

Access to early childhood education and care by undocumented children and families

Why does access to formal early childhood education and care matter for undocumented children and families?

Many undocumented children in the European Union are very young. For instance, in 2019, nearly 40 percent of undocumented children living in Spain were younger than 5 years old.¹ They would greatly benefit from accessing early childhood education and care, as it **might mitigate** some of the **detrimental effects** not having the right residence permit has on their health and development.² All aspects of a child's life are impacted by their or their parent's residence status, from housing and schooling to the services they can or dare use, the food they eat and the play dates they go on. Because of the accumulation of challenges they face (poverty, debt, inadequate living space, social isolation, uncertainty about the future), undocumented children tend to grow up in a context of chronic and/or toxic stress, which has real consequences for their short and long-term physical and mental health and academic achievement.³

For undocumented parents, the challenge of earning an income and raising a child is made more difficult by systematic underpayment and long working hours that characterize work in the informal economy, where workers risk immigration enforcement if they stand up for their rights. When they **cannot or dare not access childcare services, undocumented parents may rely on informal childcare arrangements** (friends, neighbours, family members, acquaintances) or hire a carer undeclared. These create numerous challenges for parents to ensure quality of care and well-being in their social network, while care workers who are not formally employed, do not benefit from social protection.

And, **without access to quality childcare services, undocumented workers, especially mothers,** risk losing out on much needed income by reducing working hours or **may shift into more precarious and even lower-paid work** with more flexible arrangements that allow them to work and care for their children at the same time.⁴ This furthers a cycle of poverty and social exclusion.

¹ A total of 55.327 undocumented children were younger than 5, equalling 37.7% of the total undocumented population younger than 20 and 27.3% of the total number of third country national children in Spain. Por Cause & save the Children, 2021, *Crecer sin papeles en España*

² Even when children and their parents are documented, simply being a migrant child or the child of migrants creates a risk factor for poverty and social inclusion: three out of ten EU children with at least one foreign-born parent were at risk of poverty and social exclusion, double the rate of children whose parents are born in the EU. Source: Eurostat, 2021, [Children at risk of poverty and social exclusion](#) (checked on 7 March 2022).

³ For more see PICUM, 2021, [Navigating Irregularity. The impact of growing up undocumented in Europe](#); PICUM, 2020, [FAQ Undocumented children](#); PICUM, 2021, [Undocumented children in Europe: between rights and barriers](#), blogpost

⁴ There is little data on this in the E.U. context. For more on this is the global South, see ILO and WIEGO, 2019, [Extending childcare services to workers in the informal economy: Policy lessons from country experiences](#), Policy Brief No. 3

Single mothers who are undocumented are extremely vulnerable to poverty, social exclusion, homelessness, exploitation, and violence. In France⁵ and Belgium,⁶ the number of homeless single mothers – many having an irregular or insecure residence status – is growing. Accessing childcare is crucial for them, as it may both help mitigate the detrimental impact of homelessness on the children themselves, and free up time for the mothers to regularize their stay.⁷

What difficulties do undocumented families and children experience accessing formal childcare?

Undocumented parents may have a variety of reasons for not sending their children to formal childcare, including:

- **Legal framework.** Undocumented children may not have a legal entitlement to early childhood education and care, either because they are undocumented or because of their age. While it is compulsory for children to attend schooling for at least nine years across the EU,⁸ compulsory education usually starts at 5 or 6 years old, thus excluding early childhood education and care. Where a legal entitlement does exist, it may only start from a certain age, creating a ‘care gap’ between the end of parental leave (which in itself is extremely difficult for undocumented parents to access) and the entitlement of childcare.⁹
- **Too expensive.** The cost of formal childcare services is the main barrier for any family in the EU,¹⁰ especially for childcare before the age of three.¹¹ Since families with a migrant background and especially undocumented families, live at greater risk of poverty, we can expect affordability to be an even greater precondition for them to access it. Formal childcare may simply be too expensive, as undocumented parents must work in the informal economy and are regularly underpaid because of their irregular status, while they cannot usually benefit from the financial supports given to new parents either. With the unprecedented inflation of living costs,¹² affordability becomes an even greater obstacle.

⁵ La Croix, 17 December 2019, [Familles sans logement : « On retourne à la rue avec les enfants »](#) (checked on 9 March 2022) ; Le Monde, 2 December 2019, [Les pouvoirs publics débordés par le nombre de jeunes mères sans abri](#) (checked on 9 March)

⁶ Between 2015 and 2017, one third of homeless people in emergency accommodation and shelters in Brussels were children and half of women were accompanied by at least one child, denoting the high proportion of single mothers. Quittelier B. and Horvat N., 2019, [Women and children first. Looking at a few statistics on homelessness in Brussels](#), Feantsa

⁷ Samusocial.brussels, 22 September 2017, [Bienvenue au centre d’hébergement pour les familles!](#) (checked on 9 March 2021) ; La Croix, 17 December 2019, [Familles sans logement : « On retourne à la rue avec les enfants »](#) (checked on 9 March 2022).

⁸ European Commission, European Education and Culture Executive Agency, 2019, [Compulsory Education in Europe : 2018/19](#).

⁹ European Commission, 2018, [Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the regions on the development of childcare facilities for young children with a view to increase female labour participation, strike a work-life balance for working parents and bring about sustainable and inclusive growth in Europe \(the "Barcelona objectives"\)](#)

¹⁰ On average 16% of families cited financial reasons as the main reason for not using childcare in 2016 and, on average, 27.8% of families had difficulties affording formal childcare services that same year. Source: footnote 9

¹¹ European Commission, 2019, [Eurydice Report. Key Data on Early Childhood Education and Care in Europe](#)

¹² At the time of writing, annual inflation was up to 5.8% on average, with a 31% inflation of the energy prices. Eurostat flash estimate, February 2022, [Euro annual inflation un to 5.8%](#) (checked on 9 March)

- **Administrative and practical barriers.** Where undocumented children may have a legal entitlement to childcare, administrative and practical barriers may prevent they do so. These include registration procedures that require proof of residence, wholly digital registration or payment¹³ procedures, or simply a discretionary, discriminatory application on local level.¹⁴
- **Fear of being reported to immigration services.** Undocumented parents may have a well-founded or an unfounded fear that the childcare service provider will denounce their residence status to the police or immigration enforcement.
- **Other factors** can prevent migrant families from accessing early childhood education and care, including cultural values, being unaware of available childcare services or entitlements, language barriers, lack of culture-sensitive provisions, families moving around, lack of long-term funding and/or lack of coordination between stakeholders.¹⁵

*What should the EU care strategy include to ensure undocumented children and families benefit?*¹⁶

Overarching:

- Third country nationals and stateless people living in the EU must be fully considered and included in every part of the EU care strategy.
- As do the Child Rights Strategy and the Child Guarantee, the care strategy must explicitly aim to ensure undocumented children effectively have access to free, high-quality formal early childhood education and care.
- The care strategy should ensure meaningful engagement with all relevant stakeholders, including migrant-led organisations and representatives of migrant carers, and set out a comprehensive, positive, ambitious, and life-cycle approach to care across the EU – from birth into old age.
- The best interests of the child should be the underlying principle of the care strategy and the two proposals for Council recommendations.

Access to childcare:

- Member States must ensure that all children and families have a legal entitlement to early childhood education and care, regardless of residence status, in national law.

¹³ In general, all European banks require a form of ID and proof of address to open a basic bank account, meaning that many undocumented, asylum seeking or homeless people cannot open bank accounts and receive pay or make online payments themselves. Depending on the country and bank, other obstacles exist for undocumented people specifically. PICUM, 2020, [Cash only: Measures imposed to counter money laundering are having serious implications for undocumented people](#), blogpost

¹⁴ PICUM, 2018 [2015], [Protecting undocumented children-Promising policies and practices from governments](#)

¹⁵ See also Migration Policy Institute, 2018, [Responding to the ECEC needs of children of refugees and asylum seekers in Europe and North America](#). European Commission, Directorate-General for Employment, Social Affairs and Inclusion, 2020, Bircan, T., Lancker, A., Nicaise, I., [Feasibility study for a child guarantee: target group discussion paper on children with a migrant background \(including refugee children\)](#)

¹⁶ For more extensive recommendations for the EU Care Strategy, see [the Joint recommendations for the EU Care Strategy regarding migrant care providers and service users](#) by PICUM and others

- Member States must ensure effective access by taking away any non-financial barriers preventing undocumented children and families from accessing formal childcare, including by:
 - eliminating the care gap, by ensuring children can access childcare as soon as possible,
 - guaranteeing application and payment procedures are not only digital,
 - care providers are not required to share information, especially regarding residence status, with immigration services,¹⁷
 - setting up information campaigns to inform families and service providers of undocumented children’s entitlement to early childhood education and care,
 - bridging the digital divide by seeing to it that parent-care provider communication is not only digital.

- Member States must make full use of the Child Guarantee by including well-funded actions targeting undocumented children specifically and adjusting national action plans in time and as necessary, so undocumented children can benefit.

Affordability:

- Member states must guarantee free access to high quality early childhood education and care for all children by addressing financial barriers as foreseen by the Child Guarantee. This includes tackling financial barriers by other means than tax breaks and subsidies for new parents alone.

Quality of care:

- The European Commission and Member States must develop quality assurance systems for monitoring care services and implement the European Quality Framework for early childhood education and care as developed by the European Council.¹⁸

Workforce:

- Member States must ensure enforcement of labour standards to all workers in the sector, regardless of their migration or residence status, work arrangements,¹⁹ or employment relationship (placement agencies, provider organisations, contract with the end-users or domestic workers operating as self-employed). This must include, in particular, providing information and effective complaints mechanisms that enable workers to know their rights, file a complaint and access remedies without any immigration enforcement consequences. European Commission is to ensure that EU legal standards and policy enable and promote such mechanisms.²⁰

¹⁷ For instance, the education sector including childcare is exempt from the duty to report in Germany (§87 of the [Residence Act](#)). In general, all private persons and service providers should be exempt. For more on this, see www.picum.org/firewall-3/

¹⁸ Council Recommendation of 22 May 2019 on [High-Quality Early Childhood Education and Care Systems](#) (2019/C 189/02). See also Annex 1, European Commission, 2021, [Toolkit for inclusive early childhood education and care](#)

¹⁹ Live-in, live-out, single or multiple employers.

²⁰ Including through measures to improve implementation of, and potential revision of, existing EU standards (with reference in particular to the Single Permit Directive, the Employers’ Sanctions Directive, the Anti-Trafficking framework, the Return Directive) as well as considering the development of new EU law on enforcement of employment standards, through monitoring and complaints mechanisms.

- The European Commission and Member States must ensure the full application of all employment regulations, including the Working Time Directive²¹ and proposed Directive on adequate minimum wages, to all care workers, including domestic workers.²² Member States must ratify the ILO Domestic Workers Convention (no. 189) and ensure its full implementation.
- Member States must recognise the demand for labour force in the sector, through ensuring that domestic and community and home care work are considered eligible under general work permit schemes for admission for people from outside of the EU, and providing pathways for regularisation. Member States must ensure that the procedures and permits granted promote decent work and social inclusion.²³ The European Commission is to seek to strengthen minimum standards set out in EU law in the reform of the Single Permit Directive.
- MS to take specific measures to address the precarious conditions of EU mobile and migrant care workers.

Gender aspects of care

- As caregiving is a gendered issue, any approach to it should be gender informed. Specific attention should be given to single mothers and their children, irrespective of residence status, as not having access to childcare may prevent them from accessing social services, regularizing their stay and/or working.²⁴

²¹ Directive 2003/88/EC.

²² Including workers in domestic households. MS to ensure that employees in diplomatic households are provided employment contracts and protected by employment law.

²³ For more information see PICUM, [Designing labour migration policies to promote decent work](#), 2021.

²⁴ Undocumented parents often have no choice but to take their children with them to immigration appointments and interviews, as they may not be able to arrange childcare or rely on older children for interpretation. For more on this, see PICUM, 2021, [Navigating Irregularity. The impact of growing up undocumented in Europe](#), p. 21.