



A snapshot of social protection measures for undocumented migrants by national and local governments

Acknowledgements

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The report is based on survey responses, interviews and further inputs by PICUM members and partners, as well as some national and local authorities. We are extremely grateful for their time and expertise.

We would like to acknowledge, in particular, the contributions from colleagues at the following PICUM member organisations and partners: ASGI, Centre de Contact Suisses-Immigrés (CCSI), Ciré, Differenza Donna, FAIRWORK Belgium, the Finnish Refugee Advice Centre, GISTI, Médecins du monde, Migrant Rights Centre Ireland (MRCI), Red Acoge, Sans-Papiers Anlaufstelle Zürich (SPAZ), Skåne Stadsmission, Stichting LOS, and Jacob Lind at Malmö University.

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Design: www.chocolatejesus.be

Cover image: Kamaji Ogino - Pexels

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SIGRID RAUSING TRUST



This report has received financial support from the European Union Programme for Employment and Social Innovation "EaSI" (2021-2027). For further information please consult: <http://ec.europa.eu/social/easi>. The information contained in this publication does not necessarily reflect the official position of the European Commission.

Introduction

Across Europe, people live and work while having irregular migration status, economically, socially and culturally enriching their communities and countries of residence. Undocumented migrants contribute directly and indirectly to social protection systems, as taxpayers, workers and informal carers. Undocumented workers are a key part of the domestic work and care workforce, caring for children, elderly and people with long-term social support and care needs, and enabling labour market participation and work-life balance.¹

Nonetheless, states severely restrict access to social protection for people with temporary, precarious or irregular residence status. Although undocumented migrants face various economic and social risks and vulnerabilities, they are excluded from many of the basic mechanisms of social protection put in place to address vulnerabilities and provide a minimum social safety net, including access to subsidised housing and income security.

Such exclusion compounds the risks of in-work poverty, destitution, homelessness, violence and exploitation – all of which undocumented migrants face due to

discrimination linked to their residence status. Restrictions on access to social protection associated with a person's residence permit can also be a major reason for people not being able to renew their permit, if the conditions of their permit require them to be financially independent without recourse to public social assistance. The European Commission notes that housing “has a major influence on immigrants' employment options, educational opportunities, social interactions, residence situation, family reunification and citizenship rights”.² Income security is scarce among undocumented migrants due to their precarious employment situations, which can include unsafe working conditions, low pay, long hours, job insecurity, and lack of sick leave.³

The COVID-19 pandemic has put a spotlight on holes within government social protection processes and heightened vulnerabilities of precarious and informal workers, including those who are undocumented. The confinement measures and forced closures of many businesses led to many undocumented migrant workers losing their only source of income, and having to rely on food,

¹ In 2013, the International Labour Organisation (ILO) estimated that 54.6% of domestic workers in Northern, Southern and Western Europe were migrant workers, a majority of whom are migrant women. (ILO, 2015 c.f. 189 Alliance report, [Step up efforts towards decent work for Domestic workers in the EU](#), 10th Anniversary of ILO Domestic Workers Convention, 2011 (No. 189), European event, 28-29 June 2021.

² European Commission, [Immigrant housing in Europe: Overview](#), [Accessed on 27 May 2022].

³ See e.g. PICUM, 2020, [A Worker is a Worker: How to ensure that undocumented migrant workers can access justice](#).

accommodation and emergency financial support organized by local communities and NGOs.⁴ Those working in the sectors that continued working during confinement carried on doing essential work in increasingly precarious conditions. This situation gives further weight to the need to reopen the policy dialogue around universal access to services and other forms of social protection.

The purpose of this report is to begin to explore the legal and policy framework around social protection and its application to undocumented residents in practice. In particular, the report highlights some examples of relatively inclusive policies and practices. Yet the overall context remains highly restrictive, and the examples highlighted are piecemeal, limited in coverage, and not without important barriers to accessibility in practice. Nonetheless, they show that some governments at national, regional and local level are recognising that including undocumented residents in social protection measures is necessary, feasible and beneficial. These examples indicate potential ways forward for more inclusive social protection in Europe.

This report has three sections. First, it gives an outline of the relevant EU legal and policy frameworks concerning social protection. This is followed by an overview of access to social protection measures related to access to shelter and income security with a focus on some policies and practices that have been identified, that provide for a level of inclusion of undocumented people. This section includes case studies on measures in Finland, the Netherlands and Switzerland, and a table with examples of measures that should be accessible for undocumented residents by law or policy, either in the context of the COVID-19 pandemic or more broadly, in eight European countries: Belgium, Finland, France, Ireland, the Netherlands, Spain, Sweden, Switzerland. Lastly, the brief presents key messages and policy recommendations.

⁴ PICUM, 2020 [What's happening to undocumented people during the COVID-19 pandemic?](#); M. Mallet-Garvia & N. Delvino, 2020, [Migrants with irregular status during the COVID-19 pandemic: Lessons for local authorities in Europe](#), C-MISE Working Paper.

What is social protection?

The International Labour Organisation (ILO) defines social protection as “the set of public measures that a society provides for its members to protect them against economic and social distress caused by the absence or a substantial reduction of income from work as a result of various contingencies”.⁵

The World Bank describes social protection as systems to “help individuals and families, especially the poor and vulnerable, cope with crises and shocks, find jobs, improve productivity, invest in the health and education of their children, and protect the aging population”.⁶

According to the European Commission, social protection refers to systems designed to provide protection against risks and needs associated with a range of conditions, including unemployment, parental responsibilities, sickness and health care, invalidity, loss of a spouse or parent, old age, housing and social exclusion.⁷

Social protection can be provided through in-kind (food stamps, housing, etc.) contributions or in cash. These supports are financed through taxation and/or contributions through employment (employers’ and workers’ social security contributions).

Social protection is key to improving the quality of life of individuals and families, and the societies they live in. In terms of broader societal impacts, effective social protection enables residents to fully participate and develop their potential, promotes economic stability and dynamism and advances social justice and cohesion.⁸

⁵ ILO, March 2004, [Social Protection Matters](#).

⁶ The World Bank, 28 March 2022, [The World Bank In Social Protection](#), [Accessed on 21 June 2022].

⁷ European Commission, n.d. [Employment, Social Affairs & Inclusion: Social Protection](#), [Accessed on 21 June 2022].

⁸ For more information see Bonilla García, A. & Gruat, J.V., 2003, [Social protection: a life cycle continuum investment for social justice, poverty reduction and development](#), ILO.; and ILO and Council Recommendation of 8 November 2019 on access to social protection for workers and the self-employed [2019/C 387/01](#), OJ C 387, 15.11.2019, p. 1–8.



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Relevant EU legal and policy frameworks in a nutshell

EU law on access to social protection

The Treaty on the Functioning of the European Union (TFEU) sets out key objectives of European Union policy and activities, and divides competences to regulate on different matters between the EU and its Member States. It provides the legal basis for EU action⁹. Article 153 of the TFEU states that the EU will support and complement Member States' activities in social security and protection of workers, protection of workers upon employment termination, employment conditions for third-country nationals, integration of persons excluded from the labour market, equality in the labour market between men and women, combating social exclusion, and modernizing social protection systems. Article 168 states that 'a high level of human health protection shall be ensured in the definition and implementation of all Community policies and activities'.

The EU Charter on Fundamental Rights (the Charter) applies to undocumented migrants unless stated otherwise¹⁰. The EU Charter applies to institutions and bodies of the EU and to national authorities when they are implementing EU law.

Article 33 of the EU Charter provides for legal, economic and social protection of the family

and specific protections for parents. While there are enormous barriers to access these rights in practice,¹¹ from the Charter, together with the EU 'Pregnant Workers' Directive',¹² undocumented workers have the right to maternity leave, paid at least to the level of national sick pay if the person has been in employment for 12 months or more before the onset of labour, and other specific protections for workers who are pregnant, have recently given birth and/or are breastfeeding. They should also be eligible for paid parental and carers' leave, as set out in the 'Work-Life Balance Directive'.¹³

The Charter specifically recognises the right of everyone to access preventive health care and the right to benefit from medical treatment under the member states' national laws (Article 35). This provision should also be read together with Article 24, which reiterates that children shall have the right to such protection and care as are necessary; and Article 31, which establishes the right to healthy and safe working conditions.

Article 34 on social security and social assistance defers to the rules set out by Union law and national laws and practices regarding entitlements to social security benefits and social services providing

⁹ Consolidated version of the [Treaty on the Functioning of the European Union](#), OJ C 326, 26.10.2012, p. 47–390.

¹⁰ [Charter of Fundamental Rights of the European Union](#), OJ C 326, 26.10.2012, p. 391–407.

¹¹ See e.g. PICUM, 2020, [A Worker is a Worker: How to ensure that undocumented migrant workers can access justice](#).

¹² Council [Directive 92/85/EEC](#) of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding ('Pregnant workers Directive'), OJ L 348, 28.11.1992, p. 1–7. The directive does not include a definition of a 'worker' but is derived from the 'Framework Directive on Health and Safety at Work', which refers to 'any person employed'. Therefore, this directive applies to undocumented workers. For more information see, PICUM, 2022 [Guide to undocumented Workers' Rights at Work under International and EU law](#).

¹³ As of 2 August 2022, the 'Work-Life Balance Directive' ([Directive 2019/1158](#)) will apply. Until then, the 'Parental Leave Directive' ([Directive 2010/18/EU](#)) also addresses parental leave rights. For more information see, PICUM, 2022 [Guide to undocumented Workers' Rights at Work under International and EU law](#).

protection in cases such as maternity, illness, industrial accidents, dependency or old age, and in the case of loss of employment. Likewise, for the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources. It only ensures entitlement for those residing and moving regularly with in the European Union, while again referring to Union law and national law and practices.

Nevertheless, social security is a human right.¹⁴ These provisions should be read in conjunction with international and regional human rights standards. For example, EU law does not currently address specific provisions regarding compensation and benefits in cases of labour accidents and consequent inability to work (this is determined at national level). However, the ILO standards provide for equality of treatment, without any conditions of residence, between national and non-national workers and their families, with regard to compensation and benefits related to work injuries.¹⁵ Inclusion of undocumented people and those with temporary and precarious residence permits - on equal terms as nationals - in certain aspects of social protection, both universal and stemming from past employment, may nonetheless

be necessary according to human rights standards and to uphold the intention and purpose of the relevant national or EU legislation¹⁶.

¹⁴ For more information, see United Nations, [OHCHR and the right to social security](#), [Accessed on 24 June 2022]; ILO, [International Labour Standards on Social Security](#), [Accessed on 24 June 2022].

¹⁵ ILO Conventions [no. 19 Equality of Treatment \(Accident Compensation\)](#) and [no. 121 Employment Injury Benefits](#) and Recommendations [no. 151 Migrant workers](#), [no. 202 Social protection floors](#) and [no. 204 Transition from the Informal to the Formal Economy](#). For more information see, PICUM, 2022, [Guide to undocumented Workers' Rights at Work under International and EU law](#).

¹⁶ EU law sets minimum standards regarding equal treatment for regularly residing third-country nationals covered by specific EU directives regarding branches of social security, as defined by [Regulation \(EC\) No 883/2004](#) on the coordination of social security systems (sickness benefits, maternity and equivalent paternity benefits; invalidity benefits; old-age benefits; survivors' benefits; benefits in respect of accidents at work and occupational diseases; death grants; unemployment benefits; pre-retirement benefits; family benefits). However, certain restrictions are permitted, which vary according to the person's status. In particular, member states can exclude seasonal workers from family and unemployment benefits ([Directive 2014/36/EU](#)). Likewise, [Directive 2011/98/EU](#) allows restrictions for Single permit holders who have been employed for less than six months and those working on the basis of a visa. Even Long-term residence permit holders may see their equal treatment limited to core social security branches ([Directive 2003/109/EC](#)). [Note: At the time of publication, there is an ongoing legislative process to revise aspects of [Directive 2011/98/EU](#) and [Directive 2003/109/EC](#), including some of the provisions on social protection.]

EU social protection policies and undocumented migrants

EU policy on social protection is developed through the Open Method of Coordination, or Social OMC, which was created to define, implement and evaluate social protection policies of EU member states, and the Social Protection Committee, a policy advisory committee to the Employment and Social Affairs Ministers (EPSCO Council).¹⁷

The over-arching EU policy framework in this area is the European Pillar for Social Rights, which aims to put employment and social protection at the forefront of policy making.¹⁸ It sets out 20 principles of which ten are dedicated to social protection (Chapter III). These principles address:

- Access to childcare and support to children (in particular, access to affordable, quality early childhood education and care and protection from poverty, with specific measures for children from disadvantaged backgrounds).
- Social protection for all workers and self-employed people.
- Adequate unemployment benefits (in line with contributions and national eligibility rules, including support to re-enter the labour market).
- Adequate minimum income for everyone lacking sufficient resources, to ensure a life in dignity at all stages of life, and effective access to enabling goods and services.
- Adequate income and pensions for people in retirement to ensure a life in dignity (commensurate to contributions, with gender equality in opportunities to acquire pensions).
- Timely access to affordable, preventive and curative health care of good quality.
- Inclusion of people with disabilities (in particular, through adequate income support, services that enable participation and adapted work environments).
- Affordable, quality long-term care services (in particular, home-care and community-based services).
- Housing and assistance for the homeless (in particular, access to quality social housing or housing assistance for those in need, assistance and protection against forced eviction, and adequate shelter and services for people experiencing homelessness).
- Access to quality, essential services (including water, sanitation, energy, transport, financial services and digital communications).

An Action Plan has been adopted, which develops headline targets for 2030 and specific actions to implement the principles¹⁹. The Action Plan points to the wide range of policy and funding instruments that contribute to implementation of the European Social Pillar.

¹⁷ Summaries of EU legislation: [Reinforcing the Open Method of Coordination for social protection and social inclusion](#). [COM(2008) 418 final - Not published in the Official Journal].

¹⁸ European Commission, n.d., [The European Pillar of Social Rights in 20 principles](#).

¹⁹ European Commission, n.d., [The European Pillar of Social Rights Action Plan](#).

For example, on social protection, a Council Recommendation on Social Protection²⁰ was adopted in 2019. It aims to encourage EU member states to provide social protection for all workers, regardless of the type of employment relationship. It aims to ensure the European social model evolves together with changes in the world of work, by addressing the significant gaps in coverage for the self-employed and non-standard workers, such as part-time workers, seasonal workers, on-demand workers, platform workers and those on temporary agency contracts or traineeships. Migrant workers are not specifically considered, despite being among the most vulnerable workers in the EU, but are also not excluded. Undocumented migrant workers frequently experience such non-standard forms of employment.

The Council Recommendation also aims to address the adequacy of benefits, and highlights how, in the long-term, gaps in access to social protection can have long-term impacts on health and welfare, economic uncertainty, poverty and inequalities.²¹

At the Porto Social Summit in 2021, the European Commission, Parliament, and Council together with civil society organisations and social partners set three headline targets to be achieved by 2030.²² These are:

1. At least 78% of people aged 20 to 64 should be in employment,
2. At least 60% of all adults should participate in training every year,
3. The number of people at risk of poverty or social exclusion should be reduced by at least 15 million, including at least 5 million children.

To achieve the last target, the Commission proposed a European Child Guarantee, which the EPSCO (Employment, Social Policy, Health and Consumer Affairs Council) unanimously adopted in June 2021. To lift five million children out of (risk of) poverty, member states are recommended to provide free and effective access to early childhood education and care, education and school-based activities, at least one healthy meal each school day and healthcare, while providing effective access for children in need to healthy nutrition and adequate housing. The Council recommendation lists 'children with a migrant background, irrespective of migration status' as a group that faces specific disadvantages and must therefore be taken into account when developing policies.²³

²⁰ Council Recommendation of 8 November 2019 on access to social protection for workers and the self-employed [2019/C 387/01](#), OJ C 387, 15.11.2019, p. 1-8.

²¹ Ibid.

²² Porto Social Summit, 7 May 2021, [Porto social commitment](#).

²³ For more on the Child Guarantee, see PICUM, 2021, [EU Council adopts Child Guarantee that benefits undocumented children](#), 2 July 2021; European Commission, n.d., [European Child Guarantee](#) [Accessed on 22 June], webpage and Council Recommendation (EU) of 14 June 2021 establishing a European Child Guarantee [2021/1004](#), OJ L 223, 22.6.2021, p. 14-23

Another important mechanism that works to implement the principles of the European Pillar of Social Rights, including the Child Guarantee, is the European Social Fund Plus (ESF+).²⁴ It funds programs focused on employment, education and skills, and social inclusion. From 2021 to 2027, member states must allocate at least 25% of the ESF+ to social inclusion actions²⁵ which can be provided regardless of residence status and access to the labour market. Member states with an above-average number of children at risk of poverty and social exclusion must allocate at least 5% to European Child Guarantee actions.²⁶ In addition, a minimum of 3% of the fund will have to be allocated to food aid and basic material assistance to the most vulnerable groups.²⁷ The Fund aims to improve social inclusion and social-economic integration of third-country nationals and marginalized communities, while also promoting fundamental rights, gender equality and non-discrimination.²⁸ There is also a specific objective on equal access to services and modernizing social protection systems.

24 European Commission, n.d., [European Social Fund Plus: Home](#) [Accessed on 22 June].

25 European Commission, [Green lights for ESF+ from European Parliament and Council](#), 9 June 2021 [checked on 4 July 2022]

26 These member states are Romania, Bulgaria, Italy, Greece, Spain, Lithuania, Luxembourg, Ireland, Malta, Sweden and Cyprus.

27 PICUM, 25 May 2021, [How do undocumented migrants fare in the new EU funds?](#)

28 European Commission, n.d., [European Social Fund Plus: Areas of support](#). [Accessed on 22 June].

Access to social protection on national level

At the national level, member states often fail to implement measures that make access to social protection possible for undocumented migrants. Entitlements to access to social protection vary depending on migration or residence status, age, gender, familial status, employment status and prior employment.

Citizens of a state generally have the broadest access to social protection systems. They are followed by those with a long-term residence or settled status, and then other migrants with regular status, who may have widely differentiated access according to the type of permit they hold. Undocumented migrants most often have no access to social protection systems.

Access is restricted both for social assistance and social services that are not related to a person's employment related contributions, but provided on the basis of need, and contribution-based benefits that are linked to social insurance or social security contributions. This is usually the case even when a person has been employed and paid social security contributions, but either only had a short-term permit, lost their permit due to job loss or expiry, has left the country, or was paying contributions while undocumented.

On some types of permits in some countries, limited access to social protection is possible, but can also be grounds for refusing to renew or extend the permit, if – for example – the permit requires the person to be financially stable without any recourse to public social support. This leaves the person – and any family members with dependent residence permits - undocumented or forced to leave the country as a result of needing and accessing the available social safety net. Possibilities to regularise status and access secure and stable permits are limited, and sometimes also require a period of continuous employment.²⁹ As such, people can fall into irregularity and be trapped into situations of prolonged irregularity, as a result of needing to access social safety nets and restrictive immigration policies.

In some cases, undocumented children have additional rights and therefore have more access to social protection.³⁰ Families may also be able to access some level of social protection due to the rights of their children.³¹ Additionally, in some cases, women that have been abused or exploited may have access to social protection services.³²

29 See for example, PICUM, 2022, '[FAQ: Regularisation and access to secure residence status](#)'.

30 For example, in Sweden, according to Malmö Guidelines for the administration of subsistence and other financial assistance, 'In line with the principle of the best interests of the child, this may mean that children are granted assistance while their parents are granted only emergency assistance. Assistance for children can be granted up to the national standard. In the best interests of the child, assistance may also be granted for a reasonable cost of accommodation based on the child's needs.' Source: Malmö stad Arbetsmarknads- och socialförvaltningen, 2019, [Riktlinjer för handläggning av försörjningsstöd och ekonomiskt bistånd för livsföring i övrigt](#) [Guidelines for handling maintenance support and financial assistance for living in general]; For more information also see: Lind, J., 2020, [The politics of undocumented migrant childhoods](#), Doctoral dissertation in International Migration and Ethnic Relations, Malmö University.

31 For example, in France, accommodation is provided for pregnant women and single parents with children under 3 years of age, who need material and psychological support, by the child welfare services (Aide sociale à l'enfance) ([Code de l'action sociale et des familles](#), Article L. 222-5).

32 For example, in May 2020, Spain adopted a nation-wide minimum income guarantee (The Boletín Oficial del Estado, 1 June 2020, [Real Decreto-ley 20/2020, de 29 de mayo, por el que se establece el ingreso mínimo vital](#)). It currently excludes undocumented people, except for undocumented migrant women who are victims of trafficking for sexual exploitation and of forced prostitution. This is provided for by the Contingency Plan against gender-based violence during the Covid19 (Ministerio de Igualdad, 2020, [Plan de contingencia contra las violencias de género ante la crisis del COVID-19](#)) which also foresees other measures for survivors of domestic violence and of other forms of gender based violence.

Examples of relatively inclusive measures

Within this overall very restrictive context, there are some governments at national, regional or local level that have taken steps to integrate all residents, regardless of their status, into certain aspects and branches of social protection schemes.

Finland, the Netherlands, and Switzerland were chosen for more in-depth case studies because in each country, there is some form of limited access to social protection for undocumented residents on a long-term basis. Each has differing ways of addressing vulnerabilities facing their undocumented population, political contexts, migration histories, and systems of migration policy governance.

Within each case study, two cities are spotlighted, to show variations in access to social protection across as well as within countries. The cities highlighted have significant and diverse populations. Local governments play an important role in each of these countries in providing access to social protection for undocumented migrants, because in practice, the responsibility for providing services on local level falls on them. Cities directly face the consequences when national or regional legislation and policies exclude people from social services and protection because of their residence status, and in some cases have sought to address the gaps in coverage to promote more inclusive social policies on local level.³³

Finland

National legislation

Section 19 of the Constitution of Finland states that “The public authorities shall guarantee for everyone... adequate social, health and medical services and promote the health of the population. Those who cannot obtain the means necessary for a life of dignity have the right to receive indispensable subsistence and care.”³⁴ This right is elaborated in separate laws – the Social Welfare Act, for social services, and the Health Care Act and Act on Specified Medical Care, for health services.

Section 12 of the Social Welfare Act (1301/2014) states that “Every person residing in a municipality has the right to receive social services based on his or her individual needs in an emergency, so that his or her right to necessary care and livelihood is not compromised.”³⁵

33 Spencer, S. 2018, [Multi-level governance of an intractable policy problem: migrants with irregular status in Europe](#), *Journal of Ethnic and Migration Studies*, 44 (12), 2034-2052; Spencer, S. & Delvino, N., 2019, [Municipal Activism on Irregular Migrants: The Framing of Inclusive Approaches at the Local Level](#), *Journal of Immigrant & Refugee Studies*, 17 (1), 27-43.

34 Ministry of Justice Finland, n.d. [Constitution](#).

35 Social Welfare Act [12/30/2014/1301](#), Ch. 3 Social services, Article 11.

However, at the end of 2016, the national government stated that it was the responsibility of municipalities to provide emergency services, including temporary housing and income assistance, to people who were unsuccessful in claiming asylum. It was reinforced that municipalities have the ability to extend service provision beyond the national minimum legal requirements, at their own discretion, but that they would not receive state compensation or resources to do so.³⁶ This was then formalized in 2018 through a change to the Social Welfare Act. Section 12a outlines that the state compensates municipalities that provide emergency food, medicine, or temporary housing to undocumented residents who have previously applied for asylum and been unsuccessful in their claim.³⁷

Further, “necessary care” is not defined in more detail in the law or policy. This results in a great variation in the actual services provided to undocumented migrants by different municipalities. In practice, “necessary care” has been usually interpreted as vouchers for food and emergency shelter.³⁸

Finnish law is very clear that no social or health data can be shared with law enforcement or immigration authorities under normal circumstances.³⁹ Finnish social workers have access to the immigration authorities’ databases so that they can understand a client’s migration journey and status to better inform and serve the client.

Local Policies – Helsinki and Espoo

Helsinki and Espoo are the largest and most multicultural cities in Finland, alongside Vantaa.

Both have both adopted local practices to provide the possibility for all undocumented residents to receive necessary social assistance, in line with their legal obligations under the Social Welfare Act, and going beyond the social assistance for former asylum seekers that is reimbursed by the national government.

Both cities have created specific ‘immigration units’ within the department of social services.⁴⁰ The units consist of social workers, social counsellors, and financial advisors that work with undocumented residents. Both units offer services deemed necessary, based on a needs assessment by a social worker. Available services may include shelter, an income allowance, a transportation card, and social and legal guidance. In Helsinki, the city provides funding to the Refugee Advice Centre to provide

36 Ministry of the Interior, 16 December 2016, [Action Plan for the prevention and control of illegal stay](#).

37 Ministry of the Interior Finland, 2017, [International Migration 2016–2017 Report for Finland](#).

38 Information provided by Refugee Advice Centre, 27 June 2022.

39 Data can only be shared with immigration authorities and law enforcement if an egregious crime has occurred. Laki sosiaalihuollon asiakkaan asemasta ja oikeuksista [Act on the Status on Rights of Social Welfare Clients], Act on the Status on Rights of Social Welfare Clients [9/22/2000 812](#), §14-19.

40 Interview respondents 3 (23 May 2021) and 4 (10 May 2021).

legal counselling.⁴¹ The support is considered to be temporary, but there are no specific conditions or maximum amount of time that a person can benefit from such services.⁴²

Single persons are offered a space in a shelter, while families or people with specific medical needs may be offered apartments. In Helsinki, shelter is

The Netherlands

National legislation

In general, the Dutch government has made access to shelters and basic services conditional on people's cooperation in return procedures and case management programmes. However, the government required municipalities to provide shelter to all homeless people during the COVID-19 crisis, regardless of their residence status or eligibility within the LVV-system (see below).⁴⁵ Additional shelters were set up to accommodate the need.

Undocumented women who are victims of domestic or sexual violence have limited access to women's shelters (Wet Maatschappelijke Opvang), during residence procedures⁴⁶. These shelters receive financial compensation for their services from the government if the women apply for residence as a victim of domestic violence or human trafficking.

provided in a local night shelter run by a civil society organization.⁴³ In this shelter, undocumented migrants have floors designated for them specifically. In Espoo, shelter is offered in a 24-hour municipal shelter.⁴⁴

Thanks to a collective complaint lodged by Defence for Children International to the European Committee on Social Rights,⁴⁷ undocumented families with underage children can receive shelter in 'family locations' (Gezinslocaties). There, the family receives accommodation and financial support to meet their basic needs and children can go to school. However, people's freedom of movement is severely curtailed as adult family members must report daily and cannot go beyond city limits, except for exceptional reasons. Basic needs cannot always be met with the budget families receive and the strict rules can have a severe impact on their wellbeing.⁴⁸ The family is meant to prepare their voluntary departure from the Netherlands, and their right to shelter in the family locations ends when the youngest child turns 18.⁴⁹ In practice, access to these shelters is rarely possible for undocumented

41 Information provided by Refugee Advice Centre, 27 June 2022.

42 Interview respondents 3 (23 May 2021) and 4 (10 May 2021).

43 Interview respondent 4 (10 May 2021).

44 Interview respondent 3 (23 May 2021).

45 Rijksoverheid, [Richtlijn opvang daken thuisloze mensen](#) [Directive on sheltering homeless people] (as amended 18 May 2021).

46 Rijksoverheid, [Wet maatschappelijke ondersteuning \(WMO\)](#) [Social Support Act (WMO)], Article 1.2.2; Rijksoverheid, [Uitvoeringsbesluit WMO](#) [2015 WMO Implementing Decree], Article 2.1 (as amended 1 January 2020).

47 Defence for Children International (DCI) v. the Netherlands, [Complaint No. 47/2008](#), lodged under the Collective Complaint procedure of the European Social Charter (registered 23 September 2008; decision on the merits 27 October 2009; Committee of Ministers resolution 7 July 2010).

48 See Kind in azc, October 2014, ['Het is hier in één woord gewoon... stom!' Onderzoek naar het welzijn en perspectief van kinderen en jongeren in gezinslocaties](#) [In one word it's just... stupid! Research into well-being and perspective of children and young people]

49 Ministerie van Justitie en Veiligheid: Dienst Terugkeer en Vertrek, n.d., [Gezinslocatie](#) [Family location].

families who have not been through the asylum system; they have to prove cooperation in return

procedures before getting access.

Local level policies in partnership with national government

NGOs and churches in the Netherlands have been providing shelter for undocumented people for decades. Over the years, the availability of central government funding for, and the role of the municipalities in, supporting these services has evolved. Some financing for the provision of shelter and basic social assistance to refused asylum seekers has been in place since the late 1980s.⁵⁰ Municipalities took a role in supporting the initiatives, in the late 1990s and 2000s, in particular after the central government ended financing for shelter for refused asylum seekers who were not cooperating in return procedures.⁵¹

A subsequent European Committee of Social Rights' decision, following a collective complaint lodged by the Conference of European Churches,⁵² established that undocumented people should be provided with shelter without conditions.⁵³ This provided a legal basis for municipalities to demand the central government to fund the NGO and church-run shelter spaces, to provide at least "bed, bath and bread" (BBB), for all undocumented residents, not only refused asylum seekers cooperating with return procedures.

However, after much debate on how to approach the issue, the Dutch government and the municipalities of Amsterdam, Eindhoven, Groningen, Rotterdam and Utrecht reached an agreement in 2018 to set up, as a pilot, National Immigration Facilities (Landelijke Vreemdelingenvoorzieningen; LVV) in each participating municipality.⁵⁴ This "LVV" pilot programme was supposed to run in the five municipalities from 2019 to 2021.

In December 2021, the Dutch government decided to prolong financing the local LVV pilots for one year, until the end of 2022, because of delay during the installation of the new government. According to the Coalition Agreement, LVV's will only be provided with financing for people in return procedures. To implement this, the national government will roll out a nationwide network of facilities sheltering undocumented people with the aim to fostering a return to a third country.⁵⁵ However, no changes have been made for now.

50 Interview respondent 5 (6 May 2021).

51 This was a result of the Benefit Entitlement Act (Koppelingswet), Act of 26 March 1998, Stb. 1998, 203.

52 Conference of European Churches (CEC) v The Netherlands, [Collective Complaint no. 90/2013](#) (registered 17 January 2013; decision on the merits 9 July 2014; Committee of Ministers resolution 15 April 2015).

53 The Committee found that the exclusion of the large majority of undocumented adults from access to shelter, in law and practice, represented a violation of Article 13.3 and 31.2 of the European Social Charter (European Committee on Social Rights, [Decision on the Merits](#) Collective Complaint no. 90/2013 Conference of European Churches (CEC) v The Netherlands, adopted 1 June 2014 [accessed 24 June 2021]).

54 Mack, A., Verbeek, E., Klaver, J., 2020, [Plan and process evaluation National Immigration Facilities Summary](#), Regioplan.

55 Coalitieakkoord 2021 – 2025, [Omzien naar elkaar, vooruitkijken naar de toekomst](#) [Looking after each other, look forward to the future] (overheid.nl), p. 44.

Although each municipality has tailored their LVV to local needs, and developed their own approach to the case management⁵⁶ offered, the National Immigration Facilities pilot programmes centred around (i) providing temporary accommodation to undocumented migrants and (ii) finding a durable solution to the person's situation: regularization in The Netherlands, return to the country of origin or third country, or onward migration. While living in the LVV, people have access to a bed, and income for food and other necessities.

To enter and stay in the LVV, people have to meet strict criteria: participants must have applied for asylum or a residence permit in the past, they have to be undocumented, have a 'meaningful connection' to the area, be in need of shelter and actively collaborate towards finding a durable solution. Additionally, a person is excluded if they were from a 'safe country of origin'⁵⁷ or have had an entry ban issued against them. Families are redirected to a 'family location' (gezinslocatie, see above).

The programme started from the premise that many undocumented migrants 'get stuck' in the Dutch legal system and need assistance in finding a possible solution to their irregular residence status. Like the grounding principles of 'Housing First', the accommodation in the LVV is meant to create the stability that enables the person to work on finding a lasting solution to their situation.⁵⁸

However, the data below shows that just 18% of participants had resolved their situation through either regularization, onward migration, or voluntary return to their country of origin by November 2020 (see table). Double that number of people (36%) are waiting for a decision on a repeated application or got 'temporary leave to remain' because they cannot return to their country of origin for medical reasons.⁵⁹

⁵⁶ For more on case management, see PICUM, [Supporting people through migration](#) (webpage)

⁵⁷ Government of Netherlands, n.d. [What is the list of safe countries of origin?](#)

⁵⁸ City of Amsterdam, n.d., [Policy: Refugees](#).

⁵⁹ For more on barriers to return and a Dutch regularisation mechanism, see PICUM, 2022, [Barriers to return: Protection in international, EU and national frameworks](#)

Situation of people who have left the LVVs as of November 2020 ⁶⁰	Number (%)
Regularization in the Netherlands	43 (8%)
Return to country of origin	50 (9%)
Onward Migration	2 (>1%)
Application for residence permit (HASA)	170 (32%)
Postponed departure on medical grounds (art64)	20 (4%)
Departed with unknown destination (on own accord)	100 (19%)
Forced removal from program	76 (14%)
Other (detention, moved to another shelter, own network, deceased)	76 (14%)

Local LVV policies – Amsterdam and Utrecht

For the purpose of this case study, we will focus on the LVV policies in Amsterdam and Utrecht. The municipalities of Amsterdam and Utrecht both have large and diverse populations and a history of providing forms of social protection to undocumented migrants.

The LVV in Amsterdam has 360 places and people can stay for 18 months, with a possibility to extend depending on circumstances.⁶¹ Amsterdam also has 140 additional shelter spaces for emergency situations and persons with specific needs (e.g., medical needs), including when undocumented. The shelter spaces for health reasons are managed by health authorities. 24 out of 104 places are available to people who are undocumented, and shelter is accompanied by social and health care services, but only provided for a short period of time.⁶²

The Utrecht LVV can assist 235 participants. People can stay for as long as necessary in the Utrecht LVV.⁶³ Shelter in Utrecht is split into first line and second line shelters, with second line shelter being LVV. The first line shelter operates with fewer eligibility requirements and can subsequently serve as an emergency shelter for those who do not meet the LVV requirements listed above.

The city of Utrecht has also confirmed publicly that their LVV programme will continue regardless of the national government's decision.

Of the municipalities participating in the LVV pilot, only Eindhoven has maintained unconditional accommodation support for undocumented residents under the BBB scheme, in the form of a monthly housing allowance of 200 euros, as well as financing an LVV shelter.⁶⁴

⁶⁰ Adapted from Rijksoverheid, 5 March 2021, [Tussenevaluatie pilot Landelijke Vreemdelingenvoorzieningen](#) [Interim evaluation pilot National Foreigners Facilities].

⁶¹ Interview respondent 6.

⁶² Interview respondent 6.

⁶³ Interview respondent 7.

⁶⁴ Interview respondent 5 (6 May 2021).

Switzerland

National Legislation

Emergency assistance, including shelter

Under the Swiss constitution (Article 12), all persons have the right to emergency assistance. As a federal state, it is up to the cantons to interpret and execute this provision. Therefore, the level of assistance varies greatly.

At the federal level, emergency assistance is provided only for a restricted group of undocumented residents and is insufficient to live with dignity in Switzerland. In 2008, the government established minimum provisions for people who have previously applied for and been refused international protection and received a deportation decision, but remain residing in the country.⁶⁵ This consists of shelter, food, clothing and urgent medical treatment, and costs are reimbursed by the central government. This is for the most part provided in-kind, through accommodation in collective housing facilities, and in some cases, a public transportation pass. People may also receive a small daily allowance of approximately 10 CHF (approximately 9.5 euros). Use of this assistance means that a person's whereabouts are known by the state and they may be at risk of deportation.

Social insurance

Workers' access to social security, called 'social insurance' schemes, is however not linked to migration or formal residence status, but whether a person is considered to have their "domicile" in Switzerland. The concept of "domicile" is defined as 'the place in which a person resides with the intention of settling'.⁶⁶

Every employer is obliged to register their employees with social insurance, and undocumented workers are equally entitled to access most types of social insurance if their employment has been declared to the social security office. Once registered with social security, undocumented workers have equal rights to sick pay and disability benefits (Disability/Invalidity Insurance (IV)), compensation and benefits in the case of a labour accidents (Accident Insurance (UVG)), family allocations and the right to accrue and receive a pension at retirement age (including when no longer in Switzerland) Social Security/Retirement Arrangement (AHV) and Pension Fund (Pensionskasse).⁶⁷ Registered workers also receive a Swiss social security card (Alters-und Hinterlassenenversicherung - AHV). They remain nonetheless excluded from unemployment benefits and labour market integration support.

⁶⁵ Swiss national law does not consider people who have been unsuccessful in claiming asylum as undocumented migrants. Once starting the asylum procedure, they will always be legally connected to the asylum system. See also SODK, n.d. [Social and emergency aid in the area of asylum](#)

⁶⁶ Civil Code, [Article 23](#) [Accessed on 30 May 2022]. See also Articles 24-26. Residence for the purpose of education or the accommodation of a person in an educative institution or care home, a hospital or a penal institution does not by itself establish domicile.

⁶⁷ Trade Union Unia and the Swiss Information Centres for Sans-Papiers, 2012, [Nobody can be illegal: Sans-papiers - you have rights](#)

Practically, many undocumented migrants are not aware of their rights and their employers are either not motivated or unaware of their responsibility to register employees for social insurance. Therefore, many undocumented workers, in particular within the domestic work sector, are not declared and do not have access to social protection. Local experts estimate that up to approximately one third of undocumented migrant domestic workers are registered with social security, while at least two thirds remain unprotected.⁶⁸

Regional and local policies – Geneva and Zurich

The Cantons of Geneva and Zurich have the largest cities (Geneva and Zurich) in Switzerland, with diverse populations.

In Geneva, there are night shelters run by the city in winter months (October – April) that accept everyone, including undocumented people, to try to avoid people dying of cold when sleeping on the street.⁷⁰ There are also some emergency shelters run by NGOs that receive some local government funding, where people can have their own room, usually with a maximum duration of stay of around three months. Such shelters will also accept undocumented people who have not received a negative decision on an application for international protection and deportation decision, and people do not risk deportation as a result of accessing services. However, the system is saturated and many people and families are not able to stabilise their situation and find alternative housing

In addition, in some cantons undocumented workers are unable to register with the social security office without risks of being flagged to the immigration authorities. Switzerland's data protection laws are meant to protect school registration, access to health care and registration for social insurance for undocumented residents; their data should not be passed on by the associated authorities to immigration authorities.⁶⁹ However, certain cantons take a different approach in practice.

within the three months.⁷¹ In the City of Zurich, the situation is quite similar, except that the shelters are unable to officially document when they accept undocumented people.⁷²

In Geneva, undocumented workers are able to register for social security and access social insurance according to cantonal government policy and practice.⁷³ Various practical barriers remain, in particular, lack of registration by employers.

COVID-19 response

As undocumented workers remain excluded from unemployment benefits, and were also excluded from the national wage compensation scheme for workers who lost income as a result of the COVID-19 pandemic, the Cantons of Geneva and Zurich also implemented additional measures to support undocumented people during the pandemic.

⁶⁸ Interview respondent 8 (4 May 2021).

⁶⁹ Quitt, 27 March 2020, [Can I register my Sans-Papier domestic helper for the Swiss social security system?](#) Updated 11 March 2021, [Accessed on 22 June 2022]

⁷⁰ Information provided by CCSI, 2 July 2022.

⁷¹ Ibid.

⁷² Information provided by Sans-Papiers Anlaufstelle Zürich (SPAZ), 5 July 2022.

⁷³ Interview respondent 8 (4 May 2021).

In the Canton of Geneva, a COVID relief bill was passed to provide income support for those not covered by the national level measures.⁷⁴ This bill had a budget of 15 million Swiss francs (14.2 million euros). To qualify, people must have lived in the Canton of Geneva for at least one year and have worked for at least three months prior to the introduction of semi-confinement in mid-March of 2020. This policy was first implemented in April 2021 and covers 80% of lost income from 17 March 2020 to 16 May 2020, up to 4,000 Swiss francs (approx. 3,870 euros) per month. These payments were distributed by the Geneva government through the tax office, once the law finally came into effect on 7 April 2021.

The delay in the implementation of the law – despite the urgency of the situation – was caused by some right-wing parties launching the procedure for the law to be submitted to a referendum.⁷⁵ On 7 March, the public in Geneva voted in favour of the law, with a large majority (68%).⁷⁶

In autumn 2020, the Canton of Geneva decided to implement a second financial aid package for those in precarious situations.⁷⁷ 12 million Swiss francs (11.6 million euros) was allocated for distribution by civil society organizations, for direct financial aid to cover rent, health care and health insurance.⁷⁸ This direct aid was allocated at 1,000 francs (approx. 968 euros) per person or a maximum of 2,500 francs (approx. 2,420 euros) per family, depending on the amount of people in a family. An additional payment could be received after 30 days.

The City of Zurich provided some financial support to undocumented people from March 2020 to July 2021, in the form of direct cash payments as well as vouchers for food.⁷⁹ This support was provided through non-governmental organisations working for the rights of undocumented people or precarious migrant women workers. There was additionally some support from the Canton, for people not eligible for the national COVID-19 wage compensation scheme, for two months in April and May 2020,⁸⁰ but most of the support was provided by the City.

74 [Loi sur l'indemnisation pour perte de revenus liée aux mesures de lutte contre le coronavirus](#) (L 12723), 25 June 2020

75 Interview respondent 8 (4 May 2021).

76 CCSI, 7 March 2021, [Le référendum de la honte échoue! Les droits des travailleuses et travailleurs les plus précaires s'imposent!](#) [Accessed on 22 June 2022] (c.f. PICUM Newsletter [April 2021](#))

77 [Loi permettant de soutenir les organismes privés à but non lucratif œuvrant en faveur des personnes en situation de précarité en lien avec la crise sanitaire de la COVID-19](#) (L 12836), 4 December 2020

78 Ge.ch, 14 October 2021, [Perte de revenus et situations de précarité: 16,47 millions de francs versés aux personnes vulnérables](#) [Loss of income and precarious situations: 16.47 million francs paid to vulnerable people], [Accessed on 22 June 2022].

79 Information provided by Sans-Papiers Anlaufstelle Zürich (SPA2), 28 June 2022.

80 Canton Zürich, [Regierungsratsbeschluss Nr. 262/2020](#) [Government Council Resolution No. 262/2020]

Taking a longer-term though still temporary approach to stabilize people in precarious economic situations in the city, the City of Zurich then launched a pilot project, “Basic economic aid”, from 1 August 2021 to 31 December 2022.⁸¹ A fund of 2 million Swiss francs (1.9 million euros) was made available to support people who have no, or no risk-free, access to social protection, as well as pay for an external evaluation of the project. Available support consisted of up to 700 Swiss francs (678 euros) per person per month, for up to 6 months, to cover basic needs. Sometimes people could receive higher amounts, for example, to cover rent costs.⁸² This financial aid was complemented by needs-based and professional advice. Four civil society organisations were responsible for implementing the assistance. This is equivalent to the social assistance provided to asylum seekers, which is less than the mainstream social assistance. Eligibility is dependent on having lived in Switzerland for 5 years of which at least two years in Zurich, and not being entitled or able to access other social assistance without risk.⁸³ In some cases the civil society organisations were able to provide support for people who had lived in Switzerland for less than 5 years, if there was a reasonable explanation for it.⁸⁴

Although the pilot program was planned to run until the end of 2022, a complaint was filed on 15 July 2021 to the Canton of Zurich, which resulted in the funds being frozen from 16 November 2021.⁸⁵ The pilot program was stopped by the Canton on 9 December 2021.⁸⁶

From 1 July to 16 November 2021, a total of 115 people – 68 adults and 47 children – received financial support, totalling 123,912 Swiss francs (approx. 120,000 euros). Recipients included people with regular residence permits, who had lived 5-10 years in Zurich, as well as undocumented people.⁸⁷ The City intended to appeal the decision but did not meet the deadline.⁸⁸

Two new initiatives for pilot projects for “Basic economic aid” for are under development, one for undocumented residents, and another for people with a valid residence permit with restricted access to social assistance, who may otherwise lose their permit as a result of accessing social protection.⁸⁹

81 Stadt Zürich Sozialdepartement, 30 June 2021, [Rahmenkredit für Pilotprojekt «Wirtschaftliche Basishilfe»](#) [Framework credit for pilot project “Economic Basic Aid”], [Accessed on 22 June 2022]

82 Information provided by Sans-Papiers Anlaufstelle Zürich (SPA2), 28 June 2022.

83 Stadt Zürich Sozialdepartement, 10 May 2021, [Neue «Wirtschaftliche Basishilfe» hilft Armut in Zürich zu verhindern](#) [New “basic economic aid” helps prevent poverty in Zurich], [Accessed on 22 June 2022]

84 Information provided by Sans-Papiers Anlaufstelle Zürich (SPA2), 28 June 2022.

85 The FDP political party claimed the measure circumvented the provisions in the law on foreigners according to which people can lose their residence permit if they receive regular social assistance. TOP, 27 April 2022, [Neuer Versuch für wirtschaftliche Basishilfe in der Stadt Zürich](#) [New attempt for basic economic aid in the city of Zurich], [Accessed on 30 June 2022]

86 Stadt Zürich Sozialdepartement, 20 December 2021, [Stadtrat zieht Entscheid zur wirtschaftlichen Basishilfe weiter](#) [City council moves forward with decision on basic economic aid], [Accessed on 22 June 2022]

87 Ibid.

88 Stadt Zürich, 4 February 2022, [Stadtrat zieht Rekurs im Fall wirtschaftliche Basishilfe aufgrund eines Versandfehlers in der Stadtkanzlei zurück](#) [City council withdraws appeal in case of basic economic aid due to a dispatch error in the city chancellery], [Accessed on 30 June 2022].

89 Züri Today, 22 June 2022, [Zürcher Gemeinderat startet neuen Anlauf für «Basishilfe»](#) [Zurich municipal council starts a new attempt for “basic aid”], [Accessed on 30 June 2022]; TOP, 27 April 2022, [Neuer Versuch für wirtschaftliche Basishilfe in der Stadt Zürich](#) [New attempt for basic economic aid in the city of Zurich], [Accessed on 30 June 2022].

Examples of measures providing access to shelter and income security for undocumented migrants in eight countries

The following table displays social protection measures related to access to shelter and income security, created by national, regional, or local governments in eight European countries: Belgium, Finland, France, Ireland, the Netherlands, Spain, Sweden, Switzerland. It includes new measures implemented in these areas as a result of COVID-19. It is based on survey responses and follow up interviews with PICUM members and local government officials,⁹⁰ and it not comprehensive picture of access to shelter and income security in the region.

Country	Level of Government	Measure
Belgium	National	<p>The “New Municipal Law” allows the mayor to requisition private unoccupied buildings to house homeless people. This law was used to accommodate undocumented people in Etterbeek (Brussels region) in 2017. However, this is the only time and place that the law has been implemented.</p> <p>According to the Royal Decree of 24 June 2004, undocumented families with underage children in need may apply to the Center of Public Social Action (CPAS) to obtain material assistance. From there they can receive housing assistance that is conditional on the family/s participation in ‘return counselling’.</p> <p>If an undocumented worker successfully files a complaint against their employer for unpaid wages, the employer must pay unpaid salaries, social security contributions and taxes. Salaries include interest and allocations for paid leave. If the employer pays the social security contributions, undocumented workers should also be able to access broader access to health services for a limited time, and pension allocations, once they reach pension age.</p> <p style="text-align: right;">>>></p>

⁹⁰ A survey was sent to PICUM members in April 2021. Eighteen survey responses were received regarding 11 countries. These initial responses were followed by thirteen interviews with PICUM members in Belgium, Finland, Ireland, the Netherlands and Sweden, and local government officials in the Netherlands and Finland. Of the 11 countries, Czech Republic, Greece and Hungary are not included in the table as no social protection measure accessible to undocumented residents was identified.

Country	Level of Government	Measure
Belgium	National	<p>In the cases where an undocumented worker has a labour accident that is recognised, they are entitled to the same rights as any other worker:⁹¹ compensation for all medical costs, transport to medical appointments, and if the accident results in incapacity to work, disability benefits - monthly payments either temporarily or for the rest of their life, in relation to the percentage of incapacity to work (total or partial). In case a labour accident is fatal, the worker’s family are entitled to compensation to cover funeral costs, monthly compensation for loss to family income, including if they do not live in Belgium. In cases where the employer is uninsured, compensation to the worker and their family, as well as work to recover funds from the employer, is taken up by the Belgian social security system, and managed by the public institution Fedris.⁹²</p> <p>However, there are numerous practical barriers to having a labour accident recognised, including the burden of proof both of the existence of an employment relationship and that the accident happened at work, the time limit on claims and lack of awareness of the procedure.⁹³ It can also take years for a court to take a decision recognising a labour accident; during this time the worker only has access to urgent medical care, and no residence status or financial support, even when they are unable to work as a result of the accident.</p>

⁹¹ Interview respondent 11 (3 May 2021).

⁹² Ibid.

⁹³ Information provided by FAIRWORK Belgium, 22 June 2022. See also PICUM, 2020, [A Worker is a Worker: How to ensure that undocumented migrant workers can access justice](#).

Country	Level of Government	Measure
Finland	National	All residents have the right to receive emergency social services from the municipality, without any risk of immigration enforcement as a result. The Social Welfare Act refers to 'social services based on individual needs in an emergency, so that their right to necessary care and livelihood is not compromised'. However, the central government only provides funding to municipalities for such emergency social services for undocumented people who have been refused asylum. Any further services are at the discretion of the municipality.
	Local	The Cities of Helsinki and Espoo have created specific units within the department of social services that may provide necessary social services, based on an individual assessment, for any undocumented resident in need in the municipality. This support may include shelter, cash assistance for food and other necessities, a transportation card, and social and legal guidance. ⁹⁴
France	National	All persons have the right to emergency accommodation, irrespective of status, under national law (Article L345-2-2 Code de l'action sociale et des familles). However, it is hard to claim this right and access to shelter in practice. Due in particular to lack of space, undocumented people and families are often refused access. ⁹⁵ Temporary shelter is more often available for undocumented pregnant women and single parents with children under three years old in centres run by local authorities (départements) compulsory children's social services .

⁹⁴ Interview respondents 2 (21 May 2021), 3 (23 May 2021) and 4 (10 May 2021).

⁹⁵ Information provided by GISTI, 23 June 2022.

Country	Level of Government	Measure
Ireland	National	Undocumented people are not entitled to access social welfare including emergency shelters except for the Additional Needs Payment . However, applying for this payment requires identification to the authorities with possible risk of immigration enforcement, and is not utilized by people with irregular status except in very dire circumstances.
	Temporary measures as part of COVID-19 Response	At national level, undocumented workers who lost their job due to the COVID-19 pandemic were eligible to apply for the Pandemic Unemployment Payment , a weekly payment to all employees and the self-employed who lost employment due to the pandemic. It was a payment of €350 per week for a period of 12 weeks, which could be applied for until 30 June 2021. The government agreed that there would be no data sharing between the social services and immigration enforcement, in line with the firewall principle, so that supports could be accessed safely. However, many undocumented workers were not able to access the Pandemic Unemployment payments because it was necessary to prove the individual lost their only source of income. In practice, this limited access to those undocumented workers with a social security number and tax record. ⁹⁶

⁹⁶ Local experts estimate almost half of undocumented workers in Ireland have social security numbers. This is usually because they were previously working regularly (e.g. on an employment permit that has since expired). Some undocumented workers also managed to register with social security despite being undocumented and the risks of immigration enforcement. However, at least half of undocumented workers do not have a social security number (Interview respondent 10, 7 May 2021).

Country	Level of Government	Measure
The Netherlands	National	Undocumented families with minor children can access 'family locations' (Gezinslocaties) which include basic accommodation and some financial support to cover the family's needs. However, the family locations have been criticised for their living conditions and curtailing of the family's freedom of movement.
	Local (in partnership with national level)	<p>From 2019, five Dutch municipalities have run a pilot project together with the national government offering shelter and case management (LWV) to undocumented people on the condition that they were working towards voluntary return, onward migration, or regularization. Participants receive shelter, counselling and financial support for food and other necessities. During their participation in the programme people are temporarily protected from detention and deportation.</p> <p>At the end of 2021, the government's coalition agreement included the decision to defund the pilot projects and roll out a nation-wide network of shelters that will focus on return. Funding for the five projects was secured until the end of 2022.</p>
	Temporary measures as part of COVID-19 response	<p>At national level, in May 2020, the Dutch Ministry of Health tasked municipalities with ensuring all homeless people could access a shelter, irrespective of their residence status, in order to prevent further outbreaks of COVID-19.</p> <p>Subsequently, at local level, municipalities repurposed facilities to increase the number of day and night shelter spaces, or used hotel accommodation, to provide shelter while following health and safety guidelines including social distancing. These shelters remained available until June 2021.</p> <p>Also at local level, in July 2020, the City of Amsterdam provided financial support to various NGOs to strengthen their support to undocumented people. For instance, the Red Cross received funding to provide food through unofficial food banks. This has since ended. The LWV night shelters in Rotterdam became 24-hour shelters, a measure that has continued.⁹⁷</p>

⁹⁷ Information provided by Stichting LOS, 27 June 2022.

Country	Level of Government	Measure
Spain	National	In May 2020, Spain adopted a nation-wide minimum income guarantee . This regulation currently excludes undocumented migrants unless they are undocumented migrant women who are victims of gender-based violence, trafficking or sexual exploitation or young people aged 18 to 22 who have been in the guardianship system for 3 years prior to turning 18, live alone and meet other requirements. There is currently a patchwork of minimum income schemes managed by the regions (Autonomous Communities), who may continue complementary regional schemes in the future.
	Regional	The Balearic Islands established by law that its regional income guarantee scheme includes undocumented people who can prove they have been living for 12 months in the region. ⁹⁸ The requirement to be registered as a job seeker with the public employment agency is not applied when not possible due to the person's residence status. There is, as yet, limited experience of implementation and how accessible the measure is in practice. ⁹⁹
	Temporary measures as part of COVID-19 Response	<p>At regional level, the Balearic Islands extended the income guarantee to include all adults experiencing a social emergency as a result of COVID-19, regardless of their administrative situation. As payments can only be made into bank accounts, the regional government granted direct subsidies to six NGOs for them to pay the equivalent amounts (459 € per household, to which an extra amount was added depending on the number of members in the family) to undocumented migrants without a bank account who are in need and have some form of identity document. The temporary measure initially covered April and May 2020, and was prolonged through the legislation described above to June 2020.</p> <p>Similarly, the Canary Islands provided for an emergency payment for registered residents who were not eligible for the regional minimum income, including undocumented residents (with no minimum period of registration required). The payment was equal to 75% of the regional minimum income (367 € per household, to which an extra amount was added depending on the number of members in the family/ household). People without a bank account could receive a prepaid card or payments via NGOs that received direct subsidies from the regional government. A fixed budget was allocated and distributed between 27 May and October 2020.</p>

⁹⁸ The inclusion of undocumented residents, and the possibility for payments to be made through third parties, was established in June 2020 ([Decreto-ley 10/2020, de 12 de junio](#)). This was modified in August 2021 to include the 12-month residence requirement, except for the specific groups listed (in line with the national regulation - women who are victims of gender-based violence, trafficking or sexual exploitation and children who live in [cohabitation units](#) for reasons of birth, adoption, or guardianship for the purpose of adoption or permanent family foster care).

⁹⁹ Information provided by Red Acoge, 27 June 2022.

Country	Level of Government	Measure
Sweden	Local	<p>In Malmö, undocumented people can apply for emergency assistance, usually in the form of financial assistance for food and medicine and/or a space in a municipal shelter for people experiencing homelessness. When a person does not have a residence permit, the application is examined in relation to the person's need, to prevent danger to life and health. They must show they are staying in the municipality, are in an emergency situation, unable to meet their basic needs, and are not receiving assistance from the Swedish Migration Agency.</p> <p>In addition, in line with the best interests of the child, undocumented children may be granted assistance up to the same level as citizen children, including a place in municipal housing or financial assistance for reasonable costs of accommodation based on the child's needs. This may mean that children are granted more assistance while their parents, as adults, are only granted emergency assistance.</p> <p>However, the actual distribution of emergency assistance has become more restrictive and difficult to access in recent years. Additionally, although the city does not actively notify the police or other authorities when undocumented people contact social services, they do disclose information if requested by the police. There have been cases where the border police requested address information from the social services, and some families housed in municipal accommodation were deported as their whereabouts were revealed.¹⁰⁰ This has likely led to a decrease in the use of municipal social services by undocumented people in recent years.</p>

¹⁰⁰ For more see Lind, J., 2020, [The politics of undocumented migrant childhoods](#), Doctoral dissertation in International Migration and Ethnic Relations, Malmö University, pp. 3-4

Country	Level of Government	Measure
Switzerland	National	<p>All people have the right to access emergency assistance, including shelter, according to the constitution. However, it is only possible for cantons to receive funding to cover costs from the central government for people who have previously applied for asylum and have an order to leave the territory.</p> <p>All working persons whose employment is declared to the social security office by their employers, irrespective of the workers' residence status, have equal rights to social security stemming from past employment, except unemployment benefits and labour market integration supports. Undocumented workers are also entitled to sick pay. Social security and tax authorities are not supposed to share personal data with immigration authorities, to safeguard access regardless of status. However, in some cantons, workers may nonetheless be reported in practice. Further, the reliance on employers to register the employment with social security means that many undocumented workers are not registered.</p>
	Local	<p>The City of Zurich created a pilot program that offers "Basic Economic Aid" through civil society organizations to any person without access to traditional forms of social protection. It is based on living in Switzerland for 5 years (of which 2 years in Zurich) and amounts are similar to asylum welfare (lower than normal social assistance). The pilot was intended to run from 1 July 2021 to 31 December 2022, but was rescinded by the District Council on 9 December 2021 following a legal challenge. A similar pilot programme is under development, slightly adapted to respond to the legal challenge.</p>
	Temporary measures as part of COVID-19 Response	<p>At regional level, the Canton of Geneva passed a law that provided financial compensation for up to 80% of income lost during the first wave of the COVID-19 pandemic (the period from 17 March 2020 to 16 May 2020), for some workers who were unable to access support under the national wage compensation scheme, including some undocumented workers. The law came into effect on 7 April 2021.</p> <p>The Canton of Geneva approved a second wave aid project in December 2020. It provided funds to civil society organizations for direct financial aid to the affected population.</p> <p>At local level, the City of Zurich designated funds to various NGOs to provide direct support to their clients to meet basic needs in the form of direct cash payments as well as vouchers for food.¹⁰¹ Support was provided between March 2020 and July 2021 (when the pilot programme was launched).</p>

¹⁰¹ Information provided by Sans-Papiers Anlaufstelle Zürich (SPAZ), 28 June 2022.

Conclusion

Social protection is intended to protect people against particular economic and social exclusion, including homelessness, that can be the result of life changing events, such as unemployment or reduced ability to work due to health reasons (including work-related injuries) or changes in families and households, such as birth of a child or death of a partner or parent. It is intended to ensure that all people maintain a minimum level of income to meet their basic needs, and that older people can retire and maintain a decent quality of life. Some of these life changes are inevitable for everyone to go through, while others only impact some people – but in any case, can happen to anyone.

People who face intersectional discrimination and risks of poverty can be more at risk of experiencing negative life events such as work-related accidents, and are more at risk of those events leading to severe economic and social impacts and exclusion, such as homelessness and extreme poverty. This is the case for undocumented migrants, as well as others with a precarious residence status with limited rights.

Social protection is necessary to live a life in dignity and uphold human rights. Different aspects of social protection are enshrined as such in human rights instruments at international, regional and national level. This is also reflected in inclusive language in some legislation elaborating social protection standards, for example, EU employment legislation that refers to ‘any person employed’. Social protection can also be considered an investment in the broader economy, contributing to stabilising people’s incomes, creating jobs, increasing tax revenues, reducing inequalities and barriers to work.¹⁰²

From the perspectives of human rights and social, employment and economic policy, it is therefore necessary to ensure a broad coverage of social protection, and one that ensures protection of those most at risk. Nevertheless, there are important gaps in social protection systems and their coverage of people in precarious employment and social situations.

Non-citizens – in particular those with short-term permits or who are undocumented – are among those that face the most significant exclusions from accessing social protection. This is the case both for social assistance and social services that are provided on the basis of need, and contribution-based benefits that are linked to social insurance or social security contributions. Overall, undocumented people are usually only able to access very limited aspects of social assistance, such as shelter, and even this may not be eligible for government funding or be contingent on prior or ongoing status resolution procedures or cooperating with return proceedings.

In addition, restrictive conditions on residence permits further compound the negative impacts of events, such as unemployment or workplace accidents, from which social protection seeks to limit harm. Instead of receiving support, regular migrants with a status based on employment or financial independence without recourse to public social assistance, may become undocumented due to the hardship they face.

This is despite the realities of people’s residence, the particular risks they face, as well as their direct and indirect contributions to social protection systems, as taxpayers and workers.

¹⁰² See for example, ITUC CSI IGB, n.d., [Investments in social protection and their impacts on economic growth](#).

In this overall highly restrictive context, this report identifies some examples of measures implemented by national, regional or local governments, to include undocumented residents in some aspects and branches of social protection systems. While the examples are not comprehensive, certain findings can be highlighted:

- In some cases, undocumented residents can register with – and benefit from – branches of mainstream social security (e.g. Switzerland, Belgium, Balearic Islands) or temporary social protection measures (e.g. Ireland). Whether governments take steps to actually enable undocumented people’s access in practice varies, and there remain major practical barriers.
- Some governments, in particular at regional and local level, have implemented distinct services and funds to provide a certain level of minimum support to undocumented residents in certain circumstances (e.g. in Finland, the Netherlands, Switzerland).
- In some cases, undocumented children can access additional social services and support (e.g. France, Malmö).
- Local governments are closer to the realities and impacts of excluding particular groups from social protection.¹⁰³ They need the autonomy to implement more inclusive measures, as well as changes in national policy to address institutional discrimination and structural reasons for exclusion.

- Some of the inclusive social protection measures have received wide cross-party (e.g. Utrecht) and/or public support (e.g. Geneva). Support depends on the way in which inclusive social protection measures are framed and communicated.
- Close cooperation between public officials and civil society organisations is often crucial for measures to be adopted, well-designed and well-implemented.

Some more inclusive measures were prompted by the fallout from the COVID-19 pandemic but remain equally pertinent in the longer term. Such measures can be made more structural and long-term through simple continuation (e.g. Rotterdam), reforms of mainstream social protection systems to make them more inclusive (e.g. Balearic Islands) and/or the introduction of specific measures (e.g. Zurich; Colorado in the United States of America has passed landmark legislation reforming unemployment insurance for jobless workers, making permanent a temporary unemployment fund for eligible undocumented workers in Colorado).¹⁰⁴

¹⁰³ For more information, see also the resources from the [City Initiative on Migrants with Irregular Status in Europe](#) (C-MISE), [Accessed 30 June 2022], for example, Spencer, S. & Delvino, N., March 2019, [Migrants with Irregular Status in Europe: Guidance for Municipalities \(C-MISE\)](#).

¹⁰⁴ Colorado General Assembly, SB22-234 Unemployment Compensation. Concerning unemployment compensation, 2022 Regular Session. The fund is available to undocumented workers whose employers have declared their employment and paid into the unemployment insurance system (Information provided in NELP newsletter 10 June 2022 and by NELP, 28 June 2022).

Recommendations to government authorities

The European Union, national, regional and local governments all have different competences and roles in developing, implementing, monitoring and funding social protection policies and measures. The following recommendations are aimed at government authorities at all levels, in the spirit that at every level, some form of action can be taken to achieve change.

1. Make social protection measures that are based on need or other conditions equally accessible for all residents, regardless of status.

- This would include, for example, all social protection measures targeting children, minimum income schemes, measures for inclusion of people with disabilities; and shelter and other supports provided to people to ensure that they can live with dignity.
- Accompanying measures are also needed to ensure people with insecure or irregular residence status can effectively access support (for example, adapted and simplified administrative procedures, clear safeguards against social service data being used for immigration control purposes). No additional conditionality, such as having applied for international protection or participating in case resolution procedures should be imposed.
- Initiatives and services aimed at combating poverty and homelessness should take into account and target undocumented children, young people and adults.
- At a minimum, ESF+ funded actions under the social inclusion pillar, including activities on socio-economic integration of third country nationals and measures addressing material deprivation, should be open to all, regardless of migration status. This will also help achieve the European Union mission to reduce the number of people at risk of poverty and social exclusion by 15 million, of which 5 million children, by 2030. The European Child Guarantee is the obvious reference frame for any initiatives targeting children, but local and national governments should dare to develop services and programmes beyond those listed in the Council Recommendation.¹⁰⁵

¹⁰⁵ For more on the Child Guarantee, see PICUM, 2021, [EU Council adopts Child Guarantee that benefits undocumented children](#), 2 July 2021; European Commission, n.d., [European Child Guarantee](#), webpage

2. Ensure migrant workers have access to contribution-based social protection measures into which they have paid.

- Whether or not contributions were made when the worker was documented or undocumented, mechanisms should be put in place to ensure that contribution-based benefits – including pensions and unemployment benefits – are available on equal terms to migrant workers, in line with their contributions.
- Specific measures to enable portability and/or advance payment of social security contributions are also crucial for workers who move or who are forced to move to another country.

3. Implement clearly established ILO and EU minimum standards on social security rights for undocumented workers through national legislation and practice.

- At a minimum, this would include¹⁰⁶ implementing entitlements to paid maternity leave for people who have been employed for 12 months or more before the onset of labour and other specific protections for workers who are pregnant, have recently given birth and/or are breastfeeding; limited coverage by state guarantee mechanisms in cases of employer insolvency of due wages and salaries; protections from and compensation in certain cases of unfair dismissal; and payment of compensation and disability benefits in case of labour accidents and injuries. Undocumented workers should also be eligible for paid holiday, parental and carers' leave.
- Implement effective and accessible complaints mechanisms and legal procedures, with clear safeguards from immigration enforcement for workers, as well as other practical supports to enable workers to exercise their rights.¹⁰⁷

¹⁰⁶ For more information see PICUM, 2022 [Guide to undocumented Workers' Rights at Work under International and EU law](#).

¹⁰⁷ For more information see e.g. PICUM, 2020, [A Worker is a Worker: How to ensure that undocumented migrant workers can access justice](#).

4. Be inclusive in efforts to improve the coverage of social protection overall.

- Social protection policies are evolving to extend coverage to people who are not in employment, workers in non-standard forms of employment, and self-employed people, building on the social agendas such as the European Pillar on Social Rights, and the policies of various governments, both before and since the COVID-19 pandemic. For human rights and social, employment and economic policy reasons, efforts to expand coverage should seek ways to be inclusive of all residents and workers, regardless of status.
- Innovative measures such as specific funds for workers not covered by COVID-19 income protection mechanisms could also be continued or adapted as needed for the longer term.
- Undocumented people should also be able to register for voluntary social insurance and protection schemes, without discrimination.

5. Reform residence and migration policies that perpetuate poverty and social exclusion.

- Specific social protection measures that are established for non-citizens, regardless of status, must provide a level of financial and material support that enables people to live in dignity, taking into consideration, for example, national poverty thresholds.
- Undocumented workers should be able to register their employment with social security authorities without any risk that data will be used for immigration enforcement purposes, and benefit from the measures into which they contribute.
- Implement clear and accessible procedures for undocumented residents to regularise their residence and employment situation, to promote people's full social inclusion. Regularisation policies should meet several criteria to work effectively.¹⁰⁸

¹⁰⁸ Please see PICUM, [Regularisation of undocumented migrants: how to make it work](#), 6 April 2022.



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