

Undocumented children: Early childhood development and access to early childhood & maternal care

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The EU must promote the rights of all children – regardless of status

- **UN Convention on the Rights of the Child:** Guarantees the rights of all children guaranteed, regardless of migration/residence/citizenship status
 - Ratified by all EU member states
 - Includes rights to health care, education, adequate nutrition, housing
- **EU law must be compatible with children's rights**
 - **Treaty on the EU:** The Union “shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and **protection of the rights of the child**” (Article 3)
 - **EU Charter of Fundamental Rights:** establishes that children shall have the rights to such protection and care as is **necessary for their wellbeing** and that the **best interests of the child** must be a primary consideration in all actions relating to children (Article 24)

Political commitment to protecting children in migration

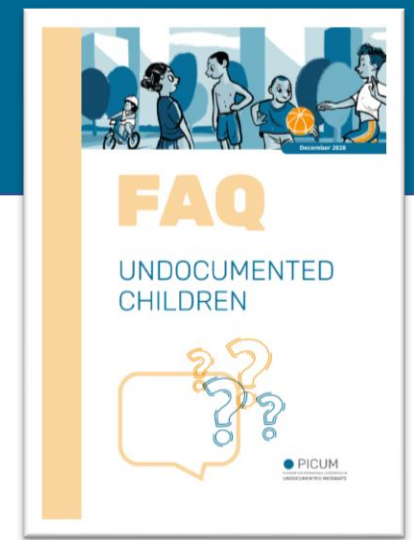
- 2018 EP Resolution on the protection of children in migration
- 2017 Council Conclusions on protection of children in migration
- 2017 EC Communication
 - Inclusive of all children in migration irrespective of their migration status
 - Intentional about setting out specific and targeted actions for children in migration
 - Addresses need for **inclusive, quality education, including early childhood education and care (ECEC)**
 - Underlines that **“Access to inclusive, non-segregated, quality education should be guaranteed, amongst others, through a non-discriminatory treatment regardless of ... residence status.”**

The reality facing undocumented children in Europe

- Children in migration with uncertain, precarious or irregular status among children most at risk of exclusion and poverty in the EU
- Their residence status – or lack of status – has an enormous impact on their ability to access essential public services (education, health care, shelter, etc.)
- Precarious status often means precarious living conditions, and limited entitlement to health care, beyond emergencies

Who are undocumented children?

- Unaccompanied, separated or ‘children in families’
- Came to country - born in country - became undocumented when (parent(s)) lost residence status
- Most live relatively settled lives (> 5y in same country)
- Some know they are undocumented, some don’t ~ enormous impact on sense of self



What do we know about how they live?

- Recent research by [Por causa](#) and [Save the children](#) found that, for Spain:
 - **1 in 5** children in migration is undocumented
 - About **50%** of these children are **younger than 10 years old** (40% less than 5)
- High levels of **poverty** – income of the parents and well-being of their children are connected
- Chronic or **toxic stress** in childhood can lead to high risks of cardiovascular disease, cancer, asthma, depression when adult.
- Formal and informal support networks to bridge gaps and take care of basic needs



Navigating Irregularity: The Impact of Growing Up Undocumented in Europe

- Housing
- Access to services
- Income and socio-economic status
- Residence procedures and immigration enforcement
- School life and feeling supported
- Family life



NAVIGATING IRREGULARITY:
THE IMPACT OF GROWING UP
UNDOCUMENTED IN EUROPE

Access to early childhood education and care (ECEC)

- Despite widely-recognized importance and long-term impact, many young migrant children, especially undocumented children, do not receive ECEC
- **Belgium:** Flemish Ministry of Education conducted information campaign (“Look what I can do”) to improve participation in early education (3-6 years), especially among new migrants and children with foreign language mother tongue
 - Parents with insecure status a target group
 - Aim: earlier integration into education system to lessen difficulties when enter obligatory education as of age 6
- **France:** Law states that all children can be enrolled in a pre-school near their residence from age 3, if requested by the family
 - Circular from Minister of National Education reiterates there can be no discrimination in admission of foreign children to pre-schools
- **Italy:** Examples of inclusive practice by local governments
 - March 2010: Florence publicly acknowledged right of undocumented children to attend nursery school – followed by other major cities (Turin, Genoa – declaration that no obligation to check residence status of parents)



Access to health care: a trend towards exclusion

- **Irregular status means extremely limited access to primary health care in most EU countries**
 - Most countries grant very limited access to health care for people who are undocumented, outside of emergency situations and other limited cases
 - Some countries have schemes in place for undocumented residents, though there are often challenges in practice (e.g., complex procedures, unclear rules)
- **Pervasive fear of authorities because of history of prioritizing immigration status**
 - In some countries (e.g., Germany) there are direct immigration enforcement consequences of accessing mainstream health care
 - Fear of police controls and ID checks during confinement measures



Situation for undocumented children



- 2015 report:
 - Unaccompanied children often have broader entitlements than children with their families
 - Mostly, undocumented children receive health care under the same conditions as adult undocumented migrants, with no extra protection
 - All 27 EU MS grant access to ‘emergency care’ but definition differs and sometimes at full cost
 - 9 out of 27 member states grant same access as national children in legislation (CY, EST, FR, GR, IT, PT, RO, SP, SW)



THE SEXUAL AND REPRODUCTIVE HEALTH RIGHTS OF UNDOCUMENTED MIGRANTS

NARROWING THE GAP BETWEEN THEIR RIGHTS AND THE REALITY IN THE EU

FEBRUARY 2016



- Undocumented migrants legally entitled to some degree of primary care under national law, including maternity care (but in some cases, only at full cost)
- Undocumented migrants not legally entitled to maternity care under national law
- Undocumented migrants legally entitled to some degree of maternity under national, but without any legal entitlement to primary care

Adapted from: Sarah Spencer, Vanessa Hughes, Outside and In: Legal Entitlements to Health Care and Education for Migrants with Irregular Status in Europe, COMPAS, July 2015.

Some member states have been providing care to undocumented migrants for decades

- **Belgium (22 years)** – Urgent Medical Aid (AMU-DMH) – *Arrêté royal relatif à l'aide médicale urgente octroyée par les centres publics d'aide sociale aux étrangers qui séjournent illégalement dans le Royaume (Royal Decree, 12 December 1996)*
- **Italy (20 years)** – Urgent care, essential care – *art. 35, para. 4 of Legislative Decree no. 286/98*
- **France (19 years)** – State Medical Aid (AME) – *art. L.251-1 of the Social Action and Family Code Loi No. 99-641 of 27 July 1999*
- **Portugal (18 years):** migrants need to be resident for 90 days to register with local health centre (necessary to access most services). *Despacho do Ministério da Saúde No. 25/360/2001; Decreto Lei No. 135/99 (1999); Decreto-Lei nº 67/2004 de 25-03-2004 reiterates the equal right to health care for children until working age (which is 16), and establishes a specific register for them.*
- **Spain** – new legislation (2018) restores universal health care to undocumented migrants, previously available under Law 16/2003 (modified by Royal Decree 16/2012)

Despite clear rights under international human rights and EU law, and well-established guidance on what children need to flourish, irregular status continues to be a major barrier to accessing the essential health care services for undocumented children and their parents.

As a result, thousands of children are not getting the start they need in life, with long term consequences.



- ✓ EU Child Rights Strategy and Child Guarantee proposal are very important signals by the European Commission that all children and children and need the best start in life.
- ✓ Children with uncertain, precarious or irregular status are some of the most in need and for whom the Child Guarantee could have real impact.
- ✓ Only by being explicit about their inclusion will the Child Guarantee effectively encourage member states to use the available funds to improve access to essential services for this particularly disadvantaged group.



PLATFORM FOR INTERNATIONAL COOPERATION ON
UNDOCUMENTED MIGRANTS

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