



Access to Early Childhood Education and Care for Undocumented Children and Families

Obstacles and Promising Practices

This brief was written by Manuela De Koster, Junior Advocacy Officer. It was edited by Laetitia Van der Vennet, Senior Advocacy Officer and Michele LeVoy, Director of PICUM – Platform for International Cooperation on Undocumented Migrants.

We thank all PICUM members who responded to our 2022 survey, and interviewees from within and outside PICUM's membership for sharing their expertise:

- Jean-François Martini from le Gisti (PICUM member, France)
- Mafalda Lourenço from FNSBS (Portugal)
- Petri Paju from the Central Union for Child Welfare (Finland)
- Rian Ederveen from Stichting Los (PICUM member, Netherlands)
- Ulla Siirto from the National Church Council, Evangelical Lutheran Church of Finland (PICUM member, Finland)
- Valbona Hystuna-Doka, independent expert formerly working at PICUM member ARSIS (Greece)

We also wish to thank Hilmi Tekoglu and Alma Gallicchio for their preparatory work when they were Advocacy Trainees at PICUM.

© PICUM, 2023

Cover image: Chayene Rafaela - Unsplash

This publication was made possible with the kind support from:



Funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or European Union Programme for Employment and Social Innovation "EaSI" (2021-2027). Neither the European Union nor the granting authority can be held responsible for them.

Table of Contents

Introduction	4
1. Early childhood development when growing up undocumented	5
2. Benefits of early childhood education and care for undocumented children and families	6
International and European frameworks on ECEC for undocumented children	8
1. International & European legal framework.....	8
2. Policy framework	9
3. National legal and policy frameworks.....	12
The levels of participation of children in early childhood education and care	17
Obstacles to undocumented children's access to ECEC	19
1. Legal obstacles	19
2. Practical obstacles.....	20
Promising practices	25
1. By national governments	25
2. By municipalities	27
3. By civil society	28
Conclusion	30
Recommendations	31

Introduction

Early childhood education and care (ECEC) is defined as any formal childcare and education provided to children before they reach primary school age¹. What ECEC looks like and how it is governed varies significantly along national, regional or local lines. In the European Union (EU), it is mainly provided in public or publicly funded centres, and to a lesser extent in regulated home-based settings². ECEC includes services commonly called the nursery, *crèche*, *kindergarten*, day care, *guarderías*, preschool, *maternelle*, etc³.

Often, ECEC focuses on childcare and early development for children below the age of three⁴, and pre-primary education for those above three, but below the age upon which primary school begins⁵. In some countries, the educational and care approaches are combined and age groups are not separated⁶.

The individual and societal benefits of children's participation in early childhood education and care are widely recognised by researchers, policy makers and practitioners. For some children, ECEC represents an opportunity to help break intergenerational cycles of poverty and exclusion. The EU has therefore placed an emphasis on making sure that quality ECEC services are accessible to *all* children, especially

those at risk of poverty and social exclusion. This is most clearly shown in the proposal⁷ and adoption⁸ of the European Child Guarantee in 2021. Despite the goal of the European Child Guarantee to ensure effective access to free and high-quality ECEC services by 2030, concrete measures to include one of the most marginalised and vulnerable groups of children – those who are undocumented – seem few and far between.

This brief aims to fill a gap in existing research and literature and give insight into why undocumented children are (un)able to access and participate in ECEC services in Europe today. It includes promising practices from Portugal, France, Finland, Greece, the Netherlands and the USA. The brief is based on desk research, a written survey of PICUM members' experiences (April/May 2022) and interviews with PICUM members and other organisations working at the national and local levels in Finland, France, Greece, the Netherlands, and Portugal (March/April 2023). These countries were selected because positive local or national level practices were indicated in these countries in the survey results and because their ECEC participation rates for children from the age of three are amongst the highest in the EU⁹.

1 According to the European Commission (Eurydice) definition, source: European Commission/EACEA/Eurydice, 2019, [Key Data on Early Childhood Education and Care in Europe – 2019 Edition. Eurydice Report](#).

2 European Commission/EACEA/Eurydice, 2019, [Key Data on Early Childhood Education and Care in Europe – 2019 Edition. Eurydice Report](#).

3 Ibid.; UNESCO Institute for Statistics, 2012, [International Standard Classification of Education 2011](#).

4 ISCED level 01, source: UNESCO Institute for Statistics, 2012, [International Standard Classification of Education 2011](#).

5 ISCED level 02, source: Ibid.

6 e.g., Finland's 'educare' model. See: European Commission, 30 March 2023, [Eurydice Finland – 4. Early childhood education and care](#) (accessed 11 May 2023).

7 European Commission, Directorate-General for Employment, Social Affairs and Inclusion, 2021, [Proposal for a Council Recommendation Establishing a European Child Guarantee \(COM/2021/137 final\)](#).

8 Council of the European Union, 2021, [Council Recommendation \(EU\) 2021/1004 of 14 June 2021 establishing a European Child Guarantee \(ST/9106/2021/INIT\)](#).

9 See Table 4.

1. Early childhood development when growing up undocumented

Evidence from a range of disciplines, including neuroscience, behavioural research and psychology, shows that the first one thousand days after a child is conceived, until they reach two years of age, are “a unique period of opportunity when the foundations of optimum health, growth, and neurodevelopment across the lifespan are established.”¹⁰ Beyond this, it shows that the period spanning up to a child’s eighth birthday, during which early childhood development¹¹ occurs, is formative. Experiences in these early years determine further cognitive, emotional, physical and social development¹².

In other words, early childhood development impacts life-long mental and physical health and social and linguistic skills. These factors contribute to a person’s wellbeing, educational opportunities and access to employment – and may affect socio-economic status later in life¹³.

A child’s early development benefits from a *stable environment*¹⁴ which offers the child safety and security, stimulating, responsive and dependable

interactions with adults¹⁵, a nutritious diet, health care and early learning experiences¹⁶. In contrast, an *adverse environment* “negatively affects young children’s psychological and neurological development”¹⁷ when it is not alleviated or compensated for by (psycho)social intervention.

Providing a stable environment can be a challenge for undocumented parents and caregivers¹⁸. First, undocumented families are at risk of living in poverty¹⁹, face social exclusion and intersectional discrimination and are often prevented from accessing social protection measures (including social services and assistance)²⁰. Due to these interconnected structural factors, they and their children are less likely to access quality health care services²¹ and healthy nutrition. Children are more likely to grow up in the context of insecure and unstable housing, characterised by frequent moves, bad housing or overcrowded conditions²². Furthermore, children growing up undocumented are likely to be exposed to chronic or toxic stress²³. Research suggests this takes a “cumulative toll on

10 UNICEF, Cusick, S. and Georgieff, M.K., 2013, [The first 1,000 days of life: The brain's window of opportunity](#).

11 European Commission, Directorate-General for Education, Youth, Sport and Culture, Lenaerts, K., Vandenbroeck, M., Beblavý, M., 2018, [Benefits of early childhood education and care and the conditions for obtaining them](#); UNICEF, 2017, [UNICEF's Programme Guidance For Early Childhood Development](#); WHO, 2018, [Nurturing care for early childhood development: a framework for helping children survive and thrive to transform health and human potential](#).

12 European Commission, Directorate-General for Education, Youth, Sport and Culture, Lenaerts, K., Vandenbroeck, M., Beblavý, M., 2018, [Benefits of early childhood education and care and the conditions for obtaining them](#); Harvard Center on the Developing Child, 2007, [The Science of Early Childhood Development \(InBrief\)](#); Harvard Center on the Developing Child, 2007, [The Impact of Early Adversity on Child Development \(InBrief\)](#).

13 Harvard Center on the Developing Child, 2007, [The Science of Early Childhood Development \(InBrief\)](#).

14 Harvard Center on the Developing Child, 2007, [The Impact of Early Adversity on Child Development \(InBrief\)](#); UNICEF, 2017, [UNICEF's Programme Guidance For Early Childhood Development](#).

15 Ibid.

16 These factors are the components of 'nurturing care', a concept coined by UNICEF, which “consists of a core set of interrelated components, including behaviours, attitudes, and knowledge about caregiving (e.g., health, hygiene care and feeding); stimulation (e.g., talking, singing and playing); responsiveness (e.g., early bonding, secure attachment, trust and sensitive communication); and safety (e.g., routines, protection from violence, abuse, neglect, harm and environmental pollution)” (source: UNICEF, 2017, [UNICEF's Programme Guidance For Early Childhood Development](#), p. 14); WHO, 2018, [Nurturing care for early childhood development: a framework for helping children survive and thrive to transform health and human potential](#).

17 WHO, 2018, [Nurturing care for early childhood development: a framework for helping children survive and thrive to transform health and human potential](#), p.9.

18 Ibid.

19 PICUM, 2021, [Navigating Irregularity: The Impact of Growing up Undocumented in Europe](#).

20 PICUM, 2022, [A snapshot of social protection measures for undocumented migrants by national and local governments](#).

21 PICUM, 2021, [Navigating Irregularity: The Impact of Growing up Undocumented in Europe](#); PICUM, 2022, [Insecure Residence Status, Mental Health and Resilience](#).

22 Ibid.

23 Ibid.

[their] physical and mental health"²⁴ and may cause developmental delays²⁵.

Second, due to their exclusion from the formal labour market, undocumented parents and caregivers must resort to working in the informal economy. There, work is characterised by exploitative conditions, including low pay and long hours²⁶. This also means that new parents are deprived of paid parental leave,

which helps parents care for and bond with their newborns. Beyond the first months, their long working hours will likely prevent undocumented parents from spending time, playing with, and teaching their children. Moreover, undocumented families usually are unable to rely on child support schemes for (new) parents²⁷.

2. Benefits of early childhood education and care for undocumented children and families

The multiple positive outcomes of children's participation in early childhood education and care are well documented, particularly for socially marginalised children and children in situations of vulnerability²⁸. Their participation in ECEC services benefits their personal development, their parents or caregivers and society more broadly²⁹.

By providing undocumented children with more stability, as well as access to early learning, good quality ECEC can help parents to counterbalance some of the above-mentioned structural factors linked to their systemic exclusion and marginalisation, which risk negatively affecting their children's early development.

As a result, ECEC has a crucial impact on undocumented children's individual education and learning outcomes, language skills, health, wellbeing, and social inclusion in the short and long term³⁰. It thus has the potential to improve children's lives far beyond their childhoods³¹.

Research suggests, for instance, that migrant children's participation in ECEC develops their "resilience to alleviate childhood trauma, toxic stress, and deprivation,"³² and leads to a higher degree of school readiness (in the context of the United States)³³. Furthermore, for those who do not speak the majority language at home, "early and intensive exposure to the language spoken by the majority can be crucial for educational and emotional

24 Harvard Center on the Developing Child, 2007, [The Impact of Early Adversity on Child Development \(InBrief\)](#), p.2.

25 Ibid.; Harvard Center on the Developing Child, 2007, [The Science of Early Childhood Development \(InBrief\)](#).

26 PICUM, 2022, [Access to early childhood education and care by undocumented children and families](#).

27 Ibid.; For example, in the Netherlands. Source: Defence for Children, n.d., [Kinderbijslag](#) (accessed 27 April 2023).

28 COFACE, 2021, [Early childhood education and care: A tool for child education, reconciliation of work and family life, and a caring and inclusive economy](#); European Commission, Directorate-General for Education, Youth, Sport and Culture, Lenaerts, K., Vandenbroeck, M. and Beblavý, M., 2018, [Benefits of early childhood education and care and the conditions for obtaining them](#); Migration Policy Institute, 2018, [Responding to the ECEC Needs of Children of Refugees and Asylum Seekers in Europe and North America](#); Right to Education Initiative, 2021, [Child migration and access to Early Childhood Care and Education Limitations in legal frameworks and other concerns](#).

29 Ibid.

30 COFACE, 2021, [Early childhood education and care: A tool for child education, reconciliation of work and family life, and a caring and inclusive economy](#); Migration Policy Institute, 2018, [Responding to the ECEC Needs of Children of Refugees and Asylum Seekers in Europe and North America](#); Right to Education Initiative, 2021, [Child migration and access to Early Childhood Care and Education Limitations in legal frameworks and other concerns](#).

31 COFACE, 2021, [Early childhood education and care: A tool for child education, reconciliation of work and family life, and a caring and inclusive economy](#); PICUM, 2015, [Protecting undocumented children: Promising policies and practices from governments](#).

32 Right to Education Initiative, 2021, [Child migration and access to Early Childhood Care and Education Limitations in legal frameworks and other concerns](#), p.4.

33 Migration Policy Institute, 2018, [Responding to the ECEC Needs of Children of Refugees and Asylum Seekers in Europe and North America](#); UNICEF, 2019, [A world ready to learn : Global report on pre-primary education](#).

development.”³⁴

Likewise, undocumented parents and caregivers benefit when their children can participate in ECEC, as it gives them the time and space to secure the resources and network necessary to take care of their children. Knowing that their children are safe and secure in the ECEC service, parents can reach out to other actors and institutions that can help them access a secure residence status and/or adequate resources to take care of their child(ren).

This is especially important for mothers³⁵ and single parents, who are often a child's main or only caretakers³⁶. In the absence of access to quality childcare services, women working in the informal economy are likely to resort to working less, or in more flexible yet lower-paid jobs, as research from the Global South suggests³⁷. Access to ECEC can consequently lessen undocumented mothers' financial dependency on others.

Access to ECEC services also reduces undocumented parents' reliance on informal care arrangements offered by family members, friends, neighbours, or undeclared childminders³⁸. Although this may be a suitable option in individual cases, the quality of such care is never ensured³⁹. Additionally, this type of paid or unpaid care work, usually performed by women, leaves informal carers without social protection⁴⁰.

When ECEC centres and their staff become trusted environments, they become spaces where parents can seek social support⁴¹, address broader family needs⁴² and promote undocumented families' social inclusion⁴³.

The factors listed above are mutually beneficial. Even if it cannot be the solution to address undocumented people's systemic marginalisation, access to - and participation in - ECEC enhances the socio-economic situation of undocumented families and the wellbeing of their children in the short term. It also reduces inequalities and has the potential to break inter-generational cycles of poverty and exclusion in the long-term⁴⁴.

34 Drange, N. and Telle, K., 2015, [Promoting integration of immigrants: Effects of free child care on child enrollment and parental employment](#), Labour Economics, Vol. 34, pp. 26-38, p. 26; referencing: Bleakley H., Chin A., 2008, [What Holds Back the Second Generation? The Intergenerational Transmission of Language Human Capital Among Immigrants](#), J Hum Resour, Vol. 43(2), pp. 267-298.

35 Boeckmann, I., Misra, J. and Budig, M. J., 2015, [Cultural and Institutional Factors Shaping Mothers' Employment and Working Hours in Postindustrial Countries](#), Social Forces, Vol. 93(4), pp. 1301 - 1333.

36 COFACE, 2021, [Early childhood education and care: A tool for child education, reconciliation of work and family life, and a caring and inclusive economy](#).

37 International Labour Organization (ILO) and WIEGO, 2020, [Extending childcare services to workers in the informal economy: Policy lessons from country experiences](#). Policy Brief No. 3.

38 PICUM, 2022, [Access to early childhood education and care by undocumented children and families](#).

39 COFACE, 2021, [Early childhood education and care: A tool for child education, reconciliation of work and family life, and a caring and inclusive economy](#); PICUM, 2022, [Access to early childhood education and care by undocumented children and families](#).

40 PICUM, 2022, [Access to early childhood education and care by undocumented children and families](#).

41 Including information, advice or emotional support. Source: European Commission, Directorate-General for Education, Youth, Sport and Culture, Lenaerts, K., Vandenbroeck, M. and Beblavý, M., 2018, [Benefits of early childhood education and care and the conditions for obtaining them](#).

42 Based on research on refugee and asylum-seeking families. Source: Migration Policy Institute, 2018, [Responding to the ECEC Needs of Children of Refugees and Asylum Seekers in Europe and North America](#).

43 Ibid.

44 COFACE, 2021, [Early childhood education and care: A tool for child education, reconciliation of work and family life, and a caring and inclusive economy](#); European Commission/EACEA/Eurydice, 2019, [Key Data on Early Childhood Education and Care in Europe – 2019 Edition. Eurydice Report](#); PICUM, 2022, [Access to early childhood education and care by undocumented children and families](#).

International and European frameworks on ECEC for undocumented children

1. International & European legal framework

According to international and European law, governments have an obligation to provide all children with access to education, without discrimination because of their residence status⁴⁵. Additionally, EU law specifies that member states must respect children's right to protection and care, as necessary to ensure their wellbeing⁴⁶.

- Article 18(2) and (3) of the **UN Convention on the Rights of the Child** (UNCRC) obliges state parties to "develop institutions, facilities and services for the care of children"⁴⁷ and to "take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible."⁴⁸ Article 28 moreover enshrines all children's right to education⁴⁹. As Article 29(1) specifies, education should lead to "the development of the child's personality, talents and mental and physical abilities to their fullest potential."⁵⁰
- General Comment No. 7 of the UN Committee on the Rights of the Child emphasises that the

UNCRC is "to be applied holistically in early childhood, taking account of the principle of the universality, indivisibility and interdependence of all human rights."⁵¹ Furthermore, it considers the right to early childhood education to begin at birth⁵².

- Together with Article 14 on the prohibition of discrimination, Article 2 of Protocol 1 of the **European Convention on Human Rights** protects migrant children's right to education⁵³.
- Under Article 17 of the **revised European Social Charter** (1996), state parties have committed to "take all appropriate and necessary measures designed: 1.a. to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need (...)"⁵⁴. With Article 30, states furthermore commit themselves to "promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, employment, housing, training, education, culture and social and

45 European Union Fundamental Rights Agency (FRA), 2022, [Handbook on European law relating to the rights of the child - 2022 edition](#); Right to Education Initiative, 2018, [The status of the right to education of migrants: International legal framework, remaining barriers at national level and good examples of states' implementation: UNESCO Global Education Monitoring Report](#).

46 European Union, 2010, [Charter of Fundamental Rights of the European Union \(2010/C 83/02\)](#), Official Journal of the European Union, Article 24.

47 UN, [Convention on the Rights of the Child \(1989\)](#), Article 18.

48 Ibid., Article 18.

49 UN, [Convention on the Rights of the Child \(1989\)](#).

50 Ibid., Article 29.

51 UN, Committee on the Rights of the Child, [General comment No. 7 \(2005\): Implementing Child Rights in Early Childhood, 20 September 2006, CRC/C/GC/7/1](#), §3.

52 UN, Committee on the Rights of the Child, [General comment No. 7 \(2005\): Implementing Child Rights in Early Childhood, 20 September 2006, CRC/C/GC/7/1](#).

53 Council of Europe, [European Convention of Human Rights](#); European Union Fundamental Rights Agency (FRA), 2022, [Handbook on European law relating to the rights of the child - 2022 edition](#).

54 Council of Europe, [Revised European Social Charter \(1996\)](#), Article 17(1)a.

medical assistance,"⁵⁵ in particular. Although the Appendix to the Charter stipulates that its rights only apply to those "lawfully resident"⁵⁶, the European Committee on Social Rights concluded that the exclusion of undocumented children from medical care⁵⁷ and housing⁵⁸ was in violation of Article 17 of the Charter.

- Article 14 of the **Charter of Fundamental Rights of the EU**⁵⁹ ensures the right to free, compulsory education. This fundamental right is not dependent on residence or migration status and is established throughout EU migration law⁶⁰. Furthermore, Article 24 of the Charter establishes children's right to "protection and care as is necessary for their well-being"⁶¹ and affirms that "[i]n all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration."⁶²
- Although the **Convention on the Protection of**

the Rights of All Migrant Workers and Members of Their Families has not been ratified by any EU member state, Article 30 ensures migrant workers' children's equal access to education⁶³. It explicitly states that "[a]ccess to public pre-school educational institutions or schools shall not be refused or limited by reason of the irregular situation with respect to stay or employment of either parent or by reason of the irregularity of the child's stay."⁶⁴

- Joint General Comment No. 4 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Committee on the Rights of the Child re-affirms that "[a]ll children in the context of international migration, irrespective of status, shall have full access to all levels and all aspects of education, including early childhood education (...) on the basis of equality with nationals of the country where those children are living."⁶⁵

2. Policy framework

Enabling all children to access quality early childhood development, care and pre-primary education by 2030 is a target within UN Sustainable Development Goal 4⁶⁶. This objective is reflected

in EU policy, although European policy focuses more expressly on children from socially and economically disadvantaged backgrounds and ECEC's potential to reduce childhood poverty and

55 Ibid., Article 30(a).

56 Ibid., Appendix to the revised European Social Charter §1.

57 European Committee on Social Rights, 2003, [Collective Complaint 14/2003 International Federation for Human Rights \(FIDH\) v. France](#).

58 European Committee on Social Rights, 2008, [Defence for Children International \(DCI\) v. the Netherlands](#).

59 European Union, 2010, [Charter of Fundamental Rights of the European Union \(2010/C 83/02\)](#), Official Journal of the European Union.

60 European Union Fundamental Rights Agency (FRA), 2022, [Handbook on European law relating to the rights of the child - 2022 edition](#).

61 European Union, 2010, [Charter of Fundamental Rights of the European Union \(2010/C 83/02\)](#), Official Journal of the European Union, Article 24.

62 Ibid.

63 European Union Fundamental Rights Agency (FRA), 2022, [Handbook on European law relating to the rights of the child - 2022 edition](#).

64 UN, [International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families](#) (1990), Article 30.

65 UN, [Joint general comment No. 4 \(2017\) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 \(2017\) of the Committee on the Rights of the Child on State obligations regarding the human rights of child](#), §59.

66 By 2030, SDG 4.2. is to "ensure that all girls and boys have access to quality early childhood development, care and pre-primary education so that they are ready for primary education". Source: United Nations, Department of Economic and Social Affairs, n.d., [4: Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all](#) (accessed 5 April 2023).

break intergenerational cycles of exclusion⁶⁷.

The different relevant policy frameworks and commitments made by the European Union institutions are:

- The **European Pillar of Social Rights**⁶⁸ has guided the European Union's social policies since 2017. Principle 11 of the Pillar explicitly recognises children's rights to "affordable early childhood education and care of good quality"⁶⁹ as well as "protection from poverty"⁷⁰ and emphasises that children "from disadvantaged backgrounds have the right to specific measures to enhance equal opportunities."⁷¹
- The European Commission-led **European Education Area initiative**⁷² coordinates EU member states' cooperation in the field of education, intending to achieve more inclusive and resilient education and training systems⁷³. ECEC is one of its 2021-2030 priority work areas. A dedicated working group on ECEC made up of government officials, encourages peer exchange and promotes the implementation of the EU policy framework on ECEC⁷⁴.
- The **Council Recommendation on High-Quality ECEC systems**⁷⁵ was adopted in 2019. It recognises that EU member states must make efforts "to ensure that all children have access to high-quality early childhood education and care as early as parents request it"⁷⁶ and that "specific measures are required to create greater access for children in a disadvantaged situation."⁷⁷ It sets out a list of recommendations on how member states can work towards accessible, affordable and inclusive ECEC systems, in line with the EU Quality Framework for ECEC⁷⁸ it introduces in its annex.
- A dedicated working group⁷⁹ was set up in the framework of the European Union's strategic framework for cooperation in education and training ('ET2020') to support the implementation of the 2019 Recommendation. The working group developed recruitment guidelines⁸⁰ and the **Toolkit for inclusive early childhood education and care**⁸¹.
- The **EU Quality Framework** for ECEC⁸² (2019) creates a common understanding of what qualitative ECEC services look like. It is built around five axes: access, staff, curriculum, monitoring and evaluation, and governance and finance⁸³. With regards to access, the framework first highlights the importance of universal legal entitlements, reducing fees for low-income households and flexible opening hours to create access for children from

67 Council of the European Union, 2019, [Council Recommendation of 22 May 2019 on High-Quality Early Childhood Education and Care Systems \(2019/C 189/02\)](#); Council of the European Union, 2021, [Council Recommendation \(EU\) 2021/1004 of 14 June 2021 establishing a European Child Guarantee \(ST/9106/2021/INIT\)](#); European Commission, n.d., [European Education Area, Early childhood education and care initiatives](#) (accessed on 22 March 2023); UNICEF, 2022, [Early childhood education and care in the European Child Guarantee](#).

68 European Commission, 2018, [European Pillar of Social Rights](#).

69 Ibid., p.19.

70 Ibid.

71 Ibid.

72 European Commission, n.d., [European Education Area - Early childhood education and care initiatives](#) (accessed 25 May 2023).

73 European Commission, n.d., [European Education Area explained](#) (accessed 25 May 2023).

74 European Commission, n.d., [Working Groups of the EEA strategic framework](#) (accessed 25 May 2023).

75 Council of the European Union, 2019, [Council Recommendation of 22 May 2019 on High-Quality Early Childhood Education and Care Systems \(2019/C 189/02\)](#).

76 Ibid, Recital 22.

77 Ibid.

78 The EU Quality Framework for Early Childhood and Care, Council of the European Union, 2019, [Council Recommendation of 22 May 2019 on High-Quality Early Childhood Education and Care Systems \(2019/C 189/02\)](#).

79 The working group included a range of European stakeholders and is targeted towards ECEC decision-makers and staff. Source: European Commission, n.d., [European Education Area - Early childhood education and care initiatives](#).

80 European Commission, Directorate-General for Education, Youth, Sport and Culture, 2021, [Early childhood education and care – How to recruit, train and motivate well-qualified staff : final report](#).

81 European Commission, Directorate-General for Education, Youth, Sport and Culture, 2021, [Toolkit for inclusive early childhood education and care : providing high quality education and care to all young children](#).

82 Ibid.

83 Ibid.

minority groups⁸⁴. Secondly, it encourages the participation of parents (especially those who are single, from a minority or migrant background) in decision-making processes: their needs should be taken into account when designing services. Finally, the framework highlights the importance of hiring staff from migrant and minority backgrounds and creating environments that value children's languages and culture⁸⁵.

- In 2021, the European Commission presented the **EU Strategy on the Rights of the Child**⁸⁶ (2021-2025) which outlines key objectives for child rights alongside seven thematic areas. Besides planned actions by the Commission, it includes suggested actions for member states. Thematic area two 'socio-economic inclusion, health and education' proposes a revision of the Barcelona targets to enhance the participation of early childhood education (ECE) for children with a migrant background⁸⁷. The Strategy also includes the promotion of the above-mentioned toolkit for inclusion in early childhood education and care⁸⁸ as a goal.

- The **European Child Guarantee**⁸⁹ was unanimously adopted in the form of a Council Recommendation in June 2021. It seeks to "prevent and combat social exclusion by guaranteeing access of children in need to a set of key services, thereby also contributing to upholding the rights of the child by combating child poverty and fostering equal opportunities."⁹⁰ Children in need are defined as those "who are at risk of poverty or social exclusion."⁹¹ Within this group, the Council recommends that member states consider the "specific disadvantages experienced"⁹² by migrant children (regardless of their status). **To achieve this goal, the Council urges member states to provide free and effective access⁹³ to high-quality early childhood education and care⁹⁴ for children in need (including undocumented children)⁹⁵.** Member states must develop national action plans outlining how they intend to achieve the Child Guarantee goals by 2030⁹⁶ and can apply for EU funding to provide or upscale services⁹⁷. At the time of writing, only 22 out of 27⁹⁸ member states have

84 Ibid., Quality statement 1.

85 Ibid., Quality statement 2.

86 European Commission, 2021, [EU Strategy on the Rights of the Child](#).

87 Ibid.

88 European Commission, Directorate-General for Education, Youth, Sport and Culture, 2021, [Toolkit for inclusive early childhood education and care : providing high quality education and care to all young children](#).

89 Council of the European Union, 2021, [Council Recommendation \(EU\) 2021/1004 of 14 June 2021 establishing a European Child Guarantee \(ST/9106/2021/INIT\)](#).

90 Ibid., §1.

91 Ibid., §3(a).

92 Ibid., §5.

93 *Free and effective access* refers to "a situation in which services are readily available, accessible, of good quality, provided in a timely manner and where the potential users are aware of their existence, as well as of entitlements to use them, and provided free of charge, either by organising and providing such services or by adequate benefits to cover the costs or the charges of the services, or in such a way that financial circumstances will not pose an obstacle to equal access". Source: Council of the European Union, 2021, [Council Recommendation \(EU\) 2021/1004 of 14 June 2021 establishing a European Child Guarantee \(ST/9106/2021/INIT\)](#), §3(e).

94 In addition to *effective and free access* to education and healthcare, as well as school-based activities and at least one healthy meal each. The Council also recommends member states create effective access to *effective access* to healthy nutrition and adequate housing. Source: Council of the European Union, 2021, [Council Recommendation \(EU\) 2021/1004 of 14 June 2021 establishing a European Child Guarantee \(ST/9106/2021/INIT\)](#), §4 .

95 PICUM, 2 July 2021, [EU Council adopts Child Guarantee that benefits undocumented children](#).

96 European Commission, n.d., [European Child Guarantee](#) (accessed on 23 February 2023).

97 Member states with an above-average percentage of children at risk of poverty and social exclusion must earmark at least 5% of the ESF+ to the implementation of the Child Guarantee. Sources: European Commission, n.d., [European Child Guarantee](#) (accessed on 23 February 2023); PICUM, 2 July 2021, [EU Council adopts Child Guarantee that benefits undocumented children](#).

98 European Commission, n.d., [European Child Guarantee](#) (accessed on 7 June 2023).

submitted their national action plans⁹⁹.

- The **European Care Strategy**¹⁰⁰ was presented by the Commission in 2022 "to ensure quality, affordable and accessible care services across the European Union and improve the situation for both care receivers and the people caring for them, professionally or informally"¹⁰¹ by 2030¹⁰². The Strategy recommends member states establish a legal entitlement to ECEC, and that "ideally, there should be no gap between the end of adequately paid family leave and a legal entitlement to a place in early childhood education and care."¹⁰³ The Commission introduced two proposals for Council recommendations as part of the Care Strategy: one addressing long-term care and working conditions in the care sector¹⁰⁴ and another on early childhood education and care, proposing, i.a. to revise the 2022 Barcelona targets and that member states should introduce a legal entitlement¹⁰⁵.
- In December 2022, the **Council Recommendation on the revision of the Barcelona targets**¹⁰⁶ was adopted, as set out in the EU Care and Child Rights Strategies. EU member states should now work towards achieving a 50% participation rate in ECEC for children aged zero to three, and a 96% participation rate for children between three years old and compulsory school age, by 2030¹⁰⁷. Previously, these targets were set at 33% and 90%, respectively¹⁰⁸.

3. National legal and policy frameworks

ECEC is a competence of EU member states and the way it is governed varies accordingly. Typically, the responsibility for the governance of ECEC is split between two ministries, where childcare falls under the Ministry of Social or Family Affairs (in the case of Greece also the Ministry of the Interior¹⁰⁹), and pre-primary education falls under the Ministry of

Education¹¹⁰. The legal ECEC framework decided by these ministries then serves as the basis for regional or local implementation¹¹¹. Municipalities often play a key role in organising and providing ECEC, though the levels of responsibility vary¹¹².

Most national legal frameworks establish a **legal**

99 All national action plans that have been submitted to date (7 June 2023), except the Netherlands' plan, recognise migrant children as a target group of the Child Guarantee. Only Croatia, Czech Republic, Portugal, Slovakia, Spain and Sweden, have either identified undocumented children as a specific category in need or mentioned the barriers to services they face. It should also be noted that Denmark argues that they fulfil the recommendation to provide free early childhood education and care (ECEC) to undocumented children by providing childcare services to one and two-year olds in a return (expulsion) centre. Source: European Commission, n.d., [European Child Guarantee](#) (accessed on 7 June 2023).

100 European Commission, 7 September 2022, [A European Care Strategy for caregivers and care receivers](#) (accessed 27 February 2023).

101 Ibid.

102 European Commission, 2022, [Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the European Care Strategy](#).

103 Ibid, p. 7.

104 European Commission, 2022, [Proposal for a Council Recommendation on access to affordable high-quality long-term care COM\(2022\) 441 \(2022\)](#).

105 European Commission, 2022, [Proposal for a Council Recommendation on the Revision of the Barcelona Targets on early childhood education and care COM/2022/442 final](#).

106 Council of the European Union, 2022, [Council Recommendation on early childhood education and care: the Barcelona targets for 2030 \(14785/22\)](#).

107 European Commission, 7 September 2022, [A European Care Strategy for caregivers and care receivers](#) (accessed 27 February 2023).

108 Ibid.

109 European Commission, 17 June 2022, [Eurydice France – 4. Early childhood education and care](#) (accessed 1 April 2023).

110 Eurocities, 2019, [European Pillar of Social Rights Cities delivering social rights: Early childhood education and child welfare in cities in Europe](#).

111 European Commission/EACEA/Eurydice, 2019. [Key Data on Early Childhood Education and Care in Europe – 2019 Edition. Eurydice Report](#).

112 Eurocities, 2019, [European Pillar of Social Rights Cities delivering social rights: Early childhood education and child welfare in cities in Europe](#).

entitlement to ECEC from a certain age¹¹³, which means that children are entitled, but **not obliged to attend ECEC**. A legal entitlement creates “a statutory duty on ECEC providers to secure publicly subsidised ECEC provision for all children from a certain age living in a catchment area, whose parents, regardless of their employment, socio-economic or family status, request a place for their child.”¹¹⁴

Many legal frameworks make **ECEC attendance compulsory** from a legally defined age. This creates an obligation on the authorities to **guarantee a place** for every child¹¹⁵. Yet in contrast to the legal entitlement, children are legally obliged to attend ECEC. In about half of all European countries that are part of the Eurydice network (whose task is to explain how education systems are organised in Europe and how they work)¹¹⁶, at least one year of **pre-primary education is compulsory**¹¹⁷.

The following paragraphs briefly introduce the Finnish, French, Greek, Portuguese and Dutch legal and policy governing ECEC frameworks. These examples illustrate the diversity of existing ECEC systems within the EU.

Finland

- All children in Finland have a **legal entitlement** to full-time ECEC from 10 months old to six years old¹¹⁸. They can attend ECEC centres or family day care premises¹¹⁹. The law and policy governing ECEC are decided by the Ministry of Education and Culture, yet municipalities are tasked with organising places in line with local demand¹²⁰. Families must pay a fee based on their income to participate¹²¹. These amounts are legally regulated¹²², and low-income families are exempt from paying the fees¹²³ (if they are registered within the tax or social security system¹²⁴).
- Primary school starts at seven years old¹²⁵. As per the Basic Education Act¹²⁶, municipalities are responsible for organising one school year of **compulsory pre-primary education** for all children living in the municipality. Children thus have an obligation to participate in ECEC when they are between six and seven years old¹²⁷. Pre-primary education is taught 20 hours per week (i.e., four hours per day). Complementary childcare is available but not mandatory during the remaining hours of the workday¹²⁸. When children live further than five kilometres away

113 For example, Germany, Sweden and Finland from an early age; Spain, France, the UK, Czech Republic and Belgium from around age three; and Switzerland, Austria and Lithuania from age four to six (in 2018/2019). See Figure B1, p.44 in European Commission/EACEA/Eurydice, 2019, [Key Data on Early Childhood Education and Care in Europe – 2019 Edition. Eurydice Report](#).

114 European Commission/EACEA/Eurydice, 2019, [Key Data on Early Childhood Education and Care in Europe – 2019 Edition. Eurydice Report](#), p.44.

115 European Commission, 2022, [Compulsory education in Europe 2022/2023 Eurydice – Facts and Figures](#).

116 The Eurydice network includes the 27 EU member states as well as Albania, Bosnia and Herzegovina, the Republic of North Macedonia, Iceland, Liechtenstein, Montenegro, Norway, Serbia, Switzerland and Turkey. Source: European Commission, n.d., [Eurydice- National Education Systems](#) (accessed 12 May 2023).

117 For example, Greece, Belgium, Slovakia and Romania. Source: European Commission, 2022, [Compulsory education in Europe 2022/2023 Eurydice – Facts and Figures](#).

118 European Commission, 30 March 2023, [Eurydice Finland – 4. Early childhood education and care](#) (accessed 11 May 2023).

119 Ibid.

120 Ibid.

121 These fees include learning material and meals. Source: European Commission, 30 March 2023, [Eurydice Finland – 4. Early childhood education and care, Access](#) (accessed 11 May 2023).

122 [Act on Client Fees in Early Childhood Education and Care](#) (1503/2016) [Finland]; European Commission, 30 March 2023, [Eurydice Finland – 4. Early childhood education and care, Access](#) (accessed 11 May 2023).

123 European Commission, 30 March 2023, [Eurydice Finland – 4. Early childhood education and care, Access](#) (accessed 11 May 2023).

124 Email exchange on 9 May 2023 with Ulla Siirto, Evangelical Lutheran Church of Finland (Finland).

125 European Commission, 2022, [Compulsory education in Europe 2022/2023 Eurydice – Facts and Figures](#).

126 [Basic Education Act](#) (628/1998) [Finland].

127 Learning materials and daily meals are included in this free provision. Source: European Commission, 30 March 2023, [Eurydice Finland – 4. Early childhood education and care, Access](#) (accessed 11 May 2023).

128 The complementary ECEC services are subject to the same income-based fees system explained above. Source: Ibid.

from their pre-primary school, municipalities must organise free transport for them¹²⁹.

France

- Children under three years old can attend childcare with childminders or in nurseries ("crèche") and 'collective childcare structures' led by non-profit organisations or local authorities¹³⁰. There is **no legal entitlement to childcare and therefore no guarantee of a place** in France¹³¹. Income-based fees apply to centre-based ECEC in nurseries or 'collective structures'. Fees that childminders may charge are not regulated and are negotiated privately¹³². The Ministry of Solidarity and Health regulates ECEC for children in this age category (0-2).
- From three years old until the beginning of primary school at six, children have a **legal obligation to attend 24 hours¹³³ of pre-primary school ("école maternelle")** per week¹³⁴. France and Hungary are the only two EU member states which require children to begin compulsory education at the age of three (in the rest of the EU, full-time compulsory education commonly begins at the age of six)¹³⁵. Pre-primary school is regulated by the Ministry of Education, but the

responsibility to organise free ECEC is shared between municipalities and the local education authorities¹³⁶.

- Two-year-olds "in priority urban, rural and mountain areas, in the overseas départements and regions, disadvantaged social environments"¹³⁷ can also attend pre-primary school ("maternelle") if places are available¹³⁸.

Greece

- Children aged between two months and four years old can attend ECEC in municipal infant care or childcare centres in Greece, which are regulated by the Ministry of Interior¹³⁹. Childcare is also provided by private non-profit and for-profit organisations. The work of these centres is regulated by the Ministry of Labour and Social Affairs¹⁴⁰. Municipalities are responsible for organising and providing childcare on a local level¹⁴¹. There is however **no legal entitlement to it and therefore no guaranteed place for every child**¹⁴². Families need to pay monthly income-based fees¹⁴³, yet those whose earnings remain below a certain threshold are exempt from these fees¹⁴⁴.

129 European Commission, 30 March 2023, [Eurydice Finland – 4. Early childhood education and care, Access](#) (accessed 11 May 2023).

130 European Commission, 17 June 2022, [Eurydice France – 4. Early childhood education and care](#) (accessed 1 April 2023).

131 European Commission, 17 June 2022, [Eurydice France – 4. Early childhood education and care, Access](#) (accessed 1 April 2023).

132 Ibid.

133 Ministère de l'Éducation Nationale et de la Jeunesse, n.d., [Programmes et horaires à l'école maternelle](#) (accessed 15 May 2023).

134 Article L. 131-1 Code de l'éducation ("Education Act") [France]; European Commission, 2022, [Compulsory education in Europe 2022/2023 Eurydice – Facts and Figures](#); Gisti and Romeurope, 2020, [La scolarisation et la formation des jeunes étrangers; Loi n° 2019-791 du 26 juillet 2019 pour une école de la confiance \(1\)](#) ("Law of July 26, 2019 for a school of trust") [France].

135 European Commission, 2022, [Compulsory education in Europe 2022/2023 Eurydice – Facts and Figures](#).

136 European Commission, 17 June 2022, [Eurydice France – 4. Early childhood education and care, Access](#) (accessed 1 April 2023).

137 European Commission, 17 June 2022, [Eurydice France – 4. Early childhood education and care, Organisation of centre-based ECEC](#) (accessed 15 May 2023).

138 Ibid.; Gisti and Romeurope, 2020, [La scolarisation et la formation des jeunes étrangers](#).

139 European Commission, 21 March 2023, [Eurydice Greece – 4. Early childhood education and care](#) (accessed 19 April 2023); Megalonidou, C., 2020, [The quality of early childhood education and care services in Greece](#), ICEP Vol. 14(9).

140 Ibid.

141 [Law 3463/2006](#) [Greece].

142 European Commission, 21 March 2023, [Eurydice Greece – 4. Early childhood education and care, Access](#) (accessed 19 April 2023).

143 Ibid.

144 Megalonidou, C., 2020, The quality of early childhood education and care services in Greece. ICEP Vol. 14(9).

- Children are **legally obliged to attend preschool for two years**¹⁴⁵ (between four and six years old¹⁴⁶ as primary school starts once the child turns six years old)¹⁴⁷. Attendance is compulsory for 25 hours a week. Children can attend an additional 20 optional hours a week for free as well¹⁴⁸. The Ministry of Education and Religious Affairs establishes the legal and policy framework around pre-primary education. Regional authorities must however make free transport to ECEC available for all children living further than one kilometre away from their preschool¹⁴⁹.
- Children between two and a half and four years old **can also participate in complementary early (pre-primary) education classes** ("vooren vroegschoolse educatie"). This subsidised measure is meant to "prevent or reduce educational disadvantages"¹⁵⁶. Children must be referred to this service, which is the responsibility of the municipality¹⁵⁷. Municipalities are obliged to ensure that early education of around 16 hours per week is provided in a "sufficient"¹⁵⁸ number of childcare centres. Parents pay an income-based fee for this service if they are not eligible for benefits¹⁵⁹.
- Both childcare and early childhood education are under the auspices of the Ministry of Social Affairs and Employment and the Ministry of Education, Culture and Science¹⁶⁰.
- Children older than four have a **legal entitlement to go to primary school**, and primary school is **compulsory** from the age of five¹⁶¹. Children can still participate in the aforementioned early education classes during primary school hours if they are referred to it by the school. In this case, this service is free of charge. The Ministry of Education, Culture and Science decides the legal framework for early and primary education¹⁶².

Netherlands

- Children from six weeks old can access childcare in the Netherlands. These services are provided by day care¹⁵⁰ or out-of-school care centres¹⁵¹ and childminders¹⁵². Childcare is **not compulsory and there is no legal entitlement to it**¹⁵³. Parents pay an hourly fee, with a maximum fixed rate per ECEC service¹⁵⁴. Most parents are entitled to benefits to pay for childcare. The amount of these benefits will vary based on their income and the type of childcare their child is registered in¹⁵⁵.

145 "From the 2020-2021 school year, in accordance with the provisions of paragraph 4 of article 3 of Law 1566/1985 (Government Gazette 167A), as replaced by article 34 of Law 4704/2020 (A'133), the attendance of infants who turn four (4) years of age has become mandatory in all municipalities of the country." Source: GOV.gr, n.d., [Frequently Asked Questions](#) (accessed 15 May 2023), unofficial translation with Google Translate.

146 European Commission, 21 March 2023, [Eurydice Greece – 4. Early childhood education and care, Access](#) (accessed 19 April 2023).

147 Please note that it is possible that the implementation of this 2018 law has been delayed due to the COVID-19 pandemic. Due to insufficient places in preschools, this may mean that compulsory education still *de facto* begins at five years old in some municipalities. Source: Email correspondence with Valbona Hystuna, Child protection expert (Greece) on 11 May 2023.

148 European Commission, 21 March 2023, [Eurydice Greece – 4. Early childhood education and care, Access](#) (accessed 19 April 2023).

149 According to [Joint ministerial decision 50025/19-09-2018](#) [Greece].

150 For children between six weeks and four years old. Source: European Commission, 21 February 2023, [Eurydice Netherlands – 4. Early childhood education and care](#) (accessed 16 May 2023).

151 For children from four to 12 years old. Source: Ibid.

152 For children up to 12 years old. Source: Ibid.

153 European Commission, 21 February 2023, [Eurydice Netherlands – 4. Early childhood education and care, Access](#) (accessed 16 May 2023).

154 Ibid.

155 Ibid.; Ministerie van Financiën, n.d., [Kan ik kinderopvangtoeslag krijgen?](#) (accessed 16 May 2023).

156 European Commission, 21 February 2023, [Eurydice Netherlands – 4. Early childhood education and care, Access](#) (accessed 16 May 2023).

157 Ibid.

158 Ibid.

159 The fees vary per municipality. This amount is not regulated at the national level. Source: European Commission, 21 February 2023, [Eurydice Netherlands – 4. Early childhood education and care, Access](#) (accessed 16 May 2023).

160 European Commission, 21 February 2023, [Eurydice Netherlands – 4. Early childhood education and care](#) (accessed 16 May 2023).

161 Ibid.

162 European Commission, 19 April 2023, [Eurydice Netherlands – Overview](#) (accessed 16 May 2023).

Portugal

- Children in Portugal can go to childcare until they are three years old. Services are provided in nurseries ("crèches" and "family crèches") or by childminders¹⁶³. They are mainly run by private non-profit, and to a lesser extent, for-profit organisations¹⁶⁴. There is **no legal entitlement to childcare** at this age, and therefore **no guaranteed place in an ECEC centre**. For all children born after September 2021, childcare is free if it is provided by childminders or non-profit nurseries¹⁶⁵. Childcare is regulated by the Ministry of Labour, Solidarity and Social Security.
- Free pre-primary education begins at three years old¹⁶⁶. However, children only have a **legal entitlement to attend preschool** from four years old. This covers the two final years before primary school begins at the age of six¹⁶⁷. Pre-primary school is either organised by public schools (that also provide basic and secondary education) or private for or non-profit schools¹⁶⁸. Preschool is taught for 25 hours a week. Fees for complementary hours of preschool are calculated based on a family's income¹⁶⁹. The Ministry of Education is responsible for "ensuring teaching quality within the ECEC network for pre-primary education."¹⁷⁰

163 European Commission, 29 March 2023, [Eurydice – Portugal, Early childhood education and care](#) (accessed 16 May 2023).

164 Ibid.; European Commission, 29 March 2023, [Eurydice Portugal - 4. Early Childhood education and care, Access](#) (accessed 1 April 2023).

165 Or for-profits, if no places are available at non-profit nurseries in the municipality. Sources: [Legislative Order No 6/2018, 12 April](#); [Legislative Order No 10-B/2021, 14 April](#) [Portugal].

166 European Commission, 29 March 2023, [Eurydice – Portugal, Early childhood education and care](#) (accessed 16 May 2023).

167 A legal entitlement to ECEC thus begins at three or four years old, depending on what time of the year a child is born. Source: [Order No. 65/2015](#) [Portugal]; European Commission, 29 March 2023, [Eurydice Portugal - 4. Early Childhood education and care, Access](#) (accessed 1 April 2023).

168 Ibid.

169 European Commission, 29 March 2023, [Eurydice Portugal – 4. Early Childhood education and care, Access](#) (accessed 1 April 2023).

170 European Commission, 29 March 2023, [Eurydice – Portugal, Early childhood education and care](#) (accessed 16 May 2023).

The levels of participation of children in early childhood education and care

Childcare is conceptualised and approached differently in different European countries and cultures, as indicated by data from the following five countries under review, based on EU-SILC data. Note that it is unlikely that undocumented children are tallied in the below data.

Zero-to-two-year-olds

The five countries under review show a diverse approach to childcare before the age of three. As *Table 1* below shows, The Netherlands is the only country where more than half of zero-to-three-year-olds attend formal childcare¹⁷¹. Only a minority of children in Greece (15.8%), Finland (8.1%) or France (20.2%) attend formal childcare, and virtually no children in Portugal do (1%). A similar trend is visible for children in 'other types of childcare' (care by a professional minder or family member in a home setting, *Table 2*): this seems common in The Netherlands, but far less so in the four other countries. 18.9% of children in Portugal receive this type of care. It is much more common for parents to be the sole caretaker of their children in the early years in Finland (55.3%), France (35.7%) and Greece (34.6%) (see *Table 3*).

Table 1: The five countries under review reported that the following proportion of children between zero and three years old were in formal childcare or education:¹⁷²

Country	2019	2020	2021
Greece	18.4%	11.1%	15.8%
France	17.2%	20.7%	20.2%
Netherlands	58.2%	57.9%	66.3%
Portugal	2.6%	1.9%	1%
Finland	10.6%	9.5%	8.1%

Table 2: Proportion of children in 'other types of childcare', namely either childcare by a professional childminder at the child's home or child-minders' home or childcare by grand-parents, other household members (outside parents), other relatives, friends or neighbours¹⁷³ in the five countries under review:¹⁷⁴

Country	2019	2020	2021
Greece	20.2%	18.9%	22.4%
France	16.3%	7.9%	8.9%
Netherlands	38.4%	36%	42.3%
Portugal	16.2%	17.2%	18.9%
Finland	0.9%	0.4%	1.5%

171 Formal childcare refers to the four EU-SILC survey variables: 1. Education at preschool or equivalent, 2. Education at compulsory education, 3. Childcare at centre-based services outside school hours, 4. Childcare at day care centre organised/ controlled by a by public or private structure.

172 Source: Eurostat, [Children in formal childcare or education by age group and duration - % over the population of each age group - EU-SILC survey \(online data code: ILC_CAINDFORMAL\)](#) (accessed 22 May 2023).

173 See definition at: Eurostat, n.d., [Childcare arrangements \(ilc_ca\)](#), Reference Metadata in Euro SDMX Metadata Structure (ESMS), Compiling agency: Eurostat, the statistical office of the European Union (accessed 22 May 2023).

174 Source: Eurostat, [Other types of childcare by age group and duration - % over the population of each age group - EU-SILC survey \(online data code: ILC_CAINDOTHER\)](#) (accessed 22 May 2023).

Table 3: Proportion of children cared for only by their parents.¹⁷⁵

Country	2019	2020	2021
Greece	40.9%	47.9%	34.6%
France	36.4%	36.2%	35.7%
Netherlands	21.2%	21.9%	13.8%
Portugal	22.6%	21.9%	21.7%
Finland	58.4%	59.1%	55.3%

Between three and the start of compulsory education at primary level

Except for Greece, the countries under review all reached the previous Barcelona target of 90% of three- to six-year-olds in formal pre-primary education or care. Except for France, none have reached the new target of 96% yet. This means that the vast majority of the children in these countries access ECEC and that the countries have a well-established system of providing these services to children in this age group.

Table 4: The five countries under review report the following proportion of children in pre-primary education, aged between three years old and the start of compulsory education at primary level.¹⁷⁶

Country	2019	2020	2021
Greece	68.8%	71.3%	NA
France*	100%	100%	100%
Netherlands	90.5%	90.2%	93%
Portugal	92.2%	92.9%	90.5%
Finland	88.8%	90.9%	90.6%

* Compulsory education starts at three years old in France.

¹⁷⁵ Source: Eurostat, [Children cared only by their parents by age group - % over the population of each age group - EU-SILC survey](#) (online data code: ILC_CAPARENTS) (accessed 22 May 2023).

¹⁷⁶ Eurostat, [Pupils from age 3 to the starting age of compulsory education at primary level by NUTS2 regions - % of the population of the corresponding age](#) (online data code: EDUC_UOE_ENRA22) (accessed 22 May 2023).

Obstacles to undocumented children's access to ECEC

Despite international obligations and commitments in EU policies, undocumented children and their

parents face a multitude of legal and practical barriers to accessing good quality ECEC.

1. Legal obstacles

Lack of a legal entitlement

In the absence of a legal entitlement to – and/or compulsory provision of – ECEC, no child is guaranteed a place in affordable and quality ECEC. This constitutes a barrier to access for undocumented children in particular, as their ability to partake in ECEC will largely depend on local practices of municipalities and ECEC centres. This not only leads to discrepancies between cities and towns but also makes discriminatory refusals of registration more likely¹⁷⁷.

Implicit legal inclusion

Where there is a legal entitlement to ECEC or obligation to attend, the law often simply refers to "all children". Although this formulation implicitly includes undocumented children, it can cause confusion and "result in undocumented children facing limitations within the education system."¹⁷⁸ It can also "contribute to a lack of awareness among educational staff and undocumented families on children's right to education."¹⁷⁹

In Finland, for instance, undocumented children are neither clearly legally included nor explicitly excluded from the legal entitlement to ECEC¹⁸⁰. This creates a legal grey zone¹⁸¹ and means that undocumented children's ability to access ECEC varies from municipality to municipality.

177 PICUM, 2015, [Protecting undocumented children: Promising policies and practices from governments](#).

178 Ibid., p. 10.

179 Ibid., p. 10.

180 Nihtilä, H., 2017, [Ensisijaisesti lapsia : Paperittomien alaikäisten perusoikeudet Suomessa](#) (abstract): Helsingin yliopisto.

181 Interview with Petri Paju, The Central Union for Child Welfare (Finland), 4 April 2023.

2. Practical obstacles

Place shortages

There are currently place shortages for children under three years old for ECEC in about half of the European countries that are part of the Eurydice network¹⁸². The unequal geographic distribution of ECEC existing places and consequent “lack of affordable places in areas with a higher concentration of vulnerable families tends to exacerbate inequalities in ECEC access.”¹⁸³ Moreover, across the EU, “poorer areas have fewer available ECEC places of high quality.”¹⁸⁴

Although place shortages do not exclusively affect undocumented children, they are especially exclusionary for all families at risk of living in poverty. For them, resorting to private childcare providers is prohibitively expensive given their income level¹⁸⁵. These families also tend to be less mobile, and thus unable to travel to ECEC services located further away¹⁸⁶.

Existing shortages can be used to further exclude undocumented families seeking childcare. Alleged place shortages have been used as a pretext to refuse children of undocumented parents and exclude them from ECEC in France, for example¹⁸⁷.

Registration and documentation

As in later school life, parents and caregivers are usually asked to present documents when registering their child for ECEC services, such as an ID or passport¹⁸⁸, proof of residency in the municipality¹⁸⁹, residence documents¹⁹⁰, proof of employment¹⁹¹ or a national registration number¹⁹². Undocumented families may be unable to provide these due to their residence status.

In some countries, these documents are required by law. This is the case in the Netherlands, where the ‘Citizen Service Number’ (“*Burgerservicenummer*”), which undocumented people cannot receive¹⁹³, of both the child and the parents are asked upon registration. The number is used by the government tax services to keep track of the number of hours of childcare a family has made use of and allocate childcare benefits accordingly¹⁹⁴.

In other cases, documents may be asked for in practice. That is the case for Greece, where the law stipulates that “by way of exception, children of third-country nationals may enrol in public schools with insufficient documentation when (...) legal residence

182 European Commission/EACEA/Eurydice, 2019, [Key Data on Early Childhood Education and Care in Europe – 2019 Edition. Eurydice Report](#), Figure B7, p.64.

183 Eurocities, 2019, [European Pillar of Social Rights Cities delivering social rights: Early childhood education and child welfare in cities in Europe](#), p.9.

184 European Commission, Directorate-General for Employment, Social Affairs and Inclusion, Guio, A., Marlier, E., Frazer, H., 2020, [Feasibility study for a child guarantee : final report](#), eds. Guio, A., Marlier, E., Frazer, H., p. 134.

185 Interview with Mafalda Lourenço, FNSBS (Portugal), 29 March 2023.

186 Vandenbroeck, M. and Lazzari, A., 2014, [Accessibility of early childhood education and care: a state of affairs](#), European Early Childhood Education Research Journal, Vol 22 (3), pp. 327-335.

187 Gisti and Romeurope, 2020, [La scolarisation et la formation des jeunes étrangers](#).

188 Including in Finland and Greece to register for preschool. Sources: Interview with Valbona Hystuna, Child protection expert (Greece), 4 April 2023; Nihtilä, H., 2017, [Ensisijaisesti lapsia : Paperittomien alaikäisten perusoikeudet Suomessa](#) (abstract): Helsingin yliopisto).

189 Including in Finland, where having a “municipality of residence in Finland” is necessary to access public ECEC. Source: Infonline.fi, 23 December 2022, [Early childhood education](#) (accessed 18 April 2023). In France, this is recurrently illegally requested by municipal offices. Source: Gisti and Romeurope, 2020, [La scolarisation et la formation des jeunes étrangers](#).

190 Including in Greece to register for preschool (in practice). Sources: Interview with Valbona Hystuna, Child protection expert (Greece), 4 April 2023; UNHCR, October 2022, [Access to Education in Greece](#).

191 Including in Greece to access a ‘priority’ place in childcare, necessary due to place shortages. Sources: European Commission, 21 March 2023, [Eurydice Greece – 4. Early childhood education and care](#) (accessed 19 April 2023); Interview with Valbona Hystuna, Child protection expert (Greece), 4 April 2023.

192 In the Netherlands. Sources: Government of the Netherlands, n.d., [Citizen service number](#) (BSN) (accessed 19 April 2023); Ouders.nl, 27 March 2012, [Crèche mag burgerservicenummer vragen](#) (accessed 16 May 2023); Partou, n.d., [BSN](#) (accessed 16 May 2023).

193 rtl nieuws, Kemper, A., 7 October 2022, [Ongedocumenteerde migranten in Nederland: ‘Je kunt je dromen niet waarmaken’](#) (accessed 30 May 2023).

194 Government of the Netherlands, n.d., [Citizen service number \(BSN\)](#) (accessed 19 April 2023); Ouders.nl, 27 March 2012, [Crèche mag burgerservicenummer vragen](#) (accessed 16 May 2023).

therein has not been regulated."¹⁹⁵ However, reports suggest this exception is not implemented in practice when registering for preschool¹⁹⁶.

In France, some municipalities have obstructed children of undocumented parents' access to mandatory preschool school¹⁹⁷ by demanding unrequired documents¹⁹⁸ or by dragging out registration procedures¹⁹⁹.

More generally, administrative procedures that are difficult or impossible to navigate – due to language barriers, the necessity of an internet connection and digital login for access or follow-up²⁰⁰ or unaccommodating staff – may also create bureaucratic barriers for undocumented parents who seek to register their children in ECEC²⁰¹.

Insecure housing

Undocumented children and their families are more at risk of experiencing varying forms of homelessness (e.g., living in inadequate²⁰² or insecure housing²⁰³ or being temporarily housed in shelters or institutions²⁰⁴)²⁰⁵.

The frequent voluntary or forced relocations, including through evictions, that often go hand in hand with these living conditions²⁰⁶ pose another obstacle to undocumented children's participation in both childcare and (early) education²⁰⁷.

Sending a child to ECEC is not likely to be a parent's priority when they are struggling to keep a roof over their family's head. These housing conditions also interrupt children's attendance of ECEC. When families move, children may have to travel further to ECEC centres. The distance and/or price of public transportation becomes a barrier to participation, especially when families move to remote places²⁰⁸. Alternatively, children may have to register in a different day care centre or preschool. Yet as reports about switching preschools from France and Greece suggest, the numerous administrative steps to do so

195 Law No. 3386/2005, [Codification of Legislation on the Entry, Residence and Social Integration of Third Country Nationals on Greek Territory](#) June 2005 [Greece], Article 72(3).

196 UNHCR, October 2022, [Access to Education in Greece](#).

197 Preschool is called "école maternelle" and is compulsory from three years of age. Source: European Commission, 17 June 2022, [Eurydice France – 4. Early childhood education and care](#) (accessed 1 April 2023).

198 The documents that may be required to register a child in education are described, and may furthermore be replaced by sworn statements in case of unavailability, as per [Décret n° 2020-811 du 29 juin 2020 précisant les pièces pouvant être demandées à l'appui d'une demande d'inscription sur la liste prévue à l'article L. 131-6 du code de l'éducation](#) ("Decree n°2020-811"), amending article L. 131-6 of the code de l'éducation ("Education Code") [France].

199 Gisti and Romeurope, 2020, [La scolarisation et la formation des jeunes étrangers](#); Interview with Jean-François Martini, Gisti (France), 29 March 2023.

200 This was reported to be the case in Finland. Source: Interview with Petri Paju, The Central Union for Child Welfare (Finland), 4 April 2023.

201 This was notably reported to be the case in Portugal. Source: Interview with Mafalda Lourenço, FNSBS (Portugal), 29 March 2023.

202 *Inadequate housing* is defined as living "in caravans on illegal campsites, in unfit housing, in extreme overcrowding" by FEANTSA, n.d., [ETHOS – European Typology on Homelessness and Housing Exclusion](#) (accessed 19 April 2023).

203 *Insecure housing* is defined as living in a situation where one is "threatened with severe exclusion due to insecure tenancies, eviction, domestic violence" by FEANTSA, n.d., [ETHOS – European Typology on Homelessness and Housing Exclusion](#) (accessed 19 April 2023).

204 i.e. being "houseless", as defined by FEANTSA, n.d., [ETHOS – European Typology on Homelessness and Housing Exclusion](#) (accessed 19 April 2023).

205 Jauhainen, J.S., Tedeschi, M., 2021, [Undocumented Migrants' Everyday Lives in Finland](#). In: *Undocumented Migrants and their Everyday Lives*. IMISCOE Research Series. Springer; PICUM, 2021, [Navigating Irregularity: The Impact of Growing up Undocumented in Europe](#);

206 PICUM, 2021, [Navigating Irregularity: The Impact of Growing up Undocumented in Europe](#).

207 Migration Policy Institute, 2018, [Responding to the ECEC Needs of Children of Refugees and Asylum Seekers in Europe and North America](#); UNICEF, 2017, [La scolarisation des enfants des bidonvilles au sein du réseau «Ville amie des enfants» Décembre 2017 — Résultats de l'enquête «École and bidonvilles»](#).

208 UNICEF, 2017, [La scolarisation des enfants des bidonvilles au sein du réseau «Ville amie des enfants» Décembre 2017 — Résultats de l'enquête «École and bidonvilles»](#); Interview with Petri Paju, The Central Union for Child Welfare (Finland), 4 April 2023.

pose obstacles in and of themselves²⁰⁹. Moreover, fearing their living situation is temporary, parents may be dissuaded from sending their children to ECEC in the first place.

Due to the unavailability of affordable and adequate housing and to avoid abuse by ill-intentioned property owners, squatting is an option that some undocumented families fall back on. In France, several municipalities have denied children access to education because families have squatted land or buildings within the municipality²¹⁰. Multiple courts have condemned this discriminatory practice, and its unlawfulness is explicitly mentioned in France's Education Code²¹¹.

Fees and lack of financial support

ECEC for children under three is usually not free²¹², with fees calculated based on income²¹³ and often decided at the local level²¹⁴. To make ECEC more accessible, most EU governments have developed policies to alleviate the financial burden on low-income families²¹⁵. This includes income-dependent fee structures²¹⁶, means-tested childcare benefits²¹⁷ and "special support to low-income families eligible

to other social benefits or with income levels below certain thresholds."²¹⁸

As undocumented families are usually not registered in the tax or social security systems²¹⁹, their income level is not recognised. Therefore, they cannot benefit from these fee reductions in income-based fee systems, or financial childcare support to pay for fees. Without a tax-declared income, undocumented parents must usually pay the full fees to access childcare in the Netherlands, for instance²²⁰.

Proving a low income by other means than employment documents or tax statements may require parents "to pay a symbolic price, such as being labelled or giving up part of their privacy, in order to show that they are entitled to the targeted provision (e.g., by proving they are 'in need')."²²¹

At the same time, undocumented families are ineligible for childcare benefits as only regularly residing migrants can access social services²²². ECEC fees thus continue to constitute a barrier for many undocumented families at risk of living in poverty²²³, even when measures to alleviate costs are in place.

209 Interview with Jean-François Martini, Gisti (France), 29 March 2023; Interview with Valbona Hystuna, Child protection expert (Greece), 4 April 2023.

210 Gisti and Romeurope, 2020, [La scolarisation et la formation des jeunes étrangers](#); Interview with Jean-François Martini, Gisti (France), 29 March 2023.

211 Article L. 131-5 of the [Code de l'éducation](#) ("Education Code") [France].

212 European Commission/EACEA/Eurydice, 2019, [Key Data on Early Childhood Education and Care in Europe – 2019 Edition, Eurydice Report](#).

213 OECD, 2020, [Is Childcare Affordable?](#), Policy Brief on Employment, Labour and Social Affairs.

214 European Commission/EACEA/Eurydice, 2019, [Key Data on Early Childhood Education and Care in Europe – 2019 Edition, Eurydice Report](#).

215 OECD, 2022, [Net childcare costs in EU countries, 2021](#); Vandenbroeck, M. and Lazzari, A., 2014, [Accessibility of early childhood education and care: a state of affairs](#), European Early Childhood Education Research Journal, Vol 22 (3), pp. 327-335.

216 OECD, 2022, [Net childcare costs in EU countries, 2021](#), p.14. In 2021, this included Belgium, Denmark, Finland, France, Greece, Hungary, Italy, Luxembourg, Portugal, Slovenia and Sweden.

217 Ibid.: In 2021, this was the case in the Netherlands, Italy and Ireland.

218 Ibid.: In 2021, this was the case in Estonia, Latvia and Lithuania.

219 e.g., in Finland. Source: Interview with Ulla Siirto, Evangelical Lutheran Church of Finland (Finland), 29 March 2023.

220 Interview on 3 April and email exchange on 16 May 2023 with Rian Ederveen, Stichting Los (Netherlands).

221 Vandenbroeck, M. and Lazzari, A., 2014, [Accessibility of early childhood education and care: a state of affairs](#), European Early Childhood Education Research Journal, Vol 22 (3), pp. 327-335, p. 331.

222 [Wet van 26 maart 1998 tot wijziging van de Vreemdelingenwet en enige andere wetten teneinde de aanspraak van vreemdelingen jegens bestuursorganen op verstrekkingen, voorzieningen, uitkeringen, ontheffingen en vergunningen te koppelen aan het rechtmatig verblijf van de vreemdeling in Nederland](#) ("Law of 26 March 1998 amending the Aliens Act and certain other acts to link the entitlement of foreign nationals to benefits in kind, provisions, benefits, exemptions and permits vis-à-vis administrative bodies to the foreign national's lawful residence in the Netherlands") [Netherlands]; Verblifblog, 25 September 2020, [Wat voor financiële problemen ondervinden legale en Nederlandse partners in gemengdestatusgezinnen?](#) (accessed 16 May 2023).

223 European Commission, Directorate-General for Employment, Social Affairs and Inclusion, Guio, A., Marlier, E., Frazer, H., 2020, [Feasibility study for a child guarantee : final report](#), eds. Guio, A., Marlier, E., Frazer, H.

Lack of information and language barriers

Research shows that speaking the local language and having social capital impact migrant parents' knowledge of their rights to childcare²²⁴. Yet undocumented people are less likely to have social networks that can relay them information about the national ECEC system. They may not speak the majority language well due to their social exclusion. As a result, they may have limited knowledge of or access to information about their children's ECEC rights, service options and enrolment procedures²²⁵. For that reason, the lack of public information on ECEC that is available in non-majority languages and accessible to parents who may not have an internet connection or know the national education and childcare systems well constitutes another barrier to undocumented families' access to ECEC²²⁶.

Intervention from third parties is often necessary to create online access to, translate, or facilitate the understanding of publicly available information²²⁷. In Portugal, even if municipal information services are available, many undocumented families are unaware of their existence²²⁸. In Greece, getting a hold of accurate information about undocumented families' ECEC rights has been challenging even for NGO staff supporting undocumented people²²⁹.

In addition, in the absence of clear and accessible information on the rules and procedures around ECEC, undocumented families are not empowered to

contest a possible denial of these rights²³⁰.

Language barriers may also make it difficult for parents to navigate administrative enrolment processes²³¹, or hinder communication between ECEC staff and parents²³². They can therefore pose another obstacle to undocumented children's participation in ECEC.

Experiences of discrimination and racism

Language barriers can be compounded by experiences of racism and discrimination. Undocumented parents may encounter these when seeking information on ECEC, registering their children, or once their children are enrolled.

A child protection expert²³³ in Greece reported that she had needed to mediate between parents and a school when parents experienced racist behaviour at the hand of school staff and refused to send their children back to the institutions where they had received such treatment²³⁴.

224 Seibel, V., 2021, [What Do Migrants Know About Their Childcare Rights? A First Exploration in West Germany](#). Journal of International Migration and Integration, Vol. 22, pp. 1181 - 1202.

225 The First 1,000 Days, 17 March 2021, [In Greece, migrant children have the right to go to school](#); Vandenbroeck, M. and Lazzari, A., 2014, [Accessibility of early childhood education and care: a state of affairs](#), European Early Childhood Education Research Journal, Vol 22 (3), pp. 327-335.

226 Reported in Finland, France, Greece, the Netherlands and Portugal. Sources: Nihtilä, H., 2017, [Ensisijaisesti lapsia : Paperittomien alaikäisten perusoikeudet Suomessa](#) (abstract): Helsingin yliopisto); Interview with Petri Paju, The Central Union for Child Welfare (Finland), 4 April 2023; Interview with Ulla Siirto, Evangelical Lutheran Church of Finland (Finland), 29 March 2023; Interview with Jean-François Martini, Gisti (France), 29 March 2023; Interview with Valbona Hystuna, Child protection expert (Greece), 4 April 2023; Interview with Rian Ederveen, Stichting Los (Netherlands), 3 April 2023; Interview with Mafalda Lourenço, FNSBS (Portugal), 29 March 2023.

227 Interview with Petri Paju, The Central Union for Child Welfare (Finland), 4 April 2023; Interview with Valbona Hystuna, Child protection expert (Greece), 4 April 2023.

228 Interview with Mafalda Lourenço, FNSBS (Portugal), 29 March 2023.

229 Interview with Valbona Hystuna, Child protection expert (Greece), 4 April 2023.

230 Gisti and Romeurope, 2020, [La scolarisation et la formation des jeunes étrangers](#).

231 Vandenbroeck, M. and Lazzari, A., 2014, [Accessibility of early childhood education and care: a state of affairs](#), European Early Childhood Education Research Journal, Vol 22 (3), pp. 327-335.

232 European Commission, Directorate-General for Employment, Social Affairs and Inclusion, Guio, A., Marlier, E., Frazer, H., 2020, [Feasibility study for a child guarantee : final report](#), eds. Guio, A., Marlier, E., Frazer, H.. Also reported during: Interview with Mafalda Lourenço, FNSBS (Portugal), 29 March 2023; Interview with Petri Paju, The Central Union for Child Welfare (Finland), 4 April 2023 and Interview with Valbona Hystuna, Child protection expert (Greece), 4 April 2023.

233 Interview with Valbona Hystuna, Child protection expert (Greece), 4 April 2023.

234 Interview with Valbona Hystuna, Child protection expert (Greece), 4 April 2023.

Fear of authorities and becoming visible

When childcare facilities or preschools (must) report the (irregular) residence status of undocumented children to public authorities, this will prevent parents from enrolling their children in ECEC²³⁵. Such practices seem to have become rare in European education thanks to 'firewalls'²³⁶. Undocumented parents' potential distrust of public authorities and fear of revealing their residence status when registering their children in ECEC nonetheless remains an important obstacle to participation in ECEC²³⁷.

For instance, a national registry holds the data of all children registered in preschools in Portugal. Many undocumented parents do not know that this database is not shared with immigration authorities, however²³⁸.

235 PICUM, 2015, [Protecting undocumented children: Promising policies and practices from governments](#); PICUM, 2021, [Navigating Irregularity: The Impact of Growing up Undocumented in Europe](#).

236 In this context a 'firewall' refers to the "legal prohibition of the sharing of personal information between educational institutions and immigration authorities, and of immigration enforcement actions near schools or targeting families on their way to and from schools." Source: PICUM, 2015, [Protecting undocumented children: Promising policies and practices from governments](#), p.12.

237 A parallel can be drawn with Roma families, for whom distrust towards authorities and public services is as a key obstacle to participation in ECEC. Source: OECD ODIHR, 2010, [Mapping of Participation of Roma and Sinti Children in Early Education Processes within the OSCE Region](#).

238 Interview with Mafalda Lourenço, FNSBS (Portugal), 29 March 2023.

Promising practices

A number of government, municipal and civil society initiatives actively facilitate undocumented and other marginalised children's access to early childhood education and care. While noteworthy, these

examples are not holistic solutions to the systemic exclusion of undocumented children from ECEC but rather address one or more key obstacles.

1. By national governments

Portugal: Reform making childcare free for all children

In July 2022, the Portuguese government passed an order that made childcare provisions at crèches until three years old free, alongside preschool which was already free of charge²³⁹. Free childcare includes "food, hygiene, educational, recreational and motor skills activities, registration, insurance and after-hours care."²⁴⁰

The reform is introduced gradually: all children born after 1 September 2021 (including those who are undocumented) benefit from free childcare²⁴¹. That means that in September 2023, children up to two years old will have access to free childcare²⁴². By September 2024, all children who will be of the age to attend childcare in Portugal will be affected.

Although low-income families were already exempt

from paying an income-based childcare fee, this reform removes all bureaucratic hurdles that families needed to jump to prove their income. For undocumented parents who cannot provide proof of (low) income, this reform makes an important improvement: making crèches free and more accessible to their children²⁴³.

France: Making ECEC compulsory from age three and specifying required documents for enrolment

In 2019, France made pre-primary education ("école maternelle") compulsory from the age of three onwards²⁴⁴. This means a fundamental right to education is established from this age for all children²⁴⁵, irrespective of their nationality or residence status²⁴⁶. France and Hungary are the only two EU member states where compulsory education

239 [Portaria n.º 198/2022, de 27 de julho](#) ("Government Order 198/2022, of 27 July"), Diário da República n.º 144/2022, Series I of 2022-07-27, pp. 10 – 14 [Portugal].

240 European Commission, 29 March 2023, [Eurydice Portugal - 4. Early Childhood education and care, Access](#), p.1. (accessed 1 April 2023).

241 [Portaria n.º 198/2022, de 27 de julho](#) ("Government Order 198/2022, of 27 July"), Diário da República n.º 144/2022, Series I of 2022-07-27, pp. 10 – 14 [Portugal].

242 The Portugal News, 1 September 2022, [Free childcare starts today](#) (accessed 25 April 2023); Silva, L., Portugal.com, 15 April 2022, [Free childcare for kids up to 1 years old in Portugal](#) (accessed 25 April 2023).

243 Interview with Mafalda Lourenço, FNSBS (Portugal), 29 March 2023.

244 [LOI n° 2019-791 du 26 juillet 2019 pour une école de la confiance \(1\)](#) ("Law n2019-791 of the 26 July 2019") [France].

245 Gisti and Romeurope, 2020, [La scolarisation et la formation des jeunes étrangers](#); Interview with Jean-François Martini, GFranceFrance), 29 March 2023.

246 [Circulaire n° 2014-088 du 9-7-2014: Règlement type départemental des écoles maternelles et élémentaires publiques](#), ("Standard Departmental Regulations for Public Kindergartens and Elementary Schools"), applying Article L. 111-1 of the code de l'éducation ("Education Code") [France]. Note that all children in France have a regular residence status according to the law.

starts this early²⁴⁷.

A 2020 governmental decree defined exactly what documents can be asked for when registering a child in (pre)school. It states that proof of a child and their guardian's identities and place of residence may be required. However, when these documents cannot be provided, these details may be proven by a declaration of honour²⁴⁸.

Taken together, these two national reforms have given children and their undocumented parents²⁴⁹, the lawyers and NGOs defending their rights strong legal tools to defend children's right to attend pre-primary education. Prior to these reforms, a form of discrimination had to be legally demonstrated to contest a denial of access. Since then, only the denial itself must be demonstrated, and the inability to supply one's residence or identification documents can no longer substantiate such a denial²⁵⁰.

However, denials of access in some municipalities are implicit, meaning families are not notified at all, or they are notified orally, without an official letter stating the reason for refusal²⁵¹. Nonetheless, these legal reforms have significantly improved undocumented families' access to ECEC from the age of three²⁵².

Finland: Law funding municipalities' ECEC provision for undocumented children

In Finland, municipalities organise ECEC. Municipalities are reimbursed by the state for organising these services in function of the number of children enrolled. They must provide an ECEC place for every child above 10 months old (the end of parental leave) in their municipality²⁵³.

In this system, a child's right to ECEC is tied to their 'municipality of residence' (the municipality where they are registered)²⁵⁴. Children without a 'municipality of residence'²⁵⁵ (including undocumented children, children seeking asylum, children applying for international protection and children with temporary protection status²⁵⁶) are therefore excluded from the legal entitlement to ECEC. If undocumented children do attend, municipalities are not reimbursed by the state for organising ECEC. This disincentivises municipalities from providing ECEC services for children without a 'municipality of residence'²⁵⁷.

However, a new law which came into force on 1 January 2023 has made it possible for the state to reimburse municipalities for organising ECEC for children in these situations²⁵⁸ (in accordance with the national budget). "Children without the right of residence"²⁵⁹ are explicitly mentioned within the

247 European Commission, 2022, [Compulsory education in Europe 2022/2023 Eurydice – Facts and Figures](#).

248 [Décret n° 2020-811 du 29 juin 2020 précisant les pièces pouvant être d'mandées à l'appui d'une demande d'inscription sur la liste prévue à l'article L. 131-6 du code de l'éducation](#) ("Decree no. 2020-811 of 29 June 2020 specifying the documents that may be requested in support of an application for inclusion on the list provided for in article L. 131-6 of the Education Code") [France].

249 French law does not demand children meet residence requirements, and therefore France does not have undocumented children as such. However, parents can be undocumented, and the child becomes undocumented at 18. See PICUM, 2021, [Navigating Irregularity: The Impact of Growing up Undocumented in Europe](#); PICUM, 2018, [Manual on regularisation for children, young people and families](#)

250 Interview with Jean-François Martini, Gisti (France), 29 March 2023.

251 Gisti and Romeurope, 2020, [La scolarisation et la formation des jeunes étrangers](#).

252 Interview with Jean-François Martini, Gisti (France), 29 March 2023.

253 First Years First Priorities, Central Union for Child Welfare, 2021, [Early Childhood Development in Finland: Country Profile 2021](#).

254 InfoFinland.fi, 23 December 2022, [Early childhood education](#) (accessed 27 April 2023).

255 A 'municipality of residence' creates the entitlement to services organised by your municipality, which may include health care, education and early childhood education and care. Source: InfoFinland.fi, 7 February 2023, [Municipality of residence in Finland](#) (accessed 30 May 2023).

256 People who have obtained temporary protection status in Finland obtain the right to a 'municipality of residence' once they have lived in the country for one year. Source: InfoFinland.fi, 7 February 2023, [Municipality of residence in Finland](#) (accessed 30 May 2023).

257 According to a study conducted by the Finnish National Board of Education, only 2.5% of municipalities reported organising ECEC for undocumented children. Source: Junttila, N., Rehn, C., Costiander, K., Kahiluoto, T. and Alila, K. (Opetushallitus), 2020, [Turvapaikkaa hakevat ja paperittomat lapset sekä s2/r2 -opetus varhaiskasvatuksessa](#).

258 [29.12.2009/1705 Laki opetus- ja kulttuuritoimen rahoituksesta](#) ("Act on the financing of education and culture"), 46 § (11.11.2022/884) [Finland].

259 Ibid., citation translated with the online tool DeepL.com.

target group²⁶⁰.

This has led to the government funding ECEC for undocumented children for the year 2023²⁶¹. Given that the new law does not create an obligation on municipalities to organise ECEC for these groups of children, future funding is possible but not guaranteed. This reform, therefore, does not provide a long-term solution to the exclusion of

undocumented children from ECEC.

It is nevertheless likely to incentivise municipalities to facilitate access to ECEC for undocumented families and children²⁶², as the government may now reimburse them for organising this service. The reform also makes a step in the right direction by legally acknowledging that on the ground, undocumented children do, or wish to attend ECEC.

2. By municipalities

New York City: 'Promise NYC' project

Undocumented families are usually unable to access publicly funded childcare services in the United States, which are subsidised by the federal government²⁶³. To counter this exclusion, the mayor of New York launched 'Promise NYC' in January 2023. This six-month programme with a \$10 million budget explicitly seeks to create access to childcare services for "families who previously didn't qualify for other state or federal programs due to their immigration status."²⁶⁴ It is set to reach at least 600 children in New York City²⁶⁵.

Four community-based organisations, working with various migrant communities across the boroughs of the city, were designated to implement the programme. These organisations are tasked with reaching out to undocumented families in their

respective communities and supporting them in finding and registering for suitable registered childcare services²⁶⁶. Promise NYC then pays the childcare providers directly, with varying subsidy amounts²⁶⁷.

ANVITA: A group of French municipalities working on inclusive reception policies

ANVITA, the 'National Association of Welcoming Cities and Territories'²⁶⁸ ("Association Nationale des Villes et Territoires Accueillants") was founded by nine French cities in 2018, which committed themselves to work towards "hospitality on their territories"²⁶⁹ and "unconditional reception policies"²⁷⁰ for migrants. By 2022, 76 territories and municipalities and 53 elected officials across France joined the group²⁷¹.

260 Information provided during an interview with Petri Paju, The Central Union for Child Welfare (Finland), 4 April 2023.

261 OAJ, 28 September 2022, [HE 159/2022 vp Hallituksen esitys eduskunnalle laiksi opetus- ja kulttuuritoimen rahoituksesta annetun lain muuttamisesta](#).

262 OAJ, 14 October 2022, [OAJ kannattaa valtion korvaavan kunnille tilapäistä suojelua hakevien tai saavien-, kansainvälistä suojelua hakevien- tai ilman oleskeluoikeutta olevien lasten varhaiskasvatuksen järjestämisen kustannuksia](#) (accessed 26 April 2023).

263 It should be noted that "[d]ue to restrictive federal rules, many federal public benefits programs, such as the Supplemental Nutrition Assistance Program (SNAP), nonemergency Medicaid, and childcare assistance, have generally long excluded "not-qualified" immigrants, including undocumented immigrants, from being eligible for assistance" Source: Xu, A., Documented NY, 27 January 2023, [How to Apply for Child Care Subsidies If You Are A Low-Income Undocumented Family](#) (accessed 10 April 2023).

264 NYC, n.d., [Get Stuff Done: A Promise for Undocumented Children](#) (accessed 10 April 2023).

265 Ibid.

266 NYC, 14 December 2022, [Mayor Adams Rolls out "Promise NYC" to Provide Childcare Assistance to Low-Income Families with Undocumented Children for First Time Ever](#) (press release)(accessed 10 April 2023).

267 Xu, A., Documented NY, 27 January 2023, [How to Apply for Child Care Subsidies If You Are A Low-Income Undocumented Family](#) (accessed 10 April 2023).

268 Own translation.

269 Citation translated with the online tool DeepL.com, Source: ANVITA, [Qui sommes-nous ?](#) (accessed 12 May 2023).

270 Ibid.

271 See ANVITA's Charter for more information. ANVITA, n.d., [Notre charte](#).

ANVITA has a working group on education²⁷². They first met in May 2022 and focused on access to pre-primary education which is compulsory from three years old²⁷³. The meeting gathered officials and staff from 11 municipalities and civil society organisations working on this issue.

The organisation allows for the exchange of good practices and knowledge amongst municipalities as well as amongst civil society working on the ground and municipalities, leading to the identification of factors excluding migrant children from pre-primary education that may be remedied by municipal practices.

3. By civil society

Despite clear legal frameworks in some countries and for some age groups, access to early childhood education and care for undocumented children is often secured on a case-by-case basis, through mediation or intervention by individuals or civil society actors, like NGOs, churches or parishes. This mediating role takes several shapes, including ensuring access to information, administrative, legal and/or financial assistance.

Providing or ensuring access to information

Civil society mediators play a key role in relaying information about ECEC options, rights, obligations, and enrolment procedures. Furthermore, they make this information accessible for undocumented families by translating, explaining and/or providing internet access.

The Turun Valkonauha Centre in Turku, Finland, provides an information service that helps undocumented people access social and health services, including ECEC²⁷⁴. Besides supporting people in accessing services, the centre's counsellors assess the situation of undocumented people holistically and look for pathways to regularise their stay. This type of holistic approach can stabilise the overall family situation (including their residence status, health, wellbeing and housing situation)²⁷⁵.

Administrative and legal assistance

Civil society actors offer support in navigating bureaucracies and administrative requirements to register children in ECEC, or when parents seek to change ECEC service providers. This includes mediating between municipal authorities and parents (to translate or stand up for their rights), providing assistance with bureaucratic processes and gathering required documents for enrolment, or making a computer and/or an internet connection available to access digital registration platforms.

Assistance is also provided to keep children in ECEC after enrolment. For instance, by facilitating communication between parents and ECEC staff and mediating when problems arise – for example, due to a language barrier or experiences of discrimination²⁷⁶.

To make sure undocumented and other children in need can also access education, ARSIS' project 'All Children in Education' provides this type of administrative assistance in some areas in Greece. This includes the collection of necessary documents, communication with administrative services, and follow-up of registration procedures. ARSIS also facilitates continued communication between preschools and parents once children are enrolled²⁷⁷.

In France, when migrant children's access to ECEC is denied despite their legal entitlement to it, NGOs

272 ANVITA, 2022, [Guide – Groupe de travail #4 Accès à l'éducation et insertion professionnelle des exilé·es](#). See also ANVITA, n.d., [Nos Actions](#) (accessed 27 April 2023).

273 ANVITA, 6 May 2022, [Session 1 : École primaire - GT #4 Éducation / Insertion professionnelle](#) (accessed 27 April 2023).

274 Turun valkonauha, 2023, [Turun Valkonauha ry](#) (accessed 27 April 2023).

275 Interview with Petri Paju, The Central Union for Child Welfare (Finland), 4 April 2023; Turun valkonauha, 2023, [Paperittomien palveluohjaus \(2021-2022, STEA\)](#) (accessed 27 April 2023).

276 Interview with Valbona Hystuna, Child protection expert (Greece), 4 April 2023.

277 Ibid; ARSIS, 30 December 2021, [All Children in Education \(ACE\): Homework and Creative Activities Centers \(HCAC\)](#) (accessed 27 April 2023).

support parents in defending their child's rights. The NGO Gisti offers legal advice and assistance to undocumented families in these situations by telephone, mail or email²⁷⁸.

Financial assistance

In the Netherlands, childcare lasts until the child is five years old and primary school begins. During this whole time, undocumented parents must pay all related fees in full, as they cannot benefit from the government's fee deductions and reimbursement policies²⁷⁹. In effect, this makes childcare unaffordable for undocumented parents²⁸⁰. To ensure undocumented children receive childcare, local NGOs usually negotiate reduced fees with individual ECEC centres. These fees are then often paid by the same NGOs²⁸¹.

278 Gisti, n.d., [Les permanences juridiques du Gisti](#) (accessed 27 April 2023) ; Interview with Jean-François Martini, Gisti (France), 29 March 2023.

279 Defence for Children, n.d., [Het Ongedocumenteerde Kind En Sociale Voorzieningen](#) (accessed 28 April 2023); Eerste Kamer der Staten Generaal, 26 June 1995, [Koppelingswet](#) (24.233); European Commission, 1 December 2022, [Eurydice – Netherlands, 4. Early childhood education and care, Access](#) (accessed 28 April 2023); Interview with Rian Ederveen, Stichting Los (Netherlands), 3 April 2023.

280 Eerste Kamer der Staten Generaal, 26 June 1995, [Koppelingswet](#) (24.233); Interview with Rian Ederveen, Stichting Los (Netherlands), 3 April 2023; Defence for Children, n.d., [Het Ongedocumenteerde Kind En Sociale Voorzieningen](#) (accessed 28 April 2023).

281 Interview with Rian Ederveen, Stichting Los (Netherlands), 3 April 2023.

Conclusion

Undocumented children face an array of interconnected structural factors, linked to their social exclusion and marginalisation, which may negatively affect their early childhood development. This likely influences their wellbeing, health, education and socio-economic status later in life.

Participation in ECEC is beneficial for any child's early development, as ample research demonstrates. Yet it can play an especially positive role in the early development and adult lives of children who are at risk of poverty and social exclusion, including those who are undocumented. ECEC consequently becomes a tool that can potentially break longstanding cycles of poverty and exclusion.

The EU recognised this fact in its 2021 Child Guarantee: the Council urged all member states to take concrete measures to ensure that all 'children in need' truly have free and effective access to quality ECEC services. This commitment is in line with international obligations which stipulate that all children must have access to education, without discrimination based on their residence status²⁸². It also corresponds to European law, by which states must respect children's right to protection and care to ensure their wellbeing²⁸³.

This brief looks at whether and to what extent undocumented children and their parents or caregivers can access childcare services and/or early education in five European countries today. It focused on the situation in Finland, France, Greece, the Netherlands and Portugal. Except for Greece, these all have very high levels of participation in ECEC for children older than three (>90%)²⁸⁴.

A lack of a legal entitlement or obligation to ECEC, place shortages, requirements to present inaccessible documentation, difficult administrative procedures, insecure housing, language barriers, the unavailability and inaccessibility of the information on ECEC rights and options, unaffordable fees coupled with the inability to benefit from financial support, experiences of discrimination and racism and a fear of becoming visible to authorities, all remain significant obstacles to undocumented children's effective access to – and participation in – ECEC.

National and municipal actors in France, Portugal and Finland and the United States have made efforts to address these legal, practical and individual barriers to access. Civil society across the Netherlands, Greece, Finland and France moreover play an important role in creating or facilitating access to ECEC for undocumented families, for example by providing undocumented families with targeted and accurate information, legal and administrative assistance and financial support,

Governments make an important investment in undocumented children's futures when they provide them with free and effective access to early childhood education and care. In doing so, they may mitigate the poverty and social exclusion faced by many undocumented children and their parents or caregivers. Beyond the individual advantages, creating equal opportunities to care and learning in children's early years is therefore something that benefits society at large.

282 European Union Fundamental Rights Agency (FRA), 2022, [Handbook on European law relating to the rights of the child - 2022 edition](#); Right to Education Initiative, 2018, [The status of the right to education of migrants: International legal framework, remaining barriers at national level and good examples of states' implementation](#); UNESCO Global Education Monitoring Report.

283 European Union, 2010, [Charter of Fundamental Rights of the European Union \(2010/C 83/02\)](#), Official Journal of the European Union, Article 24.

284 See Table 4.

Recommendations

To European Union institutions

- Further promote EU member state implementation of the:
 - Council Recommendation on High-Quality ECEC systems (2019)
 - Application of the EU Quality Framework for Early Childhood and Care (2020)
 - European Child Guarantee (2021)
 - EU Care Strategy (2022)
 - Council Recommendation on the revision of the Barcelona targets (2022)
- Ensure that EU member states consider the realities of undocumented children and their families when creating policies that aim to reach the objectives set out in the Barcelona targets for 2030 and European Child Guarantee.
- Prioritise the successful implementation of the European Child Guarantee, by making sure all national action plans are submitted and are ambitious, properly financed, implemented, monitored, evaluated and revised as necessary to achieve the target.

To national and local governments

- Create an explicit legal entitlement in national law to ECEC for all children, regardless of residence status.
- Remove any practical barriers that prevent undocumented parents from being able to register their children in ECEC.
 - Maintain a firewall between ECEC providers and immigration enforcement authorities to protect undocumented families from detention and deportation upon ECEC registration²⁸⁵.
 - Registration procedures should remain accessible, simple and offline. Documents that may be required for registration should be set out in the law, and declarations of honour should be accepted if no other documents are available to parents.
- Remove any financial barriers to ECEC, including by revising income-based fees and fee waiver policies which are accessed through administrative processes requiring registration in tax or social security systems.
- Launch accessible information campaigns on ECEC rights, obligations and options.
 - Information should be available offline and in a range of languages. It should target undocumented parents directly, ideally in the framework of broader social assistance or be relayed via locally-anchored government agencies and (community-based) civil society organisations.

285 For more information on this, see: PICUM, n.d., [Firewall](#) (accessed 28 April 2023).

- Make ECEC available for all children, in their proximity and according to their parents' needs.
 - Prioritise children who are most at risk of vulnerability and marginalisation, especially undocumented children.
 - Opening times should be flexible and able to accommodate undocumented parents' often atypical²⁸⁶ working hours.
- Stabilise the overall situation of undocumented families by regularising their stay²⁸⁷, creating access to social security, social services, physical and mental health care and preventing homelessness and poverty.

286 "A lack of flexibility in opening hours, which do not match the needs of parents (i.e. their working hours), can particularly affect single parents, parents with a migrant background and parents in precarious labour contexts as they often work atypical hours and may therefore encounter difficulties in using ECEC." Source: European Commission, Directorate-General for Employment, Social Affairs and Inclusion, Guio, A., Marlier, E., Frazer, H., 2020, [Feasibility study for a child guarantee : final report](#), eds. Guio, A., Marlier, E., Frazer, H., p.135.

287 For more information, see: PICUM, 2022, [Regularisation mechanisms and programmes: Why they matter and how to design them](#).



PICUM

For undocumented migrants,
for social justice.

Rue du Congres 37,
1000 Brussels, Belgium
+32 2 883 68 12
info@picum.org
www.picum.org