

Policy Brief Undocumented Workers Transitions

UWT is a research project funded by the European Commission within the 6th Framework Programme for Research between March 2007 and February 2009. It was coordinated by Professor Sonia McKay of the Working Lives Research Institute at London Metropolitan University and involved seven teams from Austria, Belgium, Bulgaria, Denmark, Italy, Spain and the UK.

SUMMARY

Objectives of the research

The Undocumented Workers Transitions (UWT) project had seven key objectives aimed at providing more reliable estimates of undocumented migration flows, while deepening the understanding of the impact of these flows on European labour markets. It explored how immigration status impacts on migrant labour market experiences, both in a period of undocumented status as well as after regularisation.

Scientific approach/methodology

The research used a range of methodologies, including [state of the art country reports and literature reviews](#). It collated its data from both qualitative and quantitative methods conducting in-depth face-to-face interviews, as well as developing a quantitative data set from the interview data from stakeholders, documented and undocumented migrants. It also was informed through stakeholder meetings in each partner country that brought together social partner civic, non-governmental and campaigning organisations. It organised a final international conference in London

New knowledge, new concepts and European added value

The project's [Final report](#) provides methods for the calculation of estimates of undocumented migrant populations in the seven countries, although it notes the limitations of any such methods. It also demonstrates how status is a more important determinant of labour market experience than is country of destination or employment law regime. Its findings support policy initiatives that address status issues and which seek to eliminate or reduce undocumented status.

Key policy messages and recommendations for policy makers, businesses, trade unions and civil society actors

The key messages from the project focus on (a) the need to separate migration status from employment rights, providing a level floor of employment rights irrespective of status; (b) the need to abandon terms like 'illegal migrant' or 'illegals' which encourage a discourse associating migrants without documents with criminality; and (c) the need for more robust data to allow for the calculation of migrant numbers, including undocumented migrants.

Objectives of the research

The research was undertaken to fulfil the following objectives:

- 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’ 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 investigate key theories concerning human capital and social capital in relation to migration; and
- To explore the particular consequences of migration for women workers.

These objectives were pursued through completion of research outputs, including six thematic papers; a glossary of key migration terms; and a final report. The objectives were completed through interviews with key experts and with undocumented migrants as well as through the stakeholder meetings. The latter, which were held in each of the seven partner countries, brought together social partner organisations, civil, non-governmental and campaigning organisations. Research findings were presented to stakeholders in each country, with each meeting focusing on one or two of the project’s thematic topics. The stakeholder observations were used to evaluate project data and to produce the final reports.

Although the data was gathered in seven EU states only, the objectives are applicable to researching migration in any of the EU 27 Member States. Similarly the research conclusions resonate with the known experiences of migration in those EU Member States not involved in the project.

Project rationale/research context

In each of the seven countries studied an increase in the numbers of undocumented migrants had been observed and the project therefore aimed 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 the pathways into work they had followed.

Scientific approach/methodology

The conceptual and methodological approach for this project was established at the first international project team meeting held in London. The methodological tools and procedures for their use were developed during a methodology workshop, held in Vienna in May 2007. Three further project meetings took place during the project. Regular meetings between researchers, along with continuous intranet communication, ensured that researchers worked to common programmes and facilitated the development of the project’s comparative approach. The project developed its own [Ethical guidelines](#), which arose from the discussions held between researchers in the seven partner groups.

The methodologies utilised in the research included:

- In-depth interviews with 70 key experts in all seven countries and at EU level;
- In-depth interviews with 211 migrants who were or who had been undocumented;
- Literature reviews at national and at EU level;

- Development of a detailed database on the working experiences of undocumented migrant interviewees;
- Development of a glossary of migration terms;
- Estimation of undocumented migration flows through the integration of quantitative data.

Researchers in each partner country collated existing sources of data. Using statistical techniques elaborated in the course of the research, provided more reliable estimates of undocumented numbers in the seven countries. These estimates are included in the UWT [Final report](#). Researchers also conducted 211 face-to-face interviews with migrant workers in the seven countries who either were or had been undocumented. The project also developed a [glossary](#) to ensure that the research was informed by common understandings.

New knowledge, new concepts and European added value

The research concluded that in all seven countries there has been a trend towards tightening the controls over family reunion; restricting economic migration through quota or special permits systems; and containing 'illegality'. These have been accompanied by restrictions on freedom of movement and on the right to work. In all seven countries the researchers observed 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.

At the same time the researchers found that these restrictive regimes had not halted undocumented migration. With testimonies taken from more than 200 workers who were or who had been undocumented, and with interviews with national and European experts in migration, the researchers concluded that the measures taken by the seven states have meant that workers without papers have been driven into the most marginal and dangerous jobs, but that the imperative for them to seek work makes even these difficult conditions 'acceptable'.

Key policy messages and recommendations for policy makers, businesses, trade unions and civil society actors

The research identified a number of important messages, addressing a range of policy makers at European and national level, including trade unions, business and government. These messages focus on three key areas:

- The inter-relationship of immigration laws and employment status, particularly where the former operates to deny access to the latter;
- Regularisation and its impact on labour market opportunities for migrant workers; and
- Social welfare provision and the impact of exclusion on undocumented migrants.

Migration and employment status

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:

- 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.
- Place 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 taken account of.
- Consider more carefully the discourse on irregular migration. The terms 'illegal', 'illegals', 'criminals' are inappropriate in depicting undocumented migrants. Such terms are still widely used in the dialogue of migration at EU level and believe that they contribute to racist discourses on migration.
- Consider the 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. The project's [Final report](#) concludes that while the call for regularisation is important, it needs to be advanced in a context where employment rights 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 exploitation. Our message to policy makers and to civil society organisations is that there is need for:

- 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. Our key policy message, addressed to all stakeholders is that there is a need for:

- Improved healthcare and education for migrants and their partners/families where they are accompanied;
- 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.

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