

Testimonies from the field

The case of Undocumented Migrants by PICUM

The key issues for this target group when exercising their right to health

Undocumented migrants make up a considerable part of the migrant population in Europe, and it is not very likely that their numbers will decrease in the near future. Nonetheless, few social policies are directly addressed to meet their needs. Many actors (e.g. NGOs, local authorities, health care personnel, etc.) stress that access to health care is the most pressing problem for undocumented migrants.

The following overview focuses primarily on the following two issues: **availability** - what each EU Member State's legislation determines concerning undocumented migrants' access to public health care; and **accessibility** - what the situation is in practice. PICUM has not collected enough information to properly present issues concerning the acceptability and quality of health care for this target group.

Legislation

EU Member States can *roughly* be divided into four different categories concerning the way their legislation addresses the issue of undocumented migrants' access to public health care.

- No mention at all in legislation about undocumented migrants gaining access to health care (meaning that undocumented migrants do not have access to public health care systems). (e.g. Austria, Denmark, Sweden)
- Legislation states that undocumented migrants can have access to health care only in life-threatening situations or in cases of contagious diseases. These countries provide access to undocumented migrants for "utilitarian" concerns: their main motivation is to ensure that undocumented migrants do not pose threats to public health. (e.g. Germany, United Kingdom)
- On the other hand, some countries have a "humanitarian" approach and promote health care for everyone, including undocumented migrants. (e.g. France, Italy, Spain)
- A fourth category is countries whose policies fall between the two previous categories. These countries offer "urgent health care" for undocumented migrants: this care is

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broader than emergency-only care, but is it not universal health care for all. (e.g. Belgium, the Netherlands)

Real life examples of challenges faced

While a number of EU Member States' legislation foresees some type of access to public health care systems for undocumented migrants, a number of problems prevent them from actually getting the care they need. The following **problems** should be highlighted:

Barriers:

- Health care staff have a duty to detect (United Kingdom) and denounce (Germany) undocumented migrants' irregular residence status to the authorities.
- Police can gain access to personal data on undocumented migrants who have registered at the town hall in municipalities in Spain. (To be able to access the health care system in Spain, undocumented migrants first have to register at the town hall).
- Undocumented migrants in France have to provide proof that they have been in the country for a minimum of three months if they wish to access the public health care system.

Complexity of procedure:

- Despite an official framework, the decision about what constitutes "urgent" health care (Belgium and the Netherlands) is often arbitrary and left up to individual doctors to determine. Moreover, undocumented migrants in these countries often have to run from one service to another to formalize their demand for health care, a lengthy and complicated process.

Lack of knowledge of official procedures:

- In many of the above-mentioned countries, there is a lack of knowledge of all actors (health care staff, local authorities, even NGOs) regarding undocumented migrants' right to health care and the procedure for gaining obtaining care. A lack of knowledge is reinforced by complex procedures.

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What improvements or developments are needed?

The provision of urgent medical treatment - both preventive and curative - to undocumented migrants is the minimum requirement. States should take measures to ensure that this right is recognised formally in their laws and to eliminate the practical obstacles to its enjoyment by undocumented migrants.

States should nonetheless strive to provide holistic health care to undocumented migrants in conformity with the broader understanding of the right to health in the International Covenant on Economic, Social and Cultural Rights (ICESCR). Moreover, certain vulnerable groups of undocumented migrants, such as children, disabled persons, pregnant women and the elderly, should be granted health care on equal terms with comparable national groups.