



**Organisatie voor Clandestiene Arbeidsmigranten vzw**  
**DEFENDS UNDOCUMENTED WORKERS**



## **Regularisation through work**

From 15th of September till 15th of December, undocumented migrants will have the opportunity to ask for the regularisation of their stay on the basis of a work contract (Instruction of 19/07/2009, point 2.8.b. See [www.cire.be](http://www.cire.be) (in French) or [www.vreemdelingenrecht.be](http://www.vreemdelingenrecht.be) (in Dutch) for more information).

Nevertheless, a work contract is more than a mere way of regularisation. It is also, and most of all, an agreement defining the circumstances in which you will work. It is therefore very important that your contract is correct.

- A work contract **protects** your salary and your workplace rights.
- The authorities will check if your work contract is genuine and if your employer respects the rules. Only then you may obtain a work permit and get regularized. This control will also happen when you will ask for a renewal of your residence and/or work permit. A **correct** work contract, respected by your employer, is therefore **the best guarantee for regularisation and for a future renewal of your residence permit**.

**In this brochure you can find information about your work contract in the regularisation campaign (starting from point 3). But it is advisable first to read the general information in points 1 and 2.**

### **1. Where do I find work?**

- It is possible to find job offers in newspapers and on many specialized websites.
- In every Region (Flanders, Wallonia and Brussels), there is an institution that helps unemployed people to find a job. These are the VDAB in Flanders, the Forem in Wallonia and Actiris in Brussels. These institutions also organize job trainings of all kind. Undocumented migrants are **not** allowed to register at these services. The VDAB does intend to deliver documents proving that you are prepared to work (attest van werkbereidheid) for this regularisation campaign.
- You can contact these institutions to ask where you can find job offers. Although you cannot register, you may get a general advice. Some of these institutions have special computers where you can consult available job offers on the spot.

### **2. An employer is not allowed to ask for money in exchange for a work contract.**

- An employer is not allowed to ask you for money in exchange for a work contract. Neither is he allowed to retain that money from your salary. Do not accept proposals by which you would have to pay or do extra work in order to obtain a work contract.
- If your employer demands a compensation for giving you a work contract, you can introduce a complaint. You can get more information about your personal case at the trade union or at the inspection services (see below).

### 3. Your rights

General minimum wage: In Belgium, nobody is allowed to earn less than 1387.49 € (gross wage) a month for a fulltime job. This amount increases when you have worked for more than 6 months.

Sector minimum wage: For most professions, the minimum wage is higher than the general minimum wage. Get information at the trade union or at the inspection services about the minimum wage in your profession.

Payslip: For every salary, your employer must give you a payslip indicating, among other things, the amounts of your gross and net salaries.

#### Payment

- The contract must indicate the time of payment of your salary (weekly, monthly). Your employer always has to pay you on time.
- Your salary may be paid by bank transfer, check or cash...
  - o **Ask to be paid by bank transfer.** The bank statements will enable you to prove what has and what has not been paid.
  - o In case of cash payment, your employer must ask you to sign a **receipt**. Do not forget to check whether the amount written on the receipt and the one you received are the same.
  - o **Do not accept checks.**
- Part of your salary may be paid **in kind**: for example in food or housing.
  - o Everything paid in kind must be mentioned on a written agreement.
  - o Ask the trade union or the inspection services whether the amounts calculated for the payments in kind are correct.

Your other rights: You can get more information about your rights by contacting the trade union, the inspection services or OR.C.A. (On [www.orcasite.be](http://www.orcasite.be) you will find a Guide to Rights for Undocumented Workers. These rights are of course also applicable to documented workers).

#### 4. Which kind of work contract do I need for the regularisation?

Every person wanting to introduce a demand for regularisation on the basis of point 2.8.B. must:

- Have stayed in Belgium since before the 31<sup>st</sup> of March 2007,
- Be integrated into the Belgian society and
- Have a good knowledge of French, Dutch or German or have followed courses in at least one of these languages.

Your work contract has to be established according to the **standard model** available on the websites of the regional administrations for work permits: [www.werk.be](http://www.werk.be) (Flanders), [emploi.wallonie.be](http://emploi.wallonie.be) (Wallonia) and [www.irisnet.be](http://www.irisnet.be) (Brussels).

You must join a copy of your work contract to your demand for regularisation and send it to the Office des Étrangers/Dienst Vreemdelingenzaken: by e-mail ([regulactua@dofi.fgov.be](mailto:regulactua@dofi.fgov.be)) if a former demand for regularisation 9bis, 9ter or 9.3 is still pending, or through the municipality where you live if no such demand is pending. When the Office informs you, by way of a registered letter, that you may be regularized on the basis of point 2.8.B, **your employer** has three months to ask the Region where his enterprise is based for a work permit and an authorization of employment. If you get regularised, your family (spouse and dependent children) will receive the same residence permit as you get.

*Warning! The Regions may control whether you did not start working before the work permit has been delivered. When your employer introduces the demand, it is advisable not to start working before you get the permit.*

#### Your contract must satisfy all the following conditions:

##### ⇒ Minimum wage

You must at least earn the monthly general minimum wage (even if you do not work fulltime), and the hourly sectoral minimum wage of your professional sector.

Example: someone works 4 days a week (30 hours) as a foreman in the building sector. The minimum hourly wage for his profession is 15.239 €/hour. He earns 1828.68 € a month.

- This is more than 1387.49 €, the general minimum wage.
- The hourly wage is the correct wage for his work in the building sector.

This contract can be taken into account for regularisation.

#### Duration of the contract

To be taken into account, your contract must be

- a permanent contract or
- A fixed-term contract of at least one year.

##### ⇒ Kinds of professions taken into account

- The Regions will decide which kinds of professions they will accept for regularisation. They certainly will control the reliability of your employer.
- The work permit B may be refused at first. Yet when your employer **introduces an appeal**, the regional Minister can examine whether a work permit could nevertheless be delivered. Ask your employer to introduce an appeal if the first answer is negative.

#### 5. If you lose your job

- If you have a work permit B you can lose your residence permit if you lose your job. But this does not happen automatically. If you lose your job, look for another one as long as your residence permit is still valid (see point 1 above).

Example: you have a residence permit and a work permit B valid from the 1<sup>st</sup> of January till 31<sup>st</sup> of December. You lose your job on the 30<sup>th</sup> of June 2010. Your residence permit is valid until the 31<sup>st</sup> of December which allows you to look for a new employer.

- A work permit B does not give you access to unemployment benefits.
- You can contact a trade union if you have problems obtaining technical or temporary unemployment benefits (benefits you are entitled to whenever your employer does not fire you, but is unable to give you work for example because a factory is temporarily not working).
- Do not stay with an employer who violates your rights. Contact a trade union or the inspection services before leaving your employer. They can explain to you how you have to proceed.

## **6. Trade union**

- You have the right to join a trade union. You are not obliged to inform your employer about this. He is not allowed to fire you because you have joined a trade union.
- Trade unions organize workers to get better working conditions.
- They also give personal counselling and legal assistance if needed. They can also help you in case of unemployment.

## **7. Renewal**

If you work with a work permit B, your employer must ask for its renewal on time. This is necessary for the renewal of your residence permit.

At least 2 months before the expiration of your work permit, ask your employer to ask for its renewal.

## **8. Ask someone to check your work contract!**

You can ask your questions to the trade union or contact the inspection services, direction "Control of the social laws". Inspectors give free and anonymous information. Don't be afraid to contact them.

---

### **Addresses of trade unions:**

The main trade unions are the socialist FGTB (in French) or ABVV (in Dutch) (see [www.fgtb.be](http://www.fgtb.be)), the Christian CSC/ACV (see <http://www.csc-en-ligne.be>) and the liberal CGSLB/ACLVB (see <http://www.cgslb.be/>).

### **Address of the service of Inspection, service control of social laws:**

See <http://www.emploi.belgique.be/defaultTab.aspx?id=6552>

### **Addresses of employment services:**

In Flanders: [www.werkwinkel.be](http://www.werkwinkel.be)

In Wallonia: <http://www.leforem.be/structures/maisons/maisons-de-l-emploi.html>

In Brussels:

[http://www.bruxelles.irisnet.be/fr/citoyens/home/travailler/chercher\\_un\\_emploi/se\\_preparer/missions\\_locales\\_d\\_insertion\\_socio-professionnelle.shtml](http://www.bruxelles.irisnet.be/fr/citoyens/home/travailler/chercher_un_emploi/se_preparer/missions_locales_d_insertion_socio-professionnelle.shtml)

### **Other useful addresses:**

**OR.C.A.:** rue Gaucheret 164, 1030 Brussels – 02/274.14.31 – [info@orcasite.be](mailto:info@orcasite.be) – [www.orcasite.be](http://www.orcasite.be)