

# **Un(der)documented migrant labour – characteristics, conditions and labour market impacts**

**Thematic report prepared under the theme ‘Migration  
flows and labour market impacts’**

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Undocumented Worker Transitions

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## **The Undocumented Worker Transitions project**

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The project website is at: [www.undocumentedmigrants.eu](http://www.undocumentedmigrants.eu)

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# 1. Introduction

Discussing irregular or undocumented, more often referred to as 'illegal' migrant labour means addressing a very sensitive issue. Public perceptions of the impact of un- or under documented migrant labour on national and European labour markets are mostly very vague and dominated by stereotypes and prejudices about 'the illegal migrant worker' as a wage dumper, unfair competitor or victim of exploitative employers.

This report, on the role of un(der)documented migrant workers in European labour markets, is aimed at arriving at a more realistic and honest assessment of this phenomenon. Beginning with an extensive literature review, the research teams in the seven partner countries Austria, Belgium, Bulgaria, Denmark, Italy, Spain and the UK conducted nearly 70 interviews with national experts and experts on the European level and carried out more than 200 interviews with migrants who had gained at least some of their working experiences in the informal sector.

This report begins by clarifying the terms used in the report. The project has rejected the term 'illegal' when referring to migrants working without documents in Europe, as a means of strengthening the notion of *process* and *construction* of irregularity. Nobody can be illegal, but one's residence or employment status can turn from documented to undocumented when crossing borders, when work permits expire etc. The regularity or irregularity of a migrant worker's status is therefore very fragile and susceptible to frequent change.

The report then sets out the background to restructuring processes in European economies and raises the question as to whether there is a systematic connection between the increasing casualisation and informalisation of labour markets in general and of the recourse to un(der)documented migrant labour. The report then sheds light on the characteristics of those labour markets where un(der)documented migrants are working and analyses the sectoral and gendered segmentation and the access options of those labour markets. Furthermore we will try to answer the

question as to what are the major reasons for employing undocumented migrant workers.

We then move on to discuss what the notion of an irregular labour market as an unregulated sphere implies. We will refer to four characteristics which emerged in the course of our research: the notion of specific time use in irregular employments; the self-perception of the interviewed migrant workers as being massively exploited by their employers; the domination of arbitrariness in irregular labour relations and the outstanding agility and energy needed to agitate under mostly unfortunate circumstances.

The paper then continues by setting out our findings in relation to un(der)documented migrant workers' activism, particularly where they have been involved in labour struggles. With this regard, we also considered an analysis of trade union' perception and possible support of un(der)documented migrant workers ,as well as migrant workers' view on the workers representatives.

The final section draws on the conclusions we have reached on the impact of irregular migration on employment and on wages in European economies.

## 2. Sources and selection criteria

This thematic report is based on different sources and empirical material collected within the UWT project. It includes the national reports from each country, containing information on the different national framework in terms of immigration laws, labour market restrictions and databased descriptions of the situation referring to un(der)documented migration. Furthermore, the report contains information collected from nearly 70 expert interviews from all the participating countries and from interviews with European level experts.

The core of the empirical basis of the research is more than 200 qualitative in depth interviews (30 in each of the participating countries) with un(der)documented migrants. As the question of status transitions is at the core of the project research interest, not all of migrant interviewees had, at the time of interview, an un(der)documented status but almost all had been undocumented at some stage in their migration.

With regard to selection criteria for the interviews we used sector, migration status and gender. We agreed that we would, in all seven countries, cover the following sectors: hospitality (hotels, restaurants etc), construction and domestic work (household, elderly and childcare etc), as these are the sectors known as highly affected by irregular migrant working. Moreover in each country, partners could also select for interview migrant workers in other sectors, which in that country, were significant employers of undocumented workers.

We initially agreed that at least 30% of all interviews should be conducted with female migrants but in fact the gender of the interviewees selected was more balanced with 47% (99 out of 211 interviewees) being women).

With regard to migration status we agreed that as a minimum around a quarter of all interviewees would have made a transition of immigration status and at least five in each country would fall into each of the following categories in each country: asylum seeker/refugee, overstayer, overworker (working beyond permitted hours). These selection criteria were aimed at ensuring that the project would capture a variety of relevant types of

un(der)documented migrant workers. Seventy per cent of all interviewees had experienced a change in their migration status.

The migrant interviewees were accessed through a variety of methods: through snowballing and community links, through NGOs and trade union organisations, particularly where they had been running current campaigns around the issue of undocumented work. We used gatekeepers in some cases, and contact was also made on an individual basis. The interviews were conducted in the period between October 2007 and April 2008.

The report contains information from all of the different empirical sources from all participating countries in the research project. Moreover, it takes the relevant migration research literature into consideration.

### **3. The construction and production of 'illegality'**

#### **3.1 Irregularity as a phenomenon**

Irregularity is a phenomenon that is directly linked to – and one can add preserved for – migration. The regulations of nation states towards migration processes literally create 'illegality'. Furthermore, the phenomenon is a more or less hot topic within the political discourse, with certain connotations and meanings assigned to it. Therefore it seems to be crucial to start this report by reflecting on and clarifying term 'illegality'.

First of all it should be pointed out that the terms most frequently used in the political discourse 'illegal' and 'illegality' are not appropriate to a scientific study of migration, due to their conceptually problematic character. Both the Platform for International Cooperation on Undocumented Migrants (PICUM) and several UN- Institutions criticise and reject the term 'illegal' for three reasons: first, because of its connotation to criminality and most migrants are not criminals; second, because it implies a denial of their humanity connected to fundamental rights apart from their status; and third, labelling as "illegal" asylum seekers who find themselves in an irregular situation may jeopardize their asylum claims (see Koser, 2005).

It is the migration regulations of nation states that determine the basis of migration status and changes to these regulations have a direct impact on migrants, turning their status into "legal" (e.g. through amnesties) as well as into "irregular". An Italian trade union expert interviewed, who was also a migrant, depicts this for the Italian case: "Obtaining a residence permit does not, however, mean definitively escaping illegality: the introduction of the "residence contract," which demands the satisfaction of specific contractual and residential requirements, has made it far easier to lose one's residence permit and therefore fall back into illegality." The expert cites some cases in which the return to irregularity was directly provoked by outsourcing policies implemented by local firms.

Sciortino (referring to De Genova, 2002) has pointed to the essence of the term “irregular”: ‘Irregularity is first and foremost a juridical status that entails a social relationship to a state. As such, it is not a label that describes individuals, or even their most prominent social role. Legal status is significant, indeed relevant, only when and if – and to the degree to which – the legal reality is a constraint over the relationships and actions of the actor.’ (2004:21/22)

Based on the ‘legal/illegal’-dichotomy’ the state concept of ‘illegality’ on the one hand does not meet the complexity of the phenomenon and on the other hand conceptualises ‘illegality’ as a problem rather than as a phenomenon.

Taking these aspects into consideration, Ruhs & Anderson (2006) developed the terms ‘compliant’, ‘semi-compliant’ and ‘non-compliant’ to cover the different combinations of residence status and work permission. Compliant migrants are legally resident and working in full compliance with the conditions of their immigration status, non-compliant migrants are those without the rights to reside in the host country and semi-compliance indicates a situation where a migrant is legally resident but working in violation of some or all of the conditions attached to their immigration status.

In this study we have drawn from Ruhs/Anderson to utilise the terms ‘documented’, ‘semi- or under documented’ and ‘undocumented’ to meet the complexity of the phenomenon and to make clear the crucial role of the state and its migration rules in determining the extent to which status is regular/irregular. The fact that irregularity is a result of social construction and a direct production of state regulation is at the core of the conceptual framework of this study.

Summarizing this introductory chapter, with regard to the conceptual framework of this study, we can refer to Düvell (2006a) who identifies irregular migration as a historical, significant, structural problem. Düvell sees the existence of a curious and unintended two-way relationship between migration, migration restrictions (not withstanding continuing migration) and its irregularisation. Instead of acting as deterrent, the effect of restrictive policies

is the plunging of migrants into invisible activities, creating a group of people on the verges of society or beyond social security systems without any fundamental rights (Düvell, 2006a:147).

### **3.2 Irregular migrant work**

Irregular migrant work is a phenomenon constructed as a consequence of restrictions on labour market access for migrant workers. Furthermore it plays a major role in the political discourse on migration. As Ruhs and Anderson (2006) point out, the dominant features of the public debate on ‘illegally’ working migrants conceptualises them in two contradictory stereotypes: as vulnerable victim, exploited by unscrupulous employers and as manipulative abuser. Both stereotypes are often linked to the expectation or conclusion that irregular migrant work undermines labour regulation standards and wage levels. But it must be stated that there is a gap between this perception and the reality, especially when taking the quantitative dimension of the phenomenon into account. Several studies (Samers, 2004; Schneider, 2007b; Schneider, 2007a) refer to the fact that un- or semi-documented migrants seem to make up only a small percentage of the larger category of workers in the informal economy. In fact the native born predominantly carries out informal work in the shadow economy.

This aspect was also highlighted by several experts, economists, researchers as well as NGO-representatives in the interviews conducted as part of the UWT project, even though the size and importance of the informal sector differs considerably between the countries. NGO-representatives in particular stressed the importance of advancing a differentiated view on informal work to sever the link, dominant in political discourse, between migration and informal work, a construct, which does not correspond with reality.

Of course there is an important difference between citizens and migrant workers in the informal labour market. The former have free access to the regular labour market and mostly work on top of their regular employment in informal work arrangements. For many migrants with resident permits the informal labour market is a source of employment due to difficulties associated with entering the official labour market. In contrast, undocumented

migrants have little alternative to working under precarious and informal conditions.

The share of the irregular employed migrant workforce appears to differ between sectors. There are indications that the share of undocumented workers in the informal labour force is generally larger in specific industries such as construction, agriculture, tourism, the sex industry and domestic services. It is about sectors, which are commonly avoided by host communities, not the least because of their poor working conditions and low wage levels.

Labour market regulations controlling access to the labour market only affect migrant workers. Therefore it becomes evident that it is the labour market framework itself that is producing 'illegality,' by denying to migrants access to regular work. The overview report on the development of legal frameworks (see UWT-country reports at [www.undocumentedmigrants.eu](http://www.undocumentedmigrants.eu)) shows a clear trend towards a more restrictive immigration legal framework in all participating countries, especially with regard to labour market access. Even though the statistical data on the amount of irregularly working migrants in Europe are not reliable, we expect that the trends highlighted above will have increased the numbers of irregular migrants working in Europe.

Our research demonstrates clear connections between the tightening of laws targeted at irregular migrants and the production of undocumented labour biographies.

Especially in the UK one can see the consequences of shifting migration rules, increased labour inspections and employer sanctions. These changes of immigration rules in favour of greater sanctions and enforcement when previously irregularity had been widely ignored, has had a devastating effect on peoples' working lives. One interviewee, a female migrant from Ghana, who had established herself in a job related to her qualifications and who had no complaints about her working conditions, was suddenly thrown into uncertainty when a technical difficulty in her application form, for a renewal of her work permit, threw her into an undocumented status. This caused her to

lose her job. A male Algerian interviewee had been working in a pub making pizzas, but once the new sanctions on employers had come into force he was asked to leave. Getting new work was proving difficult. A Colombian doctor, found herself in a permanent dilemma as each time she adopted a new strategy, to cope with a change to the immigration rules, no sooner had she overcome the existing obstacles, the rules changed again. After five years of trying to have her Colombian qualifications as a doctor recognised, the rules concerning training positions for non-EU doctors, under the Highly-Skilled Migrant Programme, changed and her view was that she would never be able to work in her profession in the UK. The 'goal posts' shifted too often.

The changes to the rules on work permits for senior care workers had also thrown mainly Filipino workers into undocumented status. This had happened to one interviewee, a 45 year old migrant, who had consequently lost his job and had been unable to get a new job offer at the rate set by the government that would allow him to stay in the UK. This had other consequences, as workers who had already built up years of UK residence, towards the right to claim permanent residency (normally available after five years), lost them when the rules changed.

On the basis of these examples we can demonstrate what the creation of irregularity, by changing labour migration policy, means. A simple scratch of a pen can turn a migrant's status from a documented into an undocumented one. Furthermore increased labour inspections and employer sanctions not only lead to the dismissal of undocumented migrant workers. Based, in particular on the UK interviews, our findings are that they do not result in the end of undocumented work. Instead workers are pushed further into the shadows of the economy, working at nights, in private spaces, hidden from the communities which they secretly service, whether through cleaning buildings at night, preparing food in the kitchens in the early hours of the morning or working in small construction sites, doing the most difficult and arduous jobs.

For these workers government enforcement campaigns and increased penalties for employers of undocumented labour have additional negative consequences in the UK, as affected workers were generally unable to return

to their countries of origin. The large amounts that they had borrowed to pay the gangmasters who arranged their journeys to the UK had not been paid off, and indeed it is difficult to conceive how they could ever have been paid off, given that the average debt was in excess of 19,000 Euros. With regard to the labour market this is a version of what in migration literature is called the 'Sperrklinkeneffekt' referring to the fact that a tightening up of border controls leads to an extension of sojourn times because of the growing risk of returning and frustrates circular migration (see Vogel/Cyrus, 2008).

Another area in the production of 'irregularity' is the situation of asylum seekers, a typical example of semi-documented migrants, who often have no other opportunity other than to survive by informal work. The particular semi-documented status of asylum seekers in most countries – regular (temporary and precarious) residence status without a work permit – reduces them to a preferred object of exploitation in irregular jobs. The prohibition from working while awaiting the recognition of refugee status proves decisive, as this entails economic dependence on public assistance, at times inadequate, and more often non-existent. It is this that renders recourse to the informal labour market inevitable.

Heavy labour in unskilled jobs under poor working conditions is the kind of work they are able to access in the informal labour market. In Austria for example undocumented and semi-documented migrants were found working in lumber jacking (for 2 Euros an hour) and on construction sites (for 5 Euros an hour). In one case the landlord kept back parts of the asylum seeker's state benefit, forcing him to accept the working conditions of the irregular jobs offered to him, because he had no other way of earning money urgently needed for his family.

In contrast to these legal systems present in most of the UWT partner countries, which promote irregularity, in Spain asylum seekers do have access to the regular labour market. They are given a license to work six months after their request for asylum. This authorisation lasts until the administration's final decision arrives. This is a legal framework avoiding irregularity, in the sense of semi-compliance, for the specific group of asylum seekers, a group of migrants, who in many cases, due to the length of time of their asylum procedure, will have lived for years in the countries of destination.

## 4. The post-fordist restructuring of migrant and domestic labour: enhancing flexibility and casualisation?

This chapter addresses if and how the overall restructuring of European labour markets and informalisation of economic organisation can be seen as complementary to the intensified recourse on un(der)documented migrant workers. First we summarise insights from the literature and from experts interviewed to this topic. The chapter then takes a closer look at the concrete phenomena of labour market restructuring, i.e. sub-contracting and increasing self-employment, which were referred to many times in interviews with migrant domestic workers in all countries involved in that research.

Informalisation of economic activities is defined as a 'general result of structural conflict between old regulatory regimes and new economic trends. Essentially, the old regulatory regimes have become too tight for new forms of capital accumulation' (Slavnic, 2007:148), which involves a 'set of flexibility-maximizing strategies by individuals and firms, consumers and producers, as a result of growing inequality in earnings and in profit-making capabilities' (Sassen, 1997:18, in Slavnic, 2007:136). A Professor of Labour sociology and labour relations at the Autonomous University of Barcelona, interviewed for the UWT project takes the same line: 'At a systemic level, the expansion of the shadow economy is due to neo-liberal policies that have reduced the weight and influence of the state and have boosted the self-regulated market policy.' An expert from the ICMPD also mentioned the role of privatisation for the increasing usage of undocumented work, making it possible for small companies to win government bids, while using non-compliant or semi-compliant labour. Schierup et al. (2006) submit that the 'growth of new downgraded and informal sectors of the labour market staffed by socially marginal migrants has an ostensible air of a 'pre-modern' regression, in terms of organization and management. Yet the processes through which this occurs are part and parcel of advanced capitalist strategies of deregulation, for the enhancement of 'flexibility' in terms of a networked economy and society, and a fragmented labour market.' Networking here – in contrast to the discourse on the 'network society' – corresponds rather 'to a hierarchical

chain of subcontracting links controlled by central corporate actors' (Schierup, et al. 2006:232)'. Here it can be said that the tendencies of informalisation have to be analysed in the context of globalisation. As Altvater and Mahnkopf (2002) argued, sectors of the economy not able to compete with global standards of productivity, innovation and profitability try to keep pace by undermining national labour standards.

It is important to note that the processes of flexibilisation of labour can be observed in any of the seven countries investigated, however the severity and strategies of post-fordist flexibilisation differed depending on the regimes of welfare, modes of labour market regulation, and forms of industrial relations of the single countries (ibid:244). A country, where, for over twenty years, special legislation on immigration and deregulation of the labour market have converged in the production and institutionalisation of casualisation as a structural element of the economic system, concerning not only migrant but, in general 'precarious' workers, is Italy (for details see UWT Italy Country Report, Chapter 2.3.1 at [www.undocumentedmigrants.eu](http://www.undocumentedmigrants.eu)). According to an Italian trade unionist interviewed for this project, 'the combination of immigration law with labour market legislation now in force has had a disruptive effect on migrant workers: while labour market policies make employment increasingly flexible, immigration law is based on the notion of a job-holder, with a permanent employment contract, which is the *sine qua non* for obtaining a long-term residence permit. The combination of immigration law and labour market legislation places an obligation on migrant workers to renew their residence permits continually and makes it very easy to fall into illegality and thus risk deportation'.

According to Karakayali & Tsianos (2005:40), undocumented migrants function as a new service proletariat ('Dienstleistungsproletariat'). They argue that 'migrants practice and epitomize modes of mobility and flexibility typical for the post-fordist organisation of production' (58). This mobility and flexibility are the unavoidable consequences of state policies of mobility control and the segmentation of the labour market affecting their legal status and their positions in the labour market. Koser (2005:4) states, in a publication of the

Global Commission on International Migration, notes 'From an economic perspective irregular migration is actually quite functional for many destination states. As a result of deregulation, liberalisation and flexibilisation, there is demand for various forms of unskilled and semi-skilled labour employed under precarious conditions.' Samers (2004:213) also emphasises the negative consequences of the flexibilisation of labour: 'Flexibility begets more flexibility, which reinforces the process of informalisation, hinders labour organisation and drives down wages in an endless spiral' and sees a simultaneous development of migration policies and the casualisation of labour relations, since the legalisation of undocumented migrant work (e.g. through quotas for domestic work, agriculture, catering) goes hand in hand with the downgrading of employment conditions (fixed-term contracts, more trade licence holder than employees etc.).

An illustrative example for this argumentation is again Italy. Between 1994-2004 an increase in underground economy<sup>1</sup> activities was reported, whereas the rate of irregularity<sup>2</sup> decreased in Italy resulting in an increase in the level of documented employment, firstly due to the amnesty, which regularised 647,000 migrant workers, half of them domestic workers; secondly as a result of the deregulation processes of the labour market with the enactment and institutionalisation of new contractual forms that have been characteristic of the underground economy. This makes it possible 'to conceal the phenomenon of irregularity in the form of a simulation of contract, for those cases where a juridical definition of self-employment corresponds in fact to a full and proper form of subordination without, however, the same protections and the same fundamental rights prescribed to workers for hire' (for details see Italy Country Report, Chapter 4.1 [www.undocumentedmigrants.eu](http://www.undocumentedmigrants.eu)).

Whereas in Italy it is argued that the downgrading of labour rights leads to a precarious legalisation of formerly irregular migrant workers, giving them opportunities for status transition, a trade unionist from Spain, interviewed for UWT, suggested that cost cutting and outsourcing/subcontracting turn formal

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1 The underground economy includes the production of goods and services that – although legal, escapes direct observation since it is connected with tax and contributory fraud.

2 The rate of irregularity is the relation between undocumented units of labour to total number of labour units.

work(places) into completely undocumented work which is again a pull factor of irregular migration.

The entanglement of formal and informal employment in most sectors covered by the research is also an important feature in Austria. The Alien employment law provides certain options- for employers to use a new migrant workforce legally, e.g. in agriculture with harvest helpers; in construction with trade licence holders; in domestic care on the basis of the so called „Hausbetreuungsgesetz' (Home Care Law); with au-pairs; or in hospitality with seasonal workers. On the one hand employers and companies recognise the advantages of hiring migrant workers formally, on the other hand they also rely on a parallel informal migrant workforce. However, there is no robust evidence that the informal sector employing undocumented migrant workers in Austria can be seen as a 'laboratory of casualisation', as is the case in Italy. Whether those labour conditions that apply in the informal sector are spilling over into the formal economy is very sector specific. In sectors like hospitality, formal and informal employment exists side by side. However, the possibility of legally hiring migrant workers on short-term contracts, to meet demands for flexibility in the particular sector, is a way of undermining stable employment and social security standards, since migrant workers on short term contracts are not eligible for unemployment benefits. It also occurs in construction through the substitution of directly employed workers by the self-employed; or in long-term care through the creation of a specific law that, without legislation establishing the labour conditions of migrant labour standards, can be bypassed and undermined.

The next two sections will present evidence from the UWT project of two widespread forms of informalisation and casualisation in labour relations, affecting, in particular, under)documented migrant workers. The section will also focus on the rise of sub-contracting firms and of self-employment.

#### **4.1 Subcontracting**

Outsourcing and subcontracting, as common business practices, were mentioned in interviews in all the countries involved in this project. Migrant workers themselves spoke about experiences in sub-contracting firms in

various branches, and experts too emphasised this form of economic activity in their discussion of undocumented migration. Subcontracting means the transfer of parts of the production to small or medium size companies, providing greater flexibility for large businesses/contractors and simultaneously lowering the value of labour in subcontracting small firms (Slavnic, 2007:141). In an expert interview conducted in Spain, the Secretary of the trade union, *Comisiones Obreras*, emphasised the hierarchical value chain, beginning at the top with stable and well-established companies and but ending with unstable and small-size entities that usually fail to comply with social security rules and agreements, and often because their labour costs are predicated on the use of undocumented labour. He thus underlines the entanglement of the formal and informal economy, the latter being an 'expression of a productive model'.

Some branches are in particular affected by the restructuring of value chains such as cleaning services and the construction sector. An ICMPD expert interviewed for the UWT project, argued that even government institutions using sub-contracting as a cost-cutting mechanism as, for example, in the UK where the offices of the Ministry of Education, as well as of the Home Office, had been cleaned by undocumented migrants. Another expert, a Professor of Labour Sociology and Labour Relations at the Autonomous University of Barcelona stated that the hotel and restaurant industry increasingly used integral service companies, which are in part replacing temporary job agencies. While temporary job agencies are obliged to respect the agreement of the company asking for workers, the service company does not have the same obligations and can offer lower prices. Telefónica, a Spanish telecom company, makes use of (informal) work through the subcontracting system. In recent years employee numbers have been reduced, while at the same time the number of workers has risen. According to the secretary of the *Comisiones Obreras* union in Spain the terms and conditions offered by subcontracting companies 'are worse than required in the contractors' agreements', leading to a direct reduction of wages and working conditions. He provides an example of computer science and electronics, where subcontracting firms offer terms that, on average, are 35 per cent lower.

Additionally, 60 per cent of serious injuries or mortalities at work occur through the subcontracting processes due to inadequate safety regulations.

As a consequence of the liberalisation of public services, services such as the post or energy, experts from Spain and Austria suggested that these are now more reliant on firms sub-contracting aspects of their services, utilising self-employed migrant workers, as evidence from the expert interviews in Spain and Austria suggests.

According to an Italian NGO expert working with migrants, subcontracting has spread both on private and public construction sites. He saw a strong connection between subcontracting practices and the use of undocumented underpaid workers and the spread of gangmasters. At the same time the transformation of some workers from employee to self-employed status (one-operator businesses) has been promoted. It has also contributed to the re-introduction of piecework and thus to the lengthening of working hours: 'In the construction industry it is hard to find a worker who puts in only eight hours a day. They work by the metre. They do their piecework and are obliged to be there all-together in their group to do the metres that guarantee their share of wages'. This point can be illustrated through an interview with a Bangladeshi migrant working in a sub-contracting firm, who received a lump-sum payment for the hours actually worked, independent of the nominal wage indicated in the pay packet. This mode of payment also had an incisive impact on his working time. When the demand for orders was high he worked as many as ten or eleven hours a day; when there was no work, he stayed at home without pay. Likewise, when he asked for annual leave, when he was sick, when he broke a finger moving some furniture, he had to stay at home, without pay. Another example comes from a Kosovaan male migrant who though he had a regular contract, was not paid based on the hours he worked, but on 'the metres' of work he managed to do with three other employees (including his brother and a cousin). That kind of work organisation also has consequences for safety regulations on the building sites. For example scaffolding did not conform to the regulations, making the work on construction sites more dangerous. On the other hand the safety regulations

themselves may be seen as a hindrance by migrant workers since their productivity levels can be reduced: 'They [the labour inspectors and the unionists who verify the working conditions in the sites] say 'You have to do it this way.' But you can't do it like they say, because they just explain and that's it. But if you work you can't do it like they say. If you work with the contract [i. e. subcontracting] or with the metre you have to do the metres, you have to work. [If you work] like they say, you do few metres and get little money.'

In both Austria and Belgium the interviews with migrant workers suggested that professional construction firms often operated with subcontractors who themselves employed migrants, either without reporting or under-reporting their presence to the social insurance or/and tax authorities. General contractors did not take responsibility for working conditions, in cases where they were non-compliant with the national labour law. In Belgium the NGO Abraço (organisation for undocumented Brazilian and Mozambiquian migrants) advises undocumented migrant workers who have often been working in the building industry on their rights to demand withheld wages in those cases where their presence has been revealed to the authorities.

## 4.2 Self employment

Self employment can also be seen as one strategy of wage reduction promoting semi-compliant forms of economic activity. Workers themselves become responsible for the payment of their contributions, for respecting safety regulations, etc. According to a migrant trade unionist, interviewed by our Italian partners, this transformation is contributing to the spread of undocumented labour. The workers who are driven to open one-person businesses are not only migrants but also Italians over 35-40 years of age, who have become too expensive "mostly' because of their labour seniority.<sup>3</sup> A sociologist of labour relations at the Autonomous University of Barcelona, interviewed for UWT, suggested that this kind of self employment should be prefixed by the word 'dependent' since they are working continuously for a company without being on its workforce. The number of 'dependent self-employed' in Spain has risen because the employer does not have to cover

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<sup>3</sup> By contrast, younger Italian workers in this sector rarely turn to self-employment, because the articles of apprenticeship of themselves guarantee low-cost labor power.

HR management activities. At the same time it forces the self-employed into self-exploitation and removes them from the collective agreement. A new aspect is the delegation of business risk, which had previously fallen on the employer. Although there is some representation of the self-employed within the union, due to the specific nature of the work, the self-employed have so far not developed a solidarity culture nor a tendency for cohesion. In Italy, the level of self-employment is more than twice the European or United States average, and the Workers' Statute of Rights covers less than 30 per cent of the entire labour force.

In Austria one way of out-sourcing responsibilities for construction workers is to hire them as self-employed workers, one-person-companies which themselves have to take responsibility for social insurance and tax. Due to the fact that controls on construction sites have increased, there is a reluctance to directly hire irregularly working migrants. Instead migrants with a permission to work are hired, but their working time is under-reported to the social insurance agency Alternatively they may hire migrants, mainly from Poland, who have authorisation to work, in accordance with their trade license, but who are working outside the permission they have through the license.

It is also the case that the self-employment of migrant women is on the rise in the domestic care sector. To combat informal employment in 24-hour-care sector, the Austrian government adopted a law in 2007 permitting the legalisation of migrant care workers under specific circumstances. The labour contract and minimum wage requirements of this group of workers are well below those of similar professions in Austria, and self-employed carers have become an affordable option for employers. Trade unions have been critical of this development as the undermining of existing labour regulation in residential care, with the fear of increasing competition from migrant care workers from Eastern Europe. At the same time, the trade union response to the new law reflects the apprehension of native care workers, without taking the position and problems of migrant care workers into consideration.

To conclude, taking account of the different situations of labour market restructuring and migration policies in the countries participating in the UWT

project, it is difficult to see a strong and clear causal relationship between the overall flexibilisation and casualisation of labour conditions and the growing importance of undocumented migrant workers in the informal economy.

Whereas in Italy the shadow economy is seen as a 'laboratory of casualisation' with a consequent emergence of specific forms of migration status, Denmark's economy is not, to the same degree reliant on informal activities and un(der)documented migrant work. However our research provided evidence for the intensive use of un(der)documented migrant labour in certain types of employment such as subcontracting and self-employment and the deep intertwining of the formal and informal sectors of European economies. The next section will go more into detail about un(der)documented migrant workers' employment conditions and try to identify key characteristics of irregular migrant labour markets.

## 5. Characteristics of irregular migrant labour

### 5.1 Segmentation

Segmentation according to ethnic origin and gender is a phenomenon well known in labour market research. This is true for formal as well as for informal labour markets. Nevertheless there are some specific factors underlying the segmentation of informal labour markets. Based on several studies (Düvell, 2006a; Alt, 2003; EMN, 2006:26; Cyrus, 2004) irregular migrant work may be characterised by the following factors: a standardised qualification profile (low skilled jobs); seasonal or generally a high fluctuation of worker numbers; labour intensive jobs that are hard to mechanise; and a relatively low risk of detection. Schönwälder, Vogel, Sciortino (2004:49/50) additionally suggest that the employment of irregular migrant workers is more evident in sectors with high labour costs; fluctuating labour requirements; and exposed to intense competition. They underline that the different national context has to be considered, providing different structures of opportunity for the employment of irregular migrant workers, related to the structure of the economy, openness/tightness of the national market, welfare state regime and regulatory environment.

Even though there are certain differences between the countries included in this study, particularly with regard to the size of the irregular migrant labour force, there are some common features in relation to sector and gender segmentation, which we look at below.

#### 5.1.1 Sector segmentation

According to the interviews with experts in the participating countries, un(der)documented migrant work is concentrated in more or less the same sectors in all countries. The main sectors absorbing un(der)documented workers are: construction, agriculture, hospitality (hotels and restaurants) and private households (domestic and care work).

Looking at the commonly identified factors in the literature we can see that not all of them apply to all sectors. One characteristic, which, however, applies in more or less all sectors, is that the jobs are labour intensive jobs, hard to

mechanise and where it would not be possible to relocate the work to low wage countries.

Even though in agriculture, construction and hospitality there is a demand for seasonal, casual labour, the opposite is true for private households. Irregular migrant domestic and care workers are generally required for stable and long-term employment. Work in private households, and especially in care arrangements, necessitates, in many cases, that employment relations are built up on trust and personal empathies, even though this does not prevent un(der)documented migrant workers from being exploited. But also in the construction sector we found examples of stable and continuous irregular employment. A particular example is that of a migrant interview of Macedonian origin living in Austria. Since he had regularised his status through marriage and was allowed to work legally in Austria, his experiences of temporary work had actually increased. His longest employment had lasted for two and a half years – and that was during the period when he was without documents in Austria. Though had been continuously working in legitimate firms, especially since his legalisation four years earlier, his employment history had become very unstable. In his case the reasons lay in the specific structures of the labour market in the construction sector. He spoke of changing employers every three to four months. Many of his employers have been sub contractors who then go file for bankruptcy after six months.

Regarding the qualification profile it is the case that low skilled jobs dominate irregular migrant labour markets. However, especially in the construction and care sectors there is also demand for skilled work, which is met, to an certain extent by un(der)documented professionals.

Another important aspect is that changes in the law, together with greater controls on migration, can affect the demand for un(der)documented migrant workforce. For example the accession of the Central and East European countries to the EU in 2004 could have reduced the demand for irregular migrant workers in some countries, particularly in some sectors, as had been presumed for the UK hospitality sector for example, according to one of the expert interviews. With the availability of a documented, but cheap labour

force available since that time, for some groups such as Bulgarians conditions are now worse than they were before 2004. In Spain and in the UK some experts stated that the strengthening and intensification of labour inspection increased the pressure on some employers to employ regular instead of irregular workers. We found some kind of confirmatory evidence in the interviews with irregular migrant workers in these countries, reporting their experiences of having been dismissed or having faced more difficulties in finding irregular work, due to the fear of detection by employers. Even though we could see some effects of the intensification of labour controls and/or strengthening of penalties, it is an important outcome of our research that this is neither an adequate nor effective strategy for solving the problem of un(der)documented migrant work in general.

Even though irregular migrant labour markets have some specific characteristics, focusing on the specific sectors demonstrates that there is no significant difference in the sector concentration of migrant workers in regular and irregular labour markets. So we can see a kind of shadowing effect of irregular migrant work on regular migrant work in all seven countries. For the UK, one expert referred to empirical evidence, which shows that irregular migrants are performing similar kinds of jobs to those at the bottom end working legally, on the fringes of formal and informal sectors. Whereas in Italy a trade union expert linked the simultaneous appearance of documented and undocumented migrant workers in the same sectors to the specific economic structure of his country: 'The sectors where undocumented migrant workers find jobs are the same sectors in which the presence of documented migrant workers has now become a structural component (15-20% of the total number of employees) and in which the underground economy presents itself as subsidiary with respect to the legal economy. These sectors are: construction, agriculture, hotels and tourism, paid domestic and care work, small manufacturing firms in the textile, metalworking and woodworking sectors.'

Despite this shadowing effect it is important to set out the reasons and specific functions of irregular migrant work, irregular work and migrant work in

general, differ between sectors and countries (according to their economic structure).

### 5.1.2 Gender segmentation

There is a noticeable gender segregation in the informal labour market. Women are mostly engaged in health care and cleaning in private households as well as in the sex industry. Men's employment is dominant in construction. Both genders work in the hotel and restaurant industry and in agriculture. The interviews conducted in the seven participating countries also reflect this trend. All 25 interviewees working in the construction sector were men. Only three out of the 33 respondents working in domestic work were male: two in the UK in elderly care and one in domestic cleaning in Belgium. Also, in terms of numbers of migrant workers, women are catching up with men, since there is increased demand for services regarded as 'female labour'.

This was indicated explicitly by a Spanish expert, coordinator of socio-labour areas in NGO's who stated that un(der)documented migrant women 'have more routes into the shadow economy, in particular Latin American workers in domestic services and care work in private households, since in this field the lack of documentation is not a problem. On the contrary, men have much greater difficulties, the best options for them are: refurbishing, renovations and in the hotel and restaurant industry.' But because of the high and personal dependency on the employer, their isolated situation and their difficult and arduous working conditions, many female migrants leave these types of jobs as soon as other options present themselves.

Also in Denmark and Austria, there was some evidence from the interviews with female migrants, that working in private households serves as a transitional strategy on their paths towards a future in the host country or elsewhere. In the Danish cases this refers to work as au-pairs, where some interviewees had managed to escape from this all-embracing (total) dependency on the employer, even if the alternative was night-shift work in a club in Copenhagen.

Among the Austrian interviewees, although those suffering from abusive working conditions in elderly 24 hour care, talked about changing their jobs, for other care workers it would be an option to stay in these kind of care jobs when a substantial improvement in working conditions would take place including the regularisation of migrant care work. The fact that care work was seen as of higher prestige and the social acknowledgement of the value of care work (in contrast to cleaning) made long-term care work a honourable and acceptable job option for some interviewees. The rising demand for care work is also served through rotation migration movements, with female migrant workers from the neighbouring countries of Slovakia, Hungary, Czech Republic and Poland often working in rotation schemes: for two/three weeks the care worker works with one employer; this is then followed by two/three weeks at home, in their countries of origin. In some cases care work consisted of working two working shifts (4-6 weeks) followed by the pause. Sometimes travel costs from/to countries of origin to destination are paid by the employer. One issue that emerged is that working informally care workers have no health insurance neither in countries of origin or destination.

Even though the rising demand for care services, often delivered by undocumented female labour, was noted in all seven partner countries, there are also some countertendencies specific to national contexts. As the Belgian State of the Art report noted, measures to create new service jobs ('emplois de proximité') had led to the disappearance of a large number of irregular jobs. The low cost of this kind of declared service work and special tax incentives given to the users of the service, had resulted in severe competition for jobs, pushing out irregular migrant workers. But this did not affect the niche of live-in domestic service work that remains 'reserved' for un(der)documented female migrant workers.

Another aspect of this gender segmentation is that whereas employment in most of the sectors offering employment possibilities for undocumented migrants is often linked to seasonal or short-term demand, female dominated sectors (health care, domestic work and entertainment) offer more continuous forms of employment. Due to the differences in private household work,

compared to that in other sectors of irregular migrant labour, it is worth paying special attention to the specific features of this kind of irregular work.

### *Characteristics of irregular work in private households*

Normally, irregular employment in private households is quite stable. Particularly from the employer's view there are advantages in retaining the same worker, to sustain relationships of trust between caregiver and care-receiver. For the caregivers however, abusive employment conditions are not rare and these lead to desires to leave the job. But in addition to this factor, which can create job insecurity, there are always concerns about the health of the individual they are paid to care for. They can die or be transferred to residential care.

A relationship of trust between employers and employees is very important, since workers enter the core private sphere of their employers. For this reason, private networks for job placement are crucial. An Austrian interviewee, a female migrant from Bulgaria, even gave an example of a cleaning job that she had held for two years, working in the flat of a woman whom she had never met because she was never present when she came to clean at weekends. A high level of trust is required to let any unknown person enter and clean (=very intimate form of activity) a private space. Therefore, frequent changes of domestic worker are not considered desirable. The above example also sheds light on the nature of domestic work as 'invisible work': in general, employers usually prefer not to be present when their employees are working. Notes (wages are left with) and brief telephone calls are, in many cases, the only source of contact. The employee turns into an invisible person and the work is considered as self-evident, found completed done when the employer arrives home. Another feature of the invisibility of undocumented domestic workers is that the private household is place of 'protected work': far from police, governmental control or prosecution, away from labour inspection, in privacy, sometimes calm, and sometimes performed at a steady pace. On the other hand – precisely because of its invisibility, the worker is more vulnerable to exploitation and discrimination, because no one knows

what goes on in private households and there is little understanding of the nature of such employment relationships.

Above all, when childcare is part of domestic work, emotional bonds represent an important factor within the triangular relationship - migrant domestic worker – child – parents/employer: A female worker from CIS stayed, at the beginning of her migration period in Austria as a live-in in a Russian-Jewish household, responsible for looking after a two-year-old girl 24/7. The girl called her 'mama' because she did not see her parents, due to their very long working hours. The woman no longer works for the employer and does not live in the house. However, she still does some casual work for the family, with whom she has a relationship of familiarity. Now, when the girl, who is also friend of her daughter, comes occasionally to visit over the weekend, she states that 'it's not paid, it's a friend's service. Every time they call now, I like to help.' She also takes her daughter with her to her ex-employer's flat. While the two children are playing she does household tasks, ironing, cleaning etc. – which for her represents a certain kind of reconciliation of profession and familial responsibilities: 'We are combining everything, what you need on the one hand, what is necessary [job, caring for her daughter] and try to derive also a benefit from this necessity. [taking the daughter to her employer].' She and her daughter see themselves as part of this family, but the question that remains is how, in such circumstances, does one draw the line between the job and non-working time – when employers take on the role of 'friends'.

Entering an individual's private space also means having to adapt to that private household's particularities: which polish to use, where to clean first, which method of cleaning to use. Sometimes these requests are easy to fulfil and employer and employee get along together without problems. Sometimes by insisting on there being particular ways of working, particularly from the perspective of the employer, also means a re-assessment of the domestic worker's skills and the articulation of the simple will to exercise power over a servant.

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*Definition of working areas in regard to tasks, to spaces and to persons involved*

Often, there is an unclear definition over the areas of responsibility/work. Informal care workers have to do household tasks, medical tasks, social tasks (going for a walk, playing, cooking together, with the individual they are employed to care for), leading to a blurring of things like the length of the working week. When being available for 24 hours a day where does the worker get any time to recuperate? Even sleeping time is working time because the patient can wake up at any moment and need to have a hand held, or be accompanied to toilet etc.

One migrant interviewee living in Austria described the tasks she had to do for her employer as follows, 'we are not only carers, you often have to be hairdresser too – cutting the hair, hair drying, cleaning lady – the laundry, ironing, tidying up, shopping, cook – you have to be very creative some time, therapist; doing all the physical exercises with the patient; gardener, if people have a garden; waitress if there are guests; baby sitter, caring for the children of the relatives.' In reality while the principle tasks may be to care for the individual often they are also asked to do additional and unconnected jobs, e.g. meal preparation for relatives. Problems also arise in relation to the role of relatives, when the job involves taking care of a vulnerable member of their family, if they try to control every step the care worker takes and stand over them to check if the work is being done properly.

*Lack of Privacy*

Twenty-four hour care in particular, was described by interviewees as a mental and physical burden. Carers had to wash and dress the person they had to care for. They sometimes described having to lift them they were unable to walk independently and where relatives demanded it. In these cases their whole day was structured according to the needs of the patient. They spoke of having no time for themselves, no private sphere, no room of their own that they could retreat to. Their clients' state of health had a particularly strong impact on the working and living conditions of migrant care workers. It

defined whether they had the opportunity to leave the house even for a short walk, or if they were tied to the household. As one interviewee said, '24 hours. No freedom at all. That's like it is'.

In some cases they were required to be permanently available even when this was not absolutely necessary. As one interviewee noted 'Employers/patients think you shall be disposable whenever they want you to come – especially if you seemingly don't have other important things to do'. However, the real problems arose due to the nature of the work itself, as care workers too had problems disassociating themselves from the people they were paid to care for.

But the fact of exploitation also has a structural, societal aspect that is linked to the crisis of the welfare state all over Europe. An Italian lawyer and gender expert explicitly addressed this point, referring to the weak social position of elderly people who are in need of care. 'Improvements in the national contract of the domestic-work sector introduced since March 2007 have not affected the conditions of exploitation in force in this sector. These conditions are correlated with the crisis of welfare policies, which on the one hand make recourse to private forms of assistance necessary, and on the other adversely affect the elderly who receive assistance. Senior citizens more and more often live in conditions of marginality, with pensions that are too low and without the support of a family network: their poverty affects, in turn, the migrant woman workers, who are underpaid and are obliged to work in conditions of exploitation.'

Due to the permanent pressure of their working conditions, migrant workers may also suffer severe health problems. A Spanish expert, from an NGO working with migrants referred to 'the uninterrupted dedication asked of the migrant can be the cause of psychological suffering and it is mainly common among Latin-American women who have migrated alone and who live with ill or older people. The fact of not being able to have relationships with other people and practically not having a rest affects them very much'. In the Austrian interviewees, all the migrant women working in the private household

care sector reported the incidence of severe health problems during their irregular 'care-career'.

## 5.2 Access to work

### 5.2.1 Role of informal networks

Our study found that the most important channel for undocumented migrant workers to get access to irregular jobs was the usage of informal networks. This was true for all sectors and all participating countries. These networks could take a wide range of different shapes: ethnic or religious communities, (former) employers, former colleagues, friends, relatives, and flatmates. However, of these, the most common sources of work in our survey were through contacts related to ethnic networks. These were the most successful routes into irregular and regular employment and, for most interviewees, were not used solely as the first entry point into work. Continued employment was dependent either on personal friendships or on established networks.

In Austria one Polish worker interviewee had been living in a dormitory with other Polish workers. Employers, who knew about the place, sometimes came to ask if anyone needed work. Interviews with irregular workers from Turkey showed that being Turkish could be an entrance ticket to the irregular labour market in Turkish businesses for those arriving without any personal contacts. But this required the presence of a large and established ethnic community, including ethnic businesses in the host country.

The extended family played an important role especially during the initial stage of arrival in the host country and this was often mentioned, for example in the interviews with Bulgarian migrants. People from the community who had a regular status and a registered business, supported co-nationals, usually members of the extended family who were newcomers, generally by offering them some 'self employed' work. We found that while waiting for their status to be regularised newcomers worked for their relatives in exchange for accommodation and food, sometimes receiving wages in cash, under an oral agreement with the relative. Sometimes women worked in a similar manner for their husbands, brothers or other relatives. In countries where the overall

control system was very strict, as in Austria or Denmark for example, this was a precondition for surviving as an undocumented migrant. But also in Spain, South Americans, in particular, used their family relationships as overall mediators both for irregular migration and for access to irregular employment.

In Austria and also in one of the cases in the UK, the churches played a decisive role as a meeting place for job-placement. In Vienna churches from Middle and East-European countries have become a well-known meeting point for compatriots. They also functioned as information centres for jobs, accommodation and so on, with posted announcements written in the migrants' mother tongue.

But as demonstrated by cases in the UK, access to irregular jobs was not limited to the own ethnic network. Some interviewees, while sourcing work through ethnic networks, had not necessarily relied on their own ethnic co-patriots, instead locating other ethnic networks that were regarded as supportive. For example, one woman from Bulgaria had accessed work in a Greek-Cypriot business, using the Greek Church as a route into this community, accessing cleaning work in a hotel. A male interviewee from Morocco had initially found work through his brother, working in an Iranian restaurant. The pay was low and the conditions poor and after a year he found a job in a take-away, whose owner was Jamaican. The pay was better, the conditions good, but the business failed. Since then he had worked in more than a dozen restaurants. A Nigerian interviewee had found his first job through a Jamaican friend who introduced him to an agency that was able to send him to jobs.

Thus individuals were open to going outside of their own 'communities' either because these were not well established, or because other communities, which shared some common elements of culture, language or history, were better placed as a source of work. This suggests first, a willingness to go beyond obvious ethnic groupings and an active assessment of what are the best opportunities for work, particularly when routes to work were limited. It also reflects a concern not to reveal too much to members of one's immediate ethnic community, if there was concern that information could be fed back to

the family at home. For this reason others, like a Bulgarian interviewee, were hesitant about accessing work through Bulgarian compatriots and even though he had been signposted to work occasionally through Bulgarian contacts, he pointed out that he had always worked for UK employers.

In Austria some of the interviewees actively refused any contacts with ethnic communities from their home country for different reasons. The case of an Armenian asylum seeker illustrates the problem of migrants who keep their distance from existing ethnic communities in the country of destination for precisely the same reasons that had forced them to leave their home country. Our Armenian interviewee in Austria avoided contact with the Armenian ethnic community in Austria because he feared he would get in trouble due to the fact that he had married an Azerbaijani woman. This was the reason for the violence they had experienced in their home country and for their escape from Armenia and he surmised that this ethnic hostility against his wife's origins would equally apply within the Armenian community in Austria. For that reason he could not use his ethnic community for sourcing irregular jobs and was reliant on the help of some friends he had got to know through Austrian NGOs. Similarly, a woman from CIS refused contact with the Russian speaking community in Austria because she did not want to be dependant on their practices in dealing with undocumented migrants.

Private networks (language course, friends and colleagues) also played an important role in providing each other with information on the 'quality' of employers: On the one hand by recommending colleagues to employers – especially in domestic work – confirming their trustworthiness and good working performance, on the other hand by warning colleagues of difficult or dishonest employers whom it was better avoid.

### **5.2.2 The role of agencies**

Employment agencies also do play a role in job placement for un(der)documented migrant workers. We found this job sourcing method in interviews in Belgium, the UK, Spain and Austria. The importance of employment agencies differs between sectors. Especially in agriculture

(seasonal workers), in private home care and in construction, agencies are important and operate in a variety of combinations with regard to legal status and geographical coverage, with legal agencies hiring or placing un(der)documented migrant workers and irregular agencies placing regular seasonal workers. They may operate in the host country only with respect to the national labour market; they may source workers from within their countries of origin; or they may operate from the country of origin placing workers into the host country's labour market. So the line between regular and irregular economic activities is very thin and often one cuts across the other.

As an example, one expert from the UK located the use of undocumented workers within the agency work sector. He was of the view that some agencies were involved in forced labour exploitation, as some recruitment chains were very long, often stretching back to the countries of origin, and responsibility for ensuring workers' rights and maintaining employment standards diminishes somewhere along the chain. A Nigerian interviewee, undocumented in the UK, had used an agency to find him jobs in hotels, working in six different hotels over a six-month period. A Chinese 31 year old female had found her first job, in a food factory, through a Chinese agency in London. Even though it is unlawful in the UK for agencies to charge workers for their services, she had paid a registration fee of £200 (240 Euro) to an agency.

In Austria job placement agencies located in the neighbouring countries we found to be very common in elderly care: often they were disguised as non-profit organisations placing 'voluntaries' into households where there was a need for care. These agencies were also charging fees. 'Das Beste' charged both the informal carers and the families they worked for 1,500 Euros a year for as long as the employment relation continued. A female migrant from Slovakia, explained: 'The advantage of recruitment agencies is that they always find new families for you if you lose a job e.g. because the patient dies or because he/she is moved into residential care. The disadvantages are the high costs and the contract you have to keep. The rights of carers are not enforceable, they are just 'recommendations' on how employers have to

behave towards their employees. You do not have the right, as an employee, to change employer when working conditions turn out to be unsatisfactory. Agencies always operate to benefit employers, and not employees.’ She left the agency once she had built up her own networks, consisting of former employers, colleagues and potential carers.

Employment agencies are often the link between regular and irregular work. They are responsible for operations outsourced by bigger companies supplying them with un(der)documented migrant work. The outsourcing company officially knows nothing of the nature of the agencies’ labour contracts. Even though this practice occurs in many sectors, it is particularly wide spread in the construction sector, where a complex cascade of subcontracting facilitates these arrangements.

### **5.3 The main reasons for employing undocumented migrants**

This section sets out the main reasons for employing un(der)documented migrant workers. We draw our insights from the migrant workers’ narratives and in particular from their evaluation of employers’ motives for hiring them. The data from the expert interviews, as well as the existing literature on this theme, complete our analysis.

Mezzadra (2007:184) notes a strong relationship between the demand for an increasingly flexible labour force and growing undocumented migration in Europe, 'Clandestine migrants are the subjective figure for whom the highest degree of labour flexibility, as expressed by the social attitude of migrant workers, encounters the effects arising from the brutal control of that flexibility. (...) [t]he current composition of living labour as a whole [is] articulated within a new interplay of flexibility, mobility and control on different levels.' Our research confirms that un(der)documented workers’ lack of enforceable rights, their readiness to work for lower wages and in specific sectors differentiated from those of their citizen colleagues, together with restrictive immigration policies, are the main reasons why employers hire them. Their particular flexibility is discussed in chapter 6.1 of this report.

### 5.3.1 The inability to enforce rights

Un(der)documented migrant workers are part of the overall workforce but in most cases cannot enforce basic labour rights. Their precarious legal status in relation to residence and/or employment makes them vulnerable and exposes them to intense exploitation by their employers. Employers can take advantage of migrants' precarious position on the labour market. Symptomatic of irregular employment is the total lack of enforceable employee rights and the resultant insecurity regarding the duration and regularity of work, as well as the lack of insurance in the event of accident or illness. The most frequent complaints we found concerned wages that had been withheld, working conditions that failed to meet legally prescribed standards and excessive working hours. The reality was that employers could and did take advantage of workers' lack residence and/or working permits. Although legal minimum standards like minimum wages and labour contracts can, in theory, be applied and sued for in some European countries like Austria, Italy, Belgium, Germany or France (LeVoy et al., 2004) standing up for their rights involves a high risk for the migrants involved, in the worst-case scenario the deportation of the migrant. In some countries, for example the UK, the situation is even more disadvantageous, as no rights can be enforced as a consequence of undocumented employment, because the employment contract itself is characterised as illegal'. However, even where theoretically rights can be enforced, it does not follow that they will be. For example, in Austria the interviews we conducted revealed that the chamber of labour is reluctant to support undocumented migrant workers in suing their employers and we were told of individuals being refused assistance on the basis that they had no work permits and without these nothing could be done to help them. Thus the only cases, which they would support, were those over a combination of regular and irregular forms of work, for instance, where an individual had a legal right to work part time but was working full time.

The absence of enforceable rights was seen as decisive in decisions to employ undocumented migrant workers, as one Turkish construction worker in Austria explained, 'He takes me because he knows I am without rights. If I held a working permit I could go to the chamber of labour to claim my wages.

Then he has to pay. That's the problem. He knows exactly how things are going'. Similarly, a UK interviewee noted that employers hired undocumented workers as they were workers who 'had no other choice at the beginning of migration'. Workers in this situation would also be more likely to accept low pay and to work additional hours without payment. They were workers who 'obey orders' and are 'flexible and easy to find'. Others, like a Turkish woman with experience of working in the textile industry and in catering, described undocumented migrants like herself as 'cheap and a reserve army of labour; for employers'. Another Turkish woman, working as a cleaner in private homes, spoke of her employer's attitude to undocumented workers like herself as 'If I am not happy the door is there. There are many like you, looking for work'. An undocumented Moroccan working in catering in the UK did complain about poor treatment from some employers, stating 'they don't give a damn about you; just want you to work'.

Not only did un(der)documented migrant workers not have an alternative, other than to accept the whatever working conditions they were offered, they also spoke of employers suggesting that they were doing them a favour by hiring them, 'Take it or leave it: that's how it is. Whoever wants to have something to eat, to keep going, doesn't go asking for a job contract. Just to be able to pay the rent and keep going: in that moment that's all that interests you. And, in fact, it was a lot if they took you to work 'in black' it was a favour they did for you' was how one interviewee, a man from Mali, described his situation in Italy. Another migrant, working in Italy from Bangladesh, saw not himself but his employers benefiting from his status, describing himself as an 'opportunity' for Italian employers because 'I'm without papers, but I need to work. For me any type of work is OK and for them I'm an opportunity: I'm young and strong, I can do anything.'

### **5.3.2 Reducing labour costs**

Our comparative research among the seven EU countries suggests that the principle reason for the employment of migrant workers in the informal economy is to do with cost advantages to employers – lower wages, the possibility of employer tax and social security payment evasion. Jobs in the

service sector, in agriculture etc, which are labour intensive and where the potential for job rationalisation is low, make labour costs an important factor and act as an encouragement to employers to keep wages low. Private households also operate as employers of migrant labour, in particular where long-term care is a private matter and not the concern of institutions or the state. If care work is not performed by family members without pay or provided publicly, families have to search for alternative and affordable forms of provision. One solution is the employment of mostly female migrant workers, with pay and working conditions below the established legal standards.

Employers save social insurance and taxes if they engage their workers without documents or as self-employed workers, e.g. in construction. An Italian trade unionist interviewee claimed that 'of the various forms of discrimination, wage discrimination is the most evident. Migrant workers are paid 34% less on average than Italian workers'. An Austrian expert from the Chamber of Labour gave the example of Hungarian regular workers in the border region of Austria, whose pay was 20% lower than that of Austrian workers doing the same job. If they claimed their employment rights they were replaced by others.

Undocumented migrant labour was seen as low cost – in some cases even cheaper than deploying machines, when battering down walls, ceilings, stairs e.g. in old unsound buildings, as a Turkish construction worker in Austria noted. In Italy, under current laws, it is the employer alone who has the power to initiate the bureaucratic process leading to regularisation. And, as one of the Italian experts interviewed, a lawyer explained, often this power is used by employers to blackmail their migrant workers, obliging them to pay contributions that their employers should be paying, or asking them for kickbacks on their unemployment benefits.

In table 1. below, we provide an overview of the wages declared by the interviewed migrant workers in the seven countries involved in this research. In the first column national gross minimum wages per hour – where these exist – are listed. It is not the aim of this study to derive general wage levels

from the few wages indicated by this research. It however demonstrates some tendencies in relation to payment conditions.

A wide range of wages within one sector, independent of the country, is characteristic of the pay arrangements for irregular migrant work. Although, in the absence of legal regulation, market forces apply, there is no standard price for labour. Factors other than supply and demand for labour – as in formal labour markets as well – are decisive in determining the level of wages for un(der)documented migrant workers: factors such as migration status, gender, period of time in the destination country.

**Table 1. Wages in Informal Migrant Labour Markets in Relation to Minimum Wages in Selected EU-countries (in euros)**

	Austria	Belgium	Bulgaria	Denmark	Italy	Spain	UK
Minimum Wage	5,92 *) **)	8,08*) Titres service: 7,5-8	0,53*)			3,42*)	8,20*)
Construction	6-12/h	5-10/hour	1-2/h (12,5/day)	27/h	8-12/h	4-5/h	11,4-19/h
Cleaning	2-12/ h	5-10/h			5-6/h	3-8/h	6,3-10/h
Care/aupair	1-2/h; 30-50 / day; 450- 750/2 weeks AP: 200/month plus food&accom modation			AP: 270 /month plus food&acco mmodation	400- 600/mon th	500/mont h	7,5-8,6/h
Sex Work			5-100/h	35/200- 400/night			
Hospitality	Serving: 4-7/h plus tips; kitchen: 3-6/h			4-7/h	5-7/h	4,5-6,5/h	4-6/h (ethnic); 6-12/h
Agriculture	3-5 / h	6/hour; 43- 56/day				4-5/h	
Small Business	300-750 / month		0,5-2/hour (5-12,5/day	3-10/h			
Industry	Printing Plant: 7-9/h; 70-90 / day		Coca Cola: 1,20/h				Textile: 6- 8/hour; 315/week
Casual Work	6,50-10 /h			5-7/h		2/h	

\*) (Hermann/Schulten, 2007:139)

\*\*) in discussion

It was only in agriculture, in Austria, Belgium and Spain, that wages were relatively homogenous according to the information gathered from the

interviews, with migrant workers' pay amounting to between three and six Euros per hour.

Cleaning in private homes was always hourly paid, amounting to between two and 12 Euros an hour, although the bottom and top rates were seldom found.

The highest wages recorded – aside from sex work – were, save in the case of Spain, in the male dominated construction sector, for example, in Denmark, migrant workers in construction reported hourly paid rates of approximately 27 euro. The level of wages of undocumented workers in construction in our sample was, in all seven countries, higher than the national gross minimum wage<sup>4</sup>. It should also be noted that wages in construction may not be entirely dependent on an hourly rate, and this was particularly the case in Austria. In the other six countries the payment system is commonly based on piece work, criticised by a migrant construction worker working in Italy, was making pay dependent not on the hours actually worked, but on productivity, making workers the instruments of their own self-exploitation.

In catering and in elderly care work, as well as for au-pairs, fixed daily or monthly pay is widespread. In this way hourly pay becomes inversely proportionate to the hours worked. A woman from Burkina Faso working as an au-pair in Italy, also stressed that low levels of pay as live-in/au-pair ('It wasn't what you could really call pay'), was justified by the provision of board and meals. Au-pairs in Austria and Denmark generally received around 250 Euros a month plus food and accommodation. Au-pair arrangements form a specific type of live-in employment that is common throughout Europe. An au-pair agreement involves the engagement of a young woman (men rarely participate in these arrangements) aged between 18 and 28, to undertake some domestic work and childminding in return for a small allowance and room and board – and for the opportunity to learn more of the language, culture and society of the host country. Families are therefore *officially* allowed to take on a domestic worker to carry out housekeeping and childcare, at a rate well below the minimum wage. Since it is unlikely that guest families keep

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<sup>4</sup> Here is to note that construction does not belong to the low wage sectors: strong trade unions in that branch regarded as 'productive' and physically demanding and the overall domination of male working biographies led to a relatively high wage level for formally employed construction workers.

to the stipulated working hours for au-pairs (approx. 20 hours a week), these women were likely to face the same problems that confronted the live-in domestic workers described in chapter 5.1.2 and 6.1 of this thematic report: unpaid overtime; the obligation to perform tasks they weren't hired to do; degrading treatment – such as not being allowed to share in family meals; and various forms of humiliation, ranging from racial discrimination to threats and sexual abuse (Hess, 2002:106). The au-pair is a paradigmatic example for how irregular forms of migrant employment exist under a regular title.

Pay for 24-hour care, mostly for elderly people, though not described as an 'opportunity for young women', was also paid at a rate below the minimum wage. In Spain and Italy workers were earning around 500 Euros a month – for work that required them to be available 24 hours a day. In Austria care workers earned the same or in some cases more, for two to three weeks of 24 hour care. This difference is not just a reflection of the generally lower wage levels in the Southern countries, but also is derived from the migrant women's origins. In Austria it is women from neighbouring countries and from Poland who work in the informal care sector, in all cases from countries, now members of the European Union, and experiencing rising national wage levels. In Italy care workers were found to be primarily women from the Ukraine, Romania and the Philippines, while in Spain it was women from Latin America that were highly represented among informal carers.

Some of the women interviewed in Denmark and Bulgaria were working in the sex industry. In that sector the spread of earnings was even more extreme than in the other sectors. In Bulgaria, among those interviewed, earnings varied from five to 100 Euros per customer; in Denmark women reported earning anything between 35 to 400 Euros a night.

An important aspect of hidden wage reduction is the non-payment of social security contributions by the employer. Rights that mature through the payment of contributions (paid holidays, family allowances, compensation for injury or illness, unemployment compensation, etc.) are directly monetarised into the monthly salary of workers where contributions are not paid; in the short term workers think they are earning more because their 'take home' pay

is higher. In the long term, however, it is the employer who gains while the workers lose, because this practice has extremely serious repercussions in the many cases of accidents, illnesses, etc., where workers find themselves with no insurance coverage; without unemployment and pension insurance and so on. Table 2. below sets out labour costs in the selected sectors which comparisons can be made with the pay levels found in our empirical research (Table 1.). Of course the difference is striking and from an employer's point of view halving the costs of labour can be very attractive.

**Table 2. Labour costs compared to wages in the informal economy (italic) in selected branches**

	Const- ruction	Const- ruction	Trade	Trade	Hospit- ality	Hospit- ality	Health/ Social Service	Care/ Au-Pair	Person- al service	Cleaning	In- dustry	In- dustry
AT	25,61	6-12	21,94	300- 750 / m	14,05	3-7	22,32	1-2; 200/m	25,37	2-12	<b>27,55</b>	7-9
BE	29,01	5-10	26,10		17,45		24,68		27,73	5-10	32,05	
BUL	1,26	1-2	1,22	0,5-2	0,99		1,71		0,84		1,58	1,20
DK	30,00	27	28,49	3-10	23,66	4-7	25,35	270 /m	30,45		30,26	
IT	20,90	8-12	20,39		15,27	5-7	17,84	400- 600/m	23,60	5-6	22,35	
SP	14,23	4-5	13,98		11,05	4,5-6,5	19,01	500/m	15,25	3-8	16,61	
UK	25,58	11,4-19	19,03		20,78	4-12	25,74	7,5-8,6	23,95	6,3-10	25,36	6-8

Source: Eurostat, Labour cost survey 2004, UWT calculations

Another factor which serves to lower pay is that there are unlikely to be pay rises or negotiations about pay, as one interviewee noted, 'They also told me immediately, loud and clear, how much they paid. I think [they did it] so there would be no more questions about it. Everything has stayed just the same from when I started working until now, the pay is always the same'.

Reducing production costs also occurs through ignoring workplace safety regulations, as an Italian lawyer interviewed for the UWT project noted, 'this reflects on the increased number of industrial accidents and deaths, especially among migrant workers. Employers often explain accidents by saying that migrants don't know the language or can't read the notices. Migrant workers have been obliged by their employers to declare, at first-aid stations or to

police officers, that they had motorbike accidents or had fallen down the stairs in their homes. Accidents are smoothed over because migrant workers do not report them to hospital or even to the police and, due of fear of being deported, will not testify for another worker.

Although minimum wage and social wage standards are not met by employers, workers themselves may also be aware of not meeting minimum standards and thus pursue individual strategies aimed at gaining an advantage. In these cases the amount of money earned in the country of destination is much higher, compared to wage levels in the country of origin, and non-compliant forms of employment are accepted, as a Polish construction worker in Denmark explains: 'I work within the construction business. I work both illegal and legal. I have a contract but I am underpaid compared to Danish colleagues. I first started working here, building some summer houses in the northern part of Copenhagen, at time when I had no permission to work here and I did it very cheap but it was still a lot of money compared to the same work in Poland.'

### **5.3.3 Restrictive labour migration policy and domestic labour shortages**

In this section we examine the connection between the type of work un(der)documented workers perform, alleged domestic labour shortages and state policies towards labour migration.

The literature refers to the jobs provided for undocumented migrant workers as 3 D (dirty, dangerous and difficult) or/and 3 B (boring, below standard and badly paid) (e.g. European Migration Network, 2007) as well as being extremely vulnerable to severe exploitation. According to an Italian trade unionist interviewee, migrants today work in the sectors and perform the tasks with the highest risks and the greatest fatigue.

A Romanian woman working in Italy summed up the situation for migrant (including undocumented) and native workers. Regarding the world of work, she believed that 'migrant workers are usually given the worst jobs, because anyway [the employers] know they'll do [certain jobs] because they need them [...] And it's convenient to have migrant workers... those that come from

outside work more hours for less money. It's a disadvantage for an Italian worker and a disadvantage for a migrant worker.' Another migrant worker in Italy, a male Moroccan, took a similar line, 'For employers it's more profitable to have migrants work without permits because from the experience I have in agriculture, they work harder, and they really do a lot of work.'

Another reason given for the employment of undocumented migrants was their *work ethic*: migrant workers were perceived as working harder for less pay, without complaining due to their vulnerable legal position.

To summarise, un(der)documented migrant workers display a flexibility in terms of working hours, the jobs they are prepared to do and last but not least, work under wage and labour conditions that citizens reject. The consequence is that employers can claim a shortage of a domestic labour willing to work below certain labour standards. Furthermore, the interplay between lack of a domestic labour force, due to low unemployment rates (Denmark), emigration (Bulgaria) or the reluctance of native workers to fill DDD jobs, combined with restrictive labour migration policies, contributes to the stock of undocumented migrant workers throughout Europe.

Restrictive labour migration policies throughout Europe are criticised, in particular, by employers and employers' organisations. Interviews from UK revealed that employers had been less vigilant in relation to checking documents, but this had changed as a consequence of government targeting of undocumented work. Employers were torn in their response to government policy. On the one hand they wanted to be law-abiding, but they equally wanted to take advantage of semi-compliance, and while the UK Home Office takes a firm line, differentiating only between documented and undocumented work, interviewees reported that some employers felt that semi-compliance was not as bad as deliberately breaking the law.

In the UK, while employers might have appeared unwilling to hire undocumented workers, at the same time they were unable to source local workers, particularly in relation to the care sector, and consequently there was a high concentration of undocumented migrants in the agency care sector.

Current government policies could not satisfy labour demand. In part this was associated with UK government policies in relation to the expansion of higher education, which had resulted in growing numbers of young workers rejecting jobs seen as dirty and dangerous. These were the jobs that migrant labour generally, and undocumented labour in particular, were filling. The government's primary response to the growth of undocumented labour had been the targeting of employers but this did not have a major impact on most employers. While the number of immigration raids had risen dramatically, the number of employer prosecutions had not risen significantly. Importantly, recently published figures suggest that it has been almost only ethnic minority businesses in the catering sector (a highly visible sector, although employing many invisible workers) that had been targeted, with more than 90 per cent of the prosecutions focusing on Chinese and Bangladeshi restaurants. There was therefore a 'gap' between government rhetoric on how strict it was in relation to the employment of undocumented workers and what happens in practice.

In Austria, the Austrian Employment Service plays an important role in the allocation of migrant labour. Executing a restrictive and protective labour migration policy, it has the authority to decide whether or not a work permit is issued and only after checking whether there is an Austrian citizen or a migrant with a long-term residence permit available for a specific job. There is an absence of a domestic labour force, due to unattractive working conditions/inadequate qualifications and so on in specific sectors like domestic work, hospitality, agriculture and construction. In agriculture and hospitality short-term/seasonal work permits for third-country nationals can be and are issued, however hardly any employers in the domestic work sector or in construction apply for work permits.

An expert from the ETUC, interviewed for the UWT project, argued that it was the absence of legal channels of entry for skilled migrants that was responsible for irregular migration into low-skilled jobs. The reasons why migrants predominate in these areas are first, because the availability of workers in a neighbouring state willing to work for less money is very

attractive to employers and secondly due to labour market shortages, although it is not always clear whether migrants are employed because there is no local labour, or simply because there are people willing to work for lower price.

A strategy increasingly discussed at European level to address the problem of undocumented migrant labour falls back on the concept of the 'Gastarbeiter'/guestworker. All over Europe there has been a tendency to promote schemes aimed at bringing in temporary migrants to perform low skilled jobs.

There are many critics of this tendency. An expert from the ICMPD, interviewed in the UWT project, cast doubts on the notion that seasonal labour was indeed confined to a season (e.g. tourism in Vienna, stating, 'Nothing is more durable than a temporary employer. Migrants are not only workers but are human beings, often with family ties. A temporary migration project can transform into a long-term stay. So the perspective of permanent or long-term settlement, as well as family unification, has to be considered. An interviewee from the Cameroons had found that a short term permit made it impossible for him to find a non-precarious job, as the uncertainty attached to whether or not the permit would be renewed pushed him into undocumented short-term work, such as distributing flyers for very little money.

Castles (2006) even speaks of the possible 'resurgence of a new guest worker regime' and addresses as a key question in the growing demand for low-skilled workers, whether highly developed countries really 'need' large numbers of low-skilled workers? He argues that the demand for such labour is 'socially constructed by the poor wages, conditions, and social status accorded to such occupations as agricultural labourers, building workers, hospital cleaners, and catering staff', and he advocates substantial improvements in the conditions and status of such jobs. If the temporary migrant work permits that restrict workers' labour market mobility, residence duration, and human rights were removed and migrants had the right to change jobs, bring in their families, and stay permanently if they wished, a basis for circular migration could be established. He adds 'denying cheap

labour to European farmers (who are often large companies rather than struggling individuals) would be beneficial to producers in developing countries. But such steps would contradict powerful economic and political interests.' (Castles, 2006:761)

As well as temporary workers in low wage sectors, the other figure appearing in national and EU discourses about labour migration is that of the 'key worker' importing relevant skills for the benefit of the national economy. In Denmark, for example, pathways into the country, for several categories of skilled worker, are almost completely open, in a country with very restrictive immigration laws, due to its precarious economic performance through labour shortages. According to a Danish ministry of social affairs expert interviewee, the demand for labour lay also in a failure of Danish integration policies because refugees' human capital had not been acknowledged and used within the Danish labour market.

In Bulgaria too, increasing labour shortages have been occurring in some sectors, in particular, manufacturing and tourism. Economic growth and migration from the country, due to the very low wage levels in Bulgaria, had forced employers to increase wages and other benefits to keep their workers. In some sectors the shortage of labour had become so severe that the Bulgarian Chamber of Commerce had taken the initiative of collecting information from different enterprises and sectors on what kind of workers they needed, in order to 'import' them from the Far East. Furthermore, the chamber had lobbied the governing authorities to reconsider the existing regulations to simplify the procedures for issuing work permits. It was suggested that a more selective approach would provide well-qualified migrants with the required documents for residence and employment. Another argument for the inclusion of migrants is their social security contributions that have a positive effect on the finances of the social security system.

To summarise, the main reasons for employing un(der)documented migrants lie in the exploitiveness and vulnerability of un(der)documented migrant workers, due to both their lack of rights and their inability of enforcing labour rights. Furthermore, the labour of un(der)documented migrant workers is

cheaper and more flexible than that of documented and reported labour. Another reason lies in both restrictive labour migration policy and the lack of labour in specific sectors under existing conditions. In this chapter, the structural discrimination described as faced by un(der)documented migrant workers, is due to their absence of rights and lack of support by citizens and/or organisations, as well as to the allotment to them of the hardest tasks. However, there were contradictions between employer treatment of undocumented workers and the workers seemingly deliberate choice and acceptance – no matter how restrictive the conditions – the conditions and type of work in their country of destination. Notwithstanding this 'freedom' to choose, the structural disadvantages un(der)documented migrant workers have to cope with remain for years or even decades and integration into the formal labour market, and into better paid and more prestigious jobs often remains a just a wish rather than a reality.

## 6. The irregular labour market as an unregulated sphere

In the previous section we described several aspects of the working conditions within irregular migrant labour markets. In this section we examine some characteristics of irregular migrant work that deserve special attention from an analytical perspective. The analytical perspective starts from the fact, that irregular labour markets are unregulated spheres. This, in combination with the vulnerable and discriminated social status of migrant workers in general, and of un(der)documented in particular, creates certain features which are described below and which were identified in our empirical material.

### 6.1 Time use

One of the most outstanding features of labour use in relation to irregular migrant labour markets is the time use of irregularly working migrants. According to one UK academic expert, time and labour mobility are key aspects in analysing irregular migration and labour markets particularly in relation to precarious work. What Tsianos and Papadopoulos (2007) point out as a characteristic of precarity in general, applies in particular to the situation of un(der)documented migrants. 'Precarity means exploiting the continuum of everyday life, not simply the workforce. In this sense, precarity is a form of exploitation which operates primarily on the level of time.'(2007:6)

Our empirical data produces much evidence of an extensive time use of migrant labour within irregular labour markets. We have many examples from our interviews where migrants have had to work 10-12 hours a day, six or even seven days a week. For example in the UK several interviewees spoke of long working hours: one Nigerian interviewee was working 12 hours a day, six days a week; a pizza worker from Algeria was working a 10-hour day, six days a week; a 24 year old from Russia had, in one job, worked 10 hours a day, seven days a week. She had managed to stay in the job for just three months. In Austria a Turkish hairdresser worked 12 hours a day, 7 days a week and there were more examples of the more or less same extensive working hours in the other countries.

Here we note two aspects in relation to working hours. In most cases excessively long working hours were combined with low pay. That often meant that un(der)documented migrants had to accept long working hours in order to achieve a level of income, adequate for survival while at the same time being able to remit money to their families in their home countries. As an illustration, many of the interviewees in the Italian sample were obliged habitually to work overtime or to find a second job. At the time of the interviews, nine of the 30 interviewees had to work overtime for economic reasons. In the span of their migration experience no less than 22 of the 30 immigrants interviewed had worked exceptionally long hours. Additional to their economic needs, many of those in irregular jobs found that it was taken for granted that they would work long hours and they had no alternative if they wanted to keep their jobs.

The second characteristic of time use is the flexibility and permanent availability of the irregular migrant workforce. Here we discerned two opposite aspects, as the employers' definitions of flexibility, was casualisation for migrant workers. Casual jobs, whatever the sector, were a very important source of income for undocumented migrant workers. Examples of such casual jobs included distributing advertising material or working in house removals. But in construction, agriculture and hospitality as well, a 'flexible' casualised workforce is used to respond to labour demands in peak periods.

Irregular work shifts and casual work meant that working hours differed substantially from week to week, or from month to month. For example, an undocumented worker from Ukraine, living in Austria, described his work availability as 'Saturday, Sunday, day and night.' And it was particularly at the beginning of their migration work experience that casual jobs dominated.

This means that periods of excessive working hours alternate with periods of under-utilisation, causing economic difficulties. One interviewee in Austria, a Slovakian semi-documented migrant, highlighted this. She said that in one of the jobs she had in a hotel, she had to work every day for a 75 day period. Moreover she was even called in during her time off when unforeseen guests arrived. It was work on call in the truest sense, characterised by the total lack

of regularity. She recounted, 'Often I had to stand in two-three times a month. There was no system. It was not 40 hours a week, but one day I worked – I don't know - 7-8 hours, the next only two.'

Most irregular jobs were very flexible in character. Short-term demands made it hard to work in several jobs at the same time, to increase individual earnings yet often the amount of pay that individuals obtained in their primary jobs was not enough to cover basic live expenses. The problem was worse because un(der)documented migrants hardly had any time at their disposal, because even in times of under utilisation they had to be prepared to stand in whenever casual work was offered.

Notably, in situations where the casual character of available jobs created financial problems, the problem becomes one of how time can be filled with work to permit economic survival. Resulting from the extreme vulnerability and economic insecurity of undocumented migrants Piper (2008:227/228)) points out that the imperative of calculating dominates their relation to work and time. Their time is not only constantly at disposal for temporal unpredictable jobs moreover they are forced to continuously invest time in the acquisition of new (casual) jobs. This kind of permanent insecurity reduces human beings in a way to calculating machines with regard to their economic survival.

Domestic work in general, and 24-hour home care in particular, are a paradigmatic example of the time use of irregularly working migrants. It combines excessive working hours with complete time disposability. For example, an interviewee in Italy, a Ukrainian migrant worked as a childminder in Bari for five to six months while she was undocumented. Apart from her childminding duties, she was actually doing all the domestic work in the household. She never had a day off in the week, since even on Sundays she had to accompany the family to its vacation home at the seaside. Her standard working day began at 7 am and ended at 10 pm.

Particularly in the case of live-in workers, the working day was potentially around the clock with no possibility of time away from work. The interviewees described work patterns that seemed endless and the lines between working

and private life were non-existent. Work on call and endless working hours were also reported in another type of job, that of a sex worker in Denmark who explained, 'There are no specific working hours; they call you when they want to. You are on call all the time and once they call you have to be available. When I work in the club it is from 5 P.M. to 5 A.M. But most of the time you have one client so you do that. That is the ideal type of work [in this profession] but you can be less privileged and be obliged to work a 24 hours shift.'

## **6.2 Total dependency beyond rights - self perception as slaves**

In all seven countries migrant workers reported experiences of excessive exploitation. The lack of any labour rights led to a range of disadvantages they were confronted with. Extensive working hours and lack of control over their time are two that have already been discussed. Another element was that in some cases individuals felt that they had no right to take time off if sick. Several interviewees reported that they went to work despite severe health problems. For example a Turkish student in Austria told us that he had once worked for three weeks in a restaurant, despite having pneumonia secreting blood. Despite being paid at very low wages, several interviewees told of having experienced deductions from wages for sickness absences.

So many of those interviewed faced dramatic levels of exploitation due to their high degrees of dependence on their employers, as a consequence of their vulnerable status, even though several 'accepted' exploitative working conditions without complaint, as they were able to earn more than in their home country. But many interviewees used harsh words to describe the extraordinary bondage situation they found themselves in and their feelings of indignity at being at the mercy of their employers. It was this self-perception of their working situation as kind of 'slavery' that caught our attention when analysing the interview data.

Often the relationship between employer and un(der)documented migrant conceals the specific dimensions of the exploitation of migrant workers, for example in the case of those personal relationships often established in

domestic work, which are concealed by the contrasting situations of kindness and gratitude. But it was in those cases when subordination shifted over to bullying that it became explicit how racism - the rule of the West over the people of the global South and East – established itself within employment relationships. A relationship that the migrant workers defined - but rejected - utilising terms of colonial memory, as in the cases of two interviewees in Italy. One noted, 'I do everything. Like a slave'; while the second noted 'And then I told him: 'We are workers and never again will we be slaves''

This self-labelling as 'becoming slaves' by irregularly working migrants themselves, is a strong expression of their feelings of total dependence, in a situation without any rights due to their irregular status. A political refugee from Sierra Leone in the UK pointed out 'what a difference a document makes. Obtaining the document for legal status in the UK changed my life. Without it I would not have ever been able to go back to normal life. Even though I am still on medication, I can walk the streets without any fears; I can socialise, but more importantly, I can work. Once you are legal you are free from fears. If you are illegal, you've lost your freedoms. You can't even walk out on the streets without fears; you become a slave; you do not have any rights in the country.'

Often such feelings of 'being a slave' appeared related to a situation where the dependence was totally due to obligations connected with irregular status and debts. A Ukrainian migrant living in Italy reported an experience at the start of her migration project, 'It was very hot and I had the right to bathe once a week with cold water. It was terrible. I cried every day. Then when I began to understand the language [I realized that] she was continually telling me: 'You are the slave, I am the mistress.' I had to keep quiet. I couldn't talk back and I couldn't leave either, because I had debts. I arrived in Italy with the debts I'd gotten into to buy the visa and to leave something to my family to live on. I arrived with debts; I couldn't slam the door and leave. In the end I decided either I find another job or I go back to the Ukraine, because no one can crush me the way she does.'

It was not only in irregular employment relations, with host country employers, which might be interpreted as a manifestation of racism and where the most extreme feelings of slavery occurred. It was also the case in those employment relationships with employers belonging to the same ethnic community. We can illustrate this by the case of a Turkish migrant in Austria who, though regularising her residence status, remained in an exploitative relationship. A female Turkish migrant had managed a status transition from completely undocumented to documented. Regularising her employment contract with the same employer, her status transition didn't bring the expected improvement of working conditions. The main reason for that was that the combination of the ethnic community's informal structure, dependency on the employer due to the 'illegal' form of her status transition (through a fictitious marriage) and the economic outcomes. To pay the price of the fictitious marriage she had to borrow money from her employer and pay it back through working for the employer. However, the irregular nature of her status change (fictitious marriage) and the fact that her employer was involved in this (by advancing her the necessary money), her experience was that regular employment had not led to a decisive improvement of working conditions. She could not claim rights connected with her now regular employment contract. In her own words she said: 'I knew that so long as I had not paid back the money I would have to work almost like a slave. But I had no other chance.'

Our research shows very clearly, that debt is by no means limited to the specific time of migration: it can be incurred before entering the country of destination in order to pay the smugglers or the trajectories that provide entry visas for tourism; it can be incurred in the course of the process of exit from irregularity, when purchasing a bogus employment contract to obtain a residence permit for work purposes or to finance the costs for a fictitious marriage; it can be incurred when one has already obtained regular status, for family reunification.

Even though the above examples do not correspond exactly to the narrow definition of forced and bonded labour it shows that the line between forced or

bonded labour and certain employment relations in informal migrant labour markets is very narrow, often blurred and therefore often unrecognisable. This is another characteristic aspect of the fact that irregular migrant labour markets constitute unregulated spheres. This was explicitly addressed by a Turkish migrant of Kurdish ethnic origin in Austria who said 'We do not have any labour rights. If you do not hold a work permit the employer deals with you as if you were a criminal. You are treated with contempt and discriminated against. Also colleagues have contempt for us. They think we can do any lousy job – it's sometimes like you are a forced labourer. They know that we don't have any rights and allot the most dangerous work, e.g. working on the roof in winter, to us.'

### **6.3 Arbitrariness**

Another aspect of the unregulated sphere, which constitutes irregular migrant labour markets, is the arbitrariness of employers as a dominant form of operation. Because informal migrant labour markets are characterised by a total lack of any (labour) rights, the working conditions of irregularly working migrants are dependant on the good will and the character of the individual employer. Even though we found significant evidence showing that irregularity leads, in many cases, to that super-exploitation of the irregular migrant workforce, it is important to make it clear that this does not represent the whole story. In interviews with two NGO-experts from Spain, for example, it was stated that in the world of shadow economies there would be a range of different employer types. Similarly, one of the Belgian expert interviewees from an NGO dealing with migrants noted, 'Even in the informal economy, some employers respect social laws. Even in the case of prostitution, some studies show clearly that women know very well that they are going to be prostitutes and accept the conditions of work, even prior to their departure.'

Several interviewees in the seven partner countries spoke of being treated properly by at least some of their employers who demonstrated some kind of understanding of their vulnerable situation, which was combined with specific support for them. Their lack of rights within irregular migrant labour markets

means that employers had to fill this unregulated sphere with their own actions based on their own ethical stances and values.

In Denmark this was specifically addressed in relation to the special situation of au pairs and was referred to in several interviews. These spoke specifically of some women who were working as au pair being in a fortunate position if their host families were kind and considerate towards them, and had managed to integrate them into society by providing opportunities for language courses and so on. Other interviewees, on the contrary, spoke of abusive work arrangements, with one interviewee noting, 'I came here to be au pair. In the beginning I obtained a visa for 3 years but it could not be prolonged beyond that period and my hosts were [employers] were very bad. They hired me out to all their friends and family any time that the others needed someone to work for them. During the first 3 years I was working at five different houses and I never had any time off. Every time I complained they told me that they would not help me with renewing my papers. I applied for an au pair job and based on that I got visa at Danish embassy in Latvia. Then I got here and my host family turned to be a very bad family and they abused me for four years.'

One UK expert interviewee pointed out that especially within the different forms of domestic work the power of employers is direct and 'personalistic' and at the same time clothed in the language of obligation, support and responsibility. The delineation between work and what is done as a favour becomes blurred. A woman working in private homes stated, 'sometimes they ask us to baby-sit and they pay us extra, 100 Dkr. (13 Euro) an hour, but sometimes I don't take the money because it is my way of rewarding the goodness they have shown to me – and sometimes they go to the summerhouse for a whole week and I look after the house, but that's not work.' In cases like this the woman ends up working beyond her contract because she feels that she has additional obligations towards her employer and consequently may either not ask for payment or reject any offer.

The harsh exploitation of an irregular workforce is not the only reality in informal migrant labour markets but the lack of any rights, means that the quality of working conditions are a kind of a lottery, dependent on the ethical

standards of individual employers. As several studies and many examples from our interviews show, to be at the mercy of individual employers increases the range of working conditions that operate below labour standards and creates greater scope for crude exploitation. Above all, relationships of kindness and gratitude between employer and irregularly working migrant offer little space for rights. Even though the freedom to withdraw labour may be conceptualised as a means of limiting employers' power, especially in domestic work, the basic relationship is characterised by a totally unbalanced power situation, advantaging employers' interests.

## 6.4 The active role of migrants

The findings presented so far have focused on the exploitative features of the informal labour market structures un(der)documented migrant workers are confronted with. This may lead to the impression that un(der)documented migrants are solely perceived as passive victims and objects of exploitation.

The interviews however show that moving within unregulated spheres, such as informal migrant labour markets, requires a much more active role than in regulated regular labour markets. Without the protection of regulation and confronted with very unstable employment situations, creativity and invention is required just to make ends meet. A variety of competencies are needed to move successfully in informal settings in difficult circumstances that restrict room for manoeuvre.

The concept of the 'Autonomy of Migration' is another interesting approach for both making visible but also embedding the struggles of migrants into a theoretical framework of contemporary migration. Migration is seen as a new type of social movement, which occupies and opens up a new social space and new fields of conflict. Thus, while mobility in form of labour migration is the source of exploitation, insofar as capitalism relies on labour force mobility, mobility is at the same time 'the source of escape from relations of exploitation and dominance' (Mezzadra, 2007; Bojadžijev, 2005; Transit Migration Forschungsgruppe, 2007).

Düvell (2006b:194) addressed the twofold dimension of flexibility in his study on irregular migrants by pointing out that on the one hand, migrants, and in particular irregular migrants, are negatively affected by immigration politics, racism and discrimination, marginalised by labour and housing market mechanisms and often facing a degradation of their skills, social rights as citizens and employees and in community relations. But on the other hand his research shows that the 'individuals interviewed are extraordinary': they are highly flexible, mobile and adaptable and show strong aspirations in terms of improving their human capital. All in all, they 'usually do not perceive their situation as being particularly unbearable' (ibid.:195).

This perception remains in contrast to the general stereotypes of un(der)documented migrants as antediluvian, unskilled, not emancipated and un-adaptable. Our research provides several examples of migrants who both managed to deal with their undocumented status and to struggle successfully through the minefield of informal labour markets. Even though social capital, in form of ethnic and/or family networks support was present, many of them decisively, especially in the initial phase of their un(der)documented stay in the country of destination, were often found on their own.

Social networks are not always present prior to migration and may have to be established under unknown circumstances. In the UK some migrant interviewees had 'constructed' social networks. One interviewee, for example, did not have any contacts in the UK prior to nor on arrival. However, she had sought out social networks through stopping anyone who physically looked as if they had also come from China, her country of origin, until she was able to find people who could assist her in finding work and support. She eventually established a network of Chinese friends. Another Chinese interviewee had also arrived with no prior contacts but had asked to be taken to Chinatown and from there had obtained support from other Chinese migrants.

To illustrate un(der)documented migrants' active role, their significant flexibility and adaptiveness to very unexpected and difficult situations, we wish to highlight the specific situations of female migrants, by addressing two examples from Austria.

One of the two, a Turkish woman, had come to Austria through an arranged marriage with a Turkish migrant already settled. However, after three months, during which time she was treated, according to her testimony, like a slave in her husband's parents' house, she was thrown out and had to live with her father whom she also did not know very well. As a consequence she had to build up her own network of social contacts to survive as an expelled woman in a foreign country who did not know the language. The existence of a relatively large ethnic community of Turkish migrants in Vienna facilitated her efforts for financial independence. Through a Turkish neighbour she got access to a German language course. There she got to know other Turkish migrants who provided an opening into irregular cleaning work in Turkish private households and later on in a Turkish restaurant, where she managed to get hold of a work permit.

Her story is a good example how some women migrants organise to cope with extraordinarily difficult situations and the type of strategies they developed to survive under completely new circumstances. At the age of nineteen she had not only managed to get access to a German language course but also to work to earn her own living. She had also managed to regularise her employment status on her own. And finally she managed to persuade her father bring her mother and her siblings in to Austria.

The second example is of a woman who had graduated as a staff nurse in Slovakia. Because she could not earn a living in her profession at home she decided to migrate. Her whole story is a long fight for successful migration, which ended in regular employment 12 years later in Austria and a process of disillusionment about the 'Golden West'. Her migration project began with jobs in Germany, first as an au-pair and later as a nurse. Forced to return to Slovakia she muddled through with casual jobs and then worked for five years in irregular 24-hour-care jobs in private households in Austria. During that time she successfully completed the requirements for recognition of her nurse diploma in Austria as the precondition for regular employment in the healthcare sector. She worked for some time in supply jobs in private hospitals and then succeeded in getting a permanent contract in mobile

elderly care at the municipality of Vienna. The determination and energy with which she battled for more than ten years to establish herself in the so called 'Golden west' were remarkable – a process full of disillusionment and experiences of exploitation.

Many female migrants in our sample faced with the difficulties and challenges of (irregular) migration moved beyond 'traditional' female role models and realized a independent way of life. Beyond the examples cited above, we could have added many more from the other partner country interviews, making it clear that the widespread held stereotypes of (undocumented) migrants do not reflect reality. Moreover, the examples show that the unregulated framework of irregular migrant labour markets, often combined with undocumented residence status, required a kind of active approach to life in general and to work in particular and a kind of flexibility which in fact corresponded to the often discussed features of the ideal worker in the postfordist 'knowledge society'. Therefore we come to the same conclusion as Düvell in his study 'Migrants seem to satisfy ideally the demands of flexibility, adaptability and life-long learning' (2006b:196).

## 7. Trade unions, protection and organisation

As shown in the previous chapters, un(der)documented migrant workers form a very vulnerable group on the labour market. Performing dangerous and strenuous work and at the same time lacking fundamental labour rights, it stands to reason that undocumented migrant workers need the support and solidarity of workers' representative organisations, such as trade unions. However, in reverse we also need to ask why it is that trade unions rarely regard undocumented migrant workers as a potential source of new members.. The relationship of un(der)documented migrant workers to trade unions was therefore an important aspect of the interviews conducted with migrant workers. In this section we present some insights, in particular from those interviews, on their perceptions of trade unions' policies towards (un(der)documented) migrant workers and compare these with the existing literature on the issue.

Our research demonstrates that trade unions in the seven EU-countries involved have very diverse policies towards undocumented migrant workers. Their activities for and with undocumented migrant workers range from hostile to ignorant to very supportive. Consequently the engagement of undocumented migrant workers within trade unions differs from country to country. Besides trade unions support for un(der)documented migrant workers, different types of formal and informal networks are important for migrant workers' labour struggles, which will also be discussed in the next section of this report.

### 7.1 Trade union approaches to undocumented migrant workers

In Austria, Denmark, Belgium and Bulgaria the contact between undocumented migrant workers and trade unions was very rare. Trade unions in these countries did not generally address migrant workers' issues and – to the contrary – saw them rather as non-solidarity competitors in the labour market. The tenor of interviewees' answers to the role of trade unions in supporting undocumented workers was that no assistance was expected from national workers' organisations. The experiences were broadly negative and

summed up as being that, in the absence of a work permit, neither the trade unions nor other official workers' representatives would feel responsible for defending migrant workers. Recent discussions about the legalisation of care workers in Austria illustrate the trade union position in relation to un(der)documented migrant workers.: An initiative of the Austrian government to legalise the employment of 24 hour care workers in 2007, was attacked by the VIDA union, which sought to protect its members from migrant 'wage dumpers' because the law foresaw an additional new mode of employment for care workers in private homes, which could have undermined existing labour standards in domestic care. The problem was that VIDA did not attempt to take migrant domestic workers' points of view into consideration, when negotiating and criticizing the new law. They – although working in Austria – were not regarded as trade unions' natural base. Silverman (2005) addresses a key issue for trade unions' relation to undocumented workers. She questions whether it is possible to support irregular workers in their present situation (e.g. irregular status), limit their exploitation but still maintain the competitive advantage that provides them employment – taking labour struggles in the US construction industry as an example for how to square that dilemma. Further it was argued in the literature that trade unions, in failing to support migrant workers, particularly at times of crisis, help maintain the vulnerability of much migrant employment. A particular complaint is that trade unions have often failed to support their black and Asian members, when they have pursued complaints of race discrimination. (McGovern, 2007:229)

In one of the interviewees with undocumented migrant workers in Denmark in answer to the questions about trade union engagement with migrants, stated, 'I don't know who the trade unions are but I think it is for legal workers and not for illegals but I don't care I don't want to talk to anybody who can act as spy.' In this quote the twofold perspective of un(der)documented migrant workers towards trade union's role is set out. On the one hand the impression dominates that trade unions do not work for undocumented migrants precisely because they are 'undocumented'. On the other hand representatives are viewed as being closely linked to the authorities and are perceived as suspicious since they oppose and may even denounce irregular employment.

In some cases migrant interviewees had no prior knowledge of union organising, in others they stressed that they were uninterested in campaigning for workers' rights because their current jobs were just seen as a transitional phase in their lives. Another reason for not getting involved in trade union activities was fear of losing their jobs if the employers know that they had joined a trade union. We also were told that threats to undocumented migrant workers, who might want to get involved in trade union activities, were common. A representative of Abraco, an association supporting Brazilian migrants in Belgium spoke of this.

A representative of ETUC, interviewed for the UWT project as an international expert, addressed the question of migrants undercutting existing terms and labour conditions. She noted that the logic of unionising had always been that those outside unions threaten established standards, so unions needed to be as inclusive as possible and this had been at the core of their struggles over the last 200 years. Minimum standards, regardless of nationality, had to be enforceable and that meant a clear distinction between, on the one hand, enforcing labour standards and combating labour exploitation and, on the other hand, policies for dealing with migration status. The ETUC's position was that the key issue to be addressed was to ensure that workers were not set against each other.

In Spain and the UK at least some of the interviewees had had contact and sometimes good experiences with trade unions. Mostly, this was in the form of information about legal and labour rights and the general attitude of migrant workers towards trade unions was positive. However for those who were undocumented there was more distance between trade unions and them. A Turkish woman cleaning in private homes in the UK favoured the existence of trade unions and had thought about joining but conceded, 'if you are undocumented how can you. I think that trade unions can do lots of good things for migrant workers. It gives you a safety to be a member.'

In Bulgaria the issue of undocumented migrant work was not tackled by trade unions. However, Bulgarian trade unions were making some efforts to include migrant workers, in general by strengthening bilateral agreements with British

and Spanish trade unions. These agreements were aimed at providing support and information to union members from another country working in Bulgaria. They would also offer union membership to long-term migrant workers.

In Italy, support for migrants had been principally the concern of the Catholic Church, the trade unions and the non-profit sector (associations, social cooperatives, NGOs, etc.). Various forms of resistance of migrant workers themselves, channelled through associations and trade unions, have been developed.

As a consequence migrant workers were seen as a fundamental component of the trade union base, both as members - as the 526,000 members, nine % of total membership in 2006 demonstrate - and as delegates. Also the interviews showed a – in comparison to those of the other partner countries - a high rate and positive attitude towards trade unions. Most of the interviewees had joined a union for the first time in their lives in Italy. Union membership had usually coincided with gaining permanent work, in particular in the industrial sector, in firms that were already unionised. In some cases joining the union was an individual choice, stemming from the need to defend oneself against forms of extreme exploitation. In one case it was a decision made collectively with all fellow workers, as a form of resistance and of self-organization in a non-unionised subcontracting firm.

The high rate of migrant unionisation in Italy was due to a number of elements:

- 1) union structures provided their members with a series of services - such as assisting in the bureaucratic procedures for the renewal of residence permits or for family reunification, or in the search for accommodation, which, while extraneous to the immediate world of work, were important for social inclusion;
- 2) a growing number of migrant workers were turning to the union as an instrument of individual and collective protection in the workplace and,

along with migrant associations, as an instrument of self-organization in a range of struggles.

This evolution has had a positive influence on union policies themselves. In national contracts, for example, specific measures in favour of migrant workers, such as Italian language courses or the accumulation of holiday leave, are increasing; just as - albeit in a contradictory manner - questions of inclusion and of representation within the union, and in society in general, are now being discussed. However - as a Cameroonian trade union member working in Italy, emphasised - on the question of immigration the union could do much more, starting with a full recognition of the needs of the migrant workers, 'I think [the union] has not yet taken real measures. It talks about lots of things, but doesn't say much about immigration. It has to respond to you if you have problems on the job, otherwise [the relation is reduced to the fact that] it takes ten euros a month of your wages. [...] I'll give you an example. You see that I just have a bed in a room with other people: it's not because I want to stay here, because I'm looking for housing, but I can't find it. And the others who live here with me can't find it either. So something needs to be done also for us, and also to help us bring our families here. The union can do it. It pretends to do something, but, you see, I'll have to ask for the help of a lawyer and pay good money for a procedure that is free of charge. [...] We, too, want to live. On this planet, on the Earth. I hope that all the citizens of the Earth can live at least as equals. We... I don't ask for much, I ask for just a little.' This importantly demonstrates that the problems of irregular migrants are not limited to the working sphere but encompass the organisation of their entire lives. Trade unions in Italy and UK have begun to recognise that addressing and supporting undocumented migrant workers must take account of different areas of their lives. Work and life have to be thought and addressed together, since precariousness for migrant workers is all embracing.

## 7.2 Alternative forms of organisation and empowerment

As discussed above, in some countries support by trade unions or other established interest groups for migrant workers is lacking. However, many of those interviewed had used organisational networks, to assist them on first arrival and to access important first jobs. This shows that they did not reject collective ways of organising. Associations, especially those of a cultural or religious character, had unquestionably been one of the primary forms of self-organisation adopted by migrant populations. At first they were substantially a means of self-defence and mutual support and, at times, a moment of meeting and reciprocal acquaintance with the host population. NGOs as well played a crucial role in supporting migrants, especially in providing legal and practical advice to organise lives in the country of destination.

Due to their vulnerable status and to the reluctance of the public to address and recognise their particular problems, it was more difficult for undocumented workers to develop strategies of resistance and of collective action. Therefore, informal, self-organised and small-scale forms of industrial action were taken against abusive employers and their practices. An example for self-organised collective action was described in Austria's agricultural sector, in an interview with an undocumented migrant worker from Chechenya. Sometimes working hours were not fixed, working time was extended and unpaid; one a farmer never paid lunch breaks, wages were also very low in comparison to those paid by other farmers. He and other colleagues refused to work for this particular farmer anymore. The consequence was that no asylum seeker would work for him and he could not bring in his harvest. When his cabbages already begun to freeze he agreed to pay the workers more.

Despite this positive example, the powerlessness of undocumented migrant workers as against their employers was the tenor of most of the interviews. Their irregular status impeded their (legal) *right* to represent their position and interests as labourers. However, this did not mean they were without any power to struggle – but they did it from different starting points and with different means. Here we need to ask what conditions might ease or make even it possible for undocumented migrant workers to resist unfair and exploitative working conditions. Alternative Job possibilities in the irregular

labour market, contact with other migrant workers, a minimum of financial and/or status security e.g. as asylum seeker, accessible public or private support, all seemed to be relevant factors in taking up labour disputes. Collective direct action was rare, however indirect strategies to combat or boycott employers had occurred more often, based on the interviews conducted. One important strategy of solidarity was the mutual support, advice and alerting colleagues of which employers have to be avoided due to their exploitative labour conditions.

Our research shows that in all countries covered by this report, the support of un(der)documented migrant workers by trade unions was insufficient or sometimes totally lacking. In Italy the commitment was the most evident and some trade unions can refer to combined struggles of un(der)documented migrant workers and native workers against exploitative labour relations and anti-worker policies. Other trade unions remain more remote in their relationships towards migrant workers and did not regard them as colleagues or comrades but as competitors to be protected against. This position has led to the emergence of other NGOs supporting the rights of un(der)documented migrants as workers. In all seven countries migrant NGOs appeared as active supporters and advisers of un(der)documented migrant workers, not only in matters of housing, legal status, health provision, but also in job-related issues.

Due to the different kinds of organising required in relation to undocumented work, traditional industrial action, performed as collective struggles like strikes, were rare. The bulk of resistance happens in indirect – also collective – strategies aiming at boycotting or threatening bad employers.

Trade unions must therefore start to rethink their positions towards un(der)documented migrant workers and ethnic minority workers as part of a globalised economy. To be open to listen to new experiences does not only mean having to face new realities but having to accept the existence of non-traditional working biographies and also to learn from alternative labour struggles, which should be a key condition of proclaimed international solidarities.

## 8. The impact of irregular migration on employment and wages

This section discusses whether irregular migration has an impact on employment, wages and industrial relations in general in European countries. In addition to the existing literature it relies on insights in particular from the expert interviews and draws on the experiences of the interviewed migrant workers.

### *Limited impact*

According to the literature there is no evidence as to whether the wages or the jobs of the domestic labour force are in general jeopardized by irregular migration – however there may be impacts in certain sectors of the economy for certain groups of the labour market, in particular low qualified job holders and documented migrant workers. (Schönwälder et al., 2004:47). An OECD expert, interviewed for UWT, noted that in most OECD countries there has been a long standing tradition of immigration from different sources changing over time including undocumented immigration, therefore it is very difficult to eliminate irregular migration to analyse its effect on the domestic labour force.

A report for the UK Home Office (Dustman et al., 2003) found 'no instance where the presence of immigrants was associated with a fall in wages'. There was not even evidence to support the claim that migrants displace native-born workers in the labour force or those who arrived through previous waves of migration. In contrast, they found a slight positive effect on the wages of native-born workers, due to migrants bringing skills that are complementary to those of the existing workforce or perhaps enhancing entrepreneurial activity (McGovern, 2007:222). According to a Bulgarian expert from OIM, undocumented migration appears when there are niches to be filled in the labour market. There is no competition between the local population and undocumented migrants; in contrast there were labour shortages in some sectors in Bulgaria. For Austria as well, a labour market and migration expert stated that irregular work was complementary to regular work. However, in that experts' view, due to the deregulation of the labour market in recent years, there were areas where a direct competition between groups exists, for

example in the construction sector and therefore a substitution process of regular by irregular workers is under way: skilled irregular migrant workers substitute low or unskilled regular migrant workers.

The reasons given in the literature for the limited impact are that first the number of irregular migrants in the European Union is, compared to the overall labour force, very small. However, it may be useful to differentiate between countries: those with a large underground economy such as Italy are more likely to host a relatively large number of un(der)documented migrant workers. In Denmark in contrast, undocumented work does not play a very significant role within the economy. There, most employers were committed to hiring people at the standard legal wages, however some 'may be pushed into illegal or undocumented activities by unfair competition, due to insufficient resources to assist them to act in accordance with the law, or - especially in the case of small migrant businesses - because they lacked knowledge of the labour market and immigration laws', as a Danish expert from the bureau for advising entrepreneur migrants stated. In Denmark another factor came into play, 'the explosive growth of the Danish economy and the growing demand for labour, skilled as well as unskilled, through recent years has made it both possible and easier to find and to do undocumented jobs' reported the vice president of the Union of Hotels and Restaurant in an interview for the UWT project. He estimated that approximately a third of the jobs done in different branches, that make up the union, is done outside the legal regulations and was of the view that certain businesses such as hospitality are more 'suitable' for undocumented work due to the type of jobs, working hours, the structure of the work and the specific demand-supply afforded.

The second major reason for the limited impact lies in the segmentation of the labour market. The un(der)documented do not and cannot (because they have no access to the formal labour market) compete for the same jobs as the domestic labour force. The undocumented work of migrants is seen as complementary to activities in the formal economy, although it is argued that it may be that other (already settled) migrants compete with undocumented migrants who are ready to accept far worse working conditions than 'settled'

migrants or even citizens. A wage dumping and substitution process from 'more expensive to cheaper' labour can occur also with regard to migration groups themselves. An expert from the ETUC provided an example of the connection between labour displacement and labour migration from the Netherlands. Improvements of wages and working conditions for Moroccan and Turkish workers in the meat industry and agriculture had occurred as a result of union agreements, but with EU enlargement these workers were replaced by workers on poorer conditions from Eastern Europe, hired through agencies, so earlier generations of migrants were left without work.

In Denmark, wage competition did not come from un(der)documented migrant workers but from 'skilled or semiskilled workers from Poland or to a much lesser extent from Germany and Sweden who were registered as workers in those countries. It is not against any law at all, they take advantage of specific tax-reduction measurements, working at Danish wages, paying less taxes, e.g. transportation-related tax-reductions. They too, in the end, push wages down, making national competitors less attractive, due to their willingness to take on many different jobs. It's not undocumented, neither is it illegal, but it is indeed the greatest challenge.' (Danish expert from the bureau for advising entrepreneur migrants).

A UK academic and migration expert discussed other factors relevant to labour displacement and undercutting wage levels, such as age, noting that certain types of workers will always provide more flexible labour, and that toleration of insecurity often goes hand in hand with youth. For example, students moved into working in retail and hospitality, effectively displacing low qualified workers, but now UK students are being replaced by A8 nationals. In construction in early 2000s there were a lot of complaints by older workers about East European workers undercutting wages, but the literature shows that older workers have always complained about younger workers, whereas now it has been given a 'migration twist'.

### *General trends towards precarisation*

The real question, according to the OECD expert, is not the impact of undocumented migration, but the relationship between the underground economy and formal labour markets, i.e. how the formal market wage responds to the size of the informal economy. He stated 'You can easily convince the public that wages in the formal sector are depressed by illegal immigrants, but if you were able to close the doors on all illegal immigrants you may find it has no effect on the formal sectors' wages because the informal economy may expand with native born workers'. A Bulgarian expert from the OIM also saw a connection between the importance of the informal economy for the entire economy and the labour force in Bulgaria, where it is common not to work with a formal contract. The possibilities for undocumented migrants integrating into the existing labour force are therefore greater than in those European countries with stronger legal traditions. The same is true for Spain where the shadow economy is a structural factor, accounting for 25% the GDP and the formal productive system resorts to it continuously.

An expert from the ICMPD emphasised the importance of un(der)documented migrant workers for the survival of small businesses who were not innovating or using new technologies to compete in global markets and as a way of resisting change use cheap labour to maintain profitability: 'The informal sector on the whole creates a lot of problems. I'm reluctant to condemn it or to say it works well. It's a compromise measure where people are getting by, the small businesses or the families which can't employ someone for high wage costs get by this way, the illegal migrants who couldn't get a formal job survive within it, it's a survival strategy on everyone's part.' Furthermore he was inclined to see the growth of the underground economy and of undocumented migrant labour as a component of the increased casualisation of labour, 'as just another way for Europe in particular to remain competitive in the global economy. The existence of the informal economy is an important element to depress inflationary wage pressures and to control costs in Europe in the increasingly difficult environment of a high Euro and a consequently low

competitiveness of exports.' From this point of view however casualisation processes and the devaluing of labour is not a matter of political will to shape labour relations but an inherent necessity.

The discourse about the 'salvation of the economy' for everybody's sake by relieving employers of labour costs was caricatured by a Chechenyan refugee, working during the harvest period in Austria: 'The farmers complain that they themselves get little money for their fruits. Probably [the employer] wants me to pay HIM so that he need not sell his own house.'

The other aspect of the availability of cheap labour in the informal economy is that the restructuring processes of the entire economy are delayed. Employers who rely on cheap labour and who do not innovate or rationalise are rewarded instead of being expelled from the market, as another ICMPD expert critically commented. He argued that new solutions had to be found on an economic level and in reorganising the labour market itself. If politicians did not propose the reform of labour markets, market forces would regularise the demand for and organisation of labour: Employment was declining, freelance contracts and consultancy work were on the increase, because the flexibility of workers had highest priority. And irregular migrants were the most willing to accept these working conditions.

What seems more relevant than the competition between un(der)documented migrant workers, migrant workers and citizens, is a general trend towards a destabilization and precariousness of job biographies, including a reduction of wages, again in particular in certain sectors. The emergence of semi-compliant employment forms, as described in the previous chapter (sub-contracting and self-employment), both includes recourse to undocumented migrant workers and leads to indirect cost cutting and wage reduction. Forms of payment and work organisation such as piecework (construction) or fixed daily or monthly rates (catering and care work) undercut practices of hourly and controllable wages.

It is not just undocumented migrant workers but migrant workers in general on their road towards stabilising their (working) biographies and becoming

integrated into the formal economy that are confronted with precarious labour and living conditions. The Italian case provides an interesting example. The interviews with migrant workers attest that nearly all the interviewees, after having experienced the 'illegal' precariousness of the underground economy, then also went on to experience a variety of forms of 'legalized' precariousness within the regular economy. Before obtaining a job with a permanent contract, migrant workers went through a lengthy series of contracts: apprenticeships, training, seasonal, fixed-term, temporary agency, or permanent contracts but working for fixed-term contracting firms or cooperatives.

The inclusion and the stabilization of migrants into the regular economy organically combines the more general processes of the casualisation of the world of work with the specific processes of segregation and racial stratification, sustained by systemic discrimination. This process combines with a series of practices that, while not illegal, are widely tolerated, and concern the non-payment of wages in respect of holidays, sickness and redundancy.

A Croatian woman in Italy summed up her situation as a worker in transition: 'It's always the same, always the same, always the same. It's not that not having documents changes anything for you, [...] it's not that you're treated any differently because you have a regular contract. I don't see any difference between when I was without a contract and now. No difference: one has to work. It's not that you have a thousand opportunities when you look for a job: you have that one and you have to accept it. Later on maybe you see that it's not suitable for you. But there are no other [opportunities] That is the opportunity.' The typical profile is that of the wage worker working in non-specialized jobs offering little chance of promotion. Recognition of educational qualifications and professional experiences in the migrant's country of origin is systematically refused. This has a decisive affect on wages, which amount to between 1,000 and 1,100 Euros per month in manufacturing, and only half that in the domestic and care work.

*On welfare*

Another 'cost-advantage' of undocumented migrants is their non-accessibility to public services like education, health and other social services. It might be argued that the presence of a human being, regardless of his/her status should give access to fundamental human rights. But the reality is different and the enforcement of these rights is very complicated and takes years to establish. In contrast, it is more likely that irregular migrants make a positive contribution to the fiscal system (indirect taxes, direct taxes when working on borrowed insurance cards). An OECD expert referred to anecdotal evidence from the US that undocumented migrants offer benefits to the economy when paying enormous amounts into social security schemes. This is because increasingly, in the US, undocumented migrants use forged papers, can receive a social security card and set up an account, therefore being paid at least a minimum wage and making contributions to social security and social insurance, but they will never withdraw/benefit from these schemes because they are undocumented. He commented 'this is a ballooning amount of resources, which is a gift to native born workers in the social security fund.' In Europe there is an alternative position. Irregular migrant workers are not paid the minimum wage and social security contributions are avoided. As an expert from the European platform for migrant workers' rights in Italy emphasized, the consequences of informal work for the entire social system and for all workers may be negative: 'The constant availability of a stock of workers who are irregular, and accordingly easily threatened by their employers, weighs heavily in general terms on workers' rights. The fact that a part of the labour force will have no pension and has no coverage in cases of accident or illness gravely reduces access to social welfare for workers on the whole.'

## 9. Summary and conclusions

This section summarizes and highlights the most interesting findings from our research in relation to undocumented migrant worker labour markets.

### 1. The production of un(der)documented migrant labour

The un(der)documented status held by migrants is the consequence of legislative and political processes. What is 'irregular' is not fixed. Irregularity of residence and of employment status is produced by the relevant institutional and individual actors. Changing labour legislation, altering immigration rules and more restrictive or more open access of migrant workers to European labour markets influence not only migrants' immediate status in their countries of destination but also their migration trajectories. The second major reason for the growing number of migrant workers into the European Union is the continued demand for their labour and skills.

First there is the connection between a tightening of migration laws and the production of un(der)documented migrant labour. In all participating countries there is a trend towards a more restrictive legal framework of immigration, especially with regard to the labour market. Under the guise of combating exploitative labour relations, restrictive labour market policies and the increased activity of labour inspections, together with employers sanctions (as in the UK) are an inadequate strategy for solving the problems presented through irregular migration. It does not prevent irregular migration or un(der)documented migrant work itself but rather produces it. Additionally increased sanctions and controls do not lead to the elimination of un(der)documented work, but instead pushes these workers further into the shadow of the economy. Furthermore it may cause certain groups of un(der)documented migrants to stay longer in irregular employment relations and in the destination countries than they intended.

Using the example of asylum seekers, a paradigmatic case for semi-documented migrants, one can see what the consequences are. In most of the seven participating countries asylum seekers were not allowed to work while their claim was being determined upon, which has the effect of turning

them into a desired object of exploitation in irregular jobs. In Spain, where they do have earlier access to the labour market, their situation is considerably eased.

## 2. The entanglement of regular and irregular employment forms

Irregular migrant labour is not a phenomenon which exists beyond or completely separated from the regular labour market, indeed regular and irregular employment forms are entangled. This occurs in the context of more flexibilisation of labour and liberalisation of labour markets. Subcontracting and self-employment, in particular, are highlighted as two forms in which this entanglement occurs and which are strongly linked to the use of un(der)documented workers.

Employment agencies are often the link between regular and irregular work. They undertake tasks outsourced by bigger companies equipping them with un(der)documented migrant work. Even though this practice occurs in many sectors, it is in particular widespread in the construction sector where unmanageable subcontracting cascades facilitates such combinations.

Therefore semi-documented workers are the most likely participants in forms of irregular work. Of course fully undocumented workers still exist, even though it has to be stated that survival possibilities as a 'social submarine' are very different in the participating countries. Whereas in Italy, Spain or Bulgaria there was more scope for an undocumented existence, there was little room for manoeuvre in countries like Austria or Denmark. This goes along with the different role informal labour plays in the national economy. Whereas in Italy the shadow economy is seen as a 'laboratory of casualisation' with the parallel emergence of specific forms of immigration status, Denmark's economy is not, to the same degree, reliant on informal activities and on un(der)documented migrant work. However our research provides evidence for the intense use of un(der)documented migrant labour in certain modes of employment such as subcontracting and self-employment and the deep intertwining of the formal and informal sectors of European economies.

## 3. The characteristics of un(der)documented migrant labour

Looking at the characteristics of un(der)documented migrant labour we see a concentration in specific sectors like construction, agriculture, hospitality and private households. It is foremost in low skilled jobs in which un(der)documented workers are employed, but in construction and care work there is, to a certain extent, a demand for skilled migrant labour too. With respect to the sectors of employment, there is a kind of shadowing effect of un(der)documented work to regular work in all seven countries.

Un(der)documented migrants perform similar types of jobs to those at the bottom of the employment ladder and working legally. This is also true for the gender segmentation of irregular migrant labour which follows the same segregation as that of regular labour markets.

For un(der)documented workers informal networks and contacts – from family and friends, to churches – mostly related to ethnic communities - played the most important role in getting access to irregular jobs. This is the most important resource that un(der)documented migrants can use to move successfully into informal labour markets. But work agencies too do play a role in the placement of irregular migrant workers. In fact they are often the link between regular and irregular work. Our research suggests that the main reasons for employing undocumented migrant workers and the exploitative treatment that undocumented migrants receive is due to their lack of rights, their reduced labour costs (low wages, non-payment of social security contributions) as well as a restrictive labour migration policies combined with the absence of a domestic labour force.

#### 4. Unregulated spheres and their consequences

Irregular migrant labour markets can be conceptualised as unregulated spheres. The consequences are a certain kind of time use which is characterised by longer working hours, combined with extremely high flexibility and permanent availability; harsh labour exploitation which often is reflected in the subjective perception of their work situation as a form of 'slavery'; employer arbitrariness, which turn means that the employer's own ethical standards are a decisive factor in the treatment of un(der)documented workers. Even though the inherent high dependency from the employer could

be accompanied by relationships based on kindness and gratitude, there is little space for rights. But the fact that irregular migrant labour markets are unregulated spheres also necessitates a much more active approach on the side of the migrant workers than in regular labour markets.

Un(der)documented migrants are not solely passive victims and objects of exploitation. The lack of any protective regulation unfolds a range of unexpected skills and competences which allow un(der)documented migrants to move successfully through the minefields of informal labour markets and to deal with their undocumented status in a foreign country.

#### 5. The problem of representation of one of the most vulnerable groups

It is evident that un(der)documented workers are one of the most vulnerable groups in European societies, foremost because of their lack of those fundamental labour rights, which create the basis of working life in these countries. Therefore the question of protection and the possibilities of the expression, representation and enforcement of their interests is of the utmost urgency. But the institutions which played a major part in the establishing of high labour standards in Europe, the trade unions, very rarely regard un(der)documented workers as potential new affiliates. The research has shown that trade unions in the seven EU-countries have very different policies towards undocumented migrant workers. Their activities for and with undocumented migrant workers range from hostile to ignorant to very supportive. Whereas in Austria, Denmark, Belgium and Bulgaria trade unions do not address migrant workers' issues and on the contrary, view them rather as non-solidarity competitors in the labour market in Italy, Spain and UK they do pay more attention to these groups.

Our research has also shown that in all seven countries, the support of un(der)documented migrant workers by trade unions was insufficient if not totally lacking. This has led to the emergence of other NGOs taking the role of standing up for un(der)documented migrant rights as workers. In all seven countries migrant NGOs appeared as active supporters and advisers of

un(der)documented migrant workers, not only in matters of housing, legal status, health provision, but also in relation to work-related issues.

The problems encountered by irregular migrants were not limited to the sphere of work but encompassed the organisation of their entire lives. Trade unions in Italy and UK have begun to recognise that addressing and supporting of undocumented migrant workers entails taking different aspects of their lives into account. Work and life have to be thought and addressed together, since precariousness for migrant workers is all embracing.

## 6. Impact of irregular migration on employment and wages

The possible (negative) impact of irregular migration and un(der)documented work on employment and wages levels in European society is a hot topic in political discourses on migration. The analysis of the relevant literature and studies as well as the evidence from our expert interviews suggests that in reality the impact is limited. First the number of un(der)documented migrants in the European Union is relatively small compared to the overall labour force.

The second major reason for the limited impact lies in the segmentation of the labour market. The un(der)documented do not and cannot (because they have no access to the formal labour market) compete for the same jobs as the domestic labour force. The work that undocumented migrants undertake is seen complementary to activities in the formal economy, although it has been argued that in particular other (already settled) migrants compete with undocumented migrants who are ready to accept far worse working conditions than 'settled' migrants or citizens.

It is rather the general trend towards flexibilisation, towards a destabilization and precariousness of job biographies, including a reduction in wages, again in particular in certain sectors, which seem to be more vulnerable to a corrosion of labour standards, rather than the competition between un(der)documented migrant workers, migrant workers and citizens that is occurring.

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