

Basic Social Rights - Switzerland

1. Right to Shelter

- **Can an undocumented migrant receive accommodation in a public housing shelter or in a private shelter that receives public funding?**

No information provided.

- **Is it legal for a landlord to rent out an apartment to an undocumented migrant?**

No information provided.

2. Right to Health Care

- **Do undocumented migrants have access to public health care / is there a special health service only for undocumented migrants?**

There is a right to emergency health care according to Art. 12 of the Federal Constitution. Also, undocumented migrants residing in Switzerland can receive insurance from the public health insurance system if they fulfill the general conditions (residence in Switzerland and payment of premiums). The health insurance company is not allowed to inquire about the residence status of the undocumented migrant. [1]

- **Do health care professionals have the duty to report an undocumented migrant to the authorities? If yes, why? If no, why not?**

On the contrary, denunciation is threatened with penal sanctions, because it would be considered a breach of confidentiality (Art. 92 litt. c LAMal).

3. Right to Fair Labour Conditions

- **Does national labour law stipulate that an employer is obliged to pay an undocumented migrant for work done, even if the worker does not have a legal residence or work permit?**

Social and contractual rights resulting from a work relationship are in force, even if the worker does not have legal residence or a work permit.

- **If an undocumented migrant has an accident at the workplace, can s/he receive coverage from Social Security (via accident insurance) to cover the costs of treatment or care?**

No information provided.

- **Can an undocumented migrant bring a court case against an employer for withheld wages?**

No information provided.

4. Right to Organise

- **Do undocumented migrants have the right to organise?**

No information provided.

- **Can an undocumented migrant be a member of a trade union?**

No information provided.

5. Right to Education and Training

- **Can undocumented children under the age of 18 enroll in schools?**

The right to basic schooling is only anchored in the law of some Cantons, though undocumented minors have a right to basic schooling according to Art. 19 Federal Constitution and Art. 7 of the Loi scolaire. In a 2001 study, enrolment nevertheless does not seem to be a problem. For post-obligatory schooling, there are no legal provisions. Vocational training is virtually impossible because of the lack of a work permit, but secondary schooling is a possibility in some Cantons (e.g. Geneva). There, the only precondition to enter a secondary school is the health insurance of the minor in question.

- **Are schools obliged to report the presence of undocumented children/adolescents to the authorities?**

No information provided.

- **Do schools receive any funding for these children/adolescents?**

No information provided.

- **Do undocumented adults (over the age of 18) have the right to education and training?**

No.

6. Right to a Minimum Subsistence

- **Do undocumented migrants have a right to welfare benefits from the government?**

There is a right to minimum subsistence, though few undocumented migrants claim it (fear of expulsion, lack of information). [2] There have been cases where undocumented migrants were arrested at the “Sozialamt” (office of the social security) while trying to make their claim. [3]

7. Right to Family Life

- **Can an undocumented migrant legally get married or legally cohabit?**

No information provided.

- **Is it legal to deport an undocumented migrant without his/her spouse or child/ren?**

No information provided.

8. Right to Moral and Physical Integrity

- **Are there rules and regulations upholding the right to integrity of undocumented migrants in this country?**

No information provided.

- **Has this country been condemned for not respecting international agreements concerning protection of the personal integrity of undocumented migrants?**

No information provided.

- **Are detention centres accessible to non-governmental organisations?**

No information provided.

9. Right to Legal Aid

- **Are undocumented migrants entitled at any time to free legal aid from a jurist or lawyer?**

No information provided.

- **Can undocumented migrants freely assert their rights in court and in the appeals court?**

No information provided.

10. Additional Information

- Know Your Rights. A legal guide for household employees in Switzerland, Geneva 1998 . Geneva Forum for Philippine Concerns, 36 r. de Zurich, 1201 Geneva
- Who is Who: The swiss organisation "Solidarité sans frontières" published a booklet on "Who is Who in the asylum-, migration- and anti- racism field". It can be ordered at sekretariat@sosf.ch via the website: www.sosf.ch.

[1] Rapport du Conseil d'Etat Vaudois sur la question des « clandestins », April 2003

[2] Denise Efonayi-Mäder, Sandro Cattacin : "Illegal in der Schweiz. Eine Übersicht zum Wissensstand", Schweizerisches Forum für Migrationsstudien, Discussion paper, 9/2001 draft

[3] Komitee Sans-Papiers Nordwestschweiz