



PLATFORM FOR INTERNATIONAL COOPERATION ON UNDOCUMENTED MIGRANTS

PICUM Newsletter June 2009

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This newsletter focuses on news items and policy developments concerning the basic social rights of undocumented migrants in Europe. It is currently available in PDF format and on the PICUM website (www.picum.org) in the following languages: English, German, Dutch, Spanish, French, Italian and Portuguese. **You are invited to distribute this newsletter widely.**

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the human rights of undocumented migrants?**

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1. News from UN+ EU Member States + Switzerland + U.S.A.

UN

- The UN Committee on Economic, Social and Cultural Rights adopted General Comment No. 20 on Non-Discrimination in Economic, Social and Cultural Rights at its 42nd session, which took place from 4 – 22 May 2009. The General Comment is the Committee's interpretation of Article 2(2) of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 2(2) states: "The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the

present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.” The General Comment reiterates that discrimination undermines the fulfilment of economic, social and cultural rights for a significant proportion of the world’s population and that “non-discrimination and equality are fundamental components of international human rights law and essential to the exercise and enjoyment of economic, social and cultural rights.” The Committee has provided a non-exhaustive list of “other grounds” of discrimination prohibited by Article 2(2), including: disability, age, nationality (covering non-nationals, migrant workers and victims of international trafficking), sexual orientation and gender identity, health status, place of residence, and economic and social situation. <http://www2.ohchr.org/english/bodies/cescr/comments.htm>

- By 2011, the International Labour Organisation will adopt an international standard listing domestic workers rights as workers. The International Domestic Workers' Network, an initiative of domestic workers' unions and support organisations, has issued a mobilization strategy to encourage the inclusion of domestic workers in this process so that the convention developed can best defend domestic workers. They have issued a call for civil society organisations around the world to notify them about relevant actions they will be taking. For a guide on the processes surrounding the development of this ILO Convention and to access downloadable materials to mobilize with, please visit their site at www.domesticworkerrights.org
- A user-friendly *Guide to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW)* is now available. Seeking to better protect migrants' human rights and dignity, the new publication seeks to inform and persuade governments worldwide to sign and ratify the Convention, and to implement it at the national level. The guide provides a summary of Convention and discusses the process of ratification, outlines the pros and cons of ratification and refutes various misconceptions about the Convention. To date, 41 countries have ratified the ICRMW, far short of the 120 or more countries worldwide for which migration is an important feature, either as origin, transit or destination countries. <http://www.ohchr.org/EN/NewsEvents/Pages/GuideonStrengtheningofMigrantsrights.aspx>

France

- Several NGOs in France have spoken out at the French immigration minister's offensive against undocumented migrants and the organisations which support them. In a letter sent to the Immigration Minister Mr. Eric Besson, 16 French NGOs expressed concern regarding his aggressive tone towards NGOs working on poverty issues. The Immigration Ministry and NGOs are in conflict over two main issues. The first is the issue of “solidarity offence”, whereby citizens are condemned for providing humanitarian assistance to undocumented foreigners. The other bone of contention relates to the conditions in the administrative detention centres for foreigners pending their expulsion. In France, foreigners held in detention centres have the right to legal advice and assistance as they face deportation to their home country. The NGO Cimade has been in charge of assisting foreigners in French detention centres for the past 60 years. Last month, the French government criticized what it called the “monopoly” of the group and established a contract with six associations, including Cimade, to provide advice. But a French court ruled on 30 May in favour of the NGO after it contested the contracts. Cimade argued that under the new system undocumented migrants would not have had access to the same kind of legal assistance they've had up to now. The organisation feared that they might simply be “informed” of their legal rights rather than also getting legal assistance in contesting deportation. On 31 May, France's immigration minister Eric Besson decided to extend Cimade's contract for another three months. Source: Sources :

<http://www.france24.com/en/20090601-french-ngo-cimade-illegal-immigrants-deportation-legal-assistance-court-case> and <http://www.cimade.org/nouvelles/1610-Lettre-de-r-ponse---Eric-Besson-des-organisations-engag-es-dans-les-rassemblements-sur-le-d-lit-de-solidarit->

- The French government has vowed to bulldoze a woodland shanty town known as the “Jungle,” which is a temporary home to hundreds of mainly Afghan, Kurdish, and Somali refugees, seeking to cross the channel to reach England. The Immigration minister announced the demolition of this huge camp. Mr Besson stated his aim was to provide food, shelter and advice for those wanting to seek political asylum in the UK. He stressed that the new centre would however not be a permanent structure and migrants would not be offered overnight accommodation. In response to this situation, the UNHCR announced on May 26 that it would begin work in Calais under a new operational partnership with the French NGO France Terre d’Asile. The UNHCR will launch an information and orientation procedure for undocumented migrants arriving in Calais, together with France Terre d’Asile and they plan to open the doors of its centre in June. Source: <http://www.oulala.net/Portail/spip.php?article4062>
- The Immigration Minister has exercised pressures on the radio station “France Inter” to prevent the rebroadcast of a show dealing with undocumented migrants. The journalist Vanessa Descouraux had produced a feature called “Aimer les Sans Papiers est un délit” (Loving Undocumented Migrants is a misdemeanour) which explored the question raised by immigrants defence organizations regarding the increasing judicial proceedings against those who assist irregular migrants. Source: http://tempsreel.nouvelobs.com/speciales/medias/20090513.OBS6738/le_ministere_de_limmigration_aurait_exerce_des_pression.html
- The French National Assembly held a debate on May 14 about the ratification of four bilateral agreements concerning the migratory flow controls from Tunisia, Senegal, Benin, and Congo. These agreements include more possibilities for legal migration to France, but contain clauses which oblige these countries to readmit their citizens, or others who passed through their territory, en route to France. There is concern among NGOs that such agreements increase the vulnerability of migrants as many are expelled without sufficient guarantee for the protection of their human rights. Source: <http://www.gisti.org/spip.php?article1484>
- The Minister of Immigration has launched a new working group on unaccompanied minors in France. This working group includes French government ministries, independent authorities, international UN agencies and French NGOs. The task group will pay attention to different issues affecting unaccompanied minors in France such the clarification of the notion of isolation, access to the asylum process, obtaining a residence permit, age determination and methods of identifying family links. Source: <http://www.france-terre-asile.org/actualites/1056-mineurs-isoles-etrangers-lancement-du-groupe-de-travail>
- The National Association for Foreigners Assistance at the Borders (Association Nationale d’Assistance aux Frontières pour les Etrangers - ANAFE) released two reports in May 2009: “*Inhumanité en zone d’attente*” (‘Inhumanity in holding areas’) and *Observations et Interventions de l’ANAFE en zone d’attente à Roissy*” (Observations and Interventions of the ANAFE in the Roissy holding area). In these reports, ANAFE sums up its observations made in 2008 concerning foreigners that arrived in Roissy Airport and detained for a maximum period of 20 days. In 2008, ANAFE gathered a tremendous amount of evidence showing the non notification of rights for undocumented migrants. In general, migrants cannot benefit from legal aid and ANAFE have lawyers to be permanently available to detainees. Source : <http://www.anafe.org/index.php>

- The book « Entre chagrin et néant, Audience d'étrangers » ('Between Sorrow and Nothingness; Hearing of foreigners') traces the experience of author Marie Cosnay's attendance at foreigners' hearings remanded before the Judge of Liberties in Bayonne, France. Over a five month period in 2008, Cosnay observed judges' decisions regarding the prolonged retention of undocumented migrants in administrative detention centres. In these hearings, migrants from countries in which they have been threatened, and many of whom have resided in France and Europe for many years, are subjected to a system and set of policies which submerge the individual into a state of sorrow and a sense of worthlessness. As the individual is bound in his relationship with the administration and the French or European law, he is reduced to a simple 'case study'. Marie Cosnay endeavours, in this text, to return to the migrant to a state of being and to reinstate their humanity. Published in partnership with the League of Human Rights. Source: <http://www.editionslaurenceteper.com/fiche-livre.asp?Clef=40>

Spain

- In April the Spanish Committee of Aid to Refugees (CEAR) announced that the majority of the 360 irregular migrants living in the Centre for Temporary Stay of Immigrants in the Spanish enclave Ceuta had applied for asylum out of fear of being expelled from Spanish territory. CEAR noted that up to 350 have been allowed in the procedure which indicated a change in practice, given that the annual number was normally 70. After filing an asylum claim the undocumented migrants are guaranteed not to be deported before having a final decision. Source: *Migration News Sheet, May 2009, p. 15.*
- Cristóbal Ramón, an American Fulbright researcher at the Universidad Carlos III de Madrid, is conducting legal research on the workplace rights of undocumented workers in Spain. The focus of his study is how seven sentences issued by the Spanish Constitutional Court in 2007 that struck down provisions in the Foreigner's Law of the Year 2000 (Ley Orgánica 8/2000), which required all immigrants to possess a residency or temporary stay permit to access the right strike, organize, association, and public assembly, have impacted the workplace rights of undocumented immigrants in Spain. He would be grateful to interview experts who might have familiarity with the workplace rights of undocumented immigrants in other EU member states as well as Spain. Cristobal Ramon can be contacted at: cristobal.ramon@uc3.es

Italy

- The Aquila earthquakes in April had an invisible victim, immigrants in Aquila. The immigrants unlike the Italians may not have had friends or family living in other regions. Paolo Brivio of Caritas pointed out that the earthquake in Aquila was the first time there had been an emergency in Italy with a significant number of immigrants. Additionally, he mentioned that many of the immigrants risk losing their right to legally reside in Italy as they have lost jobs and homes, and there is a requirement to show proof of employment to renew a residence permit. Source: *Migration News Sheet, May 2009. 25.*
- The Italian Parliament approved on May 14, 2009 the so called "security bill"; [the text will have to return to the Senate for final approval after the changes made in the House of Commons](#). The Committee of the House of Commons took out the previously contested proposal that would have required medical professionals to denounce undocumented migrants to the immigration authorities (see PICUM Newsletter February 2009). The following is an overview of some of the security bill's provisions:

- Acquisition of Italian citizenship through marriage can take place but after two years of residence in the country or after three years if the spouse is abroad, and the individual will have to pay a fine of 200 euros. Further restriction with regard to marriages was made by amending the Civil Code which provides for the introduction of the requirement to present the residence permit. Weddings will no longer be allowed between an undocumented migrant and an Italian citizen, nor between two undocumented migrants.
- The crime of illegal entry and residence has been introduced, but the undocumented migrant will not be detained for this crime; they will have to instead pay a fine from 5,000 to 10,000 euros. It is also foreseen the possibility of deportation of the undocumented migrant. The introduction of the crime of illegal entry and stay will imply tremendous consequences on every aspect of life of foreigners in the country. As an example, it will be impossible for an irregular migrant to be a witness in a court case and will thus also be impossible to demonstrate the exploitation of 'informal economy' in those sectors which make use of irregular workers.
- Family reunification will be linked to the sponsor having the appropriate "health-hygiene certificate" for their residence, issued by the municipality. In addition, it will no longer be possible to receive an entry visa if the authorization will not be issued within a period of 180 days after the initial request is made. Therefore, the only way to guarantee the right to family unity will vanish due to the slow Italian bureaucracy.
- The legislation introduces the need to produce a residence permit for any act concerning civil status, including the registration of one's child. However, this does not concern access to health care or enrolment of children in school, for which residence permits will not be required according to the bill. A residence permit will also be required to send money through a "money transfer" service, and the latter will be obliged to keep a copy of the residence permit for 10 years. The "money transfer" service will be required to inform the authorities if the migrant does not produce a residence permit upon request.
- Those who exploit undocumented migrants by making an unjust profit out of their irregular situation (e.g. by underpaying them in the informal economy) will not be affected by the measures in the security bill. Source:
<http://www.meltingpot.org/articolo14504.html>

Malta

- Médecins Sans Frontières (MSF) has pulled out of working in detention centers in Malta due to the inhumane living conditions after having worked there since August 2008 (see PICUM Newsletter February 2009). MSF has now released a report entitled "Not Criminals," about their findings and experiences. Consultations with detainees quickly revealed appalling living conditions and serious barriers to access health care. Poor hygiene leads to skin and respiratory infections and cells are often overcrowded. The full report is available at:
http://www.msf.org/source/countries/europe/malta/2009/2009_04_report_Malta.pdf

Greece

- Five immigrants were injured after far-right demonstrators tried to storm a disused courthouse in Athens occupied mainly by migrants. Dozens of protesters hurled stones and fireworks at the eight-storey building on 9 May, while those living inside threw bricks and masonry slabs. Police said nine officers were also injured in the violence. Three youths were arrested over the attack, which came after a march by the anti-immigrant Golden Dawn group who wanted to remove them from a house that had been squatting. The group had previously organized a demonstration to free Athens and Greece from irregular immigration in the main Omonia square. Source: <http://news.bbc.co.uk/2/hi/europe/8042409.stm>

UK

- Members of the University and College Union (UCU) will vote whether to launch a 'campaign of non-compliance' with the new rules governing foreigners who want to come to study in the UK. Already nine UCU branches have voted to ignore the new UK immigration rules. Each foreign student must now hold a place at an educational institution that has a license to take foreign students. The new system requires staff at these universities and colleges to report absent foreign students in order to continue to hold a license to accept them. Many staff are angry that they are being required to 'police' foreign students and employers are also said to be concerned about the requirements. Universities claim the new UK student visa rules are already leading to problems, with students from countries including India finding it difficult to win visas to study in the UK. Others are finding the bureaucracy involved is interfering with their studies. Source: http://www.globalvisas.com/news/ucu_to_challenge_uk_student_visa_changes1179.html

Ireland

- In late April, the Tánaiste, the deputy prime minister, Mary Coughlan, announced major changes to restrict work permits issued to non-EU workers. These changes are to come into effect on 1 June 2009. They will affect all new work permit holders, along with existing work permit holders already in Ireland who are made redundant. Migrant Rights Centre Ireland (MRCI) is urging the Tánaiste to postpone these changes until there is a proper review and consideration of alternatives. The changes proposed will not allow a third country national to take a new job unless it has been publicly advertised for two months. MRCI explained that the changes will cause many migrant workers and their families to become undocumented or to work in the informal market, which will lead to more exploitation as well as will not create jobs for Irish workers. Sources http://www.mrci.ie/news_events/index.htm and <http://www.swp.ie/index.php?page=132&dept=News>

Belgium

- Certain Belgian welfare organizations, including the non-profit association Kinderen Zonder Papieren (Children without Papers), have summoned the Federal agency for the reception of asylum seekers (Fedasil) and the Belgian state for their failure to adequately manage migrant reception centres. The welfare organizations claim that an increasing number of undocumented children have had to sleep on the streets over the past months, because they cannot be accommodated in open reception centers due to overcrowding. Nina Henkens of the NGO Kinderen Zonder Papieren stated that the reception centers are obliged to accommodate families with children. While Belgium has signed the Convention on the Rights of the Child and thus committed itself to provide shelter to children at all times, the reality is very different. Due to overcrowding in

reception centers there is increased pressure on other shelter initiatives such as centers for homeless persons. The welfare organizations are demanding that Fedasil takes responsibility and implements the law regarding the reception of asylum seekers.

<http://www.standaard.be/Artikel/Detail.aspx?artikelId=7J29UO5G>

- The CeMIS (Centre for Migration and Intercultural Studies) and UNICEF-chair children's rights of the Law Faculty at Antwerp University have released a study on the psycho-social well-being of undocumented minors with the following findings: Firstly, research on the situation of unaccompanied and undocumented minors in Belgium has increased and improved while research on the situation of undocumented minors living with their families or caregivers is almost non-existent. Secondly, although their uncertain legal status may cause serious psychological and psychosomatic complaints, it has been observed that undocumented minors display great resiliency. Foreign minors adjust and integrate faster to and in a new society compared to adults. Thirdly, the practical means in which Belgium deals with the detention of accompanied minors is problematic. Moreover it is appropriate to legally guarantee the quality of reception, which must be, according to human and child rights, accustomed to the specific needs of minors. Fourthly, the deprivation of freedom for minor foreigners is considered unjustifiable by many child rights bodies. <http://www.steunpunt.be/steunpunt/E-zine/AWW-flash/aww-flash5/studiedag%20NBM.doc>.

Netherlands

- In April the junior minister responsible for Immigration, Nebahat Albayrak, announced that the government would take "unorthodox measures" to ensure the removal of rejected-asylum seekers and other foreigners living in the Netherlands without authorization. The measures include allowing foreigners' police to search homes and workplaces without a court order, and to check data on mobile phones and computers that undocumented migrants own. Foreigners apprehended for unauthorized stay will not be allowed to submit an asylum application before a deportation trial. A new asylum application will only be accepted if submitted from abroad and if accompanied with new facts or information on new circumstances. The government also intends to pass on information on possible criminal records of persons to be expelled to the authorities in the country of origin, after having verified that this will not place the person's life in jeopardy. *Source: Migration News Sheet, May 2009. 14.*
- Amnesty International concludes in its annual report for 2008 that undocumented migrants are held in detention for too long in the Netherlands, as part of the 4,500 rejected asylum seekers and undocumented migrants are held in detention for over a year. In addition, at least eleven refugees were sent back to Iraq unlawfully. *Source: Parool, 28-5-2009 (newspaper), download the AI annual report 2008 on www.amnesty.org*
- In "Breaking down anonymity. (Digital) surveillance on irregular migrants in Germany and the Netherlands" Ph.D. thesis of Dennis Broeders, the author analyses the development of three EU migration databases (Schengen Information System (SIS and SIS II), Eurodac and the Visa Information System (VIS)) and their significance for the internal control of irregular migrants. Download the article (in English) on <http://www.wrr.nl/english/content.jsp?objectid=3921>
- From 24-30 May 2009, Dutch State Secretary for Justice Albayrak, visited reception centers in Cyprus, Greece and Malta and discussed ways to improve the practical cooperation in Europe in the area of asylum policy and irregular border crossing. The Netherlands will send a team of asylum experts to Greece shortly to assess the practical needs of that country. In addition, Greece announced plans to use boats as reception centres where asylum requests will be processed. *Source: ECRE Weekly Bulletin, 29 May 2009 www.ecre.org*

- The Advisory Committee on Migration Affairs (ACVZ – Advies Commissie Vreemdelingenzaken) has published a study on temporary labour migration 2015-2035. Download the report, with summary in English <http://www.acvz.com/publicaties/Advies-ACVZ-NR29-2009.pdf>
- In 2008 the Dutch government carried out less forced returns than in 2007 and more people went MOB - Met Onbekende Bestemming (With Unknown Destination). This can be concluded from numbers State Secretary for Justice Albayrak sent to the Second Chamber (Tweede Kamer) on the 20 May 2009. In 2007, 10,950 were forced to leave the Netherlands, and in 2008 this number decreased to 7,200. The amount of people leaving with unknown destination (MOB, mostly into life as an undocumented migrant) increased from 13,400 in 2007 to 16,800 in 2008. Search for full return figures on <http://parlando.sdu.nl/cgi/login/anonymous>, Kamerstuk 31924VI: 1, 20.5.09.
- On 11 March 2009, Thomas Hammarberg, the Council of Europe's High Commissioner for Human Rights, presented his report on the human rights situation in the Netherlands (see PICUM newsletter April '09). The Dutch government responded on 27 April 2009 to Hammarberg's recommendations. The government's response entailed, among other things, the promise to look in to the situation for unaccompanied minor foreigners (alleenstaande minderjarige vreemdelingen - AMV's) and the possibility to grant a status to stateless unaccompanied minor foreigners and endorsement of the undesirability of putting victims of human trafficking in foreigners' detention. Search for the reaction on <http://parlando.sdu.nl/cgi/login/anonymous>, Kamerstuk 31 700 V, nr. 85

Germany

- The German Trade Union Federation (DGB) has issued a paper dealing with the situation of undocumented migrants in Germany. In addition to naming a few examples for "good practices", the DGB also formulates policy requirements, i.e. respecting undocumented migrants' basic social and human rights, combating moonlighting as a matter of labour, not regulatory policy, no ban on regularisations by the EU, a more liberal issuing of a stable right to stay and work to migrants with short-term permits, an end to the duty to report for public administration in the fields of health care, education and work, decriminalisation of people supporting undocumented migrants, a disjunction of employment and residence rights, and deportations that are in compliance with human rights and ideally voluntary. DGB-Bundesvorstand, Department of Migration and Antiracism Policy, 14.04.2009. For more information please see <http://www.dgb.de/themen/migration/index.html>.

Poland

- The Polish Proksenos Foundation (Fundacja Proksenos) has been established to provide assistance for vulnerable migrants in Poland. Kajetan Wróblewski, a spokesperson from the foundation, informs that almost 300,000 Ukrainians reside in Poland and many of them are undocumented so illnesses or accidents pose huge problems for them. As no foundation has yet addressed their situation due to their irregular status, these migrants remain invisible to social workers and civil servants. The organization has raised money to provide treatment for severely ill undocumented migrants residing in Poland. The organization also plans to contest current Polish legislation which stipulates that undocumented migrants who voluntarily give himself or herself over to the authorities will not only be deported but also banned from reentering Poland for five years, regardless of his or her material or health situation. Source: Grzegorz Lisicki, "For them no one is

illegal" ("Dla nich nikt nie jest nielegalny"), 28-05-2009, *Gazeta Wyborcza*, http://wyborcza.pl/1,76842,6658824,Dla_nich_nikt_nie_jest_nielegalny.html. For contact details of Proksenos Foundation, please see the Polish NGO database: <http://bazy.ngo.pl/search/info.asp?id=192517&p=daneOgolne>.

Switzerland

- The Swiss section of Amnesty International has criticised the country's 'restrictive' and 'deteriorating' migration and asylum policy. In its Annual Report, released on May 27, Amnesty claimed recent legislation passed in Switzerland was in violation of the basic rights of undocumented migrants and asylum seekers. Amnesty highlighted how the right to marriage is no longer granted to undocumented migrants since the Swiss National Council decided to restrict this right in order to fight so-called 'false' marriages. Amnesty International also spoke out against Switzerland's new asylum law which calls the very definition of a refugee into question fuelling substantial fears that those fleeing from conflict situations may not be able to obtain the protection they deserve. Source: <http://www.lematin.ch/actu/suisse/amnesty-international-epingle-suisse-125791>
- The National Council and Council of States have now both accepted a law that prohibits the marriage of people lacking the right of residence. This measure, which is justified as preventing the fraudulent acquisition of a residence permits by fictitious marriages, is criticised by its opponents as unconstitutional, inhumane and discriminating. Source: Schweizer Fernsehen, 25.05.2009; http://tagesschau.sf.tv/nachrichten/archiv/2009/05/25/schweiz/auch_staenderat_fuer_haertere_gangart_bei_scheinehen or <http://tinyurl.com/l4sto2>

USA

- The U.S. plans to expand a program that checks the immigration status of those booked in local jails, which likely will prompt a rise in deportation cases. The Obama administration's widening of the program was started by the former president and could result in a huge increase in identifying undocumented migrants convicted of crimes and slated for deportation hearings. By matching inmates' fingerprints to federal immigration databases, authorities hope to locate undocumented migrants eligible for deportation before they are released from custody. Inmates in federal and state prisons already are screened. U.S. Homeland Security Secretary Napolitano made it clear that it was a priority to deport immigrants without a status who committed a crime. The program, started as pilot project last October, now operates in 48 counties nationwide, and will expand to nearly all local jails by the end of 2012. Source: http://www.upi.com/Top_News/2009/05/19/Immigration-checks-at-jails-expands/UPI-32691242736883/
- Health care reforms aiming for universal coverage won't provide insurance for undocumented migrants and may not address the cost to state and local governments for providing medical care to this large group of the uninsured in Texas, according to the Senate Finance Committee. Universal health insurance is a key aim of health reform proposals backed by President Barack Obama and key Democrats in Congress, and bills being assembled in House and Senate committees are aiming to reach that goal through a mix of incentives and mandates. Undocumented migrants account for between 15 and 22 percent of the estimated 47 million U.S. residents without health insurance, according to analyses by the Center for Immigration Studies and the U.S. Census Bureau. Source: http://www.dallasnews.com/sharedcontent/dws/bus/stories/DN-healthcare_22bus.ART0.State.Edition1.40daba3.html

- The Department of Homeland Security announced new measures to target those who hire irregular migrants. Senior officials of the Homeland Security Department said on 29 April that irregular workers would continue to be detained in raids on workplaces. But the officials said they hoped to mark an abrupt departure from past practices by making those arrests as part of an effort to build criminal and civil cases against employers. Under the Bush administration, the officials said, most raids were conducted largely on the basis of tips that an employer was hiring irregular workers, rather than on information gleaned from audits of employer records or undercover investigations. As a result, agents rounded up thousands of undocumented migrants but rarely developed the evidence necessary to show whether businesses were knowingly using irregular labor. Last year, for example, nearly 6,000 people were arrested in workplace raids across the country, but only 135 were employers or managers. The new guidelines call for evidence against the employer before going after the workers. Source: http://www.nytimes.com/2009/04/30/us/politics/30immig.html?_r=1
- New York State Attorney General Andrew Cuomo has filed a lawsuit against Miriam Mercedes Hernandez, a businesswoman from Queens, for an immigration scam that targeted and defrauded over a dozen immigrants out of tens of thousands of dollars. Hernandez allegedly told her clients she had the connections necessary to secure them permanent residence status in exchange for up to \$15,000 in fees. When the victims confronted Hernandez she threatened that she would call the authorities should they complain. Immigration advocates lauded the lawsuit because undocumented immigrants are often the most vulnerable to such scams because they are afraid to seek legal protection from the authorities. The lawsuit is a result of an ongoing investigation into similar schemes that target immigrants and their families with false promises of legal permanent residency. <http://www.queenstribune.com/news/1243467799.html>
- The Senate proposed a new bill that will allow irregular migrants to work in the U.S. The bill would allow undocumented immigrants to continue to work in the U.S. if they fulfill a number of requirements, including paying a \$5,000 fine and getting a biometric identification card. The bill would also set up a point system to determine who merits a new type of visa. The Senate proposal would also allow up to 600,000 temporary workers to come to the United States each year. This also entails hiring 18,000 more border patrol agents and stricter requirements for employers to check the status of people working for them. Source: http://www.democracynow.org/2007/5/18/immigrant_rights_groups_condemn_new_senate
- *The Unemployment and Immigration Disconnect* is a new report by the Immigration Policy Center which looks at the link between unemployment and immigration. The U.S. Congress is considering comprehensive immigration reform, and a key question confronting lawmakers is to what extent immigration and unemployment are related. Opponents of immigration reform frequently argue that immigrants take jobs away from many native-born workers, especially during economic hard times. The report examines U.S. census data to examine if this is the case or not. The report is available for download at: <http://www.immigrationpolicy.org/index.php?content=sr090518>

2. European Policy Developments

General

- In May Italy refouled over 500 migrants to Libya, and the Italian Interior Minister described this as a “historic shift.” The United Nations refugee agency sent a letter to the Italian government noting that while UNHCR appreciates the challenges which irregular migration poses to Italy and other EU countries, that the organization is concerned at how this policy undermines access to asylum in the European Union and carries with it the risk of violating the fundamental principle of non

refoulement. UNHCR's concern is heightened by the fact that Libya is not a State party to the Geneva convention. UNHCR is endeavoring to provide humanitarian assistance and basic protection to the persons sent back to Libya by Italy. UNHCR asked that the persons be readmitted onto Italian soil so that those in need of protection may receive it. Source:

<http://www.unhcr.org/news/NEWS/4a0946842.html>

- These refoulements also received much criticism by NGOs, and human rights organizations. The Euro-Mediterranean Human Rights Network and Migreurop state that the migrants risk violence, ill-treatment, detention, rapes, torture and deportations. The Italian Refugee Council and Union Forense plan to go to the European Court of Human Rights. The migrants sent back have not been identified or their situations checked, nor have they received individual treatment. Sources <http://www.euromedrights.net/pages/560/news/focus/69980> and http://www.google.com/hostednews/afp/article/ALeqM5i4F5R5Ls01_BoDyqZh8LP2LsAF4w And <http://www.cir-onlus.org/14%20maggio%202009%20Unione%20Forense%20e%20CIR.htm>.
- High Commissioner António Guterres has asked the European Commission to consider convening a meeting between Italy, Malta, Libya, UNHCR and other relevant partners to work on a joint strategy for a more satisfactory response to irregular migration across the Mediterranean, following Italy's recent 'push-backs' to Libya. In a letter sent to EC Vice President Jacques Barrot, Mr. Guterres said UNHCR recognises the pressure that irregular migration places on Italy and other European Union (EU) Member States. He stresses that the provision of asylum remains a responsibility of states and UNHCR's activities cannot be a substitute for that responsibility. UNHCR is increasing its presence in Libya to better serve the needs of those seeking international protection. Source: Migreurop@rezo.net

European Commission

- The European Commission has decided on a package of short- to long-term measures to help Malta and southern EU member states plagued by irregular immigration and asylum-seekers. Justice Commissioner Jacques Barrot will give Home Affairs Ministers a set of proposals that include financial help, the setting up of a specific mechanism of burden-sharing and the opening of an EU/UNHCR office in Libya to assess asylum requests. More in particular, proposals include 10 million Euros in additional funds to the existing financial instruments and a burden-sharing mechanism whereby member states would be able to resettle refugees and those granted asylum status in their countries. This will first work on a voluntary basis, although the Commission intended to ask for specific quotas from member states in the long-term. The Commission will also be tabling Malta's specific proposal to set up, together with the United Nations High Commissioner for Refugees, reception centres in North African countries, particularly Libya. This would give potential asylum seekers the possibility to have their applications assessed without risking their lives and escaping in rugged boats to Malta, Italy or other southern member states. The EU Executive is also proposing increased Frontex patrols and a conference with Libya and all interested parties to discuss concrete solutions. Mr. Barrot has officially written to the EU 27 to present these measures to them. Source: <http://www.timesofmalta.com/articles/view/20090528/local/brussels-unveils-relief-measures> and www.ecre.org Weekly Bulletin 29th May 2009
- The European Commission will decide if the Italian decision to send back undocumented migrants to Libya constitutes a violation of the EU/EC Law (see item above in "European Policy

Developments" under "General"). Following the conditions in an agreement signed in 2008 by Italy and Libya, both countries were required to start a joint patrol operation as of 15 May 2009 in order to stop irregular migration flows. Source:

<http://www.magharebia.com/cocoon/awi/xhtml1/fr/features/awi/newsbriefs/general/2009/05/10/newsbrief-03>

European Parliament

- The European Parliament is proposing a blueprint for a common policy on European immigration. The report recognizes the importance of legal immigration in the face of Europe's ageing population and declining workforce, but also urges member states to jointly tackle the problems caused by irregular immigration. A common approach to immigration is vital as shared European borders mean that "action or inaction by one member state has a direct impact on others and on the EU as a whole." If migration is poorly managed, it will not only have a negative impact on the countries of destination but also to the countries of origin and the migrants themselves. The European Parliament adopted an own-initiative report drafted by Simon Busuttill (EPP-ED, MT), by 485 votes in favour, 110 against and 19 abstentions. Source: http://www.europarl.europa.eu/news/expert/infopress_page/018-54071-111-04-17-902-20090421IPR54070-21-04-2009-2009-false/default_en.htm
- A package of measures to improve the way the EU asylum system works and strengthen asylum seekers' rights was approved by the European Parliament's Civil Liberties Committee. MEPs adopted amendments to enhance solidarity between member states when managing asylum applications. The first piece of legislation is intended to beef up the right of asylum seekers to adequate reception conditions: it lays down standards that must be guaranteed in terms of housing, food, clothing, health care, financial benefits, and freedom of movement and access to work. The text also includes provisions on the protection of vulnerable people, such as minors, unaccompanied minors, pregnant women and victims of torture and violence. According to the draft legislation, the use of detention should be decided on a case-by-case basis, and asylum seekers should not be held in prisons but in specialized detention facilities. Legal guarantees against arbitrary detention must be introduced. The detention of unaccompanied minors must be banned. Source: http://www.europarl.europa.eu/news/expert/infopress_page/018-54481-117-04-18-902-20090427IPR54480-27-04-2009-2009-false/default_en.htm

Council of the European Union

- The Justice and Home Affairs (JHA) Council will meet in Luxembourg on 4 and 5 June. This meeting will bring together Justice ministers and Interior ministers from all Member States at a critical stage in taking forward the Common European Asylum System, and against the backdrop of recent events in the Mediterranean, which could threaten the international framework of refugee protection and gravely undermine respect for fundamental principles of human rights law. In many ways the developments in the Mediterranean overshadow formal items on the JHA agenda. The formal agenda includes discussion of the European Commission's proposed amendments to the Dublin Regulation and the Reception Directive as well as a proposed regulation to create a European Asylum Support Office. Source: www.ecre.org Weekly Bulletin 29th May 2009
- The Council adopted on 25 May a directive aimed at facilitating conditions of entry and residence in the EU of third-country citizens for the purpose of highly qualified employment. The directive establishes more attractive conditions for third-country workers to take up highly qualified employment in the member states of the Union, by creating a fast-track procedure for issuing a

special residence and work permit called the "EU Blue Card". The Blue Card will facilitate access to the labour market to their holders and will entitle them to a series of socio-economic rights and favorable conditions for family reunification and movement across the EU. The European Parliament delivered its opinion in November 2008. Following its publication in the Official Journal of the EU, the member states will have two years to incorporate the new provisions into their domestic legislation. Source:

http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/misc/107989.pdf

- The Council adopted on 25 May a directive aimed at fighting irregular immigration by prohibiting the employment of irregularly staying third-country nationals, laying down minimum common standards on sanctions and measures to be applied in EU member states against employers who infringe that prohibition. The new rules seek to put an end to abuses by unscrupulous employers who make contracts with irregularly-staying providing them in the labor market with low salaries and poor labour conditions. Penalties for infringements of the prohibition will include financial sanctions, which will increase in amount according to the number of illegally employed foreigners; and payments of the costs of return in those cases where return procedures are carried out. Source: www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/misc/107988.pdf

European Court of Justice

- In the conclusions on cases C-261/08 et C-348/08 she presented to the European Court of Justice on May 19, 2009, Juliane Kokott, Advocate General at the European Court of Justice, considered that EU legislation "doesn't require" the repatriation of immigrants without valid residence permits in Europe, neither precludes that the deportation can be replaced by a fine. The European Court of Justice published the conclusions made by the Advocate General that analysed two judicial questions sent by the Supreme Tribunal of Justice of Murcia, Spain, after two citizens from Bolivia took an appeal against their repatriation. Inspection operations done by Spanish authorities revealed that the two immigrants remained in Spain without the legal authorization. The Spanish justice decreed their expulsion and prohibited them from entering Schengen space for five years. In her analysis of the case, Juliane Kokott referred to the article of the "Schengen Border Code", which concerns expulsions of third country nationals and which mentions that the individual "CAN be expelled" but does not say that the migrant "MUST" be expelled. In this sense, Juliane Kokott argued that the border code in force doesn't require the expulsion of migrants from third countries when they do not have legal residence. On the other hand, she stated that it cannot be concluded from article 23 of the Schengen Convention that the 27 EU member states are obliged to order an expulsion by community law. The Advocate General maintains that the expulsion can't be a general rule, but only an exception. She also sustains that the mentioned article doesn't have juridical support to determine, as it transfers the decision for the laws of each country. Source: <http://ultimahora.publico.clix.pt/noticia.aspx?id=1381605&idCanal=62>. The full conclusions are available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62008C0261:CS:NOT>

Council of Europe

- A recent publication by the Council of Europe, 'Racism towards migrants in Europe' analyses migration policies which may have an influence on this increased hostility towards migrants at a time when the issue of migration is at the heart of many states' concerns. The author, Djacoba Liva Tehindrazanarivelo, denounces discourses and policies which directly or indirectly stigmatise migrants and examines legal rules for protection of migrants against racism and discrimination at global, regional and national levels. One section discusses the denial of fundamental rights of undocumented migrants. The author also identifies protective measures taken by states at the legal, criminal, administrative and political levels. Source: ENAR Weekly Mail n° 184, 15 May 2009

and to order the book visit:

http://book.coe.int/FR/ficheouvrage.php?PAGEID=36&lang=FR&produit_aliasid=2401

3. Undocumented Children

- The Spanish Ombudsman, Enrique Múgica, considers that the Andalusian Department of Equality and Social Welfare violates the law by failing to declare unaccompanied immigrant children in child protection centers Andalusia as abandoned. In its 2008 Annual Report, the Spanish Ombudsman's office states that not declaring the state of abandonment of these unaccompanied minors is "incompatible" with the child protection legislation in force and can only be understood as a breach of international law. The Andalusian Department of Equality and Social Welfare claims that many of these children cannot be regarded as abandoned because their families know about their situation. The Spanish Ombudsman already submitted a recommendation to the Andalusian Department of Equality and Social Welfare to change its approach, and that the department replied that the children are already sufficiently protected while under the custody of juvenile services in Andalusia, and that it is not necessary to give a formal status of abandonment to protect the child more effectively. Source: <http://www.europapress.es/andalucia/noticia-mugica-dice-junta-infringe-ley-no-declarar-desamparados-menores-inmigrantes-atiende-20090531114524.html>
- The Refugee Quarterly has released an edition on 'Children at Risk' bringing together fourteen articles addressing issues such as children in conflict, child labour, unaccompanied minors and the role of organisations such as Save the Children and the UNHCR in protecting children at risk. For more information visit: <http://rsg.oxfordjournals.org/content/vol27/issue4/index.dtl>
- Pro Asyl and Borderline Europe released a new report entitled "We have nothing to hide – in the footsteps of refugees in South Italy." The report is currently only available in German and focuses on the situation of separated children in the south of Italy. In recent years, this region has experienced a steady and important increase in the numbers of young asylum seekers arriving on its coasts. The almost constant "state of emergency" leads to situations where standards of reception drop and guardians are rarely appointed to separated children. The lack of guardians makes access to protection, education and health care extremely difficult for separated children. The report also heavily criticizes the age assessment methods used in Italy and advocates for a coherent method that would involve experts and a psychological assessment. Finally, the report calls for the creation of various structures such as an independent office for the rights of children that would be active in recruiting and training potential guardians, and a network for all practitioners dealing with separated children. Sources: - Pro Asyl and Borderline Europe, ["Wir haben nichts zu verbergen" - Eine Reise auf den Spuren der Flüchtlinge durch Süditalien](#)

4. Undocumented Women

- 'Migration and Gender Empowerment: Recent trends and emerging issues', Human Development Research Paper 2009/4 by Jayati Ghosh, explores the increasing significance of women as national and international migrants, and how the complex relationship between migration and human development now operates in gender differentiated ways. The process of migration, and how that can be gender-differentiated, is discussed with particular reference to the various types of female migration that are common: marriage migration, family migration, forced migration, migration for work. These can be further disaggregated into legal and irregular migration, all of which affect the issues and problems of women migrants in the process of migration and in the destination country. The manifold and complex gendered effects of migration are discussed with reference to varied experiences. Women migrants' relations with the sending households and the issues relevant for

returning migrants are also considered. The final section provides some recommendations for public policy for migration through a gender lens.

http://hdr.undp.org/en/reports/global/hdr2009/papers/HDRP_2009_4.pdf

- The United Nations International Research and Training Institute for the Advancement of Women (UN-INSTRAW) has launched a new Gender and Migration Virtual Community. Seeking to create a space for those who share an interest in gender and migration, to debate and reflect on issues in the field, share information and learn from each other, the community acts both as a network for dialogue by creating a space for its members to share publications, resources, contacts, and information about upcoming training and funding opportunities. Interested parties may register for the virtual community at http://www.un-instraw.org/grvc/index.php?option=com_comprofiler&task=registers&Itemid=62&lang=en
- The UN high commissioner for human rights has highlighted that the global economic crisis will have a disproportionate impact upon women as the majority of them are poor and disenfranchised. Women migrant workers face additional threats of marginalization, jobs losses and deprivation of their economic and social rights due to the global financial turmoil. High Commissioner Navanethem Pillay stated that many industries do not provide women with equal pay for equal work and they lack legal protection. At the 53rd session of the Commission on the Status of Women, Deputy Secretary-General Asha-Rose Migiro stated that migrant women working in the domestic realm often fall outside the scope of labour laws and urged governments to use national legal systems to eliminate discrimination, promote equality and stop violence against women. Too many perpetrators are not held accountable she stated, and as a result impunity persists. The secretary-general's study from 2006 found that many governments have yet to adopt legislation that criminalizes all forms of violence against women or on human trafficking.
<http://businessmirror.com.ph/home/top-news/7100-women-migrants-most-at-risk-.html>

5. Upcoming Events

- The Vienna Migration Group, an initiative of the International Organization for Migration (IOM) in Vienna, will hold a Panel Discussion on “Unaccompanied Minors in the European Union Member States” on 8 June 2009. The panel discussion will look at policies on reception and integration in EU member states, as well as at the personal experiences and perspectives of these minors in order to arrive at an incisive and integrated overview of the main issues of the situation.
<http://vmg.iomvienna.at/index.php?module=PostCalendar&func=view&Date=20090608&tplview=&viewtype=details&eid=1051>
- The fourth edition of the festival “ItinErrance” will be held in Paris, 5-7 June, and will be dedicated to “migration and exiles” through exhibitions, projections, documentaries films, debates and concerts. An exhibition called “Paroles sans papiers” (Words from undocumented migrants) will exhibit comic books of nine authors relating nine different testimonies about exiles and wandering situation.
<http://www.lesyeuxdanslemonde.org/festival/21>
- To launch the publication “Jeunes en errance: les conditions d'un retour” (Wandering Youth: conditions of a return), the Federation “Jeunes Errants” will hold a conference on 18 June in Marseille on the themes of unaccompanied minors and trafficking.
http://www.espace.asso.fr/mailldocu/colloque_jeunes_errants.pdf

6. Publications

- Two articles in the European Network of Homeless Health Workers' spring newsletter refer to undocumented migrants: "What Homeless people expect from hospitals: results of an ethics study about patients' autonomy by Emma Beetlestone et al," talks about a study conducted in hospitals in France; and the second article, "Traducmed: Internet Based Translation Tool Aimed at Health Professionals," by Charles Vanbelle is about a tool designed for health professionals that he developed in his practice. The report is available online at:
<http://www.feantsa.org/code/en/pg.asp?Page=760>
- "International Migration Law and Policies in the Mediterranean Context," by the International Organization for Migration (IOM), is a report covering specific issues such as trafficking and smuggling, migration and international security, refugees and asylum-seekers, migrant workers, multilateral cooperation. There is a chapter devoted to irregular migration and managing mixed migration flows.
http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=1&products_id=505
- « *Il me sera difficile de venir te voir* » ('It will be difficult for me to come and see you') is the title of a collection of thirteen literary correspondences between authors of different origins and backgrounds in reaction to French immigration policy. The initiative of Nicole Caligaris and Eric Pessan in 2007, this publication, produced by Terra, gathers the indignant responses of French writers to the deaths and arrests of migrants under current French policy. Source:
<http://www.educationsansfrontieres.org/article15601.html>
- 'Migration in the Black Sea Region: An Overview 2008' is a publication by the International Organisation on Migration (IOM) as part of a project developed by IOM Budapest "Black Sea Consultative Process on Migration Management". The migration profiles gathered in this report provide a means to identify information gaps and to develop strategies to enhance data collection and data-sharing through the analysis of information and data available on immigration, emigration, irregular migration, labour market conditions, skills shortages, diasporas and remittances, refugees and asylum seekers, victims of trafficking, return migration, policies associated with these and so on. Source: http://publications.iom.int/bookstore/index.php?main_page=product_info&products_id=496

7. PICUM News

- *Undocumented and Seriously Ill: Residence Permits for Medical Reasons in Europe*, PICUM, 2009. This new report aims to identify some of the main problems and obstacles in gathering information within 11 EU member states concerning residence permits for seriously ill undocumented migrants. For each country, an analysis of the legal framework for eligibility of such a residence permit, the availability of medical stay permits, the application procedure and the involvement of health care practitioners during the procedure is addressed. The opinions of NGOs, authorities and health care practitioners on the creation of a European medical database of information on the availability and accessibility of medical treatment around the world are also presented. Available in pdf format at: www.picum.org.
- **"Churches and undocumented migrants: Exchange, dialogue and choices from our practical pastoral experience"** is the theme of a European meeting co-organized by PICUM and KMS/Kerkasiel.anders - an ecumenical network that supports local initiatives for refugees and

immigrants in Flanders and Brussels. PICUM and KMS/Kerkasiel.anders would like to organise contact with twenty pastoral leaders from Catholic and Protestant churches in Europe who work with undocumented people. The meeting will focus on initiatives, methods, and attitudes adopted by the church towards immigration policy, asylum, and undocumented migrants. The meeting intends to bring together people who take up a pastoral responsibility in the issues at stake by virtue of their office or duties. Those who have undertaken a personal engagement at local, regional or national level are also welcome. We would particularly be interested in hearing from people with a broad perspective on the pastoral initiatives in their country.

- Dates: **Thursday 1 October (6 p.m.) to Saturday 3 October (6 pm.) 2009**
- Location: The Polygon Centre, Brussels
- The meeting will be conducted in French and English.
- KMS/Kerkasiel.anders will provide accommodation (room, board and meeting space) for up to 20 guests. Travelling expenses will have to be met by the participants themselves
- For further information, contact: Didier Vanderslycke, Director, kerkasiel.anders@kms.be, tel. +32/2/502.11.28

8. Miscellaneous

- La Strada International, a network of nine independent human rights NGOs which aim to prevent trafficking in human beings, is coordinating a study on telephone help-lines for people who have been trafficked. The European Commission has asked La Strada to investigate the desirability and feasibility of a single telephone number across all 27 European Union member states which women, men or children who have been trafficked may contact for help. A number of telephone 'hotlines' and 'help-lines' for people who have been trafficked already function in European Union countries, operated by NGOs which offer advice and assistance. Similar telephone help-lines are also operated on other issues: for example, for women experiencing domestic violence to call. In order to find out whether telephone help-lines have been helpful for migrant workers (whether documented or undocumented), the researchers working with La Strada International would be grateful if readers of the PICUM newsletter would contact them if they have any experience of such help-lines (whether the experience was positive or negative, and whether the experience was that of seeking information or assistance from a telephone helpline or of operating a telephone). They would be particularly interested to hear from anyone who had obtained information about a suitable telephone helpline before their departure to Europe. If you have relevant information, please e-mail SoFFI.K.-Berlin@web.de and insert 'Telephone helplines' in the subject field.
- IOM has launched a new website to provide migrants in Europe with unbiased and up-to-date information on return and reintegration opportunities in their countries of origin. The EC-funded website allows migrants access to comprehensive information on return and reintegration conditions in 20 countries of origin, from Afghanistan to Ukraine, including Albania, Angola, Armenia, Brazil, Cameroon, the DRC, Georgia, Ghana, Iran, Iraq, Ivory Coast, Kosovo, Moldova, Nigeria, Pakistan, Russian Federation, Serbia and Sudan. The website, which is available in Dutch, English, French, German, Greek and Portuguese, also contains detailed information on various practical aspects of life in home countries, including prospects for gainful employment, access to housing, health care and education or to enquire about the transferability of their pension funds. For more information, please visit <http://www.iom.int/irrico>

- To mark a year of occupation by undocumented workers at the Paris Labour Exchange to demand regularization, an exhibition was held there for two weeks at the beginning of May. The exhibition presented the drawings of Laura Genz, the photos of Frank Vibert, and the silkscreen printing of Anne Leïla and provided testimony to the daily situation facing undocumented migrants.
<http://bourse.occupee.free.fr/>
- Africa correspondent Kees Broere and photographer Sven Torfinn are making the same trip as migrants traveling from Africa to Europe. A 5,219 km trip with fraudulent stamps in passports, in packed pickups through the desert and boats over the ocean. Follow their trip “ From Accra to Amsterdam” on <http://www.volkskrant.nl/buitenland/article1187549.ece>. Source: Volkskrant (newspaper)

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Dear colleagues,

Enclosed is the June 2009 edition of the PICUM newsletter, in Word document format.

Sincerely,

Nicola Flamigni

PICUM Administrative Assistant
