

La Strada International is a European NGO Platform against human trafficking, that works from a human rights perspective in support of trafficked persons. The platform aims to prevent human trafficking and to protect and realise trafficked persons' rights by providing access to adequate assistance and support to victims, and via information and knowledge exchange, capacity building of NGOs and other stakeholders and cross-sectoral cooperation. Monitoring and advocacy for change to ensure accountability for the effective implementation of European Anti-Trafficking policies and regulations is part of the Platform's core business. The Platform comprises 30 European (associate) member NGOs in 24 European countries. La Strada International is member of the Global Alliance against Traffic in Women (GAATW) the Platform for International Cooperation on Undocumented Migrants (PICUM) and ESWA, the European *Sex Workers Rights Alliance* (ESWA)

La Strada International strongly welcomes the upcoming thematic report by Mr. Tomoya Obokata, Special Rapporteur on contemporary forms of slavery, including its causes and consequences. The Platform in particular welcomes the intention by the UNSR to analyse to what extent there are manifestations of contemporary forms of slavery in different sectors and in different countries/geographic regions.

1. Understanding the term 'Informal economy'

La Strada International does not have its own definition of the 'informal economy'. For us, the informal economy comprises those economic activities that are – generally - not regulated or protected by the state/labour laws, and are neither taxed nor monitored by any form of government. Informal economies are typically characterized by a high incidence of poverty and severe decent work deficits. Of course, this not necessarily has to be the case. Informal economic activities can also include jobs or services for which workers are paid in cash and they do not necessarily earn less or face non-decent work conditions. However as workers in the informal sector are for the most part not covered by countries' labour laws and regulations, they are more vulnerable than others for exploitation and abuse. Clearly informality exists across a wide range of sectors and – in line with ILO statements would for us also include casualized and precarious work within the formal economy.

2. Examples of informal employment in Europe

There are numerous examples of informal employment in Europe. For our mandate and activity, La Strada International and its members focus in particular on situations of irregular work or irregular stay of workers. While persons can be trafficked, while having regular residence in a country or in/ or having access to regular employment, we see often situations where persons have no access to legal stay or employment. We note both situations where the sector and the work might be regularised, but the worker has no regular migration status; as well as situations where persons have a legal stay but no right to work or no valid work permit, or work in sectors, that are not recognised as work, e.g. domestic work and sex work.

Many workers in Europe work without adequate protection or decent minimum wage, and those in irregular work or in an irregular situation are especially at risk of severe labour exploitation and abuse, including human trafficking and forced labour. Businesses find legal loopholes to avoid compliance with labour rights standards, like abusive subcontracting practices and making use of letter box companies to deny responsibility for the exploitation and abuse. People without authorisation to work

can often only get jobs that are undeclared, are often not covered by social security protections, including a minimum income if they become unemployed. Health insurance is also often linked to employment, and can therefore be difficult to access if your work is undeclared¹. We see informal employment in many sectors including domestic work, sex work, nail and hair salons, but also in agriculture, construction, transport and the hospitality and other sectors. For figures on informality we refer to a 2018 ILO report²

3. Sectors where labour exploitation takes place

There are many indications and growing evidence for severe forms of exploitation including human trafficking in many labour sectors, both regulated and non-regulated sectors. LSI's members report labour exploitation in domestic work, sex work, agriculture and construction work and the hospitality sector in particular. Trafficking also occurs when people are forced to beg or conduct criminal activities.

It should be noted that most European countries have no separate legal offence that criminalises forced labour, like the UK has for example. All European countries criminalize trafficking in human beings, and victims of forced/bonded labour and domestic servitude can be recognised as victims of human trafficking. There are only few European countries with separate criminal national legislation on forced labour/bonded labour. While internationally legal definitions differ, it is hardly possible to distinguish between human trafficking and forced labour/bonded labour cases at grass root level.

Those in exploitative labour are often deceived in relation to the type of work they are going to do, and/ or to the working conditions. They are frequently paid very little below the minimum wage, paid late or subject to wage theft or they are forced to pay debts to traffickers and others that 'mediate for employment'. They are required to work very long hours up to seven days a week, without adequate breaks, overtime, holiday or sick leave, or other basic social security. Often they are threatened with dismissal and deportation when they ask for their wage and have no access generally to safe reporting and complaint mechanisms. They are often not provided with necessary safety equipment including protective clothing to work with hazardous chemicals - and training, making them at greater risk of injuries, accidents and occupational illnesses, while also having very limited access to health services. Many have no access to adequate housing and might stay in housing situations with no water or electricity. In addition, we see that those in trafficking and forced labour situation have been deprived of their documents (ID cards, passports etc) and are forced to conduct work or services including transferring drugs or conduct other criminal activity. They are controlled by those that exploit them and are subject to beatings, verbal abuse and threats of further violence. In addition many also face sexual and or gender-based violence or exploitation.

¹ See also PICUM's report A Worker is a Worker <https://picum.org/wp-content/uploads/2020/03/A-Worker-is-a-Worker-exec-sum-EN.pdf>

² According ILO's report Women and men in the informal economy: A statistical picture (Third edition), 2018 - nearly 19 million workers are directly concerned by informality, about 25.7 per cent including agriculture and 18.4 per cent when excluding agriculture. In Central and Eastern Europe, informal employment is a greater source of employment for men (28.1 per cent) than for women (23.0 per cent). Out of the 19 million workers in informal employment in the region, just over 7,7 million are women. Still, when in informal employment women tend to be more often found in the most vulnerable situations.

4. Percentage of the workforce in the informal sector/economy in Europe

The informal economy is a global phenomenon, but there is great variation within and across countries. The ILO estimated in 2021, that about **2 billion** workers, or over 60 percent of the world's adult labour force, operate in the informal sector--at least part time. In 2016, the ILO stated³ that for the European Union at that time, informal work comprised 16,8 %. La Strada International does not collect further information on this issue.

5. Employees in the informal sector in Europe

Both nationals, EU citizens and 3rd country nationals are 'employed' in the informal sector in European countries; nationalities differ per country.

6. Main factors in the informal economy which push workers into exploitative practices

The main factors which push workers into informal labour practices include lack of access to regular work (lack of regular stay); loss of a regular stay or regular work permit. Restrictive immigration policies would be the biggest factor by far, why people 'accept' non decent and exploitative work including the absence of legal pathways for lower skilled workers to work in Europe. Undocumented migrant workers often work in labour market sectors with very low union presence. This enables employers to exploit undocumented workers and force them to accept poor wages, following the general trend of worsening working conditions and rights. They often do not report exploitation and abuse due to the risk of being arrested, detained and deported. The lack of regularisation programmes, and lack of safe reporting and complaint mechanisms mainly ensure that work remain in vulnerable and exploitative positions.

7. Prevalence of contemporary forms of slavery in the informal economy in rural or urban areas

We have no evidence, but there might be less control in rural areas and more isolation and confinement, two key indicators of coercion. We also know that agriculture in rural areas is a sector where a lot of exploitation takes place. At the same time, the amount of workers is much larger in urban areas and maybe likely the amount of workers working in the informal economy here.

8. Legislative and other measures in place to address informality of employment

Many European countries have criminalised irregular work, to address the informality of employment. The nature and extent of penalties imposed by different member states varies. In almost all EU Member States irregular entry and stay are offences, often punishable with custodial sentences. Under certain conditions and provided certain safeguards are respected, a person may also be detained

³ https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/genericdocument/wcms_751319.pdf

within the return procedure'.⁴ The EU is also developing its European migration policy, which impacts informality of migrants, but also creates vulnerabilities⁵.

On the other hand, some European countries have established regularisation programmes e.g. recently Ireland started a regularisation programme for long term undocumented migrants in Ireland. See further PICUM's report on regularisation⁶ Other measures include special visa schemes and temporary work permits and quotas for workers from particular countries; for example for seasonal workers.

9. Complaint/grievance mechanisms existing for informal workers to address violations of human rights, including contemporary forms of slavery

Generally there are few complaint/grievance mechanisms in place for informal workers to address violation of human rights including severe forms of exploitation like forced labour and human trafficking. A study by PICUM revealed that in 13 out of 15 EU member states, there is an inspection body with the competence to take individual complaints from workers regarding issues related to underpayment of wages and working conditions, although not all have the competence to investigate and take decisions on complaints of workers without an authorised employment relationship⁷.

10. Mandate labour inspectorate to inspect the informal sector and to take action in case abuse/labour exploitation is detected? Will often work alongside law enforcement too, thus becoming immigration agents. This happens in Ireland, not sure re rest of Europe.

In most European countries the labour inspectorate is mandated to inspect all work sectors including irregular sector, however the inspectorate would mainly focus their control on the legal sector as they have limited access to the informal sector; only when there are clear indications of human trafficking control takes place. Labour inspectorates often lack effective strategies they need to meet the challenges raised by the informal economy with respect to compliance with working standards. These challenges are linked to the very nature of the work itself and the difficulty of access to workers and workplaces - which are often concealed in private households or located in isolated areas, far from the public eye.

11. What kind of financial, legal or other assistance exists for victims/survivors of contemporary forms of slavery in the informal economy?

There are no special programme for these victims. In general victims of labour exploitation can claim back pay under the EU Employers Sanction Directive. Victims of trafficking have access to temporary assistance and support under the reflection period or those formally identified as victims - as a result of an investigation or successful prosecution - have access to longer term assistance and support under

⁴ Criminalisation of migrants in an irregular situation and of persons engaging with them, FRA 2014.

⁵ <https://www.lastradainternational.org/news/la-strada-international-raises-concern-about-eu-migration-pact/>

⁶ FAQ - REGULARISATION AND ACCESS TO A SECURE RESIDENCE STATUS, PICUM 2022 <https://picum.org/wp-content/uploads/2022/02/FAQ-Regularisation-EN-2.pdf>

⁷ See PICUM's publication A Worker is a Worker

national legislation in line with EU, CoE and UN law related to victims of trafficking. They can claim compensation and other remedies. Those not formally identified, or those not able to cooperate with the authorities have hardly no access to protection and support.

12. What role, if any, do civil society organisations and trade unions play in preventing informal workers from being subjected to contemporary forms of slavery

Civil Society organisations – including trade unions – play an important role, not only in preventing informal workers to become subjected to ‘contemporary forms of slavery’, but also to ensure that those that are exploitation receive support, are adequately referred and can claim compensation or back wages. It is important that informal workers are also empowered in trade unions, to influence union bargaining with employers and authorities and to prevent and respond to the possible exploitation they face. It is also important that civil society actors build alliances with other civil society groups on undocumented workers’ rights and organize advocacy campaigns and other collective actions. Civil society actors can raise awareness of and advocate for undocumented migrants’ rights and secure commitment of others; reach out to workers and help them to organise and or promote their representation; offer information and advice; pursue mediation and or organise collective actions and or support the filing of complaints.⁸

Recommendations

To conclude, La Strada believes informal and unregulated work should be brought within the protection of labour laws. Sex work should be decriminalised and sex workers should be able to obtain rights under labour laws, including access to compensation and remedies in cases of exploitation.

It should be ensured that labour rights are applied to all workers, without discrimination, and irrespective of their migration and residence status. Workers should be adequately informed about their rights and specialised support services should be available to all victims of severe exploitation and abuse. Labour inspectorates should ensure they extend their monitoring and control to all labour sectors including the informal sector.

European countries should ensure to ratify all relevant international legislation that promote workers rights and decent work and should ensure adequate implementation of such legislation. Moreover they should guarantee workers’ access to adequate living standards and fair rental agreements and access to social security payments and health provisions. Workers’ dependency on employers should be reduced by ensuring that workers can freely change employers and by issuing residence permits or visas, that they are not tied to a single employer. Further adequate safe reporting and complaint mechanism should be established to ensure that victims of severe forms of exploitation can have access to rights. This can help avoid the slide from exploitation to trafficking.

Amsterdam, 15 March 2022

⁸ See also PICUM’s leaflet https://www.picum.org/Documents/Publi/2018/PIC004-17_leaflet_EN.pdf