

# Brief intro to using formal complaints mechanisms to enforce undocumented workers' rights

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## **Why formal complaints mechanisms**

- A worker is a worker
- Access to remedy
- Build negotiating power
- Prevent exploitation
- Make employers pay (wages, taxes, social security) for all workers
- Inspection procedures and tribunals/ courts

# Undocumented workers have rights



A Worker is a Worker:  
How to Ensure that Undocumented  
Migrant Workers Can Access Justice

# Labour rights are human rights

- ILO Conventions + Fundamental Principles and Rights at Work
- EU Charter FR
  - working conditions which respect his or her health, safety and dignity (Article 31)
  - limitation of maximum working hours, to daily and weekly rest periods and to an annual period of paid leave (Article 31)
  - freedom of assembly and of association (Article 12),
  - non-discrimination (Article 21)
  - protection in the event of unjustified dismissal (Article 30), among others
- National constitutions

# EU & national legal frameworks

- Employment law  
“any worker”, “any person employed”, “every worker”  
CJEU: Insolvency Directive + likely others  
Some explicit (e.g. France), some limitations (e.g. UK)
- Health and safety frameworks
- Equality frameworks
- Employers Sanctions Directive  
payment of outstanding wages at minimum wage, 3-  
month presumption + effective complaints  
mechanisms
- Victims of crime, forced labour, THB

# Legal framework

## Inspections and complaints mechanisms

- ILO C81 + Committee of Experts  
= no immigration enforcement by  
inspections
- Employers Sanctions Directive  
= “effective” complaints mechanisms
- Other legal hooks &  
recommendations



PLATFORM FOR INTERNATIONAL COOPERATION ON  
UNDOCUMENTED MIGRANTS

**Thank you**

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