

Europe's undocumented workers in a time of pandemic

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For undocumented migrants toiling away in the informal economy, the Covid-19 pandemic has only exacerbated the difficulties of everyday life. Lockdowns have led many to lose their meagre sources of income, while those who have continued working face increased health risks. At the same time, in a context of newfound appreciation for “essential workers”, migrants are increasingly being recognised as a key part of our labour force, with the health crisis provoking the implementation of emergency regularisation schemes in some countries. These measures, however, have been too provisional to represent real progress.

It is summer 2021 and in the Roman catholic parish church of Saint John the Baptist at the Béguinage, in the centre of Brussels, a striking scene is taking place. A man is knelt in Muslim prayer inches away from a Christian altar. He is surrounded by mattresses and blankets of all colours and patterns. At the head of many of these makeshift beds is a cardboard sign describing the profession of each occupant: baker, hairdresser, nanny. Hundreds of undocumented migrants (called *sans-papiers* in French) have been occupying the church since February to demand the legal right to remain in Belgium, where many of them have been living and working for years, even decades. When the Belgian government continued to ignore their action, their measures became more drastic. In May, more than 450 began a hunger strike, which lasted for two months.

Hamza was one of the participants. The 23-year-old Moroccan came to Belgium in 2016, after arriving in Europe on a tourist visa. Pre-pandemic, his main income came from working at Brussels’ flea market. On his first job, he was paid five euros for a whole day by the stall owner. “When you’re *sans-papiers*, you work like a slave,” he says. He’s not the only one to use the term – it comes up often in conversations with the protesters. The response of most when asked the average amount they would earn for a day’s work – on a construction site, helping out at a market stall, manual work in somebody’s house, etc. – is between 35 and 65 euros a day, and without any guarantee of

regularity. However, even these subsistence incomes disappeared when Covid-19 hit, bringing many forms of work to a halt.

Assia, who laughs when asked why she came to Belgium from her native Algeria (“All the journalists ask the same question. Precarity of course!”), was let go by the French family she had been working for as a nanny. Once the pandemic hit and they had to work from home, they no longer needed her. They had been paying her five euros an hour. Instead she got involved in voluntary work, making masks when there was a shortage in the first lockdown. Gesturing to the group of women sitting around her in one corner of the church, she says they were all doing the same kind of work: cleaning, looking after children, working in small bakeries – “but always under the table” (in other words, undeclared). Many have suffered various forms of verbal or physical abuse, she says, and those who live alone particularly struggled during the lockdowns. “What is hard for the men is even harder for the women,” confirms 51-year-old Hafida with tears in her eyes.

There are estimated to be over four million “irregular” migrants in Europe, and 150 000 of them are thought to be in Belgium. In its 2020 report, the organisation for undocumented workers Fairwork Belgium describes how the difficulties faced by people without residency papers have only been exacerbated by Covid-19: “The pandemic taught us one thing: that the slightest hiccup hits the lives of workers in the shadow

economy hard, and they are left without a lifeline.” Those who contacted the organisation in the past year reported having to accept jobs they wouldn’t have accepted before, with even worse pay and conditions, due to the sudden loss of work in certain sectors, and found it difficult to access information about temporary unemployment benefits or health measures. “Before, I wasn’t worried about papers,” says Hamza. “Because of corona, everything changed.”

Changing the narrative

The Belgian government have been resistant to the demands for regularisation, or even to revise the criteria for assessing applications. Sammy Mahdi, Belgium’s Secretary of State for Asylum and Migration, has been adamant that there will be no repeat of previous collective regularisations, such as what was implemented in 2009 following a similar action. The most they agreed to was to ‘consider’ each individual case; this led to a suspension of the strike on 21 July, which had been entering a critical phase for the participants’ health. Critics have accused Mahdi

1. Fairwork Belgium (2021) *Travailleurs sans papiers : rapport annuel 2020*. <https://www.fairworkbelgium.be/wp-content/uploads/2021/06/FAI-jaarverslag-2020-FR.pdf>

2. OECD (2020) *Covid-19 and key workers: what role do migrants play in your region?*, OECD Policy Responses to Coronavirus (Covid-19). <https://www.oecd.org/coronavirus/policy-responses/Covid-19-and-key-workers-what-role-do-migrants-play-in-your-region-42847cb9/>
3. Fasani F. and Mazza J. (2020) *Immigrant key workers: their contribution to Europe's Covid-19 response*. <https://ftp.iza.org/pp155.pdf>
4. This is still the focus of the project, the results of which are presented on the site <https://migrants-keyworkers-covid-19.odi.digital/>
5. Human Rights Watch (2020) *Italy: flawed migrant regularization program*. <https://www.hrw.org/news/2020/12/18/italy-flawed-migrant-regularization-program>
6. See "Migrant workers in fortress Europe", *HesaMag#20*. <https://www.etui.org/publications/occupational-health-courts>

↴ **Undocumented migrants occupy the church of Saint John the Baptist at the Béguinage, in the centre of Brussels, to demand the legal right to stay in Belgium.** Photo: © Belga



of pandering to Flemish right-wing parties, where anti-immigrant sentiment is rife.

However, the Europe-wide picture reveals that hard-line stances around regularisation can become a little more flexible in an emergency health crisis, partly due to a recognition of the “essential” work that migrants perform in our societies and economies. In 2020, the Overseas Development Institute (ODI) developed a dataset entitled “Migrants’ contribution to the Covid-19 response” whose aim was to “change the narrative” around migration. Claire Kumar, senior research fellow at the ODI, explains how the team behind the project saw “the special rhetoric around the ‘key worker’ which we’d never really seen” as “the opportunity to highlight migrants as essential contributors in that essential workforce. [...] Suddenly nobody was saying ‘that refugee doesn’t have a qualification recognised by our system’ – it was ‘that refugee is a doctor, so we’re going to change our systems and that access issue will be resolved’. That’s such a powerful story. When we have an emergency situation, suddenly we can do away with all these bureaucratic and restrictive systems.”

OECD research from 2020 shows that, on average, migrant workers account for 14% of key workers across Europe and that, in most regions, migrants are as likely to work in key professions as native-born citizens. Brussels in fact has the highest figure of all European regions, at 50%.² This research applies to both EU and extra-EU migrants, but another policy paper from the same year found that workers from non-EU countries in particular are over-represented in key occupations, relative to their share of

the general workforce.³ While such data may not be novel, it has taken on a new meaning in light of Covid-19 and the spotlight thrown upon the world’s “essential workers” who have put themselves at risk in order to serve (and service) the rest of society.

Yet while the original idea behind the ODI’s “data tracker” was simply to highlight the positive contribution that migrants were making to the pandemic effort⁴, the team were surprised by how many reports there were of government measures being implemented to make immigration regulations more flexible. “What was not anticipated were the policy actions and responses,” Kumar explains. “A lot of it became about what governments were doing to shore up their access to that workforce. They were changing visa terms and conditions, giving extensions [on permits], putting in place special channels to bring migrants into their countries because they knew that their supply chains would not function properly.”

This applies to intra-EU migration, such as when the UK infamously flew in eastern European farm workers on a special charter flight in April 2020, just as it was telling everybody else to stay at home. But there were also measures targeting undocumented workers. In Italy, for example, a temporary regularisation programme was established for workers in the agriculture and domestic care sectors. In Portugal, over the course of 2020, the government granted temporary legal status to more than 356 000 migrants with pending regularisation applications. Other countries, such as Greece and France, also extended residence permits in light of the shifting context. “There has been movement in the past 18 months,” says Lilana Keith, senior advocacy officer at the Platform for International Cooperation on Undocumented Migrants (PICUM). “From our perspective, regularisation has always been one of the most pressing demands. That hasn’t changed, but we’ve seen much larger campaigns that have attracted broader support.”

Not quite cause for celebration

Despite the window of opportunity that such developments may represent for migrants labouring in the shadow economy, it is perhaps too early to call this true progress. The measures that were rolled out in Italy, for example, have faced strong criticism for various aspects, such as the short time frame for application and the duration of permits. “We saw them repeating mistakes that we know are problematic,” says

Keith, citing a key one as being too great a dependence on the employer. In the two-track programme, the first pathway is for the employer to apply for a work contract with a foreign national. However, employers arguably had little financial incentive to do so, considering the increased pay and social security contributions it would entail. Human Rights Watch accused the scheme of actually heightening undocumented migrants' vulnerability to exploitation, as workers interviewed by the organisation claimed that they had to pay the 500 euro application fee themselves, while a few said they had been asked by employers for large sums of money in exchange.⁵

But one of the most fundamentally problematic aspects of the scheme was its restriction to only those working in the agriculture and domestic care sectors. Kurosh Danesh, in charge of migration policies at the Italian General Confederation of Labour (CGIL), is frustrated with these limitations: "The response of the government was not very satisfying to us because we wanted a complete and thorough regularisation, while they only admitted the regularisation for two categories of workers." And according to PICUM's Lilana Keith, domestic care was only included following a strong advocacy effort to expand the regularisation scheme to all sectors – agriculture was the main focus at first. She points out that "the Italian agricultural model is financially dependent on migrant, and particularly undocumented, labour". When Covid-19 hit Italy in spring 2020 and necessitated the implementation of hard and fast lockdown measures which would hinder the movement of farmworkers and block the arrival of summer seasonal workers, the very real fear of a labour shortage in this essential industry loomed. It is an industry that has become infamous for its exploitation of undocumented workers⁶, which makes it less surprising to hear of some employers' abuse of the scheme. While the government did proclaim one of the objectives of the programme to be the prevention of the spread of the virus in informal settlements, and sanctions were doubled for employers continuing to hire undocumented labour, critics have nevertheless accused it of primarily serving economic interests rather than humanitarian concerns in a time of pandemic, questioning why other sectors were not also covered, such as construction and hospitality.

It is interesting to compare the case of Italy to that of Belgium, where no kind of collective regularisation seems to be forthcoming. The presence of the right-wing, anti-immigration Lega Nord party in the

"When you're sans-papiers, you work like a slave."

coalition government meant that Italy wasn't the obvious place to see a mass regularisation scheme. However, economic imperatives seem to have won out to a certain extent. "The economy needed agricultural workers and care workers," explains CGIL's Danesh. "At that moment, these were the two categories of workers who were really needed in the country. And so objections couldn't be made. It was a choice driven by the needs of the economy that overrode the political positions."

In Belgium, however, concerns about labour shortages and the post-pandemic economic recovery so far seem not to have overridden political resistance to regularisation. "It's a political choice to not respond to economic needs," says Jan Knockaert, coordinator of Fairwork Belgium. "I see no possibility that this current government will push through a regularisation." Of course, as the pandemic has taught us, there are always minor exceptions in emergency situations. Belgium did introduce a temporary measure in spring 2020 allowing asylum seekers to carry out seasonal agricultural work even if they had not yet received a response to their request for international protection. Employers were obliged to provide accommodation for the duration of the work contract. However, Knockaert says that only 50 applications were made due to a lack of information and the fact that it was not made clear if the asylum seekers would still have accommodation to return to following completion of the contract.

Who "deserves" a life in Europe?

What is clear is that migrants' lives are caught in the balance between these political and economic tensions. The economic rationale for more progressive immigration policies in Europe, particularly in light of its long-term problem of aging populations, as well as the shorter-term emergency situations created by crises like Covid-19, is one that can be used effectively by campaigners for the rights of the undocumented. However, the experience of this pandemic has shown how too great an emphasis on the economic can lead to arbitrary measures that do not do enough to protect migrant workers and offer them long-term security.

Italy is a case in point. "The regularisation was a temporary measure," says Kunosh Danesh. "At present, the government has no other provisions, nor ideas or promises." CGIL is currently exploring possible legal pathways to establishing a more regular and universal regularisation process.

If the Covid-19 crisis has presented an opportunity to "change the narrative" about migrants in Europe, particularly those considered "low-skilled", thus blurring the classic problematic divisions between the "deserving" of residence rights (for example, political refugees) and the "non-deserving" (economic migrants), it has also perhaps created the danger of a new division: between the "essential" and the "non-essential". This is reflected in the focus of a regularisation programme like Italy's, which is structured around the needs of the labour market, rather than those of the migrants themselves. Portugal offers a contrasting example, where the scheme was not restricted to certain sectors and where there was an emphasis placed on protection of the most vulnerable, providing access to healthcare, social security, and collective health and safety.

When carrying out the ODI "migrant story" project, Claire Kumar was concerned by how little she saw about the Covid-19 immigration measures being accompanied by a real assessment of the working conditions in certain key sectors and occupations. "One of the things that I think is surprising and really concerning is that that this aspect was not much more front and centre." Citing Portugal as one of the few exceptions, she says: "You could count on one hand what we found in terms of serious improvements [...] On the whole, it is a dramatic disappointment that we did not do better on working conditions, alongside these measures. If we can't do it now, when we have the wider public health interest, I'm really not sure what is the trigger to make the difference."

Meanwhile, the occupiers of Brussels' St John the Baptist church are awaiting their fate. In a moment of levity, a group of women begin dancing to music. One amongst them is clutching something close to her chest like a child, not letting anyone near it. The other women, laughing, ask her what it is. "It's my case file!" she replies, smiling. ●