Undocumented workers have rights and protections under a variety of international, regional and national legal frameworks - as human beings, as workers and employees, and when victims of crime.

This includes rights under several EU laws, including – for example - the right to working conditions which respect health, safety and dignity, with limited working hours and rest periods (Charter of Fundamental Rights), the right to unpaid wages and effective complaints mechanisms (Employers Sanctions Directive), and the right for the relevant financial guarantee institution to take over (with limited liability) outstanding claims in the case of employer insolvency (the Employers' Insolvency Directive), as well as the rights, supports and services for victims, when victims of crime, including trafficking in human beings (Victim's Directive, Anti-Trafficking Directive).

However, they face significant challenges in exercising their rights in the workplace, whether through criminal courts, civil courts and employment tribunals, or complaints mechanisms of inspection authorities. This hampers efforts to ensure decent working conditions, to prevent and provide a remedy for exploitation, and ultimately to reform sectors in which exploitation of workers and undeclared work are widespread.

Critical barriers include, among others, fears and risks of immigration enforcement and retaliation from fraudulent employers, difficulties to provide sufficient proof, as well as inadequate access to information about their rights, legal advice and representation. Some workers face additional barriers because of gaps in labour law protections and accountability.
mechanisms for particular types of work or employment relationships, for example, when working as au pairs, domestic worker or sex worker, or when employed through recruitment agencies or online platforms.

This online legal seminar series will equip practitioners and advocates with the tools to strengthen their defence of the rights of undocumented workers. More specifically, the aims of the series are to:

• Support legal professionals and advocates of migrants’ rights and workers’ rights to use international and EU laws to claim undocumented migrants’ work-related rights

• Learn from different national contexts and strategies to strengthen protection of undocumented workers’ labour rights in law and in practice;

• Critically and strategically assess the use of criminal law remedies for undocumented workers;

• Explore the various legal frameworks that establish accountability and liability of employers, including in situations of sub-contracting and recruitment chains.

www.picum.org/legal-seminar-2021
intern3@picum.org
English, French, Spanish
Online
Wednesday 6 October 2021

14:00 – 16:00

Undocumented workers’ rights as “workers” or “employees” under EU law and international law

Moderator: Lieve Verboven, Director, International Labour Organization’s Office for the EU and the Benelux countries

Opening
Michele LeVoy, Director, PICUM

Overview: world of work and migrant workers
Ludovic Voet, Confederal Secretary, ETUC

International labour standards and the protection of migrant workers in an irregular situation
Katerine Landuyt, Specialist in Labour Migration, International Labour Organization

EU law on working conditions and addressing changing employment relationships and situations
Adam Pokorny, Head of Unit, Labour Law, DG Employment

Case law on the definition of the employment relationship and application of EU employment law
Vera Pavlou, Lecturer in Labour Law, School of Law, University of Glasgow

Respondent: Steve Peers, Professor, School of Law, University of Essex
Undocumented workers’ rights: in law and practice: National case studies

Moderator: Lucila Granada, CEO, Focus on Labour Exploitation (FLEX)

Opening
Michele LeVoy, Director, PICUM

FRANCE: Explicit labour rights and their implementation by the Prud’hommes
Gerard Ré, Secrétaire Général de L'UD CGT 06, Confédération Générale du Travail (France)

BELGIUM: Implementing the Employers’ Sanctions Directive provisions on minimum wages and effective complaints mechanisms
Jan Knockaert, Coordinator, FAIRWORK Belgium

AUSTRIA: How UNDOK supports undocumented workers
Susanne Kimm, Legal Counsellor, UNDOK

USA: Protecting Workers from Retaliation: Some Perspectives from the United States
Laura Huizar, Immigrant Worker Justice Program Director, National Employment Law Project (NELP)

Respondent: Laurie Berg, Associate Professor, Faculty of Law, University of Technology Sydney
Wednesday 20 October 2021

14:00 – 16:00

Criminal law approaches to exploitative working conditions

**Moderator:** Borislav Gerasimov, Communications and Advocacy Coordinator, Global Alliance Against Traffic in Women, and Editor of Anti-Trafficking Review

**Opening**
Michele LeVoy, Director, PICUM

**Severe labour exploitation: overview of EU law**
Ludovica Banfi, Project Manager, Social Research, Research and Data Unit, EU Agency for Fundamental Rights Agency

**Irregular or precarious status and the risk of deportation as factors contributing to forced labour under Article 4 of the ECHR**
Conny Rijken, Professor in Human Trafficking and Globalization, Department of Criminal Law, Tilburg Law School

**The protection of labour rights in agricultural sector after Manolada cases and the role of Labour Inspectorate in the application of the Employers’ Sanctions Directive**
Konstantina Michopoulou, Attorney at Supreme Courts (Athens Bar Association), Teaching Associate on Human Rights (Hellenic Open University)

**Penal legal frameworks and policing of migrants**
Ioana Bărbulescu, Networks Coordinator (Legal and Policy), Fair Trials

**Respondent:** Julia O’Connell Davidson, Professor in Social Research, School of Sociology, Politics and International Studies, University of Bristol
Wednesday 27 October 2021
14:00 – 16:00

Business and employer responsibility and accountability

Moderator: Giulia Laganà, Senior Analyst, Migration and labour rights, Open Society European Policy Institute

Opening
Michele LeVoy, Director, PICUM

Health and safety: How far does international and EU law address prevention and post-incidence?
Tim Tregenza, Network Manager, European Occupational Safety and Health Agency (EU-OSHA)

Employer accountability for labour accidents and state compensation: The example of Belgium
Roxanne Delie, Legal Officer, FAIRWORK Belgium

Joint and several liability in subcontracting chains
Silvia Borelli, Labour Law Associate Professor, University of Ferrara

Implementing due diligence and meaningful complaints mechanisms through supply chains
Emily Young, Ethical Trade Partner, ASOS.com

Respondent: Yvan Sagnet, Founder, NO CAP Association