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Final report

# **The relationship between migration status and employment outcomes**

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Undocumented Worker Transitions

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## **The Undocumented Worker Transitions project**

This report is one of several reports prepared by the Undocumented Worker Transitions (UWT) project, which has been funded by the EU Sixth Framework Programme (Contract Number: 044272) from March 2007 to February 2009. It is coordinated by the Working Lives Research Institute (WLRI) at London Metropolitan University, UK, with partners in six other EU Member States. The partners are: Forschungs- und Beratungsstelle Arbeitswelt (FORBA) in Austria; the Centre for Sociology of Work, Employment and Training, at the Université Libre de Bruxelles (ULB) in Belgium; the International Centre for Minority Studies and Intercultural Relations (IMIR) in Bulgaria; Roskilde University in Denmark; the Laboratory of Research on Immigration and Social Transformations (UNIVE) of Ca' Foscari University in Venice, in Italy; and Gabinet d'Estudis Socials (GES) in Spain.

The UWT website contains all of the published papers produced in the course of the two-year project. For information about the project and to access these reports, visit: [www.undocumentedmigrants.eu](http://www.undocumentedmigrants.eu)

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## Introduction

This report presents the key findings of the Undocumented Workers' Transitions (UWT) project, which was initiated in March 2007 and which formally concludes at the end of February 2009. The project has brought together partners from seven EU Member States, of whom six were 'old' Member States – Austria, Belgium, Denmark, Italy, Spain and the UK and one – Bulgaria - is a new Member State having joined the European Union just two months before the UWT project began. The project aimed to answer a number of questions to understand the factors that underlie migration flows, legal and illegal. It also aimed to explore, primarily through interviews with migrants who were or who had been undocumented, their knowledge of host labour markets, together with pathways into work they had followed. Our objectives have been:

- To give more reliable estimates of migration and refugee flows into the EU;
- To deepen understanding of the impact of migration flows on EU labour markets;
- To theorise the relationship between the presence of 'informal' or 'shadow' industry labour markets and migration flows;
- To map and model migrant and refugee pathways into and within the EU;
- To deepen knowledge of how legal status interacts with migrant labour market positions;
- To test key theories concerning human capital and social capital in relation to migration; and
- To explore the particular consequences of migration for women workers, including trafficked workers.

Recognising that gender, age and ethnicity were key factors in understanding migrant and refugee flows, UWT has sought to analyse migration and work trajectories in a differentiated way to better understand the process and to see the extent to which these differentiated situations impact on the work experiences of undocumented migrants. The methods that we chose, to arrive at our analysis, are documented in Section 1 of this report.

One of the principle areas of investigation in the UWT project has been to understand not just how undocumented migration occurs and its consequences for the workers concerned, their families and those around them, but also to unpick the relationships between documented and undocumented status, as we commenced this work from a theoretical perspective which understands that legal status is not fixed or clearly established, but rather is something not only capable of change over time, but which almost always subjects the worker to changes. Thus we find, from the interviews that we have conducted with more than 200 migrants in the seven partner countries, that

few started their migration journey with a particular status (be it documented or undocumented or even semi-documented) and maintained this status consistently. In some of the partner countries, for example the **UK**, many currently undocumented migrants had arrived as documented migrants. Expiry of visas or changes to migration laws had been the principle factors that had altered their status making them undocumented. In **Spain**, in contrast, most of those interviewed had arrived as undocumented workers but many had managed to regularise their position, either through state regularisation programmes, through obtaining work permits or through marriage.

The UWT project specifically rejected the term 'illegal' when referring to migrants working without documents in Europe as we assert that no one is 'illegal' merely by having taken a decision to move in search of work and that it is one's residence or employment status that turns individuals from documented to undocumented workers, either initially when crossing borders or more commonly, when work permits or entry visas expire.

One of the project's initial tasks was to agree common definitions of the principle terms and concepts to be explored in the research to ensure that our comparative research was based on common understandings. These key terms were published in the project glossary<sup>1</sup>. The key definitions we used are given below and are also relevant in the reading of this report:

### ***Undocumented migrants***

We use the term to describe foreign citizens present on the territory of a state, in violation of its regulations on entry and residence, having crossed the border illicitly or at an unauthorized point. We also use it to include those who have overstayed their visa or work permit, those who are working in violation of some or all of the conditions attached to their immigration status; and failed asylum seekers or immigrants who have no further right to appeal and have not left the country.

### ***Irregular immigration/irregular migrants***

For the UWT project the term 'irregular migrants' refers to people who are liable to be deported for matters related to immigration status.

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<sup>1</sup> The glossary can be downloaded from the project website: [www.undocumentedmigrants.eu](http://www.undocumentedmigrants.eu)

***Informal/hidden/shadow economy***

We use the term 'informal economy' to refer to: 1) activities involving the paid production or sale of goods or services that are unregistered or hidden from the state for tax and employment law purposes, and are not registered by the official statistics and authorities when calculating the GDP; 2) those economic activities that avoid the payment of taxes and social insurance contributions; 3) activities involving working relations not in compliance with ruling labour law.

In conclusion, we should state that when the UWT project commenced in March 2007, the economic and political situation was very different than it is today. The European Union had just opened its membership to Romania and Bulgaria, having welcomed the A10 countries three years earlier<sup>2</sup>. Unemployment was low, the economies of the EU15 Member States appeared to be booming and, for those who had chosen to migrate, particularly those who had migrated from the A10 states, migration offered a way to economic improvement. At the beginning of 2009, as the UWT project comes to an end, the situation could hardly be more different. Throughout the EU27, Member States are facing increased unemployment, declining production and the collapse of some industrial sectors, in particular construction and manufacturing, where many recent migrants had obtained employment.

As unemployment rises we posit that racism and xenophobia are also likely to increase, making the situation for migrant workers unwelcoming and in some cases hazardous. Our desire is that the analysis and understandings developed in the course of the UWT project may be of use in assisting individuals, organisations and institutions to challenge such unwelcome developments.

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<sup>2</sup> Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia, Cyprus and Malta

## Executive summary

Our research finds that despite the universal adoption of restrictive immigration policies, together with the criminalisation of migration, there remain relatively large numbers of undocumented migrants in the countries under investigation. For UWT this definition includes foreign citizens present on the territory of a state, in violation of the regulations on entry and residence, having crossed the border illicitly or at an unauthorized point; those whose *immigration/migration status* is not regular; those who have overstayed their visa or work permit; those who are working in violation of some or all of the conditions attached to their immigration status; and failed asylum seekers or immigrants who have no further right to appeal and have not left the country. This results in higher calculations of numbers than found in the CLANDESTINO project<sup>3</sup>, which has been able to provide detailed and robust data on undocumented migration, but excluding non-nationals working in violation of their migration conditions, including asylum seekers. We note that increased concern about undocumented migration has occurred in the context of the abandonment of the policies, enacted in the 1970s, of closed borders. The reversal of such policies, however, has been with the specific aim of encouraging the entry only of certain 'chosen' groups of migrants and it is this that has led to the criminalisation of those who are not in the 'chosen' group. The report also notes a growth in subcontracting, in relation to undocumented workers in particular, but more generally in relation to migrant labour. These changes in the structures of the labour market and in the forms and organisation of production have created a migrant workforce that is exceptionally vulnerable. We have also found an overall reduction in the social wage (the social benefits consequent to employment) and a driving down of wages generally in some sectors. We find clear links between working conditions in both informal and formal economies and view these not as two separate entities but as two sides of one economic model that relies as much on the informal sector as it does on the formal one. We have also noted similar organisational models of recruitment in all seven countries and note that there is some evidence of the displacement of some groups of migrants by others and that sometimes this is driven by racism. We have also noted a significant shift of migrant undocumented workers into self-employment and that this is accompanied by a shift in the burdens of risk in employment, so that undocumented migrants carry an unfair share of these risks. They are also generally forced to accept a deskilling process in order to survive. This suggests that the lack of rights of undocumented migrant workers is a decisive

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<sup>3</sup> For information on CLANDESTINO see: <http://clandestino.eliamep.gr>

reason for employers to hire them and exploit their labour.

Most of the migrants whom we interviewed in connection with the UWT project worked in what could be described as a semi-formal sector, regardless of whether or not they currently had the legal right to work. This sector could be categorized as operating as a business within the formal sector but nevertheless employing workers who either were undocumented without a right to work or who were documented but who were not declaring either all or part of their work. Thus whether or not someone worked in the informal sector was not dependent on the individual's immigration status.

### **Migration policies**

In all the countries studied migration policies have been moving in a similar direction, generally aimed at restricting undocumented migration and at limiting the numbers of documented migrants. Our research finds that tightening immigration controls do not eliminate undocumented work. Instead they push workers 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, looking after the elderly in their homes, or working in small construction sites, doing the most difficult, arduous and sometimes dangerous jobs. Undocumented labour thus becomes the most exploited section of the labour force because it is driven further underground, working in an informal sector that is completely unregulated.

- An overall observation is a trend towards tightening the controls over family reunion, restricting economic migration through quota or special permits systems and containing illegality. These are accompanied by restrictions on freedom of movement and on the right to work. And although there is increasing emphasis on integration and social cohesion, it can also be argued that policies have been developed to cater primarily for the needs of business, both for skilled and unskilled labour.
- Employment law for migrant workers in all seven countries has generally been developed in relation to work permits of various durations and in connection with work schemes. Although in the majority of the countries studied a holder of a valid work permit has the same rights as the indigenous population, complexities usually occur in the way these permits are granted. Moreover, most systems do not make any allowances for the undocumented workforce, therefore creating grounds for disadvantage and discrimination.
- In all seven countries we observe a growing restrictive regime in relation to

welfare rights and to social provision in relation to undocumented migrants, with increasing emphasis on the denial of basic rights, including healthcare rights.

### **The labour market conditions for undocumented labour**

Migrant labour is not solely a construct of policy but is also a consequence of changes in labour markets, observed in all seven countries. This is primarily noted through the increasing casualisation and informalisation<sup>4</sup> of labour markets, in general, and their consequent recourse to undocumented migrant labour. Thus, the report argues that it is changes within labour markets and in the ways that they operate which makes them increasingly reliant on a continuing source of undocumented labour. It is thus these labour markets, which tight migration policies serve.

- We suggest that while this may not be the case in every sector of employment, some sectors, in particular, those subject to outsourcing and subcontracting are at risk. These risks are seen through the greater use of spurious self-employment, where workers assume risk burdens that otherwise would have been assumed by employers and where work can be sporadic and subject to time and pay fluctuations. Self-employment becomes self-exploitation, removing workers from collective relationships and from the benefits of such relationships.
- The dismantling of welfare states has been the catalyst for the creation of a market of jobs in private domestic care. At the same time the tightening of immigration controls has created a bank of workers desperate enough to undertake this work.

### **Statistical data**

In relation to the statistical data on undocumented migration, we found that in most of the seven partner countries the data either was not available or was not sufficiently robust to be able to make exact calculations of the stocks of undocumented migrants, based on the UWT definition. Data collection on undocumented migration faces the problem of identifying and counting people who fear deportation and therefore are unwilling to disclose any personal information.

- Information that can lead to establishing a person's legal status is often

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<sup>4</sup> By this we mean a growth in temporary, seasonal jobs, together with an increase in the number of jobs conducted in the informal or semi-informal sector, where tax and social insurance payments are not met.

dispersed between government departments, police, employment offices etc. thus making co-operation and data access very difficult.

- Country-specific definitions on illegality and irregularity result in a lack of internationally comparable data on undocumented migration.

### **Status transitions**

Our research found that most of the migrants interviewed had experienced changes in migration status and that few started their migration journey with one status (be it documented or undocumented or even semi-documented) and maintained this status consistently.

- Our research leads us to conclude that status is rarely the outcome of a conscious decision on the part of the individual migrant but is determined by factors more usually out of the control of the individual, although the passage of certain events or a fortunate combination of factors, may open up opportunities to those in a position to exercise choices.
- Common methods of securing regularisation are identified as through: marriage; departure and re-entry; and through applications for refugee status. In relation to regularisation through marriage – our research also finds that there has been a tightening up of rights to legal status through marriage in almost all of the seven Member States. Marriage, which has also traditionally been viewed as a route towards greater integration within the host community, is no longer identified as such in those countries where the host community also consists of individuals who share a common ethnic identity with newly arrived. This suggests, that as migration increases and as the size of the undocumented migrant population within a country is sufficiently established, particularly as a second generation emerges, bars on marriage, as a route to regularisation and settlement, are likely to increase.
- The transition from regular to irregular status is common and is indeed more common than its reverse. This transition is sometimes a consequence of the expiry of a work permit or other form of visa. However, in addition, we observed cases, in many of the seven countries, of workers being thrown into irregularity simply because the state itself had decided to change the entry and work conditions.
- Rules that provided temporary entry only created the conditions for overstaying, resulting in irregularity for many workers. Furthermore, the current economic crisis, which is likely to act as a push for the growth of short-term temporary

contracts, will affect migrant workers more harshly and therefore will force greater numbers into irregular work, as their opportunities to obtain work in their countries of origin also become more restrictive.

- We conclude that undocumented migration is primarily a process of: 1) the unwillingness of the state to offer legitimate entry routes for migrants; and 2) strong economic growth, which may be combined with a third factor; 3) either the existence of a strong informal sector or the existence of good ethnic networks providing opportunities for work. Migrants will move to those countries, which are seen as providing the best economic opportunities for work and for remuneration. The status that they may have in the host country is a less significant factor in determining to which country a migrant chooses to migrate.

### **The processes which encourage undocumented working**

The research also notes similar patterns of working arrangements in all seven countries. In particular, the sectors in which irregular work is conducted are remarkably similar in all seven states. The research also notes that there are specific production processes that are reliant on undocumented labour. These are:

1. A production process which is not mobile and for which labour is required in the country of origin. Jobs in the service and construction sectors fall into this category.
2. A process which is difficult to programme for in advance and which can be subject to fluctuation – in relation to the time of year/seasonal nature and so forth.
3. A decline in the systems for skill acquisition in particular sectors, especially those where the employer previously exercised responsibility for the acquisition of such skills.
4. A reduction in the benefits or provisions of either a state or family welfare system, which necessitates the outsourcing of work previously undertaken by the state as a public function or by the family as a private function.
5. The presence of a significant mass of co-ethnic or near ethnic entrepreneurs (individuals sharing aspects of a common identity but who may not be members of the same national/ethnic grouping) who may be more accepting of undocumented labour or the pre-existence of an informal sector within which local and migrant labour is absorbed; and
6. A process that can be carried out hidden from the public view.

We also note that there are contradictory forces at play. In some sectors undocumented labour is sought out precisely because it is considered as flexible and

disposable, however, it is also required for stable and long-term employment, in those sectors where working conditions may be poor but where long-term employment relationships are highly prized.

### **The informal economy and undocumented migrants**

The current crisis of capital has been accompanied by a trend toward the growth of inequality within the informal economy itself. This means that it reproduces hierarchies, with local workers at the top, regularised migrants under them and undocumented workers at the bottom. Job placement agencies were a preferred route into employment for some workers, either where there was an absence of ethnic networks that could provide work or where workers actively rejected these. At the same time we note that a consequence of having to move within unregulated spheres, such as informal labour markets, requires a much more active role for individuals than would be the case in regulated regular labour markets.

The project suggests a typology for the informal economy as: contextual, situational, gradual and conditional. Informal economies are not the product of particular national traits, but are a consequence of specific changes in the labour market. These changes are specifically identified as dependent on:

- Subcontracting and self-employment;
- Third party employment relationships, in particular through the use of labour providers;
- The seasonal nature of the work, or its casual nature, is an important component of work in the informal sector; and
- The outsourcing of human resource functions.

### **The working conditions of undocumented migrants**

Our research concludes that undocumented workers earn less than documented workers and that there is a strong correlation between status and the conditions under which work is performed. Status affects entitlement to rest breaks and has an impact on health and accidents. However, a number of circumstances operate to narrow or remove the differences between workers regardless of status. They can be observed in the following situations:

- Where labour shortages are such that employers must employ undocumented workers because other labour is unavailable;
- Where pay and conditions within the sector are so low that in any case employers cannot really pitch them lower for undocumented labour; and

- Where conditions are the same but where undocumented workers occupy those jobs with the highest risk levels.

### **The impact of regularisation**

We conclude that while regularisation may have an impact on previously undocumented workers' terms and conditions at work, it may require of the worker that he/she first move from the sector of employment where she/he had been working when undocumented to a new sector. We also conclude that the industrial relations environment is a significant factor in determining the ability of undocumented workers to improve their employment position following regularisation. Importantly, the report asserts that mass regularisation programmes, such as those in Italy or in Spain, do not reduce the overall numbers of workers working in the informal economy. This is because:

- Regularisation is not accompanied by any qualitative improvement in working conditions, and this was particularly true in the domestic care sector.

Additionally it may be that it is a combination of time plus regularisation that promotes improvements, influenced by other factors including:

- The industrial relations environment in the country and in particular the strength of trade unions and their ability to enforce legal conditions on employers;
- The existence of collective bargaining and the general applicability of collective agreements;
- The degree to which there are effective enforcement mechanisms to guarantee the application of employment rights and the strength of the legal remedies;
- The extent to which regularisation provides opportunities for movement into new work;
- The extent to which regularisation results in family re-union or re-grouping;
- The size of the casual/temporary force and the extent to which casual labour is normalised; and
- The existence of factors such as minority ethnic businesses, as significant employers and/or the presence of a large informal sector.

### **Gender and migration**

We conclude that undocumented labour is subject to the same rules of gender segmentation as is host country labour. Gender divisions remain as strong among undocumented migrants as they do between male and female workers generally.

However, the interviews that we have conducted suggest that female migration, more often than male, is the outcome of extreme economic necessity and is more likely to be undertaken as a life project, rather than as an adventure. Particularly in the case of women with children, they saw the giving up of career opportunities in countries of origin, in return for higher economic rewards from migration, as uniquely tied up with the desire to provide for their children

- The mechanics of the labour market destine migrant women to jobs for which they 'ought' to have a 'natural' disposition as women and which could be classified as jobs centring on "care", in a broad sense of the word. This continuing rigidity of the labour market has occurred in a period when the gender composition of migrant labour has altered, with a growing feminisation of migration, bringing with it increased female participation in European labour markets. It has been assisted or encouraged by changes in 'traditional' patterns of family responsibility. These arise from a number of situations:
- The feminisation of economic responsibility for families, which in turn has necessitated the migration of women in search of work;
- Family reunification in those EU countries that now have an established migrant presence;
- A breakdown in family structures in host communities, where the care for the elderly, in particular, can no longer be carried out within the confines of individual families; and
- An increase in the number of working women in host countries, requiring a different distribution of family caring responsibilities.
- The integration in the host country of children is a prerequisite of the integration of their mothers and that where such integration is not achieved there is a greater likelihood of return. Thus having responsibility for children both 'encourages' women to migrate and may encourage them to stay in the host country.
- Women migrants were significantly more likely in our sample to be working in private homes and in these circumstances had difficulty in separating their working day from their own private time. Often the latter disappeared into a continuing series of tasks for the household in which they worked. Thus women were more constrained in their opportunities to build lives distinct from their working environment.
- While some interviewees described their relationships with employers, in such situations, as positive, for many women working in the domestic care sector,

their ability to challenge their employers' actions was negligible. This was due to the fact that employers not only paid them (no matter how minimal their wages) but also offered accommodation and shelter and were seen as providing a shield between immigration authorities and the undocumented individual.

- Women, whether working within private homes or in outside workplaces felt themselves vulnerable to harassment, both sexual and physical, in a way that generally did not apply to male migrants.
- While both male and female undocumented migrants were often working in sectors where there were low levels of collective organisation, this was truer for women than for men. Male workers in the construction and manufacturing sectors could find themselves working alongside unionised workers and could benefit from the collective solidarities that such workplaces created. Women working in the private care sector or in the sex industry were much less likely to find a collective way of improving their working conditions. For this reason they were more likely to seek individual solutions to their predicaments.

### **Human and social capital and migration**

Our research finds that common assertions about the value of human and social capital in relation to employability outcomes are inadequate in relation to migration and to undocumented migration in particular. It is not possible to correlate employment outcomes with the possession of either human or social capital, nor is it possible to evaluate one as above the other. In particular we found that:

- Possession of high human capital, which should have brought employment rewards, had not done so. None of those working without documents had jobs that were related to their qualifications. This was particularly the case in relation to migrants coming from Africa, who, even once they had gained a regular status, found that racism blocked even narrow channels to decent work that otherwise they might have been able to access.
- Language knowledge did not necessarily give access to employment. Indeed the lack of knowledge of the host country language may have been precisely the element that made hiring such workers attractive to employers and employment agencies.
- Gender appears to take precedence over any form of human or social capital. Regardless of the extent of their human capital, women had access to 'women's' work, which was generally poorly paid and exploitative.

# 1. Methodology

## 1.1 Overview of research methods

The research activities and outputs of the UWT project are summarised here, with further details given of each in the subsequent sections.

Given the aims of the UWT project to better understand the experiences of undocumented migrant workers in Europe, including the reasons why they seek work in Europe without proper authorisation, their working conditions and the relationship to migration status, we chose to collect data from in-depth interviews with more than 200 migrants workers who had at some stage had an irregular migration status. As there is very limited existing research on the actual experiences of undocumented migrant workers, particularly comparing several EU states, we feel that this is one of the innovative contributions of the UWT project. Before embarking on qualitative interviews with migrant workers, each partner carried out a literature review of existing research on undocumented migrant workers, and produced a country report summarising the national legislative and policy framework for migration, presenting statistical data on documented and undocumented migration, and reviewing existing literature. This was summarised in an overview report. In addition, *Migration and Irregular Work in Europe* a European literature review was produced, containing an overview of the most relevant Europe-wide literature on migration and irregular work, providing a useful addition to the country reports. Near the start of the project a methodology workshop was held in Vienna to discuss and agree the methodology for the project, which all partners found to be very important in reaching common understandings and working methods at an early stage in the project.

A review of existing statistics on undocumented migrants was also carried out in each country, together with discussions with national experts on the feasibility of producing more reliable estimates. A separate report on estimates of undocumented migration has been compiled and its principle conclusions form Section 3 of this report.

Work on the *Undocumented Migration Glossary* was also started in the early stages of the project, which was part of the process of developing the project methodology and ensuring common understandings between partners, as well as being published as an output of the project.

Qualitative methods were chosen as the primary means of gathering data on the experiences of migrants. Thus 211 in-depth interviews were carried out with migrant workers who were, or had been, undocumented, and these form the core of the data analysed in the course of the project. Moreover, the structured nature of the interview guide gave us the opportunity to go further and transfer the qualitative data into

questionnaires thus adding a robust quantitative element to the analyses. A rich data set of 211 observations was produced. In addition, contextual data was collected through a further 70 interviews with national and European or international experts and stakeholders. Of these, 60 interviews were carried out with national experts in the field of undocumented migration (8 to 10 in each partner country), consisting of academics, policymakers, social partners and migrant and refugee organisations. In addition 10 interviews were held with European or international experts on undocumented migration.

The interview data for each country was analysed by the partner carrying out the interviews, and a country summary of findings was prepared, following themes agreed by all partners. These country summaries were then used to write the five thematic reports and final report that present the project findings (see section 4). Workshops with key stakeholders were held in each country during the last phase of the project, which provided valuable commentary on the research findings and were a useful contribution to formulating recommendations from the project.

## **1.2 Country reports and European literature review**

At the start of the project each partner prepared a report on migration to the country that included an overview of legal and policy frameworks in relation to migration, key statistical data and a review of literature on the impact and experience of undocumented migration, including:

- a short historical account of immigration policy over the last decade;
- an overview of the legal framework for immigration, including regularisation programmes;
- the employment law framework that applies to migrant workers;
- migrant registration and control processes;
- key statistical data on migration to the country;
- existing estimates of undocumented migration;
- the impacts of migration on labour markets;
- the informal economy and migration;
- work experiences of undocumented workers;
- gender issues and migration.

The country reports were summarised by the Bulgarian partner IMIR in a report, *Undocumented Migration Overview*, which additionally provided information on the EU and international legal instruments related to migration and the EU Framework of employment law affecting migrant workers (prepared by the Belgian partner, ULB).

To ensure that the project also had a Europe-wide perspective, the Austrian partner FORBA, prepared a report entitled *Migration and Irregular Work in Europe*, an overview of the Europe-wide literature covering issues related to undocumented workers and the informal economy, gender and migration.

### **1.3 Methodology workshop**

During the third month of the project a methodology workshop was held in Vienna to plan the methodology for the rest of the project. This three-day meeting was essential for agreeing the methodology for: preparing the estimates of undocumented migration; developing the *Undocumented Migration Glossary*; deciding on which experts to include in the stakeholder interviews on migration trends and policy and the process of developing the interview guidelines; and deciding the selection criteria for the migrant worker interviewees and the process of developing the migrant interview guidelines. Ethical issues concerning interviewing undocumented workers were also discussed, as well as general guidelines on carrying out and analysing qualitative interviews.

The methodology workshop was felt by all partners to be an important part of gaining a deeper understanding of the different ways of thinking and working among the partners, as well as the differences in migration policy and discourse in all the partner countries. This is a complex process, which is crucial for successfully working together in an international project, and the workshop was found to be a crucial part of this process at an early stage in the project.

### **1.4 Glossary**

The project design envisaged that the development of an *Undocumented Migration Glossary* would have two purposes. The first was a practical one to assist the functioning of the project and to develop common understandings among partners in the seven participating EU countries. This was a task that involved lengthy discussions and negotiations over terminology and its uses. The second aim, therefore, was to present the outcome of these deliberations in the form of an innovative output that draws attention to the implications of the terminology used when discussing 'undocumented migration'. It is intended that this glossary will be of use to both those carrying out research in this area and to policymakers concerned with migration. The glossary seeks to consider irregular migration outside the constraints of a terminology that solely criminalizes the migrant and refugee worker, and reflects the project aims that seek to better understand the processes and systems that lead to such workers occupying these positions.

The Danish partner, Roskilde University, led the preparation of the glossary with contributions from all partners. The process of selecting which terms to include was inevitably highly selective, and we decided to present a small number of terms that are directly relevant to the project, rather than a wider selection. This has allowed us to give in-depth definitions and explanations of the reasons for these, as well as examples of the use of terms in different countries.

### **1.5 Undocumented estimates**

The initial task of preparing estimates of undocumented migration in each country involved a search for any existing data from other research, and establishing what sources of data are available on migration stocks and flows. Once all partners had gathered their initial data, the WLRI team's statistical expert examined this and some revised or additional ways of providing estimates were proposed. However a thorough review of the methods that had been used worldwide for estimating undocumented migrant populations revealed that none of them actually provided a well-founded or rigorous measure. It was only in the USA that sophisticated techniques have been developed to produce a national estimate. In some countries, such as the UK, interviews with key experts confirmed the enormous difficulties in producing any estimates on undocumented migrants. Estimates based on regularisation data and/or enforcement statistics have been recognised as most reliable.

### **1.6 Expert and stakeholder interviews**

Before starting the interviews with migrant workers, each partner carried out between eight and ten interviews with national experts in the field of undocumented migration, consisting of academics, policymakers, social partners and migrant and refugee organisations. The purpose was to provide an understanding of a range of perspectives on the key issues around undocumented migration in each country that would provide research data for the thematic analyses, as well as defining the key issues to be covered in the interviews and assist in determining and accessing the sample of migrant interviewees. Furthermore, an additional ten interviews were held with European or international experts on undocumented migration in order to gain a broader perspective on migration trends and policy. Interviews were carried out with representatives of the following organisations:

<b>Organisation name</b>	<b>Type of organisation</b>
Business Europe	Employer body
Caritas Europe	Catholic relief and development

	organisation
ETUC	Trade union federation
European Commission Office in Bulgaria	European Commission
International Centre for Migration Policy Development (ICMPD), Vienna, Austria	Inter-governmental organisation
International Organization for Migration (IOM)	Inter-governmental organisation
Mediterranean Migration Observatory (MMO), Athens, Greece	Research organisation
Migration Policy Institute, Washington, USA	International migration think tank
Organisation for Economic Cooperation and Development (OECD)	International body
Platform for International Cooperation on Undocumented Migrants (PICUM)	International migrant rights organisation

### 1.7 Migrant worker interviews

One of the primary aims of the UWT project was to learn more about the experiences of migrant workers who were, or had at some stage been, undocumented. By comparing these experiences across seven European countries, the UWT is contributing a new perspective on undocumented migrants' lives, acknowledged to be an under-researched area. The project carried out in-depth interviews with a total of 211 undocumented migrant workers, 30 in each partner country (31 in Belgium).

As one of the project's aims was to explore the complexity and fluidity of migration status, as well as the ways in which migrants make transitions between these, interviews were carried out with migrants with a variety of migration statuses, including asylum seekers and refugees, rejected asylum applicants, those who had entered the country without permission, those overstaying their visas or permits, those residing legally but working without permission or beyond their permitted hours, and those who had gained a legal status, whether through a regularisation programme or other means.

The migrants interviewed had arrived in the seven host countries from 61 different countries across Africa, Asia, Europe and Latin America (see Appendix 1, Table 1). While the sample does not claim to be statistically representative of the nationalities of migrants in Europe, it does provide a good indication of the spread of countries of origin of migrants now working in the EU.

The project intended to capture the experience of both male and female migrants: 53% (112) of interviewees were male, and 47% were female (99), and a range of ages are

represented, with the greatest number (41%) in the 35-49 age category (see Appendix 1, Table 2).

The migrant interviewees worked in a wide range of sectors, including agriculture, catering, construction, domestic work, healthcare and care work, the entertainment sector and security, sectors where migrant workers are commonly found, according to other research.

Gaining access to undocumented migrants is inevitably a difficult task, and the partners used a variety of methods, but personal contacts of the project researchers and fieldworkers were important ways of gaining the necessary trust required for interviews. In addition, migrant, refugee and community organisations were very helpful in gaining access, once trust in the aims and procedures of the project had been established. In some countries, trade unions and churches also provided ways of accessing interviewees. Fieldworkers from the migrants' own communities were used for some interviews by most partners, and in Bulgaria, for example, a female Muslim student who wears a headscarf was recruited in order to gain the necessary trust to interview Palestinian women, who it was thought would not have been willing to take part in interviews with the project researchers. The Belgian partner also reported that accessing women was more difficult, as they may be less visible in terms of workplaces, but found that one route, for example, was to meet Ecuadorian women in a religious and cultural centre.

Different strategies in relation to recording interviews were used. Some interviewers found that interviewees were willing to be recorded, although sometimes when discussing very sensitive issues the recorder was turned off, or further data was gathered after the end of the interview and the recording, and permission was sought from interviewees to use this material. In the UK and Denmark, however, most interviews were not recorded, and in the Danish case, attempts to record interviews were abandoned after interviewers found that interviewees stopped talking when they started recording. It was felt that interviewees were afraid of providing evidence that could be used against them for deportation, etc, perhaps reflecting the particularly difficult situation for undocumented migrants in Denmark.

The interviewees' proficiency in the language of the host country varied widely, and almost all partners undertook interviews in several different languages. Many interviews were carried out in the migrant's first language, either by project researchers who spoke that language or by fieldworkers recruited to carry out interviews. In some cases project researchers carried out interviews with the help of an interpreter. The Austrian partner felt that the chance to talk about experiences in their native languages

was regarded by many migrants as a respectful gesture towards them, and they were therefore willing to talk quite frankly. It was sometimes felt, however, that the use of an interpreter acted as a filter for the stories of the migrants. In some cases interviews were conducted in English, the interviewers and interviewees' second or third language.

### **1.8 Ethical guidelines**

The ethical issues involved in research on undocumented migrant workers are considerable, both in terms of the duty of care towards the interviewees and interviewers, and the responsibility of the project to minimise the potential for misuse of the data provided for political ends that could stimulate a xenophobic or racist reaction. The RESPECT Code of Practice for Socio-economic Research, developed to provide ethical and professional guidelines for socio-economic research in Europe, provided the general framework for the research project, but specific guidelines were drawn up in consultation with all partners to reflect the needs of this project (see Appendix 2). These cover issues in relation to interviewing undocumented migrants such as: the assessment of risk to interviewer and interviewee; informed consent; anonymity; confidentiality; responsible and sensitive conduct of interviews; offering advice and assistance; and personal safety. Furthermore, particular care is needed in relation to data collection and storage where undocumented workers are concerned, so guidelines on safe data storage were devised.

The project is concerned to ensure, so far as possible, the responsible use of its findings and to minimise the potential for misuse of any politically sensitive data by those who wish to stir up a xenophobic or racist reaction, which has influenced decisions about when and how to publish data on numbers of undocumented migrants. The project team intends to report its findings to research participants in a number of possible ways: reports and summaries on the project website; circulation of the project newsletters; and reports offered to the organisations and gatekeepers that have assisted in providing access to interviewees.

### **1.9 Analysis of data and thematic reports**

The analysis of the interview data was done first at a country level, with each partner preparing a report on their migrant interviews, following key themes identified collaboratively by all partners. These country reports were then circulated and discussed at a partner meeting, where the topics of the thematic reports were also discussed. Each partner responsible for a thematic report was then able to draw on all

the country reports, on interviews, sub-divided by thematic area, as well as stakeholder interviews, country overview reports and the European literature review prepared in an earlier phase of the project. The initial draft was then circulated and amended by all project partners to reach a final version.

The following thematic reports have been written (with partner responsible for the report in brackets):

- Migration flows and labour market impacts (FORBA)
- The relationship between status and migration transitions (GES)
- ‘Shadow’ economies and migration patterns (UNIVE and RUC)
- Human capital and migrant worker social capital (ULB)
- The gender specific dimensions of migration (IMIR)

### **1.10 Stakeholder workshops**

Workshops with key stakeholders were held in each country during the last phase of the project to present initial findings from the research and to discuss policy recommendations for the final report. Around 10 invited experts took part in each workshop, consisting of a wide range of stakeholders in the area of migration, including academic and legal experts, migrant and community organisations, government officials, trade unionists and employer representatives. The workshops provided valuable commentary on the research findings and were a useful contribution to formulating recommendations from the project.

## 2. Overview of migration in the seven partner countries

### 2.1. Historical account of migration policies

There are two main areas of migration policies that are important in the project participant countries: policies focusing on the employment of migrants and policies that allow for the integration (as well as employment) of migrants in the host society. A difference can be observed between countries that experienced migration in the 1950s, 1960s and 1970s and those where migration has been a more recent phenomenon in the 1990s and 2000s. This difference becomes even more noteworthy considering that many of the latter countries have changed from being principally countries of outward migration to become host countries of recent migrants.

In the case of the UK, Austria, Belgium and Denmark, various labour schemes were introduced after the Second World War in response to economic development. Migration was considered mainly economic. The main routes of migration were through labour schemes of skilled workers (UK), or unskilled workforce (Denmark, Austria and Belgium) from countries such as Turkey, Yugoslavia, Greece, Italy or Spain. The major aim of such schemes was the restriction of migrant numbers in relation to employment needs. There was a general expectation that migrants would eventually return to their country of origin (Denmark) and most of these schemes were consequently stopped (Belgium, Austria).

During the 1990s and early 2000s migration featured highly on the political agenda, this time including countries such as Italy, Spain and Bulgaria that have only recently experienced inward migration. The emphasis on restricting migration on economic grounds still remains strong in most countries. For example, in the case of the UK, a policy of managed migration targeting economic migrants was introduced; in Austria, a quota system for foreign employment has been implemented. In Spain, growth of the service sector, shortages in low skilled labour and increasing participation of the female population in the labour market has encouraged major migration movement to the country.

However, during the same period, policies – albeit restrictive - were also developed to enable migrant integration into the society. For example in the case of Italy, a major law passed in 1998 (Law 40/90) introduced administrative provisions such as the residency card or integration into the health system. In the UK, the government's *Secure Borders, Safe Haven* White Paper (Home Office, 2002) included sections social cohesion in relation to migrants. In Austria some amendments to the Aliens Act have allowed some provisions for settlement, including settlement for humanitarian reasons.

## 2.2. Overview of current immigration legal framework and migrant regularisation

All seven countries have developed policies and legislation according to a system of classification for their migrant population that also relates to the main routes of migration. These include refugees and asylum seekers, economic migrants, family reunion and undocumented migrants. These routes are similar in most cases, although legislation developed in each country had a different degree of restriction. Although the systems in the seven countries are diverse, an overall observation is the trend towards tightening the controls over family reunion, restricting economic migration through quota or special permit systems and containing illegality. These are accompanied with restrictions on freedom of movement and on the right to work.

In the **UK**, only limited economic migration was countenanced in the 1970s with the *Immigration Act* of 1971. Skilled workers could enter in the 1980s and 1990s through the work permits system. When the newly elected Labour government came to power in 1997, the system was seen to be in need of modernisation, both in relation to asylum (tackled through the *Asylum and Immigration Act* of 1999) and in relation to primarily economic migration, where the intention was to develop managed migration' policies. The 2002 White Paper *Secure Borders, Safe Haven*, (Home Office, 2002) addressed the social and economic benefits of migration. But although there is increasing emphasis on integration and social cohesion, it can also be argued that policies have been developed to cater primarily for the needs of business both for skilled and unskilled labour.

Legislative reforms in **Austria** were introduced in the 1990s and were developed to cover all areas of migration including entry, residence, employment and asylum. This new system is more regulated and less flexible towards the demands of the labour market. Different kinds of resident permits are issued to third-country nationals: temporary residence, settlement permits for key personnel and permanent residents (European Community), visas for less than six months for third-country nationals and permits for domestic workers in private households. *Aufenthaltsverfestigung* – a system of consolidation of residence – was also introduced and improved living conditions for long-term residents. In 1998 permits for humanitarian reasons were also introduced. Regularisation is not subject to discussion.

The main migrant-related legislation in **Belgium** is *Law of 15 December 1980*, relevant to issues of entry, rights to stay, settlement and removal of foreigners. The same law determines the administrative status of migrants during the duration of their stay. As in the UK, the Law of 1987 has also restricted rights of asylum seekers and refugees in

Belgium and in 1993 the first detention centres were created. Further major laws were introduced in 2006 to comply with EU directives and at the same time deal with the accumulating number of asylum applications. They include additional rights for asylum seekers that do not meet the Geneva Convention criteria but fear further persecution.

**Denmark** provides permanent residence to those who have lived continuously for more than seven years, completed an introduction programme and successfully passed the Danish language test. The Danish case is quite different from the other countries with respect to family reunion policies: foreign nationals with relatives in Denmark can be granted residence permits but since 2005 applicants must sign a 'declaration of integration' and spouses must be over the age of 24. The 'combined attachment' of the couple to Denmark must be greater than the attachment to the spouse's country of origin<sup>5</sup>. In addition Denmark has a dispersal policy under which refugees are dispersed across the country through a regional quota system.

**Spain's** major legislative changes came with the *Asylum Law of 1984* and *Rights and Obligations for Foreigners Law in 1985*. However, up until 1999 the Organic Law 7/1985 determined the major policies on migrants. Following EU entry in 1986, a new immigration law came into force in 2000 that was amended three times in order to tighten further the asylum regulations and restrict entry. In 2004, the socialist government announced a new regularisation campaign for undocumented migrants in Spain, under *Royal Decree 2393/2004* of the *Organic Law 4/2000*. The main objective was to speed up authorisations to fill employment vacancies that cannot be filled by workers currently resident in Spain. On 7 January 2005 the state published the Royal Decree that amended the Law of Foreigners, creating a period of three months for the regularisation of undocumented workers. This came into force on 7 February 2005.

Like Spain, **Italy's** main migration laws were introduced in the 1980s. The *Law 40/98* (Turco-Napolitano Law) - the first organic law on migration in Italy – has included the entry quotas and the cyclical amnesties. The latest *Law 189/2002* seeks to tighten migration through a variety of measures such as maximizing the terms of validity of residence permits; maximizing the terms of detention in the temporary accommodation centres; raising income and residence parameters for family reunification; introducing residence permits for at least two years and the penal offence of "illegal re-entry". Furthermore, the system of annual entry quotas for seasonal workers has been structured in a selective manner. In contrast to other EU countries, refugee status has

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<sup>5</sup> There is no such requirement for Danish residents that have had Danish citizenship for more than 28 years

been granted to very few applicants in Italy (about 20,675) as it is the only member state of the EU that has not an organic asylum law, although, some forms of assistance are granted.

Similarly, **Bulgaria** has also amended its laws with regard to foreign citizens, immigrants and refugees following entrance to the EU. According to the *Foreigners in the Republic of Bulgaria Act (FRBA)* of 1998 there are three possible regimes for foreigners to stay in Bulgaria: short-term residence permits (up to 90 days); long-term residence permits up to one year; and permanent residence with unlimited terms. Individuals granted humanitarian protection fall into the third category of permanent residency. *The Asylum and Refugees Act (ARA)* of 2002 pays special attention to individuals with specific needs, including women and unaccompanied minors.

### 2.2.1 Migrant regularisation programmes

In the **UK**, the government opposes one-off amnesties but provides a permanent system of regularisation for those who have been in the country continuously for 14 years and for families with small children who have lived in the country for seven years, although only small numbers are granted residence. In addition, a domestic worker regularisation programme ran between July 1998 and October 1999, under which an estimated 4,000 workers gained residence rights. When the UK granted free movement of workers to nationals of the A8 central and eastern European countries in May 2004, many workers who were already in the UK were in effect regularised.

**Belgium's** regularisation campaign gave legal status to around 50,000 people in 2001. The main countries of origin of the applicants were: Congo, Morocco, and Pakistan. After this campaign, an NGO and academic researchers' study found that over half of undocumented workers had submitted a claim. This percentage served to establish an estimation of the number of undocumented migrants.

Similarly, **Italian** regularisation programmes have helped estimate the number of undocumented migrants. These programmes have taken place between 1979 and 2002 and approximately 1.5 million people have been legalised.

In **Spain**, the socialist government in 2005 introduced a substantial regularisation programme and over half a million migrants were regularised. Some groups such as Ecuadorians, Romanians and Bolivians benefited more than others, for example Moroccans, Peruvians, Dominicans and Chinese. This initiative by the Spanish

government also drew criticism from other European states<sup>6</sup>. The Commission stated that initiatives such as the Spanish case have advantages as well as disadvantages, and stressed that these measures could end up having a "calling out effect" for illegal immigration.

Contrary to regularisation programmes in Spain and Italy, the main state approach in **Austria** to dealing with undocumented migration is voluntary repatriation, forced return (deportation), combating trafficking, combating "fictitious" marriages and adoptions, domestic control through on-the-street identity controls and inter-departmental cooperation. The focus is on preventive measures, such as border controls, anti-smuggling operations and restrictive visa politics. For undocumented migrants in Austria, there are few ways of becoming legalised, i.e. applying for humanitarian residence under certain circumstances; applying for citizenship after a certain number of years; adoption by or marriage with an EEA citizen (although these routes have been curtailed in the latest amendment to the Aliens Law in 2006).

### *2.3. Migration and employment law*

Employment law for migrant workers in all seven countries has generally been developed in relation to work permits of various durations and in connection to work schemes. Although in the majority of countries a holder of a valid work permit has the same rights as the indigenous population, complexities usually occur in the way these permits are granted. Moreover, most systems do not make any allowances for the undocumented workforce therefore creating grounds for disadvantage and discrimination.

In **Austria** and **Denmark** work permits are issued for various lengths of time and some allowances are made for the employment of students from third countries. Social security benefits are only granted after five years of continuous residence in Austria and current social assistance in Denmark is based on the idea that reduced benefits will be an incentive to search for a job.

**Spanish** employment law does not distinguish between migrants and the local population, but current debates are taking place on the issue of access to employment and acquisition of work permits. Likewise, in the **UK** the main determinant for employment rights is the individual work contract between the employer and the

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<sup>6</sup> It is worth noting the reactions from Germany and Holland whose representatives at the European Commission submitted a formal complaint to the Commission alleging that these sorts of measures encouraged clandestine immigration.

employee. In both countries there is evidence of significant numbers of undocumented migrants entering the labour market and working for very low wages (below the minimum wage in the UK), with no access to benefits such as maternity leave etc.

**Bulgarian** employment rules are also similar to the above. Migrants are granted work permits according to the type of residence they have acquired. Otherwise, as in Spain, employment rules are the same as for Bulgarian citizens. There are also some benefits such as child tax concessions for people that have been granted asylum.

**Belgium**, like the other countries, has also introduced a system of work permits but employment in the public sector has traditionally been reserved for the indigenous population. Some changes, however, to this law enabled EU citizens (from the old countries) to gain civil service jobs and further changes in 2002 also enabled migrants to work in regional civil service positions.

Contrary to the above, the **Italian** reforms since the 1990s have sought to make market hiring more flexible, whilst limiting the right to strike. As a result the institutionalisation of employment relations can be observed which leads to discrimination at multiple levels.

### *2.3.1 Registration and control processes*

In all seven countries, state authorities are responsible for migration issues. These authorities are usually part of Home Office / Ministry of Interior departments and in some cases part of state security police.

In the **UK, Spain, Italy** and **Bulgaria**, the Home Office or one of its departments is responsible for migration controls, work permits, nationalities and asylum. Illegality is also handled through the Home Office and, in the case of Bulgaria, the National Border Police. In Italy, some administrative measures are being implemented by regional and local administrations.

In **Austria**, there is combined responsibility between the Ministry of Interior and the Federal Ministry of Economic Affairs for the issues of migration. **Belgium** has several institutions for the registration of migrants such as the Register of the Population or the BCSS and the National Office of Social Security. A coordinated institutional framework for all ministries has been established to combat illegality.

An exception to the above is **Denmark**, where a separate ministry, the Integration Ministry, deals with all immigration issues. Two different types of passports are issued to foreign people: the conversion passport for people who have been granted asylum and the Danish alien passport for foreign people with residence permits. All migrants, regardless of their religious beliefs, are required to register with the offices of the

Christian Lutheran Church, as in Denmark religion and the state are not completely separate.

### *2.3.2 Support institutions*

Trade Unions and NGOs operate in all seven countries, constituting the main support mechanisms for migrants. Religious organisations also provide help in some countries, for example the **UK** and especially **Italy** where the Catholic Church is very active in providing support. NGOs can also provide confidential support or specialise in specific areas of support, for example for the victims of torture in **Bulgaria**. In **Belgium**, NGOs also play a more general role as observers and evaluators of the detention conditions and expulsions of undocumented migrants.

Many of these agencies participate in debates, nationally and internationally, on the treatment of undocumented migrants, what happens in detention camps and any violations of human rights. A good example is the case of Spain where police mistreatment of detainees has been reported regularly.

## **2.4. Statistical information**

Observation in all seven countries reveals the lack of comprehensive and reliable availability of data on migrants. Statistical information in all seven countries comes from a combination of sources including Home Office/Ministry of Interior statistics, work permits, work schemes and labour quotas and other employment-related statistics (such as the UK Labour Force Survey), or regional and local government sources. The main sectors of employment for migrants in all partner countries focus on construction, domestic service, manufacturing, agriculture and hotels and tourism.

The majority of migrants come from various EU and new EU countries, followed by Asia (who account for 22.2% of foreign nationals working in the **UK**), Africa (who make up 23.2% of migrants in **Italy**), Latin America (35% of migrants in **Spain**). Also, there are migrants from other European states such as Turkey and ex Yugoslavian countries (**Austria, Belgium**) and Russia (**Bulgaria, Belgium**).

With the exception of Bulgaria, countries with a traditional outward mobility have received large numbers of migrants in recent years. Estimates from **Spain** show that 3 to 4.2 million migrants entered the country with almost half of this number being migrant labour workforce and this figure represents 14.4% of the total workforce. The majority of migrants are male. Similarly, in **Italy** there are estimates of 3 million migrants, approximately 5.2% of the total population. There is also an increase of female migration from 40% to 49% of the total migrant population being migrant.

Countries that have been a regular destination for migrants in the 60s and 70s have also received a large share of workers since 2000. In the **UK**, the Labour Force Survey (LFS) in 2006 showed an increase of foreign nationals to over 3 million people, representing 5.7% of the total population, and of the total 28 million UK workforce, migrant labour amounts to 6.2%. Like Spain and Italy, the majority of migrants in the UK are also male (54.5%).

In **Austria**, there is a total estimate of 19.2% migrants just over half of which are non-citizens and the rest have been naturalised, 12.8% of the total workforce. A slight majority of this workforce is male. In **Denmark**, migrants and migrant descendants comprise 8.5% of the population in 2006, compared with the 5.3% in 1995. In contrast with other partner countries, the majority of Danish migrants are of non-EU origin.

In **Belgium** there are 860,287 (2004 data) foreign nationals, with a slight majority of females. The economic activity of migrants is about 48%, which is much lower compared with the 62% of Belgians. Non-Belgian women experience the highest unemployment rates and lowest economic activity rates compared with non-Belgian men and both Belgian men and women. Moreover, sectoral data shows that people from ethnic minorities are more likely to work in fewer sectors such as industrial cleaning, industry and hotels and restaurants which are considered as low wage sectors.

Like Belgium, **Bulgarian** data shows that there are more female migrants (57% of the total migrant population) than male. Data from the Bulgarian Ministry of Interior shows that in 2006 the total number of migrants was around 95,000, which represents the 1.2% of the total population. The great majority of these hold long-term residence permits, some are students, some have resident rights due to economic activity and a few hold permanent residence permits. Employment rates are high for all migrants in Bulgaria as 74% are in work, which represents 3.8% of the working population in Bulgaria.

## **2.5 The impact and experience of undocumented migrants**

### *2.5.1 The impact of undocumented labour*

The majority of undocumented migrants find employment in the informal economy. In some cases, informal work pre-existed the arrival of undocumented migration and this has contributed to the deepening of the process of casualisation (UK, Italy, Bulgaria and Spain). For example, a **UK** based study on London's informal economy has found that 45% of the workers were from UK, 27% from Western Europe and indicated that 14% could be undocumented migrants. In **Spain**, almost all undocumented migrants

find jobs in the informal economy often with no contract, lowest wage and work on a temporary basis. In **Bulgaria**, recent changes in labour legislation has reduced employment with no contracts particularly in the private sector; however, it is very difficult to account for those residing without documents and employed by foreign private firms.

Despite the existence of unreliable data in all seven countries undocumented labour can be found in the sectors of construction, agriculture, hotels and restaurants, care, domestic work, textiles and cleaning. Undocumented migrants in the above sectors can be found also in **Austria** together in the sectors of entertainment and ethnic – owned businesses. Experts in Austria regard undocumented migrant workforce as complementary to the formal economy but others have noted that settled migrants could be competing with undocumented, as the latter are willing to accept more precarious working conditions due to language difficulties, nationality, non recognition of their qualifications, greater likelihood of unemployment and general experience of discrimination. Similarly, a study in **Denmark** has concluded that a major impact of undocumented workers is a cycle of upward mobility whereby they are employed by longer-term migrants with permanent status.

The **Italian** report has also noted the significance of undocumented labour in the economy as it has produced an added GDP of 17.7% in 2005 in all the above sectors. In general, undocumented migration tends to concentrate in those sectors of economic that predominately occupy migrant workforce revealing the close correlation between lower employment costs and precarious conditions i.e. employment of migrant workers without contracts.

The **Belgian** report places the size of the informal economy between 15.2% and 20.8 % of the GNP. The majority of informal economic activity is undertaken by Belgian citizens but, as in Austria and Denmark, the most vulnerable sectors for human trafficking are ethnic restaurants and other businesses, construction and night phone shops.

### *2.5.2 The experiences of undocumented migrants*

All seven countries reports have observed the vulnerability with respect to the working and living conditions in all the economic sectors likely to absorb undocumented migrants. Most reveal little research on the experiences of undocumented migrants in the host countries.

In the **UK**, current research on undocumented migrants has revealed exploitative conditions in low paid sectors such as agriculture, care homes, cleaning, food

processing and hospitality. Problems identified include misleading recruitment practices in their own country, deductions on travel expenses, transport to work and accommodation, confusion of who is the employer, non payment (by the employer) of National Insurance Contributions, summary dismissal and eviction from accommodation of workers who assert their legal rights. Some ethnic differences in terms of upward mobility have also been highlighted by another study; for example Brazilian and Polish were more likely to gain better conditions by changing jobs than Turkish and Kurdish migrants.

Research on forced labour and trafficking has shown four sectors as main recruiters: care, construction, agriculture and contract cleaning. Workers have experienced detention, physical and sexual violence, threats of violence, debt bondage, blackmail, confiscation of identity documents and withholding of payments. In terms of gender, there is very little information on undocumented female migrants in the UK but reports on female migration show that 47.2% of foreign female nationals are in employment compared to the 46.4% of UK women (LFS). Sectors often associated with migrant female workers are sex work, domestic work and health. There is however a large number of professional workers such as doctors.

In **Austria**, fear of being disclosed to the authorities is a concern for the undocumented migrants. This leads to dependency on the employers, especially in the live-in domestic sector where the provision of accommodation helps justify the very low wages. This type of employment is particularly open to female migrants. This is an expanding sector in Austrian society.

**Danish** society has considered migrants with a certain degree of xenophobia—especially those whose origins are in non-western European societies. Government policy provides favourable conditions to migrants whose skills are needed whilst making it difficult for those not. Migrants tend to concentrate in larger cities and work in jobs with hard work and poor conditions (usually self employed in small businesses).

In **Belgium** several studies have been carried out on the experiences of undocumented workers. Undocumented migrants who have entered the country illegally tend to develop wider networks of support within the host countries than those who have entered legally and became illegal in the process. Another study suggests the deskilling of the undocumented labour force. Belgium was one of the first EU countries to adopt a law against human trafficking in 1995 – which now conforms to the EU requirements. In terms of gender, Belgian studies have shown that female undocumented migration has been the result of sexual and physical violence, divorce, family issues, religion, war, poverty, forced prostitutions or political persecution. Most

female undocumented migrants are in the domestic sector responding to high demand in private households. The majority of African, Filipino and Latin American women tend to live-in the household in contrast to those from East Europe.

In **Spain** there are studies focusing on specific ethnic communities such as the Chinese or Ecuadorian communities as well as those examining geographical areas of migrant concentration. Studies also refer to the informal economy and the different sectors of employment mentioned above. Similarly, in **Italy** undocumented workers tend to work in specific sectors such as domestic labour, care work, agriculture, the construction industry and agriculture. Some statistics suggests that about 12,000 undocumented migrants are employed in agriculture all year round.

In **Bulgaria**, there is a lack of studies examining experiences. A recent survey has suggested that public attitudes towards migrants are changing and an increasing number of indigenous people are befriending migrants. There are racially motivated preferences however, as Bulgarians feel friendlier towards West Europeans, Turks, Greeks, Jews, Americans, Serbs and Chinese whereas there is antipathy towards Arabs, Afghans, Albanians and Kosovans. One possible explanation for this could be the recent emphasis on international terrorism and Islamic fundamentalism. The same survey has shown the majority of migrants have integrated to a larger degree in the Bulgarian society with less than a third considering themselves as marginalised.

### *2.5.3 Access to services*

There is a change in policies with respect to the access undocumented migrants have to public services such as health in the host countries. In general, there is no or very limited access so NGOs and other voluntary organisations become the main providers.

In **UK**, undocumented migrants used to have access to health services and education without fear of immigration checks. The situation is changing with more emphasis on denying access to undocumented individuals. Until recently, there were free English language classes. In **Italy**, access to health in cases of illness or injury and education system for school age children has been introduced in 1998.

In **Austria**, foreign nationals who are illegal residents have no access to social security system and no legal right to healthcare (only limited to emergencies). This is also the case in **Bulgaria**. However, access is allowed in the Austrian education system for children of undocumented migrants. Language skills are provided by NGOs and attendance does not require declaration of status. In contrast to the above, **Denmark** has no legal provisions for undocumented migrants. Services are accessed through close ethnic minority networks, which constitute a system of a 'parallel society'.

### 3. Estimates of undocumented migration

#### 3.1 Existing statistical data

##### 3.1.1 Estimates of undocumented migration

The task of identifying reliable data of undocumented workers is even more complex than measuring documented migration. Available figures from primary sources such as government data detention centres or secondary sources from previous studies are controversial and therefore present limitations for more reliable assessments. All partner countries have provided figures with a certain degree of caution. In the **UK**, government data estimates the number of unauthorised migrants to be between 310,000 to 570,000 people, 0.5% to 1% of the total UK population respectively – a midpoint of 430,000 (the figure derives from an estimate based on the 2001 Census by subtracting an estimate of foreign-born population residing legally) (Woodbridge, 2005)<sup>7</sup>. The think-tank Migration Watch UK (2005)<sup>8</sup> (which has a well-voiced opposition to migration into the UK) criticized government estimates for failing to include between 5% and 15% children of undocumented migrants as well as failed asylum seekers who had not been deported after 2001. Their overall estimate is in the range of 515,000 to 870,000, with a mean estimate of 670,000 at the end of March 2005. Arguably failed asylum seekers form a considerable part of the undocumented migrant population in the UK and the National Audit Office estimated their number to be between 155,000 and 283,500 in a 2005 report. In **Austria**, a study by Enste and Schneider (2006)<sup>9</sup> has estimated that by 2004, the number of people working informally in the country had increased to 789,000 Austrians and 114,000 foreigners compared to 575,000 and 75,000 respectively in 1995. Among migrants with legal permits for residence, some 50,000 to 70,000 have engaged in some form of informal economy (Biffi, 2002)<sup>10</sup>. There

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<sup>7</sup> Woodbridge, J. (2005) Sizing the unauthorised (illegal) migrant population in the United Kingdom in 2001. Home Office Online Report 29/05

<sup>8</sup> Migration Watch (2005) 'The Illegal Migrant Population in the UK', Briefing Paper 9.15 Migration Trends, 28 July 2005.

<sup>9</sup> Enste, D.H. and F. Schneider (2006) 'Schattenwirtschaft und irreguläre Beschäftigung: Irrtümer, Zusammenhänge und Lösungen', in: Jörg Alt und Michael Bommers (ed.): *Illegalität Grenzen und Möglichkeiten der Migrationspolitik*, VS Verlag für Sozialwissenschaften, p. 35-59.

<sup>10</sup> Biffi G. (2002) *Estimation on the Extent of the Informal Economy in Austria* (Schätzung des Ausmaßes der Schwarzarbeit in Österreich). In Biffi G. (Coordination) *Integration of Foreigners and their Effects on the Labour Market in Austria* (Arbeitsmarktrelevante Effekte der Ausländerintegration in Österreich), Vienna: WIFO/Austrian Institute for Economic Research: pp.362-364.

is an estimate of 60,000 to 170,000 people working illegally in the domestic sector. Other sectors include catering, the building industry and sub-contracted construction work (Haidinger, 2006)<sup>11</sup>. Up to 2002 the majority of undocumented workers came from Poland, Slovakia, successor states of the former Yugoslavia, Turkey and CIS.

In **Spain**, the available data is controversial. The *Padron* statistical information in 2006 indicates 1,145,641 undocumented migrants. However, different interpretations of the *Padron* suggest a figure of 1,640,000 (according to the Partido Popular) or 440,000 (according to the government), while a combination of data from LFS and social security shows that in the same period around 777,826 workers were not registered and could be part of the informal economy.

As in Spain, there are also very different estimates of undocumented migrants in **Belgium**. The Flemish Federation of Small and Medium Sized Companies in Construction (2001)<sup>12</sup> found that in 2001 between 80,000 and 130,000 undocumented migrants were working in Belgium. But based on data from inspection controls the Ministry of Social Security has calculated only 1,669 people. Another small-scale (340 research participants) NGO and academic research study has estimated a figure of 87,700.

In **Italy**, there are no primary sources on undocumented migrants. Data is produced from regularisations and the most recent figure suggests the existence of around 760,000 undocumented migrants in 2006 (Fondazione ISMU, 2006). Data from the Ministry of Interior suggests that the majority of undocumented migrants are those that overstayed their permit or those who have entered Italy from other Schengen countries.

**Danish** and **Bulgarian** analysis reveals a relatively small number of undocumented migrants, as there is insufficient research on illegality in the former and a lack of systematic and official statistics in the latter. In Denmark, experts' own estimates - based on numbers of asylum seekers that have had their applications turned down but still remained in the country - suggest that in 2006 there were between 1,000 and 5,000 undocumented migrants. And the Ministry of Integration indicates that about 1,400 Ukrainian students reside and work without permission<sup>13</sup>. Some research has shown that both Danish nationals and migrants are involved in the informal economy

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<sup>11</sup> Haidinger, Bettina (2006), *Transnational Contingency: The Domestic Work of Migrant Women in Austria*; in: Walsum, Sarah van/Spijkerboer, Thomas (HglInnen): *Women and Immigration Law in Europe. New Variations on feminist themes*, Routledge, London.

<sup>12</sup> Annex 6, Belgium Country Report.

<sup>13</sup> Integrationsministeriet (2006) *International Migration and Denmark*, The Danish Ministry of Refugee, Immigration and Integration affairs.

and the main sectors are agriculture, building, manufacturing and construction<sup>14</sup>. In Bulgaria, Ministry of Interior data on undocumented migrants for the period of 2004 – 2006 shows: 386 from Afghanistan, 495 from Turkey and 310 from Armenia. Between 2003 and 2006 around 5,769 were detained on the border. The Bulgarian report had shown that by using some statistical techniques it would be possible to estimate the undocumented migrants at around 13% (13,000 people)<sup>15</sup> of the total migrant workforce.

At the initial stage of the project, all partners carried out a review of the existing statistics on undocumented migrants identifying available data sources on migration stocks and flows in their countries. Once all partners had gathered their initial data, the WLRI team's statistical expert examined this and some revised methods of calculating estimates were proposed.

However, a thorough review of the methods that had been used worldwide for estimating undocumented migrant populations revealed that none of them actually provided a well-founded or rigorous measure. It was only in the USA that sophisticated techniques have been developed to produce a national estimate. In some countries, such as the UK, interviews with key experts confirmed the enormous difficulties in producing any estimates on undocumented migrants. Estimates based on regularisation data and/or enforcement statistics have been recognised as most reliable.

This section of the report focuses on the size of the undocumented migrant population present in the host country at any one time (commonly referred to as the migration 'stock'). This differs from the number of illegal entrants, the inflow of illegal migrants over time. The undocumented migrant population comprises the following categories: a) migrants who entered the country legally but fell into illegality because of overstaying of their visas; b) migrants who entered illegally, and remained in the country without a residence permit; c) migrants who entered illegally, subsequently managed to legalise their stay either through participation in a regularisation programme or through marriage, and eventually fell back into illegality.

### **3.2 An overview of data sources identified**

Initially, each partner prepared a report on the available migration statistics in their countries emphasising the identification of undocumented migration data (Table 1).

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<sup>14</sup> Annex 6, Denmark Country Report

<sup>15</sup> Annex 6, Bulgaria Country Report

Subsequently, the reports included some original methodologies for calculating the size of the undocumented migrant population.

**Table 1 Estimated total numbers of undocumented immigrant populations based on previous studies/data sources**

Country	Sources, Time of reference*	Method used	Estimates of undocumented migrants
Austria	ICMPD (2009)	Regularisation programmes	70,000 (between 40,000 and 100,000)
	Enste, D. H. and F. Schneider (2006)	Currency demand method; apprehensions by KIAB (central Task Force for the Prevention of Illegal Employment) <sup>16</sup>	114,000 (2004)
	Biffi G. (2002)	Macroeconomic revenue of the shadow economy (as calculated in: Kaßberger F. and R. Schwarzl (2000) and Statistics Austria (2004)) /	60,000 (between 50,000 and 70,000)
Bulgaria	Data by the Ministry of Interior (2007)	Counting apprehensions	1,191 (period: 1991-2006) <sup>1</sup> includes only Afghanistan, Turkey, Armenia)
	Centre for Study of Democracy (2003)	Experts' estimates	NA
Belgium	ICMPD (2009)	Regularisation Programmes	120,000 (between 90,000 and 150,000)
	Flemish Federation of Small and Medium-Sized Companies in Construction (2001)	Experts' estimates	107,500 (between 80,000 and 135,000)
Denmark	NA	Experts' estimates	3,000 (between 1,000 and 5,000)
Italy	Regine Report (January 2009)	Regularisation Programmes	600,000 (between 200,000 and 1,000,000)
	Redattore Sociale (2008)	Calculating the percentage of 'irregular' applicants to the December 2007 flow decree (granting work permits to non-EU migrants)	650,000
	Workpermit.com (2006)	Experts' estimates by the three largest Labour Unions: CGIL, CISL, UILs	800,000
	Fondazione ISMU (2006)	Analysing data bank built of the 2002 regularisation applications	760,000
Spain	ICMPD (2009)	Regularisation Programmes	425,000 (between 150,000 and 700,000)
	Padron Register (2006)	Comparison between registrations in Padron and	

<sup>16</sup> For a critical discussion of the methods used see Clandestino Report on Austria at [http://clandestino.eliamep.gr/wp-content/uploads/2009/10/clandestino\\_report\\_austria\\_final\\_2.pdf](http://clandestino.eliamep.gr/wp-content/uploads/2009/10/clandestino_report_austria_final_2.pdf)

	2005 Regularisation Programme	numbers of documented residents Counting regularisation applications	1,145,641 700,000
	2001 Procedure, LO 4/2000	Counting numbers of applications	614,000
<b>UK</b>	ICMPD (2009)	Expert estimates	715,000 (between 430,000 and 1,000,000)
	Woodbridge, J. (2005)	The residual method, used in the USA	430,000 (between 310,000 and 570,000 )
	Migration Watch (2005)	Adjusting official statistics to numbers of UK born children of undocumented migrants & not deported failed asylum seekers after 2001	670,000 (between 515,000 and 870,000), end of March 2005
	<a href="http://news.bbc.co.uk/1/hi/uk_politics/5076546.stm">http://news.bbc.co.uk/1/hi/uk_politics/5076546.stm</a> (16 June 2006)	Compilation of different sources	590,000 (between 310,000 and 870,000)

\* Note: References to sources mentioned in the table above:

- Centre for Study of Democracy (2003) *The Informal Economy in the EU Accession Countries*, Sofia (in Bulgarian)
- Redattore Sociale (2008) "In Italia circa 650 mila immigrati irregolari", in *Redattore Sociale*, 8 October 2008.
- ICMPD (2009) *REGINE Regularisations in Europe: a study on practices in the area of regularisation of illegally staying third-country nationals in the member states of the EU* ([http://ec.europa.eu/justice\\_home/doc\\_centre/immigration/studies/docs/regine\\_report\\_january\\_2009\\_en.pdf](http://ec.europa.eu/justice_home/doc_centre/immigration/studies/docs/regine_report_january_2009_en.pdf))
- Kaßberger F. and R. Schwarzl (2000) *Zur Vollständigkeit der BIP/BSP-Berechnungen*. In *Statistische Nachrichten* 2/2000, Vienna: pp. 142-148
- Statistics Austria/Statistik Austria (2004) *National Accounts/Volkswirtschaftliche Gesamtrechnungen*, Vienna
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<sup>1</sup> Includes only Turkey, Armenia, Afghanistan

Three main reasons were advanced for the lack of reliable data on undocumented migration:

- First, data collection on undocumented migration faces the problem of identifying and counting people who fear deportation and therefore are unwilling to disclose any personal information; even migrants who participate in a regularisation programme may provide inaccurate data fearing deportation;

small samples of undocumented migrants who have established trust with the researchers can be an exception.

- Second, information that can lead to establishing a person's legal status is often dispersed between government departments, police, employment offices etc. thus making co-operation and data access very difficult. UK enforcement statistics were a good example of a coherent data set on undocumented migration figures, although still with its own limitations. It was revealed that Bulgarian government departments and the police were most reluctant to share information and even more so to make it available to researchers.
- Third, country-specific definitions of illegality and illegality result in a lack of internationally comparable data on undocumented migration.

Main data sources that have been identified included:

#### Population data

- **Census:** Census data were available in all the partner countries. Undocumented foreign-born persons can be counted in a traditional census with door-to-door visits. Subjected to a post-census adjustment for under- and/or over-counting, this method provides an estimated population size at the moment of census. **Spain** provided data from a 'continuous census' conducted every year.
- **Regularisation programmes:** Amongst the partner countries, these have been carried out in **Spain, Italy** and **Belgium**. Data obtained by such programmes are limited by the fact that not all undocumented foreigners are able or willing to take advantage of such programmes; moreover, once the programme is complete, new undocumented workers are likely to enter the country anticipating a new regularisation programme. The regularisation programme may encourage temporary strong in-flows of people from neighbouring countries (e.g. Albanians into Italy). Also, persons who are granted a time-limited permit may later return to illegality.
- **Municipal Registers:** These have been used in **Spain** only. They constitute a unique data source on undocumented foreigners including children and people who are not in employment.

#### Sample data

- **General large-scale survey:** This was mainly the Labour Force Survey in a number of countries. It normally provides a very partial coverage of the targeted population.
- **Targeted survey:** Two types of ultimate sampling units were identified:

- **Undocumented migrants** were sampled/ traced starting from sites/institutions where they were expected to be present with a high probability (e.g. in the **UK**, samples of suspicious applications for National Insurance numbers, suspicious applications for driving licence applications, sham marriages);
- **Expert witnesses:** Some experts in the field were asked to comment on the possibility of estimating the size the undocumented resident population. It was only an USA expert that gave a figure on the undocumented migrant population in the country; he commented on the advantages of the residual method as the best one used in the USA. However, insufficient data made it inapplicable in Europe, although the expert estimates carried out in the UK were based on this method.
- **Enforcement statistics:** It was possible to distinguish between three sources:
- **Border apprehensions** of those who have attempted to enter the country illegally.
- **Removals/assisted returns**, including those who were offered reintegration assistance at home through the International Organisation for Migration (IOM).
- **After-entry controls (refusals of applications)**, including dismissed appeals determined by Immigration Judges, refusals of extension of settlement and refusal of initial recognition of the right to reside.

### 3.3 An overview of methods used for estimating the size of the undocumented migrant population

Estimating the size of the undocumented population in each of the partner countries proved to be one of the most challenging tasks. This was due mainly to the unrecorded nature of the phenomenon, as by definition undocumented migration eludes statistical coverage and registration.

Each partner's calculations of the size of the undocumented migrant population involved some degree of statistical modelling (Table 2). The initial assumption was that the available data sources could not have such coverage and their associated quality could not be of such a standard that the target number could be produced based on simple calculations, as it is often the case with the documented migrant populations.

The partners from IMIR, **Bulgaria**, applied the economic method for calculating undocumented migrants, namely linking undocumented residence with undocumented employment. They developed a formula for calculating the undocumented immigrants in Bulgaria based on the assumption that undocumented immigrants comprised a percentage of the total working population in the 'shadow' (unregistered) economy:

$$A/B \approx C/D$$

Where:

A=Number of documented workers (with valid labour contracts)

B=Number of documented migrants

C=Number of undocumented workers

D=Number of undocumented migrants

Empirical data is provided by: the National Statistical Institute in Bulgaria (number of employed people for the second quarter of 2008), the Ministry of Interior, Directorate "Migration" (total number of immigrants for 2005) and sample surveys (e.g. Centre for the Study of Democracy; Vitosha Research).

Utilising the available empirical data, A=2,158,300; B=130,000; C=377,702. Therefore, C (number of undocumented workers) = 22,753.

The partners from **Spain** developed the following formula:

$$I = A - B - C - D - E$$

where:

I=Undocumented immigrants in Spain

A=Immigrants registered in the continuous (annual) census

B=Immigrants who have left the country/died but still figuring in the census

C=Immigrants possessing legal residence

D=Immigrants awaiting renewal of their expired residence permits

E=Immigrants with temporary residence permits (e.g. students, temporary workers etc.)

Utilising data from the continuous census, the municipal registers as well as data provided by the Spanish Parliament (questions & answers at a Parliamentary session)

A=4,482,568, B=120,000, C=3,021,808, D=260,000, E=103,000.

Therefore, I (undocumented immigrants in Spain) = 4,482,568-120,000-3,021,808-260,000-103,000=977,760

The WLRI the **UK** partner combined enforcement statistics and secondary events data (common crimes, marriages, issuance of driving licences and national insurance numbers (NI)) to infer on the size of the undocumented population. Data covered the period between 1997 and the first quarter of 2008. Home Office statistics and IOM newsletters were the main data sources. Data covered: Removals/Assisted Return data (asylum and non-asylum cases of removals and voluntary departures; non-asylum cases of assisted return by the IOM and After-entry controls: Refusals of applications data; (refusals of extensions of settlement; refusals of initial recognition of right to

reside; refusals of recognition of permanent residence; number of people in detention; dismissed appeals determined by Immigration Judges; withdrawn applications; suspicious applications for NI numbers; suspicious applications for driving licences; sham marriages; refused asylum, ELR, HP and DL). However, the assessed figure should be read with caution. First, it is mainly based on enforcement statistics and these, by definition, cover only migrants who have been subjected to immigration controls. Furthermore, the assessed figure can be an overestimate as the calculations assume zero undocumented migrant mortality and they are inevitably distorted by double counting. All voluntary returns are assumed to be actually captured by the enforcement statistics based on Home Office data. But it should be noted that this figure probably represents an overestimate as it does not take account of migrant mortality and voluntary returns.

Let's denote Removals/Assisted Return = RAR and Refusals of Applications = ROA. Therefore, the cumulative total of ROA – RAR for each year between 1997 and 2008 gives an indicative, figure of the undocumented migrant stock for the 11-year period.

$$\begin{aligned} \sum(\text{ROA}-\text{RAR})_{[1997-2007]} - \text{RAR}_{[2008]} &= [(30,630-10,720)+(32,900-10,855)+(32,005- \\ &11,345)+(83,880-13,815)+(132,595-16,940)+(116,655-22,00)+(135,215- \\ &29,260)+(122,785-24,990)+(102,675-28,410)+(136,816-31,970)+(168,416-68,410)] - \\ &3,025=825,857-3,025=822,832 \end{aligned}$$

The partners in FORBA, **Austria** based their calculations of the undocumented migrant population in the country on the 2005 Census data (legal immigrant figures) and 2005 Administrative data sources (mortality, emigration and temporary legal migration). However the method could not produce a sufficiently reliable estimate.

In **Belgium**, our partners used a combination of statistical sources to estimate the number of undocumented foreigners in the country for the period 2004-2006. They combined data on interceptions (I), administrative apprehensions (AA), detentions in a detention centre (DDC), repatriations (R), forced returns (FR) and voluntary returns (VR).

$$\begin{aligned} [(I + AA+DDC) - (R+VR+RF)],_{2004} + [(I + AA+DDC) - (R+VR+RF)],_{2005} \\ =[(20,754+30,000+1,756)-(4,626+3,275+11,783)]+[18,400-(3,755+12,266)] = \\ = [52,510-19,684]+[18,400-16,021]=32,826+2,379=35,205 \end{aligned}$$

## **Table 2 Data sources used to calculate an estimate on the undocumented migrant population**

Country	Estimated number	Total population	Estimate /Total population (%)	Sources of data
Austria	See above	8,102,000	na	2005 Census data & 2005 Administrative data
Belgium	35,205	10,356,000	3.4	Compilation of different statistics (THESIM, European Migration Network; Immigration services data, "Office des etrangers")
Bulgaria	22,753	7,263,000	3.1	"Migration" Directorate, Ministry of Interior, 2007 [data for 1991-2006] National Statistical Institute, 2007. "Main outcomes on the observance of the labour force during the second quarter of 2008" (in Bulgarian)( <a href="http://www.nsi.bg/Labour/Labour.htm">www.nsi.bg/Labour/Labour.htm</a> ) <a href="http://www.csd.bg/en/econ/fileSrc.php?id=1571#261,11">www.csd.bg/en/econ/fileSrc.php?id=1571#261,11</a> , "Availability of a written contract with an employer" (in Bulgarian) Sample data (Centre for the Study of Democracy; Vitosha Research)
Denmark	3,000	5,485,000	0.06	Border Police data; data from the Integrations Ministry
Italy	650,000	60,000	0.9	Italian Central Statistics Office (ISTAT), Caritas, Fondazione ISMU, 2008
Spain	977,760	41,551,000	2.4	"Continuous Census" (INE), as per 1 Jan 2007 "Observatorio Permanente de la Inmigracion", as per 1 Jan 2007
UK	822,832	59,329,000	1.4	IOM Newsletters, 2004-2007 Home Office, 2007. <i>Enforcing the rules: A strategy to ensure and enforce compliance with our immigration laws</i> , Home Office, March 2007. Home Office, 2008. <i>Control of Immigration: Statistics United Kingdom 2007</i> . Home Office Statistical Bulletin, August 2008, 10/08.

Table 2 contains references for some empirical data utilised by the partners to calculate an estimate on the size of the undocumented immigrant population in their respective countries. Some interesting observations have emerged. First, the presence of undocumented migrants was clearly the highest in the Mediterranean countries of Spain and Italy while there was a gradual decrease towards northern Europe (Denmark).

### 3.4 Dissemination of data on undocumented migrant estimates

At the meeting in Venice, in January 2008, it was agreed that data on undocumented migrant estimates would be disseminated with caution and always within a specific context. It is important to be aware of two significant limitations of the estimated

numbers. First, there is an acute problem of reliable and coherent migration data in general and of data on undocumented migration in particular. The methods of estimation are always dependent on the available data. Second, estimation methods usually rely on certain assumptions. While the use of these assumptions is unavoidable due to the nature of the issue of undocumented migration, it is impossible to test these assumptions beyond any empirical doubt. Therefore, the data on the estimates in this section should be treated as indicative and useful pieces of information only rather than absolute numbers that perfectly reflect the problem at hand.

#### 4. Key themes explored in the UWT research

Drawing our data from the interview material detailed in the methodology section of this report, the UWT team focused on five key thematic areas. These have all been produced as freestanding reports available on the project website: [www.undocumentedmigrants.eu](http://www.undocumentedmigrants.eu). In this section we draw some of key conclusions from the reports.

##### 4.1 The relationship between legal status and working conditions

Our researches lead us to conclude that status is rarely the outcome of a conscious decision on the part of the individual migrant but is determined by factors more usually out of the control of the individual although the passage of certain events or a fortunate combination of factors, may open up opportunities to those in a position to exercise choices. Of the 211 interviews conducted with migrant workers, a very large proportion (70.6%) had experienced at least one status transition, with at least one in five having had documented status and then losing it. The data illustrates that the status an individual holds is not fixed in a sense that someone is consistently either documented or undocumented.

###### 4.1.1 From irregular to regular status

The thematic report on status and conditions<sup>17</sup> stresses this point. The report begins by noting that in all seven countries there are circumstances by which migrants, who arrive without documents or without a right to work, can acquire these. Some of the methods available were found, to a greater or lesser degree, in all seven countries, while others were unique to the particular legal or other arrangements in the host country. In such cases they were primarily dependent on the legislative system and on the availability or otherwise of regularisation programmes or amnesties. Common methods of securing regularisation are identified as through: marriage; departure and re-entry; and through applications for refugee status. Using these three methods migrants have been able to change their legal status within the destination country and to move from irregular to regular status. However, with regard to the former – regularisation through marriage – our research also finds that there has been a tightening up of rights to legal status through marriage in almost all of the seven Member States. Marriage, which has also traditionally been viewed as a route towards

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<sup>17</sup> *The relationship between legal status and working conditions*, Thematic Report No. 2, Miguel Pajares, GES

greater integration within the host community, is no longer identified as such in those countries where the host community also consists of individuals who share a common ethnic identity with newly arrived migrants. It is clear that the concept of marriage as an integrative experience is being denied because the state perceives elements of its own population as being outside its construct of its own ethnic identity. This suggests, that as migration increases and as the size of the undocumented migrant population within a country is sufficiently established, particularly as a second generation emerges, bars on marriage, as a route to regularisation and settlement, are likely to increase. An example of where this has already occurred is in **Denmark**, where the state has tightened the rules on who can marry and in **Austria** where the state requires that the application of intention to marry must be presented while the migrant is outside the host country. Marriage for the moment, however, represents an important route to regularisation.

The second common form of regularisation identified was through exit and re-entry. Migrants in some cases had chosen strategically to leave their destination country and return to their country of origin with the specific aim of re-entering with the required documents. In other words, a period of irregular residency was exchanged for regular residency as knowledge was acquired of how a particular state's migration policies operated and this gave individuals a route towards transition from irregular to regular status.

Our research has acknowledged that the separation of migrants into two distinct groups - those deemed to be 'economic' migrants with no free standing rights of entry and 'refugees' who carry some form of international protection - is not always helpful, as the method that an individual adopts in attempting to make a transition from irregular to regular status is more often a response to the legal regime that he or she finds. Thus whether someone seeks to migrate as an economic migrant or as a refugee is immediately related to the legal regime in the destination country. Where there are relatively open passages to economic migration, individuals may select that route. Where the state is known to be receptive of applications for asylum, but hostile to applications for work, then it is inevitable that this will be the method of entry. This is not to suggest that applications for asylum are not presented by 'genuine' refugees, but rather to accept that the divide between economic and political misery is very narrow and that the desire or need to flee from poverty and from the restrictive nature of life opportunities where poverty is rampant, is not very far removed from the desire or need to flee from political oppression.

**Spain** and **Italy** are the two countries, within the UWT partnership, where mass

regularisation has occurred through state intervention. These have been important routes to regular status for migrants in both countries, with more than one million regularisations over the last few years.. However, the report also makes it clear that these are not the only two countries where the state has acted to regularise large numbers of previously irregular migrants. We argue that the **UK** and **Austria**, states which maintain an opposition to mass regularisation programmes, have actually also conducted these when they gave all A8 Member State citizens the right to work and/or to reside, at a stroke regularising thousands of undocumented migrants from A8 countries who were already present in the territories prior to May 2004.

#### *4.1.2 From regular to irregular status*

The thematic report also notes that the transition from regular to irregular status is common and is indeed more common than its reverse, as described above. This transition is sometimes a consequence of the expiry of a work permit or other form of visa. However, in addition, we observed cases, in many of the seven countries, of workers being thrown into irregularity simply because the state itself had decided to change the entry and work conditions. This had occurred in **Austria** in 2006 and in the **UK** in 2008. The restrictive nature of entry regulations could also have the effect of driving individuals into irregularity and this had occurred particularly in **Spain**, where rules that provided temporary entry only, created the conditions for overstaying, thus throwing workers into irregularity. As the thematic report points out, the current economic crisis, which is likely to act as a push for the growth of short-term temporary contracts, will affect migrant workers more harshly and therefore will force greater numbers into irregular work, as their opportunities to obtain work in their countries of origin also become more restrictive. This was particularly noted in **Italy** and in **Bulgaria**.

The thematic report presents a strong case that irregular migration is a combination of two factors; 1) the unwillingness of the state to offer legitimate entry routes for documented migrants; and 2) strong economic growth, which may be combined with a third factor: 3) either the existence of a strong informal sector or the existence of good ethnic networks providing opportunities for work. Basically, the thesis advanced is that migrants will move to those countries that are seen as providing the best economic opportunities for work and for remuneration, and that status is a less significant factor in determining to which country a migrant chooses to migrate.

The report also notes similar patterns of working arrangements in all seven countries. In particular, the sectors in which irregular work is conducted are remarkably similar in

all seven states. All seven countries evidence high levels of work carried out by undocumented migrants in agriculture, construction, hotels and catering and in personal care in the home, some of which may also be informal. This indicates the presence of a series of common factors, which we identify as:

- 1 A production process which is not mobile and for which labour is required in the country of origin. In other words a process that cannot be outsourced beyond the borders of the country itself, or perhaps even more narrowly within a relatively small geographical area where local labour is either not present or unwilling to do the work;
- 2 A process which is difficult to programme for in advance and which can be subject to fluctuation – in relation to the time of year/seasonal nature and so forth;
- 3 A decline in the systems for skill acquisition in particular sectors, especially those where the employer previously exercised responsibility for the acquisition of such skills;
- 4 The decline of either a state or family welfare system, which necessitates the outsourcing of work previously undertaken by the state as a public function or by the family as a private function;
- 5 The presence of a significant mass of co-ethnic or near ethnic entrepreneurs (individuals sharing aspects of a common identity but who may not be members of the same national/ethnic grouping) who may be more accepting of undocumented labour or the pre-existence of an informal sector within which local and migrant labour is absorbed; and
- 6 A process, which can be carried out hidden from the public view.

#### *4.1.3 The consequences of irregularity for work and working conditions*

The report also finds a marked correlation between undocumented work and inferior working conditions and for this reason we can suggest that in some cases employers exercise a positive choice in choosing to employ undocumented migrants. The report notes that undocumented workers earn less than documented workers, and often below the legal minimum. However, more importantly, there was a strong correlation between status and the conditions under which work was performed. Status affected entitlement to rest breaks and had an impact on health and accidents. Undocumented migrants carried a greater risk burden than documented migrants, while both carried a greater risk burden than local workers.

At the same time there were factors that meant that these differences could disappear, although this does not signify that conditions were better for undocumented migrants,

rather they signified that they were poor for all workers. The report notes, that particularly for semi-documented workers (for example, those with a residency but not a work permit – asylum seekers would fall into this category) working conditions could mirror those of fully undocumented migrants. There are thus a number of circumstances that seem to operate to narrow or remove the differences between workers regardless of status. They can be observed in the following situations:

- 1 Where labour shortages are such that employers must employ undocumented workers because other labour is unavailable;
- 2 Where pay and conditions within the sector are so low that in any case that employers cannot really pitch them lower for undocumented labour; and
- 3 Where conditions are the same but where undocumented workers occupy those jobs with the highest risk levels.

The above situations may promote equality of treatment regardless of status. However, this represents equality at the lowest common point. Indeed we observe that a changing and tighter labour market, with a drive towards reducing wages and other pay entitlements, may indeed speed up this process of equalisation. However, this will not mean that undocumented migrants achieve better terms and conditions but rather that their terms set the norm for others in the sector.

#### *4.1.4 Regularisation of status and working conditions*

Our research has sought to understand the extent to which regularisation could lead to improved terms and conditions. The available evidence suggests that immediate improvements may be experienced in terms of psychological welfare together with a right of access to state welfare and service provision. Our research bears out previous studies that find that regularisation may improve terms and conditions for workers, although there is likely to be a time lag between change in status and improvements and this may also require the worker to move from the sector of employment where she/he had been working when undocumented. Furthermore it is difficult to demonstrate that it is indeed not just time by itself that promotes improvements, as workers develop the locally specific skills needed to negotiate their routes into better jobs and may over time acquire documents, even if false, that allow them to access such jobs. Thus it may be that it is a combination of time plus regularisation that promotes improvements. Additionally, this time lag is also influenced by other facts including:

- 1 The industrial relations environment in the country and in particular the strength of trade unions and their ability to enforce legal conditions on employers;

- 2 The existence of collective bargaining and the general applicability of collective agreements;
- 3 The degree to which there are effective enforcement mechanisms to guarantee the application of employment rights and the strength of the legal remedies;
- 4 The extent to which regularisation provides opportunities for movement into new work;
- 5 The extent to which regularisation results in family reunion or re-grouping;
- 6 The size of the casual/temporary force and the extent to which casual labour is normalised; and
- 7 The existence of factors such as minority ethnic businesses, as significant employers and/or the presence of a large informal sector.

Thus we neither argue that regularisation makes no difference, nor do we argue that it automatically improves conditions for previously undocumented migrants. In the typology set out above, 1 to 5 correspond to situations that promote improvements in terms and conditions following regularisation, while 5 and 6 correspond to factors, which may impede the opportunities for improvements following regularisation. Where an industrial relations system is weak then it is less able to guarantee equality even following regularisation. Thus the extent to which those whose position has been regularised may take advantage of this change is dependent on the overall strength of formal mechanisms for enforcing employment rights, and in particular on the existence of both a strong trade union movement and on one that can enforce the general application of collective agreements. It appears also to be associated with factors (like family reunion) which both may act as an impetus to seek better jobs and may also be a stimulus towards greater integration and therefore towards the development of effective social networks. However, in the absence of these additional enforcement mechanisms, regularisation may be insufficient to guarantee equality of rights to migrant workers.

#### **4.2 Migration flows and their impact on EU labour markets**

The UWT project had, as one of its principle objectives, to improve its understanding of the impact of migration flows on EU labour markets. The data to assist us in arriving at this was primarily obtained through the interviews with key experts and with undocumented migrants. An analysis of the data was conducted by the Austrian

partner, Forba and is produced as a separate thematic report<sup>18</sup>.

The report begins by reminding us that in the discussions which the UWT research team held at initiation of the project it was agreed that we would reject the term 'illegal' when referring to migrants working without documents in Europe, as a means of strengthening the notion of the *process* and *construction* of irregularity. Our assertion remains that no one is 'illegal' merely by having taken a decision to move in search of work and that it is one's residence or employment status that turns individuals from documented to undocumented workers, either initially when crossing borders or more commonly, when work permits or entry visas expire. 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".

Undocumented labour is therefore not a construction of individuals searching for work, but is the outcome of state policy decisions on who can (and who cannot) migrate in search of work. These policy positions continuously shift, not only barring entry to peoples who previously could move freely, but also turning workers who have documented status into undocumented workers, to fit with a new policy initiative. We note that in all seven countries, while the exact numbers are impossible to assert, there appears to have been a growth in undocumented labour, as a consequence of these policy shifts.

However, migrant labour is not solely determined by policy but is also a consequence of changes in labour markets, observed in all seven countries. This is primarily noted through the increasing casualisation and informalisation of labour markets, in general, and their consequent recourse to undocumented migrant labour. Thus, the report argues that it is changes within labour markets and in the ways that they operate which makes them increasingly reliant on a continuing source of undocumented labour. It is thus these labour markets that restrictive migration policies serve.

Undocumented migrants are key workers in those sectors and jobs commonly avoided by host communities, at least in periods where alternative work is available. Their poor working conditions and low wage levels only persist where there is an element of a population that has limited choices over where to work. This is why most of the undocumented workers interviewed in the course of the project viewed their labour market position as one where they had no options but to contend with high levels of

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18 *Un(der)documented migrant labour – characteristics, conditions and labour market impacts*, prepared by Manfred Krenn and Bettina Haidinger (FORBA)

exploitation by employers. Thus while the response of states to undocumented labour has been to further legislate to 'outlaw' it, our research finds that tightening immigration controls do not eliminate undocumented work. Instead they push workers 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, looking after the elderly in their homes, where otherwise they would be abandoned, or working in small construction sites, doing the most difficult and arduous jobs. Undocumented labour thus becomes the most exploited section of the labour force because it is driven further underground, working in an informal sector that is completely unregulated.

Our thematic report also considers whether the labour conditions that apply in the informal sector could spill over into the formal economy, in other words whether the working conditions experienced by undocumented labour represent a new direction for labour in general. We suggest that while this may not be the case in every sector of employment, some sectors, in particular those subject to outsourcing and subcontracting are at risk. These risks are seen through the greater use of spurious self-employment, where workers assume responsibilities and take on risks that otherwise would have been assumed by employers and where work can be sporadic and subject to time and pay fluctuations. Self-employment becomes self-exploitation, removing workers from collective relationships and from the benefits of such relationships. Business risk, which had previously fallen on the employer is consequently delegated to the worker. Although spurious self-employment is usually identified with work in the construction sector, affecting mainly male workers, we noted that in some countries it is also on the rise in sectors where female employment is dominant, such as in the domestic care sector. This has occurred through the privatisation of functions – such as the care of the elderly – which were previously seen as either the responsibility of the family or, in those countries with developed welfare systems, the responsibility of the state. Changing family structures, witnessed in all seven countries, together with a weakening of welfare provisions in those states which had developed welfare systems, has encouraged the privatisation of responsibility for care functions. However, in the absence of the financial resources necessary to provide for such care, it is inevitable that individuals, who are reliant on it, seek their care from those unable to draw on employment rights. Thus undocumented labour becomes a necessary form of labour where such welfare changes occur.

We do not assert that in all countries there is a strong and clear causality between new forms of flexibilisation and casualisation of labour conditions and the growing

importance of undocumented migrant workers in the informal economy, as the latter do not have the same influential role in all seven countries. However our research does provide evidence for the intensive use of undocumented 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. Restrictions on rights to work for migrants from new Member States have pushed them into self-employment and have encouraged the growth of self-employment. In turn this feeds informal employment, pushing individuals into informal work. We also note that there are contradictory forces at play. In some sectors undocumented labour is sought out precisely because it is considered as flexible and disposable, particularly in those jobs considered labour intensive, hard to mechanise and where it would not be possible to relocate the work to low-wage countries. However, it is also required for stable and long-term employment in those sectors where working conditions may be poor but where long-term employment relationships are highly prized. Work in private households, and especially in care arrangements, falls into this category, where employment relationships are built on notions of permanency, as well as on trust and on personal empathies. Here too, however, the financial rewards of employment are poor and the working conditions are hard. These draw in those workers with few options and it is for this reason that undocumented females are perceived as workers of choice.

#### *4.2.1 Routes into employment*

Our research suggests that the most important channel through which undocumented migrant workers get access to irregular jobs is the use of informal networks. These could be networks of co-ethnics, already established in the host country, who might require work in exchange for accommodation and food, or sometimes for small amounts of cash in hand. But we also were aware of reluctance, on the part of a significant element of those whom we interviewed, to turn to co-ethnics for support, either because they wanted to distance themselves from their immediate communities or because the jobs which could be accessed through them offered fewer long-term opportunities. For some, job placement agencies were a preferred route into employment. We also note that a consequence of having to move within unregulated spheres, such as informal labour markets, requires a more active role for individuals than would be the case in regulated regular labour markets. Without the protection of regulation and confronted with very unstable employment situations, undocumented migrants need to develop creative and inventive routes into employment.

### 4.3 The gender specific dimensions of migration

#### 4.3.1 Gender segmentation and its consequences for migrant women

Both the thematic report on migration and labour markets and the thematic report on gender, produced by the Bulgarian team<sup>19</sup> conclude that undocumented labour is subject to the same rules of gender segmentation as is host country labour. Gender divisions remain as strong among undocumented migrants as they do between male and female workers generally. Undocumented women migrants are thus mostly engaged in health care and cleaning in private households, hotels and catering, as well as in the sex industry. Men's employment is dominant in construction and in manufacturing. Both genders work in the hotels and restaurant industry and in agriculture although they will usually do different types of jobs.

The notion of gender segregation was deeply rooted in the minds of many of the interviewees, as one woman noted, "if I was a man I could easily work on a construction site and earn 'normally' like the other people too. But my documents and my curriculum say: I am a 'woman'". And these views were held even in those cases where women, prior to migration, had been working in what might be regarded as 'non traditional' jobs. Thus the mechanics of the labour market destined migrant women to jobs for which they 'ought' to have a 'natural' disposition as women and which could be classified as jobs centring on 'care', in a broad sense of the word.

This continuing rigidity of the labour market has occurred in a period when the gender composition of migrant labour has altered, with a growing feminisation of migration, bringing with it increased female participation in European labour markets, including within semi- and undocumented employment and this is observable in six of the seven countries in the UWT study. The exception is **Bulgaria**, where migration remains a relatively new phenomenon, although here too the researchers found growing evidence of female migration. We conclude that this change in migration patterns has been assisted or encouraged by changes in 'traditional' patterns of family responsibility.

These arise from a number of situations:

- 1 The feminisation of economic responsibility for families, which in turn has necessitated the migration of women in search of work;
- 2 Family reunification in those EU countries which now have an established migrant presence;
- 3 A breakdown in family structures in host communities, where the care for the elderly, in particular, can no longer be carried out within the confines of individual

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19 *Female migrants – the new nomads in old Europe*, Antonina Zhelyazkova, IMIR, Sofia

families; and

- 4 An increase in the number of working women in host countries, requiring a different distribution of family caring responsibilities.

Although we would be careful about generalising from the 211 interviews we have conducted with those who are or who have been undocumented, we have observed that the females whom we interviewed tended to be older than the male interviewees. This may be an accident of the sample, but we think that it may be as a result of the situations that we have described above which have acted as a 'push' for female migration and which differ somewhat from the reasons males provide for their migration, the latter being more likely to be related to individual prospects and opportunities. This leads to our conclusion that female migration, more often than male, is the outcome of extreme economic necessity and is undertaken as a life project, rather than as an adventure.

#### *4.3.2 Female migrants and their children*

Our report finds that women see the giving up of career opportunities in countries of origin, in return for higher economic rewards from migration, as uniquely tied up with the desire to provide for their children. Being a parent, for women migrants in particular, is both an incentive for migration but also, where they are accompanied by their children, may provide a route into integration in the host country. Our thematic report finds that the integration of children is a prerequisite of the integration of their mothers and that where such integration is not achieved there is a greater likelihood of return. Thus having responsibility for children both encourages women to migrate and may encourage them to stay in the host country. The patterns of women who migrate through a process of family reunification may differ however. Here it appears that work in the host country is more likely to be seen as a secondary requirement and only comes after some period of settlement. As a result the integration process is much slower.

#### *4.3.3 The working conditions of female migrants*

We have already referred generally to the poor working conditions of undocumented migrants but we also have found a gender difference between the conditions to which women may be subjected and those of men. We assert this for a number of reasons:

- Women migrants were significantly more likely in our sample to be working in private homes and in these circumstances had difficulty in separating their working day from their own private time. A quarter of the interviewed migrant women in the

sample (n=24) reported working in private homes. Often the latter disappeared into a continuing series of tasks for the household in which they worked. Thus women were more constrained in their opportunities to build lives distinct from their working environment.

- While some interviewees described their relationships with employers, in such situations, as positive, for many women working in the domestic care sector, their ability to challenge their employers' actions was negligible. This was due to the fact that employers not only paid them (no matter how minimal their wages) but also offered accommodation and shelter and were seen as providing a shield between immigration authorities and the undocumented individual.
- Women, whether working within private homes or in outside workplaces felt themselves vulnerable to harassment, both sexual and physical, in a way that generally did not apply to male migrants.
- While both male and female undocumented migrants were often working in sectors where there were low levels of collective organisation, this was truer for women than for men. Male workers in the construction and manufacturing sectors could find themselves working alongside unionised workers and could benefit from the collective solidarities that such workplaces created. Women working in the private care sector or in the sex industry were much less likely to find a collective way of resisting their working conditions. For this reason they were more likely to seek individual solutions to their predicaments.

For many female migrants work in private households represented at least the first phase of employment following migration. Such labour could often be conceptualised as carrying with it deep emotional bonds, between worker and employer, and these could blur the nature of the employment relationship, meaning that working conditions, such as the agreed length of the working day, were completely unregulated and workers had difficulty in defining where work ended and their own time began. It was also labour which was psychologically challenging as much as it was physically challenging. As the thematic report notes, this type of physical, as well as emotional exploitation has a structural societal aspect, which is linked to the crisis of the welfare state all over Europe. Thus the combination of the need to fill those gaps, which the dismantling of welfare states had created, was the catalyst for the creation of a market of jobs in private domestic care. The tightening of immigration controls created a bank of workers desperate enough to undertake this work. Thus domestic work in private homes was often defined as work that was 'safer' for those without documents, as it was felt that the police were less likely to raid private houses, even if it carried other

risks, such as abuse from the employer. The fact that the work could generally be conducted unseen was the basis of its attractiveness to those who were undocumented. In this sense then, there may be greater opportunities for work open to female than male migrants when the authorities are taking a strong approach to enforcement of controls on undocumented working. At the same time this work depended on the creation of high levels of trust relationship between employer and worker, as domestic workers infiltrated their employers' private sphere

While the research suggests that working in private households might serve as a transitional strategy towards 'better' employment for some women, for many of those working in the sector of domestic care, there were relatively few or no alternative options, while their status remained undocumented. Work in private households was commonly perceived as work undertaken by 'servants' treated as objects, rather than labourers treated as individuals whose work was subject to external regulation. As one interviewee noted, "The employers think you are their property".

#### **4.4. Migrant labour in the underground economy - between processes of irregularisation and of informalisation**

The final phases of the UWT research have coincided with the opening of a worldwide economic, social and political crisis that is likely not be resolved for many years. We argue that this will encourage the growth of underground economies. The thematic report prepared by the Italian and Danish partners<sup>20</sup> notes that despite the intensification of immigration controls in all EU Member States, informal labour has nevertheless grown, becoming a 'historically significant phenomenon', what the report describes as a 'structural phenomenon'. A continued falling rate of profit has demanded cyclical and structural worsening of living and working conditions, particularly for work carried out on the peripheries of national economies. In this situation, a role for migrant undocumented labour is established as labour that is marginalised, exceptionally vulnerable and therefore both cheap and flexible. The report looks at the development of informal economies today, not as a new phenomenon, but as a permanent element within capitalist economies, which nevertheless sometimes has been challenged in periods, such as after the end of the Second World War, when capital could expand.

The report also argues that the current crisis of capital has been accompanied by a trend toward the growth of inequality *within* the informal economy itself. This means

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<sup>20</sup> Immigrant labour in the underground economy – between processes of irregularisation and informalisation, prepared by Fabio Perocco, Rosanna Cillo, UNIVE and Shahamak Rezaei and Marco Goli, RUC

that it reproduces external hierarchies, with local workers at the top, regularised migrants under them and undocumented workers at the bottom. It is they who suffer from the worst working conditions and, above all, from the fewest opportunities of escaping from the informal sphere.

The report notes that while some countries have historically had large informal sectors – for example, **Italy** and **Spain** - the greatest long-term increases have been in those countries that had very limited labour-force participation in the underground economy in the 1970s. Thus informal economies are not the product of particular national traits, but are a consequence of specific changes in the labour market. These changes are specifically identified as dependent on:

- Subcontracting and self-employment;
- Third party employment relationships in particular through the use of labour providers; and
- The outsourcing of human resource functions.

Importantly, the paper asserts that mass regularisation programmes, such as those in **Italy** or in **Spain**, do not impact definitively on the numbers of workers in the informal sector. This is because:

- Regularisation is not accompanied by any qualitative improvement in working conditions, which could have induced those who are regularized to remain in the sector, and this was particularly true in the domestic care sector;
- The recent evolution of the welfare system and of migration policies themselves continues to provide incentives for a *private-enterprise* solution to the growing demand for care-giving services; and
- EU enlargement to the East makes it possible to employ administratively documented workers without any employment contract, since, in case of controls, the risk of their deportation is sharply reduced. Thus the introduction of restrictive rules regarding migration may actually encourage the growth of migrant employment.

Similarly in agriculture, the available data suggests that the extreme flexibility of work organization that intensive agriculture demands has been satisfied through the informal employment of migrant workers without permits or - as with asylum seekers - with permits that do not allow them to work, in addition to the formal employment of migrant workers with seasonal permits.

The report suggests that the existing different economic and welfare conditions in the seven partner countries are an indicator both of the strength of the informal economy and of the presence of undocumented labour within it. The report also suggests a

further fragmentation of work, particularly in relation to women working in private homes who are now working in a larger number of establishments per week to maintain their existing incomes.

The Danish section of this thematic report focuses on the informal sectors in each of the seven partner countries, drawing on the different historical and economic circumstances, the report aims to bring empirical insight into two questions:

- What circumstances and factors characterise specific sectors to the ones in which undocumented migrants participate in underground economic activities?
- Is underground economy a pull factor for irregular/undocumented migration?

However, the study also reveals similarities in terms of sectors of operation, type of work undertaken and the work experiences of those who are undocumented. It shows that the seasonal nature of the work, or its casual nature, are important components of work in the informal sector. This is also work that is unwanted by local labour and which is only accepted by undocumented workers because they have no alternatives.

Looking at the perspectives and development in the underground economy in the EU, the report starts from an understanding of the phenomenon of informal work as a sociological one, highlighting the following features:

- The underground economy is **Contextual. Its form, content and dynamic is** specific to the national and other contexts in which it is used and understood.
- The form, the content and the dynamic of the phenomenon is **Situational. It** refers to the experiences of those people who are subject to those definitional and operational categories, in this case specifically undocumented migrants themselves.
- The occurrence and development of the phenomenon is **Gradual**, influenced by many factors such as migrants' length of residency, year of entry, gender, capitals, government policies, political and public discourse etc..
- The phenomenon is **Conditional**, referring to the character of the residency as being understood and dealt with by migrants themselves, and by the actual practice of formal intuitions as a formal and/or informal response to the structural need of the national economy in the era of globalisation.

The report also suggests a divergence in the trajectories of undocumented migrants, between the extremes at one end of the Italian model, wherein after a period of time migrants may be able to move into the formal sector and particularly into trade union and collective organisation, and at the other end, the Danish model, where undocumented workers remain permanently excluded from the formal sector. The empirical data in the countries studied in this report indicates several differences:

- In Bulgaria the underground economy influences the mainstream economy as well as the businesses where undocumented migrants find work.
- The Spanish data indicate that migrants' economic activity represents a link between them and their country of origin. This happens not only when they have to support their families, but also when they have to plan their return, to empower their communities or sometimes to set up businesses between the two countries.
- The Belgian data indicates several governmental initiatives to combat underground economic activities, but also a situation where undocumented migrant workers do not conceptualise themselves as migrants, but as maximising their opportunities while helping the Belgian market to fulfil existing needs.
- The Danish data indicates that even a highly regulated and monitored and organized labour market cannot avoid the occurrence and development of underground economic activities. The consequence seems to be the growing importance of migrant networks as the form of reliance, which counteracting declared policies towards greater degrees of integration of migrants into mainstream society.
- The Italian data indicates the development of a certain complementarity between the underground and regular economy, lower wages in both arenas. It is also a story of how changes of status do not necessarily lead to a reduction of underground economic activities.
- The Austrian data shows how semi- and undocumented labour fills the gaps that the welfare state does not cover.
- The UK data shows how mobility and the freedom of movement are identified as a positive feature of underground economic activities, but also how the existence of long-term perspectives with regard to upward socio-economic mobility, due to the development of human capital through education and skills makes engagement in underground economic activities unattractive.

Finally, the report notes that while there are major differences there are also many similarities. Firstly, the existence of the informal economy provides employment opportunities for those without documents, although it is not they who create or grow this economy. Second, some sectors of the economy are more likely to encourage informal working. These are sectors primarily characterised by not being easy to control and monitor by authorities.

## 4.5 Examining theories of human and social capital

The Belgian partners, ULB prepared the final thematic report<sup>21</sup> that examines key theories of human and social capital in relation to migration and finds that the common assertions about their value in relation to employability outcomes are inadequate in relation to migration and to undocumented migration in particular. It concludes that it is not possible to correlate employment outcomes with the possession of either human or social capital, nor is it possible to evaluate one as above the other.

### 4.5.1 Defining human and social capital

The report notes that human and social capital represent theoretical constructs created by researchers in economics and sociology to interpret the relationships between individuals and the contexts they operate in. In the context of migration, the notion of social capital tends to "privatise this experience of migration", treating it as the singular history of an individual or of a particular group and concealing the collective dynamic of the migratory movement. The report also notes that while 'integration' is considered an essential element of a successful migration, how such integration is understood has changed over time. While in previous phases of migration, it would have been measured through the success of a subsequent generation; it is now more likely to be measured through the extent to which there is an exchange of services between migrant and host community and a recognised advantage to the host community as a consequence of migration.

The definition of human capital used in the report assumes the possession of: diplomas and academic experience; professional training or experience; a trade or profession prior to migration. In this definition: the higher the level of qualification; the more prestigious the previous trade or profession; the higher the migrant's level of human capital. To this, the report also adds knowledge of the host country's language, although it goes on to show that knowledge of host country language can be advantageous or not, dependent on which language and on which job the individual has access to.

The report defines social capital as all the qualities and abilities of individuals to use all of the tools available to them in completing their migration plan successfully. This will include contact and support from co-ethnic communities as well as assistance in accessing help from state authorities. Social capital thus appears to be a number of

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<sup>21</sup> *Human capital and social capital in national reports and comments*, prepared by Estelle Krzeslo, ULB.

resources that enable individuals and groups to cooperate in reaching their goals. These definitions have important consequences for how migration is appraised. As the report notes, the theory of human capital calls upon us to give priority to qualified individuals who bring their knowledge to the countries that receive them, whereas less qualified individuals who bring nothing, in terms of how human capital is defined, are rejected.

#### *4.5.2 Possessing human capital*

In the UWT interviews with undocumented migrants half of them had at least a secondary school diploma or a higher education degree. However, this possession of human capital, that should have brought them employment rewards, had not done so. None of those working without documents had jobs that were related to their qualifications. Even for those who had subsequently moved into the formal economy with a regularised status, it was unusual for them to have found work in their own trade or profession. The report notes that this was particularly the case in relation to migrants coming from Africa, as racism blocks even narrow channels to decent work that otherwise they might have been able to access.

The report notes that the testimonies of all of the migrants whom we interviewed, regardless of which country they had migrated to, are similar. Their attractiveness to employers lies in their low cost, their capacity to work and their 'willingness' to endure poor working conditions. The report therefore concludes that human capital is not a valuable commodity for undocumented workers.

#### *4.5.3 Language as an element of human capital*

The report notes that knowledge of host country language is generally assessed as an element of valuable human capital. However, in relation to undocumented migration our findings are that language knowledge does not necessarily give access to employment. Indeed the lack of knowledge of the host country language may be precisely the element that makes hiring such workers attractive to employers and employment agencies, who can assume the role of sole intermediary or even translators for their employees making the workers additionally dependent on their employment relationship.

#### *4.5.4 Human and social capital and gender*

The report suggests that gender takes precedence over any form of human or social capital. Regardless of the extent of their human capital, the women we interviewed only

had access to 'women's' work. Indeed the market for jobs for undocumented women migrants was found to be 'infinitely more segmented than the legal job market'. For women therefore, their status as accompanying migrants determined their employment outcomes rather than their own professional qualifications or abilities.

## Conclusion

The outcome of our research within the UWT project leads us to conclude that despite the tightening regime of immigration controls, the numbers in some of the countries examined remain high. This suggests that migration occurs irrespective of the immigration regime in the destination country and is more frequently a consequence of poor conditions of life in the country of origin, matched with a belief that work will be available in the destination country and that this will enable the migrant and her/his family to escape the poor economic or political conditions in the country of origin and also as a way of providing their children with better life chances, through access to education either in the home or host country. It is also plausible to argue that the tightening of migration controls is likely to result in an increasing number of desperate people ready to risk their lives to enter a host country by using dangerous entry routes thus increasing the profits of unscrupulous smugglers. It is also likely that migrants will continue to enter through the decreasingly available legal routes, but then seek work in violation of their visa terms, thus becoming irregular once in the host country. For these reasons it is important that there is more focus on these issues of what drives people to migrate, rather than on the 'consequences' of their migration in destination countries. Thus while states focus on how to keep out 'unwanted' migrants, by introducing tighter and more repressive measures and by narrowing the range of migrants who can enter with permits, those who cannot secure a lawful means of entry, or whose entry entitlement is terminated, will use whatever alternatives are available. States argue that they oppose undocumented migration because workers without papers are extremely exploited. However, it is the legislative regimes in place that promote this exploitation. Some employers know that they can offer terms and conditions that are below the legal minima because they also know that those without papers or whose papers are not in order cannot afford to challenge poor treatment. Indeed, as the UWT research has shown, as immigration rules tighten, those with irregular status are thrown into even more exploitative situations. Strict immigration controls have not eliminated undocumented migration; they force such migrants into the darkest corners of the labour market, setting the scene for an even more hazardous and exploitative working environment.

Yet there are measures that states could take. One would be to separate migration and employment regulation and to allow all workers, regardless of migration status, to benefit from the protection that labour laws are set up to provide. Undocumented workers are super-exploited because they cannot challenge their employers and cannot enforce their labour law rights. Indeed any attempt to do so brings them to the

attention of the immigration authorities and risks deportation. At the same time, if immigration laws were separated from other regulatory systems, like employment, health and safety and social and health care, the economic advantages to employers to use undocumented labour might disappear.

But this leads us at least to question whether the consequences of undocumented labour are not actually sought out. Certainly, our interviews with experts in all seven countries and at EU level, together with our interviews with migrants themselves, suggest that employers knowingly enter into employment relationships with undocumented workers precisely because they perceive that these workers will provide the ultimate flexibility they want. The lack of statutory enforcement of breaches of labour law by employers in most Member States in this study, particularly in the often large and widely known-about informal sector, suggests a certain knowledge of, and tolerance of the employment of undocumented migrant workers.

Our research has also shown that migration status is not fixed but fluid and that those who are documented one day can slip into undocumented status either through a specific change in immigration rules, through failing to renew work permits in time, through losing work tied to permits or through working outside the terms of their work permission. Equally those who are undocumented can become documented through marriage, through a change in immigration law and through political changes, such as the accession of the countries of Central and Eastern Europe in May 2004 and the EU accession of Romania and Bulgaria in 2007. We therefore conclude that the attempt to categorise migrants as either 'documented' or 'undocumented' fails to understand that these are not necessarily two separate groups of workers whose paths never cross, but rather are better conceptualised as a single group, whose members are located at different positions on a migration spectrum, from documented to undocumented, and who move and shift, dependent on the migration regime. Even those who gain a regular status after a period of irregularity, for example through the regularisation programmes carried out in Italy, Spain and Belgium, can be at risk of losing their status again, as this research has shown, principally because their jobs change and regularisation is linked to specific employment. Our research findings have also indicated that there were no strict boundaries between formal and informal labour markets; these were rather blurred. And, documented legal status did not necessarily entail a formal employment.

### **The responsibilities of Member States**

One common finding in most of the seven countries is an absence of any robust

statistical data that would allow Member States to know the size of the undocumented population. In the interviews we have conducted two different strands of opinion were expressed. Some experts argue that such data is politically dangerous. It not only may feed into an anti-immigration consensus but also allows Member States to deny the presence of a population within its borders that in reality is not going to disappear and return to its countries of origin. Others have expressed the view that an honest debate around numbers may actually make it clear that claims that states will deport all those who are undocumented can be no more than posturing and attempts to make common ground with anti-immigration lobbies, as it is not conceivable that any EU state could attempt deportations on the scale that would be required, if they were really aiming to exclude all without work or residence permits. At the same time, it is acknowledged that it is almost impossible to produce any reliable statistical data on the size of the undocumented population in a country.

We have also in the course of the project investigated the outcome of regularisation programmes, particularly in Spain, Italy and Belgium, three of the seven countries studied. In the stakeholder meetings that were held in each of the partner countries, the question of regularisation was always high on the agenda, with different responses both from different stakeholders and in different partner countries. Furthermore the question of regularisation, both one-off and ongoing, was of great interest to the participants in the UWT final conference, attended by people from across the Europe in London. In some cases the view was that regularisation was necessary as the one way of bringing individuals out of the shadows and into the formal economy. Those influenced by current political agendas feared that possible regularisation programmes might eventually attract more undocumented migrants. Others favoured ongoing procedures for regularisation as providing more secure routes of irregularity than one-off amnesties. But it was also noted that regularisation, dependent on the political situation, could be abused by the state and could be used as a pretext for deporting those who failed to comply with the regularisation requirements. Some stakeholders argued that access to permanent jobs remained a key demand even where regularisation took place, as there was a gap between obtaining regularised status and access to decent work. Others asserted that regularisation would only assist those closest to regular work in the labour market, whereas those trapped within the informal labour market by lack of other opportunities would remain there.

The stakeholder meetings also raised more general questions about the role of the state with regard to compliance with international standards. The fact that some of the countries investigated had not signed international conventions, for example on the

rights of migrants, was of concern, as was the increasingly illiberal policies in relation to asylum, with many countries taking measures to reduce the number of claimants for asylum. This has been accompanied by tighter controls on asylum seekers' rights to work, again having the effect of pushing people into undocumented exploitative work.

### **Undocumented migration as a response to new economic models**

We noted how similar the labour markets in all seven countries are with regard to the sectors where undocumented migrants work. In all of the countries we have studied migrant labour in general, and undocumented labour in particular, works in certain sectors and in specific jobs. These jobs often are designed to comply with the type of labour required in a new economic model that increasingly is dependent on self-employment, contracting out and casualisation. The informalisation of large sectors of the economies of the Member States we have investigated is directly associated with the availability of an undocumented and precarious source of labour. Without such labour, these new economic models would perform less 'effectively' and indeed might not be able to perform at all. Casual work, bogus self-employment and other forms of labour, where the worker shoulders the burdens and risks of the market, is work that those who have other options will not settle for.

### **Working conditions of undocumented migrants**

As described above, changes in labour market models have meant that migrant workers are taking on increasing risks in relation to their employment. Our research finds that undocumented workers earn less than documented workers and that there is a strong correlation between status and the conditions under which work is performed. Status affects entitlement to rest breaks and has an impact on health and accidents. Undocumented migrants tend to be restricted to the informal economy, and the research found a trend toward the growth of inequality within the informal economy itself. This means that it reproduces hierarchies, with local workers at the top, regularised migrants under them and undocumented workers at the bottom. An alarming finding of our research was the fact that even though some migrants managed to secure legal status they remained trapped somewhere between the formal and informal labour market, working for employers who would not pay them their actual hours of work or would fail to pay the necessary social security contributions.

While both male and female undocumented migrants were often working in sectors where there were low levels of collective organisation, this was more likely to be the case for women. Male workers in the construction and manufacturing sectors could find

themselves working alongside unionised workers and could sometimes benefit from the collective solidarities that such workplaces created. Women working in the private care sector or in the sex industry were much less likely to find a collective way of improving their working conditions. Women migrants were more likely in our sample to be working in private homes and in these circumstances had difficulty in separating their working day from their own private time. Often the latter disappeared into a continuing series of tasks for the household in which they worked. Thus women were more constrained in their opportunities to build lives distinct from their working environment. While international conventions against trafficking and against forced labour give an appearance of concern for the exploitation of women migrants, they ignore the vulnerable working conditions of the vast majority of women migrants who do not fall under the category of trafficked or forced labour but who cannot escape their difficult conditions of employment because they have no way of regularising their presence or of enforcing employment rights.

### **The future for migration**

We have also observed that, in all seven countries, there has been a narrowing of the categories of migrants who can lawfully enter. These categories derive from human capital theory, which gives priority to qualified individuals who bring their knowledge and skills to the countries that receive them. For those with 'low' human capital, migration is consequently envisaged as, at most, a temporary stay, with the state retaining the right to expel, either after a pre-determined time or whenever the needs of the economy change. Migration was increasingly categorised within the Member States as a short-term project where the worker will eventually return to the country of origin. It is now less likely to be identified with permanent rights of settlement and with the building of multi-ethnic communities, than was the case in earlier periods of migration. This has consequences for social integration and community cohesion and potentially has the power to divide existing communities, with some continuing to have rights to family reunion, while others do not.

As indicated at the beginning of this report, the project concludes at a point in time when the future of most of the economies of Europe is unclear and where the economic growth that not only encouraged migrants to move, but which required their labour is no longer evident. However, just as the economic situation in destination countries is in crisis, this is equally the case for the new Member States and even more so for the rest of the world that has supplied migrant labour to the EU. In such circumstances the situation for undocumented migrants looks increasingly bleak. There

are fewer opportunities for decent work in a declining labour market, requiring that such workers rely on their one labour market ‘advantage’ – the fact that they can be super-exploited without resource to complaint.

### **Recommendations**

Our research leads us to conclude that there are specific measures that could be taken, by government/policy makers, in particular, that would address many of the injustices identified within the UWT project. The recommendations start from a premise that migration into the EU will continue and that a continued regime of tight immigration controls is unlikely to halt unauthorised migration but rather contributes to the exceptional vulnerability of those who migrate without authority to work. The recommendations are presented under specific headings.

### **Migration and employment status**

We have noted that the intertwining of migration laws and employment laws, particularly where the former effectively excludes the exercise of the latter, is of specific concern. We would therefore recommend that policy makers consider:

- Separate migration status and employment rights to allow all workers, regardless of migration status, to benefit from the protection that labour laws are set up to provide.
- Greater focus on the enforcement of labour rights and standards, to the benefit of all workers, including migrants.
- Consider the gendered impact of all migration policies and interventions at EU and member state levels, to ensure that the impact of actions on both female and male migrants is considered.
- Consider more carefully the discourse on irregular migration. The terms ‘illegal’ ‘illegals’ ‘criminals’ are inappropriate in depicting undocumented migrants. We note that these terms are still widely used in the dialogue of migration at EU level and believe that they contribute to racist discourses on migration.
- Consideration of status of sex work to put it on a par with other work, so giving the workers greater labour rights.

Responsibility does not only rest with policy makers, we also argue that civil society organisations, and trade unions in particular, have a fundamental responsibility to ensure that legislation which lays down fundamental employment rights is applied to all who work and that irregular status is not used as a method of avoiding employment laws. Specifically we recommend:

- Greater involvement of civil society, such as trade unions with migrant workers and their position.
- Increased trade union organising campaigns for workers in sectors where migrants, and in particular undocumented migrants, work (modelled on existing approaches such as in the US), including co-operation with migrant organisations.
- Trade union cooperation between unions in the host country and unions in the home country of undocumented migrants.
- Greater efforts to specifically target women migrants working in private homes or in more 'hidden' conditions.
- A focus on developing routes out of informal work for migrants (including documented) and addressing labour market obstacles.

### **Regularisation**

In the course of the research we have gathered many opinions on the benefits of regularisation, in particular, as they concern the psychosocial welfare of migrant workers. But we have also heard more critical views that argue that regularisation programmes, as they have occurred, have not necessarily produced the improvements that might have been hoped for, in relation to the working conditions and physical conditions of undocumented migrants. In this report we have set out these arguments and conclude that while the call for regularisation is important, it needs to be advanced in a context where the employment rights discussed above are capable of being enforced. Our assessment is that it is the industrial relations context that is significant in determining the 'success' of regularisation, if the measure of this is better working conditions and freedom from super-exploitation.

We recommend:

- A sustainable regularisation process to enable undocumented workers to gain regular status, through a 'pathway to citizenship'.
- Better relations between state institutions and migrant networks.
- Extension of 'labour search permits' (as used to a limited extent in Spain) to allow migrants a three-month period of looking for work.
- More legal routes of entry into the host labour markets available to foreign workers.

### **Social welfare provision**

We observed that in most of the countries investigated there had been attempts to

restrict entitlement to welfare provision for undocumented migrants. Often this had occurred in the context of extensive media opposition to migrant rights. However, the exclusion of individuals resident in EU Member States from basic entitlements to healthcare or education threatens the social welfare of the whole society. It risks the spread of illness (in the case of healthcare restrictions) and it excludes children from a basic human right to education. We therefore recommend:

- Improved healthcare and education for migrants and their partners/families where they are accompanied, following the example of the Spanish registration scheme which gives access to healthcare and education.
- Improved access to information on services, such as welfare and health services, emergency accommodation, language course, civic engagement and support for support networks.
- Ratification of the convention on migrant rights.

## Appendix 1

**Table 1. Distribution of respondents by their country of origin**

Country of origin	Numbers	Percentage
Afghanistan	2	.9
Albania	3	1.4
Algeria	4	1.9
Argentina	2	.9
Armenia	2	.9
Bangladesh	3	1.4
Benin	1	.5
Bosnia	5	2.4
Herzegovina		
Brazil	15	7.1
Bulgaria	6	2.8
Burkina Faso	3	1.4
Cameroon	2	.9
China	14	6.6
Colombia	1	.5
Congo	5	2.4
Congo Brazzaville	1	.5
Congo Kinshasa	1	.5
Croatia	1	.5
Ecuador	7	3.3
Estonia	1	.5
Former USSR*	3	1.4
FYROM	2	.9
Gambia	1	.5
Ghana	2	.9
Guatemala	1	.5
Guinea	2	1.0
Iran	3	1.4
Iraq	6	2.8
Ivory Coast	2	.9

Kosovo	2	.9
Latvia	1	.5
Lebanon	2	.9
Liberia	1	.5
Lithuania	1	.5
Mali	2	.9
Moldova	1	.5
Mongolia	1	.5
Morocco	12	5.7
Niger	1	.5
Nigeria	2	.9
North Island	1	.5
Pakistan	2	.9
Palestine	2	.9
Philippines	13	6.2
Poland	11	5.2
Romania	5	2.4
Russia	1	.5
Russia/Chechnya	1	.5
Rwanda	2	.9
Senegal	3	1.4
Serbia	6	2.8
Sierra Leon	1	.5
Slovakia	3	1.4
Syria	2	.9
Thailand	2	.9
Togo	2	.9
Turkey	12	5.7
Ukraine	10	4.7
Uruguay	1	.5
Venezuela	1	.5
West Africa	1	.5
Western Sahara	1	.5
Zambia	1	.5
Total	211	100.0

Source: Fieldwork Survey, 2007-2008.

\* For these respondents we do not have information on their actual country of origin other than that they are from 'former USSR'.

**Table 2. Distribution of respondents by gender and age group (numbers)**

		Age group				
		18-24	25-34	35-49	50-64(m) 50-59 (f)	Total
Gender	Male	11	44	50	7	112
	Female	9	39	37	14	99
	Total	20	83	87	21	211

Source: Fieldwork Survey, 2007-2008.

## Appendix 2: UWT Project Ethical Guidelines and Procedures

### 1. Framework

The ethical issues involved in this research on undocumented migrant workers are considerable, both in terms of the duty of care towards the interviewees and interviewers, and the responsibility of the project to minimise the potential for misuse of the data provided for political ends that could stimulate a xenophobic or racist reaction. The Consortium agreement, signed by all UWT partners, includes the RESPECT Code of Practice for Socio-economic Research<sup>22</sup>, developed to provide ethical and professional guidelines for socio-economic research in Europe. The code of practice is based on three main principles:

- upholding scientific standards;
- compliance with the law;
- avoidance of social and personal harm.

It provides a general framework in which to conduct the UWT research project and covers the main issues that the project needs to consider. In addition, the ethical guidelines proposed here provide further detailed guidance and recommended procedures on some of the specific issues that arise in this project that is researching undocumented migrant workers.

Ethical issues and their implications will be considered at all stages of the project, and discussed at twice-yearly project meetings. In the event of the emergence of problems related to ethical issues that cannot wait until the next programmed meeting, the Co-ordinator will seek the views of Steering Group<sup>23</sup> members to reach a resolution.

### 2. Avoidance of social and personal harm

#### Migrant worker interviewees

**2.1 Assessment of risks:** some of the participants we are seeking to interview may be at risk of deportation if information about their circumstances is revealed to the authorities, and there are further risks of reprisals if the worker has been trafficked.

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<sup>22</sup> Available from [www.respectproject.org](http://www.respectproject.org)

<sup>23</sup> Made up of the lead responsible researchers in each of the partner organisations.

It is important to be aware of potential risks, and to seek advice from experienced organisations and individuals. Any risks and concerns should be discussed with potential interviewees before the interview, and the interview should not be carried out where the risks are felt to be too high.

**2.2 Informed consent:** it will be made clear to interviewees that participation is voluntary and full informed consent will be gained prior to taking part in the interview. A suggested form of words for requesting consent is contained in Appendix 2. Interviewees will be provided with a clear summary of the research aims, research project contact details and description of the use that will be made of the data [**Partners agreed that it was sufficient for interpreter/interviewer to explain the research aims verbally if printed version not available in language of interview**].

**2.3 Anonymity:** the duty of care towards the interviewees, who may be non-compliant, semi-compliant or trafficked workers, must be paramount, and for this reason we will guarantee absolute anonymity to our respondents, in terms of both their participation in the project and published output. They will be informed that they do not have to give their name (or may provide a false name). Where names are given, these will not be recorded on any electronic documents, including lists, transcripts or notes, but will instead be replaced by a code. Other information that might identify the respondent may also be anonymised in published outputs, such as the workplace name. [**It was agreed to use a standard form of coding interviews**]

**2.4 Confidentiality:** interviewees must be informed that neither their participation in the research nor the contents of the interviews will be disclosed to anyone outside the research team, who are all bound by the same duty of confidentiality. Where access to individuals has been through external organisations, or other people known to them, interviewees will be assured that confidentiality regarding the content of interviews will be maintained.

**2.5 Use of interpreters, fieldworkers and transcribers:** all sub-contracted workers employed during the course of the research will be bound by the same duty of confidentiality as project team members, and will receive instruction in how the ethical guidelines and procedures apply to their roles. Where the interviewee is

personally known to the interpreter, fieldworker or transcriber (for example if the fieldworker has used personal contacts to arrange the interview) and may belong to the same community, it is particularly important to ensure that they understand the importance of confidentiality. It is also important to consider whether the interviewee is likely to feel free to express themselves in the presence of a known person, and to try and check this with the interviewee before the interview.

**2.6 Conduct of interviews:** due regard will be made of the sensitive nature of the experiences of some interviewees, in particular refugees and trafficked women (see 2.8 below), and care will be taken to conduct interviews in a responsible, sensitive and professional manner with the intention of avoiding personal harm to the individuals concerned. This will involve adequate training of all those who will be undertaking interviews.

**2.7 Compensation:** the question of payment for interviews is a difficult one, and the Commission has decided that funds are not available for this. However, we believe that it is important to compensate interviewees for time, lost earnings and other costs such as travel or childcare, which could be in the form of vouchers for shops, telephone cards or a meal/refreshments. **[Partners felt that the different norms in each country meant that each partner should decide what is appropriate way of thanking interviewees in their situation]**

**2.8 Offering advice or assistance:** if an interviewee is being exploited at work, or having problems with their immigration status, it may be tempting for the interviewer to offer advice or assistance. However, interviewers should be clear about the limits to help or information that they can provide, but should be prepared with information about local agencies that could assist, or information about employment rights (where the worker has regular status) **[Each partner should prepare and have available information on employment rights and several alternative sources of advice and support]**

### **Trafficked women**

**2.9 Safety and security:** There are many very particular risks in interviewing trafficked women in relation to their safety, security and well-being that are covered in detailed guidelines by the World health Organization, *Ethical and Safety*

*Recommendations for Interviewing Trafficked Women* (available on Livelink). These propose 10 guiding principles for the ethical and safe conduct of interviews (see Appendix 3), which also contain some relevant recommendations for interviewing undocumented workers that have been included in these guidelines. **[Agreed that, given the potential risks to the women concerned, and possibly the researcher, in taking part in an interview, together with advice from expert interviews, our research aims do not justify or require that all partners carry out interviews with trafficked women. However, all countries will include an expert interview that discusses the issue and some partners may carry out migrant interviews with trafficked women (i.e. Bulgaria and Belgium where particular circumstances apply)].**

## Interviewers

**2.10 Personal safety:** the duty of care to interviewers will be taken very seriously to minimise risks to personal safety. The UK Social Research Association's *Code of Practice for the Safety of Social Researchers* provides useful guidance and is available on Livelink. An important point to consider is the choice of interview site. Public places (cafes, community centres etc) may be preferred to home interviews. If it is necessary to carry out interviews in participants' own homes, a recommended procedure (which can also be followed when in other locations that the interviewer feels might be risky) is to use a mobile phone to call a member of the research team on arrival at the interview, in the presence of the interviewee, to tell them the address of the interview. The research team member should be informed in advance that the interview has been arranged to that they are available to be contacted. When the interview is completed, the interviewer should call the member of the research team to let them know that they are safe. Interviewers may also want to arrange taxis to get home if they are concerned about safety. **[Agreed that where it was felt safe to do so, interviews would be carried out at participants home, and procedure for notifying member of research team of address, described above, would be followed. If the location of the interview is a cause of concern, we suggest that the researcher should be accompanied]**

## 3. Data collection and storage

**3.1 Personal data collection:** personal data to be collected from migrants and

refugees will include interviewees' nationality, ethnicity, immigration status and possibly their religion, as well as their personal perceptions of the experience of migration and work. The data will be collected for interviewees residing in Austria, Belgium, Bulgaria, Denmark, Italy, Spain and the UK. Personal data from stakeholder and policymaker interviews is likely to be limited to their perceptions of the impact of migration, rather than personal data. These interviewees will mainly be residing in Austria, Belgium, Bulgaria, Denmark, Italy, Spain and the UK, although experts from other countries may also be interviewed where appropriate

**3.2 Storage:** data collected on interviewees will be securely stored, in compliance with relevant national data protection legislation of the member states that implement the European Directive 95/46/CE. Interview and personal material stored electronically will be anonymised using a coding system, and will be accessible only to the responsible people working on the project for each partner organisation, including both research and administrative staff. Any data held in paper files will also be stored securely, with access limited to the responsible project partners. Consideration will be given to the security of the means of transferring and sharing data among the Consortium members. Tapes used to record interviews should be stored securely, and use codes rather than individual's names. **[Livelihood can be used to hold interview data, but partners are reminded that access is limited by password, so partners should keep these secure and not make them available to people outside the research team]**

**3.3 Disposal:** electronic and hard copies of the project data, together with interview tape recordings or digital recordings, will be destroyed after an appropriate period after the project has ended **[Seven years was thought to be the appropriate period to keep data, recommended by the Commission]**

#### **4. Publication and dissemination of research findings**

**4.1 Responsible use of findings:** the project has a responsibility to minimise the potential for misuse of any politically sensitive data by those who wish to stir up a xenophobic or racist reaction and will do this by only publishing the full results concerning figures on undocumented migration within the final report, when the background context will be explained fully (provisional estimates may be made available to a more limited audience earlier in the project to assess their accuracy).

**4.2 Reporting back to research participants:** a report will be offered to the expert and migrant interviewees on the findings of the project they have contributed to and to the organisations that have assisted in providing access to interviewees [**Agreed that newsletter and website could also be used for providing feedback, and other possibilities were preparing articles on the results of the project in migrants' languages and publications in host country**].

## References

RESPECT code of practice for socio-economic research (see [www.respectproject.org](http://www.respectproject.org))

Social Research Association *Code of Practice for the Safety of Social Researchers*

World Health Organization, *Ethical and Safety Recommendations for Interviewing Trafficked Women*