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

Obstacles and Promising Practices

PICUM
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.

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Table of Contents

Introduction .............................................................................................................................................. 4
1. Early childhood development when growing up undocumented ......................................................... 5

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 age. 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 settings. ECEC includes services commonly called the nursery, crèche, kindergarten, day care, guarderías, preschool, maternelle, etc.

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

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 proposal and adoption 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 EU.
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 environment14 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
[their] physical and mental health24 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

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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.
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.
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 mothers and single parents, who are often a child's main or only caretakers. 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 suggests. 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 childminders. Although this may be a suitable option in individual cases, the quality of such care is never ensured. Additionally, this type of paid or unpaid care work, usually performed by women, leaves informal carers without social protection.

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

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-term.

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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.
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.
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 status. Additionally, EU law specifies that member states must respect children’s right to protection and care, as necessary to ensure their wellbeing.

- 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” 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.” Article 28 moreover enshrines all children’s right to education. 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.”

- 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.” Furthermore, it considers the right to early childhood education to begin at birth.


- 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 (...)” With Article 30, states furthermore commit themselves to take measures 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...
Access to Early Childhood Education and Care for Undocumented Children and Families
Obstacles and Promising Practices

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 EU59 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

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

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55 Ibid., Article 30(a).
56 Ibid., Appendix to the revised European Social Charter §1.
58 European Committee on Social Rights, 2008, Defence for Children International (DCI) v. the Netherlands.
62 Ibid.
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 exclusion. The different relevant policy frameworks and commitments made by the European Union institutions are:

- The European Pillar of Social Rights 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” as well as “protection from poverty” and emphasises that children “from disadvantaged backgrounds have the right to specific measures to enhance equal opportunities.”

- The European Commission-led European Education Area initiative coordinates EU member states’ cooperation in the field of education, intending to achieve more inclusive and resilient education and training systems. 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 ECEC.

- The Council Recommendation on High-Quality ECEC systems 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” and that “specific measures are required to create greater access for children in a disadvantaged situation.” 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 ECEC. It introduces in its annex.

- A dedicated working group 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 guidelines and the Toolkit for inclusive early childhood education and care.

- The EU Quality Framework for ECEC (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 finance. 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

68 European Commission, 2018, European Pillar of Social Rights.
69 Ibid., p.19.
70 Ibid.
71 Ibid.
76 Ibid, Recital 22.
77 Ibid.
79 The working group included a range of European stakeholders and is targeted towards ECEC decision-makers and staff. Source: 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 Ibid.
82 Ibid.
83 Ibid.
minority groups\textsuperscript{84}. 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 culture\textsuperscript{85}.

- In 2021, the European Commission presented the \textit{EU Strategy on the Rights of the Child}\textsuperscript{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 background\textsuperscript{87}. The Strategy also includes the promotion of the above-mentioned toolkit for inclusion in early childhood education and care\textsuperscript{88} as a goal.

- The \textbf{European Child Guarantee}\textsuperscript{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.”\textsuperscript{90} Children in need are defined as those “who are at risk of poverty or social exclusion.”\textsuperscript{91} Within this group, the Council recommends that member states consider the “specific disadvantages experienced”\textsuperscript{92} by migrant children (regardless of their status). \textbf{To achieve this goal, the Council urges member states to provide free and effective access\textsuperscript{93} to high-quality early childhood education and care\textsuperscript{94} for children in need (including undocumented children)\textsuperscript{95}. Member states must develop national action plans outlining how they intend to achieve the Child Guarantee goals by 2030\textsuperscript{96} and can apply for EU funding to provide or upscale services\textsuperscript{97}. At the time of writing, only 22 out of 27\textsuperscript{98} member states have

\textsuperscript{84} Ibid., Quality statement 1.
\textsuperscript{85} Ibid., Quality statement 2.
\textsuperscript{86} European Commission, 2021, \textit{EU Strategy on the Rights of the Child}.
\textsuperscript{87} Ibid.
\textsuperscript{88} European Commission, Directorate-General for Education, Youth, Sport and Culture, 2021, \textit{Toolkit for inclusive early childhood education and care: providing high quality education and care to all young children}.
\textsuperscript{90} Ibid, §1.
\textsuperscript{91} Ibid, §3(a).
\textsuperscript{92} Ibid., §5.
\textsuperscript{93} \textit{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, \textit{Council Recommendation (EU) 2021/1004 of 14 June 2021 establishing a European Child Guarantee (ST/9106/2021/INIT)}, §3(e).
\textsuperscript{94} In addition to \textit{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, \textit{Council Recommendation (EU) 2021/1004 of 14 June 2021 establishing a European Child Guarantee (ST/9106/2021/INIT)}, §4.
\textsuperscript{95} PICUM, 2 July 2021, \textit{EU Council adopts Child Guarantee that benefits undocumented children}.
\textsuperscript{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., \textit{European Child Guarantee} (accessed on 23 February 2023); PICUM, 2 July 2021, \textit{EU Council adopts Child Guarantee that benefits undocumented children}.
submitted their national action plans. The European Care Strategy 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 by 2030. 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.” 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 sector, 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 entitlement.

In December 2022, the Council Recommendation on the revision of the Barcelona targets 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 2030. Previously, these targets were set at 33% and 90%, respectively.

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 Interior), and pre-primary education falls under the Ministry of Education. The legal ECEC framework decided by these ministries then serves as the basis for regional or local implementation. Municipalities often play a key role in organising and providing ECEC, though the levels of responsibility vary.

Most national legal frameworks establish a legal framework for ECEC, often through a child welfare act or an early childhood education act, which then forms the basis for the implementation of ECEC at the regional or local level. These frameworks typically provide a legal entitlement to ECEC, define the responsibilities of the various authorities, and set out the conditions for access.

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).


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.


108 Ibid.


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 compulsory117.

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

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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.


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


119 Ibid.

120 Ibid.


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


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


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 them\textsuperscript{129}.

\textbf{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 authorities\textsuperscript{130}. There is no legal entitlement to childcare and therefore no guarantee of a place in France\textsuperscript{131}. Income-based fees apply to centre-based ECEC in nurseries or ‘collective structures’. Fees that childminders may charge are not regulated and are negotiated privately\textsuperscript{132}. 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 hours\textsuperscript{133} of pre-primary school ("école maternelle") per week\textsuperscript{134}. 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)\textsuperscript{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 authorities\textsuperscript{136}.

- Two-year-olds "in priority urban, rural and mountain areas, in the overseas départements and regions, disadvantaged social environments"\textsuperscript{137} can also attend pre-primary school ("maternelle") if places are available\textsuperscript{138}.

\textbf{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 Interior\textsuperscript{139}. 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 Affairs\textsuperscript{140}. Municipalities are responsible for organising and providing childcare on a local level\textsuperscript{141}. There is however no legal entitlement to it and therefore no guaranteed place for every child\textsuperscript{142}. Families need to pay monthly income-based fees\textsuperscript{143}, yet those whose earnings remain below a certain threshold are exempt from these fees\textsuperscript{144}.


\textsuperscript{132} Ibid.

\textsuperscript{133} Ministère de l'Éducation Nationale et de la Jeunesse, n.d., Programmes et horaires à l'école maternelle (accessed 15 May 2023).


\textsuperscript{135} European Commission, 2022, Compulsory education in Europe 2022/2023 Eurydice – Facts and Figures.


\textsuperscript{138} Ibid.; Gisti and Romeurope, 2020, La scolarisation et la formation des jeunes étrangers.


\textsuperscript{140} Ibid.

\textsuperscript{141} Low 3463/2006 [Greece].


\textsuperscript{143} Ibid.

\textsuperscript{144} Megalonidou, C., 2020, The quality of early childhood education and care services in Greece. ICEP Vol. 14(9).
Access to Early Childhood Education and Care for Undocumented Children and Families

Obstacles and Promising Practices

• Children are legally obliged to attend preschool for two years145 (between four and six years old146 as primary school starts once the child turns six years old147). 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.

Netherlands

• Children from six weeks old can access childcare in the Netherlands. These services are provided by daycare150 or out-of-school care centres151 and childminders152. Childcare is not compulsory and there is no legal entitlement to it153. 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.

• 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.

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 (t’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.


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.


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


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

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


154 Ibid.


157 Ibid.

158 Ibid.


161 Ibid.

• Children in Portugal can go to childcare until they are three years old. Services are provided in nurseries ("crèches" and "family crèches") or by childminders. They are mainly run by private non-profit, and to a lesser extent, for-profit organisations. 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 nurseries. Childcare is regulated by the Ministry of Labour, Solidarity and Social Security.

   Free pre-primary education begins at three years old. 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 six. Pre-primary school is either organised by public schools (that also provide basic and secondary education) or private for or non-profit schools. Preschool is taught for 25 hours a week. Fees for complementary hours of preschool are calculated based on a family’s income. The Ministry of Education is responsible for “ensuring teaching quality within the ECEC network for pre-primary education.”

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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].
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.
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 childcare. 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>
<thead>
<tr>
<th>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</th>
</tr>
</thead>
<tbody>
<tr>
<td>Country</td>
</tr>
<tr>
<td>Greece</td>
</tr>
<tr>
<td>France</td>
</tr>
<tr>
<td>Netherlands</td>
</tr>
<tr>
<td>Portugal</td>
</tr>
<tr>
<td>Finland</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Table 2: Proportion of children in ‘other types of childcare’, namely either childcare by a professional minder at the child’s home or child-minders’ home or childcare by grand-parents, other household members (outside parents), other relatives, friends or neighbours in the five countries under review</th>
</tr>
</thead>
<tbody>
<tr>
<td>Country</td>
</tr>
<tr>
<td>Greece</td>
</tr>
<tr>
<td>France</td>
</tr>
<tr>
<td>Netherlands</td>
</tr>
<tr>
<td>Portugal</td>
</tr>
<tr>
<td>Finland</td>
</tr>
</tbody>
</table>

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).


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

<table>
<thead>
<tr>
<th>Country</th>
<th>2019</th>
<th>2020</th>
<th>2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greece</td>
<td>40.9%</td>
<td>47.9%</td>
<td>34.6%</td>
</tr>
<tr>
<td>France</td>
<td>36.4%</td>
<td>36.2%</td>
<td>35.7%</td>
</tr>
<tr>
<td>Netherlands</td>
<td>21.2%</td>
<td>21.9%</td>
<td>13.8%</td>
</tr>
<tr>
<td>Portugal</td>
<td>22.6%</td>
<td>21.9%</td>
<td>21.7%</td>
</tr>
<tr>
<td>Finland</td>
<td>58.4%</td>
<td>59.1%</td>
<td>55.3%</td>
</tr>
</tbody>
</table>

*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).*

### 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

<table>
<thead>
<tr>
<th>Country</th>
<th>2019</th>
<th>2020</th>
<th>2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greece</td>
<td>68.8%</td>
<td>71.3%</td>
<td>NA</td>
</tr>
<tr>
<td>France*</td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
</tr>
<tr>
<td>Netherlands</td>
<td>90.5%</td>
<td>90.2%</td>
<td>93%</td>
</tr>
<tr>
<td>Portugal</td>
<td>92.2%</td>
<td>92.9%</td>
<td>90.5%</td>
</tr>
<tr>
<td>Finland</td>
<td>88.8%</td>
<td>90.9%</td>
<td>90.6%</td>
</tr>
</tbody>
</table>

*Compulsory education starts at three years old in France.

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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 likely.\(^\text{177}\)

**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.”\(^\text{178}\) It can also “contribute to a lack of awareness among educational staff and undocumented families on children’s right to education.”\(^\text{179}\)

In Finland, for instance, undocumented children are neither clearly legally included nor explicitly excluded from the legal entitlement to ECEC.\(^\text{180}\) This creates a legal grey zone\(^\text{181}\) and means that undocumented children’s ability to access ECEC varies from municipality to municipality.

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177 PICUM, 2015, *Protecting undocumented children: Promising policies and practices from governments*.
178 Ibid., p. 10.
179 Ibid., p. 10.
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 network.

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." Moreover, across the EU, "poorer areas have fewer available ECEC places of high quality." 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 level. These families also tend to be less mobile, and thus unable to travel to ECEC services located further away.

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 example.

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 passport, proof of residency in the municipality, residence documents, proof of employment, or a national registration number. 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 receive, 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 accordingly.

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

In France, some municipalities have obstructed children of undocumented parents’ access to mandatory preschool school by demanding unrequired documents or by dragging out registration procedures.

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-up or unaccommodating staff – may also create bureaucratic barriers for undocumented parents who seek to register their children in ECEC.

Insecure housing

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

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

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 places.

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...
pose obstacles in and of themselves\textsuperscript{209}. 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 municipality\textsuperscript{210}. Multiple courts have condemned this discriminatory practice, and its unlawfulness is explicitly mentioned in France’s Education Code\textsuperscript{211}.

Fees and lack of financial support

ECEC for children under three is usually not free\textsuperscript{212}, with fees calculated based on income\textsuperscript{213} and often decided at the local level\textsuperscript{214}. To make ECEC more accessible, most EU governments have developed policies to alleviate the financial burden on low-income families\textsuperscript{215}. This includes income-dependent fee structures\textsuperscript{216} and “special support to low-income families eligible to other social benefits or with income levels below certain thresholds.”\textsuperscript{218}

As undocumented families are usually not registered in the tax or social security systems\textsuperscript{219}, 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 instance\textsuperscript{220}.

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’).”\textsuperscript{221}

At the same time, undocumented families are ineligible for childcare benefits as only regularly residing migrants can access social services\textsuperscript{222}. ECEC fees thus continue to constitute a barrier for many undocumented families at risk of living in poverty\textsuperscript{223}, even when measures to alleviate costs are in place.
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 childcare. 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 procedures. 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 ECEC.

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

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 rights.

Language barriers may also make it difficult for parents to navigate administrative enrolment processes, or hinder communication between ECEC staff and parents. 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 expert in Greece reported that she had needed to mediate between parents and a school when parents experienced racist behaviour at the hands of school staff and refused to send their children back to the institutions where they had received such treatment.

226 Reported in Finland, France, Greece, the Netherlands and Portugal. Sources: Nihtilä, H., 2017, Ensisijaisesti lapsia : Paperittamien oikokävien perusuokeket 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.
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.

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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 charge. Free childcare includes “food, hygiene, educational, recreational and motor skills activities, registration, insurance and after-hours care.”

The reform is introduced gradually: all children born after 1 September 2021 (including those who are undocumented) benefit from free childcare. That means that in September 2023, children up to two years old will have access to free childcare. 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 children.

**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 onwards. This means a fundamental right to education is established from this age for all children, irrespective of their nationality or residence status. France and Hungary are the only two EU member states where compulsory education

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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].
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 t’e code de l’éducation ("Education Code") [France]. Note that all children in France have a regular residence status according to the law.
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 honour.248

Taken together, these two national reforms have given children and their undocumented parents, 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 denial.250

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 refusal.251 Nonetheless, these legal reforms have significantly improved undocumented families’ access to ECEC from the age of three.252

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 municipality.253

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’ (including undocumented children, children seeking asylum, children applying for international protection and children with temporary protection status) 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’.255

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 situations (in accordance with the national budget). “Children without the right of residence” are explicitly mentioned within the December

248 Décret no 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 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.
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., Costlander , K., Kahlilo, T. and Alila, K. (Opetushallitus), 2020, Turvapaikkaa hakevat ja paperittomat lapset sekä s2r2-opetus varaiskasvatuksesssa.
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.
This has led to the government funding ECEC for undocumented children for the year 2023\(^\text{261}\). 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 children\(^\text{263}\), 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 government\(^\text{263}\). 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.”\(^\text{264}\) It is set to reach at least 600 children in New York City\(^\text{265}\).

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 services\(^\text{266}\). Promise NYC then pays the childcare providers directly, with varying subsidy amounts\(^\text{267}\).

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

ANVITA, the ‘National Association of Welcoming Cities and Territories’\(^\text{268}\) (“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”\(^\text{269}\) and “unconditional reception policies”\(^\text{270}\) for migrants. By 2022, 76 territories and municipalities and 53 elected officials across France joined the group\(^\text{271}\).

\(260\) 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 kavarvan kunnille tilapäistä suojelua hakevien tai saavien, kansainvälistä suojelua hakevien- tai ilman oleskeluoikeutta olevien lasten verhoiskavatukiensa 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).
\(265\) 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 education. They first met in May 2022 and focused on access to pre-primary education which is compulsory from three years old. 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 ECEC. 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).

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 discrimination.

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 enrolled.

In France, when migrant children’s access to ECEC is denied despite their legal entitlement to it, NGOs
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 email\textsuperscript{278}.

**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 policies\textsuperscript{279}. In effect, this makes childcare unaffordable for undocumented parents\textsuperscript{280}. 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 NGOs\textsuperscript{281}.

\textsuperscript{278} Gisti, n.d., *Les permanences juridiques du Gisti* (accessed 27 April 2023); Interview with Jean-François Martini, Gisti (France), 29 March 2023.
\textsuperscript{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 status. It also corresponds to European law, by which states must respect children’s right to protection and care to ensure their wellbeing.

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%).

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.

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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 registration\(^285\).
  - 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.

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\(^{285}\) 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 atypical working hours.
• Stabilise the overall situation of undocumented families by regularising their stay, 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.