



PICUM
**Contribution to the consultation of the UN Special Rapporteur on
the Human Rights of Migrants on the impact of COVID-19 on the
human rights of migrants**

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[PICUM](#), the Platform for International Cooperation on Undocumented Migrants, is a network of 168 organisations that has worked for nearly twenty years to advance the rights and improve the situation of people who are undocumented in Europe. PICUM focuses on a variety of areas including access to healthcare, access to justice, the rights of undocumented workers, labour migration, the rights of children, families and youth, as well as fundamental rights in the context of immigration detention and return.

We are pleased to contribute to the UN Special Rapporteur on the human rights of migrants' [consultation](#) on the impact of COVID-19 on the human rights of migrants.

This submission gives a brief overview of some of the main challenges facing undocumented migrants during the pandemic and highlights several policy responses taken by governments. While highlighting some measures governments have taken with positive impact on the rights of undocumented migrants, there has been widespread inaction across many countries.

OVERVIEW OF MAIN CONCERNS

PICUM carried out a survey of members in April-May 2020 to learn about the impacts of the lockdown measures on them and on the communities they serve. Forty members responded, based across the EU as well as in neighbouring countries (Albania, Israel, Morocco, Norway, Switzerland and the United Kingdom).

Our survey found that the main concern for undocumented people during the pandemic (80% of those surveyed) was the loss of income due to the interruption of work, and the impossibility for undocumented migrants to access state support, including unemployment benefits. This meant people have had no choice but to continue to go to work, exposing themselves to greater risk of infection. The situation of agri-food workers has been particularly emblematic. While recognised as essential workers ensuring our food supply, there has been minimal change in their working and living arrangements, characterised by over-crowding, lack of personal protective equipment

and excessive working hours.¹ In a few cases, this has meant agri-food workers have been exposed to infection, see for example a recent case in **Portugal**.²

Indeed, another prevalent concern (50% of those surveyed) was the impossibility to keep social distances, as many undocumented people live in crowded precarious settings, including detention centres and informal camps.

When work has been suspended, undocumented workers and their families have had to rely on communities to provide the safety net where the government is absent. At the same time, many PICUM members (41% of those surveyed) told us they're less able to support undocumented people, as restrictions during lockdowns made it hard to carry out community work. Yet more than one-third of PICUM members surveyed also indicated that requests for support are on the rise (38%). Our members reported (41%) that it has become harder to advocate towards their governments for inclusive policies, as in person meetings were largely discontinued and because the management of the health emergency is trumping other priorities.

Civil society organisations noted that numerous restrictive measures were adopted under the first wave of lockdowns during the pandemic (Spring 2020). In ten of the countries included in PICUM's survey (**Austria, Belgium, Cyprus, Greece, Hungary, Israel, Italy, Malta, the Netherlands, and the United Kingdom**), access to asylum and immigration procedures was suspended. In four countries (**Albania, Cyprus, Italy and Malta**), people rescued when crossing borders, including when undocumented, were denied access to the national territory. In four countries (**Albania, Greece, Morocco and the Netherlands**), undocumented people were detained for not respecting physical distancing and (de)confinement measures, which are often impossible to follow for undocumented people who don't have any accommodation.

There have also been some reports of migrant sex workers being specifically targeted by police and served with additional and significant fines related to pandemic regulations. In particular, the organisation Ami Ami in **Denmark** reports³ several cases of police posing as clients when sex workers have placed ads as escorts during the pandemic, and then imposing fines of 10.000 kr (approximately 1200 euros) with reference to the sanctions for running a business in contravention of pandemic-related restrictions, as well as confiscating all cash they have on their person as illegal earnings and pursuing immigration enforcement (detention, entry bans and potential deportation). They also report cases of Thai sex workers who have requested and received voluntary return assistance following the expiry of their visas during the pandemic, but been arrested at the airport and detained pending deportation rather than allowed to board their flights to Thailand.

HEALTH CARE RESPONSES BY GOVERNMENTS (INCLUDING "FIREWALLS")

Covid-19 vaccines

Undocumented migrants face [systematic barriers](#) to accessing health care in countries across Europe. This provides the background context for the pandemic, and it has important consequences in terms of access to critical health information, basic services – including Covid-related testing and treatment – and health outcomes.

¹ <https://effat.org/in-the-spotlight/without-rights-for-agri-food-workers-europes-food-supplies-rest-on-shaky-ground/>.

² <https://visao.sapo.pt/visaosaude/2021-05-03-covid-19-odemira-estima-que-seis-mil-trabalhadores-agricolas-nao-tem-condicoes-de-habitabilidade/>.

³ Information provided by Hope Now and Ami Ami, March 2021.

International bodies, such as the WHO⁴, the IOM⁵ and the Council of Europe's Committee on Bioethics⁶, have called for access to Covid-19 vaccine for all migrants, regardless of migration or residence status. PICUM has been [monitoring national implementation](#) in Europe, which has been fragmented. On the one hand, several countries in Europe (including **Belgium, France, Ireland, Italy, the Netherlands**, and **Spain**) have implicitly or explicitly included undocumented migrants in their vaccination strategies and taken practical steps to facilitate their access to the vaccines. On the other hand, other member states (such as the **Czech Republic, Hungary** and **Poland**) have explicitly excluded undocumented people from their vaccination strategies or imposed burdensome or impossible administrative requirements.

Examples of promising actions to facilitate the vaccination of undocumented migrants include: providing clear instructions on how undocumented migrants can access the care they are entitled to; providing clear commitments that personal data shared with health services will not be used for immigration purposes; reducing the amount of documentation required to register for vaccination; including NGOs and civil society in designing strategies; and providing multi-lingual communication and outreach campaigns.

Echoing this, the [European Centre for Disease Prevention and Control](#) (ECDC) published guidance in June 2021 on reducing COVID-19 transmission and strengthening vaccine uptake among migrants in the EU and European Economic Area, which gathers evidence of the impact of the pandemic on migrants and low Covid-19 vaccination rates in some minority and ethnic groups. The ECDC recommends implementing an innovative approach to support at-risk migrant groups, ensuring their inclusion in national response plans – especially for migrants facing barriers and exclusion from mainstream health systems, due to their status or other factors – and including migrant communities in efforts to produce, translate and disseminate public health messages.

COVID-19 AND IMMIGRATION DETENTION

Broad evidence from health professionals shows that release from immigration detention centres is the most effective way to prevent the spread of COVID-19.⁷ Moreover, [EU law](#) and [jurisprudence](#) clearly state that, if there is no reasonable prospect of return, detention is unlawful. States should also build on the increasing evidence of the positive impact of case management to support people to resolve their cases while living in the community.⁸

In light of the impossibility of carrying out deportations as well as public health concerns some countries released migrants in pre-removal detention. Spain was the only country to adopt an official policy in this regard, and pledged to release all immigration detainees by May 2020.⁹ Where needed, Spain also provided accommodation in state-funded reception programmes run by NGOs. Nonetheless, in September 2020 Spain did re-open its detention centres to detain people arriving by sea.¹⁰ In the **UK** in March 2020, over 350 migrants were released from detention following a legal challenge, with all further cases to be reviewed.¹¹

⁴ https://www.who.int/publications/i/item/WHO-2019-nCoV-Vaccine_deployment-2020.1

⁵ <https://weblog.iom.int/be-effective-covid-19-vaccination-plans-must-include-migrants>

⁶ <https://www.coe.int/en/web/portal/-/covid-19-and-vaccines-equitable-access-to-vaccination-must-be-ensured>

⁷ <https://ajph.aphapublications.org/doi/10.2105/AJPH.2020.305968>

⁸ <https://www.epim.info/new-evaluation-report-of-epim-atd-pilot-projects-out-now/>
<https://picum.org/alternativestodetention/>

⁹ <https://picum.org/a-step-forward-towards-ending-immigration-detention-in-spain/>

¹⁰ <https://www.europapress.es/nacional/noticia-policia-ordena-reabrir-cie-inutilizados-coronavirus-atender-llegada-migrantes-patera-20200923223150.html>

While several other countries (i.e. **Belgium, Germany, Italy** and the **Netherlands**) released hundreds of detainees on an individual basis during the Spring 2020 lockdowns, this was not a consistent trend across the EU, and in countries like **Malta, Portugal** and **Romania**, no releases happened even where return was impossible.¹² In addition, as shown by a recent report by JRS, people released during the pandemic remained under the obligation to leave the country, and could be re-detained again at any time.¹³ Despite international calls¹⁴ and guidance from the European Commission¹⁵ to expand alternatives to detention, these remained underused by governments during the pandemic.¹⁶

RESIDENCE STATUS AND REGULARISATION

Many countries adopted a policy of automatically extending the validity of all residence permits during the first wave of lockdowns. For example, **Ireland** announced that all immigration permits due to expire between 20 March and 20 May 2020 would be automatically renewed under the same conditions for a period of two months;¹⁷ **France** extended all residence permits by three months starting on 16 March 2020, thereby guaranteeing access to work, social rights and social security for those who might otherwise be vulnerable due to expirations of their permits during the pandemic¹⁸ (for more, see our [Non-exhaustive overview of European government measures impacting undocumented migrants taken in the context of COVID-19 from March to August 2020](#)).

However, some allowed for extensions but required people to apply and prove they are not able to leave the country and/or have not continued the extensions despite the ongoing restrictions on travel and health risks. Others made no provisions on permit extensions.

In this context, there are a lot of risks of people falling into an irregular situation and not being able to regularise their status. The connection of people's residence statuses to their employment also raises particular concerns. As many sectors are facing job losses or reduced hours, this may mean that their permit becomes invalidated or they are unable to renew their status.

The pandemic also increased the urgency for governments to implement measures to regularise undocumented residents. A few governments adopted specific regularisation responses. For example, in March 2020, **Italy** adopted a regularisation programme for agricultural workers¹⁹, which was later expanded to also include domestic workers and carers but left out undocumented workers in other sectors. In order to benefit from the programme, workers must have been in Italy before 8 March 2020.²⁰ Migrants who had previously worked in these sectors were able to apply for a job seekers permit, and employers in these sectors were able to hire undocumented workers

¹² <https://jrseurope.org/wp-content/uploads/sites/19/2021/02/Report-Covid-19-and-immigration-detention.pdf>

¹³ <https://jrseurope.org/wp-content/uploads/sites/19/2021/02/Report-Covid-19-and-immigration-detention.pdf>

¹⁴ <https://www.iom.int/news/covid-19-immigration-detention-what-can-governments-and-other-stakeholders-do>

¹⁵ <https://ec.europa.eu/info/sites/default/files/guidance-implementation-eu-provisions-asylum-return-procedures-resettlement.pdf>

¹⁶ <https://jrseurope.org/wp-content/uploads/sites/19/2021/02/Report-Covid-19-and-immigration-detention.pdf>

¹⁷ https://migrationnetwork.un.org/sites/default/files/docs/un_network_on_migration_wg_atd_policy_brief_covid-19_and_immigration_detention_0.pdf

¹⁸ <https://www.iom.int/news/iom-recognizes-efforts-europe-middle-east-protect-all-migrants-access-public-health>

¹⁹ <https://integrazionemigranti.gov.it/it-it/Ricerca-news/Dettaglio-news/id/1333/Si-alla-regolarizzazione-per-lavoratori-agricoli-e-domestici>

²⁰ <https://www.infomigrants.net/en/post/24755/helping-the-invisible-italy-s-amnesty-for-undocumented-workers-explained>

regularly by applying for a work permit and after payment of an administrative fee. The majority of applicants concerned domestic workers. However, there are certain problems with the programme, including waiting times of up to three years for applications to be processed, as well as the fact that by May 2021, only 5% of applications have been examined.²¹ Moreover, many applicants had to pay the application fees themselves. There has also been criticism saying that risks of extortion and exploitation could have been avoided, and more agricultural workers reached, if lessons learnt from previous regularisations had been taken on board, for example, by ensuring workers could apply themselves and not rely on employers.²²

Portugal has temporarily regularised undocumented migrants who had applied for regularisation, providing a status with rights akin to permanent residence status for those with ongoing procedures.²³

Spain recognised how COVID-19 may have impacted on people's applications for new or renewed residence permits granted under the 'arraigo social' regularisation mechanism, introducing flexibility for those who were not able to work as planned or had lower income due to the pandemic.²⁴ Measures were also taken to facilitate access to the labour market for young people.²⁵ At the same time, a powerful campaign involving more than 200 organisations and 41,000 individuals has asked the Spanish government for an urgent and extraordinary regularisation of migrants.²⁶ Another campaign is focusing on making the existing regularisation mechanisms more accessible, to more people.

On the other hand, no action has yet been taken in **Belgium**, for example, despite significant campaigning. Under the hashtag #weareBelgiumtoo, a consortium of undocumented people and NGOs are calling for a regularisation programme and the establishment of a government Commission on regularisation in Belgium.²⁷ Undocumented people have published an open letter and are seeking 150,000 signatories to their campaign – one for every undocumented person estimated to live in Belgium. Several undocumented migrants are currently on hunger strike, and 112 Belgian associations published a call on 5 June 2020 to the government to urgently act.²⁸

PICUM recommends: that applications for regularisation mechanisms are made accessible with realistic documentation requirements and low costs; that people are able to apply themselves rather than depending on employers; that applicants are given access to services during the procedure; that free legal aid is available as well as the right to appeal; that the permits are independent, secure and as long-term as possible; and crucially, that civil society, including migrants' associations, should be involved throughout design and implementation.

²¹ <https://www.repubblica.it/solidarieta/immigrazione/2021/05/21/news/polchi-302087303/>

²² <https://www.aljazeera.com/news/2020/05/30/cynical-critics-slam-italys-amnesty-for-undocumented-migrants/>

²³ https://migrationnetwork.un.org/sites/default/files/docs/un_network_on_migration_wg_atd_policy_brief_covid-19_and_immigration_detention_0.pdf ; <https://edition.cnn.com/2020/03/30/europe/portugal-migrants-citizenship-rights-coronavirus-intl/index.html>

²⁴ PICUM (August 2020), [Non-exhaustive overview of European government measures impacting undocumented migrants in the context of Covid-19.](#)

²⁵ PICUM (August 2020), [Non-exhaustive overview of European government measures impacting undocumented migrants in the context of Covid-19.](#)

²⁶ <https://regularizacionya.com/> ; <https://www.cear.es/40-mil-firmas-regularizacion-urgente/>

²⁷ <https://www.mo.be/analyse/mensen-zonder-papieren-z-jin-er-als-je-ze-niet-betrekt-je-plan-heb-je-g-n-plan> ; <https://www.wearebelgiumtoo.be/>

²⁸ <https://plus.lesoir.be/376332/article/2021-06-05/carte-blanche-le-gouvernement-va-t-il-laisser-mourir-les-sans-papiers>

SOCIO-ECONOMIC RESPONSES

A few governments made provisions for undocumented migrants who lost employment due to the pandemic. In **Ireland**, the temporary Pandemic Unemployment Payment that was made accessible to all workers who lost their job due to COVID-19 was also available for undocumented workers. The government also confirmed that “there are no plans in place to share any data we receive as part of an immigrant’s application for a COVID-19 Pandemic Unemployment Payment with GNIB (Immigration Authorities) or the Department of Justice and Equality.”²⁹

In **Geneva, Switzerland**, in a referendum on 7 March 2021, the public voted with a large majority (68.8%) in favour of a law proposed by the cantonal government in Geneva to extend wage compensation to precarious workers who lost their jobs during the first wave of the COVID-19 pandemic but were left out of the national wage compensation package. Undocumented workers are explicitly included in the policy. The law came into effect on 7 April 2021 and will provide financial assistance in compensation for lost earnings during the period 17 March – 16 May 2020.³⁰

Other positive developments in this area include the **UK** Secretary of State’s decision, following a legal challenge, to extend free school meal entitlements temporarily to all children, provided their families meet the usual income threshold for free school meals. The COVID-19 scheme enables eligible children to have school meals delivered and collected from school or access to £15 weekly vouchers per eligible child.³¹ (For more examples, see our [Non-exhaustive overview of European government measures impacting undocumented migrants taken in the context of COVID-19 from March to August 2020](#)).

In most countries, there has been a proliferation of NGO as well as informal and community support networks to meet the urgent needs of community members excluded from state support. In **Spain**, for example, in the 2020 Spring lockdowns, the organisation Compra Antirracista distributed food parcels to 3,000 undocumented persons, including 600 children and 300 unaccompanied children who had recently turned 18 years old, because undocumented people could not access the official foodbanks.³²

Resources

PICUM (March 2020), [Statement and Recommendations – the COVID-19 pandemic: we need urgent measures to protect people and mend the cracks in our health, social protection and migration systems](#)

PICUM (August 2020), [Non-exhaustive overview of European government measures impacting undocumented migrants in the context of Covid-19](#)

PICUM blog post (July 2020), [Regularising undocumented people in response to the COVID-19 pandemic](#)

²⁹https://migrationnetwork.un.org/sites/default/files/docs/un_network_on_migration_wg_atd_policy_brief_covid-19_and_immigration_detention_0.pdf

³⁰ <https://ge.ch/grandconseil/data/texte/PL12831.pdf>

³¹ <https://www.gov.uk/government/publications/covid-19-free-school-meals-guidance/covid-19-free-school-meals-guidance-for-schools> ;
https://migrationnetwork.un.org/sites/default/files/docs/un_network_on_migration_wg_atd_policy_brief_covid-19_and_immigration_detention_0.pdf

³² <https://votaresunderecho.es/compraantirracista>

PICUM Resource Page – [Covid-19 and undocumented migrants: what is happening in Europe?](#)

ECDC (June 2020), [Reducing Covid-19 transmission and strengthening vaccine uptake among migrant populations in the EU/EEA](#)

OECD (October 2020), [What is the impact of the Covid-19 pandemic on immigrants and their children](#)