



December 2020

FAQ

UNDOCUMENTED CHILDREN



1. How many undocumented children are there in Europe? Where do they live? What does it mean to be undocumented?

There is no reliable estimate of the number of undocumented children in Europe (likewise, there is no current reliable estimate of [undocumented migrants](#) in the EU). Some national level attempts have been made to give a credible estimate to the numbers of undocumented children on the national level. For instance, between 190,000 and 241,000 undocumented children are estimated to live in the [UK](#), with most of them based in London. In 2019, [about 9 percent](#) of people found to be irregularly present in EU Member States were children.

The majority of undocumented people, including children, live relatively settled lives. A [survey of 1,000 undocumented people](#) living in Ireland found that 75.5 percent lived in Ireland for more than five years, for example. Of the 185 children whose parents were surveyed, [68 percent were born in Ireland](#).

Undocumented children can live very different lives to each other, however. Some do live in encampments and move from city to city. And while most undocumented children live with their parents, some do not. These children are “unaccompanied children” who live without their parents or legal guardian and should be granted a guardian to advocate for and protect their rights.

Whatever their personal situation, their lack of a secure residence status impacts most, if not all, [facets of their life](#). Undocumented children often live in inadequate and unsafe housing, very likely live in poverty, cannot enjoy the same basic services other children in the EU can, and experience chronic and toxic [stress](#) – all of which harms their mental and physical health and development.

We use the term “child” as defined by article 1 of the [UN Convention of the Rights of the Child](#): *“a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.”*

2. How do they become undocumented?

Children can become undocumented for different reasons and often change statuses during the course of their childhood and youth. A child's residence status is usually dependent on their parent's status, and children can become undocumented if their parent loses their residence or work permit. Undocumented children can also be born in the EU to undocumented parents. Unaccompanied children (those living without their legal guardian) may be undocumented because their asylum claim or other residence procedure has failed, or because they did not lodge one. Major shifts in policy, like [Brexit](#), can also cause children to become undocumented.

Some countries, such as [France](#), do not require children to have a residence permit. For them, their undocumented status becomes a reality when they turn 18 (see also question 6 and 7).

3. Can undocumented children go to school? Can they go to a doctor?

Children's rights are defined in the United Nations Convention on the Rights of the Child (CRC), and enshrined in both the Treaty of the European Union and the EU Charter on Fundamental Rights - all of which apply irrespective of a child's residence status.

However, [the reality](#) differs from country to country. In all EU member states, it is compulsory for children to attend schooling for [at least nine years](#). Yet in many countries, the legislation and policy governing compulsory [education](#) refers to "all children". Depending on the country, this implicit inclusion of undocumented children results in limitations within the education system: undocumented children may not be able to take official exams, receive certification for studies completed or undertake vocational training courses.

Laws regarding access to [health care](#) for undocumented children at the national level vary enormously across Europe. In most EU countries, undocumented children receive health care under the same conditions as undocumented adults, with no extra protection. Emergency health care [cannot be denied](#) in any EU country. However, children's health may suffer generally due to a lack of continuous care, lack of access to specialist and mental health care, and due to conditions related to living in an irregular migration situation, such as poor housing conditions, stress, etc.

Furthermore, undocumented children and families often hesitate to reach out to service providers, including medical professionals, due to fear that the immigration authorities would be informed about their presence if they seek help. Such practices are not allowed under the [EU General Data Protection Regulation](#). Service provision and immigration enforcement measures should therefore be clearly separated, ensuring a so-called "[firewall](#)", to assure

that children and families with an irregular status have access to their rights without fear for detention, deportation or separation.

Irrespective of whether undocumented children can go to a doctor or not, having an irregular or precarious residence status gives rise to issues around identity and belonging. At its most basic level, it makes planning for the future very difficult. Undocumented children and youth have often [testified](#) of the difficulties they face and the hope they cherish to contribute fully to the country they live in.

4. Do European countries deport children?

Some countries, like [Italy](#), protect all children from deportation (forced return), while [others](#) only deport those who are accompanied by their parents or guardians (including Belgium, Czechia, France, Germany and Ireland). While EU regulations allow the forced return of unaccompanied children, [nearly half](#) of European countries do not forcibly return children who are unaccompanied.

In 2019, 162,278 people were [returned](#) from EU member states to third countries, at least 4,050 of which were children (these data are for the EU28 but they do not specify whether the children were unaccompanied or accompanied). It is also possible that even more children were returned than specified in the data, as most member states do not report age-differentiated data.

There are also high numbers of children who are given orders to leave the territory: at least 21,045 children received an [order to leave the territory](#) in 2019 (EU28).

While children should only be returned to a country if a life in that country is in their best interests in the long run, no European country has a fully-fledged [best interests procedure](#) to determine this. Various studies have shown the serious impact of forced returns on children. For example, one in three child returnees interviewed in Kosovo had symptoms of post-traumatic stress disorder, according to [Unicef research](#). Furthermore, [research by Save the Children](#) showed that 75% of children deported to Afghanistan did not feel safe during their return, with more than half reporting instances of coercion or violence – and this includes children who returned voluntarily.

[Testimonies](#) by people who have been deported attest to the traumatic impact that the whole process has on individuals – many of whom include children.

5.

How many children are being detained in Europe?

Children should never be detained for immigration purposes. UN [experts](#) agree that detaining children based on the children's or their parents' migration status is a human rights violation and is never in the best interests of a child. Moreover, well-established [evidence](#) shows that even short periods of detention have a long-lasting impact on children's [physical and mental health](#) and their development.

However, the EU is still far from implementing these recommendations, and existing and proposed legislation, including the new [EU Pact on Migration](#), uphold and even increase child detention, including potentially for prolonged periods of time.

Although there is no official comprehensive data on immigration detention in Europe, in 2016 [6,555 children](#) were detained in 14 EU countries. Some children were detained for 195 days (6.5 months). In 2020, the EU [Fundamental Rights Agency](#) found that EU member states which tend to detain children more often (France, Greece, Malta, Poland and Slovenia) witnessed an increase in child detention between 2018 and 2019.

However, countries often do not collect adequate data, and even when they do, methodologies differ greatly, making any comparison very hard. For instance, in some [countries](#), children who are detained with their parents are not counted separately.

6.

Can undocumented children be regularised?

Yes and no, depending on the country they live in and their ability to overcome practical and financial barriers.

All countries have the freedom to develop residence procedures, for instance based on work, family unity, child rights, [victimhood](#), humanitarian needs or other grounds. These in-country residence procedures exist in addition to international protection procedures (such as the asylum procedure which may lead to a refugee status or subsidiary protection status). [Some countries](#) have developed structural regularisation mechanisms or launched one-off programmes specifically for children or young people who have aged out. For example, [France](#) does not have residence requirements for children and has a number of regularisation mechanisms that entitle them to regularise their status at 18 based on private and family life.

Norway¹ and The Netherlands both had small, one-off [regularisation programmes for children](#) in 2013.

However, even when a residence procedure exists, regularising one's residence status is often mired in difficulty. Procedures are complex, ever-changing, expensive and long and the outcome is difficult to predict because decisions are often discretionary. [Decade-long procedures](#) are common in the UK, and procedures cost [up to £2389](#), for instance. Because of these barriers, many children and young people are unable to regularise their residence status, even when procedures exist.

There is no EU-wide overview of regularisation mechanisms for children and aged-out young people (yet), nor is there EU-wide data on how many children and aged-out youth have been able to regularise their status.

What happens to (undocumented) children when they turn 18?

Undocumented children who turn 18 face challenges that are commonly referred to with the term “ageing out.” By “ageing out” we refer to the situation where children lose [rights and protections](#) when they turn 18. This is the case for (unaccompanied) children provided with a temporary regular or tolerated status until they turn 18, who often lose this status and the access to services and protection from forced return linked to their age or status.

Up until the age of 18, children have rights as enshrined in the [UN Convention on the Rights of the Child](#). However, this means that when a child turns 18, they no longer have access to those rights and associated services. Practical [obstacles to a safe and supported transition](#) into adulthood will most likely include discontinued access to education, financial support and, in case of unaccompanied children, no further (legal) support through a guardian. Additionally, unaccompanied children may lose their right [to reunite with family](#), if enrolled in the asylum procedure without a final decision before they reach adulthood.

Undocumented children living with their parents also experience “ageing out” when they lose the various rights and protections they had as children. This can include access to education, housing, health care, family unity and access to child-specific residence procedures.

It is therefore crucial that children are prepared for the loss of rights linked to their coming of age, and are supported during a transitory period, lasting into adulthood.

¹ The Norwegian regularisation programme targeted asylum-seeking children that had resided in Norway for more than three years, and were still in the asylum application procedure or had seen their application refused, specifically.

8 ■ **What's missing from the media when discussing undocumented children?**

Although migration receives media attention, some issues concerning undocumented children, their families and youth seem underreported.

The many undocumented children living with their parents remain mostly invisible. Their invisibility in the media is reflective of EU and national-level policies and funding frameworks, which focus more on unaccompanied children than on children who are with their parents or other caregivers.

The impact of migration policies on children, especially the [forced return of children, the quality of return and residence decisions](#) and the impact of the [interoperability initiative](#) (which links different EU databases for migration purposes, to the detriment of privacy concerns) on children all remain vastly underreported.

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