



Migration status: A key structural social determinant of health inequalities for undocumented migrants

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Executive Summary

Maximising population health and reducing health inequalities forms the basis of the Sustainable Development Goals (SDGs) of the United Nations 2030 Agenda for Sustainable Development. Moreover, the right of every person to the highest attainable standard of health is a universal right not dependent on status of any kind.

Taking into account age, sex, and socioeconomic factors, most migrants and ethnic minority groups experience a disadvantage in their health compared to the majority population. Moreover, these groups appear to bear a multiple burden due to the combined impact of being racialized or part of an ethnic minority, occupying a lower social position, and facing challenging contextual factors that negatively affect their health.

Migration status adds an additional burden, contributing to poorer health for undocumented migrants. An insecure or irregular migration status puts people at risk of exploitation in the workplace, in personal relationships, and other settings. This is because the prioritisation of migration status over, for example, decent work and safety, access to healthcare or safe reporting systems, is used to coerce and control, increasing the likelihood of economic dependence, poverty and abuse.

A person's migration status is the result of migration policies, which in the EU do not offer enough regular pathways for people to come to the EU in a safe and dignified manner to seek protection, work or other reasons. The EU's migration policy has a strong focus on deterrence of irregular migration, including the criminalisation of irregular entry, stay and return.

Even though migration status has a significant impact on health, it has been poorly considered in the development of policies that affect health. This briefing takes a broad perspective to exploring the link between social determinants of health, migration policies and a person's migration status in Europe, illustrating how irregular migration status affects the health of undocumented migrants.

In doing so, it shows how it is not possible to reduce health inequalities without radically transforming the current approach to migration. It is essential to move towards systemic reforms that place positive wellbeing and health at the centre of migration, employment, social, housing, anti-discrimination policies, as well as across other sectors that may drive criminalisation and exclusion based on migration status.

Migration has always been a fact for Europe – and it will always be. Throughout centuries, it has defined our societies [...]. And this will always be the case.

European Commission President Ursula von der Leyen¹

¹ European Commission, 2020, [State of the Union Address by President von der Leyen at the European Parliament Plenary of 16 September 2020](#) [accessed 2 September 2023]

Introduction

Maximising population health and reducing health inequalities forms the basis of the Sustainable Development Goals (SDGs) of the United Nations 2030 Agenda for Sustainable Development.² Moreover, the right of every person to the highest attainable standard of health is a universal right not dependent on status of any kind.³

Achieving this necessitates identifying and eliminating the conditions which negatively affect a person's health. Many stakeholders at different levels - international, regional, national, and local - have focused on understanding the various factors that affect health, such as the quality of the health care system, access to health care, genetics, behaviours, social and other factors.⁴

Reducing health inequalities requires reaching out to the most marginalised in our communities, including migrants with irregular migration status (undocumented migrants). At the global level, the World Health Organisation (WHO) has started to recognise this. Yet, at EU level, little attention has been paid to addressing a key structural factor affecting people's health, namely migration status.

An insecure or irregular status impacts not only access to healthcare,⁵ but creates an imbalance of power that puts people at greater risk of exploitation in the workplace, in personal relationships, and other settings than people with a secure migration status.

Previous PICUM publications have shed light on the right to health for undocumented migrants⁶, how policies and practices (e.g. migration, access to justice, labour, etc) affect their health⁷, the link between insecure migration status and mental health⁸, the impact of growing up undocumented in Europe⁹, access to sexual and reproductive health¹⁰, and how to include undocumented migrants in healthcare design.¹¹ In doing so, they have all explored how the health of undocumented migrants is shaped by certain social determinants of health.

In this briefing, PICUM takes a broad perspective to exploring the link between social determinants of health, migration policies and a person's migration status in Europe. This briefing does not intend to be an extensive review of the literature but rather aims to illustrate how irregular migration status affects the health of undocumented migrants.

2 United Nations Sustainable Development Platform, [Sustainable development goals](#), New York: United Nations [accessed 22 June 2023]; United Nations, 2015, [Transforming our world: the 2030 Agenda for sustainable development](#), Resolution adopted by the General Assembly on 25 September 2015, New York, A/RES/70/1, [accessed 22 June 2023]

3 PICUM, 2022, [The Right to Health for Undocumented Migrants](#)

4 Kindig D., 2007, [Understanding population health terminology](#), Milbank Q. 85(1):139-161[accessed 26 July 2023]

5 Woodward A, Howard N, Wolffers I, 2014, [Health and access to care for undocumented migrants living in the European Union: a scoping review](#), Health Policy Plan, 29:818-30; Hacker K, Anies M., Folb BL., Zallman L., 2015, [Barriers to health care for undocumented immigrants: a literature review](#), Risk Manag Healthc Policy, 8:175-83.

6 PICUM, 2022, [The Right to Health for Undocumented Migrants](#)

7 PICUM, Arsia Association for the Social Support of Youth, Move Coalition, ASGI and Meldpunt Vreemdelingendetentie, 2022, [Locked up: Stories from immigration detention in Europe](#); PICUM, 2021 [Preventing Harm, Promoting Rights: Achieving Safety, Protection and Justice for People with Insecure Residence Status in the EU](#)

8 PICUM, 2022, [Insecure Residence Status, Mental Health and Resilience](#)

9 PICUM, 2021, [Navigating irregularity: the impact of growing up undocumented in Europe](#)

10 PICUM, 2016, [The sexual and reproductive health rights of undocumented migrants narrowing the gap between their rights and the reality in the EU](#)

11 PICUM, 2022, [Participatory methods: The inclusion of undocumented migrants in healthcare and beyond](#)

Health status of undocumented migrants in Europe

The number of undocumented people living in Europe is not known, and the estimates provided are debated. A previous 2008 study funded by the European Commission estimated that there were 1.9 to 3.8 million undocumented migrants in the EU, making up about 0.39% to 0.77% of the total population.¹² Currently, another study, also funded by the European Commission and scheduled for release in 2025, will look at more recent estimates of undocumented migrants in different EU countries.¹³

An insecure or irregular migration status puts people at risk of exploitation in the workplace, in personal relationships, and other settings. This is because the prioritisation of migration status over, for example, decent work and safety, access to healthcare or safe reporting systems, is used to coerce and control, increasing the likelihood of economic dependence, poverty and abuse. These challenging contextual factors negatively affect their health.

What does it mean to have an irregular migration status?

The term 'migration status' refers to a person's formal recognition of residence by the country they live in (in the EU, the term 'residence status' is often used to refer to migration status). Residence or migration status is based on an individual's administrative situation, linked to a residence permit or a suspension of deportation.¹⁴ Residence permits can be issued for a fixed or indefinite duration and on various grounds (e.g. employment, study, family, medical reasons,¹⁵ international protection or a child protection order¹⁶), subject to EU¹⁷ or country-specific rules.

an irregular migration status. Many may have had residence permissions linked to employment, study, family, or international protection, but those permits were either temporary or very precarious and their validity expired. Some, due to the lack of regular migration channels, will arrive to country without a residence permission, seeking for example asylum.

'Undocumented people' lack formal recognition of residence and are therefore understood as having

A person's migration status intersects with varying forms of discrimination including, sex, disability, racial or ethnic origin, religion or belief, disability, age, social class and sexual orientation, health condition. This intersectionality impacts people's experiences

12 European Commission. 2019. Size and development of irregular migration to the EU. [Counting the Uncountable: Data and Trends across Europe](#).

13 MIRREM. [MirreM: Measuring Irregular Migration](#). European Union.

14 Suspensions of deportations are not residence permits in the sense that the government has suspended the person's deportation order but not given them the right to reside in the country. The access to services and the labour market varies widely for these statuses, with German suspensions of deportation giving access to certain social rights and sometimes training and the labour market, and Greek suspensions of deportation not giving access to any. See PICUM, 2023, [Regularisation mechanisms and programmes: Why they matter and how to design them](#)

15 In a 2023 Ad Hoc Query of the European Migration Network, a majority of Member States self-reported that foreign nationals residing in the country can apply for a residence permit on the basis of their health condition.

16 In a 2023 Ad Hoc Query of the European Migration Network about half of the responding Member States self-reported that they have legal frameworks in place to granting a residence permit on the basis of a child protection order.

17 At EU level multiple Directives regulate residence statuses, such as [Directive 2003/109/EC](#) on the status of third-country nationals who are long-term residents, the EU Blue Card [Directive 2009/50/EC](#) on highly-qualified workers, the [Single Permit Directive 2011/98/EU](#), [Directive \(EU\) 2016/801](#) on Students and Researchers, [Directive 2003/86/EC](#) on Family reunification, the [Return Directive 2008/115/EC](#) and [Directive 2011/95/EU](#) on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection

and circumstances, leading to some undocumented people, such as women, sex workers¹⁸ and racialized people, facing additional barriers. As an example, undocumented women and their dependants are particularly vulnerable to the risks arising from their migration status, as they are exposed to a greater extent than men to the possibility of physical, sexual and mental abuse, poor working conditions, labour exploitation by employers and double discrimination based on both race and gender.

A child may also undergo changes in their migration status during their childhood. For example, as a child's status is usually dependent on their parents',

they too become undocumented if the parent loses their residence permit. This is the case for children whose (family) regularisation application on asylum or other grounds was refused and for children whose, or whose parents, permit lapsed and was not or could not be extended. On the other hand, children can acquire a regular residence status through their parents or on their own, thereby moving from an irregular to a regular status. Children can also be born as 'undocumented 'migrants', although they have never moved anywhere, because their parents are undocumented. Other children, categorized as 'unaccompanied children or minors', have migrated to Europe on their own.

Hostile migration policies pushing people into irregularity

A person's migration status is the result of migration policies, which in the EU do not offer enough regular pathways for people to come to and remain in the EU in a safe and dignified manner to seek protection, work or other reasons.

The EU's migration policy has a strong focus on deterrence of irregular migration, including the criminalisation of irregular entry, stay and return. Such policies create a hostile environment and entail a process of exclusion that inherently places people in a marginalised position. Among other elements, hostile migration policies:

- Limit safe and regular migration pathways, leading people to reach their new country of residence through dangerous ways and exposure

to traumatic events;

- Place strict conditions for stay in the EU, often placing people in situations where they are dependent on an employer or spouse which makes them vulnerable to exploitation and abuse;
- Restrict access to social protection mechanisms and access to health, thus compounding their risk of poverty, destitution, homelessness, violence and exploitation;¹⁹
- Maintain a strong degree of enforcement measures (e.g. immigration detention, policing).²⁰

An extreme consequence of restrictive migration policies are the numerous deaths recorded at the EU's borders.²¹

18 PICUM, 2019, [Safeguarding the human rights and dignity of undocumented migrant sex workers](#)

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

20 Michele LeVoy and Marta Gianco, 2023, [On migration, Europe's fixation with returns does not work](#)

21 Since 2014, 28 192 people went missing after risking the deadly route across the Central Mediterranean to Europe. See IOM, [Missing Migrants Project](#), [accessed 17 October 2023]

Health status

Taking into account age, sex, and socioeconomic factors, most migrants and ethnic minority groups experience a disadvantage in their self-perceived health compared to the majority population.²² Moreover, these groups appear to bear a multiple burden due to the combined impact of being racialized or part of an ethnic minority, occupying a lower social position, and facing challenging contextual factors that negatively affect their health. Racism has also been associated with worse mental health and physical health.²³

While evidence comparing the health status of undocumented and documented people in Europe is limited,²⁴ the available evidence indicates how undocumented migrants face poor health across a range of health issues (e.g. communicable and non-communicable diseases, sexual and reproductive health and psychological health), thereby showing how migration status adds an additional burden impacting the health of undocumented migrants.

Why is there limited data on undocumented migrants?

Various factors lead to limited data on undocumented migrants. Having an irregular status places people at the margins of society and outside of national data collection systems. Fear of deportation leads undocumented migrants to avoid any government authority which might lead to any official data collection. Moreover, in many countries, statisticians and official authorities do not gather data on undocumented individuals in any formal counting or registration system.²⁵

Consequently, researchers and statisticians often encounter challenges in obtaining data on undocumented migrants. They are encouraged to explore alternative methodologies for studying and projecting estimates concerning this population.²⁶ Moreover, research into migrant health doesn't standardly register or report on variables such as ethnicity, length of residence and migration status.²⁷

22 Nielsen SS, Krasnik A. 2010. [Poorer self-perceived health among migrants and ethnic minorities versus the majority population in Europe: a systematic review](#). *Int J Public Health*. 55(5):357–71.

23 For more information, see 2022 [The Lancet Series on racism, xenophobia, discrimination, and health](#).

24 Gray BH, van Ginneken E, 2012, [Health care for undocumented migrants: European approaches](#) Issue Brief Commonw Fund. 33:1–12.; De Vito et al., 2015, [Public Health Aspects of Migrant Health: A Review of the Evidence on Health Status for Undocumented Migrants in the European Region](#), World Health Organisation Regional Office for Europe. Copenhagen: WHO.

25 For example, in Belgium, national statistical office publishes every year the data for perinatal health outcomes of births within its territory. This routinely collected data however only concerns registered residents in Belgium. All women not officially registered in the National Population Registry (NPR), such as undocumented migrants (Ums), women without stable accommodation (homeless, traveller populations), and women residing abroad but giving birth in Belgium are thus excluded from these statistics. See: Schoenborn et al., 2021, [Measuring the invisible: Perinatal health outcomes of unregistered women giving birth in Belgium, a population-based study](#), *BMC Pregnancy and Childbirth*, 21(1), 1–13.

26 Surkyn et al., 2022, [An analysis of mortality rates to estimate undocumented migrants in Belgium](#), Horizon 2010 HumMingBird project

27 Gieles et al., 2019, [Maternal and perinatal outcomes of asylum seekers and undocumented migrants in Europe: a systematic review](#), *European Journal of Public Health*, Volume 29, Issue 4, Pages 714–723.

Communicable and non-communicable diseases (NCDs) and mortality

Undocumented migrants face inequalities in communicable (e.g. HIV, tuberculosis)²⁸ and non-communicable diseases (e.g. cardiovascular diseases, neoplasms, circulatory system diseases).

A study into the health records of undocumented migrants receiving medical care from Opera San Francesco, a non-governmental organization (NGO) in Milan, **Italy**, found that undocumented migrants demonstrate a significantly different health burden of NCDs, which varies with ethnicity and background, and that the risk of having an NCD increased with age and was higher in females.²⁹ In **France**, a study observed an increase in intensive care unit admissions (mainly for shock, infections, acute respiratory failure, acute kidney injury, obstetric events and neurological deficits) for undocumented migrants, who were younger and more severely ill than other patients admitted.³⁰

Research into patterns of mortality suggests NCDs play a role in undocumented migrants disadvantage compared to other groups of the population.³¹ Researchers in **Belgium** found that male undocumented migrants have a significantly higher risk of

death due to cardiovascular diseases as well as to external causes (e.g. accidental falls), compared to compared to regular residents (of both migrant and non-migrant origin) and that undocumented women show a higher mortality from neoplasms compared to documented women.³² Some of these findings were corroborated in **Switzerland**, where “death from circulatory system diseases is twice as frequent among undocumented immigrants compared to documented immigrants and Swiss citizens”.³³ In **Sweden**, a study found that undocumented migrants were more prone to disease from external causes, including circulatory system diseases, and neoplasms.³⁴ Evidence also suggests high maternal mortality, severe acute maternal morbidity, preterm birth, and low birth weight among the undocumented migrant population.³⁵

Migrants, and in particular those undocumented, also have a higher HIV burden compared with the general population, and high rates of post-migration HIV acquisition and hepatitis B.³⁶ An exploration into the burden of infectious diseases among 1,223 undocumented migrants in **France** found that they suffered from dental infections (43.2%), HIV infection

28 European Centre for Disease Prevention and Control, 2018, [ECDC issues migrant screening vaccination guidance](#).

29 Fiorini et al., 2023, [Characterizing non-communicable disease trends in undocumented migrants over a period of 10 years in Italy](#), Sci Rep 13, 7424.

30 Hraiech et al, 2022, [Undocumented migrants in French intensive care units in 2011-2018: retrospective nationwide study](#), Intensive Care Med, 48:290-9.

31 Lafaut et al., 2019, [Counting the non-existing: causes of death of undocumented migrants in Brussels- Capital Region \(Belgium\), 2005-2010](#). Archives of Public Health. 77. 1-8. 10.1186/s13690-019-0369-6. [accessed 28 July 2023]; Fiorini et al., 2016, [The burden of chronic noncommunicable diseases in undocumented migrants: a 1-year survey of drugs dispensation by a non-governmental organization in Italy](#), Public Health, Volume 141, Pages 26-31.

32 Lafaut et al., 2019, [Counting the non-existing: causes of death of undocumented migrants in Brussels- Capital Region \(Belgium\), 2005-2010](#). Archives of Public Health. 77. 1-8. 10.1186/s13690-019-0369-6. [accessed 28 July 2023]

33 Piccoli, L., Wanner, P., 2022, [The political determinants of the health of undocumented immigrants: a comparative analysis of mortality patterns in Switzerland](#), BMC Public Health 22, 804.

34 Wahlberg A, Källestål C, Lundgren AC, Essén B. [Causes of death among undocumented migrants in Sweden, 1997-2010](#), Glob Health Action, 2014;7(1):24464.

35 Gieles NC, Tankink JB, van Midde M, et al, [Maternal and perinatal outcomes of asylum seekers and undocumented migrants in Europe: a systematic review](#), Eur J Public Health. 08 2019;29(4):714-723.

36 Nöstlinger et al., 2022, [HIV among migrants in precarious circumstances in the EU and European Economic Area](#), Lancet HIV. 9(6):e428-e437; Keygnaert et al., 2014, " Health Policy, 114 2150225.; Desgrées-du-Loû et al., 2015, [Sub-Saharan African migrants living with HIV acquired after migration, France, ANRS PARCOURS study, 2012 to 2013](#). Euro Surveill. [Sexual and Reproductive Health of Migrants: Does the EU Care?](#)" Health Policy, 114 2150225.; Desgrées-du-Loû et al., 2015, [Sub-Saharan African migrants living with HIV acquired after migration, France, ANRS PARCOURS study, 2012 to 2013](#). Euro Surveill.

(3.5%), chronic hepatitis B virus infection (3.1%), upper respiratory tract infection (1.7%), skin mycosis (1.2%), skin and soft tissue infection (0.8%), chronic hepatitis C infection (0.8%), urinary tract infection

(0.7%), lower respiratory tract infection (0.7%), scabies (0.3%), tuberculosis disease (0.2%), vaginal mycosis (0.6%), and herpes (0.1%).³⁷

Switzerland: Do inclusive health care policies lead to better outcomes for undocumented migrants?

Drawing upon individual data of deceased individuals in Switzerland from 2011 to 2017, a study³⁸ found contrasting mortality patterns between undocumented immigrants and other population groups. Specifically, the rate of death from circulatory system diseases was found to be twice as high among undocumented immigrants compared to documented immigrants and Swiss citizens. This disparity was less pronounced in Swiss cantons with more inclusive healthcare policies for undocumented immigrants. Overall, the researchers concluded that undocumented immigrants face higher mortality rates than Swiss citizens and documented immigrants for diseases that are considered preventable with timely detection (e.g., availability of screening services) and effective medical intervention (e.g., appropriate treatment, access to antibiotics).

37 Vignier et al., 2022, [Burden of infectious diseases among undocumented migrants in France: Results of the Premiers Pas survey](#), *Frontiers in Public Health*

38 Piccoli, L., Wanner, P., 2022, The political determinants of the health of undocumented immigrants: a comparative analysis of mortality patterns in Switzerland, *BMC Public Health* 22, 804.

Sexual and reproductive health

Across Europe, significant inequities persist in sexual and reproductive health. Undocumented pregnant women tend to be younger, unmarried, and employed in low-income domestic employment.³⁹ Research has shown that difficult pregnancies and poor pregnancy outcomes are disproportionately experienced by migrants throughout Europe, including preterm birth, low birth weight, and infant and maternal mortality, and that migrants are more likely to deliver their babies without professional assistance.⁴⁰

It has also been found that undocumented women use contraception and family planning services less and are thus more likely to have unintended pregnancies, which in turn, has been linked to poorer maternal and child health outcomes.⁴¹

In **Portugal**, a study found that undocumented migrant women tended to be at a higher risk of teenage delivery, complications of pregnancy, miscarriages and induced abortions.⁴² They are also less likely to access prenatal care than both documented migrant women and women in the general population.⁴³ When they do seek prenatal care, it is significantly later in the pregnancy.⁴⁴

In **Switzerland**, studies found that when undocumented migrant women lacked access to sexual and reproductive health services, this led to unintended pregnancies, insufficient rubella immunization, lack of cervical cancer screening and higher chlamydial infection among undocumented migrant women (13%) compared with women with residency permits (4.4%).⁴⁵

In the **Netherlands**, women were questioned on their pregnancy and delivery experiences during their time as undocumented residents, where they self-report several problems, including gynaecologic, psychological, preterm delivery and caesarean delivery problems.⁴⁶

39 Munro et al., 2013, [Undocumented pregnant women: what does the literature tell us?](#) J Immigr Minor Health. 15(2):281–91.

40 Eslier et al., 2022, [Severe Maternal Morbidity among Undocumented Migrant Women in the PreCARE Prospective Cohort Study](#), BJOG: An International Journal of Obstetrics and Gynaecology, 129 (10), pp.1762–1771.; Schoenborn et al., (2021), [Measuring the invisible: Perinatal health outcomes of unregistered women giving birth in Belgium, a population-based study](#), BMC Pregnancy and Childbirth, 21(1), 1–13.; Liu et al., 2019, [Perinatal health of refugee and asylum-seeking women in Sweden 2014–17: a register-based cohort study](#), Eur J Pub Health., 29(6):1048–; Keygnaert et al., 2014, " [Health Policy](#), 114 2150225 [Sexual and Reproductive Health of Migrants: Does the EU Care?](#)" [Health Policy](#), 114 2150225

41 De Jong et al., 2017, [A systematic literature review on the use and outcomes of maternal and child healthcare services by undocumented migrants in Europe.](#), Eur J Pub Health, 27(6):990–7; Keygnaert et al., 2014, " [Health Policy](#), 114 2150225; [Sexual and Reproductive Health of Migrants: Does the EU Care?](#)" [Health Policy](#), 114 2150225;

42 De Vito et al, 2015, [Public health aspects of migrant health: a review of the evidence on health status for undocumented migrants in the European Region](#), World Health Organization, Regional Office for Europe.

43 De Jong et al., 2017, [A systematic literature review on the use and outcomes of maternal and child healthcare services by undocumented migrants in Europe.](#), Eur J Pub Health. 27(6):990–7; Munro et al., 2013, [Undocumented pregnant women: what does the literature tell us?](#) J Immigr Minor Health, 2013;15(2):281–91.

44 Ibid.

45 De Vito et al., 2015, [Public health aspects of migrant health: a review of the evidence on health status for undocumented migrants in the European Region.](#), World Health Organization, Regional Office for Europe.

46 Schoevers et al., 2009, [Self-rated health and health problems of undocumented immigrant women in the Netherlands: a descriptive study.](#) J Public Health Policy, 30(4):409–22

Psychological health

Undocumented migrants also face poor mental health.⁴⁷ Research has found undocumented migrants face a higher likelihood of encountering mental health risk factors, including depression, anxiety and post-traumatic stress disorders (PTSD), when compared to both the general population and documented migrants.⁴⁸ This heightened vulnerability may stem from the stress-inducing conditions prevalent during predeparture, transit, border-crossing, reception phases of their journey, and living with irregular migration status in Europe. Additionally, in certain instances, compromised mental well-being has been linked to their exposure to various forms of violence.⁴⁹

As further expanded on below, stress, anxiety, depression, and physical illness has also been linked to the perpetual dread of being caught and deported, such as through random checks in public spaces, together with the uncertainty surrounding one's future.⁵⁰

Living conditions also have a significant impact on psychological health. In **France**, a study showed that one out of six undocumented migrants suffer from PTSD, with a rate at least eight times higher than in the general population in France.⁵¹ The same study showed that poor living conditions, assessed through food insecurity and living in collective accommodation facilities, was a key factor in the likelihood of developing post-traumatic stress disorder. A survey data from **Austria** suggests that migration status was a risk factor for mental health problems among adolescents during the COVID-19 pandemic.⁵²

47 PICUM, 2022, [Insecure residence status, mental health and resilience](#)

48 Martin. F., Sashidharan. S.P, 2023, [The Mental Health of Adult Irregular Migrants to Europe: A Systematic Review](#) , J Immigrant Minority Health 25, 427–435; De Vito et al., 2015, World Health Organization, [Regional Report on the Mental Health in Europe Working Group. Migration and mental health in Europe \(the state of the mental health in Europe working group: appendix 1](#), Clin Pract Epidemiol Ment Health.

49 De Vito et al, 2015,. [Public health aspects of migrant health: a review of the evidence on health status for undocumented migrants in the European Region](#) World Health Organization, Regional Office for Europe.

50 Kuehne et al., 2015, [Subjective health of undocumented migrants in Germany – a mixed methods approach](#), BMC Public Health 15, 926

51 Prieur et al., 2020, In France, One out of Six Undocumented Immigrants Suffers from Post-Traumatic Stress Disorder.

52 Pieh et al., 2022, [The Impact of Migration Status on Adolescents' Mental Health during COVID-19](#), Healthcare, Vol. 10/1, p. 176

Belgium: Access sexual and reproductive health for undocumented women seen by Doctors of the World in the Humanitarian Hub in Brussels⁵³

Undocumented migrants in Belgium face challenges in accessing sexual and reproductive health services, despite the existence of the legal entitlements to health care for undocumented migrants (Urgent Medical Aid). In 2018, Doctors of the World Belgium together with eight organisations, created a one-stop service centre, the Humanitarian Hub, to offer a set of basic services to undocumented migrants. This includes a voluntary de-medicalized midwifery clinic, which also focused on building trust with women, and facilitated referrals to family planning centres. Over the years, Doctors of the World medical team has noted increase of women using the services, from 5,4%⁵⁴ in 2019 to 16,4% in 2021⁵⁵, while the coordination team identified a number of complex unwanted pregnancies, many of which related to violence. By taking steps to create a more gender-sensitive Hub, based on understand the needs of the population and their social determinants of health, the proportion of women seeking consultations doubled. Doctors of the World Belgium urges the government to fulfil its legal obligations to provide universal access to health care services.

53 Lopez, F, 2019, [Access to abortion of undocumented migrants seen by Médecins du Monde in the Humanitarian Hub](#), European Journal of Public Health, Volume 29, Issue Supplement_4

54 Ibid

55 Hub Humanitaire, 2021, Rapport d'activités à la Région de Bruxelles-Capitale. The Hub humanitaire is an NGO consortium currently composed of Médecins du Monde, Médecins Sans Frontières, Belgium Red Cross, Plateforme Citoyenne de Soutien aux Réfugiés et SOS Jeunes

Do policies consider migration status as a social determinant of health?

The right to health is a right that can only be realised if other human rights are respected. It encompasses a right to health care, as well as to the socioeconomic factors that influence a person's ability to lead a healthy life – that is, to the underlying preconditions for health. Committed to reducing health inequalities,

global and regional bodies have taken steps to address social determinants of health in their policies, such as education, employment, housing, etc. At the same time, migration status is inconsistently considered in these policies.

World Health Organisation

The World Health Organisation (WHO) defines the social determinants of health (SDH) as “the non-medical factors that influence health outcomes. They are the conditions in which people are born, grow, work, live, and age, and the wider set of forces and systems shaping the conditions of daily life. These forces and systems include economic policies and systems, development agendas, social norms, social policies and political systems”.⁵⁶

In a 2010 discussion paper, the WHO emphasised how structural determinants, such as social, economic, and political mechanisms, create social differences that influence a person's socioeconomic position.⁵⁷ It identified income, education, occupation, gender, and race/ethnicity as important factors influencing a person's socioeconomic position. Individuals with different socioeconomic positions will experience varying levels of exposure and vulnerability to health-compromising conditions. At the same time, poor health can have a “feedback” effect on a person's social position, potentially impacting

the socioeconomic position (e.g. employment opportunities and reducing income).⁵⁸

While the analysis at the time did not consider the impact of migration policies on social determinants, the WHO European Region highlighted in a 2013 report that:

“Irregular migrants who are particularly exposed to additional exclusionary processes face the greatest problems – for example, those who need health care, unaccompanied minors, irregular female domestic workers and victims of trafficking, mostly women being exploited in the sex trade. States vary in the extent to which they allow irregular migrants access to social protection, including health care. Withholding access, denying them the “right to the highest attainable health”, is seen as one important element of “internal migration control”, and detention is another. However, these measures do not seem to have much effect on the numbers of irregular migrants – their main effect is increased

⁵⁶ WHO, n.d., [Social determinants of health](#) [accessed 26 July 2023]

⁵⁷ WHO, 2010, [A conceptual framework for action on the social determinants of health. Social Determinants of Health Discussion Paper 2. Debates, policy & practice, case studies](#) [accessed 26 July 2023]

⁵⁸ Ibid.

*vulnerability to marginalization, destitution, illness and exploitation. Migration issues and the living conditions of regular and irregular migrants need to be addressed by agreements between countries in the Region that do not infringe their human rights.”*⁵⁹

At the World Health Assembly in 2019, Member States agreed a five-year global action plan which, among others, aims to “enhance capacity to tackle the social determinants of health and to accelerate progress towards achieving the Sustainable Development Goals, including universal health coverage to promote the health of refugees and migrants (GAP)”.⁶⁰

Following the request of the 2021 World Health Assembly,⁶¹ the WHO presented at the 2023 World Health Assembly a framework to measure, assess, and tackle health disparities and inequities arising from social determinants.⁶² The draft operation framework – which sets out a comprehensive list of social determinants of health, divided into domains, subdomains and indicators (see figure 1) – highlights that “*within countries, health inequities are observed between different population groups defined by characteristics such as gender, race and ethnicity, level of education, income, immigrant*

status, and other dimensions”.⁶³ Migrants are also recognised as disproportionately impacted by recent crises (e.g. COVID-19 pandemic, climate change, conflict, food, and cost-of-living crises).⁶⁴ It further considers how indicators can “*capture individuals and populations experiencing multiple disadvantages and unequal exposure to SDH and actions*” while recognising that “*there are marginalized individuals and populations who have little to no data to monitor, such as undocumented migrants and populations affected by emergencies, homeless people, or incarcerated populations*”.⁶⁵

The indicators accompanying the SDH equity domains reflect attempts to integrate the multiple disadvantages faced by undocumented migrants. For example, it proposes to disaggregate data on the non-fatal and fatal occupational injuries among employees by migration status. Migration is considered as a separate domain in the social and community context – but it focuses only on measuring the refugee population in a country and does not consider how migration should be considered in a much more comprehensive manner.

59 Marmot, Michael & UCL Institute of Health Equity, (2014), [Review of social determinants and the health divide in the WHO European Region: final report](#), Updated reprint 2014, World Health Organization, Regional Office for Europe.

60 WHO, 2019, [Global action plan on promoting the health of refugees and migrants](#), 2019–2023. In: Seventy-second World Health Assembly, Geneva

61 World Health Assembly, 2021, [Resolution 74.16](#), para 6(2)

62 World Health Assembly, 2023, [Consolidated report by the Director-General](#), A76/7 Rev.1; World Health Organisation, 2023, [Draft operational framework for operational Framework for Monitoring Social Determinants of Health Equity](#) p. 54 [accessed 27 July 2023]

63 World Health Organisation, 2023, [Draft operational framework for operational Framework for Monitoring Social Determinants of Health Equity](#) p. 54 [accessed 27 July 2023]

64 Ibid. p. 2

65 Ibid. p. 25

To ensure the measurement of progress on SDH equity, the draft operational framework identifies four areas for actions:⁶⁶

- Policies to promote fair work, income, economic security and equality;
- Policies to ensure access to quality of education;
- Policies to enhance the physical environment;
- Policies to strengthen social and community context;

Most notably for undocumented migrants, the draft operational framework foresees that actions under labour market policies should measure “National compliance with labour rights (freedom of association and collective bargaining) based on International Labour Organization (ILO) textual sources and national legislation, by sex and migrant status”.⁶⁷ Actions under social policies should measure “Migration policies that facilitate orderly, safe, regular and responsible migration and mobility of people”.⁶⁸

WHO proposed domains and subdomains for monitoring SDH equity⁶⁹



⁶⁶ Ibid. p. 29

⁶⁷ Ibid. p. 29

⁶⁸ Ibid. p. 31

⁶⁹ Ibid. p. 27

European Union

In the European Union (EU) competences to regulate are divided between the EU and its member states. In matters relating, for instance, to migration policy and border control, judicial cooperation in criminal matters, and common safety concerns in public health matters, competences are shared.⁷⁰ In other matters, such as employment, social inclusion, and overall health policies, Member States retain the primary responsibility.⁷¹ In some areas the EU may regulate through laws, in other areas, the Union's actions are restricted to policy and funding programmes.

Health is an area of shared competence between the EU and member states, with member states having primary responsibility for the organisation of health systems.

EU health policy aims to address public health in various ways, including improving rapid response to health threats and developing soft law on cross-cutting issues or priorities, such as mental health and cancer. Over the years, the EU has also aimed to address health inequalities through various policies. Adopted in 2007, the EU health strategy 'Together for Health'⁷² provides a guiding framework for health-related activities. This strategy emphasizes the importance of reducing health inequities as a core value.

Health under EU law

The importance of health is recognised in the Treaty on the Functioning of the European Union in Article 168, according to which "a high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities". The EU Charter on Fundamental Rights specifically recognises the right of everyone to access preventive health care and the right to benefit from medical treatment under the member states' national laws (Article 35). This provision should be read together with Article 24, which reiterates that children shall have the right to such protection and care as are necessary; and Article 31, which establishes the right to healthy and safe working conditions. Notably, however, the EU Charter only applies to institutions and bodies of the EU and to national authorities when they are implementing EU law.

70 Articles 4, 77, 82, 168 of the Treaty on the Functioning of the European Union

71 Article 153 of the Treaty on the Functioning of the European Union

72 White paper – Together for Health: A Strategic Approach for the EU 2008-2013, [COM\(2007\) 630 final](#).

In 2009, the EU released a communication on 'Solidarity in Health,' acknowledging that vulnerable and socially excluded groups, including migrants, face health challenges.⁷³ It identifies numerous factors affecting health, such as living conditions, education, occupation, income, healthcare, disease prevention, and health promotion services. While it doesn't specifically mention 'migration status,' it underscores that health inequalities are not inevitable and can be addressed through public policy.⁷⁴

Subsequent policies, like the Europe 2020 strategy⁷⁵ and the 2013 Commission staff working document on 'Investing in Health',⁷⁶ also emphasize the importance of reducing health inequalities and addressing poverty and social exclusion. In addition, the 2014 communication on 'Effective, Accessible, and Resilient Health Systems' identifies common challenges faced by European health systems, including disparities in healthcare access,⁷⁷ and a 2018 report on Member State policies highlights the acute issue of inequalities in healthcare access for undocumented migrants.⁷⁸ More recently, European leaders pledged to advance the European Health Union, focusing on prevention, promotion, and strengthening health system capacities.⁷⁹ The EU

also provides funding for health-related initiatives, with a modern definition of health determinants in the EU4Health funding program, encompassing various factors influencing a person's health.⁸⁰

In summary, while EU health policies acknowledge that individuals with a migrant background often experience poorer health, they do not explicitly address the role of migration status in these health disparities. Moreover, EU migration policies fail to adequately consider the impact on the right to health and public health.

73 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Solidarity in health: reducing health inequalities in the Eum [COM/2009/0567 final](#)

74 In particular, the Commission notes that "As health inequalities are not simply a matter of chance but are strongly influenced by the actions of individuals, governments, stakeholders, and communities, they are not inevitable. Action to reduce health inequalities means tackling those factors which impact unequally on the health of the population in a way which is avoidable and can be dealt with through public policy".

75 Europe 2020 – A strategy for smart, sustainable and inclusive growth, [COM\(2010\) 2020 final](#).

76 Commission Staff Working Document, Investing in Health Accompanying the document Communication from the Commission to the European parliament, the council, the European Economic and Social Committee and the Committee of the Regions Towards Social Investment for Growth and Cohesion - including implementing the European Social Fund 2014-2020, [SWD/2013/043 final](#)

77 Communication from the Commission on effective accessible and resilient health systems, [COM\(2014\) 215 final](#).

78 European Commission, 2018, [Inequalities in access to healthcare A study of national policies](#)

79 Council of the European Union, Spanish presidency, [Health leaders of the EU pledge to make progress in building the European Health Union](#) [accessed 23 August 2023]

80 In [Regulation \(EU\) 2021/522](#) for the EU4Health funding programme, a health determinant is defined as "a range of factors that influence the health status of a person, such as behaviour-related, biological, socio-economic and environmental factors".

Will migrants' health be impacted by the border procedures proposed by the EU's Pact of Migration and Asylum?

The EU Pact on Migration and Asylum, currently under negotiation, is a multi-annual EU strategy in the area of asylum and migration.⁸¹ Some key proposals which would delineate procedures at arrival include:⁸²

- That everyone who enters the EU irregularly (e.g. without a valid visa or other possibility for regular entry), or was disembarked after a search and rescue operation, goes through a mandatory pre-entry screening at the EU external borders. In the pre-entry screening, border officials would carry out security and identity checks; health and vulnerability screenings are possible but are not mandated. This pre-entry screening would also apply to people already in the EU territory, if they entered irregularly.
- During both the pre-entry screening and the border procedures, people will most likely be held in immigration detention. In the pre-entry screening, detention will be automatic and apply to everyone, without any judicial overview or access to a lawyer, nor any decision on whether detention is necessary and proportional in the individual case.
- The pre-entry screening would apply to everyone, children and families included, and the border procedures would also apply to children above 12 if they are with their families, or independent of age for "national security" reasons.

Among other human rights concerns, the European Parliament horizontal impact assessment called attention to the expected negative impact of screening and border procedures on the protection of physical and mental health of migrants and public health.⁸³

81 European Commission, Communication from the Commission to the European Parliament, the European Economic and Social Committee and the Committee of the Regions on a New Pact on Migration and Asylum, [COM\(2020\) 609 \(September 23, 2020\)](#)

82 PICUM, 2021, [FAQ EU Pact on migration and asylum](#); PICUM, 2022, [Immigration Detention and de facto detention: what does the law say?](#)

83 European Parliament, 2021, [The European Commission's New Pact on Migration and Asylum: Horizontal Impact Assessment](#), European Parliamentary Research Service.

Migration status as a key structural determinant of health inequalities

Although EU policies addressing health inequalities currently do not consider migration status, for undocumented migrants, their insecure or irregular migration status constitutes a key factor in the quality of their health. This status shapes every aspect of their life: their social and economic status,

living conditions, income, work, family relationships, access to services, access to justice, etc. Their experiences are compounded by other factors such as sexual orientation, gender, age, type of employment (e.g. sex work) and racialized background.⁸⁴

Apprehension of undocumented migrants, detention and pushbacks

Civil society organisations have extensively documented violence and ill treatment against migrants through migration enforcement measures such as immigration detention⁸⁵, deportation and stop-and-search police procedures, among others, all of which have a significant impact on their physical and mental wellbeing.

Immigration detention places individuals' lives on hold, as many may wonder when, or if, they will ever be released.⁸⁶ Studies indicate that immigration detention has a severe negative impact on mental health, resulting in a higher incidence

of anxiety, depression and post-traumatic stress compared to the rest of the population.⁸⁷ A survey in the **UK** found an average of very high levels of depression in four of every five people in detention.⁸⁸ Moreover, a public inquiry into abuses at a UK immigration detention centre revealed evidence of human rights abuses, torture and inhuman or degrading treatment.⁸⁹

84 United Nations General Assembly, Human Rights Council, 2018, [Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance](#), §30, p.10.

85 European Union Agency for Asylum (EUAA) (2023), Asylum Report 2023: Annual Report on the Situation of Asylum in the European Union, Luxembourg: Publications Office of the European Union ; Groupe SOS Solidarités, Forum Réfugiés, France Terres D'Asile, La Cimade, Solidarité Mayotte, 2023, [Centres et locaux de rétention administratives](#)

86 PICUM, 2020, [Removed. Stories of hardship and resilience in facing deportation and its aftermath](#)

87 WHO, 2022, [Addressing the health challenges in immigration detention, and alternatives to detention: a country implementation guide](#); von Werthern. M., Robjant. K., Chui. Z. et al, 2018, The impact of immigration detention on mental health: a systematic review, BMC Psychiatry 18, 382 ; Kotsioni. I., Egidi. S. & Ponthieu. A., 2014, A health at risk in immigration detention facilities, Deten Altern Deten Deport 44, 11–13; T. Filges et al., 2015, " September, Campbell Collaboration.; Lorek. A., Ehntholt, K., Anne Nesbitt, Wey, E., Githinji, C., Rossor, E., Wickramasinghe, R. 2009. The mental and physical health difficulties of children held within a British immigration detention center: A pilot study, Child Abuse and Neglect. [The Impact of Detention on the Health of Asylum Seekers: A Systematic Review](#)," September, Campbell Collaboration.; Lorek. A., Ehntholt. K., Anne Nesbitt, Wey, E., Githinji. C., Rossor. E., Wickramasinghe. R, 2009, The mental and physical health difficulties of children held within a British immigration detention center: A pilot study, Child Abuse and Neglect.

88 M. Bosworth and B. Kellezi, 2012, [Quality of Life in Detention: Result from the questionnaire data collected in IRC Yarl's Woord, IRC Tinsley's House and IRC Brook House, August 2010- June 2011](#), Centre for Criminology University of Oxford [accessed 26 July 2023]

89 The Brook House Inquiry, set up in November 2019, investigated the mistreatment of people who were detained at Brook House Immigration Removal Centre between 1 April and 31 August 2017. For more information, see the UK Government, 2023, [Brook House Inquiry](#).

Ending immigration detention for children

The UN Committee on the Rights of the Child has deemed child immigration detention to be in violation of the UN Convention on the Rights of the Child and against the best interests of the child.⁹⁰ Governments worldwide have committed to work towards ending child immigration detention.⁹¹

Nonetheless, immigration detention of children in the EU has been increasing⁹² and the proposed legislative measures in the EU Pact on Migration and Asylum will likely further lead to an increase in child detention including de facto detention (a measure which in practice amounts to deprivation of liberty but is not based on a detention order nor usually subject to a judicial review).⁹³

The harmful impact of immigration detention is further exacerbated when it adds to pre-existing factors that already put detainees in a situation of vulnerability, including poor physical or mental health conditions, disabilities, past experiences of trauma, or age.⁹⁴ In **Poland**, following the attempted suicide of a resident of immigration detention in Przemyśl,

around 70 people went on a hunger strike from 5-9 September 2023, protesting against their detention and mistreatment.⁹⁵

Moreover, violence and ill-treatment of migrants and asylum seekers are prevalent in the EU, especially at land and sea borders.⁹⁶ Pushbacks⁹⁷ have also

90 Joint general comment No. 3 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 22 (2017) of the Committee on the Rights of the Child on the general principles regarding the human rights of children in the context of international migration**, [CMW/C/GC/3-CRC/C/GC/22*](#)

91 UN Resolution, 2019, Global Compact for Safe, Orderly and Regular Migration ([A/RES/73/195](#))

92 Fundamental Rights Agency, 2020, [Children in Migration in 2019](#)

93 PICUM, 2022, [Immigration detention and de facto detention: what does the law say](#)

94 PICUM, 2021, [Preventing and Addressing Vulnerabilities in Immigration Enforcement Policies](#)

95 Natasha Mellersh, 13 September 2023, [Migrants stage hunger strike in Poland's detention centers](#), Infomigrants

96 For example, the European Network Against Racism (ENAR) argued in its 2021 [report on police brutality](#) that "Migrants across Europe experience violence and at times torture due to police and law enforcement misconduct, during forced return operations and in detention as well as illegal collective expulsions. Current EU policy that is designed to curb migration can result in the dehumanisation and criminalisation of irregular migrants. Recent EU plans to increase the number of expulsions from the EU will cost hundreds of millions of euros, create giant, opaque and unaccountable agencies and further undermine claims that the EU occupies the moral high ground in its treatment of migrants. The migration enforcement system especially targets racialized groups".

97 The European Union Agency for Fundamental Rights (FRA) defines pushbacks as "when a person is apprehended after an irregular border crossing and summarily returned to a neighbouring country without assessing their individual circumstances on a case-by-case basis." Pushbacks are an increasing phenomenon at Europe's borders and entails the violation of "the right to seek asylum and the protection against refoulement, which are at the core of international refugee and human rights law".

intensified in recent years⁹⁸, and stop-and-search procedures by the police are a regular occurrence. A 2023 study into the use of pushbacks in the context of border management in Europe found a total of 9,515 pushback instances during the four-month

reporting period (1 May to 31 August 2023), with numerous reports of violence, as well as inhuman and degrading treatment, collected, particularly at the borders between Croatia and Bosnia and Herzegovina and between Hungary and Serbia.⁹⁹

“They removed my shoes and jacket, put a plastic cord on my wrists, pushed my face to the ground and beat me with sticks on my leg.”

says a man from Morocco, speaking with Medecin Sans Frontière staff after he was attacked by border authorities in Bulgaria.¹⁰⁰

Racial discrimination plays an important role in these practices. A 2021 report by the EU Fundamental Rights Agency shows that black people, Asians and Roma are more likely to be stopped by the police.¹⁰¹ These stops can be accompanied by excessive use of force, racist language and violence.¹⁰² Moreover, racial and ethnic profiling are systemically used by law enforcement and migration enforcement authorities, with race, ethnicity or skin colour viewed as a proxy for an individual's migration status, and racialised people (including EU citizens) are more likely to be exposed to racial profiling practices. A

2014 study by the FRA showed that 79% of surveyed border guards at airports rated ethnicity as a helpful indicator to identify people attempting to enter the country in an irregular manner before speaking to them¹⁰³.

98 Protecting Rights at Border, May 2023, [What we do in the shadows](#): While Europe sleeps, rights and abuses at the border to the Union flourish. Latest data sheds new light on the systematic and continued pushbacks practices; Council of Europe, 2023, [The Council of Europe anti-torture Committee \(CPT\) calls for an end to illegal pushback practices and for increased safeguards against ill-treatment](#); PICUM, 2021, [Input to the UN Special Rapporteur on the Human Rights of Migrants Report on pushback practices and their impact on the human rights of migrants](#).

99 Protecting Rights at Border, 2023, [Surprisingly surprised. While undeniable evidence on the systematic use of pushbacks as a de facto tool for border management reports, some remain bewildered when the rights violations are put in the spotlight](#)

100 Medecins Sans Frontières, 19 May 2023, [EU migration : Four deadly policies being pushed by European leaders](#)

101 Fundamental Rights Agency, 2021, [Police stops in Europe: everyone has a right to equal treatment](#) [accessed 25.03.2023]

102 Médecin du Monde, 2018, [Violences Policières : envers les migrants et les réfugiés en transit en Belgique. Une Enquête quantitative et qualitative](#) [accessed 25.03.2023]

103 Fundamental Rights Agency, 2014, [Fundamental rights at airports: border checks at five international airports in the European Union](#)

United Kingdom: The effect of “hostile environment” on migrant women’s health

In 2012, the UK government introduced the ‘hostile environment’ set of policies designed to make life exceedingly difficult for undocumented migrants¹⁰⁴ and which have been shown to have significant negative health effects for migrants living in the UK.¹⁰⁵ In 2023, the government passed a widely criticised¹⁰⁶ ‘Illegal Migration Act’.¹⁰⁷ The Act limits the avenues made available to migrants to regularise their status, or make an asylum claim. It is feared that this will increase the number of undocumented people living in the UK.

Prior to the Act coming into force, Maternity Action speculated that a rise in the numbers of undocumented people may translate into an increase in pregnant women being charged for their maternity care (which sees them pay 150% of the normal National Health Service (NHS) rates).¹⁰⁸ Governmental data itself has shown that migrant women are disproportionately impacted by the charging regulations, partly because only women and not men are charged for maternity care.¹⁰⁹ On average chargeable migrant women are charged £7,000 for uncomplicated deliveries and substantially more for more complicated births, stillbirths, late miscarriages and NICU (neonatal intensive care unit) care post-partum.¹¹⁰ Additionally, NHS debts can trap women in abusive relationships, as they can be reported to the Home Office¹¹¹, and immigration abuse is recognized by the Domestic Abuse Commissioner as a form of control by abusers.¹¹² Research has indicated that charging migrant women for their care can worsen health outcomes for pregnant women, new mothers and babies. There is evidence that women avoid scans and appointments for fear of being charged or reported to the Home Office, increasing the risk that health conditions go undetected.¹¹³

104 Maternity Action, 2023, [The Illegal Migration Bill and the health and welfare of pregnant migrant women and new mothers \(part 1 of 3 blogs\)](#); PICUM, 2019, [The UK’s Data Protection immigration exemption erodes fundamental rights](#); The Joint Council for the Welfare of Immigrants, [The Hostile Environment explained](#) [accessed 20 September 2023]

105 Weller et al., 2019, [The Negative Health Effects of Hostile Environment Policies on Migrants: A Cross-Sectional Service Evaluation of Humanitarian Healthcare Provision in the UK](#)

106 United Nations Human Rights Office of the High Commissioner, [UN experts urge UK to halt implementation of Illegal Immigration Bill](#), Press Release 20 July 2023 [accessed 24 September 2023]; Maternity Action, 2023, [The Illegal Migration Bill and the health and welfare of pregnant migrant women and new mothers \(part 1 of 3 blogs\)](#); British Red Cross, [How the Illegal Migration Act affects vulnerable communities](#) [accessed 24 September 2023]; Children’s Commissioner, 3 May 2023, [Statement from the Children’s Commissioner on the Illegal Migration Bill](#)

107 Illegal Migration Act 2023, <https://bills.parliament.uk/bills/3429>; UN Refugee Agency, 2023, [UK Illegal Migration Bill: UN Refugee Agency and UN Human Rights Office warn of profound impact on human rights and international refugee protection system](#), Press Release 18 July 2023

108 Maternity Action, 2023, [The Illegal Migration Bill and the health and welfare of pregnant migrant women and new mothers \(part 1 of 3 blogs\)](#)

109 Home Office, 2023, [Developing an evaluation strategy for the compliant environment: Review of internal data and processes](#)

110 Maternity Action, 2023, [The Illegal Migration Bill and the health and welfare of pregnant migrant women and new mothers \(part 1 of 3 blogs\)](#)

111 Maternity Action, 2019, [A Vicious Circle: The relationship between NHS Charges for Maternity Care, Destitution, and Violence Against Women and Girls](#)

112 Domestic Abuse Commissioner, 2021, [Migrant victims forced to stay with abusers or face destitution because they can’t access public funds](#)

113 Maternity Action, 2023, [The Illegal Migration Bill and the health and welfare of pregnant migrant women and new mothers \(part 1 of 3 blogs\)](#)

Constant fear of deportation

Undocumented migrants live under the constant fear of being identified and deported, which has a significant impact on the psychological health described previously. Indeed – lack of a residence permit means that they face a constant risk of their data being shared with immigration authorities, including for example to report abuse and exploitation in personal relationships or the workplace.

The nature and extent of this data sharing depends on the public authorities and sector. This type of sharing appears to be quite common between law enforcement authorities and immigration authorities¹¹⁴ whereas, to date, outside of law enforcement, it is unusual for public authorities to have an explicit obligation to share data with immigration authorities.¹¹⁵

The absence of a formal requirement to report immigration status does not mean that data sharing doesn't happen informally or in an ad hoc manner in other Member States. Moreover, there are difficulties in monitoring informal data sharing arrangements or practices among authorities that can have immigration consequences for individuals. There is some evidence that there is an increasing cross-sector data sharing. For instance, in the Netherlands a digital welfare fraud detection system called Systeem Risico Indicatie (Syri) used “migration background” to uncover alleged fraud¹¹⁶. Recently Sweden¹¹⁷ and Finland¹¹⁸ have announced their intention to enhance data sharing between immigration enforcement and a wide range of service providers as well as educational facilities.

114 See for example: Victim Support Europe and Ghent University, 2021, [Safe reporting for migrant victims of sexual violence: mapping of policies in Belgium, Ireland and the UK](#); Van Den Durpel, A. , 2019, [Safe reporting of crime for migrants with irregular status in Belgium](#), COMPAS: Oxford; Taveriti, S. B. ,2019, [Safe reporting of crime for victims and witnesses with irregular migration status in Italy](#), COMPAS: Oxford; Timmerman, R., Leerkes, A., & Staring, R. , 2019, [Safe reporting of crime for migrants with irregular status in the Netherlands](#), COMPAS: Oxford

115 A Swedish Parliament report, based on an information request by the European Parliamentary Research Service to EU Member States, found that Belgium, Bulgaria, Estonia, Croatia, Lithuania, Poland, Slovenia and Germany have national provisions requiring civil servants to inform about persons residing without authorisation. Hungary and Austria have indicated that there is no such obligation, but at the same time stress that there is a reporting obligation for certain types of employees, e.g. on law enforcement authorities. Other countries have also pointed out that there are national rules on the exchange of information between authorities (e.g. Finland and Ireland). All Member States except Greece, Italy, Malta, Spain and the Czech Republic submitted replies. See: Sveriges Riksdag, 2023, Rapport från utredningstjänsten informationsskyldighet beträffande personer utan tillstånd, Dnr 2022:1294 For further information, contact the Research Service of the Swedish Parliament: www.riksdagen.se

116 Borgesius, F. And van Bekkum, M., 2021, [Digital welfare fraud detection and the Dutch Syri judgement](#)

117 [Tidöavtalet: Överenskommelse för Sverige](#); For more information see Lindt, J., Lundberg, A., Scott, H., Aberg, K., 2023, [Sweden: government considers obligation to denounce undocumented migrants](#), Blog published on PICUM website.

118 Finnish Government, 2023, [A strong and committed Finland: programme of the Prime Minister Petteri Orpo's Government](#)

Germany's obligation to report

Germany obliges authorities to report undocumented people to immigration enforcement under section 87 of the Residence Act, with schools and other educational and care establishments being the only exception.¹¹⁹ The Residence Act also mandates social welfare offices to report undocumented people to immigration authorities when they approach them to request health care coverage. At the same time, according to Section 1 Paragraph 1 Nos. 5, 4 and 6 of the Asylum Seekers Benefits Act, undocumented migrants are entitled to limited medical services in the event of acute illnesses or painful conditions as well as during pregnancy and childbirth.¹²⁰ The social welfare office at the place of residence is intended to bear the costs and would have to issue the applicant a treatment certificate so that they can see a doctor, midwife or other health care provider. At this point, however, Section 87 of the Residence Act comes into play: The social welfare office is obliged to inform the immigration authorities if a person's unregulated residence status becomes known.

Civil society organisations have strongly contested Section 87 of the Residence Act. Among different actions, Doctors of the World Germany led a campaign supported by over 80 organisations ("GleichBeHandeln")¹²¹ and in 2021, Gesellschaft für Freiheitsrechte e.V., together with over 30 CSOs in Germany, submitted a complaint to the European Commission alleging a breaches of EU law.¹²²

Although the government pledged to remove the duty to report undocumented migrants in its December 2021 coalition programme,¹²³ the UN Committee on the Elimination of Discrimination against Women noted in its 2023 concluding observations that Germany has no intention of repealing or amending section 87 of the Resident Act and called on Germany to reconsider its position.¹²⁴

119 German Federal Ministry of Justice [Residence Act in the version promulgated on 25 February 2008 \(Federal Law Gazette I p. 162\)](#), most recently amended by [Article 4b of the Act of 17 February 2020 \(Federal Law Gazette I p. 166\)](#)

120 German Federal Ministry of Justice, Act on benefits for asylum-seekers, Bundesgesetzblatt, Part I, 1997-08-14, No. 57, pp. 2022-2026; See also Gleich BeHandeln campaign page: <https://gleichbehandeln.de/>

121 See <https://gleichbehandeln.de/>

122 [Gesellschaft für Freiheitsrechte e.V.](#)

123 Koalitionvertrag 2021-2025 zwischen der sozialdemokratischen partier deadschlands (SPD), Bündnis 90 / Die Grünen und den freien demokraten "[Mehr Fortschritt wagen: Bündnis für freiheit, gerechtigkeit un nachhaltigkeit](#)"; PICUM, 2021, [New German government pledges to lift reporting obligations for health care providers](#)

124 [CEDAW/C/DEU/CO/9](#) paras 45, 46

Migration procedures

To resolve their insecure or irregular migration status, people must face various forms of migration procedures. Migration procedures themselves can be traumatic, requiring people to recount distressing

past experiences in the context of applying for asylum, regularisation on medical or humanitarian grounds, procedures for victims of trafficking or crime and related appeals procedures.¹²⁵

Belgium: Former undocumented migrant hunger strikers' self-perceived health¹²⁶

Desperate and with no prospect of improving their living conditions, undocumented migrants in Belgium organised hunger strikes to denounce their hardships to the general public and policy makers. Between 2008 and 2021, 18 hunger strikes were recorded, involving a total over 1,600 undocumented migrants. An analysis of the situation of 46 former hunger strikers (who received a temporary residence permit) five years after their participation in a hunger strike, explored their subjective health status, health problems and access to health care. It found that 40% had lost their permit, were once again undocumented and 66% labelled their subjective health as poor. One third of respondents lived an easier life, but two thirds still considered that they lived in difficult conditions. About one out of two households could not afford medical care, dental care and the purchase of prescribed medicine. Respondents who were still undocumented especially suffered from anxiety or depression.

The immediate mental health impact of a negative decision on an immigration procedure can also be profound. An analysis of 16,095 refugees, asylum seekers, unaccompanied children and undocumented

migrants who underwent a health check by the French organisation Comède between 2007 and 2016, found a link between the deterioration of people's migration status and their mental health.¹²⁷

¹²⁵ PICUM (2021), *Navigating Irregularity: The Impact of Growing Up Undocumented in Europe*.

¹²⁶ Vanobberghen, R., 2023, *Medical monitoring and follow-up of hunger strikes in a population of undocumented migrants: A case-study in Brussels*, VUBPress.

¹²⁷ A. Veisse, L. Wolmark, P. Revault et al., 2017, *Violence, vulnérabilité sociale et troubles psychiques chez les migrants/exilés*, EH, n° 19-20

Switzerland: Impact of regularisation on undocumented migrants' overall health

In a study on the impact of the 2018 Geneva regularisation on people's lives, the University of Geneva found a positive impact on the mental and physical health of migrants, by reducing stress factors and improving living conditions.¹²⁸ However, the work situation remains challenging for those who have been regularised, with low hourly wages and difficulties in finding employment that matches their skills. The study also finds that regularisation allows children to develop their potential in terms of education and training.

Socio-economic consequences

Undocumented adults, families and children living in Europe generally live in poor conditions, with limited access to adequate housing.

Effects of COVID-19 on undocumented migrants¹²⁹

The COVID-19 pandemic aggravated long-standing, structural disparities in access to health-care by migrants, particularly those who are undocumented.

Migrant groups across the world¹³⁰ had higher COVID-19 infection rates due to a number of factors, including socioeconomic precarity¹³¹ and poor working and living conditions, usually in overcrowded, unsanitary facilities with no possibility of practicing social distancing.

128 Jackson Yves, Burton-Jeangros Claudine et al., 2022, [Living and working without legal status in Geneva. First findings of the Parchemins study](#), Sociograph–Sociological Research Studies, 57 b, Université de Genève

129 Ibid

130 See, for example: Irish Times, [Ireland: Migrants face higher COVID-19 infection rate](#)

131 Srikanta Sannigrahi et al., 2020, 'Examining the Association Between Socio-demographic Composition and COVID-19 Fatalities in the European Region Using Spatial Regression Approach', Sustainable Cities and Society 62.

They may experience discrimination in the housing market, live in cramped, inadequate and expensive housing, and are relegated to accommodation that is spatially segregated.¹³² In some European countries landlords can be criminalised for renting accommodation to undocumented migrants, due to transposition of the EU Facilitation Directive.¹³³ The Facilitation Directive requires EU member states to adopt “effective, proportionate and dissuasive sanctions” for facilitating irregular migration.¹³⁴ However, the lack of an explicit exclusion of normal interactions and transactions without undue financial profit in the Directive means that renting accommodation to undocumented people can be considered a criminal offence. National authorities in some countries require landlords to check the immigration status of tenants and can impose fines or criminal penalties on those renting to undocumented people.¹³⁵

Due to their irregular migration status, and especially in countries where renting to undocumented persons is criminalised, undocumented adults and children tend to be more vulnerable to exploitative landlords. Undocumented tenants may be unable to access existing complaint mechanisms to hold landlords to account, continuing the inadequate housing situation.¹³⁶

To compound these problems, undocumented migrants may struggle financially, due to being underpaid (or not paid at all) when they work, being fully or partially dependent on goodwill and/or due to the inability of accessing poverty alleviation efforts or social benefits¹³⁷ due to their irregular migration status.

132 For the impact of inadequate housing on undocumented children’s well-being and development, see PICUM, 2021, ‘Navigating Irregularity: The Impact of Growing up Undocumented in Europe’, ; PICUM, 2021, [PICUM’s contribution to the consultation of the UN Special Rapporteur on the right to adequate housing on housing discrimination and spatial segregation](#)

133 The criminalisation of landlords and other legitimate service providers may predate the Facilitation Directive. See Directorate General for Internal Policies of the Union, Fit for purpose? The Facilitation Directive and the criminalisation of humanitarian assistance to irregular migrants: 2018 Update for more info.

134 [Council Directive 2002/90/EC](#) of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence

135 PICUM, 2013, [Housing and homelessness of Undocumented Migrants in Europe: Developing Strategies and Good Practices to Ensure Access to Housing and Shelter](#)

136 PICUM, 2021, [PICUM’s contribution to the consultation of the UN Special Rapporteur on the right to adequate housing on housing discrimination and spatial segregation](#)

137 PICUM, 2021, [‘Navigating Irregularity: The Impact of Growing up Undocumented in Europe’](#)

Undocumented children and young people transitioning to adulthood

A child's development is especially affected by social determinants. Early childhood development, in particular, impacts life-long mental and physical health and social and linguistic skills.¹³⁸ These factors contribute to a person's wellbeing, educational opportunities and, later on in life, access to employment. Taken together, all these may affect their socio-economic status later in life.

While every child's experience and life are unique, many undocumented children have lived through several potentially traumatic experiences. These can include living in a family that is unable to make ends meet, moving often and thus having to change schools, going through periods of homelessness or inadequate housing, navigating long and complicated migration procedures, losing nurturing relationships with the ones around them, and facing a stressful transition into adulthood.¹³⁹ Many must grow up with chronic or toxic stress, which impacts their health and well-being on the short and long term.

Undocumented children may also have fewer means to deal with the consequences of their circumstances on their health. First, they are often excluded from services.¹⁴⁰ For example, chances are that undocumented children cannot access or participation in early childhood education and care, which would help counterbalance some of the structural factors linked to their systemic exclusion and marginalisation.¹⁴¹ Second, children usually depend on adults to access services, including health care. If the adult – whether a family member or professional, like a guardian or social worker – does not know the child is entitled to help, does not know how to access it, or does not take the necessary steps, the child remains helpless.

138 Timothy G. Moore et al., 2015, [Early childhood development and the social determinants of health inequities](#), Health Promotion International, Volume 30(2); Stefania Maggi, Lori J. Irwin, Arjumand Siddiqi and Clyde Hertzman, 2010, [The social determinants of early child development: An overview](#)

139 PICUM, 2021 'Navigating Irregularity: The Impact of Growing up Undocumented in Europe'; PICUM, 2022, [Turning 18 and undocumented: supporting children in their transition into adulthood](#); PICUM, [Undocumented children in Europe: between rights and barriers](#), blogpost

140 To the same or to a different degree than undocumented adults. For an overview of access to health care for children and adults in the EU, see PICUM, 2018, [Protecting undocumented children: Promising policies and practices from governments](#), First publication in 2015.

141 PICUM, 2023, [Access to Early Childhood Education and Care for Undocumented Children and Families: Obstacles and Promising Practices](#)

The transition into adulthood can also be a particularly difficult experience for both unaccompanied children and children living with their families.¹⁴² The age of majority brings with it the issue of 'ageing out' of the (somewhat) protected status children enjoy, both losing access to essential support and services like health care and losing the little respite they may have had from facing the full force of migration enforcement policies. For unaccompanied children transitioning into undocumented adulthood, it often means homelessness, exploitation, social isolation, and a heightened risk of arrest, detention and/or deportation. At the same time, children have difficulties in accessing secure residence permits, simply because there are too few ways to regularise. For example, only 10 EU Member States propose ways for formerly undocumented, unaccompanied children to regularise their stay.¹⁴³ If regularisation schemes do exist, they are rarely designed with children and young people in mind.¹⁴⁴

Employment and working consequences

Most migrants, regardless of their status and whether they migrate for work, study, family or protection reasons, enter the labour market. Their access to the labour market itself is dictated by inadequate and poor-quality regular pathways for labour migration. At the same time, even if occupations are not included in existing work permit schemes, migrant workers often meet labour market demands, but have to do so in an irregular situation.¹⁴⁵ These sectors of the economy include agriculture, forestry and fishery; hospitality and tourism; transportation and storage; construction; and personal services.¹⁴⁶

Depending on the circumstances, migrant workers' residence status will differ: some won't have a residence permit at all, others may have a residence status with no or restricted access to the labour market when their employment extend beyond the conditions of their residence permit (e.g. for example, for students, people on spouse-dependent visas, people in the process of applying for international protection). Workers with a permit linked to a specific job also face similar challenges to access justice as people on spousal visas. If they denounce their employer, they are usually fired and made undocumented. This also means that job loss and exploitation are key reasons for people becoming undocumented in Europe.

¹⁴² PICUM, 2022, [Turning 18 and undocumented: supporting children in their transition into adulthood](#); PICUM, 2022, [A step into the void: the transition to adulthood of migrant children](#), video; PICUM, 4 April 2022, [Turning 18 and undocumented: ensuring a safe transition into adulthood](#), blogpost

¹⁴³ European Migration Network, 2022, [Transition of unaccompanied minors to adulthood](#)

¹⁴⁴ PICUM, 2022, [Turning 18 and undocumented: supporting children in their transition into adulthood](#)

¹⁴⁵ PICUM, 2020, [A Worker is a Worker: How to Ensure that Undocumented Migrant Workers Can Access Justice](#)

¹⁴⁶ Ibid.

Irregular migrant workers frequently experience conditions below those required by minimum labour standards and collective bargaining agreements, in terms of pay, working time, rest periods, sick leave, holiday, and health and safety. Many undocumented workers endure such conditions, as they see little alternative. If they try to negotiate due payment and respect of basic working conditions, their employers threaten to report them to immigration and wield over them their inability to access formal complaints mechanisms without risking deportation. Employers will also tend to avoid reporting accidents involving undocumented workers, due to risks of sanctions and other implications, and dismiss them without any support.¹⁴⁷

Moreover, in some sectors the workforce is highly gendered, with mostly men working, for example, in building and construction and mostly women working, for example, in domestic and care work, reinforcing stereotypical gender roles and inequalities, and bringing specific risks. For example, women providing care services in the home and working as domestic workers may be at greater risk of facing sexual harassment and abuse due to their isolation and solitary work environment.¹⁴⁸ Those that live in as care or domestic workers also risk homelessness if they lose their job. Women who are sex workers face additional layers of criminalisation, discrimination, and violence.¹⁴⁹

Migrant workers are also largely at greater risk of developing occupational illnesses and experiencing injuries and accidents, including fatal accidents. This is due, in particular, to their sectors and conditions of work and limited access to training and safety equipment, as well as language barriers¹⁵⁰.

In addition, undocumented workers experiencing respiratory and skin conditions, musculoskeletal disorders, mental health or other health issues resulting from their work are sometimes unable to access health care, with strict limitations on non-emergency health care services for undocumented migrants in many European countries, and exclusion from work-related health insurance schemes.¹⁵¹

Undocumented workers are also excluded from received social protection assistance, including allowances for people with incapacity to work.¹⁵²

Racial and ethnic discrimination also run through exploitative employment practices. In addition to discrimination based on not having a work permit, workers are sometimes assigned different jobs in a workplace, and paid different wages for the same work, along lines of national or ethnic origin.¹⁵³

147 PICUM, 2020, [A Worker is a Worker: How to Ensure that Undocumented Migrant Workers Can Access Justice](#)

148 DemandAT, 2016, [Addressing demand in the context of trafficking in the domestic work sector : perspectives from seven European countries](#), European Policy Brief; Fundamental Rights Agency, 2011, [Irregular migrants employed in domestic work](#)

149 PICUM, 2019, [Safeguarding the human rights and dignity of undocumented migrant sex workers](#)

150 Aktas. E., Bergbom B., Godderis L. et al, 2022, [Migrant workers occupational health research: an OMEGA-NET working group position paper](#), Int Arch Occup Environ Health 95, 765–777; S. Moyce & M. Schenker, 2018, 'Migrant Workers and Their Occupational Health and Safety', Annual Review of Public Health, Volume 39, p. 351–365; European Agency on Safety and Health at Work (EU-OSHA), 2007, 'Literature study on migrant workers';

151 Médecins du Monde, [Falling through the cracks: The failure of universal healthcare coverage in Europe](#), 2017 Observatory report

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

153 PICUM, 2020, [A Worker is a Worker: How to Ensure that Undocumented Migrant Workers Can Access Justice](#)

Access to healthcare

Even though the right to health is universal and applies regardless of migration status, undocumented migrants face significant legal and practical challenges in accessing healthcare, which in turn

impacts their poor health. Excluding undocumented migrants from accessing non-emergency care has a significant financial impact on health systems.¹⁵⁴

The right to health regardless of migration status¹⁵⁵

The right to health, as any other human right, is universal and based on the principle of non-discrimination, which obliges implementation in a manner that treats every person equally, “on the ground of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, health status (including HIV/AIDS), sexual orientation and civil, political, social or other status”.¹⁵⁶

Expert bodies that monitor states’ compliance with international human rights treaties have clarified on several occasions that the principle of non-discrimination applies to migrants, including those who are undocumented:

- The Committee on the Elimination of Racial Discrimination stipulates that states must remove the obstacles that prevent non-citizens from enjoying the right to health ([General Comment No. 30](#), para. 29).
- The Committee on Economic, Social and Cultural Rights (CESCR) has clarified several times in its general comments (No. [14](#) (para. 34), [19](#) (para. 37), [20](#) (para. 30) and [23](#) (para. 5)) that all persons, including migrants, have an equal right to access preventive, curative, and palliative health services, regardless of their residence status and documentation. In a [2017 statement](#), the CESCR, invoking its previous general comments, emphasised the vulnerability of undocumented migrants to unhealthy and dangerous working conditions and criticised the exclusion of this population from health care systems.

¹⁵⁴ In its 2016 report [Cost of exclusion from healthcare – The case of migrants in an irregular situation](#), the Fundamental Rights Agency shows, looking at the examples of hypertension and prenatal care in Germany, Greece and Sweden, that by providing healthcare to undocumented migrants Germany and Greece would see savings of 48 percent of health system costs after 2 years, and Sweden up to 69 percent.

¹⁵⁵ PICUM, 2022, [The Right to Health for Undocumented Migrants](#)

¹⁵⁶ [Committee on Economic, Social and Cultural rights, 2009](#)

- The Committee against Torture has stated that everyone regardless of status has the right to access rehabilitation services ([General Comment No. 3](#), para. 15, 32).
- The Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and Committee on the Rights of the Child has clarified that all migrant children “should have access to health care equal to that of nationals, regardless of their migration status” ([Joint general comment](#), para. 55).

Moreover, at the [World Health Assembly in 2019](#), Member States further noted that “Nationality should never be a basis for determining access to health care; legal status (often) determines the level of access, as appropriate within national insurance schemes and health systems, without revoking the principle of universal health coverage as set in international agreements. Refugees and migrants may, in some circumstances, fear detection, detention or deportation and may be subject to trafficking or slavery. Unaccompanied children are particularly vulnerable and need specific provisions”. (para 13).

There are significant differences in undocumented migrants’ legal entitlements to healthcare across EU Member States.¹⁵⁷ None of the EU Member States have fully achieved the WHO’s definition of universal health coverage¹⁵⁸ for everyone on their territory,

regardless of migration status. At the same time, for several decades, European countries including **Belgium**¹⁵⁹, **Italy**¹⁶⁰, **France**¹⁶¹ and **Portugal**¹⁶² have had in place legislation to ensure that undocumented migrants residing in their countries can access

157 Fundamental Rights Agency, 2016, [Healthcare entitlements of migrants in an irregular situation in the EU-28](#)

158 [World Health Organisation’s definition of universal health coverage](#)

159 Since 1996, Belgium offers Urgent Medical Aid (AMU-DMH) to undocumented migrants. This covers all health care, preventive and curative, certified by a doctor. See: [Arrêté royal relatif à l’aide médicale urgente octroyée par les centres publics d’aide sociale aux étrangers qui séjournent illégalement dans le Royaume](#) (Royal Decree, 12 December 1996)

160 Since 1998, Italy grants urgent care and essential care to undocumented migrants. See: Art. 35, para. 4 of Legislative Decree no. 286/98, see also <https://www.icmigrations.cnrs.fr/en/2022/07/25/defacto-031-06/>

161 Since 1999 France offers State Medical Aid (AME). AME provides free access to nearly all health services available to French nationals, covering care related to sexual and reproductive health such as pregnancy, delivery, family planning, contraception and abortion. It is awarded based on request and subject to conditions of residence and resources for a period of one year. See: Art. L.251-1 of the Social Action and Family Code Loi No. 99-641 of 27 July 1999; see also: <https://www.service-public.fr/particuliers/vosdroits/F3079>

162 Since 1999 Portugal allows undocumented migrants who have been resident for 90 days to register with local health centre to access most services. See also: [Despacho do Ministério da Saúde No. 25/360/2001](#); [Decreto Lei No. 135/99 \(1999\)](#). Moreover [Decreto-Lei nº 67/2004](#) de 25-03-2004 reiterates the equal right to health care for children until working age (which is 16) and establishes a specific register for them.

necessary preventative and curative healthcare. In the past decade, **Finland**¹⁶³ and **Sweden**¹⁶⁴ adopted legislative changes to extend access to health care to undocumented migrants.

Nonetheless, in recent years governments in Europe have made attempts to curtail existing legal entitlements to health care for undocumented migrants. **Spain**, which since 2000 guaranteed access to free public health care to both Spanish citizens and those habitually residing in the country, irrespective of their residence status,¹⁶⁵ experienced a period of restrictions between 2012 to 2018.¹⁶⁶ In the past year, there have been proposals by coalition governments in **Finland**¹⁶⁷, **Sweden**¹⁶⁸ and **France**¹⁶⁹ to backtrack on access to healthcare for undocumented migrants, following pressure from the far right.

In practice, many people are denied access to essential health services simply because they do not have regular migration status in the country they live in. Even in countries where health services are available as a matter of law, there are many administrative and other practical barriers that can prevent people who are undocumented from receiving the care they are entitled to.¹⁷⁰ For example, in **France**, a recent survey into access to the state medical aid found that 64% of those surveyed encountered difficulties accessing healthcare, and seven out of ten abandoned their healthcare.¹⁷¹ A study carried out in **Belgium** showed that undocumented women who were not covered by the urgent medical aid (AMU) were more likely to deliver preterm and to have babies with lower birthweights, compared to women covered by regular social security or to undocumented women who had managed to receive

163 A new law ([HE 112/2022 vp](#)) recently came into force in Finland in December 2022 that expands health care for undocumented migrants living in the country. Under this law, undocumented migrants can now access necessary care – that is, care that health care professionals deem necessary. This covers, for instance, conditions like diabetes or asthma that, if left untreated, would constitute a risk to the person's health and increase the likelihood of urgent care being needed in the future.

164 In 2013, the Swedish Government introduced significant reforms to the health care system, enacting a 2013:407) Health and Medical Care for Certain Foreigners Residing in Sweden without Proper Documentation Act. See also Swedish Council on Medical Ethics (2020) [Health care of persons without permanent residence permits Ethical aspects of treatment requiring aftercare](#). Under the 2013 law, undocumented adults are entitled to access acute care and health care 'that cannot be deferred', including dental care, maternity care, abortion, and related medicines, for a small charge (5 EUR) – the same level of care provided to asylum seekers. The Swedish law concept of 'care that cannot be deferred' is controversial in that it places the responsibility to decide whether a person is entitled to health care on the individual health professional. The National Board of Health and Welfare has [concluded](#) that the concept is not consistent with science, medical ethics or human rights. In 2015, the [Swedish Agency for Public management](#) also underlined the difficulty to interpret the formulation "care that cannot be postponed".

165 Spain, [Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social](#).

166 A 2012 reform linked the right of access to health care services to Spanish citizens or being registered with Social Security, effectively excluding undocumented migrants (except children), who were only entitled to receive free treatment in emergencies, and maternity care ([Royal Decree Law 16/2012](#)). In 2018, the [Royal Decree Law \(RDL\) 7/2018](#) was introduced to renew universal health care in Spain, recognising the right to protection of health for all undocumented migrants residing in Spain. However, this broad right to care is dependent on complying with a set of requirements demonstrating that the person does not have any other type of health coverage and that they have been living in Spain for three months. Although RDL 7/2018 was initially welcomed for renewing universal health care in Spain, civil society actors argue that it is not being applied. A draft law on Equity, Universality and Cohesion of the National Health System has been presented and is being negotiated which has the potential to address some of these gaps in access to universal health care. Civil society organisations have [sent amendments](#) needed to be included to assure that the law would guarantee Universal Health Coverage.

167 In the new government [four-year plan](#) following the 2023 elections, Prime Minister Petteri Orpo's coalition government announced its intention to go back to a restricted model which guarantees only urgent care.

168 In October 2022, the [coalition agreement](#) of the new Swedish government introduced several proposals affecting criminal policy, migration policy and the rule of law. The proposals include revoking access to subsidized dental care and imposing fees on all migrants for access to interpreters in healthcare and other services.

169 France Assos Santé, 2023, [Projet de loi immigration : Les Sénateurs mettent en péril l'accès aux soins des étrangers malades](#)

170 Medicos Del Mundo, 2023, [Informe de barreras al sistema nacional de salud en poblaciones vulnerabilizadas](#)

171 La Cimade, Dom Asile, Committee pour sante des exilé, Médecins du Monde France, Secours Catholique, 2023, [Entraves dans l'accès à la santé : les conséquences de la réforme de 2019 sur le droit à l'aide médicale d'Etat](#)

coverage via the AMU.¹⁷² Data from free medical consultations offered by Doctors of the World Belgium throughout Belgium from 2017 to 2023, found that a limited cohort of patients were able to benefit from their legal entitlement to healthcare.¹⁷³ In **Spain**, Doctors of the World have documented 2,488 cases of people who have not been able to register and who, as a consequence, are denied the right to health care.¹⁷⁴

172 Vanneste et al., 2020, [Urgent medical aid and associated obstetric mortality in Belgium](#), J Immigr Minor Health, 22(2):307–13.

173 Based on information from Doctors of the World Belgium which analysed data from patients receiving medical care in Belgium during 1 January 2017 to 31 August 2023. In total, 74.6 % of patients received by Doctors of the World Belgium were formally entitled to access healthcare (e.g. through Fedasil, AME or public health insurance) yet only 36.5% of these were able to access to health care in practice. For further information please contact Doctors of the World Belgium: <https://medecinsdumonde.be/>

174 Medicos del mundo, 2023, [Las barreras discriminatorias para acceder a servicios públicos de salud persisten en España](#) ; See also the full report of Medicos del mundo, 2023, [Informe de barreras al sistema nacional de salud en poblaciones vulnerabilizadas](#).

France: Civil society monitoring of discriminatory denial of care¹⁷⁵

As has been demonstrated by the Defender of Rights¹⁷⁶, one of the challenges faced by individuals in vulnerable situations in France, including undocumented migrants, when it comes to accessing healthcare services is the refusal of care. In response to this issue, the Federation of Solidarity Actors established an Observatory in 2017.¹⁷⁷ The primary purpose of this Observatory is to identify and document instances of discrimination, allowing those affected to share their testimonies regarding the obstacles they encounter while seeking healthcare services. The main focus of this initiative is not to directly pinpoint the healthcare professionals involved but rather to highlight the difficulties faced by people in precarious situations when trying to access healthcare. The ultimate goal is to drive a change in French public policies by addressing discrimination among healthcare professionals towards vulnerable individuals and migrants. Since its inception, the Observatory has documented close to 200 cases of discriminatory healthcare refusals.

As described above, because irregular entry and stay are often criminalised, people who are undocumented face the risk that the use of services will expose them to immigration enforcement.¹⁷⁸

They may also receive large bills they cannot pay as a result of accessing services. They may also be denied care because of complicated and

inconsistently applied rules. Sometimes, administrative personnel in hospitals are not even aware that undocumented people have a right to access health care services. As a result, people who are undocumented often do not use even the health services they are entitled to. When they do access health services, it is often late, in emergencies.

¹⁷⁵ Si Hassen, H., 2023, [Discrimination in France: refusal of healthcare for people in precarious situations or migrants in France](#), published on European Public Health Alliance

¹⁷⁶ Mendras et al., 2023, [Le Refus de soins opposés aux bénéficiaires de la complémentaire santé solidaire et de l'aide médicale de l'Etat](#), Défenseurs des Droits [accessed 1 August 2023]

¹⁷⁷ Fédération des acteurs de la solidarité, [Observatoire santé solidarité](#) [accessed 28 July 2023]

¹⁷⁸ PICUM, 2020, [Data protection and the "Firewall": advancing the right to health for people in an irregular situation](#)

Denmark: Strategies used by NGOs to provide higher level of care than state¹⁷⁹

In Denmark, undocumented migrants are only formally entitled to emergency care. The Danish government can demand payment for treatment for non-residents, including undocumented migrants, although treatment can be provided free of charge when the Danish Regions deem it reasonable.¹⁸⁰

NGOs play a crucial role, including in providing sexual and reproductive health (SRH) services. Public health care facilities require Danish identification number from patients. Healthcare providers within NGOs do not face this same legal constraint, as they do not require personal identification numbers, which fosters trust-based relationships with patients. Moreover, NGOs employ various strategies to deliver this much-needed care, such as volunteer activism to build trust, leveraging personal networks, accompanying women to public healthcare visits, and collaborating with healthcare providers from migrant communities. The informal nature of NGO settings allows for flexible and network-based caring practices, enhancing SRH care for undocumented migrant women. At the same time, these strategies don't allow NGOs to meet all the needs of undocumented migrants, particularly in cases of serious illness which cannot be handled at the health centres nor in the emergency room, highlighting the impact of national restrictive policies on the health of undocumented migrants.

179 Castaner et al., 2022, [Tactics employed by healthcare providers in the humanitarian sector to meet the sexual and reproductive healthcare needs of undocumented migrant women in Denmark: A qualitative study](#), Sexual & Reproductive Healthcare, Volume 34

180 Ibid.

Conclusion

A person's health, including access to health, is determined by a complex set of circumstances. Even though migration status plays a crucial role, it has been poorly considered in the development of policies that affect health. For someone living as undocumented, their status has a deep effect on all areas of their life, such as work, personal relationships, personal finances, housing conditions, their ability to safely report crimes, access to public services, etc.

National and European migration policies aim to curb irregular migration and restrict access to social rights. By discriminating based on residence status, not only do States increase the likelihood of economic dependence, poverty and abuse, but they also create the conditions for poor health.

It is therefore not possible to reduce health inequalities without radically transforming the current approach to migration. It is essential to move towards systemic reforms that place positive wellbeing and health at the centre of migration, employment, social, housing, anti-discrimination policies, as well as across other sectors that may drive criminalisation and exclusion based on migration status.

Recommendations

It follows that, in order to address the social determinants of undocumented migrants' health, we call on the EU and Member States to:¹⁸¹

Ensure access to health and other services, regardless of residence status, including by:

- Building accessible, effective, and resilient health systems for all, regardless of their residence status;
- Ensuring that undocumented people will not face immigration enforcement as a result of accessing health and other services, including through implementing strict data protection safeguards so that service providers' data is not accessible or used for immigration enforcement purposes.¹⁸²

Ensure access to a secure residence status, including by:

- Developing regular migration pathways on a range of grounds;¹⁸³
- Designing, implementing and ensuring access to, regularisation programmes and mechanisms for people in the EU and people in screening and border procedures;¹⁸⁴
- Ensuring that fees are proportionate and not exceed the cost of the services actually provided to process applications and issue permits;¹⁸⁵
- Ensuring access to decent work permits across all jobs and sectors;
- Designing migration laws that ensure that procedures are affordable and accessible;
- Ensuring that permits and statuses prevent people from falling out of status, by including accessible and affordable permit renewal or conversion procedures and criteria, and by making certain that people can access labour and social protection measures without endangering their residence permit. This should include ensuring that people migrating on the basis of family ties have access to independent permits, and that migrant workers can freely change their employment and access transitional permits if they experience rights violations.
- Promote safety and protection for victims of crime without discrimination based on residence status, including by developing and ensuring access to special permits under EU and national law based on personal circumstances.

¹⁸¹ See also PICUM, 2023, [Protecting the rights of Undocumented Migrants: PICUM priorities ahead of the 2024 EU Elections](#)

¹⁸² See also PICUM Briefing, [Data protection and the "firewall": advancing the right to health for people in an irregular situation](#); PICUM Briefing, [Data protection and the firewall: advancing safe reporting for people in an irregular situation](#)

¹⁸³ See also PICUM, 2021, [Designing labour migration policies to promote decent work](#)

¹⁸⁴ See also PICUM, 2023, [Regularisation mechanisms and programmes: Why they matter and how to design them](#)

¹⁸⁵ See also PICUM, 2023, [The use of fees in residence procedures in Europe: pricing people out of a residence permit?](#)

Respect fundamental rights at the EU external borders and on the territory, including by:

- Ending violent immigration enforcement practices;
- Combatting discrimination based on race, ethnicity and nationality;
- Implementing strict data protection safeguards so that law enforcement does not use personal data for immigration enforcement purposes.¹⁸⁶

Strengthen employment standards, including by:

- Making the systems of judicial and non-judicial complaints mechanisms and procedures accessible and effective for all workers, including by ensuring that personal data collected in the context of labour inspections or complaints is not used for immigration enforcement purposes;
- Advancing employment and health and safety standards for all workers;
- Designing, implementing and evaluating policies in direct consultation with representatives of migrant workers.

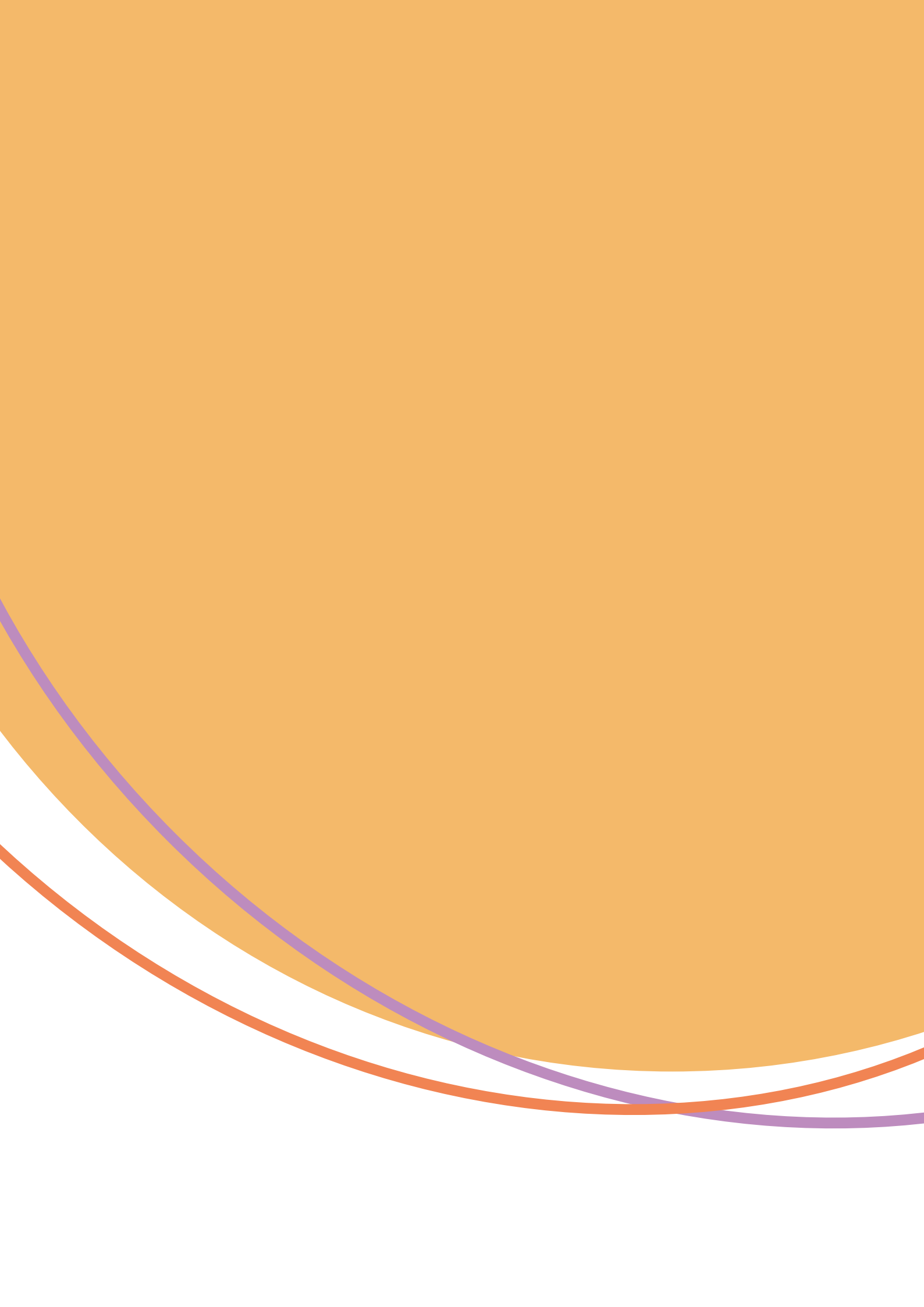
Protecting and supporting undocumented children, including by:

- Reforming regulations and practices regarding access to key services, like healthcare, preventative healthcare, mental healthcare and early childhood education and care,¹⁸⁷ to ensure that all migrant children's rights are explicit in law and accessible in practice. This includes pursuing proactive measures to address practical barriers;
- Designing migration and protection policies that enable children to access a secure residence status as soon as possible and, at the least, prevents children from becoming undocumented adults.¹⁸⁸

¹⁸⁶ See also PICUM and Statewatch, 2019, [Data Protection, Immigration Enforcement and Fundamental Rights: What the EU's Regulations on Interoperability Mean for People with Irregular Status](#)

¹⁸⁷ For more detailed recommendations, see PICUM, 2023, [Access to early childhood education and care for undocumented children and families in Europe: Obstacles and promising practices](#)

¹⁸⁸ See also PICUM, 2022, [Turning 18 and undocumented: supporting children in their transition into adulthood](#); PICUM, 2022, [Regularisation mechanisms and programmes: why they matter and how to design them](#)





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