 375. Available at:

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0036&from=EN>

Employers Sanction Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals, OJ 2009 L 168, p. 24. Available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:168:0024:0032:EN:PDF>



European Union, 2012. *Consolidated version of the Treaty on the Functioning of the European Union*, 13 December 2007, 2008/C 115/01, available at:

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=en>

[accessed 27 June 2015]