

# Talking points to argue for the regularisation of children, young people and families



PLATFORM FOR INTERNATIONAL COOPERATION ON  
UNDOCUMENTED MIGRANTS

## Impacts on children and communities

- Uncertain or irregular status can have significant negative impacts on the health, well-being, and development of children and young people in the short and long term.
  - This is clear from academic research<sup>1</sup> as well as from listening to undocumented children and young people.<sup>2</sup>
  - Depression, anxiety and stress are common. This includes sleeping disorders, chronic toothache, headaches and in some cases, suicidal thoughts or ideation and self-harm.
  - While many undocumented children and young people are exceptionally resilient, it is urgent to address the strain they undergo.
- Many of the hardships experienced by undocumented children and young people are due to:
  - Long and complex immigration and asylum procedures;
  - (Risks of) arrest, detention and deportation; and
  - Restricted access to services.<sup>3</sup>
- But having an irregular or precarious status itself gives rise to issues.
  - Many undocumented children across Europe are able to attend compulsory education, and as such, are integrated within public life.
  - However, they are prevented from pursuing further education and employment, restricting children and young people's horizons and potential.
  - Inability to plan for the future, and exclusion from key rites of passage associated with the transition to adulthood, impact on young people's well-being, identity and sense of belonging at a crucial time for their development.<sup>4</sup>

- Research<sup>5</sup> has confirmed that many of the aspects of life that young people identify as central to their well-being are linked to having a secure residence status.
- A secure and long-term residence status is therefore vital to ensure children in migration fully enjoy all of their rights and promote their well-being.

## Regularisation as a proactive policy measure that promotes rights, well-being and full participation

- Undocumented young people often view the country of residence as their home and have strong emotional, personal and social ties to the country.
- Even a few years can be formative in the personal and social development of children and young people.
- Migrant children and youth have been schooled in the country. The public education system is the primary means by which the state shapes the values and competences of resident children, through a common curriculum and social life centred around the school.
- Many of these children and young people will end up living in the country of residence.
- Many children have a right to reside, based on their attachments to the country in which they reside.
- The right to reside is derived in particular from the right to private and family life<sup>6</sup> and/ or the best interests of the child principle.<sup>7</sup>
- Without accessible regularisation schemes, children and young people are only able to enforce their rights through appeals of return decisions/ removal orders. This manifestly exacerbates the risks and anxiety facing these young people. It also uses state resources.



## Regularisation as a common and effective policy measure

- Almost all EU member states have regularised resident undocumented migrants, through either regularisation mechanisms, programmes, or a combination of both in the last 22 years.
- A detailed study in 2009<sup>8</sup> found that 24 out of the 27 EU member states at the time had used regularisation mechanism or programmes since 1996, and some several times.
- Alone, regularisation does not provide a solution to irregular migration. It is necessary to also ensure that there are sufficient regular channels and that those admission schemes better meet the needs of families, employers and workers, and society as a whole.
- At the same time, implementation of human rights protections regardless of status is vital. There will always be some people who fall outside of administrative frameworks; some irregularity is inevitable.
- Policy measures should both address:
  - *Prevention*: Reasons why children and young people become undocumented or having prolonged periods with uncertain and precarious status;
  - *Resolution*: Ensure that undocumented children and young people can regularise and access a secure and long-term status.
- Both regularisation mechanisms and time-bound programmes usually have specific criteria, that can be tailored to the national or local population of undocumented migrants.
- Criteria should be clear and not arbitrary or too onerous; decisions should be transparent with a right of appeal; and schemes should provide access to long-term status.
- A common concern is that introducing regularisations encourages more irregular migration.
  - However, there is very limited evidence<sup>9</sup> of any increase in irregular migrants arriving to a country in response to a regularisation measure being introduced.
  - Any such result is insignificant both in terms of numbers of people affected and when considering the numerous benefits that regularisation measures bring from the individual and community level, to the state.
- Other benefits of regularisations include:
  - economic benefits (through increased tax revenues and social security payments);
  - increased information about the resident population and labour market;
  - increased trust of state authorities among migrant communities;
  - reduced inequality and social exclusion;
  - empowerment of migrants and their families and reduced vulnerability to exploitation and abuse;
  - better regulation and coverage of working conditions and health and social services.

## Conclusion

- Good regularisation schemes are one of the key ways that governments can meet their legal obligations regarding child rights, and social and development policy objectives in the short and long term.
- It makes good social, political and economic sense to foster the full participation of all resident children and clear and accessible pathways to secure residence status after a few years, to intentionally limit periods of irregularity.

## Endnotes

- 1 E. Chase, "Health and Well-being", Becoming Adult Research Brief no. 5, London: UCL, 2017; E. Chase & N. Sigona, "Forced returns and protracted displacement", Becoming Adult Research Brief no. 7, London: UCL, 2017; R.G. Gonzales, *Lives in Limbo: Undocumented and Coming of Age in America*, Oakland, California: University of California Press, 2016; E. Chase, "Security and subjective well-being: the experiences of unaccompanied young people seeking asylum in the UK", *Sociology of Health and Illness* 35(6), pp. 358-372; N. Sigona and V. Hughes, *No way out, no way in. Irregular migrant children and families in the UK*, University of Oxford, COMPAS, 2012; R. G. Gonzales, "Learning to Be Illegal: Undocumented Youth and Shifting Legal Contexts in the Transition to Adulthood", *American Sociological Review* 76(4), pp. 602- 619, 2011; A. Bloch, N. Sigona & R. Zetter, *No right to dream: The social and economic lives of young undocumented migrants in Britain*, City University London and University of Oxford Refugee Studies Centre, Paul Hamlyn Foundation, 2009.
- 2 PICUM, *Hear our voices*, 2016, available [here](#); English PEN, *Brave new voices: A city imagined, Writing by young people from around the world living in London*, 2016; After 18 & Charnwood Arts, *Together: A retrospective of art by young refugees*, 2016; M. Kromhout et al. *Children out of view: A study into the home and living environment of undocumented children*, Hogeschool Utrecht, Defence for Children and the LOS Foundation, 2014; Praxis, *The Cost of Waiting: How waiting in limbo for immigration resolution affects the lives of young asylum seekers and young migrants in the UK*, Brighter Futures Report, London, 2013, available [here](#); J. Manuel, C. Pineda, A. Galisky & R. Shine (eds.), *Papers: Stories by Undocumented Youth*, Portland, Oregon: Graham Street Productions, 2012; RESEF, *La plume sans papier*, 2007.
- 3 Inter-Agency Working Group (IAWG) to End Child Immigration Detention, "Ending Child Immigration Detention", 2016, available [here](#); UNICEF, *Silent Harm: A report assessing the situation of repatriated children's psycho-social health*, 2012, available [here](#); Bail for Immigration Detainees (BID), "Fractured Childhoods: the separation of families by immigration detention", April 2013, available [here](#); Karin Johansson Blight, "Children without a voice- Report on children with symptoms of severe depressive devitalisation who have been refused asylum and protection in Sweden", January 2012, available [here](#); Kalverboer & Zijlstra, "De schade die kinderen oplopen als zij na langdurig verblijf in Nederland gedwongen worden uitgezet", University of Groningen, April 2006 (in Dutch).
- 4 Research on adolescents' subjective well-being notes the gradual decrease in well-being reported as children grow older, with significant differences between subjective well-being of children aged 8 and adolescents aged 15, particularly regarding key factors such as happiness with school, appearance, level of choice and autonomy, and the future. Learning and development are identified by adolescents as pivotal to their well-being. The Children's Society, *The Good Childhood Report 2012: A review of our children's well-being*, The Children's Society, 2012 c.f. UNICEF, *Special Rapporteur on the Human Rights of Migrants François Crépeau*, PICUM, National University of Lanús, OHCHR, "Human Rights of Undocumented Adolescents and Youth", July 2013. An abridged version was published as a chapter in the book, *Migration and Youth: Challenges and Opportunities*, edited by J. Cortina, P. Taran and A. Raphael on behalf of the Global Migration Group, UNICEF, 2014 ".
- 5 E. Chase, "Health and Well-being", Becoming Adult, Research Brief no. 5, London: UCL, 2017.
- 6 As enshrined in Article 8 of the European Convention on Human Rights, for example.
- 7 As enshrined in Article 3 of the UN Convention on the Rights of the Child and Article 24 Charter of Fundamental Rights of the European Union, for example.
- 8 A. Kraler & M. Baldwin-Edwards, *Regularisations in Europe: Study on practices in the area of regularisation of illegally staying third-country nationals in the Member States of the EU*, ICMPD, 2009. See also K. Brick, "Regularisations in the European Union: A contentious policy tool", Migration Policy Institute, 2011.
- 9 See for example: A. Kraler & M. Baldwin-Edwards, *Regularisations in Europe: Study on practices in the area of regularisation of illegally staying third-country nationals in the Member States of the EU*, ICMPD, 2009, p.46; C. Finotelli & J. Arango, "Regularisation of unauthorised immigrants in Italy and Spain: determinants and effects", *Documents d'Anàlisi Geogràfica* vol. 57/3: 495-515, 2011; Parliamentary Assembly of the Council of Europe (PACE) report "Regularisation programmes for irregular migrants", Doc. 11350, 6 July 2007, available [here](#).

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