



# Unprotected: How proposed EU rules on deportation threaten the universal right to health

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## Summary

In this paper, the Platform for International Cooperation on Undocumented Migrants (PICUM) and Médecins du Monde International Network examine the March 2025 European Commission proposal “establishing a common system for the return” of undocumented migrants in the EU from a health perspective. The analysis shows how the proposal threatens the universal right to health and would have grave consequences for both individuals and society at large. It highlights that current migration policies fail to take health into account, thereby contributing to an avoidable, politically driven public health crisis.

As a result, we call on the European Commission to withdraw the proposal and urge the European Parliament and the Council of the European Union to reject it in its current form. Rather than adopting further punitive measures, the EU and its Member States should develop migration policies that:

- uphold the universal right to health and respect medical ethics;
- promote safe and regular migration pathways;
- ensure access to secure residence permits.

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# Introduction

On 11 March 2025, the European Commission (EC) presented a proposal for a regulation for a “swifter, simpler and more effective” common system for returning third country nationals that have not been granted the right to stay. The “Return Regulation” (hereinafter referred to as Deportation Regulation)<sup>1</sup> repeals the 2018 recast proposal<sup>2</sup> on the current 2008/115/EC Return Directive.<sup>3</sup>

The proposal forms part of a broader legislative shift in recent years at European Union (EU) level that prioritises deterrence, detention, deportation, and the externalisation of migration control.<sup>4</sup> Together, these measures deepen the criminalisation of migration and systematically erode migrants’ rights

in the EU. Moreover, the proposal was released without formal consultation nor impact assessment - continuing a worrying trend in EU migration<sup>5</sup> lawmaking that contravenes the Commission’s own Better Regulation principles.<sup>6</sup>

Taking into account the serious concerns already raised by several civil society organisations<sup>7</sup> as well as the European Data Protection Supervisor<sup>8</sup> - **this paper examines the Deportation Regulation from a health perspective.** The analysis builds on, and seeks to complement, the joint statement signed by more than 200 organisations (including PICUM and Médecins du Monde): *Inhumane Deportation Rules Should be Rejected*.<sup>9</sup>

## Words matter – Why ‘deportation’ and ‘not return’

While presented as neutral, the term “return” masks the reality of what is often a coercive, traumatising, and rights-violating process. The use of this euphemism obscures the impact on individuals and communities, and minimises the systemic violence associated with expulsions and removals. Instead, this paper adopts the term “deportation”. This term more accurately reflects the coercive nature of these measures, particularly in contexts where people have no, or limited, access to regularisation or regular permits, are deprived of their liberty or forcibly removed.

1 [Proposal for a Regulation of the European Parliament and of the Council establishing a common system for the return of third-country nationals staying illegally in the Union](#), and repealing Directive 2008/115/EC of the European Parliament and the Council, Council Directive 2001/40/EC and Council Decision 2004/191/EC

2 [Proposal for a Directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third-country nationals](#) (recast) A contribution from the European Commission to the Leaders’ meeting in Salzburg on 19-20 September 2018

3 Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals

4 Recent developments include the proposed revision of the [EU Facilitators’ Package](#) (in November 2023), the adoption of the [Schengen Border Code reform](#) (in February 2024), the adoption of the [Pact on Migration and Asylum](#) (in May 2024), the proposal for a [common list of “safe countries”](#) (in April 2025) and proposed [revision to the “safe third country” concept](#) (in May 2025).

5 The European Ombudsman will investigate the European Commission’s failure to properly assess the impact of a proposed Facilitation Directive (2023) and the Europol Regulation (2023), following a [complaint](#) brought by the NGOs PICUM and EDRI on behalf of the [Protect Not Surveil](#) coalition.

6 European Commission, 2021, [European Commission Staff Working Document Better Regulation Guidelines](#)

7 For example, the following organisations have raised concerns about the proposed Return Regulation: [Amnesty International](#), [PICUM](#), [Feantsa](#), [European Council for Refugees and Exiles](#), [EuroMed Rights](#), [Jesuit Refugee Service](#) (JRS), [IRC](#). 12 civil society organisations have also signed a joint statement on the digitalisation of the deportation regime.

8 European Data Protection Supervisor, 2025, [Opinion on the Proposal for a Regulation establishing a common system for the return of third-country nationals staying illegally in the EU](#)

9 The statement is available [here](#).

# Migration policies and health

## Stuck in irregularity: the impact of deportation-focused migration policy

### Living undocumented in the EU

People are considered irregular or undocumented when they lack formal authorisation to reside in a country. It is an administrative situation linked to either a visa, travel authorisation, residence permit, a suspension of deportation<sup>10</sup>, or an ongoing legal procedure to access a residence permit on any grounds (including for asylum), or citizenship. Residence permits can be issued for a fixed or indefinite duration and on various grounds (e.g. employment, study, family, medical reasons<sup>11</sup>, international protection or a child protection order<sup>12</sup>), subject to EU<sup>13</sup> or country-specific rules.

It follows that there are different circumstances which may contribute to people being considered 'irregular':

- 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 may have their asylum application rejected and subsequently became undocumented;
- Some, due to the lack of regular migration channels, will arrive to country without a residence permission;
- Some, will be subject to a deportation order;
- Children can be born, or fall into, irregularity due to their parents' irregular status.

The number of people living in Europe irregularly is uncertain and estimates vary. Recent research suggests that between 2.6 and 3.2 million undocumented migrants resided in 12 European countries (including the UK) between 2016 and 2023. These estimates place migrants in an irregular situation at less than 1% of the total population and between 8% and 10% of those are born outside the Schengen Area (for EU countries) or the Common Travel Area (for Ireland and the UK).<sup>14</sup>

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10 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](#)

11 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.

12 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.

13 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

14 Kierans D. & Vargas-Silva C., 2024, [The Irregular Migrant Population of Europe](#), MlrreM Working Paper No. 11/2024. Notably, the study found no significant increase in the number or proportion of irregular migrants in Europe since 2008 - contrary to the widespread narrative of continuously rising irregular migration. 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.

## Migration policies drive and trap people into irregularity

Increasing the number of deportations from the EU has been a long-standing policy concern for EU institutions and member states, viewing deportations as the main, if not only, solution for people with irregular residence status.<sup>15</sup>

In doing so, EU migration policies do not prevent irregularity: they produce it, undermining people's rights, safety, and wellbeing. They do this by prioritising:

- Limited safe and regular migration pathways, leading people to reach their new country of residence through dangerous ways and be exposed to multiple forms of violence and traumatic events;
- Strict conditions for stay in the EU, that often place people in situations where they are dependent on an employer or spouse and which makes them vulnerable to exploitation and abuse;
- Complex and slow administrative procedures in order to obtain and renew residence permits, for example for people with a student, work or family reunification permit;
- Restricted access to social protection mechanisms and access to health care, thus compounding their risk of poverty, destitution, homelessness, violence and exploitation;
- Enforcement measures based on deterrence and control (e.g. immigration detention, policing);
- Deportation of people in an irregular situation.

These policies not only push people into irregularity but also keep them trapped in it. Undocumented people have no way of regularising their stay in some countries, either because there are no regularisation mechanisms, or because of administrative obstacles. Finland, for instance, adopted a new list of grounds to refuse people's residence application, which includes past undocumented stay and irregular work.<sup>16</sup> Other countries have increased barriers to regularise, for example by doubling the number of years (from three to seven) a person should reside in the country before they can regularise (France in 2025<sup>17</sup>), or by requiring people to have a fixed/postal address for official correspondence, which is difficult for undocumented migrants to have. Additionally, authorities may interpret the absence of a registered address as an indication that the person is likely to abscond, which can be used to justify detention, particularly under increasingly strict deportation frameworks.<sup>18</sup>

EU migration policies also have other consequences for communities across the EU. In particular, migration policies increase racial inequalities. This is done, for example, through the EU's visa region, (which makes it more difficult for people coming to the EU for a short stay from the majority of countries in the African Union and many in Asia) or the increased risks of racial profiling at the external and internal borders of the EU or in daily life.<sup>19</sup>

15 Statewatch, 2020, [Deportation Union: Rights, accountability and the EU's push to increase forced removals](#) [accessed 2 September 2025]

16 KPMG, 16 September, 2024, [Finland – Stricter Rules Regarding Obtainment of a Finnish Residence Permit](#), GMS Flash Alert 2024-181 [checked on 2 September 2025]; Finnish Immigration Office, [Denial of admittance or stay, deportation, entry ban](#), Webpage [accessed 2 September 2025]

17 PICUM, 2025, Circulaire Retailleau: French government guidance on regularisation, PICUM Explainer (non-public document); Gisti, 5 June 2025, [Circulaire Retailleau du 23 janvier 2025 Quelles nouveautés concernant les possibilités de régularisation des personnes en situation irrégulière \(dites « sans-papiers »\) ?](#)

18 FEANTSA, 2025, [Statement Proposed Returns Regulation risks criminalising people facing homelessness and the NGOs supporting them](#)

19 PICUM, 2024, [Exclusion by design: Unveiling unequal treatment and racial inequalities in migration policies](#)

## The right to health under threat due to migration policies

### Health is a fundamental right

The EU and member states must ensure migration policies do not harm health. Health is a universal right, applicable without discrimination based on residence status. This is firmly enshrined in international law and European law, meaning that the EU is legally bound to ensure a high level of health protection in all its policies.<sup>20</sup> The EU Charter on Fundamental Rights further guarantees everyone the right to preventive health care and

medical treatment under national systems (Article 35).<sup>21</sup> The European Social Charter further affirms the right to health (Article 11), the right of children to care and protection (Article 24), and the right to safe and healthy working conditions (Article 31).<sup>22</sup> European bodies, such as the Council of Europe's Committee of Ministers, have made clear that the right to health should be effective without discrimination based on residence status.<sup>23</sup>

### Undocumented migrants are largely excluded from accessing health care

Undocumented migrants are largely excluded from accessing health care across the EU member states.<sup>24</sup> 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.

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. They may 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 healthcare 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.<sup>25</sup>

### Migration policies lead to poor health outcomes, including deaths

While evidence comparing the health status of undocumented and documented people in Europe is limited<sup>26</sup>, the available evidence indicates how undocumented migrants face poor health outcomes related to the different aspects of health, such as communicable and non-communicable diseases, sexual and reproductive health and mental health, thereby showing how residence status adds an additional burden impacting health

outcomes<sup>27</sup>.

The most extreme consequence of restrictive migration policies is death. According to the International Organization for Migration, since 2014, more than 32,500 people have gone missing while attempting the dangerous crossing of the Central Mediterranean to Europe<sup>28</sup>.

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20 [Treaty on the Functioning of the European Union, Article 168](#)

21 Charter of Fundamental Rights of the European Union, 26 October 2012, OJ 2012 C 326/02

22 [European Social Charter](#), ETS No. 035

23 European Committee on Social Rights, 2011, [Recommendation CM/Rec\(2011\)13 of the Committee of Ministers to member states on mobility, migration and access to health care](#); See also: PICUM, 2022, [The Right to health for undocumented migrants](#)

24 FRA, 2011, [Migrants in an irregular situation: access to healthcare in 10 European Union Member States](#)

25 PICUM, 2023, [Migration status: A key structural social determinant of health inequalities](#)

26 Gray B. H. & van Ginneken E., 2012, [Health care for undocumented migrants: European approaches](#), Issues in International Health Policy, 33:1–12; De Vito E., de Waure C., Specchia M. L. & Rocciardi W., 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, Health Evidence Network Synthesis Report, 42

27 PICUM, 2023, [Migration status: A key structural social determinant of health inequalities](#)

28 International Organization for Migration, [Missing Migrants Project](#) [accessed 25 August 2025]



Beyond deaths at Europe's borders, restrictive policies also cause fatalities within European countries. Research by the Institute of Race Relations identified at least 123 deaths between 2010 and 2014 that were directly linked to migration policies. These included people dying after jumping or falling while fleeing police pursuit; deaths caused by dangerous restraints used to silence or forcibly remove people during deportation; deaths

from punishment beatings by guards; and suicides linked to the despair created by such policies.<sup>29</sup>

In contrast, ensuring access to secure residence status has been shown to have positive effects on health. For example, at least two studies find that regularisation had a positive effect on babies' birthweight, a measure of health at birth and a predictor of later-life achievement and wellbeing.<sup>30</sup>

## Social determinants of health of migrants in an irregular situation

Many factors within migration policies have a critical effect on the health of migrants in an irregular situation, notably:

**Migration journey:** Migrant people are exposed to serious health risks throughout their migration journey, such as intense cold, dehydration, heat, risk of dying at sea or in dangerous crossings, as well as of suffering physical and sexual violence, torture, exploitation or imprisonment. These stress factors may be in addition to potential trauma and violence suffered in their countries of origin. The lack of access to medical care and the interruption of treatments throughout their journey further aggravates their condition and put them at risk of developing serious mental health conditions.<sup>31</sup>

**Access to housing:** Undocumented migrants do not have access to adequate housing, facing poor quality, high priced and segregated housing, crowded collective camps/accommodation, or homelessness.<sup>32</sup> Many also rely on subletting

arrangements, which means that they often lack an official address or proof of having a place of their own. Housing precarity has been found to have significant health risks.<sup>33</sup> Undocumented parents report high levels of stress and anxiety in relation to their housing situation, and unstable housing conditions have particularly negative consequences on children, whose social connections are formed locally.<sup>34</sup>

**Inadequate reception for asylum seekers:** Under EU law, asylum seekers are not considered irregular until their application is rejected. As asylum seekers have regular status, they would not be subject to the proposed Deportation Regulation. Nonetheless, they are included in this briefing as a negative decision on their case may cause them to have irregular migration status, which may further deteriorate their health, in addition to any inhumane and inadequate conditions they may have faced during the asylum process. As documented by Médecins du Monde<sup>35</sup> and other organisations,

29 Abu-Hayyeh R. & Webber F., 2015, [Unwanted, Unnoticed: an audit of 160 asylum and immigration-related deaths in Europe](#), Institute for Race Relations, European Research Programme

30 Arbor A., University of Michigan, 5 June 2007, [Born to lose: How birth weight affects adult health and success](#), Press Release [accessed 27 August 2025]; Casio E. U., Cornell P. & Lewis E. G., 2024, [The intergenerational effects of permanent legal status](#), National Bureau of Economic Research, NBER Working Paper Series. More details can also be found in PICUM, 2025 (forthcoming), [The impact of regularisation measures on people, institutions and wider society: Evidence from research from across the world](#).

31 World Health Organisation, 2023, [Mental health of refugees and migrants: risk and protective factors and access to care](#)

32 PICUM, 2014, [Housing and homelessness of undocumented migrants in Europe: Developing strategies and good practices to ensure access to housing and shelter](#); 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](#)

33 Rana K., Kent J. L. & Page A., 2025, [Housing inequalities and health outcomes among migrant and refugee populations in high-income countries: a mixed-methods systematic review](#), BMC Public Health 25, 1098

34 Jauhainen J. S., Tedeschi M., 2021, [Undocumented Migrants' Everyday Lives in Finland](#), Undocumented Migrants and their Everyday Lives, IMISCOE Research Series. Springer, Cham.; PICUM, 2021, [Navigating irregularity: the impact of growing up undocumented in Europe](#)

35 Médicos del Mundo España, 2021, [La Salud Naugrafa en la Frontera Sur](#); Médecins du Monde & Centre Primo Levi, 2022, [La souffrance psychique des exilés: une urgence de santé publique](#); Superior Health Council, 2024, [Mental health of applicants for international protection](#); Amnesty International, Doctors of the World, Immigration Detention Hotline & LOS Foundation, 2016, [To confine or to protect?](#)



these conditions have serious negative effects on their physical and mental well-being. Asylum application processes involve long and stressful procedures, lack of information and perspective, accommodation or detention in overcrowded spaces and limited access to health care – all of which can lead to increased health risks, especially for children. A recent Médecins du Monde report also found that asylum seekers transferred to the Republic of Croatia under the Dublin III Regulation showed high rates of acute stress and depressive disorders, anxiety, hopelessness and post-traumatic stress disorder (PTSD).<sup>36</sup> Some children deported to Croatia from Austria,

Germany and other European countries through the Dublin III Regulation developed night-time urination symptoms (secondary enuresis), which is most likely a result of sudden, unexpected and often violent changes in the environment and re-traumatisation. There were also cases of acute stress reaction.<sup>37</sup>

**Living in uncertainty and facing constant fear of detection and deportation:** Undocumented migrants are left in uncertainty, without a secure pathway to residency or rights, which is associated to higher rates of mental illness.<sup>38</sup> Undocumented migrants also live under the constant fear of being identified and deported, a condition sometimes described as “deportability syndrome”: a cluster of emotional, cognitive, behavioural, and physical symptoms such as palpitations, excessive sweating, difficulty breathing, sleep disorders, restlessness, irritability, fatigue, gastrointestinal problems, muscle tension, and a pervasive sense of fear or impending harm.<sup>39</sup> Moreover, lack of a residence permit also exposes them to the risk of their data being shared with immigration authorities, including, for example, when accessing healthcare services, housing, or when reporting abuse and exploitation in personal relationships or the workplace.

**Age:** For children growing up undocumented, the impact of migration policies on their health is particularly harmful.<sup>40</sup> For example, while undocumented parents do their utmost to provide stable, quality housing to their children, they are often unable to offer them the same housing conditions as other parents. This may lead to undocumented children being exposed to inadequate, unsafe housing. Yet, a child's risk of ill-health and disability increases by up to 25 percent during childhood and early adulthood when they experience multiple housing problems.<sup>41</sup>



<sup>36</sup> Médecins du Monde, 2019, [Nearing a point of no return? Mental health of asylum seekers in Croatia](#)

<sup>37</sup> Médecins du Monde, 2017, [Invisible emergencies?](#)

<sup>38</sup> Côté-Olijnyk M., Perry J. C., Paré M. È. & Kronick R., 2024, [The mental health of migrants living in limbo: A mixed-methods systematic review with meta-analysis](#), Psychiatric Research, 337

<sup>39</sup> Buraschi D. & Aguilar Idáñez M. J., 2021, [El síndrome de deportabilidad: un efecto del racismo institucional](#), Instituto de Ciencias Sociales Aplicadas.

<sup>40</sup> PICUM, 2021, [Navigating irregularity: the impact of growing up undocumented in Europe](#)

<sup>41</sup> Such as bad housing conditions, overcrowding, etc. Harker L., 2006, [Chance of a lifetime: The impact of bad housing on children's lives](#), Shelter, Shelter England

**Risk of violence, abuse and exploitation in personal relationships and the workplaces:**

Being undocumented, or having residence status that is tied to an employer or to spouse, creates structural dependencies that make it difficult for undocumented migrants, in particular women, to exit situations of abuse.<sup>42</sup>

**Apprehension of undocumented migrants at the EU internal and external borders:**

Migration enforcement measures such as violent apprehension, deportation<sup>43</sup>, pushbacks<sup>44</sup> and stop-and-search police procedures, directly impact on physical and mental health.<sup>45</sup>

**Immigration detention:** Various international bodies and courts have emphasised the disproportionate effects of immigration detention on physical and mental health.<sup>46</sup> This echoes the extensive evidence from civil society organisations on the harm of immigration detention.<sup>47</sup> According to one study, one in four people reported poor health after just one month in detention, rising to three out of four people after four months of detention, showing the correlation between the length of detention and poorer health outcomes.<sup>48</sup> Detention in unhygienic and crowded environments increases the risk of respiratory and infectious diseases, while are associated with risks of re-traumatisation and higher incidences of suicide

attempts, self-harm, and psychiatric needs. Often people are put in detention despite presenting vulnerabilities, which underlines serious failures to protect and safeguard from harm. In the case of children, immigration detention is never in their best interest: it leads to devastating short and long-term consequences, such as the development of stress-related illnesses, impaired cognitive development, weakened immune systems, and chronic conditions later in life.<sup>49</sup>

**Migration and residence procedures:** Migration and residence 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.<sup>50</sup> The immediate mental health impact of a negative decision on a residence application can also be profound.<sup>51</sup>

While residence status plays a critical role in health inequalities, it is important to highlight that the impact of migration policies on health is not distributed equally among all migrants. Indeed, racism is also a critical factor, and has been found to reinforce inequities in healthcare access and quality for racialised migrants.<sup>52</sup>

42 PICUM, 2021, [Preventing harm, promoting rights: Achieving safety, protection and justice for people with insecure residence status in the EU](#); PICUM, 2020, [Insecure justice? Residence permits for victims of crime in Europe](#)

43 European Network Against Racism, 2021, [The sharp edge of violence: Police brutality and community resistance of racialised groups](#)

44 Protecting Rights at Border, 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](#)

45 Salud Por Derecho, 2024, [EU Migration Policy as a Global Health Crisis](#)

46 United Nations Human Rights Committee, 13 November 2002, C. v. Australia, [Communication No. 900/1999](#); European Court of Human Rights, 2 December 2004, Case of Farbthaus v. Latvia, Application no. [4672/02](#); United Nations High Commissioner for Refugees, 2012, [Guidelines on Detention](#), Guideline 9; United Nations Working Group on Arbitrary Detention, [Revised Deliberation No. 5 on deprivation of liberty](#), para. 41; European Union Agency for Asylum, 2023, [Asylum Report 2023: Annual Report on the Situation of Asylum in the European Union](#)

47 Groupe SOS Solidarités, Forum Réfugiés, France Terres D'Asile, La Cimade & Solidarité Mayotte, 2023, [Centres et locaux de rétention administratives](#); Amnesty International, 2024, [Liberty and dignity: Amnesty International's observations on the administrative detention of migrant and asylum-seeking people in Italy](#)

48 Jesuit Refugee Service, 2024, [Becoming vulnerable in detention: civil society report on the detention of vulnerable asylum seekers and irregular migrants in the European Union](#)

49 Médecins du Monde, 2019, [Nearing a point of no return? Mental health of asylum seekers in Croatia](#)

50 PICUM, 2021, [Navigating Irregularity: The Impact of Growing Up Undocumented in Europe](#)

51 For example, 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. See : A. Veisse, L. Wolmark, P. Revault et al., 2017, [Violence, vulnérabilité sociale et troubles psychiques chez les migrants/exilés.](#), BEH, 19-20

52 Pattillo M., Stieglitz S., Angoumis, K. et al., 2023, [Racism against racialized migrants in healthcare in Europe: a scoping review](#), International Journal for Equity Health, 22, 201; Misra S., Kwon S. C., Abraído-Lanza A. F., Chebli P., Trinh-Shevrin C. & Yi S.S., 2021, [Structural Racism and Immigrant Health in the United States](#), Health Education & Behavior, 48(3), 332-341

## Impact on public health and service providers

Migration policies not only harm individual health but also undermine public health, healthcare systems, and the work of service providers.

Excluding undocumented migrants comes at a cost. Research by the European Fundamental Rights Agency (FRA) found that excluding undocumented migrants from accessing non-emergency care has a significant financial impact on health systems. For example, in cases of hypertension and prenatal care, providing access to health care would lead to long-term savings within two years - up to 48% in Germany and Greece, and 69% in Sweden.<sup>53</sup> Similarly, a study of the national system in Belgium (Urgent Medical Aid, known as 'Aide Médicale Urgente') found that restricting access to care exacerbates the health problems of those affected and results in high public expenditure due to hospital costs that could have been avoided. Moreover, the cost of a consultation with a contracted general practitioner is thirty times lower than the cost of a single day in the hospital.<sup>54</sup>

Migration enforcement measures also impact professionals (e.g. healthcare workers) providing services to migrants. Professionals in health care may face a conflict between their duty of care and obligations to report undocumented migrants to migration authorities, threatening their professional integrity and eroding trust with service users.

Across EU member states, medical professionals and civil society organisations have contested

EU and national migration enforcement and deportation policies that jeopardise the right to health. Examples include:

- The Standing Committee of European Doctors reaffirmed the independence of the medical profession, highlighting that individual doctors have faced governmental pressure to break patient-doctor confidentiality and report names of patients seeking their care to identify undocumented migrants.<sup>55</sup>
- In Italy, a campaign was launched asking doctors to stop declaring anyone fit for detention.<sup>56</sup>
- In Belgium, several organisations (Medimmigrant, Vluchtelingenwerk Vlaanderen, Caritas International, Jesuit Refugee Service, Nansen, Ciré, and Médecins du Monde) appealed to the Constitutional Court against a new law obliging medical examinations in the context of return procedures. The law also allows such examinations to be carried out under physical coercion if the person refuses to cooperate.<sup>57</sup>
- In Sweden, over 4,000 healthcare workers already pledged to commit civil disobedience and refuse to report their patients should the measure be implemented in the healthcare sector.<sup>58</sup> Several directors of Swedish regional health care authorities voiced criticism towards the proposal.<sup>59</sup>

53 European Union Agency for Fundamental Rights, 2016, [Cost of exclusion from healthcare – The case of migrants in an irregular situation](#)

54 Rekenhof, 2025, [Dringende medische hulp voor mensen zonder wettig verblijf](#), Verslag van get Rekenhof aan de Kamer van Volksvertegenwoordigers

55 Standing Committee of European Doctors, 2024, [Statement on the independence of the medical profession](#)

56 PICUM, 31 July 2024, [In Italy, campaigners are fighting immigration detention with doctors](#) [accessed 23 September 2025] Blog.

57 Medimmigrant, 2025, [Loi sur la politique de retour proactive - Recours devant la Cour Const.](#), Lettre d'info de Medimmigrant

58 Aftonbladet, 2022, [Vi kommer att vägra ange våra patienter](#) [accessed 23 September 2025]

59 Folkbladet, 2022, ["Vi i majoriteten uppmanar regionanställda att inte ange papperslösa"](#) [accessed 23 September 2025]





# Key concerns on the Deportation Regulation

The EC's proposal contributes to increasing the hostile environment towards racialised communities and people with a migrant background.

In doing so, it shows how **we are also witnessing a preventable and politically constructed public health crisis<sup>60</sup>, resulting from the lack of consistency between migration and health policies. The proposal does not consider the harmful impact of the proposed Deportation Regulation on individuals' physical and mental health, on professional medical ethics, and on society at large. As a consequence, the proposed Deportation Regulation is putting the universal right to health at risk.**

## Detection measures

Detection measures in the context of immigration refer to policies, laws, or tools designed to identify people on the basis of their (irregular) administrative status. These practices not only create an environment of fear and mistrust, leading to discrimination, harassment and persecution of undocumented people. It also exposes them to violations of their fundamental rights. They also contribute to the stigmatisation of entire communities and undermine social cohesion.

### What do detection measures look like in practice?

**Police raids in public spaces** – e.g., France's deployment of 4,000 police agents in June 2025 to carry out sweeping checks across bus and train stations, with the aim to arrest and detain undocumented people<sup>61</sup> or Belgium's recent introduction of internal border checks on highways, train stations and airports.<sup>62</sup> In Spain and Italy, raids and identity checks based on ethnic profiling have been used to try to fill deportation flights booked to travel to specific countries.<sup>63</sup>

**Surveillance and technology** – such as the collection of people's personal data in bulk and exchanged between police forces across the EU<sup>64</sup> and the use of biometric identification systems to track people's movements and increase policing of undocumented migrants.<sup>65</sup>

**Mandatory reporting obligations** imposed on service providers, including healthcare workers, teachers, and social service staff<sup>66</sup> – such as those that have been imposed in Germany since the 1990s<sup>67</sup>, or those under discussion in Sweden.<sup>68</sup>

60 Salud Por Derecho, 2024, [EU Migration Policy as a Global Health Crisis](#)

61 Le Monde, 2025, [French police launch nationwide crackdown on undocumented migrants](#)

62 RTBF, 19 June 2025, [Asile et migration : la Belgique va renforcer les contrôles à l'entrée du territoire dès cet été](#)

63 Statewatch, 2020, [Deportation Union: Rights, accountability and the EU's push to increase forced removals](#) [accessed 23 September 2023]

64 Statewatch, 2023, [Frontex and interoperable databases: knowledge as power?](#) [accessed 23 September 2025]

65 PICUM, 2022, [Digital technology, policing and migration – what does it mean for undocumented migrants?](#)

66 PICUM, 2025, [Reporting obligations and 'firewalls'](#) [accessed 23 September 2025]

67 PICUM, 2024, [Germany: the fight against obligations to denounce undocumented migrants](#) [accessed 23 September 2025]

68 PICUM, 2024, [Sweden unveils blueprint for obliging public sector workers to denounce undocumented migrants](#) [accessed 23 September 2025]



## What the Commission proposed

The Commission's proposal requires member states to introduce 'efficient and proportionate' detection measures to identify third-country nationals who are staying irregularly on their territory, in order to

carry out return procedures (Article 6). It also allows for additional verifications, including vulnerability and security assessments.

## Key concerns

Detection measures create fear, discrimination, and pave the way for the harassment of people and communities based on (perceived) residence status. Detection measures also interfere with the provision of essential services or the protection of rights, which goes against international and European standards. These standards emphasise the need for clear safeguards in the form of separation between immigration enforcement and access to basic services, a principle known as the "firewall". Firewalls are essential to ensure that everyone, regardless of residence status, can safely access health care, education, housing, justice, and labour protection without fear of detection or deportation.

This is both to guarantee migrants' rights and to shield professionals such as healthcare workers, teachers, and labour inspectors from being drawn into enforcement functions.<sup>69</sup> Similarly, the UN Committee on Economic, Social and Cultural Rights has underlined that health care must be provided without discrimination and that service providers must not function as agents of immigration

control.<sup>70</sup>

By requesting on member states to put in place widespread detection measures, the proposal is going against these international standards, as well as national policies. This includes, for example, the *padrón* system in Spain which allows undocumented migrants to be registered in a municipal census, an essential prerequisite to accessing public health care.<sup>71</sup>

In particular, PICUM and Médecins du Monde call attention the following key concerns:

- **Health risks:** Detection measures will increase fear of immigration enforcement among undocumented people, discouraging them from seeking help from public services, especially health care. This can lead to untreated health conditions that can become life-threatening and more costly for both the individual, public health systems and society.<sup>72</sup> Ensuring access to health care for everyone, regardless of residence status, is crucial for promoting both individual and public health overall.

The Council of Europe's European Commission against Racism and Intolerance (ECRI) has called for immigration enforcement to be decoupled from service provision. In particular it has said that:

*"The application of immigration rules must not interfere with the correct application of the human rights obligations of states in respect of all persons in their jurisdiction.[...] There must be clear firewalls which separate the activities of state authorities which provide social services and, where applicable, the private sector, from immigration control and enforcement obligations."*<sup>73</sup>

69 Council of Europe European Commission against Racism and Intolerance, [ECRI General Policy Recommendation N°16 on safeguarding irregularly present migrants from discrimination](#), adopted on 16 March 2016

70 UN Committee on Economic, Social and Cultural Rights, 13 March 2017, [Devoirs des États envers les réfugiés et les migrants au titre du Pacte international relatif aux droits économiques, sociaux et culturels Déclaration du Comité des droits économiques, sociaux et culturels](#), E/C.12/2017/1

71 PICUM, 2017, [Cities of Rights: Ensuring health care for undocumented residents](#)

72 European Union Agency for Fundamental Rights, 2016, [Cost of exclusion from healthcare – The case of migrants in an irregular situation](#)

73 Council of Europe European Commission against Racism and Intolerance, [ECRI General Policy Recommendation N°16 on safeguarding irregularly present migrants from discrimination](#), adopted on 16 March 2016

- **Violence, abuse and exploitation:** Fear of immigration enforcement often prevents undocumented people from reporting abuse in personal relationships or in the workplace to the relevant authorities. Reporting is often a prerequisite to access certain services, protections, and remedy. Denying access to protection and remedy violates the person's rights and traps them in situations of violence and exploitation. In some cases, the very absence of protection can fuel exploitation, as perpetrators know victims are unlikely to seek help.
- **Ethical dilemmas for professionals:** In some cases, detection measures have taken the form of proactive reporting obligations.<sup>74</sup> This will lead to professionals in health care facing a conflict between their duty of care and obligations to report, threatening their professional integrity and eroding trust with service users. Associations of health professionals have taken a strong position in favour of preserving their independence and resisting efforts to involve them in immigration enforcement, such as Médecins du Monde<sup>75</sup> and the Standing Committee of European Doctors in 2024.<sup>76</sup>
- **Racial profiling:** Detection practices often lead to racialised individuals being disproportionately targeted for checks. These practices reinforce systemic discrimination, foster mistrust, and can result in denial of services.<sup>77</sup>
- **Privacy rights:** Sensitive personal data, especially health-related information, should not be shared without strong safeguards, oversight, and truly informed consent. Yet detection measures, such as reporting obligation or other forms of enhanced data sharing, are likely to breach the right to privacy and data protection enshrined in the EU Charter of Fundamental Rights (Article 8) and the EU General Data Protection Regulation.<sup>78</sup>



74 PICUM, 2025, [Reporting obligations and firewalls](#) [accessed 23 September 2025]

75 Médecins du Monde, 2024, [Soignantes et soignantes: notre engagement pour la santé de toutes et tous](#) [accessed 23 September 2025]

76 Standing Committee of European Doctors, 2024, [Statement on the independence of the medical profession](#)

77 Already in 2012, [research by EU Fundamental Rights Agency](#) highlighted that migrants are more likely to be victims of hate crime and other forms of abuse and violence.

78 [Regulation \(EU\) 2016/679](#) of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Text with EEA relevance)



## Immigration detention

Immigration detention is understood as the deprivation of liberty for reasons related to a person's residence status. In the EU, states typically apply immigration detention in four contexts: to prevent entry to their territory, to carry out return/deportation procedures, during asylum procedures and in the context of Dublin transfer procedures.<sup>79</sup> Member states may also apply immigration detention when assessing vulnerability and medical needs, during age assessments for unaccompanied children or other types of medical tests.<sup>80</sup> Contrary

to international standards, this will lead to child detention.

Nonetheless, this measure interferes with one of the most fundamental human rights – the right to liberty of person protected under Article 5 of the European Convention on Human Rights (ECHR)<sup>81</sup>, Article 6 of the EU Charter of Fundamental Rights<sup>82</sup>, and Article 9 of the International Covenant on Civil and Political Rights (ICCPR).<sup>83</sup>

### What the Commission proposes

- **Expanded grounds for detention:** The proposal significantly broadens both the list of grounds for detention (Articles 29 and 30), including an expanded definition of the "risk of absconding", failure to comply with the obligation to cooperate with the authorities, security reasons and verification of identity. The proposal also removes the language that would require detention to remain a last resort – a minimum legal safeguard reflected in the 2008 Directive, even if overwhelmingly ignored in practice.
- **Allowing child detention:** Instead of upholding child rights and banning child detention (see below), the proposal also allows for the unlawful detention of children, justified on grounds it would be as last resort, for the shortest amount of time, and in the best interests of the child (Article 35).
- **Extended duration:** the proposal would extend the maximum length of detention from 18 months up to 24 months (Article 32) with review every three months (Article 33).
- **Alternatives to detention:** In the proposed Regulation, less invasive and non-custodial alternatives to detention (ATDs) would no longer need to be considered before applying detention. The definition of ATDs include invasive measures such as obligations to reside in one place and report to authorities, or electronic surveillance and GPS tagging. Alternatives to detention could also be used to extend control beyond the 24-month time limit for detention (Article 32).
- **New restrictions to freedom of movement:** In addition to the provisions on detention, the proposal also expands member states' control over all people in return procedures, requiring they are allocated to a geographic area and/or required to reside at specific address; and/or comply with reporting obligations (Article 23). People subject to these measures might have to seek permission from national authorities before being able to leave a certain area for a "necessary medical treatment" (Article 23).
- **Access to health care:** The proposal only requires the provision of "emergency health care" and "essential treatment of illnesses" (Article 34) in immigration detention centres, which leaves open the possibility of restrictive and inconsistent interpretation by member states and of severely limiting access to health care.

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

80 European Migration Network, 2020, [Ad Hoc Query on 2020.59 Detention of minors Requested by Bram DEVOS on 26 August 2020 Compilation produced on 24 September 2020](#); PICUM, 2021, [Preventing and Addressing Vulnerabilities in Immigration Enforcement Policies](#)

81 European Convention for the Protection of Human Rights and Fundamental Freedoms, 4 November 1950, CETS No. 005

82 Charter of Fundamental Rights of the European Union, 26 October 2012, OJ 2012 C 326/02

83 International Covenant on Civil and Political Rights, 16 December 1966, 999 U.N.T.S. 171

- **Detention conditions:** the rules on detention conditions remain very similar to the ones in the current directive, with limited references to any standards in terms of basic services and infrastructure beyond the newly-introduced obligation to provide access to "open air space" (Article 34). It mandates basic conditions for the detention of children and families such as "separate and private accommodation", and "adequate sanitary, food, health and

recreational facilities" (Article 35)

- **Detention orders:** The review of a detention order, foreseen only at least every 3 months (Article 33), does not explicitly include a medical assessment by independent and trained personnel, which means that deteriorating health conditions might not be included as a criterion for ending detention.

## Key concerns

The proposed Regulation risks severely expanding the use of detention and for longer periods of time, while also introducing measures to systematically restrict the freedom of movement of people in deportation procedures. Immigration detention often takes place in dire conditions, with insufficient guarantees regarding health care, vulnerability identification, and oversight.

It is not a crime to move across borders - whether it be for work, family, to seek international protection or for other reasons - and it should not be treated as such.

PICUM and Médecins du Monde call attention to the following key concerns:

- **Immigration detention is inherently harmful and violates the right to health:** Evidence shows that immigration detention causes significant mental and physical health deterioration, especially in already vulnerable individuals). In fact, the UN Working Group on Arbitrary Detention and the Council of Europe's Commissioner for Human Rights have urged States to end immigration detention and prioritise community-based, non-custodial alternatives.<sup>84</sup> This has led,

for example, to a recent campaign in Italy by medical professional calling on their peers not to declare anyone 'fit' for detention.<sup>85</sup>

- **Violating child rights through child detention:** Any provision that allows for the detention of children violates the best interests of the child principle and contradicts international child rights standards.<sup>86</sup> The UN Committee on the Rights of the Child has stated that children should never be detained for immigration purposes.<sup>87</sup> Moreover, the Global Compact for Migration, adopted by the majority of EU member states, commits to working towards ending the immigration detention of children.<sup>88</sup> Yet, with the Deportation Regulation, the EU is going to expand immigration detention across Europe, including for children, in direct contradiction with this commitment.
- **Disproportionate effect on people experiencing homelessness:** The proposal finds that the lack of identification documents or not having an address would suffice to establish a "risk of absconding". This means that people who experience homelessness or who face precarious conditions will be disproportionately affected.<sup>89</sup>

84 United Nations Working Group on Arbitrary Detention, 2018, [Revised Deliberation No. 5 on Deprivation of Liberty of Migrants, A/HRC/39/45](#); Human Rights Council, [Report on the Special Rapporteur on the human rights of migrants, François Crépeau, A/HRC/20/24](#), p.18, para. 72; PICUM, 2022, [Immigration detention and de facto detention: what does the law say?](#)

85 BMJ, 2024, [Doctors should not declare anyone fit to be held in immigration detention centres](#), 384

86 International Court of Justice, 2024, [Never in the best interest of the child: risks of child detention in the screening and border procedures under the 2024 EU Migration Pact](#)

87 Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families & Committee on the Rights of Children, 16 November 2017, [Joint General Comment - No. 4 of the CMW and No. 23 of the CRC \(2017\) - on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, CMW/C/GC/4-CRC/C/GC/23](#), paras. 5-12; United Nations Taskforce on Children Deprived of Liberty, 2024, [End Immigration Detention of Children](#)

88 Global Compact for Migration, 2018, [Global compact for safe, orderly and regular migration intergovernmentally negotiated and agreed outcome](#), obj. 13, p. 3

89 Feantsa, 2025, [Proposed Returns Regulation risks criminalising people facing homelessness and the NGOs supporting them](#) [accessed 23 September 2025]

## Deportation procedures and operations

Deportation refers to the system for removing third country nationals that have not been granted the right to stay.

Deportation procedures and operations are

increasingly more violent<sup>90</sup>, often uprooting people from the life they had been building for themselves and their families in Europe to be left in places they may not even know.<sup>91</sup>

### What the Commission proposes

- **Forced deportation a default option:** The proposal extends the grounds for forced deportation ('removal' in the proposal) rather than voluntary departure<sup>92</sup>, including "failure to cooperate" with the authorities or if the person constitutes a "security risk" (Article 12). The possibility of voluntary departure is further restricted by removing the current requirement to grant at least 7 days for the person to depart voluntarily. Member states would therefore retain the discretion to set very short deadlines for third country nationals to undertake voluntary departure. Even though the notion of [voluntariness](#) in such circumstances remains questionable, the proposal restricts people's options and agency further.<sup>93</sup>
- **Coercive measures for deportation:** Aligned with Directive 2008/115/EC, the proposal continues to support the use of coercive measures (Article 12(4)) for forced deportations.
- **Expanded scope for deportation destinations:** The proposal significantly expands the countries to which third country nationals, including children in families and unaccompanied children, can be forcibly transferred (Article 4(3)), going far beyond their country of origin or habitual residence, to encompass countries where they have no personal connection, either through which they have only briefly transited, or in which they have never set foot. This would include also countries deemed "safe" for the person on the basis of the Asylum Procedure Regulation, and countries with which there is an agreement or arrangement (be it legally binding or non-binding) on cooperation between a member state, or the EU and a third country.<sup>94</sup>
- **Offshore deportation centres in third countries:** The proposal foresees the possibilities for people to be deported to so-called "return hubs" in third countries (Articles 4(3) and 17), on the basis of a cooperation agreement between the EU (or member states) and the country.
- **Weak safeguards on non-refoulement:** The Regulation states member states' obligation to assess compliance with non-refoulement and duly examination of changes in circumstances when enacting a forcible deportation (Article 12) and to set up an independent forced return monitoring mechanism for forced removals (Article 15). However, Article 14 removes the requirement to assess individual circumstances – including mental or physical health – which is explicit in the 2008 Directive. A person's health status is made less evident as a reason to postpone a deportation, risking a weakening of protections for vulnerable individuals in practice, although the obligation remains under fundamental rights law.
- **Limited considerations of medical needs:** The proposal imposes the use of measures to

90 LeVoy M., 2023, [On migration, Europe's fixation with returns does not work](#), The Progressive Post [accessed 23 September 2025]

91 UNICEF, 2012, [Silent Harm. A report assessing the situation of repatriated children's psycho-social health](#)

92 Here, 'voluntary departure' refers to compliance with a deportation decision. The Commission proposal uses the term 'voluntary return'. However, this should not be confused with a person's free decision to return, absent a return order. See [ECRE](#), p. 13.

93 European Council on Refugees and Exiles, 2025, [ECRE Comments on the Proposal for a Regulation of the European Parliament and of the Council establishing a Common System for the Return of third-country nationals staying illegally in the Union, and repealing Directive 2008/115/EC of the European Parliament and the Council, Council Directive 2001/40/EC and Council Decision 2004/191/EC](#)

94 Ibid.

ensure availability of persons during the return procedure process. One of these measures is a restriction of movement (Article 23(1)). An exception is provided, to the extent that restricted movement would “be compatible with the special needs of vulnerable persons and the best interests of the child” (Article 23(2)). However, systematic health assessments are missing, as are definitions of vulnerability. Where residing in a restricted area, there are possibilities to temporarily leave the geographical area upon authorisation for

“necessary medical treatment”. Furthermore, medical needs are not listed as a reason to extend the voluntary departure period (Article 13(3)).

- **Postponement of deportation:** When a deportation is postponed, the Regulation establishes that member states should take into account ‘emergency health care and essential treatment of diseases’ and ‘the special needs of vulnerable persons’ (Article 14(6)).

## Key concerns

The proposal institutionalises an expanded and accelerated return system, with limited safeguards and minimal attention to health or vulnerability. It reflects a broader effort to outsource EU responsibilities to third countries, diluting protections, including the right to health.

PICUM and Médecins du Monde call attention the following key concerns:

- **Framing deportation as the only solution to migration:** An approach focused on deportation rests on the flawed assumption that deportation is the only possible outcome for undocumented people<sup>95</sup>, instead of pursuing alternative ways such as access to secure residence permits through regularisation.<sup>96</sup> Deportation is not always possible either for many reasons: respect for fundamental rights (e.g. non-refoulement, protection of family and private life, best interest consideration, statelessness) and factual considerations (e.g. travelling is not possible due to medical reasons).<sup>97</sup> Another issue of concern is the distinction between voluntary and forced deportation: requiring law enforcement intervention in the case of voluntary return *de facto* makes the process not voluntary.
- **Health harms of coercive measures:** In addition, it is worrying that the Regulation is proposing further punitive coercive measures, which can cause severe physical and psychological harm, including death, particularly to individuals who are already vulnerable.<sup>98</sup>
- **Deportation to places where people are exposed to further harm:** The risk of refoulement or deportation to countries where people may be exposed to further harm, such as torture, inhumane or degrading treatment, repeated detention and other forms of violence, cannot be ruled out. PICUM and Médecins du Monde have joined the list of organisations that have denounced the increasing externalisation of deportation policies.<sup>99</sup>
- **Health risks due to lack of continuity of health care:** Medical needs are not considered among the specific circumstances for an extension of the period for voluntary departure or to postpone a deportation (Article 14). A major health risk is the interruption or discontinuity of health care, as adequate health provision may not be available in the countries where people are deported to or in offshore deportation centers.

95 PICUM, 2022, [Barriers to return: Protection in international, EU and national frameworks](#)

96 PICUM, 2021, [Designing labour migration policies to promote decent work](#); PICUM, 2023, [Regularisation mechanisms and programmes: Why they matter and how to design them](#); PICUM, 2022, [Regularisation and access to a secure residence status](#), [accessed 23 September 2025]

97 PICUM, 2022, [Barriers to return: Protection in international, EU and national frameworks](#); MlremM, 2025, [Handbook on regularisation policies: practices, debates and outcomes](#)

98 Abu-Hayyeh R. & Webber F., 2015, [Unwanted, Unnoticed: an audit of 160 asylum and immigration-related deaths in Europe](#), Institute for Race Relations, European Research Programme

99 Amnesty International, 2025, [Joint statement: EU ‘safe country’ and return proposal would seriously undermine protection and human dignity](#) [accessed 23 September 2025]

- **Postponement of deportation due to health considerations:** The regulation fails to require member states to ensure postponement of deportation in cases of health needs and vulnerability. Instead, it only requires, 'emergency health care and essential treatment' or 'needs of vulnerable people' to be considered after the decision to postpone has been taken (Article 14(6)). Moreover, member states are likely to have different interpretations on how they will judge these needs, especially given that the proposal does not include a definition of vulnerability, there is no provision for regular medical examinations as part of the review of detention orders (see above).
- **Non-refoulement and weak procedural safeguards:** The protection against refoulement and suspension of deportation for other human rights-related reasons, including the right to health, should be guaranteed throughout the

return procedure; yet, the proposal does not include other related minimum safeguards, such as the automatic suspensive effect of appeal (the suspension of the enforcement of a return decision has to be requested (Article 28), free legal assistance or the proper identification, monitoring and treatment of vulnerabilities.<sup>100</sup> Moreover, as ECRE rightly points out, there is no information on how the EU will judge whether international human rights standards and principles are respected in the third country, which independent body or mechanism will be able to monitor the situation and what adaptations would be required in case of violations of rights. In addition, the monitoring body or mechanism is only required to monitor the application of the agreement/arrangement and not what happens to the individual and their rights.<sup>101</sup>

### Non-refoulement and health

The principle of *non-refoulement* requires states to assess the impact of return procedures on individuals' medical condition and overall health situation<sup>102</sup>, including the mental health state of the individual.<sup>103</sup>

In this context, states have the obligation to assess the impact of removal on an applicant by considering how an applicant's condition would evolve after their transfer to the receiving state.<sup>104</sup> This should be evaluated on a case-by-case basis. States have the obligation to ensure that sufficient and appropriate medical care is available not merely in theory but in reality, taking into consideration factors such as the costs of the treatment, the existence of a social and family network and the distance to be travelled to receive treatment.<sup>105</sup>

When assessing whether the level of severity would amount to ill-treatment under Article 3 of the European Convention on Human Rights, the Court shall consider all the circumstances of the case, including its physical and mental effects and the sex, age and state of health of the victim, and consider sources from international and non-governmental organisations and individual medical certificates.<sup>106</sup>

100 Danish Refugee Council, 2025, [DRC recommendation on the proposed return regulation](#)

101 European Council on Refugees and Exiles, 2025, [ECRE Comments on the Proposal for a Regulation of the European Parliament and of the Council establishing a Common System for the Return of third-country nationals staying illegally in the Union, and repealing Directive 2008/115/EC of the European Parliament and the Council, Council Directive 2001/40/EC and Council Decision 2004/191/EC](#)

102 PICUM, 2022, [Barriers to return: Protection in international, EU and national frameworks](#)

103 Human Rights Committee, 5 June 2015, Case of A.H.G. v. Canada, [Communication No. 2091/2011](#), CCPR/C/113/D/2091/2011, para. 10.4; European Court of Human Rights, 16 April 2013, Case of Aswat v. the United Kingdom, [Application no. 17299/12](#), para. 57; European Court of Human Rights, 1 October 2019, Case of Savran v. Denmark, [Application. No. 57467/15](#)

104 European Court of Human Rights, 13 December 2016, Case of Paposhvili v. Belgium, [Application no. 41738/10](#), para. 188

105 Ibid., para. 190

106 Ibid., para. 174 &187

## Data sharing of health data

The sharing of personal health data refers to the exchange of sensitive medical information about

individuals subject to deportation procedures.

### What the Commission proposes

- **Information sharing between member states:** The proposal facilitates the collection and access of third country nationals' data, including information on vulnerability, health and medical needs, between member states (Article 38).
- **Information sharing with third countries:** The proposal allows for the transfer of health data of third-country nationals to third countries for the purposes of readmission and reintegration (Article 39) and to carry out the return operation and reintegration (Article 41).

### Key concerns

Article 8 of the EU Charter of Fundamental Rights and the General Data Protection Regulation (GDPR) guarantee the right to privacy and the protection of personal data for everyone in the EU, including undocumented people.<sup>107</sup> The proposed Regulation undermines these protections by enabling the collection and sharing of sensitive health data across law enforcement, migration authorities, and even with non-EU countries, without sufficient safeguards.<sup>108</sup>

PICUM and Médecins du Monde call attention the following key concerns:

- **Violation of GDPR:** The GDPR sets strict limits on the reasons for which data can be processed, prohibits processing of personal data beyond what is strictly needed to achieve the purpose for which the data was initially collected, and provides enhanced protection for sensitive data. This includes data revealing racial or ethnic origin, data concerning health.
- **Violation of medical confidentiality and patient trust:** Health data are highly sensitive and protected under EU and international law. The European Court of Human Rights has held that collecting or storing health data by public authorities, even if not used, interferes with the right to privacy (Article 8 European Convention on Human Rights).<sup>109</sup> Breaches of medical confidentiality not only endanger individual rights but also undermine the trust needed for effective healthcare delivery and public health outcomes.<sup>110</sup>
- **Lack of safeguards for informed consent to data-sharing:** Although data protection is recalled under Recital 39, the Regulation otherwise fails to explicitly guarantee clear and voluntary consent for the collection and sharing of health-related data. While processing of health data in the context of return requires both informing the person concerned and acquiring their consent (Article 41(2)(b)), in the case of readmission, Article 39 establishes that personal data may be processed and transferred provided that the third country

107 [Regulation \(EU\) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data](#), and repealing Directive 95/46/EC (General Data Protection Regulation) (Text with EEA relevance). See also: PICUM, 2020, [Data Protection and the "firewall": advancing the right to health for people in an irregular situation](#)

108 Protect Not Surveil, 23 June 2025, [The EU must stop the digitalisation of the deportation regime and withdraw the new Return Regulation](#) [accessed 23 September 2025]

109 European Court of Human Rights, 16 February 2000, Case of Amman v. Suisse, 2000, [Application no. 27798/95](#), para. 69; European Court of Human Rights, Case of Rotaru v. Roumanie, 2000, [Application nos. 30562/04 and 30566/04](#), para. 46; Case of S. and Marper v. United Kingdom, 2008, [Application nos. 30562/04 and 30566/04](#), para. 67; Case of M.K. v. France, 2013, [Application no. 19522/09](#), para. 29; Case of Aycaguer v. France, 2017, [Application no. 8806/12](#), para. 33

110 Ibid.



national has been 'informed', but does not explicitly mention consent.<sup>111</sup>

- **Risk of forced medical tests:** The proposal does not consistently require informed consent for medical examinations. This not only risks increasing coercion for medical tests, but also contradicts medical ethics and human rights standards. For instance, age assessments may be carried out "analogous" to the procedure set out in Article 25 of Regulation (EU) 2024/1348 ('APR'), which leaves room for discretion. It must be noted, however, that the child, their parents, their representative/guardian or the person designated to them ad interim must consent to any medical examination that is part of an age assessment (Article 25(5) APR). The age assessment as such can be done without their consent. Forcing an individual to undergo a medical procedure is, in itself, a form of violence, and violation of the dignity and physical integrity of a person. It carries risks of mental harm.<sup>112</sup>
- **Risk of refoulement and lack of oversight or independent review:** Decisions on transferring personal data of third-country nationals are left to national authorities and, where relevant, Frontex. In the case of criminal convictions (Article 40) and return operations (Article 41), it is mentioned that these authorities should solely assess if the principle of non-refoulement is at risk. There

is no specific reference to non-refoulement in the case of readmission and reintegration (Article 39). In all of the situations, there is no mention of independent medical professionals, data protection authorities, or judicial oversight in assessing the risks or justifying the data transfer. As a result, individuals risk having their personal data shared with third-country authorities, which may misuse it, particularly in contexts where human rights protections are weak.

- **Risk of further discrimination and profiling:** Health data, if misused or poorly protected, can be weaponised to stigmatise or further marginalise certain groups, particularly those with mental health conditions, HIV status, or disabilities.



111 Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14 May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU; see also PICUM, 2024, [Children's rights in the 2024 Migration and Asylum Pact](#)

112 Médecins du Monde, 2023, [Avis sur le projet de loi modifiant la loi du 15/12/1980 sur l'accès au territoire, le séjour, l'établissement et l'éloignement des étrangers et la loi du 12 janvier 2007 sur l'accueil des demandeurs d'asile et de certaines autres catégories d'étrangers sur la politique de retour proactive \(DOC 55 3599/001\)](#)



## Conclusion

In this analysis, PICUM and Médecins du Monde have shown how the European Commission's proposed Deportation Regulation would pose serious and irreparable risks to both individual and public health, while systematically undermining fundamental rights and international obligations.

The proposal would create conditions to harm people, deter people from seeking care, obstruct

medical ethics, and erode trust between patients and health professionals, with consequences not only for undocumented people but for the resilience of public health systems as a whole. At its core, the regulation reflects a dangerous trend of separating migration and health policies, which is turning health from a guaranteed fundamental right into a conditional benefit, subordinated to migration control.

**PICUM and Médecins du Monde call on the European Commission to withdraw the proposal and urge the European Parliament and the Council of the European Union to reject it in its current form.**

Rather than adopting punitive measures, the EU and its member states should advance migration policies that uphold the universal right to health and dignity, protect medical ethics, and ensure safe and regular migration pathways. Moreover, they should mainstream a health lens across all migration-related policies and legislation and use a 'Health in All Policies' approach.<sup>113</sup> This requires ensuring that legislative proposals are, at a minimum, subject to a health impact assessment prior to their adoption.

Additionally, developing residence procedures on a range of grounds are a key part of any effective, efficient, rights-compliant and forward-thinking migration management system<sup>114</sup>, as it benefits both the people themselves, the societies they live in and the institutions that govern them.<sup>115</sup> Access to a secure residence status allows people to live without the constant stress and fear of deportation, seek health care without fear, receive timely treatment, and protect themselves and others from preventable illnesses. It also enables health professionals to provide care in line with their ethical duties and maintain continuity of treatment.

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113 See also World Health Organisation, [Promoting Health in All Policies and intersectoral action capacities](#)

114 See also PICUM, 2021, [Designing labour migration policies to promote decent work](#); PICUM, 2023, [Regularisation mechanisms and programmes: Why they matter and how to design them](#); PICUM, 2024, [Regularisation and access to a secure residence status](#) [accessed 23 September 2025]

115 See PICUM, 2025 (forthcoming), *The impact of regularisation measures on people, institutions and wider society: Evidence from research from across the world*



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For undocumented migrants,  
for social justice.



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