



PICUM input to the call for evidence for the upcoming EU Strategy on Victims' rights

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PICUM

[PICUM](#), the Platform for International Cooperation on Undocumented Migrants, was founded in 2001 as an initiative of grassroots organisations, and now represents a network of around 155 organisations working with and for undocumented migrants in 35 countries.

With twenty-five years of evidence, experience and expertise on issues affecting undocumented migrants, PICUM promotes recognition of their fundamental rights, providing an essential link between local realities and the debates at the policy level. PICUM members are among the non-governmental organisations (NGOs) and trade unions that supports people facing abuse, violence and exploitation.

Undocumented victims of crime face significant, well documented challenges across each of the five priority needs identified in the call for evidence – in personal and family relationships, in the workplace, in immigration detention, and at the EU's borders. These challenges, and the evidence underpinning them, are set out below, organised around the same five priorities. A single, targeted set of recommendations for the Strategy follows in the next section.

Contact

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Brief assessment of recent legal and policy developments affecting undocumented victims

"We were contacted by a worker who does not hold a residence permit in Belgium. He went voluntarily to a police station to file a complaint against his employer, who he said had behaved in an intimidating and threatening manner and had pressured his contacts with the aim of making him lose his housing. He went to the police station alone. He was not given the opportunity to file his complaint. Instead, that same day, he was issued an order to leave the territory. He had a copy of a complaint he had already lodged with the regional labour inspectorate, which could have shown he had an ongoing procedure and helped clarify the situation. As far as we are aware, this was not taken into account."

Case reported by a PICUM member

The adoption of the first EU Strategy on Victims' Rights (2020–2025)¹ marked an important step for victims of crime across the EU. Crucially, it recognised that undocumented migrants who become victims of crime are often in a situation of particular vulnerability, that they may be deterred from reporting crime by the risk of being ordered to return, and recalled that victims' rights under the Victims' Rights Directive (VRD) must apply without discrimination based on residence status, in accordance with Article 1. The Strategy committed the Commission to explore ways of disconnecting crime reporting from return procedures - a commitment PICUM strongly welcomed.

Since then, the revised Victims' Rights Directive has been adopted (agreed by the European Parliament on 18 May 2026 and by the Council on 8 June 2026, with Member States required to transpose most provisions by mid-2028).² The revision brings some improvements, such as:

- It requires free, accessible, safe and readily available reporting channels, including from settings of deprivation of liberty or where liberty is restricted (Article 5a)
- Recalls that undocumented victims should not be discouraged from reporting a crime while also explicitly noting that Member States may, at any moment, decide to grant an autonomous residence permit or other authorisation offering a right to stay to a third-country national staying illegally on their territory (Article 5a);
- It introduces dedicated, targeted support for child victims, including administrative assistance (Article 9a);
- It adds residence status to the personal characteristics that must be considered in the individual needs assessment (Article 22).

¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions EU Strategy on victims' rights (2020-2025) [COM/2020/258 final](#)

² [Directive 2012/29/EU](#) of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, as amended, consolidated text of 20 July 2026

The same period also saw the EU accede to the Istanbul Convention (in force since October 2023) and adopt its Directive on combating violence against women and domestic violence (2024/1385).³

However, significant gaps remain. Most critically, the complete firewall between immigration enforcement authorities and the justice system / service providers that PICUM, La Strada International and over 40 human rights organisations called for throughout the negotiations⁴ (and even the partial version originally proposed by the European Commission, which would have restricted sharing a victim's residence status with immigration authorities until completion of the first individual needs assessment)⁵ did not survive into the final text, similarly to the Violence Against Women Directive (VAWD).⁶

These gaps cannot be understood separately

from the wider direction of EU migration policy. The Pact on Migration and Asylum, the new Return Regulation and the ongoing revision of the Facilitation Directive are together increasing enforcement, detention and the criminalisation of migration and of solidarity.⁷ This creates an acute tension in practice: the same person can simultaneously be a victim of crime entitled to protection under the VRD, and a target for return under EU migration law.

As section 1 below sets out, the Charter of Fundamental Rights,⁸ as primary EU law with the same legal status as the Treaties, overrides secondary EU legislation such as the Return Directive⁹ (and upcoming Return Regulation), but in practice the hierarchy is routinely not respected, and victims' rights for undocumented people remain unattainable. This includes children who continue to face immigration enforcement taking precedence over child protection.

Migration enforcement over child protection

PICUM has set out detailed evidence and recommendations on children in its June 2026 submission to the European Commission's call for evidence for the Action Plan on the protection of children against crime, notably:¹⁰

- Applying the presumption of minority consistently;
- Systematically assessing whether a child encountered in the context of criminal activity is in fact a victim of exploitation or trafficking;
- Establishing a firewall for undocumented children and families accessing services;
- Decoupling the resolution of a child's residence status from the outcome of any case;
- Extending support beyond the age of 18.

These core recommendations are directly relevant to this Strategy and should be reflected in the Strategy on Victim Rights.

3 [Directive \(EU\) 2024/1385](#). For a fuller analysis of the EU legal framework on violence against women and its gaps for undocumented women, see PICUM (2025) [Guaranteeing justice for undocumented migrant women in the EU facing violence: Actions to end exclusion and ensure protection](#)

4 PICUM, La Strada International et al (2024) [Joint statement](#): New EU Victims' Rights Directive: over 40 human rights groups warn of potential failure to protect migrant victims

5 PICUM (2023) [First reactions to the European Commission proposal to revise the Victim Rights Directive](#)

6 PICUM (2024) [New EU Directive on Violence Against Women leaves out migrant women'](#)

7 For more on this, see PICUM's submission to the call for evidence on the upcoming action on protecting children against crime.

8 Charter of Fundamental Rights of the European Union [2012/C 326/02](#)

9 [Directive 2008/115/EC](#)

10 PICUM, 2026, [Preventing and supporting all children against crime, regardless of residence status: PICUM submission to the European Commission's call for evidence for the upcoming Action plan on the protection of children against crime](#)

Gender-based violence: a cross-cutting priority

PICUM has set out detailed evidence and recommendations on gender-based violence against undocumented and precarious-status migrant women in its August 2025 submission to the EU 2026–2030 Gender Equality Strategy.¹¹

It calls on that Strategy to commit, in the framework of transposing and implementing the VAWD, to providing guidance to Member States on ensuring access to justice, protection and support for undocumented and women with precarious status – including safe reporting mechanisms and access to residence permits for victims of crime.

This recommendation is directly relevant to this Strategy and should be reflected in it, alongside the gender-based-violence evidence set out throughout this submission.

Challenges

Undocumented victims of crime face significant, well-documented challenges across each of the five priority needs identified in the call for evidence. This risk to crime can happen in any area of life:

public space, in personal and family relationships, in the workplace, in immigration detention, and at the EU's borders.

More effective crime-reporting systems

Underreporting continues to be a significant issue. As an example, fewer than four in ten women who experience violence anywhere in the EU seek help, and fewer still report to the police;¹² among migrant and undocumented women, reporting rates are even lower. A 2024 survey by the Belgian organisation Siempre found that fewer than 25% of migrant women reported crimes, citing fear, lack of knowledge and legal insecurity.¹³ This pattern holds across settings: in personal relationships and at home, in the workplace – including domestic work, agriculture, hospitality, construction, care work and sex work, where undocumented workers are over-represented¹⁴ – and in immigration detention,

where victims face additional barriers such as restricted communication and difficulty producing evidence.¹⁵

One problem for undocumented workers is that they may be identified as undocumented workers during a labour inspection, and not necessarily as potential victims of crime, unless there are very obvious indicators of trafficking in human beings. Even in cases where undocumented workers have experienced theft, gender-based violence, labour exploitation or other abuses which may be criminalised, they risk being subject to immigration enforcement as a result of a labour inspection, due

11 PICUM, 2025, Submission to the EU 2026-2030 Gender Equality Strategy, pp.2–3

12 United Nations, 2015, [The World's Women 2015](#), Chapter 6; FRA, 2024, [EU Gender-based violence survey: key results](#)

13 PICUM, 2025, [Guaranteeing justice for undocumented migrant women in the EU facing violence](#), p.35

14 PICUM, 2020, [A worker is a worker: how to ensure that undocumented migrant workers can access justice](#)

15 PICUM, 2023, [First reactions to the European Commission proposal to revise the Victim Rights Directive](#), p.5

to data sharing or practical cooperation between labour inspection and law enforcement.¹⁶

As set out above, the complete firewall that PICUM, La Strada International and over 40 human rights organisations called for throughout the negotiations of the VRD did not survive into the final text.

Instead, Member States are asked to *"take the necessary measures to ensure that victims who are third-country nationals, irrespective of their residence status, are not discouraged from reporting a criminal offence and that they are treated in a non-discriminatory manner."*¹⁷ While not an explicit safeguard, effective application of this obligation requires in practice a firewall. In other words, it requires that people can safely report a crime without the migration authorities being notified. Moreover, under the Law Enforcement Directive (LED), personal data must be collected for specified, explicit and legitimate purposes and not further processed in a way that is incompatible with those purposes¹⁸ – the purpose limitation principle. If a person reveals their identity and other personal data in order to report a crime, this data should therefore not be used for an incompatible purpose, such as migration enforcement.

The Charter provides a clear basis for this reading. As primary EU law, the Charter takes precedence

over secondary legislation, including the VRD, the LED and the Return Directive (this will also still be the case under the upcoming Return Regulation).¹⁹ Where reporting a crime leads to deportation, that outcome constitutes a violation of the Charter, including of Article 8 (protection of personal data), Article 20 (equality before the law), Article 21 (non-discrimination) and Article 47 (right to an effective remedy and a fair trial).

Existing practice shows firewalls are feasible, though imperfect: the Netherlands' national 'free in, free out' policy has proven 'thin' in implementation,²⁰ and Spain's statutory firewall under Article 31 bis suspends deportation on reporting gender-based violence²¹ but ties any residence permit to a conviction, which Spanish NGOs argue leaves women without lasting security.²² This gap matters: migrant women accounted for 44.8% of women killed by an intimate partner in Spain in 2023 and 48% in 2024, despite being under 10% of the population, and GREVIO's own evaluation of Spain has linked this disproportion to possible institutional bias against migrant victims²³. Another promising example, a Swiss parliamentary motion to end automatic referral of undocumented women reporting gender-based violence to migration authorities was approved by the National Council in March 2026 and awaits the Council of States approval.²⁴

16 PICUM, 2026, [Data protection and the firewall: Digital technology use by labour authorities and migrant workers' rights](#)

17 [Directive 2012/29/EU](#), as amended, Article 5a,

18 [Directive \(EU\) 2016/680](#) of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA, Article 4(1)(b)

19 PICUM, 2025, [Guaranteeing justice for undocumented migrant women in the EU facing violence](#), p.37

20 Timmerman et al., 2020, 'Free In, Free Out': Exploring Dutch Firewall Protections for Irregular Migrant Victims of Crime, European Journal of Migration and Law

21 [Ley Orgánica 4/2000](#), Article 31 bis

22 AIETI et al., 2026, [shadow report to GREVIO](#); Asociación Por Ti Mujer, 2025, [Impacto de la violencia machista en la salud mental de las mujeres migrantes en España](#)

23 Spanish Ministry of Equality femicide statistics, cited in Asociación Por Ti Mujer, 2025, [Impacto de la violencia machista en la salud mental de las mujeres migrantes en España](#), p.7; GREVIO, 2020, [First evaluation report on Spain](#), para.20.

24 Swiss Federal Assembly, [Curia Vista motion 25.4224](#)

Timely access for victims to support

The revised VRD requires that support be tailored to victims' needs and available for as long as necessary, and that residence status be taken into account in the individual needs assessment.²⁵ For undocumented people, however, services remain inaccessible in practice.²⁶

The scale of the problem is stark: the EU's 2024 gender-based violence survey found that one in three women in the EU have experienced physical or sexual violence or threats in adulthood, one in five have faced violence from a partner or household member, and one in three have experienced sexual harassment at work – rising to two in five among younger women.²⁷ Yet the survey itself does not capture the specific experiences of racialised migrant and undocumented women, an exclusion that reflects, and reinforces, the structural barriers this submission addresses.²⁸ The VAWD does contain one genuinely unconditional entitlement worth building on: shelters and interim accommodation must be made accessible to victims and their dependants under 18 "irrespective of their nationality or residence status".²⁹

A further, structural problem is that support is often only available to people formally recognised as "victims" of a specific enumerated crime. Many undocumented workers who experience non-payment of wages, coercion or exploitative conditions are never formally recognised as victims of crime, even though the exploitation they face can be severe.³⁰ As a result, the principle of unconditional, needs-based support does not function for them in practice: they are not directed towards specialist services, and – as set out in section 5 below – they are also excluded from compensation designed for recognised victims.

The revised Anti-Trafficking Directive establishes that assistance and support to victims must not be made conditional on their willingness to cooperate in a criminal investigation, prosecution or trial.³¹ In practice, however, access to shelter, residence rights and specialised support frequently remains tied to the progress of a criminal case: when an investigation is discontinued or does not lead to prosecution, many victims lose access to the very support this principle is meant to guarantee – even though their status as victims does not depend on that outcome.

Effective access to justice

Access to justice for undocumented victims is undermined by practical and structural barriers: the high cost of legal services, a shortage of lawyers specialised in both victims' rights and migration law, and the acute difficulty of accessing legal advice from immigration detention.³² The complexity of navigating parallel migration and criminal justice systems – each with its own

procedures, evidence requirements and timelines – falls disproportionately on victims and the frontline organisations supporting them.

For migrant mothers fleeing domestic violence with children, access to justice also intersects with cross-border family law: under the 1980 Hague Convention, a parent who leaves a country with a

25 [Directive 2012/29/EU](#), as amended, consolidated text of 20 July 2026, Article 22,

26 PICUM, 2022, [Unconditional access to services for undocumented victims of crime](#)

27 FRA, 2024, [EU Gender-based violence survey: key results](#)

28 PICUM, 2025, [Guaranteeing justice for undocumented migrant women in the EU facing violence](#), p.6

29 [Directive \(EU\) 2024/1385](#), Article 30 and Recital 67

30 European Commission, 2022, [Study on the concept of trafficking in human beings for the purpose of labour exploitation](#); Kösl, Korntheuer & Surzykiewicz, 2026, 'Not vulnerable enough for victim support?! Advancing the formal identification of human trafficking for labour exploitation through a multidimensional vulnerability approach'

31 [Directive \(EU\) 2024/1712](#), Article 11(3)

32 PICUM, 2025, [Guaranteeing justice for undocumented migrant women in the EU facing violence](#), p.43

child to escape abuse can face "wrongful removal" proceedings. Wrongful removal refers to taking a child across an international border (or retaining a child in another country) without the agreement of the other parent or person under the law of the country where the child was habitually resident immediately before the removal or retention.³³ Revibra Europe provided critical insights before the Brazilian Supreme Federal Court (STF), noting that in

98% of 272 cases they analysed, domestic violence was the primary reason for mothers removing their children from the country of habitual residence,³⁴ yet children were often still ordered returned to the alleged abuser, as courts applying the Convention's narrow "grave risk" defence do not always treat documented abuse against the fleeing parent as sufficient to establish risk to the child.³⁵

An appropriate level of protection for victims

Lack of a residence permit - or dependence on a precarious permit tied to an employer or a partner - significantly increases exposure to violence and limits access to justice and protection. Secure, autonomous residence permits are the key remedy, yet existing permits across the EU typically fall well short of what security requires.³⁶ In practice, permits are commonly:

- available only at the initiative of law enforcement, rather than through direct application by the victim via a clear, non-burdensome procedure;
- granted for short periods, well under 24 months (or 36 months where children are involved), undermining the stability victims need to rebuild their lives;
- not accompanied by free legal aid for people applying for, renewing, or appealing a decision;
- not counted towards long-term or permanent status, leaving victims trapped in temporary, revocable status even years after the violence that triggered the permit; and
- conditional on cooperation with law enforcement authorities or an ongoing

criminal proceeding, rather than on the harm itself (both in terms of initial issuance, duration and renewal).

Several EU instruments already provide for, but do not require, Member States to grant residence permits to victims of crime³⁷, including:

- The revised VRD and the VAWD's address residence permits but use permissive "may" language rather than a binding obligation, as set out above;³⁸
- The Residence Permit Directive, for third-country national victims of trafficking and smuggling, leaves wide discretion to Member States and applies to a limited scope of victims; critically, the permit itself remains conditional on the victim's cooperation with the investigation, rather than on the harm they experienced;³⁹
- The Employers Sanctions Directive (2009/52/EC), which reiterates Member States may grant permits to third-country nationals subject to particularly exploitative working conditions who cooperate in proceedings against their employer.⁴⁰

33 PICUM, 2025, [Guaranteeing justice for undocumented migrant women in the EU facing violence](#), p.26

34 Supremo Tribunal federal, 2024, [Supreme Federal Court Begins Judging Rules of Convention on International Child Abduction](#)

35 Steit, M. 2025. [Ao fugirem da violência doméstica, mães brasileiras são acusadas de sequestro dos próprios filhos](#); Revibra Europe, 2024, Considerações sobre violência doméstica em casos de subtração internacional (haia 28)

36 PICUM, 2020, [Insecure justice? Residence permits for victims of crime in Europe](#)

37 PICUM, 2020, [Insecure justice? Residence permits for victims of crime in Europe](#)

38 [Directive 2012/29/EU](#), as amended, Article 5a; [Directive \(EU\) 2024/1385](#), Recital 67

39 [Council Directive 2004/81/EC](#), Articles 6 and 8

40 [Directive 2009/52/EC](#), Article 13(4) and Recital 27

Where such permits exist, they are frequently made conditional on cooperation with a criminal investigation, subject to long and unpredictable processing times, and withdrawn if a prosecution does not succeed – even where the underlying harm is not in question.⁴¹ Some Member States, such as Finland, Italy and Spain, show that alternative approaches are possible, including permits that are not conditional on participation in criminal proceedings.⁴²

A 2024 OECD review found further barriers: some Member States require reporting to law

enforcement as a precondition for a permit, where requirements for the proof range from a shelter statement to a formal conviction, and processing times can run to a year or more – often as long as the criminal proceedings the permit was meant to make it unnecessary to wait for.⁴³ The EU has been bound by the Istanbul Convention since October 2023, including its Article 59 requirement to grant autonomous residence permits to victims whose status depends on a partner – yet the VAWD, finalised months later, did not give effect to this obligation, a gap this Strategy should address.⁴⁴

More effective compensation and restoration

Access to compensation is another area where the gap between formal rights and lived reality is significant for undocumented people.

Many undocumented workers have to wait years, or never actually receive any repayment of due wages, even if they are recognised as a victim of crime and financial compensation is awarded. This is due to complex legal procedures to enforce compensation orders and non-payment by perpetrators. In such cases, state pre-payment of compensation provides important respite and remedy to victims.

Access to compensation can be even more illusory for the many undocumented workers whose exploitation is never formally recognised as a specific crime such as trafficking. National experience (for instance in the Netherlands⁴⁵) shows state- prepayment of compensation works comparatively well for victims recognised through the criminal legal system, but not for others: where compensation is pursued through civil or labour courts instead, victims are typically left to enforce the judgment themselves, with no public authority

collecting the award on their behalf, causing further secondary victimisation through renewed contact with the perpetrator. The burden of proof is another major barrier. A labour inspection may be required as proof of an employment relationship when pursuing compensation through a civil or labour court, but is dependent on the worker still being employed in the workplace, the capacity of the labour inspection, and the safety of worker if they are identified during an inspection.⁴⁶

The same barriers apply specifically to survivors of gender-based violence. The VRD already requires Member States to make state compensation schemes for violent intentional crime available regardless of nationality or residence status, and the VAWD gives victims the right to claim full compensation from offenders⁴⁷, yet fear of detection, lack of legal aid and the complexity of navigating parallel legal systems mean these entitlements are rarely used in practice by undocumented survivors.⁴⁸

41 PICUM, 2020, [Insecure justice? Residence permits for victims of crime in Europe](#)

42 PICUM, 2022, [Labour migration policies Case study series: Finland](#); PICUM, 2026, [Preventing and supporting all children against crime, regardless of residence status](#), p.15

43 OECD, 2024, [Responses to domestic violence against migrants in OECD countries](#)

44 [Council of Europe Convention on preventing and combating violence against women and domestic violence](#), Article 59; PICUM, 2025, [Guaranteeing justice for undocumented migrant women in the EU facing violence](#), p.23

45 Information shared by PICUM member

46 Information shared by PICUM member

47 [Directive 2012/29/EU](#), as amended, Article 16; [Directive \(EU\) 2024/1385](#), Article 24

48 PICUM, 2025, [Guaranteeing justice for undocumented migrant women in the EU facing violence](#), p.47

Recommendations

As the Strategy is a non-legislative policy, PICUM's recommendations are framed as actions available to an initiative of this kind. Drawing on the challenges set out above, the Commission should, under this Strategy:

- Promote the development of, and support to, Member States implementing unconditional firewalls preventing a victim's residence status from being shared with, or used by, immigration authorities for immigration enforcement purposes.
- Task the Fundamental Rights Agency with updating its 2011 study on the fundamental rights of migrants in an irregular situation, with a dedicated assessment of access to justice for undocumented victims of crime.
- Support Member States, through funding and guidance, in ensuring individual needs assessments consider residence status, gender, dependence on the perpetrator and other intersecting vulnerabilities. This should include funding specialist support services to be able to reach undocumented people, including through outreach to workplaces and communities where violence and exploitation is known to occur.
- Support Member States in guaranteeing free legal aid for all victims of crime regardless of residence status, including for people in immigration detention, and fund training for lawyers, judges and support workers on the intersection of victims' rights and migration law.
- Strengthen the role of relevant Justice and Home Affairs agencies at national and EU level in facilitating victims' meaningful participation in proceedings, including after they have left the country or been deported.
- Ensure that fundamental rights impact assessments - already required under the Commission's Better Regulation Guidelines - are applied consistently and rigorously to migration and asylum policies and legislations. For instruments already adopted, including the Pact on Migration and Asylum, the Return Regulation and any subsequent revision of the Facilitation Directive, the Commission should establish ongoing monitoring of their fundamental rights impact, with victims' rights tracked as an explicit, named category.
- Promote exchange of good practice among Member States on residence permits for victims of crime that are not conditional on cooperation with law enforcement and not tied to an employer or spouse.

Conclusion

The EU has an opportunity, through this Strategy, to address the gap between the rights undocumented victims of crime hold on paper and the protection they can access in practice. Doing so requires

placing a victim's safety, and their right to be recognised as a victim in the first place, ahead of their residence status, wherever the violence they have suffered happened.

Further PICUM resources

- [Preventing and supporting all children against crime, regardless of residence status – submission to the Action Plan on the protection of children against crime](#) (2026)
- [Guaranteeing justice for undocumented migrant women in the EU facing violence](#) (2025)
- [Why inclusive, needs-based social policies matter](#) (2025)
- [Key aspects of child protection systems that help protect all children from harm: PICUM submission on integration child protection systems to the European Commission consultation](#) (2023)
- [PICUM, Unconditional access to services for undocumented victims of crime](#) (2022)
- [Preventing harm, promoting rights: Achieving safety, protection and justice for people with insecure residence status in the EU](#) (2021)
- [Insecure justice? Residence permits for victims of crime in Europe](#) (2020)
- [A worker is a worker: how to ensure that undocumented migrant workers can access justice](#) (2020)

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