

ACCESS TO INTERNSHIPS & FORMAL CERTIFICATION FOR UNDOCUMENTED YOUNG PEOPLE IN EUROPE

INTERNSHIPS

In many European countries, young undocumented migrants are **denied access to internships and vocational training**, even when it is an integral part of their compulsory education and prevents them from completing their studies. This also means they cannot receive certification for the studies completed.

- Access to vocational courses or the part school-based education part training pathways that are common for 16-18 year olds is often provided on a discretionary basis to undocumented young people, so **dependent on the will of educational institution to accept them** (for example, **in the UK and Belgium**). This is discriminatory, and in Belgium, contrary to the law.¹
- Even when undocumented children are able to enrol in vocational courses, many courses have a **compulsory internship component**. These internships are very difficult for undocumented students to access in practice, limiting their access to education and training and preventing them from completing their education.
 - In **Italy**, many vocational courses include traineeships that require **insurance for occupational accidents**. To take out this kind of insurance policy, a residence permit is required, so vocational training centres often deny undocumented children access to these courses.
 - In some countries, **internship contracts are considered work contracts**, so require the student to apply for authorisation to work, effectively blocking access for most undocumented students.
 - In **France**, although access to internships for undocumented students is protected in French law,² undocumented students must apply for authorisation to work in order to do so, authorisation which is difficult to access in practice.

¹ The modified Royal Decree (implementing the Law of 30 April 1999) on the employment of foreign workers (9 June 1999) provides an exemption of the requirement of a work permit for two categories of foreign students (regardless of their residential status): 1. All students who have to do a 'compulsory' traineeship as part of their curriculum and 2. Students (younger than 18 years old) who enter the part-time working, part-time studying system. Even after the 18th birthday, the student stays exempt from the work permit requirement until the end of their course, but only if he/she stays within the same field of study (Article 2) (available online [here](#) & [here](#)). Regular migrant children face similar discrimination, which is not necessarily based on immigration status.

² Circulaire 2002-063 du 20 mars 2002 "Modalités d'Inscription et de Scolarisation des élèves de nationalité étrangers des premier et second degrés" (available online [here](#)).

- In **the Netherlands**, despite previous statements indicating that the government would allow children to do internships without having a work permit, in April 2011, the Minister of Social Affairs and Employment stated, on the contrary, that the government did not consider it necessary to allow undocumented children to complete internships. Schools and employers who provide a traineeship to a student without proper authorisation to work can be fined up to 8,000 euros.

However, on 2 May 2012, the District Court of The Hague ruled that the policy preventing undocumented students from doing internships violated the right to education and must be discontinued.³ The policy has since been changed to allow undocumented students to carry out an internship when it is a compulsory component of an educational course that the student started before their 18th birthday, it is recognised middle-level vocational training, and it is unpaid.

- In **Switzerland**, a proposal to allow young undocumented migrants to carry out internships and professional training on the condition that they have are well integrated and have attended compulsory schooling in Switzerland for at least five years, is being considered.⁴
- In **Spain** however, the legislation well protects the right for undocumented children to access all education until the age of 18, and **work training placements are carried out regardless of administrative status**. No residence or work permit, or even official ID document, is required for young people to enrol in courses which include internship periods in companies and participate in the placements. Schools sign agreements with the companies where students make “non-working placements”. Students do not sign any employment contract with the company, because their objective is not to work but to be trained.⁵ This system seems to work well, with few problems reported in practice.

Denying undocumented youth access to some forms of education is discriminatory and limits their skill development and opportunities on the labour market in Europe or elsewhere.

³ BW4736, Rechtbank 's-Gravenhage , 403618 / HA ZA 11-2443 (judgment available online [here](#)).

⁴ The Swiss Federal Council opened consultation about the proposal, the Barthassat motion "Access to learning for young people without legal status", from March-June 2012. The Federal Council intends to amend the ordinance on the admission, residence and the exercise of gainful employment (OASA) to implement the motion.

⁵ *Real Decreto 1147/2011, de 29 de julio, por el que se establece la ordenación general de la formación profesional del sistema educativo* regarding organisation of internships for school students. For the right to education for undocumented children see Article 9 *Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social; Ley orgánica de educación (LOE)*.

FORMAL CERTIFICATION

Undocumented pupils also often face **administrative barriers to taking official examinations or being issued with formal certification** to recognise their achievements (when identity documents or residence permission required). Not to receive a diploma is a clear form of discrimination against undocumented children. Such practices have been reported in most EU countries regarding both the diploma for compulsory education and the diploma given at the end of training courses. Not having formal certification of studies further restricts undocumented young people's opportunities to continued education and work.

This practice also has serious psychological effect on these children who receive no recognition for the work they did, and in some cases the fact that there is no hope for a diploma in the end causes them to abandon their studies.

There are good examples of legislation, for example, in the **French-speaking community in Belgium**, where the right to education clearly includes the right to received certification for studies completed.

In the French-speaking community in Belgium:

"The right to education also includes the right to obtain certificates and diplomas. A school director may not refuse to deliver a certificate or diploma on the grounds that, for example, the school fees have not been paid or the child is in an irregular stay."⁶

Denying denied formal certification of studies is discriminatory and contradictory to allowing access to education. It further restricts undocumented young people's opportunities to continued education and work, and can lead to early school leaving.

⁶ *Mineurs étrangers non accompagnés en Belgique, situation administrative, juridique et sociale – guide pratique*, mars 2007, Charlotte van Zeebroeck (Service droit des jeunes de Bruxelles), p.454